

Senator Dennis E. Stowell proposes the following substitute bill:

TAX EXEMPTION FOR CEDAR BAND OF PAIUTE TRIBE

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill modifies provisions related to revenue and taxation to exempt certain transactions on Cedar Band reservation land from specified taxes imposed under state law.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides conditions for an exemption to take effect;
- ▶ requires an agreement between the governor and the Cedar Band;
- ▶ provides for the State Tax Commission to enter into an agreement related to implementing an exemption;
- ▶ provides for rulemaking by the State Tax Commission related to implementing an exemption;
- ▶ provides for reporting;
- ▶ provides for termination of an exemption; ~~§~~→ [and]
- ▶ addresses appropriation to the class B and class C road account; and ←~~§~~
- ▶ makes technical and conforming changes.

Monies Appropriated in this Bill:

None

1st Sub. S.B. 207



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-12-104**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 385

31 **59-13-201**, as last amended by Laws of Utah 2008, Chapter 382

32 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382

33 **59-14-204.5**, as enacted by Laws of Utah 2004, Chapter 217

33a **§→ 72-2-107, as last amended by Laws of Utah 2008, Chapters 109 and 389 ←§**

34 ENACTS:

35 **59-1-1501**, Utah Code Annotated 1953

36 **59-1-1502**, Utah Code Annotated 1953

37 **59-1-1503**, Utah Code Annotated 1953

38 **59-1-1504**, Utah Code Annotated 1953

39 **59-1-1505**, Utah Code Annotated 1953

40 **59-1-1506**, Utah Code Annotated 1953

41 **59-1-1507**, Utah Code Annotated 1953

42 **59-1-1508**, Utah Code Annotated 1953

43 **59-1-1509**, Utah Code Annotated 1953



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

46 Section 1. Section **59-1-1501** is enacted to read:

47 **Part 15. Exemptions Related to the Cedar Band of the Paiute Tribe Act**

48 **59-1-1501. Title.**

49 This part is known as the "Exemptions Related to the Cedar Band of the Paiute Tribe

50 Act."

51 Section 2. Section **59-1-1502** is enacted to read:

52 **59-1-1502. Definitions.**

53 As used in this part:

54 (1) "Applicable tax" means:

55 (a) a tax imposed under Chapter 12, Sales and Use Tax Act, for amounts paid or

56 charged for a transaction that occurs on Cedar Band reservation land if the transaction is

57 subject to taxation under:

58 (i) Chapter 12, Part 1, Tax Collection; or

59 (ii) Chapter 12, Sales and Use Tax Act, except for the tax described in Subsection

60 (1)(a)(i):

61 (b) a tax imposed under Chapter 13, Motor and Special Fuel Tax Act, on motor fuel or
 62 special fuel that is sold, used, or received for sale or ~~§~~→ [used] use ←~~§~~ on Cedar Band reservation
 62a land; or

63 (c) a tax imposed under Chapter 14, Cigarette and Tobacco Tax and Licensing Act, on
 64 the sale, use, storage, or distribution of a cigarette or tobacco product on Cedar Band
 65 reservation land.

66 (2) "Base" means the transactions that are subject to or exempt from a tax.

67 (3) "Cedar Band" means the Cedar Band of the Paiute Indian Tribe of Utah as
 68 recognized on July 12, 2002, 67 Fed. Reg. 46330, in accordance with the Paiute Indian Tribe of
 69 Utah Restoration Act, 25 U.S.C. Sec. 761 et seq.

70 (4) "Cedar Band reservation land" means the geographical area within the boundaries
 71 of the reservation established for the Cedar Band by the Secretary of the Interior in accordance
 72 with the Paiute Indian Tribe of Utah Restoration Act, 25 U.S.C. Sec. 761 et seq., Pub. L.
 73 98-219, or another act of the United States Congress.

74 (5) "Tax rate" does not include the following a taxpayer may be required to pay to the
 75 Cedar Band in relation to a tribal tax:

76 (a) an addition to a tax;

77 (b) an administrative cost;

78 (c) interest that accrues; or

79 (d) a penalty that accrues.

80 (6) "Tribal tax" means a tax imposed by the Cedar Band in accordance with the
 81 Constitution of the Paiute Indian Tribe of Utah, as amended.

82 Section 3. Section **59-1-1503** is enacted to read:

83 **59-1-1503. Exempt transactions -- Agreement between Cedar Band and the**
 84 **governor.**

85 Subject to Section 59-1-1508, a transaction that occurs on Cedar Band reservation land
 86 is exempt from taxation to the extent provided in Section 59-1-1506 with respect to an
 87 applicable tax beginning the later of:

88 (1) July 1, 2011; and
89 (2) the first day of the first calendar quarter after the later of the day on which:
90 (a) the governor notifies the commission that an agreement with the governor that
91 meets the conditions of Section 59-1-1504 takes effect; and
92 (b) an agreement with the commission described in Section 59-1-1505 takes effect.
93 Section 4. Section **59-1-1504** is enacted to read:
94 **59-1-1504. Agreement between Cedar Band and the governor**
95 (1) An exemption under this part is subject to the governor entering into an agreement
96 with the Cedar Band that:
97 (a) provides for documentation that the Cedar Band imposes a tribal tax;
98 (b) provides for documentation that the Cedar Band has the authority under the laws of
99 the Paiute Indian Tribe of Utah to impose the tribal tax;
100 (c) certifies that the tribal tax the Cedar Band imposes is substantially similar to the
101 applicable tax with respect to which the Cedar Band seeks an exemption, including the base for
102 the tribal tax being substantially similar to the base for the applicable tax;
103 (d) certifies that the tribal tax described in Subsection (1)(a) is imposed without regard
104 to whether the person required to pay the tribal tax is an enrolled member of the Cedar Band;
105 (e) certifies the tax rate for the tribal tax complies with Section 59-1-1506;
106 (f) prohibits the payment of per capita payments to a member of the Paiute Indian Tribe
107 of Utah of revenues collected from the tribal tax;
108 (g) includes findings of the governor that:
109 (i) the tribal tax includes procedural protections for a person required to pay the tribal
110 tax that meet the due process standards of the Constitution of the United States; and
111 (ii) in relation to the tribal tax, the Cedar Band has implemented a revenue allocation
112 plan that to the satisfaction of the governor allocates the revenue collected from the tribal tax:
113 (A) in a manner that does not result in duplication of government services amongst the
114 Paiute Indian Tribe of Utah, the state, and local government; and
115 (B) to:
116 (I) the Cedar Band providing a government service that is substantially similar to and
117 not duplicative of the government services that would be funded with the revenues that would
118 be collected from an applicable tax;

119 (II) the Cedar Band contracting with a state or a local government to provide a
 120 government service that is substantially similar to and not duplicative of the government
 121 services that would be funded with the revenues that would be collected from an applicable
 122 tax; or

123 (III) ~~§→ [if it is impractical to meet the requirements of Subsection (1)(g)(ii)(B)(I) or (H);] ←§~~
 124 provide a government service that meets a critical need of the Cedar Band, whether provided
 125 by the Cedar Band or through contract with another governmental body;

126 (h) provides for certification by the Cedar Band that the Cedar Band annually enters
 127 into an agreement with the county in which Cedar Band reservation land is located to address
 128 the extent to which the Cedar Band will compensate the county for services provided to the
 129 Cedar Band related to Cedar Band reservation land;

130 (i) provides that the exemption is allowed in accordance with this part; and
 131 (j) provides for procedures and conditions related to terminating the agreement.

132 (2) An agreement under Subsection (1):

133 (a) may not:

134 (i) authorize the imposition of a tax, fee, or charge;

135 (ii) provide a refund, credit, or similar reduction that is greater or different than the
 136 exemption allowed in accordance with this part; or

137 (iii) affect the power of the Legislature to establish rates of taxation; and

138 (b) shall:

139 (i) be in writing;

140 (ii) be signed by:

141 (A) the governor; and

142 (B) the chair of the Cedar Band;

143 (iii) be conditioned on obtaining any approval required by federal law; and

144 (iv) state the effective date of the agreement.

145 (3) If there is a conflict between this part and the agreement described in Subsection
 146 (1), this part governs.

147 (4) The governor shall provide a copy of an agreement executed under this section to
 148 the county in which Cedar Band reservation land is located.

149 Section 5. Section **59-1-1505** is enacted to read:

150 **59-1-1505. Commission agreement with Cedar Band.**

151 (1) An exemption may not take effect under this part unless the commission enters into
 152 an agreement with the Cedar Band that:

153 (a) provides a procedure for determining when the location of a transaction is on Cedar
 154 Band reservation land;

155 (b) provides a procedure by which the Cedar Band notifies the commission that the
 156 Cedar Band will terminate or change the tax rate or base of a tribal tax including notifying the
 157 commission of:

158 (i) the effective date of the termination or change of the tax rate or base; and

159 (ii) if the tax rate or base is to be changed, the new tax rate or base;

160 (c) specifies which records the Cedar Band shall maintain in a form prescribed by the
 161 commission that are necessary to determine the implementation of an exemption under this
 162 part, including the time period for which a record shall be maintained;

163 (d) notwithstanding Section 59-1-403 and subject to federal law governing the
 164 disclosure of tax information, may authorize the commission to disclose to the Cedar Band
 165 information that:

166 (i) is contained in a record filed with the commission; and

167 (ii) relates to a tribal tax;

168 (e) provides for an inspection or audit by the commission of a person located or doing
 169 business on Cedar Band reservation land, including a joint audit or investigation with the
 170 commission and the Cedar Band;

171 (f) addresses any other issue related to the commission's administration of an
 172 exemption from an applicable tax; ~~§~~→ [and] ←~~§~~

173 (g) provides for procedures and conditions related to terminating the agreement ~~§~~→ [;] ; and

173a **(h) addresses the administration of an exemption under this part when, on the basis of**
 173b **a law other than this part, the state is not authorized to impose an applicable tax on a**
 173c **transaction located on Cedar Band reservation land involving a member of the Paiute Indian**
 173d **Tribe of Utah. ←~~§~~**

174 (2) The agreement described in Subsection (1):

175 (a) may not:

176 (i) authorize the imposition of a tax or fee;

177 (ii) provide a refund, credit, or similar reduction of taxes greater than or different than
 178 the exemption allowed in accordance with this part; or

179 (iii) affect the power of the Legislature to establish rates of taxation; and

180 (b) shall:

- 181 (i) be in writing;
 182 (ii) be signed by:
 183 (A) the chair of the commission or the chair's designee; and
 184 (B) the chair of the Cedar Band;
 185 (iii) be conditioned on obtaining any approval required by federal law; and
 186 (iv) state the effective date of the agreement.

187 (3) The commission shall provide a copy of the agreement, and any amendments to the
 188 agreement, to the county in which Cedar Band reservation land is located.

189 (4) If there is a conflict between this part and the agreement described in this section,
 190 this part governs.

191 Section 6. Section **59-1-1506** is enacted to read:

192 **59-1-1506. Tax rate and amount of exemption.**

193 (1) As used in this section:

194 (a) "Combined state and local tax rate" means the sum of the state and local tax rates
 195 imposed on a transaction under the applicable taxes.

196 (b) "Combined tribal tax rate" means the sum of the tribal tax rates imposed on a
 197 transaction under the tribal taxes that are imposed on the transaction.

198 (c) "Percentage of exemption" means the percentage specified in Subsection (3) for the
 199 day on which a transaction occurs.

200 (2) To qualify for an exemption under this part, the Cedar Band shall impose a
 201 combined tribal tax rate that equals or exceeds an amount calculated by multiplying the
 202 percentage of exemption applicable to the transaction under Subsection (3) by the combined
 203 state and local tax rate for the transaction.

204 (3) A transaction that occurs on Cedar Band reservation land may be exempt from
 205 taxation under this part only:

206 (a) on or after July 1, 2011; ~~§~~→ [and] ←~~§~~

207 (b) ~~§~~→ for an applicable tax other than a tax imposed under Chapter 13, Motor and
 207a Special Fuel Tax Act, ←~~§~~ to the following extent:

208 (i) on and after July 1, 2011, but on and before June 30, 2012, an exemption is 50% of
 209 the combined state and local tax rate; and

210 (ii) on and after July 1, 2012, an exemption is 100% of the combined state and local
 211 tax rate ~~§~~→ [] ; and

211a (c) for an applicable tax imposed under Chapter 13, Motor and Special Fuel Tax Act,
 211b on and after July 1, 2011, an exemption is equal to percentage used to determine the
 211c appropriation under Section 72-2-107 from the Transportation Fund to the class B and class C
 211d roads account. ←~~§~~

212 (4) (a) If, but for the exemption under this part, a transaction is subject to an applicable
 213 tax:

214 (i) the seller shall collect and pay to the state the difference described in Subsection

215 (4)(b) if that difference is greater than \$0; and

216 (ii) a person may not require the state to provide a refund, a credit, or similar reduction
 217 if the difference described in Subsection (4)(b) is equal to or less than \$0.

218 (b) The difference described in Subsection (4)(a) is equal to the difference between:

219 (i) the amount of an applicable tax imposed on the transaction; and

220 (ii) subject to Subsection (2), the combined tribal tax imposed and collected by the
 221 Cedar Band on the transaction.

221a **§→ (5) In accordance with Section 72-2-107, in calculating the amount of the**
 221b **appropriation under Section 72-2-107 the Division of Finance may not include the revenue**
 221c **collected under Chapter 13, Motor and Special Fuel Tax Act, on a transaction subject to an**
 221d **exemption under this part. ←§**

222 Section 7. Section **59-1-1507** is enacted to read:

223 **59-1-1507. Reporting requirements.**

224 (1) (a) The governor shall issue a written report by no later than February 1 of each
 225 year as to whether an agreement meeting the requirements of Section 59-1-1504 is in effect.

226 (b) The governor shall provide a written report prepared under this Subsection (1) by
 227 no later than February 1 of each year to:

228 (i) the commission;

229 (ii) a county in which Cedar Band reservation land is located; and

230 (iii) the Native American Legislative Liaison Committee.

231 (2) (a) Beginning in the 2011 interim, and ending in the 2016 interim, the governor
 232 shall annually report to the Native American Legislative Liaison Committee as to the effect of
 233 the exemption on the Cedar Band reservation land in relation to:

234 (i) the provision of government services; and

235 (ii) economic development.

236 (b) The chairs of the Native American Legislative Liaison Committee shall invite the
 237 Cedar Band to report to the Native American Legislative Liaison Committee in conjunction
 238 with the governor's report under Subsection (2)(a).

239 Section 8. Section **59-1-1508** is enacted to read:

240 **59-1-1508. Termination of exemption.**

241 An exemption under this part terminates beginning on the first day of the first calendar
 242 quarter after the sooner of:

- 243 (1) the day on which an agreement described in Section 59-1-1503 terminates;
- 244 (2) the day on which the Cedar Band no longer imposes a tribal tax with respect to
- 245 which an exemption from an applicable tax is allowed in accordance with this part;
- 246 (3) the day on which the Cedar Band no longer has the authority to impose a tribal tax
- 247 with respect to which an exemption from an applicable tax is allowed in accordance with this
- 248 part; or
- 249 (4) the day on which the Cedar Band imposes a tax rate that is lower than the tax rate
- 250 required by Section 59-1-1506.

251 Section 9. Section **59-1-1509** is enacted to read:

252 **59-1-1509. Rulemaking.**

253 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

254 commission may make rules regarding the procedures for administering or enforcing an

255 exemption from an applicable tax under this part, except that the rules shall be consistent with

256 the agreement described in Section 59-1-1505.

257 Section 10. Section **59-12-104** is amended to read:

258 **59-12-104. Exemptions.**

259 The following sales and uses are exempt from the taxes imposed by this chapter:

- 260 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 261 under Chapter 13, Motor and Special Fuel Tax Act;
- 262 (2) sales to the state, its institutions, and its political subdivisions; however, this
- 263 exemption does not apply to sales of:
- 264 (a) construction materials except:
- 265 (i) construction materials purchased by or on behalf of institutions of the public
- 266 education system as defined in Utah Constitution Article X, Section 2, provided the
- 267 construction materials are clearly identified and segregated and installed or converted to real
- 268 property which is owned by institutions of the public education system; and
- 269 (ii) construction materials purchased by the state, its institutions, or its political
- 270 subdivisions which are installed or converted to real property by employees of the state, its
- 271 institutions, or its political subdivisions; or
- 272 (b) tangible personal property in connection with the construction, operation,
- 273 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities

274 providing additional project capacity, as defined in Section 11-13-103;

275 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

276 (i) the proceeds of each sale do not exceed \$1; and

277 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

278 the cost of the item described in Subsection (3)(b) as goods consumed; and

279 (b) Subsection (3)(a) applies to:

280 (i) food and food ingredients; or

281 (ii) prepared food;

282 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

283 (i) alcoholic beverages;

284 (ii) food and food ingredients; or

285 (iii) prepared food;

286 (b) sales of tangible personal property or a product transferred electronically:

287 (i) to a passenger;

288 (ii) by a commercial airline carrier; and

289 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

290 (c) services related to Subsection (4)(a) or (b);

291 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

292 and equipment:

293 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

294 North American Industry Classification System of the federal Executive Office of the

295 President, Office of Management and Budget; and

296 (II) for:

297 (Aa) installation in an aircraft, including services relating to the installation of parts or

298 equipment in the aircraft;

299 (Bb) renovation of an aircraft; or

300 (Cc) repair of an aircraft; or

301 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

302 commerce; or

303 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

304 aircraft operated by a common carrier in interstate or foreign commerce; and

305 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
306 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
307 refund:

308 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

309 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

310 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
311 the sale prior to filing for the refund;

312 (iv) for sales and use taxes paid under this chapter on the sale;

313 (v) in accordance with Section 59-1-1410; and

314 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
315 the person files for the refund on or before September 30, 2011;

316 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
317 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
318 exhibitor, distributor, or commercial television or radio broadcaster;

319 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
320 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
321 washing of tangible personal property;

322 (b) if a seller that sells at the same business location assisted cleaning or washing of
323 tangible personal property and cleaning or washing of tangible personal property that is not
324 assisted cleaning or washing of tangible personal property, the exemption described in
325 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
326 or washing of the tangible personal property; and

327 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
328 Utah Administrative Rulemaking Act, the commission may make rules:

329 (i) governing the circumstances under which sales are at the same business location;
330 and

331 (ii) establishing the procedures and requirements for a seller to separately account for
332 sales of assisted cleaning or washing of tangible personal property;

333 (8) sales made to or by religious or charitable institutions in the conduct of their regular
334 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
335 fulfilled;

336 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
337 this state if the vehicle is:

338 (a) not registered in this state; and

339 (b) (i) not used in this state; or

340 (ii) used in this state:

341 (A) if the vehicle is not used to conduct business, for a time period that does not
342 exceed the longer of:

343 (I) 30 days in any calendar year; or

344 (II) the time period necessary to transport the vehicle to the borders of this state; or

345 (B) if the vehicle is used to conduct business, for the time period necessary to transport
346 the vehicle to the borders of this state;

347 (10) (a) amounts paid for an item described in Subsection (10)(b) if:

348 (i) the item is intended for human use; and

349 (ii) (A) a prescription was issued for the item; or

350 (B) the item was purchased by a hospital or other medical facility; and

351 (b) (i) Subsection (10)(a) applies to:

352 (A) a drug;

353 (B) a syringe; or

354 (C) a stoma supply; and

355 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
356 commission may by rule define the terms:

357 (A) "syringe"; or

358 (B) "stoma supply";

359 (11) sales or use of property, materials, or services used in the construction of or
360 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

361 (12) (a) sales of an item described in Subsection (12)(c) served by:

362 (i) the following if the item described in Subsection (12)(c) is not available to the
363 general public:

364 (A) a church; or

365 (B) a charitable institution;

366 (ii) an institution of higher education if:

- 367 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 368 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 369 offered by the institution of higher education; or
- 370 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 371 (i) a medical facility; or
- 372 (ii) a nursing facility; and
- 373 (c) Subsections (12)(a) and (b) apply to:
- 374 (i) food and food ingredients;
- 375 (ii) prepared food; or
- 376 (iii) alcoholic beverages;
- 377 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 378 or a product transferred electronically by a person:
- 379 (i) regardless of the number of transactions involving the sale of that tangible personal
- 380 property or product transferred electronically by that person; and
- 381 (ii) not regularly engaged in the business of selling that type of tangible personal
- 382 property or product transferred electronically;
- 383 (b) this Subsection (13) does not apply if:
- 384 (i) the sale is one of a series of sales of a character to indicate that the person is
- 385 regularly engaged in the business of selling that type of tangible personal property or product
- 386 transferred electronically;
- 387 (ii) the person holds that person out as regularly engaged in the business of selling that
- 388 type of tangible personal property or product transferred electronically;
- 389 (iii) the person sells an item of tangible personal property or product transferred
- 390 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 391 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 392 this state in which case the tax is based upon:
- 393 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 394 sold; or
- 395 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 396 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 397 commission; and

398 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
399 commission shall make rules establishing the circumstances under which:

400 (i) a person is regularly engaged in the business of selling a type of tangible personal
401 property or product transferred electronically;

402 (ii) a sale of tangible personal property or a product transferred electronically is one of
403 a series of sales of a character to indicate that a person is regularly engaged in the business of
404 selling that type of tangible personal property or product transferred electronically; or

405 (iii) a person holds that person out as regularly engaged in the business of selling a type
406 of tangible personal property or product transferred electronically;

407 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
408 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
409 facility, for the following:

410 (i) machinery and equipment that:

411 (A) are used:

412 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
413 recycler described in Subsection 59-12-102(52)(b):

414 (Aa) in the manufacturing process;

415 (Bb) to manufacture an item sold as tangible personal property; and

416 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
417 (14)(a)(i)(A)(I) in the state; or

418 (II) for a manufacturing facility that is a scrap recycler described in Subsection
419 59-12-102(52)(b):

420 (Aa) to process an item sold as tangible personal property; and

421 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
422 (14)(a)(i)(A)(II) in the state; and

423 (B) have an economic life of three or more years; and

424 (ii) normal operating repair or replacement parts that:

425 (A) have an economic life of three or more years; and

426 (B) are used:

427 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
428 recycler described in Subsection 59-12-102(52)(b):

429 (Aa) in the manufacturing process; and
430 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
431 state; or
432 (II) for a manufacturing facility that is a scrap recycler described in Subsection
433 59-12-102(52)(b):
434 (Aa) to process an item sold as tangible personal property; and
435 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
436 state;
437 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
438 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
439 for the following:
440 (i) machinery and equipment that:
441 (A) are used:
442 (I) in the manufacturing process;
443 (II) to manufacture an item sold as tangible personal property; and
444 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
445 (14)(b) in the state; and
446 (B) have an economic life of three or more years; and
447 (ii) normal operating repair or replacement parts that:
448 (A) are used:
449 (I) in the manufacturing process; and
450 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
451 (B) have an economic life of three or more years;
452 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
453 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
454 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
455 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
456 of the 2002 North American Industry Classification System of the federal Executive Office of
457 the President, Office of Management and Budget:
458 (i) machinery and equipment that:
459 (A) are used:

- 460 (I) (Aa) in the production process, other than the production of real property; or
- 461 (Bb) in research and development; and
- 462 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
- 463 in the state; and
- 464 (B) have an economic life of three or more years; and
- 465 (ii) normal operating repair or replacement parts that:
- 466 (A) have an economic life of three or more years; and
- 467 (B) are used in:
- 468 (I) (Aa) the production process, except for the production of real property; and
- 469 (Bb) an establishment described in this Subsection (14)(c) in the state; or
- 470 (II) (Aa) research and development; and
- 471 (Bb) in an establishment described in this Subsection (14)(c) in the state;
- 472 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
- 473 Utah Administrative Rulemaking Act, the commission:
- 474 (i) shall by rule define the term "establishment"; and
- 475 (ii) may by rule define what constitutes:
- 476 (A) processing an item sold as tangible personal property;
- 477 (B) the production process, except for the production of real property; or
- 478 (C) research and development; and
- 479 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
- 480 commission shall:
- 481 (i) review the exemptions described in this Subsection (14) and make
- 482 recommendations to the Revenue and Taxation Interim Committee concerning whether the
- 483 exemptions should be continued, modified, or repealed; and
- 484 (ii) include in its report:
- 485 (A) an estimate of the cost of the exemptions;
- 486 (B) the purpose and effectiveness of the exemptions; and
- 487 (C) the benefits of the exemptions to the state;
- 488 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 489 (i) tooling;
- 490 (ii) special tooling;

491 (iii) support equipment;
492 (iv) special test equipment; or
493 (v) parts used in the repairs or renovations of tooling or equipment described in
494 Subsections (15)(a)(i) through (iv); and
495 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
496 (i) the tooling, equipment, or parts are used or consumed exclusively in the
497 performance of any aerospace or electronics industry contract with the United States
498 government or any subcontract under that contract; and
499 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
500 title to the tooling, equipment, or parts is vested in the United States government as evidenced
501 by:
502 (A) a government identification tag placed on the tooling, equipment, or parts; or
503 (B) listing on a government-approved property record if placing a government
504 identification tag on the tooling, equipment, or parts is impractical;
505 (16) sales of newspapers or newspaper subscriptions;
506 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
507 product transferred electronically traded in as full or part payment of the purchase price, except
508 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
509 trade-ins are limited to other vehicles only, and the tax is based upon:
510 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
511 vehicle being traded in; or
512 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
513 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
514 commission; and
515 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
516 following items of tangible personal property or products transferred electronically traded in as
517 full or part payment of the purchase price:
518 (i) money;
519 (ii) electricity;
520 (iii) water;
521 (iv) gas; or

522 (v) steam;

523 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
524 or a product transferred electronically used or consumed primarily and directly in farming
525 operations, regardless of whether the tangible personal property or product transferred
526 electronically:

527 (A) becomes part of real estate; or
528 (B) is installed by a:

529 (I) farmer;
530 (II) contractor; or
531 (III) subcontractor; or
532 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
533 product transferred electronically if the tangible personal property or product transferred
534 electronically is exempt under Subsection (18)(a)(i); and

535 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
536 subject to the taxes imposed by this chapter:

537 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
538 incidental to farming:

539 (I) machinery;
540 (II) equipment;
541 (III) materials; or
542 (IV) supplies; and

543 (B) tangible personal property that is considered to be used in a manner that is
544 incidental to farming includes:

545 (I) hand tools; or
546 (II) maintenance and janitorial equipment and supplies;

547 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
548 transferred electronically if the tangible personal property or product transferred electronically
549 is used in an activity other than farming; and

550 (B) tangible personal property or a product transferred electronically that is considered
551 to be used in an activity other than farming includes:

552 (I) office equipment and supplies; or

- 553 (II) equipment and supplies used in:
- 554 (Aa) the sale or distribution of farm products;
- 555 (Bb) research; or
- 556 (Cc) transportation; or
- 557 (iii) a vehicle required to be registered by the laws of this state during the period
- 558 ending two years after the date of the vehicle's purchase;
- 559 (19) sales of hay;
- 560 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 561 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 562 garden, farm, or other agricultural produce is sold by:
- 563 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 564 agricultural produce;
- 565 (b) an employee of the producer described in Subsection (20)(a); or
- 566 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 567 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 568 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 569 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 570 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 571 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 572 manufacturer, processor, wholesaler, or retailer;
- 573 (23) a product stored in the state for resale;
- 574 (24) (a) purchases of a product if:
- 575 (i) the product is:
- 576 (A) purchased outside of this state;
- 577 (B) brought into this state:
- 578 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 579 (II) by a nonresident person who is not living or working in this state at the time of the
- 580 purchase;
- 581 (C) used for the personal use or enjoyment of the nonresident person described in
- 582 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 583 (D) not used in conducting business in this state; and

- 584 (ii) for:
- 585 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 586 the product for a purpose for which the product is designed occurs outside of this state;
- 587 (B) a boat, the boat is registered outside of this state; or
- 588 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 589 outside of this state;
- 590 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 591 (i) a lease or rental of a product; or
- 592 (ii) a sale of a vehicle exempt under Subsection (33); and
- 593 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 594 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 595 following:
- 596 (i) conducting business in this state if that phrase has the same meaning in this
- 597 Subsection (24) as in Subsection (63);
- 598 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 599 as in Subsection (63); or
- 600 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 601 this Subsection (24) as in Subsection (63);
- 602 (25) a product purchased for resale in this state, in the regular course of business, either
- 603 in its original form or as an ingredient or component part of a manufactured or compounded
- 604 product;
- 605 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 606 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 607 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 608 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 609 Act;
- 610 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 611 person for use in compounding a service taxable under the subsections;
- 612 (28) purchases made in accordance with the special supplemental nutrition program for
- 613 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 614 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,

615 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
616 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
617 Manual of the federal Executive Office of the President, Office of Management and Budget;
618 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
619 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
620 (a) not registered in this state; and
621 (b) (i) not used in this state; or
622 (ii) used in this state:
623 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
624 time period that does not exceed the longer of:
625 (I) 30 days in any calendar year; or
626 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
627 the borders of this state; or
628 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
629 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
630 state;
631 (31) sales of aircraft manufactured in Utah;
632 (32) amounts paid for the purchase of telecommunications service for purposes of
633 providing telecommunications service;
634 (33) sales, leases, or uses of the following:
635 (a) a vehicle by an authorized carrier; or
636 (b) tangible personal property that is installed on a vehicle:
637 (i) sold or leased to or used by an authorized carrier; and
638 (ii) before the vehicle is placed in service for the first time;
639 (34) (a) 45% of the sales price of any new manufactured home; and
640 (b) 100% of the sales price of any used manufactured home;
641 (35) sales relating to schools and fundraising sales;
642 (36) sales or rentals of durable medical equipment if:
643 (a) a person presents a prescription for the durable medical equipment; and
644 (b) the durable medical equipment is used for home use only;
645 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

646 Section 72-11-102; and

647 (b) the commission shall by rule determine the method for calculating sales exempt
648 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

649 (38) sales to a ski resort of:

650 (a) snowmaking equipment;

651 (b) ski slope grooming equipment;

652 (c) passenger ropeways as defined in Section 72-11-102; or

653 (d) parts used in the repairs or renovations of equipment or passenger ropeways

654 described in Subsections (38)(a) through (c);

655 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

656 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
657 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
658 59-12-102;

659 (b) if a seller that sells or rents at the same business location the right to use or operate
660 for amusement, entertainment, or recreation one or more unassisted amusement devices and
661 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
662 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
663 amusement, entertainment, or recreation for the assisted amusement devices; and

664 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
665 Utah Administrative Rulemaking Act, the commission may make rules:

666 (i) governing the circumstances under which sales are at the same business location;

667 and

668 (ii) establishing the procedures and requirements for a seller to separately account for
669 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
670 assisted amusement devices;

671 (41) (a) sales of photocopies by:

672 (i) a governmental entity; or

673 (ii) an entity within the state system of public education, including:

674 (A) a school; or

675 (B) the State Board of Education; or

676 (b) sales of publications by a governmental entity;

677 (42) amounts paid for admission to an athletic event at an institution of higher
678 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
679 20 U.S.C. Sec. 1681 et seq.;

680 (43) (a) sales made to or by:

681 (i) an area agency on aging; or

682 (ii) a senior citizen center owned by a county, city, or town; or

683 (b) sales made by a senior citizen center that contracts with an area agency on aging;

684 (44) sales or leases of semiconductor fabricating, processing, research, or development
685 materials regardless of whether the semiconductor fabricating, processing, research, or
686 development materials:

687 (a) actually come into contact with a semiconductor; or

688 (b) ultimately become incorporated into real property;

689 (45) an amount paid by or charged to a purchaser for accommodations and services
690 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
691 59-12-104.2;

692 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
693 sports event registration certificate in accordance with Section 41-3-306 for the event period
694 specified on the temporary sports event registration certificate;

695 (47) sales or uses of electricity, if the sales or uses are:

696 (a) made under a tariff adopted by the Public Service Commission of Utah only for
697 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
698 source, as designated in the tariff by the Public Service Commission of Utah; and

699 (b) for an amount of electricity that is:

700 (i) unrelated to the amount of electricity used by the person purchasing the electricity
701 under the tariff described in Subsection (47)(a); and

702 (ii) equivalent to the number of kilowatthours specified in the tariff described in
703 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

704 (48) sales or rentals of mobility enhancing equipment if a person presents a
705 prescription for the mobility enhancing equipment;

706 (49) sales of water in a:

707 (a) pipe;

- 708 (b) conduit;
- 709 (c) ditch; or
- 710 (d) reservoir;
- 711 (50) sales of currency or coinage that constitute legal tender of the United States or of a
- 712 foreign nation;
- 713 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 714 (i) does not constitute legal tender of any nation; and
- 715 (ii) has a gold, silver, or platinum content of 80% or more; and
- 716 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 717 (i) ingot;
- 718 (ii) bar;
- 719 (iii) medallion; or
- 720 (iv) decorative coin;
- 721 (52) amounts paid on a sale-leaseback transaction;
- 722 (53) sales of a prosthetic device:
- 723 (a) for use on or in a human; and
- 724 (b) (i) for which a prescription is required; or
- 725 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 726 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 727 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 728 or equipment is primarily used in the production or postproduction of the following media for
- 729 commercial distribution:
- 730 (i) a motion picture;
- 731 (ii) a television program;
- 732 (iii) a movie made for television;
- 733 (iv) a music video;
- 734 (v) a commercial;
- 735 (vi) a documentary; or
- 736 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 737 commission by administrative rule made in accordance with Subsection (54)(d); or
- 738 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or

739 equipment by an establishment described in Subsection (54)(c) that is used for the production
740 or postproduction of the following are subject to the taxes imposed by this chapter:

741 (i) a live musical performance;

742 (ii) a live news program; or

743 (iii) a live sporting event;

744 (c) the following establishments listed in the 1997 North American Industry
745 Classification System of the federal Executive Office of the President, Office of Management
746 and Budget, apply to Subsections (54)(a) and (b):

747 (i) NAICS Code 512110; or

748 (ii) NAICS Code 51219; and

749 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
750 commission may by rule:

751 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

752 or

753 (ii) define:

754 (A) "commercial distribution";

755 (B) "live musical performance";

756 (C) "live news program"; or

757 (D) "live sporting event";

758 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
759 or before June 30, 2019, of machinery or equipment that:

760 (i) is leased or purchased for or by a facility that:

761 (A) is a renewable energy production facility;

762 (B) is located in the state; and

763 (C) (I) becomes operational on or after July 1, 2004; or

764 (II) has its generation capacity increased by one or more megawatts on or after July 1,
765 2004 as a result of the use of the machinery or equipment;

766 (ii) has an economic life of five or more years; and

767 (iii) is used to make the facility or the increase in capacity of the facility described in

768 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

769 transmission grid including:

- 770 (A) a wind turbine;
- 771 (B) generating equipment;
- 772 (C) a control and monitoring system;
- 773 (D) a power line;
- 774 (E) substation equipment;
- 775 (F) lighting;
- 776 (G) fencing;
- 777 (H) pipes; or
- 778 (I) other equipment used for locating a power line or pole; and
- 779 (b) this Subsection (55) does not apply to:
 - 780 (i) machinery or equipment used in construction of:
 - 781 (A) a new renewable energy production facility; or
 - 782 (B) the increase in the capacity of a renewable energy production facility;
 - 783 (ii) contracted services required for construction and routine maintenance activities;
 - 784 and
 - 785 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 786 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
 - 787 acquired after:
 - 788 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
 - 789 operational as described in Subsection (55)(a)(iii); or
 - 790 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 791 in Subsection (55)(a)(iii);
 - 792 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
 - 793 or before June 30, 2019, of machinery or equipment that:
 - 794 (i) is leased or purchased for or by a facility that:
 - 795 (A) is a waste energy production facility;
 - 796 (B) is located in the state; and
 - 797 (C) (I) becomes operational on or after July 1, 2004; or
 - 798 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 799 2004 as a result of the use of the machinery or equipment;
 - 800 (ii) has an economic life of five or more years; and

801 (iii) is used to make the facility or the increase in capacity of the facility described in
802 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
803 transmission grid including:

- 804 (A) generating equipment;
- 805 (B) a control and monitoring system;
- 806 (C) a power line;
- 807 (D) substation equipment;
- 808 (E) lighting;
- 809 (F) fencing;
- 810 (G) pipes; or
- 811 (H) other equipment used for locating a power line or pole; and

812 (b) this Subsection (56) does not apply to:

813 (i) machinery or equipment used in construction of:

- 814 (A) a new waste energy facility; or
- 815 (B) the increase in the capacity of a waste energy facility;

816 (ii) contracted services required for construction and routine maintenance activities;

817 and

818 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
819 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:

820 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
821 described in Subsection (56)(a)(iii); or

822 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
823 in Subsection (56)(a)(iii);

824 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
825 or before June 30, 2019, of machinery or equipment that:

826 (i) is leased or purchased for or by a facility that:

- 827 (A) is located in the state;
- 828 (B) produces fuel from biomass energy including:

829 (I) methanol; or

830 (II) ethanol; and

831 (C) (I) becomes operational on or after July 1, 2004; or

832 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
833 a result of the installation of the machinery or equipment;

- 834 (ii) has an economic life of five or more years; and
- 835 (iii) is installed on the facility described in Subsection (57)(a)(i);

836 (b) this Subsection (57) does not apply to:

- 837 (i) machinery or equipment used in construction of:
 - 838 (A) a new facility described in Subsection (57)(a)(i); or
 - 839 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 840 (ii) contracted services required for construction and routine maintenance activities;

841 and

- 842 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
843 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
 - 844 (A) the facility described in Subsection (57)(a)(i) is operational; or
 - 845 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

846 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
847 product transferred electronically to a person within this state if that tangible personal property
848 or product transferred electronically is subsequently shipped outside the state and incorporated
849 pursuant to contract into and becomes a part of real property located outside of this state;

- 850 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
851 state or political entity to which the tangible personal property is shipped imposes a sales, use,
852 gross receipts, or other similar transaction excise tax on the transaction against which the other
853 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 854 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
855 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
856 refund:
 - 857 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
 - 858 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
859 which the sale is made;
 - 860 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
861 sale prior to filing for the refund;
 - 862 (iv) for sales and use taxes paid under this chapter on the sale;

863 (v) in accordance with Section 59-1-1410; and
864 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
865 the person files for the refund on or before June 30, 2011;
866 (59) purchases:
867 (a) of one or more of the following items in printed or electronic format:
868 (i) a list containing information that includes one or more:
869 (A) names; or
870 (B) addresses; or
871 (ii) a database containing information that includes one or more:
872 (A) names; or
873 (B) addresses; and
874 (b) used to send direct mail;
875 (60) redemptions or repurchases of a product by a person if that product was:
876 (a) delivered to a pawnbroker as part of a pawn transaction; and
877 (b) redeemed or repurchased within the time period established in a written agreement
878 between the person and the pawnbroker for redeeming or repurchasing the product;
879 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
880 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
881 and
882 (ii) has a useful economic life of one or more years; and
883 (b) the following apply to Subsection (61)(a):
884 (i) telecommunications enabling or facilitating equipment, machinery, or software;
885 (ii) telecommunications equipment, machinery, or software required for 911 service;
886 (iii) telecommunications maintenance or repair equipment, machinery, or software;
887 (iv) telecommunications switching or routing equipment, machinery, or software; or
888 (v) telecommunications transmission equipment, machinery, or software;
889 (62) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
890 personal property or a product transferred electronically that are used in the research and
891 development of coal-to-liquids, oil shale, or tar sands technology; and
892 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
893 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

894 purchases of tangible personal property or a product transferred electronically that are used in
895 the research and development of coal-to-liquids, oil shale, and tar sands technology;

896 (63) (a) purchases of tangible personal property or a product transferred electronically
897 if:

898 (i) the tangible personal property or product transferred electronically is:

899 (A) purchased outside of this state;

900 (B) brought into this state at any time after the purchase described in Subsection

901 (63)(a)(i)(A); and

902 (C) used in conducting business in this state; and

903 (ii) for:

904 (A) tangible personal property or a product transferred electronically other than the
905 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

906 for a purpose for which the property is designed occurs outside of this state; or

907 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
908 outside of this state;

909 (b) the exemption provided for in Subsection (63)(a) does not apply to:

910 (i) a lease or rental of tangible personal property or a product transferred electronically;

911 or

912 (ii) a sale of a vehicle exempt under Subsection (33); and

913 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
914 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
915 following:

916 (i) conducting business in this state if that phrase has the same meaning in this
917 Subsection (63) as in Subsection (24);

918 (ii) the first use of tangible personal property or a product transferred electronically if
919 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

920 (iii) a purpose for which tangible personal property or a product transferred
921 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
922 Subsection (24);

923 (64) sales of disposable home medical equipment or supplies if:

924 (a) a person presents a prescription for the disposable home medical equipment or

925 supplies;

926 (b) the disposable home medical equipment or supplies are used exclusively by the
927 person to whom the prescription described in Subsection (64)(a) is issued; and

928 (c) the disposable home medical equipment and supplies are listed as eligible for
929 payment under:

930 (i) Title XVIII, federal Social Security Act; or

931 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

932 (65) sales:

933 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
934 District Act; or

935 (b) of tangible personal property to a subcontractor of a public transit district, if the
936 tangible personal property is:

937 (i) clearly identified; and

938 (ii) installed or converted to real property owned by the public transit district;

939 (66) sales of construction materials:

940 (a) purchased on or after July 1, 2010;

941 (b) purchased by, on behalf of, or for the benefit of an international airport:

942 (i) located within a county of the first class; and

943 (ii) that has a United States customs office on its premises; and

944 (c) if the construction materials are:

945 (i) clearly identified;

946 (ii) segregated; and

947 (iii) installed or converted to real property:

948 (A) owned or operated by the international airport described in Subsection (66)(b); and

949 (B) located at the international airport described in Subsection (66)(b);

950 (67) sales of construction materials:

951 (a) purchased on or after July 1, 2008;

952 (b) purchased by, on behalf of, or for the benefit of a new airport:

953 (i) located within a county of the second class; and

954 (ii) that is owned or operated by a city in which an airline as defined in Section

955 59-2-102 is headquartered; and

- 956 (c) if the construction materials are:
- 957 (i) clearly identified;
- 958 (ii) segregated; and
- 959 (iii) installed or converted to real property:
- 960 (A) owned or operated by the new airport described in Subsection (67)(b);
- 961 (B) located at the new airport described in Subsection (67)(b); and
- 962 (C) as part of the construction of the new airport described in Subsection (67)(b); ~~and~~
- 963 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive
- 964 engine[-]; and

965 (69) a transaction on Cedar Band reservation land if the exemption from the tax
966 imposed under this chapter is in effect in accordance with Chapter 1, Part 15, Exemptions
967 Related to the Cedar Band of the Paiute Tribe Act.

968 Section 11. Section **59-13-201** is amended to read:

969 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
970 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
971 **in limited circumstances.**

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

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

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

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

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

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

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

987 this state; or

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

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

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

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

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

1000 (6) (a) The commission shall determine what amount of motor fuel tax revenue is
1001 received from the sale or use of motor fuel used in motorboats registered under the provisions
1002 of the State Boating Act, and this amount shall be deposited in a restricted revenue account in
1003 the General Fund of the state.

1004 (b) The funds from this account shall be used for the construction, improvement,
1005 operation, and maintenance of state-owned boating facilities and for the payment of the costs
1006 and expenses of the Division of Parks and Recreation in administering and enforcing the State
1007 Boating Act.

1008 (7) (a) The United States government or any of its instrumentalities, this state, or a
1009 political subdivision of this state that has purchased motor fuel from a licensed distributor or
1010 from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this
1011 section is entitled to a refund of the tax and may file with the commission for a quarterly
1012 refund.

1013 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1014 commission shall make rules governing the application and refund provided for in Subsection
1015 (7)(a).

1016 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
1017 the General Fund an amount equal to the lesser of the following:

- 1018 (i) .5% of the motor fuel tax revenues collected under this section; or
1019 (ii) \$1,050,000.
- 1020 (b) This amount shall be used as provided in Section 41-22-19.
- 1021 (c) This Subsection (8) sunsets on July 1, 2010.
- 1022 (9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that
1023 is sold, used, or received for sale or use in this state is reduced to the extent provided in
1024 Subsection (9)(b) if:
- 1025 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
1026 fuel is paid to the Navajo Nation;
- 1027 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
1028 not the person required to pay the tax is an enrolled member of the Navajo Nation; and
- 1029 (iii) the commission and the Navajo Nation execute and maintain an agreement as
1030 provided in this Subsection (9) for the administration of the reduction of tax.
- 1031 (b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this
1032 section:
- 1033 (A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that
1034 difference is greater than \$0; and
- 1035 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
1036 if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.
- 1037 (ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:
- 1038 (A) the amount of tax imposed on the motor fuel by this section; less
- 1039 (B) the tax imposed and collected by the Navajo Nation on the motor fuel.
- 1040 (c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under
1041 a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of
1042 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the
1043 Navajo Nation.
- 1044 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1045 commission shall make rules governing the procedures for administering the reduction of tax
1046 provided under this Subsection (9).
- 1047 (e) The agreement required under Subsection (9)(a):
- 1048 (i) may not:

- 1049 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
1050 (B) provide a reduction of taxes greater than or different from the reduction described
1051 in this Subsection (9); or
1052 (C) affect the power of the state to establish rates of taxation;
1053 (ii) shall:
1054 (A) be in writing;
1055 (B) be signed by:
1056 (I) the chair of the commission or the chair's designee; and
1057 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
1058 (C) be conditioned on obtaining any approval required by federal law;
1059 (D) state the effective date of the agreement; and
1060 (E) state any accommodation the Navajo Nation makes related to the construction and
1061 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
1062 Nation; and
1063 (iii) may:
1064 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
1065 Navajo Nation information that is:
1066 (I) contained in a document filed with the commission; and
1067 (II) related to the tax imposed under this section;
1068 (B) provide for maintaining records by the commission or the Navajo Nation; or
1069 (C) provide for inspections or audits of distributors, carriers, or retailers located or
1070 doing business within the Utah portion of the Navajo Nation.
1071 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
1072 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
1073 result of the change in the tax rate is not effective until the first day of the calendar quarter after
1074 a 60-day period beginning on the date the commission receives notice:
1075 (A) from the Navajo Nation; and
1076 (B) meeting the requirements of Subsection (9)(f)(ii).
1077 (ii) The notice described in Subsection (9)(f)(i) shall state:
1078 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
1079 motor fuel;

1080 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
1081 and

1082 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

1083 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
1084 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
1085 30-day period beginning on the day the agreement terminates.

1086 (h) If there is a conflict between this Subsection (9) and the agreement required by
1087 Subsection (9)(a), this Subsection (9) governs.

1088 (10) A tax imposed under this section on motor fuel that is sold, used, or received for
1089 sale or use in this state is subject to an exemption on Cedar Band reservation land if the
1090 exemption from a tax imposed under this section is in effect in accordance with Chapter 1, Part
1091 15, Exemptions Related to the Cedar Band of the Paiute Tribe Act.

1092 Section 12. Section **59-13-301** is amended to read:

1093 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
1094 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

1095 (1) (a) Except as provided in Subsections (2), (3), (11), [~~and~~] (12), and (13) and
1096 Section 59-13-304, a tax is imposed at the same rate imposed under Subsection
1097 59-13-201(1)(a) on the:

1098 (i) removal of undyed diesel fuel from any refinery;

1099 (ii) removal of undyed diesel fuel from any terminal;

1100 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
1101 warehousing;

1102 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
1103 this part unless the tax has been collected under this section;

1104 (v) any untaxed special fuel blended with undyed diesel fuel; or

1105 (vi) use of untaxed special fuel other than propane or electricity.

1106 (b) The tax imposed under this section shall only be imposed once upon any special
1107 fuel.

1108 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:

1109 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
1110 the public highways of the state, but this exemption applies only in those cases where the

1111 purchasers or the users of special fuel establish to the satisfaction of the commission that the
1112 special fuel was used for purposes other than to operate a motor vehicle upon the public
1113 highways of the state; or

1114 (ii) is sold to this state or any of its political subdivisions.

1115 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that:

1116 (i) is sold to the United States government or any of its instrumentalities or to this state
1117 or any of its political subdivisions;

1118 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
1119 commission is made within 180 days after exportation;

1120 (iii) is used in a vehicle off-highway;

1121 (iv) is used to operate a power take-off unit of a vehicle;

1122 (v) is used for off-highway agricultural uses;

1123 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
1124 upon the highways of the state; or

1125 (vii) is used in machinery and equipment not registered and not required to be
1126 registered for highway use.

1127 (3) No tax is imposed or collected on special fuel if it is:

1128 (a) (i) purchased for business use in machinery and equipment not registered and not
1129 required to be registered for highway use; and

1130 (ii) used pursuant to the conditions of a state implementation plan approved under Title
1131 19, Chapter 2, Air Conservation Act; or

1132 (b) propane or electricity.

1133 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
1134 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.

1135 (5) The special fuel tax shall be paid by the supplier.

1136 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
1137 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

1138 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
1139 which are delivered into vehicles and for which special fuel tax liability is reported.

1140 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
1141 commission from taxes and license fees under this part shall be deposited daily with the state

1142 treasurer and credited to the Transportation Fund.

1143 (b) An appropriation from the Transportation Fund shall be made to the commission to
1144 cover expenses incurred in the administration and enforcement of this part and the collection of
1145 the special fuel tax.

1146 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
1147 may be used by the commission as a dedicated credit to cover the costs of electronic
1148 credentialing as provided in Section 41-1a-303.

1149 (8) The commission may either collect no tax on special fuel exported from the state
1150 or, upon application, refund the tax paid.

1151 (9) (a) The United States government or any of its instrumentalities, this state, or a
1152 political subdivision of this state that has purchased special fuel from a supplier or from a retail
1153 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
1154 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
1155 manner prescribed by the commission.

1156 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1157 commission shall make rules governing the application and refund provided for in Subsection
1158 (9)(a).

1159 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
1160 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid
1161 as provided in Subsection (9) and this Subsection (10).

1162 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1163 commission shall make rules governing the application and refund for off-highway and
1164 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

1165 (c) A refund of tax paid under this part on diesel fuel used for nonhighway agricultural
1166 uses shall be made in accordance with the tax return procedures under Section 59-13-202.

1167 (11) (a) Beginning on April 1, 2001, a tax imposed under this section on special fuel is
1168 reduced to the extent provided in Subsection (11)(b) if:

1169 (i) the Navajo Nation imposes a tax on the special fuel;

1170 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
1171 person required to pay the tax is an enrolled member of the Navajo Nation; and

1172 (iii) the commission and the Navajo Nation execute and maintain an agreement as

1173 provided in this Subsection (11) for the administration of the reduction of tax.

1174 (b) (i) If but for Subsection (11)(a) the special fuel is subject to a tax imposed by this
1175 section:

1176 (A) the state shall be paid the difference described in Subsection (11)(b)(ii) if that
1177 difference is greater than \$0; and

1178 (B) a person may not require the state to provide a refund, a credit, or similar tax relief
1179 if the difference described in Subsection (11)(b)(ii) is less than or equal to \$0.

1180 (ii) The difference described in Subsection (11)(b)(i) is equal to the difference
1181 between:

1182 (A) the amount of tax imposed on the special fuel by this section; less

1183 (B) the tax imposed and collected by the Navajo Nation on the special fuel.

1184 (c) For purposes of Subsections (11)(a) and (b), the tax paid to the Navajo Nation on
1185 the special fuel does not include any interest or penalties a taxpayer may be required to pay to
1186 the Navajo Nation.

1187 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1188 commission shall make rules governing the procedures for administering the reduction of tax
1189 provided under this Subsection (11).

1190 (e) The agreement required under Subsection (11)(a):

1191 (i) may not:

1192 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1193 (B) provide a reduction of taxes greater than or different from the reduction described
1194 in this Subsection (11); or

1195 (C) affect the power of the state to establish rates of taxation;

1196 (ii) shall:

1197 (A) be in writing;

1198 (B) be signed by:

1199 (I) the chair of the commission or the chair's designee; and

1200 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;

1201 (C) be conditioned on obtaining any approval required by federal law;

1202 (D) state the effective date of the agreement; and

1203 (E) state any accommodation the Navajo Nation makes related to the construction and

1204 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
1205 Nation; and

1206 (iii) may:

1207 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
1208 Navajo Nation information that is:

1209 (I) contained in a document filed with the commission; and

1210 (II) related to the tax imposed under this section;

1211 (B) provide for maintaining records by the commission or the Navajo Nation; or

1212 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
1213 located or doing business within the Utah portion of the Navajo Nation.

1214 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
1215 imposed on special fuel, any change in the amount of the reduction of taxes under this
1216 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
1217 calendar quarter after a 60-day period beginning on the date the commission receives notice:

1218 (A) from the Navajo Nation; and

1219 (B) meeting the requirements of Subsection (11)(f)(ii).

1220 (ii) The notice described in Subsection (11)(f)(i) shall state:

1221 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
1222 special fuel;

1223 (B) the effective date of the rate change of the tax described in Subsection
1224 (11)(f)(ii)(A); and

1225 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).

1226 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
1227 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
1228 30-day period beginning on the day the agreement terminates.

1229 (h) If there is a conflict between this Subsection (11) and the agreement required by
1230 Subsection (11)(a), this Subsection (11) governs.

1231 (12) Beginning on January 1, 2009, a tax imposed under this section on compressed
1232 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be
1233 increased or decreased proportionately with any increase or decrease in the rate in Subsection
1234 59-13-201(1)(a).

1235 (13) A tax imposed under this section is subject to an exemption on Cedar Band
 1236 reservation land if the exemption from a tax imposed under this section is in effect in
 1237 accordance with Chapter 1, Part 15, Exemptions Related to the Cedar Band of the Paiute Tribe
 1238 Act.

1239 Section 13. Section **59-14-204.5** is amended to read:

1240 **59-14-204.5. Application of excise tax on tribal lands.**

1241 (1) (a) Cigarettes sold to or received by members of a federally recognized Indian tribe
 1242 that are purchased or received on the tribal lands are not subject to the tax imposed by Section
 1243 59-14-204.

1244 (b) Cigarettes exempt from tax under 26 U.S.C. Sec. 5701 and distributed in
 1245 accordance with federal regulations are not subject to the tax imposed by Section 59-14-204.

1246 (2) (a) (i) The tax applicable to cigarettes sold to or received by nontribal members on
 1247 tribal lands is equal to the state tax imposed by Section 59-14-204, minus any tribal tax actually
 1248 paid.

1249 (ii) For purposes of this section, nontribal members includes any person who is not a
 1250 member of the Indian tribe that is selling the cigarettes.

1251 (b) If the application of the tax offset for tribal taxes permitted in Subsection (2)(a)
 1252 results in a negative balance, the taxes owed to the state are zero.

1253 (c) (i) Cigarettes taxed pursuant to this Subsection (2) shall bear a tax stamp as
 1254 required by Section 59-14-205 in an amount equal to the tax imposed by Section 59-14-204.

1255 (ii) The commission shall at least semi-annually rebate to an Indian tribal entity that is
 1256 in compliance with this chapter the lesser of:

1257 (A) an amount equal to the tribal tax imposed on sales under this Subsection (2); or

1258 (B) the face value of the tax stamps affixed to cigarettes sold under this Subsection (2).

1259 (3) To the extent not addressed by other provisions of this section, a tax imposed under
 1260 this chapter is subject to an exemption on Cedar Band reservation land if the exemption from a
 1261 tax imposed under this section is in effect in accordance with Chapter 1, Part 15, Exemptions
 1262 Related to the Cedar Band of the Paiute Tribe Act.

1262a **§→ Section 14. Section 72-2-107 is amended to read:**

1262b **72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C**
 1262c **roads account.**

1262d **(1) There is appropriated to the department from the Transportation Fund annually**
 1262e **an amount equal to 30% of an amount which the director of finance shall compute in the**
 1262f **following manner: The total revenue deposited into the Transportation Fund during the fiscal**
 1262g **year from state highway-user taxes and fees, minus:**

1262h **(a) those amounts appropriated or transferred from the Transportation Fund during**
 1262i **the same fiscal year to: ←§**

- 1262j **§→** (i) the Department of Public Safety;
- 1262k (ii) the State Tax Commission;
- 1262l (iii) the Division of Finance;
- 1262m (iv) the Utah Travel Council; and
- 1262n (v) any other amounts appropriated or transferred for any other state agencies not a
- 1262o part of the department; [~~and~~]
- 1262p (vi) revenue collected under Title 59, Chapter 13, Motor and Special Fuel Tax Act, for a
- 1262q transaction on Cedar Band reservation land if the partial exemption from a tax imposed under
- 1262r Title 59, Chapter 13, is in effect in accordance with Title 59, Chapter 1, Part 15, Exemptions
- 1262s Related to the Cedar Band of the Paiute Tribe Act; and
- 1262t (b) the amount of sales and use tax revenue deposited in the Transportation Fund in
- 1262u accordance with Section 59-12-103.
- 1262v (2) (a) Except as provided in Subsection (2)(b), all of this money shall be placed in an
- 1262w account to be known as the class B and class C roads account to be used as provided in this
- 1262x title.
- 1262y (b) The director of finance shall annually transfer \$500,000 of the amount calculated
- 1262z under Subsection (1) to the department as nonlapsing dedicated credits for the State Park
- 1262aa Access Highways Improvement Program created in Section 72-3-207.
- 1262ab (3) Each quarter of every year the director of finance shall make the necessary
- 1262ac accounting entries to transfer the money appropriated under this section to the class B and
- 1262ad class C roads account.
- 1262ae (4) The funds in the class B and class C roads account shall be expended under the
- 1262af direction of the department as the Legislature shall provide. ←§

Fiscal Note**S.B. 207 1st Sub. (Green) - Tax Exemption for Cedar Band of Paiute Tribe -
As Amended**

2010 General Session

State of Utah

State Impact

Enacting this bill reduces sales tax to the General Fund by \$123,100 and Transportation Fund revenue by \$587,400 in FY 2012. After FY 2012, the exemption becomes 100% reducing revenue to the General Fund by \$258,600 and to the Transportation Fund by \$616,800 in FY 2013. The reduced appropriation applies to the B & C road account.

| | <u>FY 2010</u> <u>Approp.</u> | <u>FY 2011</u> <u>Approp.</u> | <u>FY 2012</u> <u>Approp.</u> | <u>FY 2010</u> <u>Revenue</u> | <u>FY 2011</u> <u>Revenue</u> | <u>FY 2012</u> <u>Revenue</u> |
|---------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | \$0 | \$0 | \$0 | \$0 | \$0 | (\$123,100) |
| Transportation Fund | \$0 | \$0 | (\$587,400) | \$0 | \$0 | (\$587,400) |
| Total | \$0 | \$0 | (\$587,400) | \$0 | \$0 | (\$710,500) |

Individual, Business and/or Local Impact

Individuals and businesses will pay a tribal tax instead of the state taxes exempted in the bill. The amount of revenue from the tax should be substantially similar to the amount of loss to the General Fund and Transportation Fund. Local governments will experience a decrease of \$587,400 due to the reduction in the distribution to the B & C road account.