

1 **MOTOR FUEL AND SPECIAL FUEL TAX RATE INDEXING**
2 **AMENDMENTS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jim Nielson**

6 Senate Sponsor: _____

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Motor and Special Fuel Tax Act by amending provisions relating
11 to the motor and special fuel tax rates.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ requires the State Tax Commission to increase the motor fuel tax rate, special fuel
16 tax rate, compressed natural gas tax rate, and liquified natural gas tax rate annually
17 by the amount, rounded to the nearest one-tenth of a cent, that equals the product of
18 multiplying:
 - 19 • the tax rate in effect on April 30 of that year; and
 - 20 • the previous calendar year percentage growth in the Chained Consumer Price
21 Index for All Urban Consumers;
- 22 ▶ provides that if there is a decline or no growth in the Chained Consumer Price Index
23 for All Urban Consumers, the tax rates shall remain unchanged;
- 24 ▶ provides that any increase in the tax rates may not be greater than 5% of the tax rate
25 effective in the previous year;
- 26 ▶ provides that the adjusted tax rate shall take effect on July 1 of each year that the
27 motor fuel tax rate is required to be adjusted;



28 ▶ grants the State Tax Commission rulemaking authority to make rules to implement
29 the provisions; and

30 ▶ makes technical corrections.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill coordinates with H.B. 240, Motor and Special Fuel Tax Increase Amendments,
35 by providing substantive and technical merging amendments.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369

39 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

40 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259

41 **59-13-403**, as last amended by Laws of Utah 2006, Chapter 322

42 **Utah Code Sections Affected by Coordination Clause:**

43 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

44 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259



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

47 Section 1. Section **59-13-102** is amended to read:

48 **59-13-102. Definitions.**

49 As used in this chapter:

50 (1) "Aviation fuel" means fuel that is sold at airports and used exclusively for the
51 operation of aircraft.

52 (2) "Chained Consumer Price Index for All Urban Consumers" means the index
53 published monthly by the Bureau of Labor Statistics of the United States Department of Labor
54 that is the United States city average of all items in a basket of consumer goods and services.

55 ~~(2)~~ (3) "Clean fuel" means:

56 (a) the following special fuels:

57 (i) propane;

58 (ii) compressed natural gas;

59 (iii) liquified natural gas; or

60 (iv) electricity; or

61 (b) any motor or special fuel that meets the clean fuel vehicle standards in the federal
62 Clean Air Act Amendments of 1990, Title II.

63 [~~(3)~~] (4) "Commission" means the State Tax Commission.

64 [~~(4)~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
65 offered for sale, or used as a fuel in diesel engines.

66 (b) "Diesel fuel" includes any combustible liquid, by whatever name the liquid may be
67 known or sold, when the liquid is used in an internal combustion engine for the generation of
68 power to operate a motor vehicle licensed to operate on the highway, except fuel that is subject
69 to the tax imposed in Part 2, Motor Fuel, and Part 4, Aviation Fuel, of this chapter.

70 [~~(5)~~] (6) "Distributor" means any person in this state who:

71 (a) imports or causes to be imported motor fuel for use, distribution, or sale, whether at
72 retail or wholesale;

73 (b) produces, refines, manufactures, or compounds motor fuel in this state for use,
74 distribution, or sale in this state;

75 (c) is engaged in the business of purchasing motor fuel for resale in wholesale
76 quantities to retail dealers of motor fuel and who accounts for his own motor fuel tax liability;
77 or

78 (d) for purposes of Part 4, Aviation Fuel, only, makes retail sales of aviation fuel to:

79 (i) federally certificated air carriers; and

80 (ii) other persons.

81 [~~(6)~~] (7) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.
82 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service
83 regulations and that is considered destined for nontaxable off-highway use.

84 [~~(7)~~] (8) "Exchange agreement" means an agreement between licensed suppliers where
85 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other
86 supplier or the other supplier's customer at the loading rack of the terminal where the delivering
87 supplier holds an inventory position.

88 [~~(8)~~] (9) "Federally certificated air carrier" means a person who holds a certificate
89 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo

90 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

91 ~~[(9)]~~ (10) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is
92 generally used in an engine or motor for the generation of power, including aviation fuel, clean
93 fuel, diesel fuel, motor fuel, and special fuel.

94 (11) "Gasoline gallon equivalent" means 5.660 pounds of compressed natural gas.

95 ~~[(10)]~~ (12) "Highway" means every way or place, of whatever nature, generally open to
96 the use of the public for the purpose of vehicular travel notwithstanding that the way or place
97 may be temporarily closed for the purpose of construction, maintenance, or repair.

98 ~~[(11)]~~ (13) "Motor fuel" means fuel that is commonly or commercially known or sold
99 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

100 ~~[(12)]~~ (14) "Motor fuels received" means:

101 (a) motor fuels that have been loaded at the refinery or other place into tank cars,
102 placed in any tank at the refinery from which any withdrawals are made directly into tank
103 trucks, tank wagons, or other types of transportation equipment, containers, or facilities other
104 than tank cars, or placed in any tank at the refinery from which any sales, uses, or deliveries not
105 involving transportation are made directly; or

106 (b) motor fuels that have been imported by any person into the state from any other
107 state or territory by tank car, tank truck, pipeline, or any other conveyance at the time when,
108 and the place where, the interstate transportation of the motor fuel is completed within the state
109 by the person who at the time of the delivery is the owner of the motor fuel.

110 ~~[(13)]~~ (15) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle
111 used, designed, or maintained for transportation of persons or property which:

112 (i) has a gross vehicle weight or registered gross vehicle weight exceeding 26,000
113 pounds;

114 (ii) has three or more axles regardless of weight; or

115 (iii) is used in a combination of vehicles when the weight of the combination of
116 vehicles exceeds 26,000 pounds gross vehicle weight.

117 (b) "Qualified motor vehicle" does not include a recreational vehicle not used in
118 connection with any business activity.

119 ~~[(14)]~~ (16) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay
120 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel

121 from a refinery or terminal into a motor vehicle, rail car, or vessel.

122 ~~[(15)]~~ (17) "Removal," as used in Part 3, Special Fuel, means the physical transfer of
123 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of
124 diesel fuel. Removal does not include:

125 (a) loss by evaporation or destruction; or

126 (b) transfers between refineries, racks, or terminals.

127 ~~[(16)]~~ (18) (a) "Special fuel" means any fuel regardless of name or character that:

128 (i) is usable as fuel to operate or propel a motor vehicle upon the public highways of
129 the state; and

130 (ii) is not taxed under the category of aviation or motor fuel.

131 (b) Special fuel includes:

132 (i) fuels that are not conveniently measurable on a gallonage basis; and

133 (ii) diesel fuel.

134 ~~[(17)]~~ (19) "Supplier," as used in Part 3, Special Fuel, means a person who:

135 (a) imports or acquires immediately upon importation into this state diesel fuel from
136 within or without a state, territory, or possession of the United States or the District of
137 Columbia;

138 (b) produces, manufactures, refines, or blends diesel fuel in this state;

139 (c) otherwise acquires for distribution or sale in this state, diesel fuel with respect to
140 which there has been no previous taxable sale or use; or

141 (d) is in a two party exchange where the receiving party is deemed to be the supplier.

142 ~~[(18)]~~ (20) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage
143 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel
144 fuel is removed for distribution at a rack.

145 ~~[(19)]~~ (21) "Two party exchange" means a transaction in which special fuel is
146 transferred between licensed suppliers pursuant to an exchange agreement.

147 ~~[(20)]~~ (22) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
148 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
149 Protection Agency or Internal Revenue Service regulations.

150 ~~[(21)]~~ (23) "Use," as used in Part 3, Special Fuel, means the consumption of special
151 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state

152 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

153 ~~[(22)]~~ (24) "User," as used in Part 3, Special Fuel, means any person who uses special
154 fuel within this state in an engine or motor for the generation of power to operate or propel a
155 motor vehicle upon the public highways of the state.

156 ~~[(23)]~~ (25) "Ute tribal member" means an enrolled member of the Ute tribe.

157 ~~[(24)]~~ (26) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
158 Reservation.

159 ~~[(25)]~~ (27) "Ute trust land" means the lands:

160 (a) of the Uintah and Ouray Reservation that are held in trust by the United States for
161 the benefit of:

162 (i) the Ute tribe;

163 (ii) an individual; or

164 (iii) a group of individuals; or

165 (b) specified as trust land by agreement between the governor and the Ute tribe meeting
166 the requirements of Subsections 59-13-201.5(3) and 59-13-301.5(3).

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

168 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the**
169 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
170 **in limited circumstances.**

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

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

177 (c) (i) Beginning on July 1, 2014, the commission shall annually increase the rate
178 imposed under Subsection (1)(a) by the amount, rounded to the nearest one-tenth of a cent, that
179 equals the product of multiplying:

180 (A) the motor fuel tax rate in effect on April 30 of that year; and

181 (B) the previous calendar year percentage growth in the Chained Consumer Price Index
182 for All Urban Consumers.

183 (ii) The previous calendar year percentage growth in the Chained Consumer Price
184 Index for All Urban Consumers under Subsection (1)(c)(i)(B) shall be determined by
185 comparing the average of the index for the 12 months ending on the preceding December 31 to
186 the average of the index for the prior 12 months.

187 (iii) If there is a decline or no growth in the Chained Consumer Price Index for All
188 Urban Consumers, the motor fuel tax rate shall remain unchanged.

189 (iv) Any increase in the motor fuel tax rate under this Subsection (1)(c) may not be
190 greater than 5% of the motor fuel tax rate effective in the previous year.

191 (v) The adjusted motor fuel tax rate shall take effect on July 1 of each year that the
192 motor fuel tax rate is required to be adjusted in accordance with this Subsection (1)(c).

193 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
194 the commission may make rules implementing the provisions of this Subsection (1)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

264 (i) may not:

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

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

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

269 (ii) shall:

270 (A) be in writing;

271 (B) be signed by:

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

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

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

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

276 (E) state any accommodation the Navajo Nation makes related to the construction and
277 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
278 Nation; and

279 (iii) may:

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

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

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

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

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

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

291 (A) from the Navajo Nation; and

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

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

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

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

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

299 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
300 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
301 30-day period beginning on the day the agreement terminates.

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

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

305 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
306 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**

307 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
308 59-13-304, a tax is imposed at the same rate imposed under Subsection 59-13-201(1)(~~a~~) on
309 the:

- 310 (i) removal of undyed diesel fuel from any refinery;
- 311 (ii) removal of undyed diesel fuel from any terminal;
- 312 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
313 warehousing;
- 314 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
315 this part unless the tax has been collected under this section;
- 316 (v) any untaxed special fuel blended with undyed diesel fuel; or
- 317 (vi) use of untaxed special fuel other than propane or electricity.
- 318 (b) The tax imposed under this section shall only be imposed once upon any special
319 fuel.

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

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

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

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

- 328 (i) sold to the United States government or any of its instrumentalities or to this state or
329 any of its political subdivisions;

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

332 (iii) used in a vehicle off-highway;

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

334 (v) used for off-highway agricultural uses;

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

337 (vii) used in machinery and equipment not registered and not required to be registered

338 for highway use.

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

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

342 (ii) used pursuant to the conditions of a state implementation plan approved under Title
343 19, Chapter 2, Air Conservation Act; or

344 (b) propane or electricity.

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

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

348 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
349 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

369 commission shall make rules governing the application and refund provided for in Subsection
370 (9)(a).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

400 commission shall make rules governing the procedures for administering the reduction of tax
401 provided under this Subsection (11).

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

403 (i) may not:

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

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

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

408 (ii) shall:

409 (A) be in writing;

410 (B) be signed by:

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

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

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

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

415 (E) state any accommodation the Navajo Nation makes related to the construction and
416 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
417 Nation; and

418 (iii) may:

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

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

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

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

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

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

430 (A) from the Navajo Nation; and

- 431 (B) meeting the requirements of Subsection (11)(f)(ii).
- 432 (ii) The notice described in Subsection (11)(f)(i) shall state:
- 433 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
434 special fuel;
- 435 (B) the effective date of the rate change of the tax described in Subsection
436 (11)(f)(ii)(A); and
- 437 (C) the new rate of the tax described in Subsection (11)(f)(ii)(A).
- 438 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
439 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
440 30-day period beginning on the day the agreement terminates.
- 441 (h) If there is a conflict between this Subsection (11) and the agreement required by
442 Subsection (11)(a), this Subsection (11) governs.
- 443 (12) (a) [~~Beginning on January 1, 2009, a~~] A tax imposed under this section on
444 compressed natural gas is imposed at a reduced rate of 8-1/2 cents per gasoline gallon
445 equivalent [~~to be increased or decreased proportionately with any increase or decrease in the~~
446 ~~rate in Subsection 59-13-201(1)(a)~~].
- 447 (b) [~~Beginning on July 1, 2011, a~~] A tax imposed under this section on liquified natural
448 gas is imposed at a reduced rate of 8-1/2 cents per [~~gasoline gallon equivalent to be increased~~
449 ~~or decreased proportionately with any increase or decrease in the rate in Subsection~~
450 ~~59-13-201(1)(a)] gallon.~~
- 451 (c) (i) Beginning on July 1, 2014, the commission shall annually increase the tax rates
452 imposed under Subsections (12)(a) and (b) by the amount, rounded to the nearest one-tenth of a
453 cent, that equals the product of multiplying:
- 454 (A) the compressed natural gas tax rate or liquified natural gas tax rate in effect on
455 April 30 of that year; and
- 456 (B) the previous calendar year percentage growth in the Chained Consumer Price Index
457 for All Urban Consumers.
- 458 (ii) The previous calendar year percentage growth in the Chained Consumer Price
459 Index for All Urban Consumers under Subsection (12)(c)(i)(B) shall be determined by
460 comparing the average of the index for the 12 months ending on the preceding December 31 to
461 the average of the index for the prior 12 months.

462 (iii) If there is a decline or no growth in the Chained Consumer Price Index for All
463 Urban Consumers, the compressed natural gas tax rate and the liquified natural gas tax rate
464 shall remain unchanged.

465 (iv) Any increase in the compressed natural gas tax rate or the liquified natural gas tax
466 rate under this Subsection (12)(c) may not be greater than 5% of the tax rates effective in the
467 previous year.

468 (v) The adjusted tax rate shall take effect on July 1 of each year that the tax rate is
469 required to be adjusted in accordance with this Subsection (12)(c).

470 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
471 the commission may make rules implementing the provisions of this Subsection (12)(c).

472 Section 4. Section **59-13-403** is amended to read:

473 **59-13-403. Administration and penalties -- Bond requirements.**

474 (1) All administrative and penalty provisions of Part 2, Motor Fuel, apply to the
475 administration of Part 4, Aviation Fuel.

476 (2) Notwithstanding Subsection (1), a distributor is not required to furnish a bond if the
477 distributor:

478 (a) meets the definition of distributor under Subsection ~~59-13-102~~(~~5~~)(6)(d); and

479 (b) has an average tax liability of \$500 or less per month.

480 Section 5. **Coordinating H.B. 266 with H.B. 240 -- Substantively and technically**
481 **merging amendments.**

482 If this H.B. 266 and H.B. 240, Motor and Special Fuel Tax Increase Amendments, both
483 pass and become law, it is the intent of the Legislature that the Office of Legislative Research
484 and General Counsel in preparing the Utah Code database for publication, do the following:

485 (1) modify Subsection ~~59-13-201~~(1)(c)(i) to read:

486 "(c) (i) Beginning on July 1, 2019, the commission shall annually increase the rate
487 imposed under Subsection (1)(a) by the amount, rounded to the nearest one-tenth of a cent, that
488 equals the product of multiplying:";

489 (2) the amendments to Subsections ~~59-13-301~~(12)(a) and (b) in H.B. 240 supersede the
490 amendments to Subsections ~~59-13-301~~(12)(a) and (b) in this bill;

491 (3) not give effect to the amendments made in Subsection ~~59-13-301~~(12)(c) by H.B.
492 240; and

493 (4) modify Subsection [59-13-301\(12\)\(c\)\(i\)](#) in this bill to read:
494 "(c) (i) Beginning on July 1, 2019, the commission shall annually increase the tax rates
495 imposed under Subsections (12)(a) and (b) by the amount, rounded to the nearest one-tenth of a
496 cent, that equals the product of multiplying:".

Legislative Review Note
as of 1-14-14 11:25 AM

Office of Legislative Research and General Counsel