

1 **TRANSPORTATION INFRASTRUCTURE FUNDING**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Johnny Anderson**

5 Senate Sponsor: Alvin B. Jackson

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to transportation funding.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ provides and amends definitions;
- 13 ▶ authorizes a county to impose a local option sales and use tax for highways and
- 14 public transit;
- 15 ▶ addresses the use of revenue collected from the local option sales and use tax for
- 16 highways and public transit;
- 17 ▶ requires a political subdivision that receives certain sales and use tax revenue to
- 18 submit certain information in audits, reviews, compilations, or fiscal reports;
- 19 ▶ repeals the cents per gallon tax rate that is imposed on motor fuels and special fuels
- 20 after a specified date;
- 21 ▶ imposes a percentage tax per gallon on motor fuel and special fuel based on the
- 22 statewide average rack price of a gallon of regular unleaded motor fuel after a
- 23 specified date;
- 24 ▶ establishes procedures for the State Tax Commission to determine the statewide
- 25 average rack price of a gallon of regular unleaded motor fuel;
- 26 ▶ specifies the date that the adjusted fuel tax rate shall take effect each year;
- 27 ▶ increases the tax rate of the special fuel tax imposed on compressed natural gas and
- 28 liquified natural gas;
- 29 ▶ imposes a special fuel tax on hydrogen used to operate or propel a motor vehicle on

30 a public highway;

31 ▶ repeals the requirement to post a tax rate decal on each motor fuel or undyed special
32 fuel pump or dispensing device;

33 ▶ repeals the cap on the amount of motor fuel tax revenue that is deposited in the
34 Off-highway Vehicle Account;

35 ▶ requires the Department of Transportation to study the implementation of a road
36 usage charge;

37 ▶ amends the apportionment formula for revenues deposited in the class B and class C
38 roads account; and

39 ▶ makes technical and conforming changes.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 This bill provides a special effective date.

44 This bill provides a coordination clause.

45 **Utah Code Sections Affected:**

46 **AMENDS:**

47 **51-2a-202**, as enacted by Laws of Utah 2004, Chapter 206

48 **59-12-2203**, as enacted by Laws of Utah 2010, Chapter 263

49 **59-12-2206**, as enacted by Laws of Utah 2010, Chapter 263

50 **59-13-102**, as last amended by Laws of Utah 2012, Chapter 369

51 **59-13-201**, as last amended by Laws of Utah 2010, Chapter 308

52 **59-13-301**, as last amended by Laws of Utah 2011, Chapter 259

53 **63I-1-259**, as last amended by Laws of Utah 2014, Chapter 54

54 **72-2-108**, as last amended by Laws of Utah 2008, Chapter 109

55 **ENACTS:**

56 **59-12-2219**, Utah Code Annotated 1953

57 **63I-1-251**, Utah Code Annotated 1953

58 72-1-212, Utah Code Annotated 1953

59 REPEALS:

60 59-13-104, as enacted by Laws of Utah 1998, Chapter 253

61 Utah Code Sections Affected by Coordination Clause:

62 59-13-301, as last amended by Laws of Utah 2011, Chapter 259



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

65 Section 1. Section 51-2a-202 is amended to read:

66 **51-2a-202. Reporting requirements.**

67 (1) The governing board of each entity required to have an audit, review, compilation,
68 or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

69 (a) made at least annually; and

70 (b) filed with the state auditor within six months of the close of the fiscal year of the
71 entity.

72 (2) If the political subdivision, interlocal organization, or other local entity receives
73 federal funding, the audit, review, or compilation shall be performed in accordance with both
74 federal and state auditing requirements.

75 (3) If a political subdivision receives revenue from a sales and use tax imposed under
76 Section 59-12-2219, the political subdivision shall identify the amount of revenue the political
77 subdivision budgets for transportation and verify compliance with Subsection 59-12-2219(10)
78 in the audit, review, compilation, or fiscal report.

79 Section 2. Section 59-12-2203 is amended to read:

80 **59-12-2203. Authority to impose a sales and use tax under this part.**

81 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
82 imposed within the boundaries of a local taxing jurisdiction:

83 (a) a county, city, or town may impose the sales and use tax authorized by Section

84 59-12-2213 in accordance with Section 59-12-2213; or

85 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2215

86 in accordance with Section 59-12-2215.

87 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
88 imposed within the boundaries of a local taxing jurisdiction:

89 (a) a county, city, or town may impose the sales and use tax authorized by Section
90 59-12-2214 in accordance with Section 59-12-2214; or

91 (b) a county may impose the sales and use tax authorized by Section 59-12-2216 in
92 accordance with Section 59-12-2216.

93 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
94 imposed within the boundaries of a local taxing jurisdiction:

95 (a) a county may impose the sales and use tax authorized by Section 59-12-2217 in
96 accordance with Section 59-12-2217; or

97 (b) a county, city, or town may impose the sales and use tax authorized by Section
98 59-12-2218 in accordance with Section 59-12-2218.

99 (4) A county may impose the sales and use tax authorized by Section 59-12-2219 in
100 accordance with Section 59-12-2219.

101 Section 3. Section 59-12-2206 is amended to read:

102 **59-12-2206. Administration, collection, and enforcement of a sales and use tax**
103 **under this part -- Transmission of revenues monthly by electronic funds transfer --**
104 **Transfer of revenues to a public transit district or eligible political subdivision.**

105 (1) Except as provided in Subsection (2), the commission shall administer, collect, and
106 enforce a sales and use tax imposed under this part.

107 (2) The commission shall administer, collect, and enforce a sales and use tax imposed
108 under this part in accordance with:

109 (a) the same procedures used to administer, collect, and enforce a tax under:

110 (i) Part 1, Tax Collection; or

111 (ii) Part 2, Local Sales and Use Tax Act; and

112 (b) Chapter 1, General Taxation Policies.

113 (3) A sales and use tax under this part is not subject to Subsections 59-12-205(2)

114 through (6).

115 (4) Subject to Section 59-12-2207 and except as provided in Subsection (5) or another
116 provision of this part, the state treasurer shall transmit revenues collected within a county, city,
117 or town from a sales and use tax under this part to the county, city, or town legislative body
118 monthly by electronic funds transfer.

119 (5) Subject to Section 59-12-2207, the state treasurer shall transfer revenues collected
120 within a county, city, or town from a sales and use tax under this part directly to a public transit
121 district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act, or an eligible
122 political subdivision as defined in Section 59-12-2219, if the county, city, or town legislative
123 body:

- 124 (a) provides written notice to the state treasurer requesting the transfer; and
- 125 (b) designates the public transit district or eligible political subdivision to which the
126 county, city, or town legislative body requests the state treasurer to transfer the revenues.

127 Section 4. Section 59-12-2219 is enacted to read:

128 **59-12-2219. County option sales and use tax for highways and public transit --**
129 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
130 **existing budgeted transportation revenue.**

131 (1) As used in this section:

- 132 (a) "Class B road" means the same as that term is defined in Section 72-3-103.
- 133 (b) "Class C road" means the same as that term is defined in Section 72-3-104.
- 134 (c) "Eligible political subdivision" means a political subdivision that:
 - 135 (i) on May 12, 2015, provides public transit services;
 - 136 (ii) is not a public transit district; and
 - 137 (iii) is not annexed into a public transit district.

138 (d) "Public transit district" means a public transit district organized under Title 17B,
139 Chapter 2a, Part 8, Public Transit District Act.

140 (2) Subject to the other provisions of this part, a county legislative body may impose a
141 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the

142 county, including the cities and towns within the county.

143 (3) The commission shall distribute sales and use tax revenue collected under this
144 section as provided in Subsections (4) through (7).

145 (4) If the entire boundary of a county that imposes a sales and use tax under this section
146 is annexed into a single public transit district, the commission shall distribute the sales and use
147 tax revenue collected within the county as follows:

148 (a) .10% shall be transferred to the public transit district in accordance with Section
149 59-12-2206;

150 (b) .10% shall be distributed as provided in Subsection (6); and

151 (c) .05% shall be distributed to the county legislative body.

152 (5) If the entire boundary of a county that imposes a sales and use tax under this section
153 is not annexed into a single public transit district, or if there is not a public transit district
154 within the county, the commission shall distribute the sales and use tax revenue collected
155 within the county as follows:

156 (a) for a city or town within the county that is annexed into a single public transit
157 district, the commission shall distribute the sales and use tax revenue collected within that city
158 or town as follows:

159 (i) .10% shall be transferred to the public transit district in accordance with Section
160 59-12-2206;

161 (ii) .10% shall be distributed as provided in Subsection (6); and

162 (iii) .05% shall be distributed to the county legislative body;

163 (b) for an eligible political subdivision within the county, the commission shall
164 distribute the sales and use tax revenue collected within that eligible political subdivision as
165 follows:

166 (i) .10% shall be transferred to the eligible political subdivision in accordance with
167 Section 59-12-2206;

168 (ii) .10% shall be distributed as provided in Subsection (6); and

169 (iii) .05% shall be distributed to the county legislative body; and

170 (c) the commission shall distribute the sales and use tax revenue, except for the sales
171 and use tax revenue described in Subsections (5)(a) and (b), as follows:

172 (i) .10% shall be distributed as provided in Subsection (6); and

173 (ii) .15% shall be distributed to the county legislative body.

174 (6) (a) Subject to Subsection (6)(b), the commission shall make the distributions
175 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), and (5)(c)(i) as follows:

176 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), and
177 (5)(c)(i) within the counties that impose a tax under this section shall be distributed to the
178 unincorporated areas, cities, and towns within those counties on the basis of the percentage that
179 the population of each unincorporated area, city, or town bears to the total population of all of
180 the counties that impose a tax under this section; and

181 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
182 and (5)(c)(i) within the counties that impose a tax under this section shall be distributed to the
183 unincorporated areas, cities, and towns within those counties on the basis of the location of the
184 transaction as determined under Sections [59-12-211](#) through [59-12-215](#).

185 (b) (i) Population for purposes of this Subsection (6) shall be determined on the basis
186 of the most recent official census or census estimate of the United States Census Bureau.

187 (ii) If a needed population estimate is not available from the United States Census
188 Bureau, population figures shall be derived from an estimate from the Utah Population
189 Estimates Committee created by executive order of the governor.

190 (7) (a) If a public transit district is organized after the date a county legislative body
191 first imposes a tax under this section, a change in a distribution required by this section may
192 not take effect until the first distribution the commission makes under this section after a
193 90-day period that begins on the date the commission receives written notice from the public
194 transit district of the organization of the public transit district.

195 (b) If an eligible political subdivision intends to provide public transit service within a
196 county after the date a county legislative body first imposes a tax under this section, a change
197 in a distribution required by this section may not take effect until the first distribution the

198 commission makes under this section after a 90-day period that begins on the date the
199 commission receives written notice from the eligible political subdivision stating that the
200 eligible political subdivision intends to provide public transit service within the county.

201 (8) A county, city, or town may expend revenue collected from a tax under this section,
202 except for revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i),
203 or (5)(b)(i), for:

204 (a) a class B road;

205 (b) a class C road;

206 (c) traffic and pedestrian safety, including for a class B road or class C road, for:

207 (i) a sidewalk;

208 (ii) curb and gutter;

209 (iii) a safety feature;

210 (iv) a traffic sign;

211 (v) a traffic signal;

212 (vi) street lighting; or

213 (vii) a combination of Subsections (8)(c)(i) through (vi);

214 (d) the construction, maintenance, or operation of an active transportation facility that
215 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
216 destination;

217 (e) public transit system services; or

218 (f) a combination of Subsections (8)(a) through (e).

219 (9) A public transit district or an eligible political subdivision may expend revenue the
220 commission distributes in accordance with Subsection (4)(a), (5)(a)(i), or (5)(b)(i), for capital
221 expenses and service delivery expenses of the public transit district or eligible political
222 subdivision.

223 (10) (a) Revenue collected from a sales and use tax under this section may not be used
224 to supplant existing general fund appropriations that a county, city, or town has budgeted for
225 transportation as of the date the tax becomes effective for a county, city, or town.

226 (b) The limitation under Subsection (10)(a) does not apply to a designated
227 transportation capital or reserve account a county, city, or town may have established prior to
228 the date the tax becomes effective.

229 Section 5. Section **59-13-102** is amended to read:

230 **59-13-102. Definitions.**

231 As used in this chapter:

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

234 (2) "Clean fuel" means:

235 (a) the following special fuels:

236 (i) propane;

237 (ii) compressed natural gas;

238 (iii) liquified natural gas; [~~or~~]

239 (iv) electricity; or

240 (v) hydrogen; or

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

243 (3) "Commission" means the State Tax Commission.

244 (4) "Consumer Price Index" means the Consumer Price Index for All Urban
245 Consumers as published by the Bureau of Labor Statistics of the United States Department of
246 Labor.

247 [~~(4)~~] (5) (a) "Diesel fuel" means any liquid that is commonly or commercially known,
248 offered for sale, or used as a fuel in diesel engines.

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

253 (6) "Diesel gallon equivalent" means 6.06 pounds of liquified natural gas.

254 [~~(5)~~] (7) "Distributor" means any person in this state who:

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

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

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

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

263 (i) federally certificated air carriers; and

264 (ii) other persons.

265 [~~(6)~~] (8) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with 26 U.S.C.
266 Sec. 4082 or United States Environmental Protection Agency or Internal Revenue Service
267 regulations and that is considered destined for nontaxable off-highway use.

268 [~~(7)~~] (9) "Exchange agreement" means an agreement between licensed suppliers where
269 one is a position holder in a terminal who agrees to deliver taxable special fuel to the other
270 supplier or the other supplier's customer at the loading rack of the terminal where the delivering
271 supplier holds an inventory position.

272 [~~(8)~~] (10) "Federally certificated air carrier" means a person who holds a certificate
273 issued by the Federal Aviation Administration authorizing the person to conduct an all-cargo
274 operation or scheduled operation, as defined in 14 C.F.R. Sec. 110.2.

275 [~~(9)~~] (11) "Fuels" means any gas, liquid, solid, mixture, or other energy source which is
276 generally used in an engine or motor for the generation of power, including aviation fuel, clean
277 fuel, diesel fuel, motor fuel, and special fuel.

278 (12) "Gasoline gallon equivalent" means:

279 (a) 5.660 pounds of compressed natural gas; or

280 (b) 2.198 pounds of hydrogen.

281 [~~(10)~~] (13) "Highway" means every way or place, of whatever nature, generally open to

282 the use of the public for the purpose of vehicular travel notwithstanding that the way or place
283 may be temporarily closed for the purpose of construction, maintenance, or repair.

284 ~~[(11)]~~ (14) "Motor fuel" means fuel that is commonly or commercially known or sold
285 as gasoline or gasohol and is used for any purpose, but does not include aviation fuel.

286 ~~[(12)]~~ (15) "Motor fuels received" means:

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

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

296 (16) "Oil pricing service" means an organization that:

297 (a) publishes wholesale petroleum prices within the United States;

298 (b) publishes at least 25,000 rack prices on a daily basis; and

299 (c) receives daily gasoline and diesel prices from at least 100,000 retail outlets in the
300 United States and Canada.

301 ~~[(13)]~~ (17) (a) "Qualified motor vehicle" means a special fuel-powered motor vehicle
302 used, designed, or maintained for transportation of persons or property which:

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

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

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

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

310 [~~(14)~~] (18) "Rack," as used in Part 3, Special Fuel, means a deck, platform, or open bay
311 which consists of a series of metered pipes and hoses for the delivery or removal of diesel fuel
312 from a refinery or terminal into a motor vehicle, rail car, or vessel.

313 [~~(15)~~] (19) "Removal," as used in Part 3, Special Fuel, means the physical transfer of
314 diesel fuel from a production, manufacturing, terminal, or refinery facility and includes use of
315 diesel fuel. Removal does not include:

- 316 (a) loss by evaporation or destruction; or
- 317 (b) transfers between refineries, racks, or terminals.

318 [~~(16)~~] (20) (a) "Special fuel" means any fuel regardless of name or character that:

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

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

322 (b) Special fuel includes:

- 323 (i) fuels that are not conveniently measurable on a gallonage basis; and
- 324 (ii) diesel fuel.

325 [~~(17)~~] (21) "Supplier," as used in Part 3, Special Fuel, means a person who:

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

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

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

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

333 [~~(18)~~] (22) "Terminal," as used in Part 3, Special Fuel, means a facility for the storage
334 of diesel fuel which is supplied by a motor vehicle, pipeline, or vessel and from which diesel
335 fuel is removed for distribution at a rack.

336 [~~(19)~~] (23) "Two party exchange" means a transaction in which special fuel is
337 transferred between licensed suppliers pursuant to an exchange agreement.

338 [~~(20)~~] (24) "Undyed diesel fuel" means diesel fuel that is not subject to the dyeing
339 requirements in accordance with 26 U.S.C. Sec. 4082 or United States Environmental
340 Protection Agency or Internal Revenue Service regulations.

341 [~~(21)~~] (25) "Use," as used in Part 3, Special Fuel, means the consumption of special
342 fuel for the operation or propulsion of a motor vehicle upon the public highways of the state
343 and includes the reception of special fuel into the fuel supply tank of a motor vehicle.

344 [~~(22)~~] (26) "User," as used in Part 3, Special Fuel, means any person who uses special
345 fuel within this state in an engine or motor for the generation of power to operate or propel a
346 motor vehicle upon the public highways of the state.

347 [~~(23)~~] (27) "Ute tribal member" means an enrolled member of the Ute tribe.

348 [~~(24)~~] (28) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray
349 Reservation.

350 [~~(25)~~] (29) "Ute trust land" means the lands:

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

353 (i) the Ute tribe;

354 (ii) an individual; or

355 (iii) a group of individuals; or

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

358 Section 6. Section 59-13-201 is amended to read:

359 **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited in the**
360 **Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax**
361 **in limited circumstances.**

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

365 (b) (i) Subject to the provisions of this section and beginning on January 1, 2016, a tax

366 is imposed at the rate of 12% of the statewide average rack price of a gallon of motor fuel per
367 gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

368 (ii) (A) Until December 31, 2018, and subject to the requirements under Subsection
369 (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i)
370 shall be determined by calculating the previous fiscal year statewide average rack price of a
371 gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12
372 months ending on the previous June 30 as published by an oil pricing service.

373 (B) Beginning on January 1, 2019, and subject to the requirements under Subsection
374 (1)(b)(iii), the statewide average rack price of a gallon of motor fuel under Subsection (1)(b)(i)
375 shall be determined by calculating the previous three fiscal years statewide average rack price
376 of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36
377 months ending on the previous June 30 as published by an oil pricing service.

378 (iii) (A) Subject to the requirement in Subsection (1)(b)(iii)(B), the statewide average
379 rack price of a gallon of motor fuel determined under Subsection (1)(b)(ii) may not be less than
380 \$2.45 per gallon.

381 (B) Beginning on a calendar year following the year that the actual statewide average
382 rack price of a gallon of motor fuel reaches \$2.45 before applying the minimum under
383 Subsection (1)(b)(iii)(A), the commission shall, on January 1, annually adjust the minimum
384 statewide average rack price of a gallon of motor fuel described in Subsection (1)(b)(iii)(A) by
385 taking the minimum statewide average rack price of a gallon of motor fuel for the previous
386 calendar year and adding an amount equal to the greater of:

387 (I) an amount calculated by multiplying the minimum average rack price of a gallon of
388 motor fuel for the previous calendar year by the actual percent change during the previous
389 fiscal year in the Consumer Price Index; and

390 (II) 0.

391 (C) The statewide average rack price of a gallon of motor fuel determined by the
392 commission under Subsection (1)(b)(ii) may not exceed \$3.33 per gallon.

393 (iv) The commission shall annually:

394 (A) determine the statewide average rack price of a gallon of motor fuel in accordance
395 with Subsection (1)(b)(ii);

396 (B) adjust the fuel tax rate imposed under Subsection (1)(b)(i), rounded to the nearest
397 one-tenth of a cent, based on the determination under Subsection (1)(b)(ii);

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

399 (D) post or otherwise make public the adjusted fuel tax rate as determined in
400 Subsection (1)(b)(iv)(B) no later than 60 days prior to the annual effective date under
401 Subsection (1)(b)(v).

402 (v) The tax rate imposed under this Subsection (1)(b) and adjusted as required under
403 Subsection (1)(b)(iv) shall take effect on January 1 of each year.

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

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

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

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

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

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

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

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

422 commission shall make rules governing the procedures for administering the tax exemption
423 provided under Subsection (3)(a)(iv).

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

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

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

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

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

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

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

447 (8) (a) The commission shall refund annually into the Off-Highway Vehicle Account in
448 the General Fund an amount equal to ~~[the lesser of the following: (i) .5% of the motor fuel tax~~
449 ~~revenues collected under this section[; or].~~

450 [~~(ii) \$1,050,000.~~]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 478 (i) may not:
- 479 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 480 (B) provide a reduction of taxes greater than or different from the reduction described
- 481 in this Subsection (9); or
- 482 (C) affect the power of the state to establish rates of taxation;
- 483 (ii) shall:
- 484 (A) be in writing;
- 485 (B) be signed by:
- 486 (I) the chair of the commission or the chair's designee; and
- 487 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 488 (C) be conditioned on obtaining any approval required by federal law;
- 489 (D) state the effective date of the agreement; and
- 490 (E) state any accommodation the Navajo Nation makes related to the construction and
- 491 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 492 Nation; and
- 493 (iii) may:
- 494 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 495 Navajo Nation information that is:
- 496 (I) contained in a document filed with the commission; and
- 497 (II) related to the tax imposed under this section;
- 498 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 499 (C) provide for inspections or audits of distributors, carriers, or retailers located or
- 500 doing business within the Utah portion of the Navajo Nation.
- 501 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 502 imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a
- 503 result of the change in the tax rate is not effective until the first day of the calendar quarter after
- 504 a 60-day period beginning on the date the commission receives notice:
- 505 (A) from the Navajo Nation; and

506 (B) meeting the requirements of Subsection (9)(f)(ii).
507 (ii) The notice described in Subsection (9)(f)(i) shall state:
508 (A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on
509 motor fuel;
510 (B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);
511 and
512 (C) the new rate of the tax described in Subsection (9)(f)(ii)(A).
513 (g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not
514 permitted under this Subsection (9) beginning on the first day of the calendar quarter after a
515 30-day period beginning on the day the agreement terminates.
516 (h) If there is a conflict between this Subsection (9) and the agreement required by
517 Subsection (9)(a), this Subsection (9) governs.
518 Section 7. Section **59-13-301** is amended to read:
519 **59-13-301. Tax basis -- Rate -- Exemptions -- Revenue deposited with treasurer**
520 **and credited to Transportation Fund -- Reduction of tax in limited circumstances.**
521 (1) (a) Except as provided in Subsections (2), (3), (11), and (12) and Section
522 **59-13-304**, a tax is imposed at the same ~~[rate]~~ rates imposed under ~~[Subsection]~~ Subsections
523 **59-13-201(1)(a) and (b)** on the:
524 (i) removal of undyed diesel fuel from any refinery;
525 (ii) removal of undyed diesel fuel from any terminal;
526 (iii) entry into the state of any undyed diesel fuel for consumption, use, sale, or
527 warehousing;
528 (iv) sale of undyed diesel fuel to any person who is not registered as a supplier under
529 this part unless the tax has been collected under this section;
530 (v) any untaxed special fuel blended with undyed diesel fuel; or
531 (vi) use of untaxed special fuel other than propane or electricity.
532 (b) The tax imposed under this section shall only be imposed once upon any special
533 fuel.

- 534 (2) (a) No special fuel tax is imposed or collected upon dyed diesel fuel which:
535 (i) is sold or used for any purpose other than to operate or propel a motor vehicle upon
536 the public highways of the state, but this exemption applies only in those cases where the
537 purchasers or the users of special fuel establish to the satisfaction of the commission that the
538 special fuel was used for purposes other than to operate a motor vehicle upon the public
539 highways of the state; or
540 (ii) is sold to this state or any of its political subdivisions.
- 541 (b) No special fuel tax is imposed on undyed diesel fuel or clean fuel that is:
542 (i) sold to the United States government or any of its instrumentalities or to this state or
543 any of its political subdivisions;
544 (ii) exported from this state if proof of actual exportation on forms prescribed by the
545 commission is made within 180 days after exportation;
546 (iii) used in a vehicle off-highway;
547 (iv) used to operate a power take-off unit of a vehicle;
548 (v) used for off-highway agricultural uses;
549 (vi) used in a separately fueled engine on a vehicle that does not propel the vehicle
550 upon the highways of the state; or
551 (vii) used in machinery and equipment not registered and not required to be registered
552 for highway use.
- 553 (3) No tax is imposed or collected on special fuel if it is:
554 (a) (i) purchased for business use in machinery and equipment not registered and not
555 required to be registered for highway use; and
556 (ii) used pursuant to the conditions of a state implementation plan approved under Title
557 19, Chapter 2, Air Conservation Act; or
558 (b) propane or electricity.
- 559 (4) Upon request of a buyer meeting the requirements under Subsection (3), the
560 Division of Air Quality shall issue an exemption certificate that may be shown to a seller.
- 561 (5) The special fuel tax shall be paid by the supplier.

562 (6) (a) The special fuel tax shall be paid by every user who is required by Sections
563 59-13-303 and 59-13-305 to obtain a special fuel user permit and file special fuel tax reports.

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

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

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

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

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

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

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

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

588 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
589 commission shall make rules governing the application and refund for off-highway and

590 nonhighway uses provided under Subsections (2)(b)(iii), (iv), (vi), and (vii).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

617 (i) may not:

- 618 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
- 619 (B) provide a reduction of taxes greater than or different from the reduction described
- 620 in this Subsection (11); or
- 621 (C) affect the power of the state to establish rates of taxation;
- 622 (ii) shall:
- 623 (A) be in writing;
- 624 (B) be signed by:
- 625 (I) the chair of the commission or the chair's designee; and
- 626 (II) a person designated by the Navajo Nation that may bind the Navajo Nation;
- 627 (C) be conditioned on obtaining any approval required by federal law;
- 628 (D) state the effective date of the agreement; and
- 629 (E) state any accommodation the Navajo Nation makes related to the construction and
- 630 maintenance of state highways and other infrastructure within the Utah portion of the Navajo
- 631 Nation; and
- 632 (iii) may:
- 633 (A) notwithstanding Section 59-1-403, authorize the commission to disclose to the
- 634 Navajo Nation information that is:
- 635 (I) contained in a document filed with the commission; and
- 636 (II) related to the tax imposed under this section;
- 637 (B) provide for maintaining records by the commission or the Navajo Nation; or
- 638 (C) provide for inspections or audits of suppliers, distributors, carriers, or retailers
- 639 located or doing business within the Utah portion of the Navajo Nation.
- 640 (f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax
- 641 imposed on special fuel, any change in the amount of the reduction of taxes under this
- 642 Subsection (11) as a result of the change in the tax rate is not effective until the first day of the
- 643 calendar quarter after a 60-day period beginning on the date the commission receives notice:
- 644 (A) from the Navajo Nation; and
- 645 (B) meeting the requirements of Subsection (11)(f)(ii).

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

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

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

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

652 (g) If the agreement required by Subsection (11)(a) terminates, a reduction of tax is not
653 permitted under this Subsection (11) beginning on the first day of the calendar quarter after a
654 30-day period beginning on the day the agreement terminates.

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

657 (12) (a) [~~Beginning on January 1, 2009, a~~] A tax imposed under this section on
658 compressed natural gas is imposed at a [~~reduced~~] rate of [~~8-1/2 cents per gasoline gallon~~
659 ~~equivalent to be increased or decreased proportionately with any increase or decrease in the rate~~
660 ~~in Subsection 59-13-201(1)(a).~~];

661 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

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

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

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

667 (b) [~~Beginning on July 1, 2011, a~~] A tax imposed under this section on liquified natural
668 gas is imposed at a [~~reduced~~] rate of [~~8-1/2 cents per gasoline gallon equivalent to be increased~~
669 ~~or decreased proportionately with any increase or decrease in the rate in Subsection~~
670 ~~59-13-201(1)(a).~~];

671 (i) until June 30, 2016, 10-1/2 cents per diesel gallon equivalent;

672 (ii) beginning on July 1, 2016, and until June 30, 2017, 12-1/2 cents per diesel gallon
673 equivalent;

674 (iii) beginning on July 1, 2017, and until June 30, 2018, 14-1/2 cents per diesel gallon
675 equivalent; and

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

677 (c) A tax imposed under this section on hydrogen used to operate or propel a motor
678 vehicle upon the public highways of the state is imposed at a rate of:

679 (i) until June 30, 2016, 10-1/2 cents per gasoline gallon equivalent;

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

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

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

685 Section 8. Section **63I-1-251** is enacted to read:

686 **63I-1-251. Repeal dates, Title 51.**

687 Subsection 51-2a-202(3) is repealed on June 30, 2020.

688 Section 9. Section **63I-1-259** is amended to read:

689 **63I-1-259. Repeal dates, Title 59.**

690 (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

691 (2) Section 59-2-924.3 is repealed on December 31, 2016.

692 (3) Section 59-9-102.5 is repealed December 31, 2020.

693 (4) Subsection 59-12-2219(10) is repealed on June 30, 2020.

694 Section 10. Section **72-1-212** is enacted to read:

695 **72-1-212. Road usage charge study -- Recommendations.**

696 The department shall:

697 (1) continue to study a road usage charge mileage-based revenue system, including a
698 potential demonstration program, as an alternative to the motor and special tax; and

699 (2) make recommendations to the Legislature and other policymaking bodies on the
700 potential use and future implementation of a road usage charge within the state.

701 Section 11. Section **72-2-108** is amended to read:

702 **72-2-108. Apportionment of funds available for use on class B and class C roads**

703 -- **Bonds.**

704 (1) For purposes of this section:

705 (a) "Graveled road" means a road:

706 (i) that is:

707 (A) graded; and

708 (B) drained by transverse drainage systems to prevent serious impairment of the road

709 by surface water;

710 (ii) that has an improved surface; and

711 (iii) that has a wearing surface made of:

712 (A) gravel;

713 (B) broken stone;

714 (C) slag;

715 (D) iron ore;

716 (E) shale; or

717 (F) other material that is:

718 (I) similar to a material described in Subsection (1)(a)(iii)(A) through (E); and

719 (II) coarser than sand.

720 (b) "Paved road" includes a graveled road with a chip seal surface.

721 (c) "Road mile" means a one-mile length of road, regardless of:

722 (i) the width of the road; or

723 (ii) the number of lanes into which the road is divided.

724 (d) "Weighted mileage" means the sum of the following:

725 (i) paved road miles multiplied by five; and

726 ~~[(ii) graveled road miles multiplied by two; and]~~

727 ~~[(iii)]~~ (ii) all other road type road miles multiplied by ~~[one]~~ two.

728 (2) Subject to the provisions of Subsections (3) through (5), funds in the class B and

729 class C roads account shall be apportioned among counties and municipalities in the following

730 manner:

731 (a) 50% in the ratio that the class B roads weighted mileage within each county and
732 class C roads weighted mileage within each municipality bear to the total class B and class C
733 roads weighted mileage within the state; and

734 (b) 50% in the ratio that the population of a county or municipality bears to the total
735 population of the state as of the last official federal census or the United States Bureau of
736 Census estimate, whichever is most recent, except that if population estimates are not available
737 from the United States Bureau of Census, population figures shall be derived from the estimate
738 from the Utah Population Estimates Committee.

739 (3) For purposes of Subsection (2)(b), "the population of a county" means:

740 (a) the population of a county outside the corporate limits of municipalities in that
741 county, if the population of the county outside the corporate limits of municipalities in that
742 county is not less than 14% of the total population of that county, including municipalities; and

743 (b) if the population of a county outside the corporate limits of municipalities in the
744 county is less than 14% of the total population:

745 (i) the aggregate percentage of the population apportioned to municipalities in that
746 county shall be reduced by an amount equal to the difference between:

747 (A) 14%; and

748 (B) the actual percentage of population outside the corporate limits of municipalities in
749 that county; and

750 (ii) the population apportioned to the county shall be 14% of the total population of
751 that county, including incorporated municipalities.

752 (4) (a) If an apportionment under Subsection (2) for fiscal year 2014 to a county or
753 municipality with a population of less than 14,000 is less than 120% of the amount apportioned
754 to the county or municipality from the class B and class C roads account for fiscal year
755 1996-97, the department shall:

756 (i) reapportion the funds under Subsection (2) to ensure that the county or municipality
757 receives an amount equal to [~~120% of~~] the amount apportioned to the county or municipality

758 from the class B and class C roads account for fiscal year 1996-97 multiplied by the percentage
759 increase in the class B and class C roads account from fiscal year 1996-97 to the most recently
760 completed fiscal year; and

761 (ii) decrease proportionately as provided in Subsection (4)(b) the apportionments to
762 counties and municipalities for which the reapportionment under Subsection (4)(a)(i) does not
763 apply.

764 (b) The aggregate amount of the funds that the department shall decrease
765 proportionately from the apportionments under Subsection (4)(a)(ii) is an amount equal to the
766 aggregate amount reapportioned to counties and municipalities under Subsection (4)(a)(i).

767 (5) (a) In addition to the apportionment adjustments made under Subsection (4), a
768 county or municipality that qualifies for reapportioned money under Subsection (4)(a)(i) shall
769 receive the percentage change in the class B and class C roads account compounded annually
770 beginning in fiscal year 2006-07.

771 (b) The adjustment under Subsection (5)(a) shall be made in the same way as provided
772 in Subsection (4)(a)(ii) and (b).

773 (6) The governing body of any municipality or county may issue bonds redeemable up
774 to a period of 10 years under Title 11, Chapter 14, Local Government Bonding Act, to pay the
775 costs of constructing, repairing, and maintaining class B or class C roads and may pledge class
776 B or class C road funds received pursuant to this section to pay principal, interest, premiums,
777 and reserves for the bonds.

778 **Section 12. Repealer.**

779 This bill repeals:

780 Section **59-13-104, Tax rate decals -- Posted on pump.**

781 **Section 13. Effective date.**

782 This bill takes effect on July 1, 2015.

783 **Section 14. Coordinating H.B. 362 with H.B. 406 -- Substantive amendments.**

784 If this H.B. 362 and H.B. 406, Natural Gas Vehicle Amendments, both pass and
785 become law, it is the intent of the Legislature that the Office of Legislative Research and

- 786 General Counsel, in preparing the Utah Code database for publication, replace all references to
787 "gasoline gallon equivalent" in Subsection [59-13-301](#)(12)(b) with "diesel gallon equivalent."