

TAX EXEMPTION FOR CEDAR BAND OF PAIUTE TRIBE

2011 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 motor and special fuel taxes imposed under state law.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides conditions for a reduction to take effect;
- ▶ provides for the State Tax Commission to enter into an agreement related to implementing a reduction;
- ▶ provides for rulemaking by the State Tax Commission related to implementing a reduction;
- ▶ provides for termination of a reduction; ~~§~~→ [and]
- ▶ **addresses appropriations to the class B and class C road account; and** ←~~§~~
- ▶ makes technical and conforming changes.

Money 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 2010, Chapter 308
 29 **59-13-204**, as last amended by Laws of Utah 2007, Chapter 306
 30 **59-13-301**, as last amended by Laws of Utah 2008, Chapters 153 and 382
 30a **§→ 72-2-107**, as last amended by Laws of Utah 2010, Chapter 391 ←§

31
 32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
 35 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
 36 **in limited circumstances.**

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

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

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

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

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

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

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

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

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

58 (4) The commission may either collect no tax on motor fuel exported from the state or,

59 upon application, refund the tax paid.

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

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

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

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

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

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

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

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

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

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

- 89 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor

90 fuel is paid to the Navajo Nation;

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

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

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

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

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

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

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

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

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

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

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

112 (i) may not:

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

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

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

117 (ii) shall:

118 (A) be in writing;

119 (B) be signed by:

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

- 121 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 122 (C) be conditioned on obtaining any approval required by federal law;
- 123 (D) state the effective date of the agreement; and
- 124 (E) state any accommodation the Navajo Nation makes related to the construction and
- 125 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 126 Nation; and
- 127 (iii) may:
 - 128 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
 - 129 Navajo Nation information that is:
 - 130 (I) contained in a document filed with the commission; and
 - 131 (II) related to the tax imposed under this section;
 - 132 (B) provide for maintaining records by the commission or the Navajo Nation; or
 - 133 (C) provide for inspections or audits of distributors, carriers, or retailers located or
 - 134 doing business within the Utah portion of the Navajo Nation.
 - 135 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
 - 136 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
 - 137 result of the change in the tax rate is not effective until the first day of the calendar quarter after
 - 138 a 60-day period beginning on the date the commission receives notice:
 - 139 (A) from the Navajo Nation; and
 - 140 (B) meeting the requirements of Subsection (9)(f)(ii).
 - 141 (ii) The notice described in Subsection (9)(f)(i) shall state:
 - 142 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
 - 143 motor fuel;
 - 144 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
 - 145 and
 - 146 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
 - 147 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
 - 148 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
 - 149 30-day period beginning on the day the agreement terminates.
 - 150 (h) If there is a conflict between this Subsection (9) and the agreement required by
 - 151 Subsection (9)(a), this Subsection (9) governs.

152 (10) (a) As used in this section:

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

156 (ii) "Cedar Band reservation land" means the geographical area within the boundaries
 157 of the reservation established for the Cedar Band by the Secretary of the Interior in accordance
 158 with the Paiute Indian Tribe of Utah Restoration Act, 25 U.S.C. Sec. 761 et seq., Pub. L.
 159 98-219, or another act of the United States Congress.

160 (b) Beginning on the date provided in Subsection (10)(c) ~~§~~ and ending June 30, 2019 ~~§~~ , a
 160a tax imposed under this
 161 section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the
 162 extent provided in Subsection (10)(d) if:

163 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
 164 fuel is paid to the Cedar Band;

165 (ii) the tax described in Subsection (10)(b)(i) is imposed without regard to whether or
 166 not the person required to pay the tax is an enrolled member of the Paiute Indian Tribe of Utah;
 167 and

168 (iii) the commission and the Cedar Band execute and maintain an agreement as
 169 provided in this Subsection (10) for the administration of the reduction of tax.

170 (c) The reduction described in Subsection (10)(b), begins ~~§~~ [the later of] ~~§~~ the first day
 170a of the
 171 first calendar quarter after ~~§~~ a 60-day period beginning on the later of ~~§~~ :

172 (i) the day on which an agreement with the commission required by Subsection (10)(b)
 173 is executed; and

174 (ii) the first day on which the Cedar Band imposes a tax on the sale, use, or receipt for
 175 sale or use of motor fuel.

176 ~~§ [(d) (i) If but for Subsection (10)(b) the motor fuel is subject to a tax imposed by this~~
 177 ~~section:~~

178 ~~—— (A) the state shall be paid the difference described in Subsection (10)(d)(ii) if that~~
 179 ~~difference is greater than \$0; and~~

180 ~~—— (B) a person may not require the state to provide a refund, a credit, or similar tax relief~~
 181 ~~if the difference described in Subsection (10)(d)(ii) is less than or equal to \$0.~~

182 ~~—— (ii) The difference described in Subsection (10)(d)(i) is equal to the difference] ~~§~~~~

183 ~~§~~→ [calculated as follows:

184 ~~—— (A) determine the amount of tax imposed on the motor fuel by this section; and~~

185 ~~—— (B) subtract from the tax described in Subsection (10)(d)(ii)(A) the tax imposed and~~

186 ~~collected by the Cedar Band on the motor fuel.]~~

186a (d) The reduction described in Subsection (10)(b) is the lesser of:

186b (i) the amount calculated by multiplying the rate imposed under Subsection (1) by .30; and

186c (ii) the tax imposed and collected by the Cedar Band on the motor fuel. ←§

187 (e) For purposes of Subsections (10)(b) through (d), the tax paid to the Cedar Band

188 under a tax imposed by the Cedar Band on the basis of the sale, use, or receipt for sale or use of

189 motor fuel does not include any interest or penalties a taxpayer may be required to pay to the

190 Cedar Band.

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

192 commission shall make rules governing the procedures for administering the reduction of tax

193 provided under this Subsection (10).

194 (g) The agreement required under Subsection (10)(b):

195 (i) may not:

196 (A) authorize the imposition of a tax, fee, or charge;

197 (B) provide for a refund, credit, or a similar reduction of taxes greater than or different

198 from the reduction described in this Subsection (10); or

199 (C) affect the power of the Legislature to establish rates of taxation;

200 (ii) shall:

201 (A) be in writing;

202 (B) be signed by the chair of the commission or the chair's designee, and a person

203 designated by the Cedar Band that may bind the Cedar Band;

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

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

206 (E) state any accommodation the Cedar Band makes related to the construction and

207 maintenance of state highways and other infrastructure within the Cedar Band reservation land;

208 and

209 (iii) may:

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

211 Cedar Band information that is contained in a document filed with the commission and related

212 to the tax imposed under this section;

213 (B) provide for the maintenance of records by the commission or the Cedar Band;

214 (C) provide for inspections or audits of distributors, carriers, or retailers located or
215 doing business within Cedar Band reservation land; and

216 (D) address any other issue related to the commission's administration of this
217 Subsection (10).

218 (h) (i) If after the date specified in Subsection (10)(c), the Cedar Band changes the tax
219 rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection
220 (10) as a result of the change in the tax rate is not effective until the first day of the calendar
221 quarter after a 60-day period beginning on the date the commission receives notice:

222 (A) from the Cedar Band; and

223 (B) meeting the requirements of Subsection (10)(h)(ii).

224 (ii) The notice described in Subsection (10)(h)(i) shall state:

225 (A) that the Cedar Band has changed or will change the tax rate of a tax imposed on
226 motor fuel;

227 (B) the effective date of the rate change of the tax described in Subsection
228 (10)(h)(ii)(A); and

229 (C) the new rate of the tax described in Subsection (10)(h)(ii)(A).

230 (i) If the agreement required by Subsection (10)(b) terminates, a reduction of tax is not
231 permitted under this Subsection (10) beginning on the first day of the calendar quarter after a
232 30-day period beginning on the day the agreement terminates.

233 (j) If there is a conflict between this Subsection (10) and the agreement required by
234 Subsection (10)(b), this Subsection (10) governs.

235 Section 2. Section **59-13-204** is amended to read:

236 **59-13-204. Distributors liable for tax -- Computations -- Exceptions --**

237 **Assumption of liability statements -- Motor fuel received -- Tax to be added to price of**
238 **motor fuel.**

239 (1) Distributors licensed under this part who receive motor fuel are liable for the tax as
240 provided by this part, and shall report the receipt of the motor fuel to the commission and pay
241 the tax as prescribed.

242 (2) (a) Distributors shall compute the tax on the total taxable amount of motor fuel
243 produced, purchased, received, imported, or refined in this state, and all distributors shipping
244 motor fuels into this state shall compute the tax on the total taxable amount of motor fuels

245 received for sale or use in this state.

246 (b) All motor fuel distributed by any distributor to the distributor's branches within this
247 state is considered to be sold at the time of this distribution and is subject to this part as if
248 actually sold.

249 (c) Distributors licensed under this part may sell motor fuel to other licensed
250 distributors without the payment or collection of the tax, if the purchasing distributor furnishes
251 the seller with an assumption of liability statement indicating the purchasing distributor is a
252 licensed and bonded Utah motor fuel distributor and will assume the Utah motor fuel tax
253 responsibility on all motor fuel purchased from the seller. The seller shall report each sale to
254 the commission in a monthly report of sales as provided under Section 59-13-206.

255 (3) If motor fuels have been purchased outside of this state and brought into this state
256 in original packages from a distributor for the use of the consumer, then the tax shall be
257 imposed when the motor fuel is received.

258 (4) (a) Every distributor and retail dealer of motor fuels shall add the amount of the
259 taxes levied and assessed by this part to the price of the motor fuels.

260 (b) This Subsection (4) in no way affects the method of the collection of the taxes as
261 specified in this part.

262 (c) Notwithstanding Subsection (4)(a), if the Ute tribe may receive a refund under
263 Section 59-13-201.5, the Ute tribe is not required to add the amount of the taxes levied and
264 assessed by this part to the price of motor fuel that is purchased:

265 (i) by a Ute tribal member; and

266 (ii) at a retail station:

267 (A) wholly owned by the Ute tribe; and

268 (B) located on Ute trust land.

269 (d) For purposes of Subsection (4)(a), the amount of taxes levied and assessed by this
270 part do not include the amount of the reduction of tax under [~~Subsection~~] Subsections
271 59-13-201(9) and (10).

272 Section 3. Section **59-13-301** is amended to read:

273 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
274 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

275 (1) (a) Except as provided in Subsections (2), (3), (11), [~~and~~] (12), and (13) and

276 Section 59-13-304, a tax is imposed at the same rate imposed under Subsection
277 59-13-201(1)(a) on the:

- 278 (i) removal of undyed diesel fuel from any refinery;
- 279 (ii) removal of undyed diesel fuel from any terminal;
- 280 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
281 warehousing;
- 282 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
283 this part unless the tax has been collected under this section;
- 284 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 285 (vi) use of untaxed special fuel other than propane or electricity.

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

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

- 289 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
290 the public highways of the state, but this exemption applies only in those cases where the
291 purchasers or the users of special fuel establish to the satisfaction of the commission that the
292 special fuel was used for purposes other than to operate a motor vehicle upon the public
293 highways of the state; or
- 294 (ii) is sold to this state or any of its political subdivisions.

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

- 296 (i) is sold to the United States government or any of its instrumentalities or to this state
297 or any of its political subdivisions;
- 298 (ii) is exported from this state if proof of actual exportation on forms prescribed by the
299 commission is made within 180 days after exportation;
- 300 (iii) is used in a vehicle off-highway;
- 301 (iv) is used to operate a power take-off unit of a vehicle;
- 302 (v) is used for off-highway agricultural uses;
- 303 (vi) is used in a separately fueled engine on a vehicle that does not propel the vehicle
304 upon the highways of the state; or
- 305 (vii) is used in machinery and equipment not registered and not required to be
306 registered for highway use.

- 307 (3) No tax is imposed or collected on special fuel if it is:
308 (a) (i) purchased for business use in machinery and equipment not registered and not
309 required to be registered for highway use; and
310 (ii) used pursuant to the conditions of a state implementation plan approved under Title
311 19, Chapter 2, Air Conservation Act; or
312 (b) propane or electricity.
- 313 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
314 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 315 (5) The special fuel tax shall be paid by the supplier.
- 316 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
317 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.
318 (b) The user shall receive a refundable credit for special fuel taxes paid on purchases
319 which are delivered into vehicles and for which special fuel tax liability is reported.
- 320 (7) (a) Except as provided under Subsections (7)(b) and (c), all revenue received by the
321 commission from taxes and license fees under this part shall be deposited daily with the state
322 treasurer and credited to the Transportation Fund.
- 323 (b) An appropriation from the Transportation Fund shall be made to the commission to
324 cover expenses incurred in the administration and enforcement of this part and the collection of
325 the special fuel tax.
- 326 (c) Five dollars of each special fuel user trip permit fee paid under Section 59-13-303
327 may be used by the commission as a dedicated credit to cover the costs of electronic
328 credentialing as provided in Section 41-1a-303.
- 329 (8) The commission may either collect no tax on special fuel exported from the state
330 or, upon application, refund the tax paid.
- 331 (9) (a) The United States government or any of its instrumentalities, this state, or a
332 political subdivision of this state that has purchased special fuel from a supplier or from a retail
333 dealer of special fuel and has paid the tax on the special fuel as provided in this section is
334 entitled to a refund of the tax and may file with the commission for a quarterly refund in a
335 manner prescribed by the commission.
- 336 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
337 commission shall make rules governing the application and refund provided for in Subsection

338 (9)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

367 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
368 commission shall make rules governing the procedures for administering the reduction of tax

369 provided under this Subsection (11).

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

371 (i) may not:

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

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

374 in this Subsection (11); or

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

376 (ii) shall:

377 (A) be in writing;

378 (B) be signed by:

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

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

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

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

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

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

385 Nation; and

386 (iii) may:

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

388 Navajo Nation information that is:

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

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

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

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

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

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

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

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

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

398 (A) from the Navajo Nation; and

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

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

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

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

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

406 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
407 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
408 30-day period beginning on the day the agreement terminates.

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

411 (12) Beginning on January 1, 2009, a tax imposed under this section on compressed
412 natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon equivalent to be
413 increased or decreased proportionately with any increase or decrease in the rate in Subsection
414 59-13-201(1)(a).

415 (13) (a) As used in this section:

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

419 (ii) "Cedar Band reservation land" means the geographical area within the boundaries
420 of the reservation established for the Cedar Band by the Secretary of the Interior in accordance
421 with the Paiute Indian Tribe of Utah Restoration Act, 25 U.S.C. Sec. 761 et seq., Pub. L.
422 98-219, or another act of the United States Congress.

423 (b) Beginning on the date provided in Subsection (13)(c) ~~§~~ and ending June 30, 2019 ~~←~~§, a
423a tax imposed under this
424 section on special fuel that is sold, used, or received for sale or use in this state is reduced to
425 the extent provided in Subsection (13)(d) if:

426 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the special
427 fuel is paid to the Cedar Band;

428 (ii) the tax described in Subsection (13)(b)(i) is imposed without regard to whether or
429 not the person required to pay the tax is an enrolled member of the Paiute Indian Tribe of Utah;
430 and

431 (iii) the commission and the Cedar Band execute and maintain an agreement as
 432 provided in this Subsection (13) for the administration of the reduction of tax.

433 (c) The reduction described in Subsection (13)(b), begins ~~§~~→ [the later of] ←~~§~~ the first day
 433a of the
 434 first calendar quarter after ~~§~~→ a 60-day period beginning on the later of ←~~§~~ :

435 (i) the day on which an agreement with the commission required by Subsection (13)(b)
 436 is executed; and

437 (ii) the first day on which the Cedar Band imposes a tax on the sale, use, or receipt for
 438 sale or use of special fuel.

439 ~~§~~→ [(d) (i) If but for Subsection (13)(b) the special fuel is subject to a tax imposed by this
 440 section:

441 ~~—— (A) the state shall be paid the difference described in Subsection (13)(d)(ii) if that~~
 442 ~~difference is greater than \$0; and~~

443 ~~—— (B) a person may not require the state to provide a refund, a credit, or similar tax relief~~
 444 ~~if the difference described in Subsection (13)(d)(ii) is less than or equal to \$0.~~

445 ~~—— (ii) The difference described in Subsection (13)(d)(i) is equal to the difference~~
 446 ~~calculated as follows:~~

447 ~~—— (A) determine the amount of tax imposed on the special fuel by this section; and~~

448 ~~—— (B) subtract from the tax described in Subsection (13)(d)(ii)(A) the tax imposed and~~
 449 ~~collected by the Cedar Band on the special fuel.]~~

449a (d) The reduction described in Subsection (13)(b) is the lesser of:

449b (i) the amount calculated by multiplying the rate imposed under Subsection (1) by .30; and

449c (ii) the tax imposed and collected by the Cedar Band on the motor fuel. ←~~§~~

450 (e) For purposes of Subsections (13)(b) through (d), the tax paid to the Cedar Band
 451 under a tax imposed by the Cedar Band on the basis of the sale, use, or receipt for sale or use of
 452 special fuel does not include any interest or penalties a taxpayer may be required to pay to the
 453 Cedar Band.

454 (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 455 commission shall make rules governing the procedures for administering the reduction of tax
 456 provided under this Subsection (13).

457 (g) The agreement required under Subsection (13)(b):

458 (i) may not:

459 (A) authorize the imposition of a tax, fee, or charge;

460 (B) provide for a refund, credit, or a similar reduction of taxes greater than or different
 461 from the reduction described in this Subsection (13); or

462 (C) affect the power of the Legislature to establish rates of taxation;
463 (ii) shall:
464 (A) be in writing;
465 (B) be signed by the chair of the commission or the chair's designee and a person
466 designated by the Cedar Band that may bind the Cedar Band;
467 (C) be conditioned on obtaining any approval required by federal law;
468 (D) state the effective date of the agreement; and
469 (E) state any accommodation the Cedar Band makes related to the construction and
470 maintenance of state highways and other infrastructure within the Cedar Band reservation land;
471 and
472 (iii) may:
473 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
474 Cedar Band information that is contained in a document filed with the commission and related
475 to the tax imposed under this section;
476 (B) provide for the maintenance of records by the commission or the Cedar Band;
477 (C) provide for inspections or audits of distributors, carriers, or retailers located or
478 doing business within Cedar Band reservation land; and
479 (D) address any other issue related to the commission's administration of this
480 Subsection (13).
481 (h) (i) If after the date specified in Subsection (13)(c), the Cedar Band changes the tax
482 rate of a tax imposed on special fuel, any change in the reduction of taxes under this Subsection
483 (13) as a result of the change in the tax rate is not effective until the first day of the calendar
484 quarter after a 60-day period beginning on the date the commission receives notice:
485 (A) from the Cedar Band; and
486 (B) meeting the requirements of Subsection (13)(h)(ii).
487 (ii) The notice described in Subsection (13)(h)(i) shall state:
488 (A) that the Cedar Band has changed or will change the tax rate of a tax imposed on
489 special fuel;
490 (B) the effective date of the rate change of the tax described in Subsection
491 (13)(h)(ii)(A); and
492 (C) the new rate of the tax described in Subsection (13)(h)(ii)(A).

493 (i) If the agreement required by Subsection (13)(b) terminates, a reduction of tax is not
 494 permitted under this Subsection (13) beginning on the first day of the calendar quarter after a
 495 30-day period beginning on the day the agreement terminates.

496 (j) If there is a conflict between this Subsection (13) and the agreement required by
 497 Subsection (13)(b), this Subsection (13) governs.

497a **§→ Section 4. Section 72-2-107 is amended to read:**

497b **72-2-107. Appropriation from Transportation Fund -- Deposit in class B and class C**
 497c **roads account.**

497d **(1) There is appropriated to the department from the Transportation Fund annually**
 497e **an amount equal to 30% of an amount which the director of finance shall compute in the**
 497f **following manner: The total revenue deposited into the Transportation Fund during the fiscal**
 497g **year from state highway-user taxes and fees, minus:**

497h **(a) those amounts appropriated or transferred from the Transportation Fund during**
 497i **the same fiscal year to:**

497j **(i) the Department of Public Safety;**

497k **(ii) the State Tax Commission;**

497l **(iii) the Division of Finance;**

497m **(iv) the Utah Travel Council; [and]**

497n **(v) any other amounts appropriated or transferred for any other state agencies not a**
 497o **part of the department; and**

497p **(vi) revenue collected under Title 59, Chapter 13, Motor and Special Fuel Tax Act, for a**
 497q **transaction on Cedar Band reservation land if the reduction from a tax imposed under Title**
 497r **59, Chapter 13, is in effect in accordance with Section 59-13-201 or 59-13-204; and**

497s **(b) the amount of sales and use tax revenue deposited in the Transportation Fund in**
 497t **accordance with Section 59-12-103.**

497u **(2) (a) Except as provided in Subsection (2)(b), all of this money shall be placed in an**
 497v **account to be known as the class B and class C roads account to be used as provided in this**
 497w **title.**

497x **(b) The director of finance shall annually transfer \$500,000 of the amount calculated**
 497y **under Subsection (1) to the department as dedicated credits for the State Park Access**
 497z **Highways Improvement Program created in Section 72-3-207.**

497aa **(3) Each quarter of every year the director of finance shall make the necessary**
 497ab **accounting entries to transfer the money appropriated under this section to the class B and**
 497ac **class C roads account. ←§**

497ad **§→** (4) The funds in the class B and class C roads account shall be expended under the
497ae direction of the department as the Legislature shall provide. **←§**

Legislative Review Note
as of 1-25-11 7:37 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 122

SHORT TITLE: Tax Exemption for Cedar Band of Paiute Tribe

SPONSOR: Stowell, D.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enacting this bill reduces revenue to the Transportation Fund by \$1,397,000 in FY 2012 and \$1,860,000 ongoing in FY 2013.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Transportation Fund	\$0	(\$1,860,000)	(\$1,860,000)
Transportation Fund, One-time	\$0	\$463,000	\$0
Total Revenue	\$0	(\$1,397,000)	(\$1,860,000)
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	(\$1,397,000)	(\$1,860,000)
Net Impact, General/Education Funds	\$0	\$0	\$0

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Individuals and businesses will pay a tribal tax instead of the state motor fuel tax exempted in the bill. The amount of revenue from the tax should be substantially similar to the amount of loss to the Transportation Fund.