

TRANSPORTATION FUNDING MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies the Motor and Special Fuel Tax Act by amending motor and special fuel tax provisions.

Highlighted Provisions:

This bill:

- ▶ requires the State Tax Commission to annually reduce the amount of a deposit of sales and use tax revenue to the Transportation Investment Fund of 2005 in certain circumstances;
- ▶ amends provisions governing the calculation of the statewide average rack price of a gallon of motor fuel for purposes of determining the motor and special fuel tax rate;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

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 **59-13-201**, as last amended by Laws of Utah 2015, Chapter 275
29 **59-13-301**, as last amended by Laws of Utah 2015, Chapters 275, 467 and last amended
30 by Coordination Clause, Laws of Utah 2015, Chapter 275



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

33 Section 1. Section **59-12-103** is amended to read:

34 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
35 **tax revenues.**

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

- 38 (a) retail sales of tangible personal property made within the state;
- 39 (b) amounts paid for:
 - 40 (i) telecommunications service, other than mobile telecommunications service, that
 - 41 originates and terminates within the boundaries of this state;
 - 42 (ii) mobile telecommunications service that originates and terminates within the
 - 43 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 - 44 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 - 45 (iii) an ancillary service associated with a:
 - 46 (A) telecommunications service described in Subsection (1)(b)(i); or
 - 47 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
 - 48 (c) sales of the following for commercial use:
 - 49 (i) gas;
 - 50 (ii) electricity;
 - 51 (iii) heat;
 - 52 (iv) coal;
 - 53 (v) fuel oil; or
 - 54 (vi) other fuels;
 - 55 (d) sales of the following for residential use:
 - 56 (i) gas;
 - 57 (ii) electricity;
 - 58 (iii) heat;

- 59 (iv) coal;
- 60 (v) fuel oil; or
- 61 (vi) other fuels;
- 62 (e) sales of prepared food;
- 63 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 64 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 65 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 66 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 67 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 68 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 69 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 70 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 71 exhibition, cultural, or athletic activity;
- 72 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 73 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 74 (i) the tangible personal property; and
- 75 (ii) parts used in the repairs or renovations of the tangible personal property described
- 76 in Subsection (1)(g)(i), regardless of whether:
- 77 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 78 property; or
- 79 (B) the particular parts used in the repairs or renovations of that tangible personal
- 80 property are exempt from a tax under this chapter;
- 81 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 82 assisted cleaning or washing of tangible personal property;
- 83 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 84 accommodations and services that are regularly rented for less than 30 consecutive days;
- 85 (j) amounts paid or charged for laundry or dry cleaning services;
- 86 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 87 this state the tangible personal property is:
- 88 (i) stored;
- 89 (ii) used; or

90 (iii) otherwise consumed;

91 (l) amounts paid or charged for tangible personal property if within this state the

92 tangible personal property is:

93 (i) stored;

94 (ii) used; or

95 (iii) consumed; and

96 (m) amounts paid or charged for a sale:

97 (i) (A) of a product transferred electronically; or

98 (B) of a repair or renovation of a product transferred electronically; and

99 (ii) regardless of whether the sale provides:

100 (A) a right of permanent use of the product; or

101 (B) a right to use the product that is less than a permanent use, including a right:

102 (I) for a definite or specified length of time; and

103 (II) that terminates upon the occurrence of a condition.

104 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax

105 is imposed on a transaction described in Subsection (1) equal to the sum of:

106 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

107 (A) 4.70%; and

108 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

109 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

110 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional

111 State Sales and Use Tax Act; and

112 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

113 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)

114 through [59-12-215](#) is in a city, town, or the unincorporated area of a county in which the state

115 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

116 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

117 transaction under this chapter other than this part.

118 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed

119 on a transaction described in Subsection (1)(d) equal to the sum of:

120 (i) a state tax imposed on the transaction at a tax rate of 2%; and

121 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
122 transaction under this chapter other than this part.

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

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

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

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

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

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

134 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
135 Sales and Use Tax Act, if the location of the transaction as determined under Sections
136 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
137 Additional State Sales and Use Tax Act; and

138 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
139 Sales and Use Tax Act, if the location of the transaction as determined under Sections
140 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
141 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

150 (A) if the sales price of the bundled transaction is attributable to tangible personal
151 property, a product, or a service that is subject to taxation under this chapter and tangible

152 personal property, a product, or service that is not subject to taxation under this chapter, the
153 entire bundled transaction is subject to taxation under this chapter unless:

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

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

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

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

165 (II) state or federal law provides otherwise.

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

169 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
170 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
171 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
172 of tangible personal property, other property, a product, or a service that is not subject to
173 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
174 the seller, at the time of the transaction:

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

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

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

181 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
182 the transaction that is not subject to taxation under this chapter was not separately stated on an

183 invoice, bill of sale, or similar document provided to the purchaser because of an error or
184 ignorance of the law; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 214 (C) Subsection (2)(c)(i); or
- 215 (D) Subsection (2)(d)(i)(A)(I).

216 (ii) The repeal of a tax or a tax rate decrease applies to a billing
217 statement for the billing period is rendered on or after the effective date of the repeal of the tax
218 or the tax rate decrease imposed under:

- 219 (A) Subsection (2)(a)(i)(A);
- 220 (B) Subsection (2)(b)(i);
- 221 (C) Subsection (2)(c)(i); or
- 222 (D) Subsection (2)(d)(i)(A)(I).

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

- 226 (A) on the first day of a calendar quarter; and
- 227 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

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

- 229 (A) Subsection (2)(a)(i)(A);
- 230 (B) Subsection (2)(b)(i);
- 231 (C) Subsection (2)(c)(i); or
- 232 (D) Subsection (2)(d)(i)(A)(I).

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

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

- 236 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 237 (ii) the tax imposed by Subsection (2)(b)(i);
- 238 (iii) the tax imposed by Subsection (2)(c)(i); or
- 239 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

- 242 (i) the tax imposed by Subsection (2)(a)(ii);
- 243 (ii) the tax imposed by Subsection (2)(b)(ii);
- 244 (iii) the tax imposed by Subsection (2)(c)(ii); and

- 245 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 246 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
247 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
248 through (g):
- 249 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 250 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 251 (B) for the fiscal year; or
- 252 (ii) \$17,500,000.
- 253 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
254 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
255 Department of Natural Resources to:
- 256 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
257 protect sensitive plant and animal species; or
- 258 (B) award grants, up to the amount authorized by the Legislature in an appropriations
259 act, to political subdivisions of the state to implement the measures described in Subsections
260 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 261 (ii) Money transferred to the Department of Natural Resources under Subsection
262 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
263 person to list or attempt to have listed a species as threatened or endangered under the
264 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 265 (iii) At the end of each fiscal year:
- 266 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
267 Conservation and Development Fund created in Section 73-10-24;
- 268 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
269 Program Subaccount created in Section 73-10c-5; and
- 270 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
271 Program Subaccount created in Section 73-10c-5.
- 272 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
273 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
274 created in Section 4-18-106.
- 275 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described

276 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
277 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
278 water rights.

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

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

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

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

286 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
287 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
288 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

289 (ii) In addition to the uses allowed of the Water Resources Conservation and
290 Development Fund under Section 73-10-24, the Water Resources Conservation and
291 Development Fund may also be used to:

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

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

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

300 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
301 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
302 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

303 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
304 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
305 created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

308 (ii) develop underground sources of water, including springs and wells; and

309 (iii) develop surface water sources.

310 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,

311 2006, the difference between the following amounts shall be expended as provided in this

312 Subsection (5), if that difference is greater than \$1:

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

314 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

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

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

317 (A) transferred each fiscal year to the Department of Natural Resources as dedicated

318 credits; and

319 (B) expended by the Department of Natural Resources for watershed rehabilitation or

320 restoration.

321 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

322 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund

323 created in Section 73-10-24.

324 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the

325 remaining difference described in Subsection (5)(a) shall be:

326 (A) transferred each fiscal year to the Division of Water Resources as dedicated

327 credits; and

328 (B) expended by the Division of Water Resources for cloud-seeding projects

329 authorized by Title 73, Chapter 15, Modification of Weather.

330 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described

331 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund

332 created in Section 73-10-24.

333 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the

334 remaining difference described in Subsection (5)(a) shall be deposited into the Water

335 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

336 Division of Water Resources for:

337 (i) preconstruction costs:

338 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
339 26, Bear River Development Act; and

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

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

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

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

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

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

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

358 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)
359 shall be deposited into the Transportation Investment Fund of 2005 created by Section
360 72-2-124;

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

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

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

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

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

369 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
370 Water Infrastructure Restricted Account created by Section 73-10g-103;

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

372 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
373 Transportation Investment Fund of 2005 created by Section 72-2-124; and

374 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
375 Water Infrastructure Restricted Account created by Section 73-10g-103;

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

377 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
378 Transportation Investment Fund of 2005 created by Section 72-2-124; and

379 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
380 Water Infrastructure Restricted Account created by Section 73-10g-103; and

381 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
382 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
383 created by Section 73-10g-103.

384 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
385 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
386 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
387 created by Section 72-2-124:

388 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
389 the revenues collected from the following taxes, which represents a portion of the
390 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
391 on vehicles and vehicle-related products:

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

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

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

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

396 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
397 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
398 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
399 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

400 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
401 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
402 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
403 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
404 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
405 (7)(a) equal to the product of:

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

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

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

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

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

424 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
425 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
426 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
427 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

428 (c) (i) Notwithstanding Subsection (3)(a), ~~and~~ in addition to the amounts deposited
429 under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning
430 on or after July 1, 2018, the ~~[Division of Finance]~~ commission shall annually deposit into the

431 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes
432 listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the
433 following taxes:

- 434 [(i)] (A) the tax imposed by Subsection (2)(a)(i)(A);
435 [(ii)] (B) the tax imposed by Subsection (2)(b)(i);
436 [(iii)] (C) the tax imposed by Subsection (2)(c)(i); and
437 [(iv)] (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

438 (ii) For a fiscal year beginning on or after July 1, 2018, the commission shall annually
439 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
440 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
441 by the portion of the motor fuel and special fuel tax that exceeds 29.4 cents per gallon.

442 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
443 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
444 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

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

460 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
461 .05% tax rate on the transactions described in Subsection (1); and

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

464 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
465 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
466 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
467 transaction attributable to food and food ingredients and tangible personal property other than
468 food and food ingredients described in Subsection (2)(d).

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

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

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

481 (13) Notwithstanding Subsections (4) through (12), an amount required to be expended
482 or deposited in accordance with Subsections (4) through (12) may not include an amount the
483 Division of Finance deposits in accordance with Section 59-12-103.2.

484 Section 2. Section 59-13-201 is amended to read:

485 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the**
486 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
487 **in limited circumstances.**

488 [~~(1) (a) Subject to the provisions of this section and through December 31, 2015, a tax~~
489 ~~is imposed at the rate of 24-1/2 cents per gallon upon all motor fuel that is sold, used, or~~
490 ~~received for sale or used in this state.]~~

491 ~~[(b) (i) (1) (a) Subject to the provisions of this section and [beginning on January 1,~~
492 ~~2016] except as provided in Subsection (1)(e), a tax is imposed at the rate of [12%] 16.5% of~~

493 the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is
494 sold, used, or received for sale or used in this state.

495 ~~[(ii)(A)]~~ (b)(i) Until December 31, 2018, and subject to the requirements under
496 Subsection ~~[(1)(b)(iii)]~~ (1)(c), the statewide average rack price of a gallon of motor fuel under
497 Subsection ~~[(1)(b)(i)]~~ (1)(a) shall be determined by calculating the previous fiscal year
498 statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and
499 state excise taxes, for the 12 months ending on the previous June 30 as published by an oil
500 pricing service.

501 ~~[(B)]~~ (ii) Beginning on January 1, 2019, and subject to the requirements under
502 Subsection ~~[(1)(b)(iii)]~~ (1)(c), the statewide average rack price of a gallon of motor fuel under
503 Subsection ~~[(1)(b)(i)]~~ (1)(a) shall be determined by calculating the previous three fiscal years
504 statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and
505 state excise taxes, for the 36 months ending on the previous June 30 as published by an oil
506 pricing service.

507 ~~[(iii)(A)]~~ (c)(i) Subject to the requirement in Subsection ~~[(1)(b)(iii)(B)]~~ (1)(c)(ii), the
508 statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b)~~[(ii)]~~
509 may not be less than ~~[\$2.45]~~ \$1.78 per gallon.

510 ~~[(B)]~~ (ii) Beginning on ~~[a calendar year following the year that the actual statewide~~
511 ~~average rack price of a gallon of motor fuel reaches \$2.45 before applying the minimum under~~
512 ~~Subsection (1)(b)(iii)(A)]~~ January 1, 2018, the commission shall, on January 1, annually adjust
513 the minimum statewide average rack price of a gallon of motor fuel described in Subsection
514 ~~[(1)(b)(iii)(A)]~~ (1)(c)(i) by taking the minimum statewide average rack price of a gallon of
515 motor fuel for the previous calendar year and adding an amount equal to the greater of:

516 ~~[(F)]~~ (A) an amount calculated by multiplying the minimum average rack price of a
517 gallon of motor fuel for the previous calendar year by the actual percent change during the
518 previous fiscal year in the Consumer Price Index; and

519 ~~[(H)]~~ (B) 0.

520 ~~[(E)]~~ (iii) The statewide average rack price of a gallon of motor fuel determined by the
521 commission under Subsection (1)(b)~~[(ii)]~~ may not exceed ~~[\$3.33]~~ \$2.43 per gallon.

522 ~~[(iv)]~~ (d)(i) The commission shall annually:

523 (A) determine the statewide average rack price of a gallon of motor fuel in accordance

524 with ~~Subsection (1)(b)(i)~~ Subsections (1)(b) and (c);

525 (B) adjust the fuel tax rate imposed under Subsection ~~[(1)(b)(i)]~~ (1)(a), rounded to the
526 nearest one-tenth of a cent, based on the determination under Subsection (1)(b)~~[(i)]~~;

527 (C) publish the adjusted fuel tax as a cents per gallon rate; and

528 (D) post or otherwise make public the adjusted fuel tax rate as determined in
529 Subsection ~~[(1)(b)(iv)(B)]~~ (1)(d)(i)(B) no later than 60 days prior to the annual effective date
530 under Subsection ~~[(1)(b)(v)]~~ (1)(d)(ii).

531 ~~[(v)]~~ (ii) The tax rate imposed under this Subsection (1)~~[(b)]~~ and adjusted as required
532 under Subsection ~~[(1)(b)(iv)]~~ (1)(d)(i) shall take effect on January 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

576 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
577 the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this
578 section.

579 (b) This amount shall be used as provided in Section [41-22-19](#).

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

583 (i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor
584 fuel is paid to the Navajo Nation;

585 (ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or

586 not the person required to pay the tax is an enrolled member of the Navajo Nation; and

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

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

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

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

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

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

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

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

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

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

606 (i) may not:

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

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

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

611 (ii) shall:

612 (A) be in writing;

613 (B) be signed by:

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

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

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

617 (D) state the effective date of the agreement; and
618 (E) state any accommodation the Navajo Nation makes related to the construction and
619 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
620 Nation; and

621 (iii) may:

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

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

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

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

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

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

633 (A) from the Navajo Nation; and

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

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

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

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

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

641 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
642 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
643 30-day period beginning on the day the agreement terminates.

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

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

647 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**

648 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

649 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
650 59-13-304, a tax is imposed at the same rates imposed under ~~[Subsections]~~ Subsection
651 59-13-201(1)(a) ~~[and (b)]~~ on the:

- 652 (i) removal of undyed diesel fuel from any refinery;
653 (ii) removal of undyed diesel fuel from any terminal;
654 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
655 warehousing;
656 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
657 this part unless the tax has been collected under this section;
658 (v) any untaxed special fuel blended with undyed diesel fuel; or
659 (vi) use of untaxed special fuel other than propane or electricity.
660 (b) The tax imposed under this section shall only be imposed once upon any special
661 fuel.

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

- 663 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
664 the public highways of the state, but this exemption applies only in those cases where the
665 purchasers or the users of special fuel establish to the satisfaction of the commission that the
666 special fuel was used for purposes other than to operate a motor vehicle upon the public
667 highways of the state; or

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

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

- 670 (i) sold to the United States government or any of its instrumentalities or to this state or
671 any of its political subdivisions;
672 (ii) exported from this state if proof of actual exportation on forms prescribed by the
673 commission is made within 180 days after exportation;
674 (iii) used in a vehicle off-highway;
675 (iv) used to operate a power take-off unit of a vehicle;
676 (v) used for off-highway agricultural uses;
677 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
678 upon the highways of the state; or

679 (vii) used in machinery and equipment not registered and not required to be registered
680 for highway use.

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

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

684 (ii) used pursuant to the conditions of a state implementation plan approved under Title
685 19, Chapter 2, Air Conservation Act; or

686 (b) propane or electricity.

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

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

690 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
691 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

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

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

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

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

- 723 (i) the Navajo Nation imposes a tax on the special fuel;
- 724 (ii) the tax described in Subsection (11)(a)(i) is imposed without regard to whether the
725 person required to pay the tax is an enrolled member of the Navajo Nation; and
- 726 (iii) the commission and the Navajo Nation execute and maintain an agreement as
727 provided in this Subsection (11) for the administration of the reduction of tax.

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

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

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

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

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

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

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

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

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

745 (i) may not:

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

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

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

750 (ii) shall:

751 (A) be in writing;

752 (B) be signed by:

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

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

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

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

757 (E) state any accommodation the Navajo Nation makes related to the construction and
758 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
759 Nation; and

760 (iii) may:

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

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

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

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

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

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

- 772 (A) from the Navajo Nation; and
- 773 (B) meeting the requirements of Subsection (11)(f)(ii).
- 774 (ii) The notice described in Subsection (11)(f)(i) shall state:
 - 775 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
 - 776 special fuel;
 - 777 (B) the effective date of the rate change of the tax described in Subsection
 - 778 (11)(f)(ii)(A); and
 - 779 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 780 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
- 781 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
- 782 30-day period beginning on the day the agreement terminates.
 - 783 (h) If there is a conflict between this Subsection (11) and the agreement required by
 - 784 Subsection (11)(a), this Subsection (11) governs.
- 785 (12) (a) A tax imposed under this section on compressed natural gas is imposed at a rate
- 786 of:
 - 787 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;
 - 788 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon
 - 789 equivalent;
 - 790 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline
 - 791 gallon equivalent; and
 - 792 (iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.
- 793 (b) A tax imposed under this section on liquified natural gas is imposed at a rate of:
 - 794 (i) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;
 - 795 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon
 - 796 equivalent;
 - 797 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon
 - 798 equivalent; and
 - 799 (iv) beginning on or after July 1, 2018, 16-1/2 cents per diesel gallon equivalent.
- 800 (c) A tax imposed under this section on hydrogen used to operate or propel a motor
- 801 vehicle upon the public highways of the state is imposed at a rate of:
 - 802 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

803 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per gasoline gallon
804 equivalent;

805 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per gasoline
806 gallon equivalent; and

807 (iv) beginning on or after July 1, 2018, 16-1/2 cents per gasoline gallon equivalent.

808 Section 4. **Effective date.**

809 This bill takes effect on July 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel