

TAX EXEMPTION FOR CEDAR BAND OF PAIUTE TRIBE

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Dennis E. Stowell

House Sponsor: _____

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; and
- ▶ provides for termination of an exemption.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 28 **59-13-201**, as last amended by Laws of Utah 2008, Chapter 382
- 29 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382
- 30 **59-14-204.5**, as enacted by Laws of Utah 2004, Chapter 217

31 ENACTS:

- 32 **59-1-1501**, Utah Code Annotated 1953
- 33 **59-1-1502**, Utah Code Annotated 1953
- 34 **59-1-1503**, Utah Code Annotated 1953
- 35 **59-1-1504**, Utah Code Annotated 1953
- 36 **59-1-1505**, Utah Code Annotated 1953
- 37 **59-1-1506**, Utah Code Annotated 1953
- 38 **59-1-1507**, Utah Code Annotated 1953
- 39 **59-1-1508**, Utah Code Annotated 1953

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

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

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

44 **59-1-1501. Title.**

45 This part is known as the "Exemptions Related to the Cedar Band of the Paiute Tribe
46 Act."

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

48 **59-1-1502. Definitions.**

49 As used in this part:

50 (1) "Applicable tax" means:

51 (a) a tax imposed under Chapter 12, Sales and Use Tax Act, for amounts paid or
52 charged for a transaction that occurs on Cedar Band reservation land if the transaction is
53 subject to taxation under:

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

55 (ii) Chapter 12, Sales and Use Tax Act, except for the tax described in Subsection
56 (1)(a)(i);

57 (b) a tax imposed under Chapter 13, Motor and Special Fuel Tax Act, on motor fuel or
58 special fuel that is sold, used, or received for sale or used on Cedar Band reservation land; or

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

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

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

66 (4) "Cedar Band reservation land" means the geographical area within the boundaries
67 of the reservation established for the Cedar Band by the Secretary of the Interior in accordance
68 with the Paiute Indian Tribe of Utah Restoration Act, 25 U.S.C. Sec. 761 et seq., Pub. L.
69 98-219, or another act of the United States Congress.

70 (5) "Tax rate" does not include any interest or penalties a taxpayer may be required to
71 pay to the Cedar Band in relation to a tribal tax.

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

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

75 **59-1-1503. Exempt transactions -- Agreement between Cedar Band and the**
76 **governor.**

77 (1) Subject to Section 59-1-1506, a transaction that occurs on Cedar Band reservation
78 land is exempt from taxation to the extent provided in Section 57-1-1505 with respect to an
79 applicable tax beginning the first day of the first calendar quarter after the later of the day on
80 which:

81 (a) the governor notifies the commission that an agreement with the governor that
82 meets the conditions of Subsection (2) takes effect; and

83 (b) an agreement with the commission described in Section 59-1-1504 takes effect.

84 (2) An exemption under this section is subject to the governor entering into an
85 agreement with the Cedar Band that:

86 (a) provides for documentation that the Cedar Band imposes a tribal tax;

87 (b) provides for documentation that the Cedar Band has the authority under the laws of
88 the Paiute Indian Tribe of Utah to impose the tribal tax;

89 (c) certifies that the tribal tax the Cedar Band imposes is substantially similar to the

90 applicable tax with respect to which the Cedar Band seeks an exemption, including the base for
91 the tribal tax being substantially similar to the base for the applicable tax;

92 (d) certifies that the tribal tax described in Subsection (2)(a) is imposed without regard
93 to whether the person required to pay the tribal tax is an enrolled member of the Cedar Band;

94 (e) certifies the tax rate for the tribal tax complies with Section 59-1-1505;

95 (f) prohibits the payment of per capita payments to a member of the Paiute Indian Tribe
96 of Utah of revenues collected from the tribal tax;

97 (g) includes findings of the governor that:

98 (i) the tribal tax includes procedural protections for a person required to pay the tribal
99 tax that meet the due process standards of the Constitution of the United States; and

100 (ii) in relation to the tribal tax, the Cedar Band has implemented a revenue allocation
101 plan that to the satisfaction of the governor allocates the revenue collected from the tribal tax:

102 (A) in a manner that does not result in duplication of government services amongst the
103 Paiute Indian Tribe of Utah, the state, and local government; and

104 (B) to:

105 (I) the Cedar Band providing a government service that is substantially similar to and
106 not duplicative of the government services that would be funded with the revenues that would
107 be collected from an applicable tax;

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

112 (III) if it is impractical to meet the requirements of Subsection (2)(g)(ii)(B)(I) or (II),
113 provide a government service that meets a critical need of the Cedar Band, whether provided
114 by the Cedar Band or through contract with another governmental body;

115 (h) provides for certification by the Cedar Band that it has entered into an agreement
116 with the county in which Cedar Band reservation land is located to address the extent to which
117 the Cedar Band will compensate the county for services provided to the Cedar Band related to
118 Cedar Band reservation land;

119 (i) provides that the exemption is allowed in accordance with this part; and

120 (j) provides for procedures and conditions related to terminating the agreement.

121 (3) An agreement under Subsection (2):
122 (a) may not:
123 (i) authorize the imposition of a tax, fee, or charge;
124 (ii) provide a refund, credit, or similar reduction that is greater or different than the
125 exemption allowed in accordance with this part; or
126 (iii) affect the power of the Legislature to establish rates of taxation; and
127 (b) shall:
128 (i) be in writing;
129 (ii) be signed by:
130 (A) the governor; and
131 (B) the chair of the Cedar Band;
132 (iii) be conditioned on obtaining any approval required by federal law; and
133 (iv) state the effective date of the agreement.
134 (4) If there is a conflict between this part and the agreement described in Subsection
135 (2), this part governs.
136 (5) The governor shall provide a copy of this agreement to the county in which Cedar
137 Band reservation land is located.
138 Section 4. Section **59-1-1504** is enacted to read:
139 **59-1-1504. Commission agreement with Cedar Band.**
140 (1) An exemption may not take effect under this part unless the commission enters into
141 an agreement with the Cedar Band that:
142 (a) provides a procedure for determining when the location of a transaction is on Cedar
143 Band reservation land;
144 (b) provides a procedure by which the Cedar Band notifies the commission that the
145 Cedar Band will terminate or change the tax rate or base of a tribal tax including notifying the
146 commission of:
147 (i) the effective date of the termination or change of the tax rate or base; and
148 (ii) if the tax rate or base is to be changed, the new tax rate or base;
149 (c) specifies which records the Cedar Band shall maintain in a form prescribed by the
150 commission that are necessary to determine the implementation of an exemption under this
151 part, including the time period for which a record shall be maintained;

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

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

156 (ii) relates to a tribal tax;

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

160 (f) addresses any other issue related to the commission's administration of an
161 exemption from an applicable tax; and

162 (g) provides for procedures and conditions related to terminating the agreement.

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

164 (a) may not:

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

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

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

169 (b) shall:

170 (i) be in writing;

171 (ii) be signed by:

172 (A) the chair of the commission or the chair's designee; and

173 (B) the chair of the Cedar Band;

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

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

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

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

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

181 **59-1-1505. Tax rate and amount of exemption.**

182 (1) As used in this section:

183 (a) "Combined state and local tax rate" means the sum of the tax rates imposed on a
184 transaction under the applicable taxes that are imposed on the transaction within a local taxing
185 jurisdiction, as defined in Section 59-12-102.

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

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

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

194 (3) For purposes of this part, a transaction that occurs on Cedar Band reservation land
195 is exempt from taxation only to the following extent:

196 (a) on and after July 1, 2010, but on and before June 30, 2011, the exemption is 50% of
197 the combined state and local tax rate;

198 (b) on and after July 1, 2011, but on and before June 30, 2012, the exemption is 50% of
199 the combined state and local tax rate; and

200 (c) on and after July 1, 2012, the exemption is 100% of the combined state and local
201 tax rate.

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

204 (i) the seller shall collect and pay to the state the difference described in Subsection
205 (4)(b) if that difference is greater than \$0; and

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

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

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

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

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

213 **59-1-1506. Governor reporting requirements.**

214 (1) The governor shall issue a written report by no later than February 1 of each year as
215 to whether an agreement meeting the requirements of Section 59-1-1503 is in effect.

216 (2) The governor shall provide a written report prepared under this section by no later
217 than February 1 of each year to:

218 (a) the commission; and

219 (b) a county in which Cedar Band reservation land is located.

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

221 **59-1-1507. Termination of exemption.**

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

224 (1) the day on which an agreement described in Subsection 59-1-1503(1) terminates;

225 (2) the day on which the Cedar Band no longer imposes a tribal tax with respect to
226 which an exemption from an applicable tax is allowed in accordance with this part;

227 (3) the day on which the Cedar Band no longer has the authority to impose a tribal tax
228 with respect to which an exemption from an applicable tax is allowed in accordance with this
229 part; or

230 (4) the day on which the Cedar Band imposes a tax rate that is lower than the tax rate
231 required by Section 59-1-1505.

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

233 **59-1-1508. Rulemaking.**

234 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
235 commission may make rules regarding the procedures for administering or enforcing an
236 exemption from an applicable tax under this part, except that the rules shall be consistent with
237 the agreement described in Section 59-1-1504.

238 Section 9. Section **59-13-201** is amended to read:

239 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
240 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
241 **in limited circumstances.**

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

244 (b) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of

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

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

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

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

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

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

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

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

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

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

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

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

274 (b) The funds from this account shall be used for the construction, improvement,
275 operation, and maintenance of state-owned boating facilities and for the payment of the costs

276 and expenses of the Division of Parks and Recreation in administering and enforcing the State
277 Boating Act.

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

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

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

- 288 (i) .5% of the motor fuel tax revenues collected under this section; or
- 289 (ii) \$1,050,000.

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

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

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

- 295 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
296 fuel is paid to the Navajo Nation;
- 297 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or
298 not the person required to pay the tax is an enrolled member of the Navajo Nation; and
- 299 (iii) the commission and the Navajo Nation execute and maintain an agreement as
300 provided in this Subsection (9) for the administration of the reduction of tax.

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

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

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

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

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

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

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

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

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

318 (i) may not:

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

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

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

323 (ii) shall:

324 (A) be in writing;

325 (B) be signed by:

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

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

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

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

330 (E) state any accommodation the Navajo Nation makes related to the construction and
331 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
332 Nation; and

333 (iii) may:

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

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

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

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

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

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

345 (A) from the Navajo Nation; and

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

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

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

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

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

353 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
354 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
355 30-day period beginning on the day the agreement terminates.

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

358 (10) A tax imposed under this section on motor fuel that is sold, used, or received for
359 sale or use in this state is subject to an exemption on Cedar Band reservation land if the
360 exemption from a tax imposed under this section is in effect in accordance with Chapter 1, Part
361 15, Exemptions Related to the Cedar Band of the Paiute Tribe Act.

362 Section 10. Section **59-13-301** is amended to read:

363 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
364 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

365 (1) (a) Except as provided in Subsections (2), (3), (11), [~~and~~] (12), and (13) and
366 Section 59-13-304, a tax is imposed at the same rate imposed under Subsection
367 59-13-201(1)(a) on the:

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

- 369 (ii) removal of undyed diesel fuel from any terminal;
- 370 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
- 371 warehousing;
- 372 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
- 373 this part unless the tax has been collected under this section;
- 374 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 375 (vi) use of untaxed special fuel other than propane or electricity.
- 376 (b) The tax imposed under this section shall only be imposed once upon any special
- 377 fuel.
- 378 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
- 379 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
- 380 the public highways of the state, but this exemption applies only in those cases where the
- 381 purchasers or the users of special fuel establish to the satisfaction of the commission that the
- 382 special fuel was used for purposes other than to operate a motor vehicle upon the public
- 383 highways of the state; or
- 384 (ii) is sold to this state or any of its political subdivisions.
- 385 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that:
- 386 (i) is sold to the United States government or any of its instrumentalities or to this state
- 387 or any of its political subdivisions;
- 388 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
- 389 commission is made within 180 days after exportation;
- 390 (iii) is used in a vehicle off-highway;
- 391 (iv) is used to operate a power take-off unit of a vehicle;
- 392 (v) is used for off-highway agricultural uses;
- 393 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
- 394 upon the highways of the state; or
- 395 (vii) is used in machinery and equipment not registered and not required to be
- 396 registered for highway use.
- 397 (3) No tax is imposed or collected on special fuel if it is:
- 398 (a) (i) purchased for business use in machinery and equipment not registered and not
- 399 required to be registered for highway use; and

400 (ii) used pursuant to the conditions of a state implementation plan approved under Title
401 19, Chapter 2, Air Conservation Act; or

402 (b) propane or electricity.

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

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

406 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
407 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

429 (10) (a) The purchaser shall pay the tax on diesel fuel or clean fuel purchased for uses
430 under Subsections (2)(b)(i), (iii), (iv), (v), (vi), and (vii) and apply for a refund for the tax paid

431 as provided in Subsection (9) and this Subsection (10).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

461 (i) may not:

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

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

464 in this Subsection (11); or

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

466 (ii) shall:

467 (A) be in writing;

468 (B) be signed by:

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

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

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

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

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

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

475 Nation; and

476 (iii) may:

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

478 Navajo Nation information that is:

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

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

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

482 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers

483 located or doing business within the Utah portion of the Navajo Nation.

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

485 imposed on special fuel, any change in the amount of the reduction of taxes under this

486 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the

487 calendar quarter after a 60-day period beginning on the date the commission receives notice:

488 (A) from the Navajo Nation; and

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

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

491 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on

492 special fuel;

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

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

496 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
497 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
498 30-day period beginning on the day the agreement terminates.

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

501 (12) Beginning on January 1, 2009, a tax imposed under this section on compressed
502 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be
503 increased or decreased proportionately with any increase or decrease in the rate in Subsection
504 59-13-201(1)(a).

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

509 Section 11. Section **59-14-204.5** is amended to read:

510 **59-14-204.5. Application of excise tax on tribal lands.**

511 (1) (a) Cigarettes sold to or received by members of a federally recognized Indian tribe
512 that are purchased or received on the tribal lands are not subject to the tax imposed by Section
513 59-14-204.

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

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

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

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

523 (c) (i) Cigarettes taxed pursuant to this Subsection (2) shall bear a tax stamp as

524 required by Section 59-14-205 in an amount equal to the tax imposed by Section 59-14-204.

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

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

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

529 (3) To the extent not addressed by other provisions of this section, a tax imposed under
530 this chapter is subject to an exemption on Cedar Band reservation land if the exemption from a

531 tax imposed under this section is in effect in accordance with Chapter 1, Part 15, Exemptions

532 Related to the Cedar Band of the Paiute Tribe Act.

Legislative Review Note

as of 2-18-10 8:29 AM

Office of Legislative Research and General Counsel