

CARBON EMISSIONS TAX ACT

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel K. Briscoe

Senate Sponsor: _____

LONG TITLE

General Description:

This bill imposes a tax on emissions from carbon based fuels.

Highlighted Provisions:

This bill:

- ▶ defines terms related to carbon based fuels;
- ▶ imposes a tax on various carbon based fuels;
- ▶ provides for an escalation of the tax rate for several years;
- ▶ creates an expendable revenue fund;
- ▶ provides for allocation of tax proceeds in an expendable revenue fund and the Transportation Infrastructure Fund of 2005 created in Section 72-2-124;
- ▶ provides a tax credit to be paid from the revenues; and
- ▶ provides rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2016, Chapters 184, 291, 348 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 291



- 28 ENACTS:
- 29 [59-10-1038](#), Utah Code Annotated 1953
- 30 [59-28-101](#), Utah Code Annotated 1953
- 31 [59-28-102](#), Utah Code Annotated 1953
- 32 [59-28-201](#), Utah Code Annotated 1953
- 33 [59-28-202](#), Utah Code Annotated 1953
- 34 [59-28-203](#), Utah Code Annotated 1953
- 35 [59-28-204](#), Utah Code Annotated 1953
- 36 [59-28-301](#), Utah Code Annotated 1953

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

39 Section 1. Section [59-10-1038](#) is enacted to read:

40 **[59-10-1038](#). Nonrefundable carbon emissions tax credit.**

41 (1) A claimant may claim a nonrefundable carbon emissions tax credit for the taxable
42 year against taxes otherwise due under this chapter in an amount equal to the product of:

43 (a) (i) for a taxable year beginning on or after January 1, 2018, but beginning on or
44 before December 31, 2018, 89%;

45 (ii) for a taxable year beginning on or after January 1, 2019, but beginning on or before
46 December 31, 2019, 121%;

47 (iii) for a taxable year beginning on or after January 1, 2020, but beginning on or
48 before December 31, 2020, 155%;

49 (iv) for a taxable year beginning on or after January 1, 2021, but beginning on or before
50 December 31, 2021, 190%;

51 (v) for a taxable year beginning on or after January 1, 2022, but beginning on or before
52 December 31, 2022, 226%; or

53 (vi) for a taxable year beginning on or after January 1, 2023, 264%; and

54 (b) the amount the claimant is eligible to claim for a tax credit described in Section
55 [59-10-1018](#) for that taxable year.

56 (2) A claimant may not carry forward or carry back a tax credit under this section.

57 (3) (a) In accordance with any rules prescribed by the commission under Subsection
58 (3)(b), the Division of Finance shall transfer at least annually from the Carbon Emissions Tax

59 Expendable Revenue Fund created in Section 59-28-301 into the Education Fund the aggregate
60 amount of all tax credits claimed under this section.

61 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
62 commission may make rules for making a transfer required by Subsection (3)(a).

63 Section 2. Section 59-12-103 is amended to read:

64 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
65 **tax revenues.**

66 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
67 charged for the following transactions:

68 (a) retail sales of tangible personal property made within the state;

69 (b) amounts paid for:

70 (i) telecommunications service, other than mobile telecommunications service, that
71 originates and terminates within the boundaries of this state;

72 (ii) mobile telecommunications service that originates and terminates within the
73 boundaries of one state only to the extent permitted by the Mobile Telecommunications
74 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

75 (iii) an ancillary service associated with a:

76 (A) telecommunications service described in Subsection (1)(b)(i); or

77 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

78 (c) sales of the following for commercial use:

79 (i) gas;

80 (ii) electricity;

81 (iii) heat;

82 (iv) coal;

83 (v) fuel oil; or

84 (vi) other fuels;

85 (d) sales of the following for residential use:

86 (i) gas;

87 (ii) electricity;

88 (iii) heat;

89 (iv) coal;

- 90 (v) fuel oil; or
- 91 (vi) other fuels;
- 92 (e) sales of prepared food;
- 93 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 94 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 95 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 96 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 97 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 98 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 99 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 100 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 101 exhibition, cultural, or athletic activity;
- 102 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 103 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 104 (i) the tangible personal property; and
- 105 (ii) parts used in the repairs or renovations of the tangible personal property described
- 106 in Subsection (1)(g)(i), regardless of whether:
- 107 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 108 property; or
- 109 (B) the particular parts used in the repairs or renovations of that tangible personal
- 110 property are exempt from a tax under this chapter;
- 111 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 112 assisted cleaning or washing of tangible personal property;
- 113 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 114 accommodations and services that are regularly rented for less than 30 consecutive days;
- 115 (j) amounts paid or charged for laundry or dry cleaning services;
- 116 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 117 this state the tangible personal property is:
- 118 (i) stored;
- 119 (ii) used; or
- 120 (iii) otherwise consumed;

- 121 (l) amounts paid or charged for tangible personal property if within this state the
122 tangible personal property is:
- 123 (i) stored;
 - 124 (ii) used; or
 - 125 (iii) consumed; and
 - 126 (m) amounts paid or charged for a sale:
 - 127 (i) (A) of a product transferred electronically; or
 - 128 (B) of a repair or renovation of a product transferred electronically; and
 - 129 (ii) regardless of whether the sale provides:
 - 130 (A) a right of permanent use of the product; or
 - 131 (B) a right to use the product that is less than a permanent use, including a right:
 - 132 (I) for a definite or specified length of time; and
 - 133 (II) that terminates upon the occurrence of a condition.
 - 134 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
135 is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 136 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
 - 137 (A) 4.70%; and
 - 138 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
139 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
140 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
141 State Sales and Use Tax Act; and
 - 142 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
143 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
144 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
145 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
 - 146 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
147 transaction under this chapter other than this part.
 - 148 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
149 on a transaction described in Subsection (1)(d) equal to the sum of:
 - 150 (i) a state tax imposed on the transaction at a tax rate of 2%; and
 - 151 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

152 transaction under this chapter other than this part.

153 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
154 on amounts paid or charged for food and food ingredients equal to the sum of:

155 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
156 a tax rate of 1.75%; and

157 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
158 amounts paid or charged for food and food ingredients under this chapter other than this part.

159 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
160 tangible personal property other than food and food ingredients, a state tax and a local tax is
161 imposed on the entire bundled transaction equal to the sum of:

162 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

163 (I) the tax rate described in Subsection (2)(a)(i)(A); and

164 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
165 Sales and Use Tax Act, if the location of the transaction as determined under Sections
166 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
167 Additional State Sales and Use Tax Act; and

168 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
169 Sales and Use Tax Act, if the location of the transaction as determined under Sections
170 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
171 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

172 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
173 described in Subsection (2)(a)(ii).

174 (ii) If an optional computer software maintenance contract is a bundled transaction that
175 consists of taxable and nontaxable products that are not separately itemized on an invoice or
176 similar billing document, the purchase of the optional computer software maintenance contract
177 is 40% taxable under this chapter and 60% nontaxable under this chapter.

178 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
179 transaction described in Subsection (2)(d)(i) or (ii):

180 (A) if the sales price of the bundled transaction is attributable to tangible personal
181 property, a product, or a service that is subject to taxation under this chapter and tangible
182 personal property, a product, or service that is not subject to taxation under this chapter, the

183 entire bundled transaction is subject to taxation under this chapter unless:

184 (I) the seller is able to identify by reasonable and verifiable standards the tangible
185 personal property, product, or service that is not subject to taxation under this chapter from the
186 books and records the seller keeps in the seller's regular course of business; or

187 (II) state or federal law provides otherwise; or

188 (B) if the sales price of a bundled transaction is attributable to two or more items of
189 tangible personal property, products, or services that are subject to taxation under this chapter
190 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
191 higher tax rate unless:

192 (I) the seller is able to identify by reasonable and verifiable standards the tangible
193 personal property, product, or service that is subject to taxation under this chapter at the lower
194 tax rate from the books and records the seller keeps in the seller's regular course of business; or

195 (II) state or federal law provides otherwise.

196 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
197 seller's regular course of business includes books and records the seller keeps in the regular
198 course of business for nontax purposes.

199 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
200 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
201 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
202 of tangible personal property, other property, a product, or a service that is not subject to
203 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
204 the seller, at the time of the transaction:

205 (A) separately states the portion of the transaction that is not subject to taxation under
206 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

207 (B) is able to identify by reasonable and verifiable standards, from the books and
208 records the seller keeps in the seller's regular course of business, the portion of the transaction
209 that is not subject to taxation under this chapter.

210 (ii) A purchaser and a seller may correct the taxability of a transaction if:

211 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
212 the transaction that is not subject to taxation under this chapter was not separately stated on an
213 invoice, bill of sale, or similar document provided to the purchaser because of an error or

214 ignorance of the law; and

215 (B) the seller is able to identify by reasonable and verifiable standards, from the books
216 and records the seller keeps in the seller's regular course of business, the portion of the
217 transaction that is not subject to taxation under this chapter.

218 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
219 in the seller's regular course of business includes books and records the seller keeps in the
220 regular course of business for nontax purposes.

221 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
222 personal property, products, or services that are subject to taxation under this chapter at
223 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
224 unless the seller, at the time of the transaction:

225 (A) separately states the items subject to taxation under this chapter at each of the
226 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

227 (B) is able to identify by reasonable and verifiable standards the tangible personal
228 property, product, or service that is subject to taxation under this chapter at the lower tax rate
229 from the books and records the seller keeps in the seller's regular course of business.

230 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
231 seller's regular course of business includes books and records the seller keeps in the regular
232 course of business for nontax purposes.

233 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
234 rate imposed under the following shall take effect on the first day of a calendar quarter:

235 (i) Subsection (2)(a)(i)(A);

236 (ii) Subsection (2)(b)(i);

237 (iii) Subsection (2)(c)(i); or

238 (iv) Subsection (2)(d)(i)(A)(I).

239 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
240 begins on or after the effective date of the tax rate increase if the billing period for the
241 transaction begins before the effective date of a tax rate increase imposed under:

242 (A) Subsection (2)(a)(i)(A);

243 (B) Subsection (2)(b)(i);

244 (C) Subsection (2)(c)(i); or

245 (D) Subsection (2)(d)(i)(A)(I).

246 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
247 statement for the billing period is rendered on or after the effective date of the repeal of the tax
248 or the tax rate decrease imposed under:

249 (A) Subsection (2)(a)(i)(A);

250 (B) Subsection (2)(b)(i);

251 (C) Subsection (2)(c)(i); or

252 (D) Subsection (2)(d)(i)(A)(I).

253 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
254 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
255 change in a tax rate takes effect:

256 (A) on the first day of a calendar quarter; and

257 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

258 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

259 (A) Subsection (2)(a)(i)(A);

260 (B) Subsection (2)(b)(i);

261 (C) Subsection (2)(c)(i); or

262 (D) Subsection (2)(d)(i)(A)(I).

263 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
264 the commission may by rule define the term "catalogue sale."

265 (3) (a) The following state taxes shall be deposited into the General Fund:

266 (i) the tax imposed by Subsection (2)(a)(i)(A);

267 (ii) the tax imposed by Subsection (2)(b)(i);

268 (iii) the tax imposed by Subsection (2)(c)(i); or

269 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

270 (b) The following local taxes shall be distributed to a county, city, or town as provided
271 in this chapter:

272 (i) the tax imposed by Subsection (2)(a)(ii);

273 (ii) the tax imposed by Subsection (2)(b)(ii);

274 (iii) the tax imposed by Subsection (2)(c)(ii); and

275 (iv) the tax imposed by Subsection (2)(d)(i)(B).

276 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
277 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
278 through (g):

279 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

280 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

281 (B) for the fiscal year; or

282 (ii) \$17,500,000.

283 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
284 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
285 Department of Natural Resources to:

286 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
287 protect sensitive plant and animal species; or

288 (B) award grants, up to the amount authorized by the Legislature in an appropriations
289 act, to political subdivisions of the state to implement the measures described in Subsections
290 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

291 (ii) Money transferred to the Department of Natural Resources under Subsection
292 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
293 person to list or attempt to have listed a species as threatened or endangered under the
294 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

295 (iii) At the end of each fiscal year:

296 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
297 Conservation and Development Fund created in Section 73-10-24;

298 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
299 Program Subaccount created in Section 73-10c-5; and

300 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
301 Program Subaccount created in Section 73-10c-5.

302 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
303 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
304 created in Section 4-18-106.

305 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
306 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

307 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
308 water rights.

309 (ii) At the end of each fiscal year:

310 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

311 Conservation and Development Fund created in Section 73-10-24;

312 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

313 Program Subaccount created in Section 73-10c-5; and

314 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

315 Program Subaccount created in Section 73-10c-5.

316 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

317 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and

318 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

319 (ii) In addition to the uses allowed of the Water Resources Conservation and

320 Development Fund under Section 73-10-24, the Water Resources Conservation and

321 Development Fund may also be used to:

322 (A) conduct hydrologic and geotechnical investigations by the Division of Water
323 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
324 quantifying surface and ground water resources and describing the hydrologic systems of an
325 area in sufficient detail so as to enable local and state resource managers to plan for and
326 accommodate growth in water use without jeopardizing the resource;

327 (B) fund state required dam safety improvements; and

328 (C) protect the state's interest in interstate water compact allocations, including the
329 hiring of technical and legal staff.

330 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

331 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount

332 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

333 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

334 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount

335 created in Section 73-10c-5 for use by the Division of Drinking Water to:

336 (i) provide for the installation and repair of collection, treatment, storage, and

337 distribution facilities for any public water system, as defined in Section 19-4-102;

338 (ii) develop underground sources of water, including springs and wells; and
339 (iii) develop surface water sources.

340 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
341 2006, the difference between the following amounts shall be expended as provided in this
342 Subsection (5), if that difference is greater than \$1:

343 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
344 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

345 (ii) \$17,500,000.

346 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

347 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
348 credits; and

349 (B) expended by the Department of Natural Resources for watershed rehabilitation or
350 restoration.

351 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
352 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
353 created in Section 73-10-24.

354 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
355 remaining difference described in Subsection (5)(a) shall be:

356 (A) transferred each fiscal year to the Division of Water Resources as dedicated
357 credits; and

358 (B) expended by the Division of Water Resources for cloud-seeding projects
359 authorized by Title 73, Chapter 15, Modification of Weather.

360 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
361 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
362 created in Section 73-10-24.

363 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
364 remaining difference described in Subsection (5)(a) shall be deposited into the Water
365 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
366 Division of Water Resources for:

367 (i) preconstruction costs:

368 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

369 26, Bear River Development Act; and

370 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
371 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

372 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
373 Chapter 26, Bear River Development Act;

374 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
375 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

376 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
377 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

378 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
379 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
380 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
381 incurred for employing additional technical staff for the administration of water rights.

382 (f) At the end of each fiscal year, any unexpended dedicated credits described in
383 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
384 Fund created in Section 73-10-24.

385 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
386 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
387 (1) for the fiscal year shall be deposited as follows:

388 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
389 shall be deposited into the Transportation Investment Fund of 2005 created by Section
390 72-2-124;

391 (b) for fiscal year 2017-18 only:

392 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
393 Transportation Investment Fund of 2005 created by Section 72-2-124; and

394 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
395 Water Infrastructure Restricted Account created by Section 73-10g-103;

396 (c) for fiscal year 2018-19 only:

397 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
398 Transportation Investment Fund of 2005 created by Section 72-2-124; and

399 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the

400 Water Infrastructure Restricted Account created by Section 73-10g-103;

401 (d) for fiscal year 2019-20 only:

402 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the

403 Transportation Investment Fund of 2005 created by Section 72-2-124; and

404 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the

405 Water Infrastructure Restricted Account created by Section 73-10g-103;

406 (e) for fiscal year 2020-21 only:

407 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the

408 Transportation Investment Fund of 2005 created by Section 72-2-124; and

409 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the

410 Water Infrastructure Restricted Account created by Section 73-10g-103; and

411 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described

412 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account

413 created by Section 73-10g-103.

414 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in

415 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,

416 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005

417 created by Section 72-2-124:

418 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

419 the revenues collected from the following taxes, which represents a portion of the

420 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

421 on vehicles and vehicle-related products:

422 (A) the tax imposed by Subsection (2)(a)(i)(A);

423 (B) the tax imposed by Subsection (2)(b)(i);

424 (C) the tax imposed by Subsection (2)(c)(i); and

425 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

426 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

427 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through

428 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

429 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

430 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of

431 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
432 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
433 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
434 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
435 (7)(a) equal to the product of:

436 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
437 previous fiscal year; and

438 (B) the total sales and use tax revenue generated by the taxes described in Subsections
439 (7)(a)(i)(A) through (D) in the current fiscal year.

440 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
441 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
442 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
443 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
444 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

445 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
446 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
447 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
448 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
449 current fiscal year under Subsection (7)(a).

450 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited
451 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
452 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
453 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

454 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
455 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
456 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
457 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

458 (c) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
459 Subsections (6) and (7), for a fiscal year beginning on or after July 1, 2018, the Division of
460 Finance shall annually deposit into the Transportation Investment Fund of 2005 created by
461 Section [72-2-124](#) a portion of the taxes listed under Subsection (3)(a) in an amount equal to

462 3.68% of the revenues collected from the following taxes:

463 (i) the tax imposed by Subsection (2)(a)(i)(A);

464 (ii) the tax imposed by Subsection (2)(b)(i);

465 (iii) the tax imposed by Subsection (2)(c)(i); and

466 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

467 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
468 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
469 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

470 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
471 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
472 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
473 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
474 the transactions described in Subsection (1).

475 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
476 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
477 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
478 amount of revenue described as follows:

479 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
480 tax rate on the transactions described in Subsection (1);

481 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
482 tax rate on the transactions described in Subsection (1);

483 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
484 tax rate on the transactions described in Subsection (1);

485 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
486 .05% tax rate on the transactions described in Subsection (1); and

487 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
488 tax rate on the transactions described in Subsection (1).

489 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
490 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
491 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
492 transaction attributable to food and food ingredients and tangible personal property other than

493 food and food ingredients described in Subsection (2)(d).

494 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
 495 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
 496 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
 497 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
 498 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
 499 created in Section 63N-2-512.

500 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
 501 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
 502 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

503 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
 504 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
 505 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

506 (13) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July
 507 1, 2018, the Division of Finance shall annually deposit into the Carbon Emissions Tax
 508 Expendable Revenue Fund, created in Section 59-28-301, a portion of the taxes listed under
 509 Subsection (3)(a) in an amount equal to the lesser of:

510 (i) the total amount deposited into the Transportation Infrastructure Fund of 2005,
 511 created in Section 72-2-124, required under Subsections (6), (7), (8), and (10); and

512 (ii) the revenue deposited into the Transportation Infrastructure Fund of 2005, created
 513 in Section 72-2-124, under Sections 59-28-202 and 59-28-203.

514 (b) The Division of Finance shall reduce the deposits made to the Transportation
 515 Infrastructure Fund of 2005, created in Section 72-2-124, required under Subsections (6), (7),
 516 (8), and (10) in an amount equal to the deposit described in Subsection (13)(a).

517 ~~[(13)]~~ (14) Notwithstanding Subsections (4) through ~~[(12)]~~ (13), an amount required to
 518 be expended or deposited in accordance with Subsections (4) through ~~[(12)]~~ (13) may not
 519 include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

520 Section 3. Section 59-28-101 is enacted to read:

521 CHAPTER 28. CARBON EMISSIONS TAX

522 Part 1. Administration

523 59-28-101. Title.

524 This chapter is known as the "Carbon Emissions Tax."

525 Section 4. Section **59-28-102** is enacted to read:

526 **59-28-102. Definitions.**

527 As used in this chapter:

528 (1) "Coal" includes anthracite, bituminous, subbituminous, lignite, and coke.

529 (2) "Distributor" means the same as that term is defined in Section 59-13-102.

530 (3) "Dyed diesel fuel" means the same as that term is defined in Section 59-13-102.

531 (4) "Motor fuel" means the same as that term is defined in Section 59-13-102.

532 (5) "Motor fuels received" means the same as that term is defined in Section
533 59-13-102.

534 (6) "Natural gas" means the same as that term is defined in Section 59-5-101.

535 (7) "Owner" means the same as that term is defined in Section 59-5-101.

536 (8) "Removal" means the same as that term is defined in Section 59-13-102.

537 (9) (a) Except as provided in Subsection (9)(b), "special fuel" means the same as that
538 term is defined in Section 59-13-102.

539 (b) "Special fuel" does not include natural gas.

540 (10) "Supplier" means the same as that term is defined in Section 59-13-102.

541 (11) "Terminal" means the same as that term is defined in Section 59-13-102.

542 (12) "Undyed diesel fuel" means the same as that term is defined in Section 59-13-102.

543 Section 5. Section **59-28-201** is enacted to read:

544 **Part 2. Emissions Tax**

545 **59-28-201. Imposition of an emissions tax on coal -- Rate of tax -- Rulemaking**
546 **authority.**

547 (1) (a) Except as provided in Subsection (1)(b), an emissions tax is imposed on each
548 ton of coal produced in this state at the following rate:

549 (i) beginning on January 1, 2018, and through December 31, 2018, at a rate of \$42.90
550 per ton;

551 (ii) beginning on January 1, 2019, and through December 31, 2019, at a rate of \$57.20
552 per ton;

553 (iii) beginning on January 1, 2020, and through December 31, 2020, at a rate of \$71.50
554 per ton;

555 (iv) beginning on January 1, 2021, and through December 31, 2021, at a rate of \$85.80
556 per ton;

557 (v) beginning on January 1, 2022, and through December 31, 2022, at a rate of \$100.10
558 per ton; and

559 (vi) beginning on January 1, 2023, and thereafter, at a rate of \$114.40 per ton.

560 (b) The commission may either collect no tax on coal exported from the state or, upon
561 application, refund the tax paid.

562 (2) Each coal mine operator in this state shall monthly:

563 (a) on electronic forms prescribed by the commission, report to the commission the
564 amount and type of coal produced by the mine; and

565 (b) pay the tax imposed in Subsection (1).

566 (3) The commission shall deposit the emissions tax collected under this section into the
567 Carbon Emissions Tax Expendable Revenue Fund created in Section [59-28-301](#).

568 (4) All refund, credit, administrative, and penalty provisions of Chapter 5, Part 2,
569 Mining Severance Tax, apply to a tax imposed on special fuel under this section.

570 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
571 commission may make rules governing the procedures for administering and collecting the tax
572 imposed in this section.

573 Section 6. Section **59-28-202** is enacted to read:

574 **59-28-202. Imposition of an emissions tax on motor fuel -- Rate of tax --**

575 **Rulemaking authority.**

576 (1) An emissions tax is imposed upon all motor fuel that is sold, used, or received for
577 sale or used in this state as follows:

578 (a) beginning on January 1, 2018, and through December 31, 2018, at a rate of 15 cents
579 per gallon;

580 (b) beginning on January 1, 2019, and through December 31, 2019, at a rate of 20 cents
581 per gallon;

582 (c) beginning on January 1, 2020, and through December 31, 2020, at a rate of 25 cents
583 per gallon;

584 (d) beginning on January 1, 2021, and through December 31, 2021, at a rate of 30 cents
585 per gallon;

586 (e) beginning on January 1, 2022, and through December 31, 2022, at a rate of 35 cents
587 per gallon; and

588 (f) beginning on January 1, 2023, and thereafter, at a rate of 40 cents per gallon.

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

591 (3) No motor fuel tax is imposed upon:

592 (a) motor fuel that is brought into and sold in this state in original packages as purely
593 interstate commerce sales;

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

596 (c) motor fuel or components of motor fuel that is sold and used in this state and
597 distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in
598 this state; or

599 (d) motor fuel that is sold to the United States government, this state, or the political
600 subdivisions of this state.

601 (4) (a) The emissions tax imposed in Subsection (1) shall be paid by the distributor.

602 (b) Each distributor in this state shall monthly:

603 (i) on electronic forms prescribed by the commission, report to the commission the
604 amount and type of motor fuel sold, used, or received for sale or used in this state; and

605 (ii) pay the tax imposed in Subsection (1).

606 (5) The commission may either collect no tax on motor fuel exported from the state or,
607 upon application, refund the tax paid.

608 (6) (a) All revenue received by the commission under this section shall be deposited
609 daily with the state treasurer and credited to the Transportation Infrastructure Fund of 2005
610 created in Section [72-2-124](#).

611 (b) An appropriation from the Transportation Infrastructure Fund of 2005 created in
612 Section [72-2-124](#) shall be made to the commission to cover expenses incurred in the
613 administration and enforcement of this part and the collection of the motor fuel tax.

614 (7) All refund, credit, administrative, and penalty provisions of Chapter 13, Part 2,
615 Motor Fuel, apply to a tax imposed on special fuel under this section.

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

617 commission may make rules governing the procedures for administering and collecting the tax
618 imposed in this section.

619 Section 7. Section **59-28-203** is enacted to read:

620 **59-28-203. Imposition of an emissions tax on special fuel -- Rate of tax --**

621 **Rulemaking authority.**

622 (1) (a) An emissions tax is imposed at the rates set forth in Subsection (1)(b) on the:

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

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

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

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

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

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

631 (b) The rate of the tax imposed in Subsection (1)(a) is as follows:

632 (i) beginning on January 1, 2018, and through December 31, 2018, at a rate of 17 cents
633 per gallon;

634 (ii) beginning on January 1, 2019, and through December 31, 2019, at a rate of 22 cents
635 per gallon;

636 (iii) beginning on January 1, 2020, and through December 31, 2020, at a rate of 28
637 cents per gallon;

638 (iv) beginning on January 1, 2021, and through December 31, 2021, at a rate of 34
639 cents per gallon;

640 (v) beginning on January 1, 2022, and through December 31, 2022, at a rate of 39 cents
641 per gallon; and

642 (vi) beginning on January 1, 2023, and thereafter, at a rate of 45 cents per gallon.

643 (c) The tax imposed under this section shall only be imposed once upon any special
644 fuel.

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

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

648 purchasers or the users of special fuel establish to the satisfaction of the commission that the
649 special fuel was used for purposes other than to operate a motor vehicle upon the public
650 highways of the state; or
651 (ii) is sold to this state or any of this state's political subdivisions.
652 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
653 (i) sold to the United States government or any of the United States government's
654 instrumentalities or to this state or any of this state's political subdivisions;
655 (ii) exported from this state if proof of actual exportation on forms prescribed by the
656 commission is made within 180 days after exportation;
657 (iii) used in a vehicle off highway;
658 (iv) used to operate a power take-off unit of a vehicle;
659 (v) used for off-highway agricultural uses;
660 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
661 upon the highways of the state; or
662 (vii) used in machinery and equipment not registered and not required to be registered
663 for highway use.
664 (3) No tax is imposed or collected on special fuel if the special fuel is:
665 (a) (i) purchased for business use in machinery and equipment not registered and not
666 required to be registered for highway use; and
667 (ii) used pursuant to the conditions of a state implementation plan approved under Title
668 19, Chapter 2, Air Conservation Act; or
669 (b) propane or electricity.
670 (4) (a) The emissions tax shall be paid by the supplier.
671 (b) Each supplier shall monthly:
672 (i) on electronic forms prescribed by the commission, report to the commission the
673 amount and type of special fuel:
674 (A) removed from any refinery;
675 (B) removed from any terminal;
676 (C) that enters into the state for consumption, use, sale, or warehousing;
677 (D) sold to any person that is not registered as a supplier under this part unless the tax
678 has been collected under this section;

679 (E) blended with undyed diesel fuel and previously untaxed as special fuel; or

680 (F) used in this state, other than propane or electricity; and

681 (ii) pay the tax imposed under this section.

682 (5) (a) All revenue deposited under this section shall be deposited with the state
683 treasurer and credited to the Transportation Infrastructure Fund of 2005 created in Section
684 72-2-124.

685 (b) An appropriation from the Transportation Infrastructure Fund of 2005 created in
686 Section 72-2-124 shall be made to the commission to cover the expenses incurred in the
687 administration and enforcement of this part and the collection of the tax under this section.

688 (6) The commission may either collect no tax on special fuel exported from the state
689 or, upon application, refund the tax paid.

690 (7) All refund, credit, administrative, and penalty provisions of Chapter 13, Part 3,
691 Special Fuel, apply to a tax imposed on special fuel under this section.

692 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
693 commission may make rules governing the procedures for administering and collecting the tax
694 imposed in this section.

695 Section 8. Section **59-28-204** is enacted to read:

696 **59-28-204. Imposition of an emissions tax on natural gas -- Rate of tax --**

697 **Rulemaking authority.**

698 (1) (a) Except as provided in Subsection (1)(c), a person owning an interest in natural
699 gas produced from a well in the state, including a working interest, royalty interest, payment
700 out of production, or any other interest, or in the proceeds of the production of oil or gas, shall
701 pay to the state an emissions tax on the owner's interest in the taxable value of the oil or gas:

702 (i) produced; and

703 (ii) (A) saved;

704 (B) sold; or

705 (C) transported from the field where the substance was produced.

706 (b) The rate of the tax imposed in Subsection (1)(a) is as follows:

707 (i) beginning on January 1, 2018, and through December 31, 2018, at a rate of 88 cents
708 per MCF;

709 (ii) beginning on January 1, 2019, and through December 31, 2019, at a rate of \$1.17

- 710 per MCF;
711 (iii) beginning on January 1, 2020, and through December 31, 2020, at a rate of \$1.46
712 per MCF;
713 (iv) beginning on January 1, 2021, and through December 31, 2021, at a rate of \$1.76
714 per MCF;
715 (v) beginning on January 1, 2022, and through December 31, 2022, at a rate of \$2.05
716 per MCF; and
717 (vi) beginning on January 1, 2023, and thereafter, at a rate of \$2.34 per MCF.
718 (c) The emissions tax imposed by Subsection (1)(a) does not apply to an interest of:
719 (i) the United States in natural gas or in the proceeds of the production of natural gas;
720 (ii) the state or a political subdivision of the state in natural gas or in the proceeds of
721 the production of natural gas; and
722 (iii) an Indian or Indian tribe as defined in Section 9-9-101 in natural gas or in the
723 proceeds of the production of natural gas produced from land under the jurisdiction of the
724 United States.
725 (2) If natural gas is shipped outside the state:
726 (a) the shipment constitutes a sale; and
727 (b) the natural gas is subject to the tax imposed by this section.
728 (3) Each person owning an interest in natural gas produced from a well in the state,
729 including a working interest, royalty interest, payment out of production, or any other interest,
730 shall monthly:
731 (a) on electronic forms prescribed by the commission, report to the commission the
732 amount of natural gas:
733 (i) produced; and
734 (ii) (A) saved;
735 (B) sold; or
736 (C) transported from the field where the substance was produced; and
737 (b) pay the tax imposed in Subsection (1).
738 (4) The commission shall deposit the emissions tax collected under this section into the
739 Carbon Emissions Tax Expendable Revenue Fund created in Section 59-28-301.
740 (5) All refund, credit, administrative, and penalty provisions of Chapter 5, Part 1, Oil

741 and Gas Severance Tax, apply to a tax imposed on natural gas under this section.

742 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
743 commission may make rules governing the procedures for administering and collecting the tax
744 imposed in this section.

745 Section 9. Section **59-28-301** is enacted to read:

746 **Part 3. Carbon Emissions Tax Expendable Revenue Fund**

747 **59-28-301. Creation of Carbon Emissions Tax Expendable Revenue Fund.**

748 (1) There is created an expendable special revenue fund known as the "Carbon
749 Emissions Tax Expendable Revenue Fund."

750 (2) The fund shall consist of:

751 (a) the revenue generated from taxes imposed under Sections [59-28-201](#) and
752 [59-28-204](#);

753 (b) the revenue deposited into the account required under Section [59-12-103](#);

754 (c) any interest and penalties levied in relation to the administration of this chapter; and

755 (d) any other funds received as donations for the fund and appropriations from other
756 sources.

757 (3) Except as provided in Subsection (4), money in the fund shall be deposited into the
758 Education Fund to cover the costs of the carbon emissions tax credit created in Section
759 [59-10-1038](#).

760 (4) The commission shall retain and deposit an administrative charge in accordance
761 with Section [59-1-306](#) from the revenues the commission collects from the tax imposed under
762 this part.