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HOUSE BILL 5

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION
1996

INTRODUCED BY
DAVID M PARSONS

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT, THE
PETROLEUM PRODUCTS LOADING FEE ACT AND THE SPECIAL FUELS
SUPPLIER TAX ACT TO CHANGE THE DEFINITION OF WHEN GASOLINE OR
SPECIAL FUEL IS RECEIVED AND WHO RECEIVES IT FOR PURPOSES OF
IMPOSING CERTAIN TAXES; CHANGING THE BOND REQUIREMENTS FOR
CERTAIN TAXPAYERS; AMENDING AND ENACTING SECTIONS OF THE NMSA
1978; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-13-2 NMSA 1978 (being Laws 1971,
Chapter 207, Section 2, as amended) is amended to read:

"7-13-2. DEFINITIONS. --As used in the Gasoline Tax Act:

A. "aviation gasoline" means ~~[any flammable liquid
used primarily as fuel for the propulsion of motor vehicles,~~

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1 ~~motorboats or aircraft. "Gasoline" does not include diesel-~~
2 ~~engine fuel, kerosene, liquefied petroleum gas, natural gas and~~
3 ~~products specially prepared and] gasoline sold for use in [the]~~
4 ~~aircraft propelled by engines other than turbo-prop or jet-type~~
5 engines;

6 B. "department" means the taxation and revenue
7 department, the secretary of taxation and revenue or any
8 employee of the department exercising authority lawfully
9 delegated to that employee by the secretary;

10 ~~[C. "secretary" means the secretary of taxation and~~
11 ~~revenue or the secretary's delegate;~~

12 ~~D. "motor vehicle" means any self-propelled vehicle~~
13 ~~suitable for operation on highways;~~

14 ~~E. "highway" means every way or place, including~~
15 ~~toll roads, generally open to or intended to be used for public~~
16 ~~travel by motor vehicles, regardless of whether it is~~
17 ~~temporarily closed;~~

18 ~~F.] C.~~ "distributor" means any person, ~~[but]~~ not
19 including the United States of America or any of its agencies
20 except to the extent now or hereafter permitted by the
21 constitution and laws thereof, who receives gasoline ~~[within the~~
22 ~~meaning of "received" as defined in this section;~~

23 ~~G. "wholesaler" means any person not a distributor~~
24 ~~who sells gasoline in quantities of thirty-five gallons or more~~
25 ~~and does not deliver such gasoline into the fuel supply tanks of~~

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1 ~~motor vehicles;~~

2 ~~H. "retailer" means any person who sells gasoline in~~
3 ~~quantities of thirty-five gallons or less and delivers such~~
4 ~~gasoline into the fuel supply tanks of motor vehicles;~~

5 ~~I. the definitions of "distributor", "wholesaler"~~
6 ~~and "retailer" shall be construed so that a person may at the~~
7 ~~same time be a retailer and a distributor or a retailer and a~~
8 ~~wholesaler;~~

9 ~~J. "person" means:~~

10 ~~(1) any individual, estate, trust, receiver,~~
11 ~~cooperative association, club, corporation, company, firm,~~
12 ~~partnership, limited liability company, limited liability~~
13 ~~partnership, joint venture, syndicate or other entity, including~~
14 ~~any gas, water or electric utility owned or operated by a~~
15 ~~county, municipality or other political subdivision of the~~
16 ~~state; or~~

17 ~~(2) the United States or any agency or~~
18 ~~instrumentality thereof or the state of New Mexico or any~~
19 ~~political subdivision thereof;~~

20 ~~K. "received" means:~~

21 ~~(1)~~

22 ~~(a) gasoline which is produced, refined,~~
23 ~~manufactured, blended or compounded at a refinery in this state~~
24 ~~or stored at a pipeline terminal in this state by any person is~~
25 ~~"received" by such person when it is loaded there into tank~~

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1 ~~cars, tank trucks, tank wagons or other types of transportation~~
2 ~~equipment or when it is placed into any tank or other container~~
3 ~~from which sales or deliveries not involving transportation are~~
4 ~~made;~~

5 ~~(b) when, however, such gasoline is~~
6 ~~shipped or delivered to another person registered as a~~
7 ~~distributor under the Gasoline Tax Act, then it is "received" by~~
8 ~~the distributor to whom it is so shipped or delivered; and~~

9 ~~(c) further, when such gasoline is~~
10 ~~shipped or delivered to another person not registered as a~~
11 ~~distributor under the Gasoline Tax Act for the account of a~~
12 ~~person that is so registered, it is "received" by the~~
13 ~~distributor for whose account it is shipped;~~

14 ~~(2) notwithstanding the provisions of Paragraph~~
15 ~~(1) of this subsection, when gasoline is shipped or delivered~~
16 ~~from a refinery or pipeline terminal to another refinery or~~
17 ~~pipeline terminal, such gasoline is not "received" by reason of~~
18 ~~such shipment or delivery;~~

19 ~~(3) any product other than gasoline that is~~
20 ~~blended to produce gasoline other than at a refinery or pipeline~~
21 ~~terminal in this state is "received" by a person who is the~~
22 ~~owner thereof at the time and place the blending is completed;~~
23 ~~and~~

24 ~~(4) except as otherwise provided, gasoline is~~
25 ~~"received" at the time and place it is first unloaded in this~~

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1 ~~state and by the person who is the owner thereof immediately~~
2 ~~preceding the unloading, unless the owner immediately after the~~
3 ~~unloading is a registered distributor, in which case such~~
4 ~~registered distributor is considered as having received the~~
5 ~~gasoline;~~

6 L. ~~"drip gasoline" means a combustible hydrocarbon~~
7 ~~liquid formed as a product of condensation from either~~
8 ~~associated or nonassociated natural or casing head gas which~~
9 ~~remains a liquid at existing atmospheric temperature and~~
10 ~~pressure;~~

11 M. ~~"gallon" means the quantity of liquid necessary~~
12 ~~to fill a standard United States gallon liquid measure or that~~
13 ~~same quantity adjusted to a temperature of sixty degrees~~
14 ~~fahrenheit at the election of any distributor, but a distributor~~
15 ~~shall report on the same basis for a period of at least one~~
16 ~~year; and~~

17 N. ~~"ethanol blended fuel" means gasoline received in~~
18 ~~New Mexico containing a minimum of ten percent by volume of~~
19 ~~denatured ethanol, of at least one hundred ninety nine proof,~~
20 ~~exclusive of denaturants] in accordance with Section 7-13-2.1~~
21 ~~NMSA 1978; "distributor" shall be construed so that a person~~
22 ~~simultaneously may be both a distributor and a retailer;~~

23 D. "drip gasoline" means a combustible hydrocarbon
24 liquid formed as a product of condensation from either
25 associated natural or casing head gas and that remains a liquid

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1 at room temperature and pressure;

2 E. "ethanol-blended fuel" means gasoline containing
3 a minimum of ten percent by volume of denatured ethanol, of at
4 least one hundred ninety-nine proof, exclusive of denaturants;

5 F. "fuel supply tank" means any tank or other
6 receptacle in which or by which fuel may be carried and supplied
7 to the fuel-furnishing device or apparatus of the propulsion
8 mechanism of a motor vehicle when the tank or receptacle either
9 contains gasoline or gasoline is delivered into it;

10 G. "gallon" means the quantity of liquid necessary
11 to fill a standard United States gallon liquid measure or that
12 same quantity adjusted to a temperature of sixty degrees
13 fahrenheit at the election of any distributor, but a distributor
14 shall report on the same basis for a period of at least one
15 year;

16 H. "gasoline" means any flammable liquid used
17 primarily as fuel for the propulsion of motor vehicles,
18 motorboats or aircraft. "Gasoline" does not include diesel
19 engine fuel, kerosene, liquefied petroleum gas, compressed or
20 liquefied natural gas or products specially prepared and sold
21 for use in aircraft propelled by turbo-prop or jet-type engines;

22 I. "government-licensed vehicle" means a motor
23 vehicle lawfully displaying a registration plate, as defined in
24 the Motor Vehicle Code, issued by the United States or any state
25 identifying the motor vehicle as belonging to the United States

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1 or any of its agencies or instrumentalities;

2 J. "highway" means every road, highway,
3 thoroughfare, street or way, including toll roads, generally
4 open to the use of the public as a matter of right for the
5 purpose of motor vehicle travel regardless of whether it is
6 temporarily closed for the purpose of construction,
7 reconstruction, maintenance or repair;

8 K. "motor vehicle" means any self-propelled vehicle
9 or device that is either subject to registration pursuant to
10 Section 66-3-1 NMSA 1978 or used or may be used on the public
11 highways in whole or in part for the purpose of transporting
12 persons or property and includes any connected trailer or
13 semi trailer;

14 L. "person" means an individual or any other entity,
15 including, to the extent permitted by law, any federal, state or
16 other government or any department, agency, instrumentality or
17 political subdivision of any federal, state or other government;

18 M. "rack" means a mechanism for delivering fuel from
19 a refinery or pipeline terminal into a truck, trailer, railroad
20 car, barge or other non-pipeline means of transfer;

21 N. "retailer" means a person who sells gasoline
22 generally in quantities of thirty-five gallons or less and
23 delivers such gasoline into the fuel supply tanks of motor
24 vehicles. "Retailer" shall be construed so that a person
25 simultaneously may be both a retailer and a distributor or

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1 wholesaler:

2 O. "secretary" means the secretary of taxation and
3 revenue or the secretary's delegate:

4 P. "taxpayer" means a person required to pay
5 gasoline tax; and

6 Q. "wholesaler" means a person who is not a
7 distributor and who sells gasoline in quantities of thirty-five
8 gallons or more and does not deliver gasoline into the fuel
9 supply tanks of motor vehicles. "Wholesaler" shall be construed
10 so that a person simultaneously may be a wholesaler and a
11 retailer. "

12 Section 2. A new section of the Gasoline Tax Act, Section
13 7-13-2.1 NMSA 1978, is enacted to read:

14 "7-13-2.1. [NEW MATERIAL] WHEN GASOLINE RECEIVED--WHO IS
15 REQUIRED TO PAY GASOLINE TAX.--

16 A. A refinery or pipeline terminal receives gasoline
17 at the time and place when it first loads the gasoline from a
18 rack in this state into tank cars, tank trucks, tank wagons or
19 any other type of transportation equipment or when it places the
20 gasoline into any tank or other container in this state from
21 which sales or deliveries not involving transportation are made.
22 When the refinery or pipeline terminal delivers the gasoline at
23 a rack in this state to a person who is registered as a
24 distributor under the Gasoline Tax Act, however, that person
25 receives the gasoline and is required to pay the gasoline tax.

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1 Gasoline is not received when it is shipped or delivered from a
2 refinery to a pipeline terminal or from one refinery or pipeline
3 terminal to another refinery or pipeline terminal.

4 B. Gasoline imported into New Mexico by any means
5 other than in the fuel supply tank of a motor vehicle or by
6 pipeline is received at the time and place it is imported into
7 this state. The person who owns the gasoline at the time of
8 importation receives the gasoline and is required to pay the
9 gasoline tax.

10 C. If gasoline is received within the exterior
11 boundaries of an Indian reservation or pueblo grant and the
12 person required to pay the gasoline tax is immune from state
13 taxation, the gasoline is also received when the gasoline is
14 transported off the reservation or pueblo grant by any means
15 other than in the fuel supply tank of a motor vehicle. The
16 person who owns the gasoline immediately after the
17 transportation off the reservation or pueblo grant is the person
18 required to pay the gasoline tax. "

19 Section 3. Section 7-13-4 NMSA 1978 (being Laws 1991,
20 Chapter 9, Section 32) is amended to read:

21 "7-13-4. DEDUCTIONS--GASOLINE TAX.--In computing the
22 gasoline tax due, the following amounts of gasoline may be
23 deducted from the total amount of gasoline received in New
24 Mexico during the tax period, provided that satisfactory proof
25 thereof is furnished to the department:

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1 A. gasoline received in New Mexico, but [~~sold for~~
2 ~~export or~~] exported from this state by a distributor other than
3 in the fuel supply tank of a motor vehicle; and

4 B. gasoline received in New Mexico sold to the
5 United States or any agency or instrumentality thereof for the
6 exclusive use of the United States or any agency or
7 instrumentality thereof. Gasoline sold to the United States
8 includes gasoline delivered into the supply tank of a
9 government-licensed vehicle of the United States."

10 Section 4. Section 7-13-5 NMSA 1978 (being Laws 1971,
11 Chapter 207, Section 5, as amended) is amended to read:

12 "7-13-5. TAX RETURNS--PAYMENT OF TAX. -- [~~Distributors~~]
13 Taxpayers shall file gasoline tax returns in form and content as
14 prescribed by the secretary on or before the twenty-fifth day of
15 the month following the month in which gasoline is received in
16 New Mexico. Such returns shall be accompanied by payment of the
17 amount of gasoline tax due."

18 Section 5. A new section of the Gasoline Tax Act is
19 enacted to read:

20 "NEW MATERIAL BOND REQUIRED OF TAXPAYERS. --

21 A. Except as provided in Subsection H of this
22 section, every taxpayer shall file with the department a bond on
23 a form approved by the attorney general with a surety company
24 authorized by the state corporation commission to transact
25 business in this state as a surety and upon which bond the

1 taxpayer is the principal obligor and the state the obligee.
2 The bond shall be conditioned upon the prompt filing of true
3 reports and the payment by the taxpayer to the department of all
4 taxes levied by the Gasoline Tax Act, together with all
5 applicable penalties and interest.

6 B. In lieu of the bond, the taxpayer may elect to
7 file with the department cash or bonds of the United States or
8 New Mexico or of any political subdivision of the state.

9 C. The total amount of the bond, cash or securities
10 required of any taxpayer shall be fixed by the department and
11 may be increased or reduced by the department at any time,
12 subject to the limitations provided in this section.

13 D. In fixing the total amount of the bond, cash or
14 securities required of any taxpayer required to post bond, the
15 department shall require an equivalent in total amount to at
16 least two times the amount of the department's estimate of the
17 taxpayer's monthly gasoline tax, determined in such manner as
18 the secretary may deem proper; provided, however, the total
19 amount of bond, cash or securities required of a taxpayer shall
20 never be less than one thousand dollars (\$1,000).

21 E. In the event the department decides that the
22 amount of the existing bond, cash or securities is insufficient
23 to insure payment to this state of the amount of the gasoline
24 tax and any penalties and interest for which the taxpayer is or
25 may at any time become liable, then the taxpayer shall, upon

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1 written demand of the department mailed to the last known
2 address of the taxpayer as shown on the records of the
3 department, file an additional bond, cash or securities in the
4 manner, form and amount determined by the department to be
5 necessary to secure at all times the payment by the taxpayer of
6 all taxes, penalties and interest due pursuant to the Gasoline
7 Tax Act.

8 F. A surety on a bond furnished by a taxpayer as
9 required by this section shall be released and discharged from
10 all liability accruing on the bond after the expiration of
11 ninety days from the date upon which the surety files with the
12 department a written request to be released and discharged;
13 provided, however, such request shall not operate to release or
14 discharge the surety from any liability already accrued or that
15 shall accrue before the expiration of the ninety-day period,
16 unless a new bond is filed during the ninety-day period, in
17 which case the previous bond may be canceled as of the effective
18 date of the new bond. On receipt of notice of the request, the
19 department shall promptly notify the taxpayer who furnished the
20 bond that the taxpayer shall, on or before the expiration of the
21 ninety-day period, file with the department a new bond with a
22 surety satisfactory to the department in the amount and form
23 required in this section.

24 G. The taxpayer required to file bond with or
25 provide cash or securities to the department in accordance with

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1 this section and who is required by another state law to file
2 another bond with or provide cash or securities to the
3 department may elect to file a combined bond or provide cash or
4 securities applicable to the provisions of both this section and
5 the other law, with the approval of the secretary. The amount
6 of the combined bond, cash or securities shall be determined by
7 the department, and the form of the combined bond shall be
8 approved by the attorney general.

9 H. Every taxpayer who, for the twenty-four month
10 period immediately preceding July 1, 1994, has not been a
11 delinquent taxpayer pursuant to the Gasoline Tax Act is exempt
12 from the requirement pursuant to this section to file a bond. A
13 taxpayer required to file a bond pursuant to the provisions of
14 this section who, for a twenty-four consecutive month period
15 ending after July 1, 1994, has not been a delinquent taxpayer
16 pursuant to the Gasoline Tax Act may request to be exempt from
17 the requirement to file a bond beginning with the first day of
18 the first month following the end of the twenty-four month
19 period. If a taxpayer exempted pursuant to this subsection
20 subsequently becomes a delinquent taxpayer under the Gasoline
21 Tax Act, the department may terminate the exemption and require
22 the filing of a bond in accordance with this section. If the
23 department terminates the exemption, the termination shall not
24 be effective any earlier than ten days after the date the
25 department notifies the taxpayer in writing of the termination."

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1 Section 6. Section 7-13A-2 NMSA 1978 (being Laws 1990,
2 Chapter 124, Section 15, as amended) is amended to read:

3 "7-13A-2. DEFINITIONS. --As used in the Petroleum Products
4 Loading Fee Act:

5 A. "department" means the taxation and revenue
6 department, the secretary of taxation and revenue or any
7 employee of the department exercising authority lawfully
8 delegated to that employee by the secretary;

9 B. "distributor" means any person [~~registered as a~~
10 ~~distributor~~] who is a taxpayer for purposes of the Gasoline Tax
11 Act and any person who [~~receives special fuel in this state~~] for
12 the purposes of the Special Fuels Supplier Tax Act is a supplier
13 or other person required to pay special fuel excise tax with
14 respect to the receiving of special fuel;

15 C. "gallon" means the quantity of liquid necessary
16 to fill a standard United States gallon liquid measure, which is
17 approximately 3.785 liters, or that same quantity adjusted to a
18 temperature of sixty degrees fahrenheit at the election of any
19 distributor, but a distributor shall report on the same basis
20 for a period of at least one year;

21 D. "gasoline" means any flammable liquid used
22 primarily as fuel for the propulsion of motor vehicles,
23 motorboats or aircraft. "Gasoline" does not include diesel
24 engine fuel, kerosene and products specially prepared and sold
25 for use in [~~the~~] turbo-prop or jet-type engines;

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1 E. "highway" means every road, highway,
2 thoroughfare, street or way, including toll roads, generally
3 open to the use of the public as a matter of right for the
4 purpose of motor vehicle travel, and notwithstanding that the
5 same may be temporarily closed for the purpose of construction,
6 reconstruction, maintenance or repair;

7 F. "motor vehicle" means any self-propelled vehicle
8 or device that is either subject to registration pursuant to
9 Section 66-3-1 NMSA 1978 or is used or may be used on the public
10 highways in whole or in part for the purpose of transporting
11 persons or property and includes any connected trailer or
12 semi trailer;

13 G. "person" means an individual or any other legal
14 entity, including any gas, water or electric utility owned or
15 operated by a county, municipality or other political
16 subdivision of the state. "Person" also means, to the extent
17 permitted by law, any federal, state or other government or any
18 department, agency or instrumentality of the state, county,
19 municipality or any political subdivision thereof;

20 H. "petroleum product" means gasoline and special
21 fuels;

22 ~~I. "received" means:~~

23 ~~(1)~~

24 ~~(a) a petroleum product that is produced,~~
25 ~~refined, manufactured, blended or compounded at a refinery in~~

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[bracketed material] = delete

1 ~~this state or stored at a pipeline terminal in this state by any~~
2 ~~person is "received" by such person when it is loaded there into~~
3 ~~tank cars, tank trucks, tank wagons or other types of~~
4 ~~transportation equipment or when it is placed into any tank or~~
5 ~~other container from which sales or deliveries not involving~~
6 ~~transportation are made;~~

7 ~~(b) when, however, such a petroleum~~
8 ~~product is shipped or delivered to another distributor, then it~~
9 ~~is "received" by the distributor to whom it is so shipped or~~
10 ~~delivered; and~~

11 ~~(c) further, when such petroleum product~~
12 ~~is shipped or delivered to another person not a distributor for~~
13 ~~the account of a person that is a distributor, it is "received"~~
14 ~~by the distributor for whose account it is shipped;~~

15 ~~(2) notwithstanding the provisions of Paragraph~~
16 ~~(1) of this subsection, when a petroleum product is shipped or~~
17 ~~delivered from a refinery or pipeline terminal to another~~
18 ~~refinery or pipeline terminal, the petroleum product is not~~
19 ~~"received" by reason of such shipment or delivery;~~

20 ~~(3) any product other than gasoline that is~~
21 ~~blended to produce gasoline other than at a refinery or pipeline~~
22 ~~terminal in this state is "received" by a person who is the~~
23 ~~owner thereof at the time and place the blending is completed;~~
24 ~~and~~

25 ~~(4) except as otherwise provided, a petroleum~~

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[bracketed material] = delete

1 ~~product is "received" at the time and place it is first unloaded~~
2 ~~in this state and by the person who is the owner thereof~~
3 ~~immediately preceding the unloading, unless the owner~~
4 ~~immediately after the unloading is a distributor, in which case~~
5 ~~the distributor is considered as having "received" the petroleum~~
6 ~~product;]~~

7 I. "rack" means a mechanism for delivering fuel from
8 a refinery or pipeline terminal into a truck, trailer, railroad
9 car, barge or other non-pipeline means of transfer;

10 J. "secretary" means the secretary of taxation and
11 revenue or the secretary's delegate; and

12 K. "special fuel" means diesel engine fuel, kerosene
13 and all other liquid fuels used for the generation of power to
14 propel a motor vehicle, except:

15 (1) gasoline as defined in Section 7-13-2 NMSA
16 1978;

17 (2) alternative fuel as defined in [~~the~~
18 ~~Alternative Fuel Tax Act~~] Section 7-16B-3 NMSA 1978;

19 (3) products specially prepared and sold for
20 use in turbo-prop or jet-type aircraft; and

21 (4) liquefied petroleum gases and natural gas. "

22 Section 7. Section 7-16A-2 NMSA 1978 (being Laws 1992,
23 Chapter 51, Section 2, as amended) is amended to read:

24 "7-16A-2. DEFINITIONS. --As used in the Special Fuels
25 Supplier Tax Act:

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1 A. "bulk storage" means the storage of special fuels
2 in any tank or receptacle, other than a supply tank, for the
3 purpose of sale by a dealer or for use by a user or for any
4 other purpose;

5 B. "bulk storage user" means a user who operates,
6 owns or maintains bulk storage in this state from which the user
7 places special fuel into the supply tanks of motor vehicles
8 owned or operated by that user;

9 C. "dealer" means any person who sells and delivers
10 special fuel to a user;

11 D. "department" means the taxation and revenue
12 department, the secretary of taxation and revenue or any
13 employee of ~~[that]~~ the department exercising authority lawfully
14 delegated to that employee by the secretary;

15 E. "government-licensed vehicle" means a motor
16 vehicle lawfully displaying a registration plate, as defined in
17 the Motor Vehicle Code, issued by:

18 (1) ~~[issued by]~~ the United States or ~~[by]~~ any
19 state identifying the motor vehicle as belonging to the United
20 States or any of its agencies or instrumentalities ~~[or to]~~;

21 (2) the state of New Mexico identifying the
22 vehicle as belonging to the state of New Mexico or any of its
23 political subdivisions, agencies or instrumentalities; or

24 ~~[(2) issued by]~~ (3) any state identifying the
25 motor vehicle as belonging to an Indian nation, tribe or pueblo

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1 or an agency or instrumentality thereof;

2 F. "gross vehicle weight" means the weight of a
3 motor vehicle or combination motor vehicle without load, plus
4 the weight of any load on the vehicle;

5 G. "highway" means every road, highway,
6 thoroughfare, street or way, including toll roads, generally
7 open to the use of the public as a matter of right for the
8 purpose of motor vehicle travel and notwithstanding that the
9 same may be temporarily closed for the purpose of construction,
10 reconstruction, maintenance or repair;

11 H. "motor vehicle" means any self-propelled vehicle
12 or device that is either subject to registration pursuant to
13 Section 66-3-1 NMSA 1978 or is used or may be used on the public
14 highways in whole or in part for the purpose of transporting
15 persons or property and includes any connected trailer or
16 semi trailer;

17 I. "person" means an individual or any other [legal]
18 entity, [~~"person" also means~~] including, to the extent permitted
19 by law, any federal, state or other government or any
20 department, agency, [or] instrumentality [~~of the state, county,~~
21 ~~municipality~~] or [any] political subdivision [~~thereof~~];

22 J. ~~"received" means:~~

23 (1) ~~special fuel that is produced, refined,~~
24 ~~manufactured, blended or compounded at a refinery in this state~~
25 ~~or stored at a pipeline terminal in this state by any person is~~

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1 ~~"received" by that person when it is loaded there into tank~~
2 ~~cars, tank trucks, tank wagons or other types of transportation~~
3 ~~equipment or when it is placed into any tank or other container~~
4 ~~from which sales or deliveries not involving transportation are~~
5 ~~made; but when such special fuel is shipped or delivered to~~
6 ~~another person:~~

7 ~~(a) registered as a special fuel supplier~~
8 ~~under the Special Fuels Supplier Tax Act, then it is "received"~~
9 ~~by the special fuel supplier to whom it is so shipped or~~
10 ~~delivered; or~~

11 ~~(b) not registered as a special fuel~~
12 ~~supplier under the Special Fuels Supplier Tax Act for the~~
13 ~~account of a person who is so registered, it is "received" by~~
14 ~~the special fuel supplier for whose account it is shipped;~~

15 ~~(2) notwithstanding the provisions of Paragraph~~
16 ~~(1) of this subsection, when special fuel is shipped or~~
17 ~~delivered from a refinery or pipeline terminal to another~~
18 ~~refinery or pipeline terminal, such special fuel is not~~
19 ~~"received" by reason of such shipment or delivery;~~

20 ~~(3) any product other than special fuel that is~~
21 ~~blended to produce special fuel other than at a refinery or~~
22 ~~pipeline terminal in this state is "received" by a person who is~~
23 ~~the owner of the special fuel at the time and place the blending~~
24 ~~is completed;~~

25 ~~(4) except as otherwise provided, special fuel~~

Underscored material = new
[bracketed material] = delete

1 is "received" at the time and place it is first unloaded in this
2 state and by the person who is the owner thereof immediately
3 preceding the unloading, unless the owner immediately after the
4 unloading is a registered special fuel supplier, in which case
5 the registered special fuel supplier is considered as having
6 "received" the special fuel; and

7 (5) with respect to a motor vehicle that is not
8 registered pursuant to the laws of this state or a motor vehicle
9 for which the operator cannot produce a valid tax identification
10 card, entry of the motor vehicle into the state. The amount of
11 special fuel "received" upon entry into this state shall be
12 determined in accordance with regulations of the secretary] of
13 any federal, state or other government;

14 J. "rack" means a mechanism for delivering fuel from
15 a refinery or pipeline terminal into a truck, trailer, railroad
16 car, barge or other non-pipeline means of transfer;

17 K. "registrant" means any person who has registered
18 a motor vehicle pursuant to the laws of this state or of another
19 state;

20 L. "sale" means any delivery, exchange, gift or
21 other disposition;

22 M. "secretary" means the secretary of taxation and
23 revenue or the secretary's delegate;

24 N. "special fuel" means diesel engine fuel, kerosene
25 and any other liquid fuel used for the generation of power to

Underscored material = new
[bracketed material] = delete

1 propel a motor vehicle, except gasoline as defined in Section
2 7-13-2 NMSA 1978 or alternative fuel as defined in [~~the~~
3 ~~Alternative Fuel Tax Act~~] Section 7-16B-3 NMSA 1978;

4 0. "special fuel user" means any user who is a
5 registrant, owner or operator of a motor vehicle using special
6 fuel and having a gross vehicle weight in excess of twenty-six
7 thousand pounds;

8 P. "state" or "jurisdiction" means a state,
9 territory or possession of the United States, the District of
10 Columbia, the commonwealth of Puerto Rico, a foreign country or
11 a state or province of a foreign country;

12 Q. "supplier" means any person, [~~but~~] not including
13 the United States or any of its agencies except to the extent
14 now or hereafter permitted by the constitution of the United
15 States and laws thereof, who receives special fuel [~~within the~~
16 ~~meaning of "received" as defined in this section~~];

17 R. "supply tank" means any tank or other receptacle
18 in which or by which fuel may be carried and supplied to the
19 fuel-furnishing device or apparatus of the propulsion mechanism
20 of a motor vehicle when the tank or receptacle either contains
21 special fuel or special fuel is delivered into it;

22 S. "tax" means the special fuel excise tax imposed
23 [~~under~~] pursuant to the Special Fuels Supplier Tax Act;

24 [T. ~~"use" means:~~

25 ~~(1) the receipt or placing of special fuels by~~

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1 ~~a special fuel user into the fuel supply tank of any motor~~
2 ~~vehicle registered, owned or operated by the special fuel user;~~

3 ~~(2) the consumption by a special fuel user of~~
4 ~~special fuels in the propulsion of a motor vehicle on the~~
5 ~~highways of this state and any activity ancillary to that~~
6 ~~propulsion; or~~

7 ~~(3) the importation of special fuels in the~~
8 ~~fuel supply tank of any motor vehicle as fuel for the propulsion~~
9 ~~of the motor vehicle on the highways] and~~

10 [U.] T. "user" means any person other than the
11 United States government or any of its agencies or
12 instrumentalities; the state of New Mexico or any of its
13 political subdivisions, agencies or instrumentalities; or an
14 Indian nation, tribe or pueblo or any agency or instrumentality
15 of an Indian nation, tribe or pueblo who uses special fuel to
16 propel a motor vehicle on the highways. "

17 Section 8. A new section of the Special Fuels Supplier Tax
18 Act, Section 7-16A-2.1 NMSA 1978, is enacted to read:

19 "7-16A-2.1. [NEW MATERIAL] WHEN SPECIAL FUEL RECEIVED OR
20 USED--WHO IS REQUIRED TO PAY TAX. --

21 A. A refinery or pipeline terminal receives special
22 fuel at the time and place when it first loads the special fuel
23 from a rack in this state into tank cars, tank trucks, tank
24 wagons or any other type of transportation equipment or when it
25 places the special fuel into any tank or other container in this

. 112348. 2GJ

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1 state from which sales or deliveries not involving
2 transportation are made. When the refinery or pipeline terminal
3 delivers the special fuel at a rack in this state to a person
4 who is registered as a supplier under the Special Fuels Supplier
5 Tax Act, however, that person receives the special fuel and is
6 required to pay the special fuel excise tax. Special fuel is
7 not received when it is shipped or delivered from a refinery to
8 a pipeline terminal or from one refinery or pipeline terminal to
9 another refinery or pipeline terminal.

10 B. Special fuel imported into New Mexico by any
11 means other than in the supply tank of a motor vehicle or by
12 pipeline is received at the time and place it is imported into
13 this state. The person who owns the special fuel at the time of
14 importation receives the special fuel and is required to pay the
15 special fuel excise tax.

16 C. If special fuel is received within the exterior
17 boundaries of an Indian reservation or pueblo grant and the
18 person required to pay the special fuel excise tax is immune
19 from state taxation, the special fuel is also received when the
20 special fuel is transported off the reservation or pueblo grant
21 by any means other than in the fuel supply tank of a motor
22 vehicle. The person who owns special fuel immediately after the
23 time the special fuel is transported off the reservation or
24 pueblo grant is the person required to pay the special fuel
25 excise tax.

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1 D. Special fuel is used in New Mexico when it is put
2 into the supply tank of any motor vehicle registered, owned or
3 operated by a special fuel user, consumed by a special fuel user
4 in the propulsion of a motor vehicle on the highways of this
5 state or any activity ancillary to that propulsion, or imported
6 into the state in the fuel supply tank of any motor vehicle for
7 the propulsion of the motor vehicle on New Mexico highways. "

8 Section 9. Section 7-16A-8 NMSA 1978 (being Laws 1992,
9 Chapter 51, Section 8, as amended) is amended to read:

10 "7-16A-8. SPECIAL BULK STORAGE USER PERMIT. --

11 A. The department may issue to a user [~~an annual~~] a
12 special bulk storage user permit that shall entitle that user to
13 own, operate, utilize or maintain bulk storage for the sole
14 purpose of placing special fuel from it into the supply tank of
15 an allowable motor vehicle registered, owned or operated by that
16 user. The fee for the special bulk storage user permit shall be
17 ten dollars (\$10.00) per year. Permits shall be issued on a
18 calendar year basis but may be issued for one, two or three
19 years at a time.

20 B. To secure a special bulk storage user permit, an
21 applicant shall:

22 (1) file with the department upon a form
23 furnished by the department an application for a special bulk
24 storage user permit;

25 (2) indicate on the application the number of

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1 years, to a maximum of three, for which the applicant wishes the
2 permit to be valid;

3 [~~(2)~~] (3) accompany the application with
4 payment of [~~an annual~~] the special bulk storage user permit fee
5 in the amount of ten dollars (\$10.00) per year requested; and

6 [~~(3)~~] (4) accompany the application with a
7 signed affidavit to the effect that the signer shall use the
8 special fuel from the special bulk storage only for the purpose
9 of placing it into the supply tanks of specified allowable motor
10 vehicles registered, owned or operated by the signer.

11 C. It is a violation of the Special Fuels Supplier
12 Tax Act for any special bulk storage user to:

13 (1) sell special fuel from the user's special
14 bulk storage to any other person; or

15 (2) deliver special fuel from the user's
16 special bulk storage into the supply tank of any motor vehicle,
17 except specified allowable motor vehicles registered, owned or
18 operated by the special bulk storage user.

19 D. "Allowable motor vehicles", for the purposes of
20 this section, includes but is not limited to motor vehicles used
21 primarily for or suitable for use in construction or farming,
22 such as road graders, backhoes, rubber-tired rollers, front
23 loaders, rubber-tired draglines, farm tractors, self-propelled
24 combines or self-propelled reapers.

25 E. The department may revoke, after due notice and

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1 hearing as provided in Section 7-1-24 NMSA 1978, the special
2 bulk storage user permit of any user found to be in violation of
3 any provision of the Special Fuels Supplier Tax Act.

4 F. Special fuel purchased for bulk storage under a
5 special bulk storage user permit shall not be subject to the
6 special fuel excise tax at the time of purchase, but special
7 fuel excise tax shall be due on any special fuel removed from
8 bulk storage if delivered into the supply tank of a motor
9 vehicle that is operated on the highways of this state.

10 G. All special fuel acquired, purchased or received
11 under a special bulk storage user permit shall be acquired,
12 purchased or received from a registered [~~dealer or~~] supplier.
13 It is unlawful for any person to sell special fuel in bulk
14 quantities to special bulk storage users unless that person is
15 registered [~~under~~] pursuant to the Special Fuels Supplier Tax
16 Act. "

17 Section 10. Section 7-16A-10 NMSA 1978 (being Laws 1992,
18 Chapter 51, Section 10, as amended) is amended to read:

19 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL
20 FUEL SUPPLIERS.--In computing the special fuel excise tax due,
21 the following amounts of special fuel may be deducted from the
22 total amount of special fuel received in New Mexico during the
23 tax period, provided that satisfactory proof thereof is
24 furnished to the department:

25 A. special fuel received in New Mexico, but [~~sold~~

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1 ~~for export or~~] exported from this state by a special fuel
2 supplier, other than in the fuel supply tank of a motor vehicle;

3 B. special fuel sold to the United States or any
4 agency or instrumentality thereof for the exclusive use of the
5 United States or any agency or instrumentality thereof; special
6 fuel sold to the United States includes special fuel delivered
7 into the supply tank of a government-licensed vehicle;

8 C. special fuel sold to the state of New Mexico or
9 any political subdivision, agency or instrumentality thereof for
10 the exclusive use of the state of New Mexico or any political
11 subdivision, agency or instrumentality thereof; special fuel
12 sold to the state of New Mexico includes special fuel delivered
13 into the supply tank of a government-licensed vehicle;

14 D. special fuel sold to an Indian nation, tribe or
15 pueblo or any agency or instrumentality thereof for the
16 exclusive use of the Indian nation, tribe or pueblo or any
17 agency or instrumentality thereof; special fuel sold to an
18 Indian nation, tribe or pueblo includes special fuel delivered
19 into the supply tank of a government-licensed vehicle;

20 E. special fuel sold to the holder of a special bulk
21 storage user permit and delivered into special bulk storage
22 [~~under~~] pursuant to the provisions of Section 7-16A-8 NMSA 1978;
23 and

24 F. special fuel sold for nonhighway use. "

25 Section 11. Section 7-16A-12 NMSA 1978 (being Laws 1992,

. 112348. 2GJ

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1 Chapter 51, Section 12) is amended to read:

2 "7-16A-12. CREDIT--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL
3 USERS.--In computing any special fuel excise tax due, all
4 special fuel excise tax paid on special fuel used during the
5 reporting period may be credited against the calculated special
6 fuel excise tax due [~~or weight distance tax due~~] for that
7 reporting period, provided that satisfactory proof of the
8 special fuel excise tax paid is furnished to the department."

9 Section 12. Section 7-16A-15 NMSA 1978 (being Laws 1992,
10 Chapter 51, Section 15, as amended) is amended to read:

11 "7-16A-15. BOND REQUIRED OF SUPPLIER [~~OR DEALER~~].--

12 A. Except as provided in Subsection H of this section,
13 every supplier [~~and dealer~~] shall file with the department a
14 bond on a form approved by the attorney general with a surety
15 company authorized by the state corporation commission to
16 transact business in this state as a surety and upon which bond
17 the supplier [~~or dealer~~] is the principal obligor and the state
18 the obligee. The bond shall be conditioned upon the prompt
19 filing of true reports and the payment by the supplier [~~or~~
20 ~~dealer~~] to the department of all taxes levied by the Special
21 Fuels Supplier Tax Act, together with all applicable penalties
22 and interest thereon.

23 B. In lieu of the bond, the supplier [~~or dealer~~] may
24 elect to file with the department cash or bonds of the United
25 States or New Mexico or of any political subdivision of the

. 112348. 2GJ

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1 state.

2 C. The total amount of the bond, cash or securities
3 required of any supplier [~~or dealer~~] shall be fixed by the
4 department and may be increased or reduced by the department at
5 any time, subject to the limitations provided in this section.

6 D. In fixing the total amount of the bond, cash or
7 securities required of any supplier [~~or dealer~~] required to post
8 bond, the department shall require an equivalent in total amount
9 to at least two times the amount of the department's estimate of
10 the supplier's [~~or dealer's quarterly~~] monthly special fuel
11 excise tax, determined in such manner as the secretary may deem
12 proper; provided, however, [~~that~~] the total amount of bond, cash
13 or securities required of a supplier [~~or dealer~~] shall never be
14 less than one thousand dollars (\$1,000).

15 E. In the event the department decides that the
16 amount of the existing bond, cash or securities is insufficient
17 to insure payment to this state of the amount of the special
18 fuel excise tax and any penalties and interest for which the
19 supplier [~~or dealer~~] is or may at any time become liable, then
20 the supplier [~~or dealer~~] shall forthwith, upon written demand of
21 the department mailed to the last known address of the supplier
22 [~~or dealer~~] as shown on the records of the department, file an
23 additional bond, cash or securities in the manner, form and
24 amount determined by the department to be necessary to secure at
25 all times the payment by the supplier [~~or dealer~~] of all taxes,

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[bracketed material] = delete

1 penalties and interest due [~~under~~] pursuant to the Special Fuels
2 Supplier Tax Act.

3 F. Any surety on any bond furnished by any supplier
4 [~~or dealer~~] as required by this section shall be released and
5 discharged from all liability accruing on the bond after the
6 expiration of ninety days from the date upon which the surety
7 files with the department a written request to be released and
8 discharged; provided, however, [~~that such~~] the request shall not
9 operate to release or discharge the surety from any liability
10 already accrued or that shall accrue before the expiration of
11 the ninety-day period, unless a new bond is filed during the
12 ninety-day period, in which case the previous bond may be
13 canceled as of the effective date of the new bond. On receipt
14 of notice of such request, the department shall notify promptly
15 the supplier [~~or dealer~~] who furnished the bond that the
16 supplier [~~or dealer~~] shall, on or before the expiration of the
17 ninety-day period, file with the department a new bond with a
18 surety satisfactory to the department in the amount and form
19 required in this section.

20 G. The supplier [~~or dealer~~] required to file bond
21 with or provide cash or securities to the department in
22 accordance with this section and who is required by any other
23 state law to file another bond with or provide cash or
24 securities to the department may elect to file a combined bond
25 or provide cash or securities applicable to the provisions of

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1 both this section and the other law, with the approval of the
2 secretary. The amount of the combined bond, cash or securities
3 shall be determined by the department, and the form of the
4 combined bond shall be approved by the attorney general.

5 H. On July 1, 1994, every supplier ~~[or dealer]~~ who,
6 for the twenty-four month period immediately preceding that
7 date, has not been a delinquent taxpayer ~~[and both has timely~~
8 ~~filed all tax returns due]~~ under the Special Fuels Supplier Tax
9 Act or the Special Fuels Tax Act ~~[and has timely paid all taxes~~
10 ~~due under those acts]~~ is exempt from the requirement ~~[under]~~
11 pursuant to this section to file a bond. A supplier ~~[or dealer]~~
12 required to file a bond ~~[under]~~ pursuant to the provisions of
13 this section who, for a twenty-four consecutive month period
14 ending after July 1, 1994, ~~[timely files all tax returns due~~
15 ~~under]~~ has not been a delinquent taxpayer pursuant to either the
16 Special Fuels Supplier Tax Act or the Special Fuels Tax Act ~~[is]~~
17 may request to be exempt from the requirement to file a bond
18 beginning with the first day of the first month following the
19 end of the twenty-four month period. If a supplier ~~[or dealer]~~
20 exempted ~~[under]~~ pursuant to this subsection subsequently
21 becomes a delinquent taxpayer ~~[or twice fails in any twelve~~
22 ~~consecutive month period either to timely file a tax return or~~
23 ~~make timely payment of tax due under]~~ pursuant to the Special
24 Fuels Supplier Tax Act, the department may terminate the
25 exemption and require the filing of a bond in accordance with

. 112348. 2GJ

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1 this section. If the department terminates the exemption, the
2 termination shall not be effective any earlier than ten days
3 after the date the department notifies the supplier [~~or dealer~~]
4 in writing of the termination. "

5 Section 13. Section 7-16A-19 NMSA 1978 (being Laws 1992,
6 Chapter 51, Section 19, as amended) is amended to read:

7 "7-16A-19. TEMPORARY SPECIAL FUEL USER PERMITS. --

8 A. [~~The department may issue temporary special fuel~~
9 ~~user permits for the privilege of using special fuel in New~~
10 ~~Mexico]~~ To prevent evasion of the special fuel excise tax,
11 special fuel users whose vehicles are not registered with the
12 department must acquire a temporary special fuel user permit
13 from the department before operating the unregistered motor
14 vehicle on the highways of New Mexico. The temporary special
15 fuel user permit shall be valid for one entrance and one exit of
16 the state, within a period that shall not exceed forty-eight
17 hours from the time of issuance.

18 [~~B. Temporary special fuel user permits shall be~~
19 ~~secured from the department.~~

20 ~~C.]~~ B. The fee for a temporary special fuel user
21 permit is five dollars (\$5.00) for each motor vehicle.

22 [~~D.]~~ C. It is a violation of the Special Fuels
23 Supplier Tax Act for any person to act as a temporary special
24 fuel user without obtaining a valid temporary special fuel user
25 permit from the department. "

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1 Section 14. A new section of the Special Fuels Supplier
2 Tax Act is enacted to read:

3 "[NEW MATERIAL] MANIFEST OR BILL OF LADING REQUIRED WHEN
4 TRANSPORTING SPECIAL FUELS. --Every person transporting special
5 fuels from a refinery or other facility at which special fuel is
6 produced, refined, manufactured, blended or compounded or from a
7 pipeline terminal in this state, importing special fuels into
8 this state or exporting special fuels from this state, other
9 than by pipeline or in the fuel supply tanks of motor vehicles,
10 shall carry a manifest or bill of lading in form and content as
11 prescribed by or acceptable to the department. The manifest or
12 bill of lading shall be signed by the consignor and by every
13 person accepting the special fuel or any part of it, with a
14 notation as to the amount accepted. If a manifest or bill of
15 lading is not required to be carried by the terms of this
16 section, any person transporting special fuels without such a
17 manifest or bill of lading shall, upon demand, furnish proof
18 acceptable to the department that the special fuels so
19 transported were legally acquired by a registered supplier who
20 assumed liability for payment of the tax imposed by the Special
21 Fuels Supplier Tax Act. "

22 Section 15. EFFECTIVE DATE. --The effective date of the
23 provisions of this act is May 1, 1996; if this act is enacted
24 into law without an emergency clause, the effective date is
25 July 1, 1996.

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Section 16. EMERGENCY. --It is necessary for the public
peace, health and safety that this act take effect immediately.

**State of New Mexico
House of Representatives**

**FORTY- SECOND LEGISLATURE
FIRST SPECIAL SESSION, 1996**

March 21, 1996

Mr. Speaker:

**Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred**

HOUSE BILL 5

**has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that**

**HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE
FOR HOUSE BILL 5**

DO PASS.

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Page 37

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 4 Against

Yes: 8

No: Gonzales, Lovejoy, Lujan, Sandoval

Excused: None

Absent: Crook

H0005TR1

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 5

42ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SPECIAL SESSION, 1996

AN ACT

RELATING TO TAXATION; AMENDING THE GASOLINE TAX ACT, THE PETROLEUM PRODUCTS LOADING FEE ACT AND THE SPECIAL FUELS SUPPLIER TAX ACT TO CHANGE THE DEFINITION OF WHEN GASOLINE OR SPECIAL FUEL IS RECEIVED AND WHO RECEIVES IT FOR PURPOSES OF IMPOSING CERTAIN TAXES; CHANGING THE BOND REQUIREMENTS FOR CERTAIN TAXPAYERS; AUTHORIZING COOPERATIVE AGREEMENTS WITH INDIAN NATIONS, TRIBES AND PUEBLOS FOR CERTAIN PAYMENTS IN LIEU OF TAXES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-13-2 NMSA 1978 (being Laws 1971, Chapter 207, Section 2, as amended) is amended to read:

"7-13-2. DEFINITIONS. -- As used in the Gasoline Tax Act:

A. "aviation gasoline" means ~~[any flammable liquid used primarily as fuel for the propulsion of motor vehicles, motorboats or aircraft. "Gasoline" does not include diesel engine fuel, kerosene, liquefied petroleum gas, natural gas and products specially prepared and]~~ gasoline sold for use in ~~[the]~~ aircraft propelled by engines other than turbo-prop or jet-type engines;

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1 B. "department" means the taxation and revenue
2 department, the secretary of taxation and revenue or any
3 employee of the department exercising authority lawfully
4 delegated to that employee by the secretary;

5 ~~[C. "secretary" means the secretary of taxation and
6 revenue or the secretary's delegate;~~

7 ~~D. "motor vehicle" means any self-propelled vehicle
8 suitable for operation on highways;~~

9 ~~E. "highway" means every way or place, including
10 toll roads, generally open to or intended to be used for public
11 travel by motor vehicles, regardless of whether it is
12 temporarily closed;~~

13 ~~F. "distributor" means any person, but not including
14 the United States of America or any of its agencies except to
15 the extent now or hereafter permitted by the constitution and
16 laws thereof, who receives gasoline within the meaning of
17 "received" as defined in this section;~~

18 ~~G. "wholesaler" means any person not a distributor
19 who sells gasoline in quantities of thirty-five gallons or more
20 and does not deliver such gasoline into the fuel supply tanks of
21 motor vehicles;~~

22 ~~H. "retailer" means any person who sells gasoline in
23 quantities of thirty-five gallons or less and delivers such
24 gasoline into the fuel supply tanks of motor vehicles;~~

25 ~~I. the definitions of "distributor", "wholesaler"
and "retailer" shall be construed so that a person may at the
same time be a retailer and a distributor or a retailer and a
wholesaler;~~

~~J. "person" means:~~

~~(1) any individual, estate, trust, receiver,
cooperative association, club, corporation, company, firm,
partnership, limited liability company, limited liability~~

1 ~~partnership, joint venture, syndicate or other entity, including~~
2 ~~any gas, water or electric utility owned or operated by a county,~~
3 ~~municipality or other political subdivision of the state; or~~

4 ~~(2) the United States or any agency or~~
5 ~~instrumentality thereof or the state of New Mexico or any political~~
6 ~~subdivision thereof;~~

7 K. ~~"received" means:~~

8 (1)

9 ~~(a) gasoline which is produced, refined,~~
10 ~~manufactured, blended or compounded at a refinery in this state or~~
11 ~~stored at a pipeline terminal in this state by any person is~~
12 ~~"received" by such person when it is loaded there into tank cars,~~
13 ~~tank trucks, tank wagons or other types of transportation equipment~~
14 ~~or when it is placed into any tank or other container from which~~
15 ~~sales or deliveries not involving transportation are made;~~

16 ~~(b) when, however, such gasoline is shipped~~
17 ~~or delivered to another person registered as a distributor under~~
18 ~~the Gasoline Tax Act, then it is "received" by the distributor to~~
19 ~~whom it is so shipped or delivered; and~~

20 ~~(c) further, when such gasoline is shipped~~
21 ~~or delivered to another person not registered as a distributor~~
22 ~~under the Gasoline Tax Act for the account of a person that is so~~
23 ~~registered, it is "received" by the distributor for whose account~~
24 ~~it is shipped;~~

25 ~~(2) notwithstanding the provisions of Paragraph~~
~~(1) of this subsection, when gasoline is shipped or delivered from~~
~~a refinery or pipeline terminal to another refinery or pipeline~~
~~terminal, such gasoline is not "received" by reason of such~~

1 ~~shipment or delivery;~~

2 ~~(3) any product other than gasoline that is~~
 3 ~~blended to produce gasoline other than at a refinery or pipeline~~
 4 ~~terminal in this state is "received" by a person who is the owner~~
 5 ~~thereof at the time and place the blending is completed; and~~

6 ~~(4) except as otherwise provided, gasoline is~~
 7 ~~"received" at the time and place it is first unloaded in this state~~
 8 ~~and by the person who is the owner thereof immediately preceding~~
 9 ~~the unloading, unless the owner immediately after the unloading is~~
 10 ~~a registered distributor, in which case such registered distributor~~
 11 ~~is considered as having received the gasoline;~~

12 ~~L. "drip gasoline" means a combustible hydrocarbon~~
 13 ~~liquid formed as a product of condensation from either associated~~
 14 ~~or nonassociated natural or casing head gas which remains a liquid~~
 15 ~~at existing atmospheric temperature and pressure;~~

16 ~~M. "gallon" means the quantity of liquid necessary to~~
 17 ~~fill a standard United States gallon liquid measure or that same~~
 18 ~~quantity adjusted to a temperature of sixty degrees fahrenheit at~~
 19 ~~the election of any distributor, but a distributor shall report on~~
 20 ~~the same basis for a period of at least one year; and~~

21 ~~N. "ethanol blended fuel" means gasoline received in~~
 22 ~~New Mexico containing a minimum of ten percent by volume of~~
 23 ~~denatured ethanol, of at least one hundred ninety-nine proof,~~
 24 ~~exclusive of denaturants]~~

25 ~~C. "distributor" means a person who is required as an~~
~~agent for the pre-collection of the gasoline tax to pre-collect and~~
~~pay over the gasoline tax; "distributor" shall be construed so that~~
~~a person simultaneously may be both a distributor and a retailer;~~

1 D. "drip gasoline" means a combustible hydrocarbon
2 liquid formed as a product of condensation from either associated
3 or non-associated natural or casing head gas and that remains a
4 liquid at room temperature and pressure;

5 E. "fuel supply tank" means any tank or other
6 receptacle in which or by which fuel may be carried and supplied to
7 the fuel-furnishing device or apparatus of the propulsion mechanism
8 of a motor vehicle when the tank or receptacle either contains
9 gasoline or gasoline is delivered into it;

10 F. "gallon" means the quantity of liquid necessary to
11 fill a standard United States gallon liquid measure or that same
12 quantity adjusted to a temperature of sixty degrees fahrenheit at
13 the election of any distributor, but a distributor shall report on
14 the same basis for a period of at least one year;

15 G. "gasoline" means any flammable liquid used primarily
16 as fuel for the propulsion of motor vehicles, motorboats or
17 aircraft. "Gasoline" does not include diesel engine fuel,
18 kerosene, liquefied petroleum gas, compressed or liquefied natural
19 gas or products specially prepared and sold for use in aircraft
20 propelled by turbo-prop or jet-type engines;

21 H. "government-licensed vehicle" means a motor vehicle
22 lawfully displaying a registration plate, as defined in the Motor
23 Vehicle Code, issued by the United States or any state identifying
24 the motor vehicle as belonging to the United States or any of its
25 agencies or instrumentalities or to an Indian nation, tribe or
pueblo or any of its agencies or instrumentalities;

 I. "highway" means every road, highway, thoroughfare,
street or way, including toll roads, generally open to the use of

1 the public as a matter of right for the purpose of motor vehicle
 2 travel regardless of whether it is temporarily closed for the
 3 purpose of construction, reconstruction, maintenance or repair;

4 J. "motor vehicle" means any self-propelled vehicle or
 5 device that is either subject to registration under Section 66-3-1
 6 NMSA 1978 or used or that may be used on the public highways in
 7 whole or in part for the purpose of transporting persons or
 8 property and includes any connected trailer or semitrailer;

9 K. "person" means an individual or any other entity,
 10 including, to the extent permitted by law, any federal, state or
 11 other government or any department, agency, instrumentality or
 12 political subdivision of any federal, state or other government;

13 L. "rack" means a mechanism for delivering fuel from a
 14 refinery or pipeline terminal into tank cars, tank trucks, tank
 15 wagons or any other type of transportation equipment;

16 M. "refinery" means any plant or other facility in
 17 which gasoline is produced, refined, manufactured, blended or
 18 compounded;

19 N. "retailer" means a person who sells gasoline
 20 generally in quantities of thirty-five gallons or less and delivers
 21 such gasoline into the fuel supply tanks of motor vehicles.

22 "Retailer" shall be construed so that a person simultaneously may
 23 be a retailer, a distributor and a wholesaler;

24 O. "secretary" means the secretary of taxation and
 25 revenue or the secretary's delegate; and

P. "wholesaler" means a person who is not a distributor
and who sells gasoline in quantities of thirty-five gallons or more
and does not deliver such gasoline into the fuel supply tanks of

1 motor vehicles. "Wholesaler" shall be construed so that a person
2 simultaneously may be a wholesaler and a retailer. "

3 Section 2. A new section of the Gasoline Tax Act, Section
4 7-13-2.1 NMSA 1978, is enacted to read:

5 "7-13-2.1. [NEW MATERIAL] WHEN GASOLINE RECEIVED--WHO
6 RECEIVES GASOLINE--EXEMPTIONS.--

7 A. Gasoline is received at the time and place when the
8 gasoline is delivered in this state into the fuel supply tank of a
9 motor vehicle. The operator of the motor vehicle at the time the
10 gasoline is received is the person who has received the gasoline.

11 B. Gasoline is exempt from the imposition of the
12 gasoline tax if:

13 (1) it is received in the state by the United
14 States or any agency or instrumentality of the United States; or

15 (2) it is received within the reservation or
16 pueblo grant of an Indian nation, tribe or pueblo located in New
17 Mexico, by the Indian nation, tribe or pueblo or an agency or
18 instrumentality of that Indian entity or a member of that nation,
19 tribe or pueblo. "

20 Section 3. A new section of the Gasoline Tax Act, Section
21 7-13-2.2 NMSA 1978, is enacted to read:

22 "7-13-2.2. [NEW MATERIAL] PERSONS REQUIRED TO PRE-COLLECT
23 AND PAY OVER TAX.--

24 A. For the convenience of the person receiving gasoline
25 and to ensure prompt collection of the tax, the persons specified
in this section are agents of the state for pre-collection of the
gasoline tax. The persons specified are required to pre-collect
and pay over the gasoline tax at the time and in the manner

1 provided in the Gasoline Tax Act and by regulations or instructions
 2 of the department. At the time when the duty to pre-collect the
 3 gasoline tax is incurred, it is presumed that gasoline will be
 4 received in New Mexico and will be subject to the gasoline tax.

5 B. A person who owns the gasoline in a refinery or
 6 pipeline terminal incurs the duty to pre-collect and pay over the
 7 gasoline tax at the time and place when that person first delivers
 8 gasoline from a rack in this state into tank cars, tank trucks,
 9 tank wagons or any other type of transportation equipment or when
 10 that person places gasoline into any tank or other container in
 11 this state from which sales or deliveries not involving
 12 transportation are made, except that the duty to pre-collect and
 13 pay over is not incurred with respect to gasoline shipped or
 14 delivered from a refinery to a pipeline terminal or from one
 15 refinery or pipeline terminal to another refinery or pipeline
 16 terminal.

17 C. At the time and place gasoline is imported into this
 18 state, the person who imports gasoline into New Mexico by any means
 19 other than in the fuel supply tank of a motor vehicle or by
 20 pipeline incurs the duty to pre-collect and pay over the gasoline
 21 tax. The department shall adopt regulations and instructions to
 22 waive the requirement for pre-collection upon a showing
 23 satisfactory to the department that the imported gasoline will be
 24 exported and not used, distributed or sold in the state.

25 D. Any person who sells gasoline in New Mexico on which
 the gasoline tax has not been pre-collected has the duty to pre-
 collect at the time of sale and pay over the tax. "

Section 4. Section 7-13-4 NMSA 1978 (being Laws 1991,

1 Chapter 9, Section 32) is amended to read:

2 "7-13-4. DEDUCTIONS--GASOLINE TAX. --In computing the
3 gasoline tax due from a person required to pre-collect and pay over
4 the tax, the following amounts of gasoline [~~may~~] shall be deducted
5 from the total amount of gasoline presumed to be received in New
6 Mexico during the tax period, [~~provided that satisfactory proof~~
7 ~~thereof is furnished to~~] pursuant to regulations and instructions
8 of the department:

9 A. gasoline presumed to be received in New Mexico, but
10 [~~sold for export or~~] exported [~~from~~] for sale outside this state
11 [~~by a distributor~~] by any means other than in the fuel supply tank
12 of a motor vehicle; and

13 B. gasoline [~~received in New Mexico sold to the United~~
14 ~~States or any agency or instrumentality thereof for the exclusive~~
15 ~~use of the United States or any agency or instrumentality thereof~~]
16 exempt from the gasoline tax pursuant to the provisions of
17 Subsection B of Section 7-13-2.1 NMSA 1978. "

18 Section 5. A new section of the Gasoline Tax Act is enacted
19 to read:

20 "[NEW MATERIAL] BOND REQUIRED OF DISTRIBUTORS. --

21 A. Except as provided in Subsection H of this section,
22 every distributor shall file with the department a bond on a form
23 approved by the attorney general with a surety company authorized
24 by the state corporation commission to transact business in this
25 state as a surety and upon which bond the distributor is the
principal obligor and the state the obligee. The bond shall be
conditioned upon the prompt filing of true reports and the payment
over by the distributor to the department of all taxes pre-

1 collected by the distributor pursuant to the Gasoline Tax Act,
 2 together with all applicable penalties and interest thereon.

3 B. In lieu of the bond, the distributor may elect to
 4 file with the department cash or bonds of the United States or New
 5 Mexico or of any political subdivision of the state.

6 C. The total amount of the bond, cash or securities
 7 required of any distributor shall be fixed by the department and
 8 may be increased or reduced by the department at any time, subject
 9 to the limitations provided in this section.

10 D. In fixing the total amount of the bond, cash or
 11 securities required of any distributor required to post bond, the
 12 department shall require an equivalent in total amount to at least
 13 two times the amount of the department's estimate of the
 14 distributor's monthly payment of pre-collected gasoline tax,
 15 determined in such manner as the secretary may deem proper;
 16 provided, however, the total amount of bond, cash or securities
 17 required of a distributor shall never be less than one thousand
 18 dollars (\$1,000).

19 E. In the event the department decides that the amount
 20 of the existing bond, cash or securities is insufficient to ensure
 21 payment to this state of the amount of the pre-collected gasoline
 22 tax and any penalties and interest for which the distributor is or
 23 may at any time become liable, then the distributor, upon written
 24 demand of the department mailed to the last known address of the
 25 distributor as shown on the records of the department, shall file
 an additional bond, cash or securities in the manner, form and
 amount determined by the department to be necessary to secure at
 all times the payment by the distributor of all pre-collected taxes

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1 and all penalties and interest due under the Gasoline Tax Act.

2 F. A surety on a bond furnished by a distributor as
3 required by this section shall be released and discharged from all
4 liability accruing on the bond after the expiration of ninety days
5 from the date upon which the surety files with the department a
6 written request to be released and discharged; provided, however,
7 that such request shall not operate to release or discharge the
8 surety from any liability already accrued or that shall accrue
9 before the expiration of the ninety-day period, unless a new bond
10 is filed during the ninety-day period, in which case the previous
11 bond may be canceled as of the effective date of the new bond. On
12 receipt of notice of such request, the department promptly shall
13 notify the distributor who furnished the bond that the distributor,
14 on or before the expiration of the ninety-day period, shall file
15 with the department a new bond with a surety satisfactory to the
16 department in the amount and form required in this section.

17 G. The distributor required to file bond with or
18 provide cash or securities to the department in accordance with
19 this section and who is required by another state law to file
20 another bond with or provide cash or securities to the department
21 may elect to file a combined bond or provide cash or securities
22 applicable to the provisions of both this section and the other
23 law, with the approval of the secretary. The amount of the
24 combined bond, cash or securities shall be determined by the
25 department, and the form of the combined bond shall be approved by
the attorney general.

H. Every distributor who, for the twenty-four month
period immediately preceding July 1, 1994, has not been delinquent

1 in his obligations pursuant to the Gasoline Tax Act is exempt from
 2 the requirement pursuant to this section to file a bond. A
 3 distributor required to file a bond pursuant to the provisions of
 4 this section who, for a twenty-four consecutive month period ending
 5 after July 1, 1994, has not been delinquent in his obligations
 6 pursuant to the Gasoline Tax Act may request to be exempt from the
 7 requirement to file a bond beginning with the first day of the
 8 first month following the end of the twenty-four month period. If
 9 a distributor exempted pursuant to this subsection subsequently
 10 becomes delinquent in his obligations pursuant to the Gasoline Tax
 11 Act, the department may terminate the exemption and require the
 12 filing of a bond in accordance with this section. If the
 13 department terminates the exemption, the termination shall not be
 14 effective any earlier than ten days after the date the department
 15 notifies the distributor in writing of the termination."

16 Section 6. A new section of the Gasoline Tax Act is enacted
 17 to read:

18 "[NEW MATERIAL] AGREEMENTS FOR PAYMENTS IN LIEU OF TAXES TO
 19 AN INDIAN NATION, TRIBE OR PUEBLO AUTHORIZED-- APPROPRIATION. --

20 A. The secretary may enter into a cooperative agreement
 21 with an Indian nation, tribe or pueblo in New Mexico to provide for
 22 the payments in lieu of taxes authorized pursuant to this section
 23 and for the exchange of information and the reciprocal, joint or
 24 common enforcement, administration, remittance and audit of those
 25 payments.

B. An Indian nation, tribe or pueblo that sells
 gasoline at retail from a station owned and operated by the nation,
 tribe or pueblo within its reservation or pueblo grant in New

1 Mexico and on which the nation, tribe or pueblo has agreed not to
2 impose a fuel or other excise tax may enter into a cooperative
3 agreement with the secretary to receive payments in lieu of taxes
4 in an amount equal to six cents (\$.06) for every gallon of gasoline
5 sold at retail by the nation, tribe or pueblo in New Mexico within
6 its reservation or pueblo grant. The payments in lieu of taxes
7 authorized pursuant to a cooperative agreement authorized by this
8 section shall be made from the state road fund and the amount of
9 the payments is appropriated from the state road fund for this
purpose.

10 C. The payments in lieu of taxes are intended to
11 provide a share of state gasoline tax revenues to an Indian nation,
12 tribe or pueblo that sells at retail gasoline on which the Indian
13 nation, tribe or pueblo could impose its own tribal excise tax.
14 Pursuant to the cooperative agreement, the Indian nation, tribe or
15 pueblo shall promise not to impose its own tax on the gasoline and
16 it is in consideration of this promise that the payments in lieu of
17 taxes are made. Further, the payments in lieu of taxes are
18 intended to provide funds for road improvements and other necessary
19 economic development and infrastructure purposes within the
20 reservation or pueblo grant of an Indian nation, tribe or pueblo in
21 New Mexico that would have been funded with tribal tax revenues had
such taxes been imposed.

22 D. The payments in lieu of taxes shall be distributed
23 in the amount, at the time and in accordance with the terms of the
24 agreement entered into by the secretary with the Indian nation,
tribe or pueblo. "

25 Section 7. Section 7-13A-2 NMSA 1978 (being Laws 1990,

1 Chapter 124, Section 15, as amended) is amended to read:

2 "7-13A-2. DEFINITIONS. --As used in the Petroleum Products
3 Loading Fee Act:

4 A. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any employee
6 of the department exercising authority lawfully delegated to that
7 employee by the secretary;

8 B. "distributor" means any person registered as a
9 distributor for purposes of the Gasoline Tax Act and any person
10 ~~[who receives special fuel in this state]~~ registered as a supplier
for purposes of the Special Fuels Supplier Tax Act;

11 C. "gallon" means the quantity of liquid necessary to
12 fill a standard United States gallon liquid measure, which is
13 approximately 3.785 liters, or that same quantity adjusted to a
14 temperature of sixty degrees fahrenheit at the election of any
15 distributor, but a distributor shall report on the same basis for a
16 period of at least one year;

17 D. "gasoline" means any flammable liquid used primarily
18 as fuel for the propulsion of motor vehicles, motorboats or
19 aircraft. "Gasoline" does not include diesel-engine fuel, kerosene
20 and products specially prepared and sold for use in ~~[the]~~ turbo-
21 prop or jet-type engines;

22 E. "highway" means every road, highway, thoroughfare,
23 street or way, including toll roads, generally open to the use of
24 the public as a matter of right for the purpose of motor vehicle
25 travel, and notwithstanding that the same may be temporarily closed
for the purpose of construction, reconstruction, maintenance or
repair;

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1 F. "motor vehicle" means any self-propelled vehicle or
2 device that is either subject to registration pursuant to Section
3 66-3-1 NMSA 1978 or is used or may be used on the public highways
4 in whole or in part for the purpose of transporting persons or
5 property and includes any connected trailer or semitrailer;

6 G. "person" means an individual or any other [legal]
7 entity, including [~~any gas, water or electric utility owned or~~
8 ~~operated by a county, municipality or other political subdivision~~
9 ~~of the state.~~ "Person" also means] to the extent permitted by law,
10 any federal, state or other government or any department, agency
11 [~~or~~], instrumentality or political subdivision of [the] any
12 federal, state [county, municipality or any political subdivision
13 thereof] or other government;

14 H. "petroleum product" means gasoline and special
15 fuels;

16 [I. "received" means:

17 (1)

18 (a) ~~a petroleum product that is produced,~~
19 ~~refined, manufactured, blended or compounded at a refinery in this~~
20 ~~state or stored at a pipeline terminal in this state by any person~~
21 ~~is "received" by such person when it is loaded there into tank~~
22 ~~cars, tank trucks, tank wagons or other types of transportation~~
23 ~~equipment or when it is placed into any tank or other container~~
24 ~~from which sales or deliveries not involving transportation are~~
25 ~~made;~~

(b) ~~when, however, such a petroleum product~~
~~is shipped or delivered to another distributor, then it is~~
~~"received" by the distributor to whom it is so shipped or~~

1 delivered; and

2 (c) further, when such petroleum product is
3 shipped or delivered to another person not a distributor for the
4 account of a person that is a distributor, it is "received" by the
5 distributor for whose account it is shipped;

6 (2) notwithstanding the provisions of Paragraph
7 (1) of this subsection, when a petroleum product is shipped or
8 delivered from a refinery or pipeline terminal to another refinery
9 or pipeline terminal, the petroleum product is not "received" by
10 reason of such shipment or delivery;

11 (3) any product other than gasoline that is
12 blended to produce gasoline other than at a refinery or pipeline
13 terminal in this state is "received" by a person who is the owner
14 thereof at the time and place the blending is completed; and

15 (4) except as otherwise provided, a petroleum
16 product is "received" at the time and place it is first unloaded in
17 this state and by the person who is the owner thereof immediately
18 preceding the unloading, unless the owner immediately after the
19 unloading is a distributor, in which case the distributor is
20 considered as having "received" the petroleum product;]

21 I. "rack" means a mechanism for delivering fuel from a
22 refinery or pipeline terminal into a truck, trailer, railroad car,
23 barge or other nonpipeline means of transfer;

24 J. "secretary" means the secretary of taxation and
25 revenue or the secretary's delegate; and

K. "special fuel" means diesel-engine fuel, kerosene
and all other liquid fuels used for the generation of power to
propel a motor vehicle, except:

Underscored material = new
[bracketed material] = delete

1 (1) gasoline as defined in Section 7-13-2 NMSA
2 1978;

3 (2) alternative fuel as defined in [~~the~~
4 ~~Alternative Fuel Tax Act~~] Section 7-16B-3 NMSA 1978;

5 (3) products specially prepared and sold for use
6 in turbo-prop or jet-type aircraft; and

7 (4) liquefied petroleum gases and natural gas. "

8 Section 8. Section 7-16A-2 NMSA 1978 (being Laws 1992,
9 Chapter 51, Section 2, as amended) is amended to read:

10 "7-16A-2. DEFINITIONS. -- As used in the Special Fuels
11 Supplier Tax Act:

12 A. "bulk storage" means the storage of special fuels in
13 any tank or receptacle, other than a supply tank, for the purpose
14 of sale by a dealer or for use by a user or for any other purpose;

15 B. "bulk storage user" means a user who operates, owns
16 or maintains bulk storage in this state from which the user places
17 special fuel into the supply tanks of motor vehicles owned or
18 operated by that user;

19 C. "dealer" means any person who sells and delivers
20 special fuel to a user;

21 D. "department" means the taxation and revenue
22 department, the secretary of taxation and revenue or any employee
23 of [~~that~~] the department exercising authority lawfully delegated to
24 that employee by the secretary;

25 E. "government-licensed vehicle" means a motor vehicle
lawfully displaying a registration plate, as defined in the Motor
Vehicle Code issued by:

(1) [~~issued by~~] the United States or [~~by~~] any

1 state identifying the motor vehicle as belonging to the United
 2 States or any of its agencies or instrumentalities [~~or to~~];

3 (2) the state of New Mexico identifying the
 4 vehicle as belonging to the state of New Mexico or any of its
 5 political subdivisions, agencies or instrumentalities; or

6 [~~(2) issued by~~] (3) any state identifying the
 7 motor vehicle as belonging to an Indian nation, tribe or pueblo or
 8 an agency or instrumentality thereof;

9 F. "gross vehicle weight" means the weight of a motor
 10 vehicle or combination motor vehicle without load, plus the weight
 11 of any load on the vehicle;

12 G. "highway" means every road, highway, thoroughfare,
 13 street or way, including toll roads, generally open to the use of
 14 the public as a matter of right for the purpose of motor vehicle
 15 travel and notwithstanding that the same may be temporarily closed
 16 for the purpose of construction, reconstruction, maintenance or
 17 repair;

18 H. "motor vehicle" means any self-propelled vehicle or
 19 device that is either subject to registration pursuant to Section
 20 66-3-1 NMSA 1978 or is used or may be used on the public highways
 21 in whole or in part for the purpose of transporting persons or
 22 property and includes any connected trailer or semitrailer;

23 I. "person" means an individual or any other legal
 24 entity [~~"person" also means~~] including, to the extent permitted by
 25 law, any federal, state or other government or any department,
 agency [~~or~~], instrumentality [~~of the state, county, municipality~~]
 or [~~any~~] political subdivision [~~thereof~~] of any federal, state or
other government;

Underscored material = new
 [bracketed material] = delete

1 ~~[J. "received" means:~~

2 ~~(1) special fuel that is produced, refined,~~
3 ~~manufactured, blended or compounded at a refinery in this state or~~
4 ~~stored at a pipeline terminal in this state by any person is~~
5 ~~"received" by that person when it is loaded there into tank cars,~~
6 ~~tank trucks, tank wagons or other types of transportation equipment~~
7 ~~or when it is placed into any tank or other container from which~~
8 ~~sales or deliveries not involving transportation are made; but when~~
9 ~~such special fuel is shipped or delivered to another person:~~

10 ~~(a) registered as a special fuel supplier~~
11 ~~under the Special Fuels Supplier Tax Act, then it is "received" by~~
12 ~~the special fuel supplier to whom it is so shipped or delivered; or~~

13 ~~(b) not registered as a special fuel~~
14 ~~supplier under the Special Fuels Supplier Tax Act for the account~~
15 ~~of a person who is so registered, it is "received" by the special~~
16 ~~fuel supplier for whose account it is shipped;~~

17 ~~(2) notwithstanding the provisions of Paragraph~~
18 ~~(1) of this subsection, when special fuel is shipped or delivered~~
19 ~~from a refinery or pipeline terminal to another refinery or~~
20 ~~pipeline terminal, such special fuel is not "received" by reason of~~
21 ~~such shipment or delivery;~~

22 ~~(3) any product other than special fuel that is~~
23 ~~blended to produce special fuel other than at a refinery or~~
24 ~~pipeline terminal in this state is "received" by a person who is~~
25 ~~the owner of the special fuel at the time and place the blending is~~
~~completed;~~

~~(4) except as otherwise provided, special fuel is~~
~~"received" at the time and place it is first unloaded in this state~~

Underscored material = new
[bracketed material] = delete

1 ~~and by the person who is the owner thereof immediately preceding~~
 2 ~~the unloading, unless the owner immediately after the unloading is~~
 3 ~~a registered special fuel supplier, in which case the registered~~
 4 ~~special fuel supplier is considered as having "received" the~~
 5 ~~special fuel; and~~

6 ~~(5) with respect to a motor vehicle that is not~~
 7 ~~registered pursuant to the laws of this state or a motor vehicle~~
 8 ~~for which the operator cannot produce a valid tax identification~~
 9 ~~card, entry of the motor vehicle into the state. The amount of~~
 10 ~~special fuel "received" upon entry into this state shall be~~
 11 ~~determined in accordance with regulations of the secretary]~~

12 J. "rack" means a mechanism for delivering fuel from a
 13 refinery or pipeline terminal into tank cars, tank trucks, tank
 14 wagons or any other type of transportation equipment;

15 K. "refinery" means any plant or other facility in
 16 which gasoline is produced, refined, manufactured, blended or
 17 compounded;

18 ~~[K.]~~ L. "registrant" means any person who has
 19 registered a motor vehicle pursuant to the laws of this state or of
 20 another state;

21 ~~[L.]~~ M. "sale" means any delivery, exchange, gift or
 22 other disposition;

23 ~~[M.]~~ N. "secretary" means the secretary of taxation and
 24 revenue or the secretary's delegate;

25 ~~[N.]~~ O. "special fuel" means diesel-engine fuel,
kerosene and any other liquid fuel used for the generation of power
to propel a motor vehicle, except gasoline as defined in Section
7-13-2 NMSA 1978 or alternative fuel as defined in [the Alternative

1 ~~Fuel Tax Act~~ Section 7-16B-3 NMSA 1978;

2 [0.] P. "special fuel user" means any user who is a
3 registrant, owner or operator of a motor vehicle using special fuel
4 and having a gross vehicle weight in excess of twenty-six thousand
5 pounds;

6 [P.] Q. "state" or "jurisdiction" means a state,
7 territory or possession of the United States, the District of
8 Columbia, the commonwealth of Puerto Rico, a foreign country or a
9 state or province of a foreign country;

10 [0.] R. "supplier" means any person, but not including
11 the United States or any of its agencies except to the extent now
12 or hereafter permitted by the constitution of the United States and
13 laws thereof, who ~~[receives special fuel within the meaning of~~
14 ~~"received" as defined in this section]~~ is required as an agent for
15 the pre-collection of the special fuel excise tax to pre-collect
16 and pay over the taxes imposed by the Special Fuels Supplier Tax
17 Act;

18 [R.] S. "supply tank" means any tank or other
19 receptacle in which or by which fuel may be carried and supplied to
20 the fuel-furnishing device or apparatus of the propulsion mechanism
21 of a motor vehicle when the tank or receptacle either contains
22 special fuel or special fuel is delivered into it;

23 [S.] T. "tax" means the special fuel excise tax imposed
24 ~~[under]~~ pursuant to the Special Fuels Supplier Tax Act;

25 [T.] ~~"use" means:~~

~~(1) the receipt or placing of special fuels by a
special fuel user into the fuel supply tank of any motor vehicle
registered, owned or operated by the special fuel user;~~

1 ~~(2) the consumption by a special fuel user of~~
2 ~~special fuels in the propulsion of a motor vehicle on the highways~~
3 ~~of this state and any activity ancillary to that propulsion; or~~
4 ~~(3) the importation of special fuels in the fuel~~
5 ~~supply tank of any motor vehicle as fuel for the propulsion of the~~
6 ~~motor vehicle on the highways;] and~~

7 U. "user" means any person other than the United States
8 government or any of its agencies or instrumentalities; the state
9 of New Mexico or any of its political subdivisions, agencies or
10 instrumentalities; or an Indian nation, tribe or pueblo or any
11 agency or instrumentality of an Indian nation, tribe or pueblo who
12 uses special fuel to propel a motor vehicle on the highways. "

13 Section 9. A new section of the Special Fuels Supplier Tax
14 Act, Section 7-16A-2.1 NMSA 1978, is enacted to read:

15 "7-16A-2.1. [NEW MATERIAL] WHEN SPECIAL FUEL RECEIVED-- WHO
16 RECEIVES SPECIAL FUEL-- EXEMPTIONS. --

17 A. Special fuel is received at the time and place when
18 the special fuel is delivered in this state into the fuel supply
19 tank of a motor vehicle. The operator of the motor vehicle at the
20 time the special fuel is received is the person who has received
21 the special fuel.

22 B. Special fuel is exempt from the imposition of the
23 special fuel excise tax if:

24 (1) it is received in the state by the United
25 States or any agency or instrumentality of the United States; or

 (2) it is received within the reservation or
pueblo grant of an Indian nation, tribe or pueblo located in New
Mexico, by the Indian nation, tribe or pueblo or an agency or

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~~[bracketed material] = delete~~

1 instrumentality of that Indian entity or a member of that nation,
2 tribe or pueblo. "

3 Section 10. A new section of the Special Fuels Supplier Tax
4 Act, Section 7-16A-2.2 NMSA 1978, is enacted to read:

5 "7-16A-2.2. [NEW MATERIAL] PERSONS REQUIRED TO
6 PRE-COLLECT AND PAY OVER TAX. --

7 A. For the convenience of the person receiving special
8 fuel and to ensure prompt collection of the tax, the persons
9 specified in this section are agents of the state for pre-
10 collection of the special fuel excise tax. The persons specified
11 are required to pre-collect and pay over the special fuel excise
12 tax at the time and in the manner provided in the Special Fuels
13 Supplier Tax Act and by regulations or instructions of the
14 department. At the time when the duty to pre-collect the special
15 fuel excise tax arises, it is presumed that special fuel will be
16 received in New Mexico and will be subject to the special fuel
17 excise tax.

18 B. A person who owns the special fuel in a refinery or
19 pipeline terminal incurs the duty to pre-collect and pay over the
20 special fuel excise tax at the time and place when that person
21 first delivers the special fuel from a rack in this state into tank
22 cars, tank trucks, tank wagons or any other type of transportation
23 equipment or when that person places the special fuel into any tank
24 or other container in this state from which sales or deliveries not
25 involving transportation are made, except that the duty to pre-
collect and pay over is not incurred with respect to special fuel
shipped or delivered from a refinery to a pipeline terminal or from
one refinery or pipeline terminal to another refinery or pipeline

1 terminal.

2 C. At the time and place the special fuel is imported
 3 into this state, the person who imports the special fuel into New
 4 Mexico by any means other than in the fuel supply tank of a motor
 5 vehicle or by pipeline incurs the duty to pre-collect and pay over
 6 the special fuel excise tax. The department shall adopt
 7 regulations and instructions to waive the requirement for pre-
 8 collection upon a showing satisfactory to the department that the
 9 imported special fuel will be exported and not used, distributed or
 sold in the state.

10 D. Any person who sells special fuel in New Mexico on
 11 which the special fuel excise tax has not been pre-collected has
 12 the duty to pre-collect at the time of sale and pay over the tax.

13 E. Special fuel is used in New Mexico when it is
 14 consumed by a special fuel user in the propulsion of a motor
 15 vehicle on the highways of this state or any activity ancillary to
 16 that propulsion or imported into the state in the fuel supply tank
 17 of any motor vehicle for the propulsion of the motor vehicle on New
 Mexico highways. "

18 Section 11. Section 7-16A-8 NMSA 1978 (being Laws 1992,
 19 Chapter 51, Section 8, as amended) is amended to read:

20 "7-16A-8. SPECIAL BULK STORAGE USER PERMIT. --

21 A. The department may issue to a user an annual special
 22 bulk storage user permit that shall entitle that user to own,
 23 operate, utilize or maintain bulk storage for the sole purpose of
 24 placing special fuel from it into the supply tank of an allowable
 25 motor vehicle registered, owned or operated by that user. The fee
 for the special bulk storage user permit is ten dollars (\$10.00)

Underscored material = new
 [bracketed material] = delete

1 per year. Permits shall be issued on a calendar year basis but may
2 be issued for one, two or three years at a time.

3 B. To secure a special bulk storage user permit, an
4 applicant shall:

5 (1) file with the department upon a form
6 furnished by the department an application for a special bulk
7 storage user permit;

8 (2) indicate on the application the number of
9 years, to a maximum of three, for which the applicant requests the
10 permit to be valid;

11 [~~(2)~~] (3) accompany the application with payment
12 of [~~an annual~~] the special bulk storage user permit fee in the
13 amount of ten dollars (\$10.00) per year requested; and

14 [~~(3)~~] (4) accompany the application with a signed
15 affidavit to the effect that the signer shall use the special fuel
16 from the special bulk storage only for the purpose of placing it
17 into the supply tanks of specified allowable motor vehicles
18 registered, owned or operated by the signer.

19 C. It is a violation of the Special Fuels Supplier Tax
20 Act for any special bulk storage user to:

21 (1) sell special fuel from the user's special
22 bulk storage to any other person; or

23 (2) deliver special fuel from the user's special
24 bulk storage into the supply tank of any motor vehicle except
25 specified allowable motor vehicles registered, owned or operated by
the special bulk storage user.

D. "Allowable motor vehicles", for the purposes of this
section, includes but is not limited to motor vehicles used

1 primarily for or suitable for use in construction or farming, such
 2 as road graders, backhoes, rubber-tired rollers, front loaders,
 3 rubber-tired draglines, farm tractors, self-propelled combines or
 4 self-propelled reapers.

5 E. The department may revoke, after due notice and
 6 hearing as provided in Section 7-1-24 NMSA 1978, the special bulk
 7 storage user permit of any user found to be in violation of any
 8 provision of the Special Fuels Supplier Tax Act.

9 ~~[F. Special fuel purchased for bulk storage under a
 10 special bulk storage user permit shall not be subject to the
 11 special fuel excise tax at the time of purchase, but special fuel
 12 excise tax shall be due on any special fuel removed from bulk
 13 storage if delivered into the supply tank of a motor vehicle that
 14 is operated on the highways of this state.]~~

15 ~~G.]~~ E. All special fuel ~~[acquired, purchased or~~
 16 ~~received]~~ delivered under a special bulk storage user permit shall
 17 be ~~[acquired, purchased or received]~~ delivered only from a
 18 registered ~~[dealer or]~~ supplier. It is unlawful for any person to
 19 ~~[sell]~~ deliver special fuel in bulk quantities to special bulk
 20 storage users unless that person is registered ~~[under]~~ pursuant to
 21 the Special Fuels Supplier Tax Act. "

22 Section 12. Section 7-16A-10 NMSA 1978 (being Laws 1992,
 23 Chapter 51, Section 10, as amended) is amended to read:

24 "7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL
 25 SUPPLIERS.--In computing the special fuel excise tax due from a
person required to pre-collect and pay over the tax, the following
 amounts of special fuel ~~[may]~~ shall be deducted from the total
 amount of special fuel presumed to be received in New Mexico during

1 the tax period, [~~provided that satisfactory proof thereof is~~
2 ~~furnished to~~] pursuant to regulations and instructions of the
3 department:

4 A. special fuel presumed to be received in New Mexico,
5 but [~~sold for export or~~] exported [~~from~~] for sale outside this
6 state by [~~a special fuel supplier~~] any means other than in the fuel
7 supply tank of a motor vehicle;

8 B. special fuel [~~sold to the United States or any~~
9 ~~agency or instrumentality thereof for the exclusive use of the~~
10 ~~United States or any agency or instrumentality thereof; special~~
11 ~~fuel sold to the United States includes special fuel delivered into~~
12 ~~the supply tank of a government-licensed vehicle~~] exempt from the
13 special fuel excise tax pursuant to the provisions of Subsection B
14 of Section 7-16A-2.1 NMSA 1978;

15 C. special fuel sold to the state of New Mexico or any
16 political subdivision, agency or instrumentality thereof for the
17 exclusive use of the state of New Mexico or any political
18 subdivision, agency or instrumentality thereof; special fuel sold
19 to the state of New Mexico includes special fuel delivered into the
20 supply tank of a government-licensed vehicle;

21 [~~D. special fuel sold to an Indian nation, tribe or~~
22 ~~pueblo or any agency or instrumentality thereof for the exclusive~~
23 ~~use of the Indian nation, tribe or pueblo or any agency or~~
24 ~~instrumentality thereof; special fuel sold to an Indian nation,~~
25 ~~tribe or pueblo includes special fuel delivered into the supply~~
26 ~~tank of a government-licensed vehicle;~~

27 E.] D. special fuel sold to the holder of a special
28 bulk storage user permit and delivered into special bulk storage

1 ~~[under]~~ pursuant to the provisions of Section 7-16A-8 NMSA 1978 but
 2 this deduction shall be reduced by the amount of any such special
 3 fuel that is subsequently delivered from bulk storage into the fuel
 4 supply tank of a motor vehicle that is operated on the highways of
 5 the state and the resulting tax liability shall be paid; and

6 ~~[F.]~~ E. special fuel sold for non-highway use. "

7 Section 13. Section 7-16A-12 NMSA 1978 (being Laws 1992,
 8 Chapter 51, Section 12) is amended to read:

9 "7-16A-12. CREDIT--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL
 10 USERS.--In computing any special fuel excise tax due, all special
 11 fuel excise tax paid on special fuel used during the reporting
 12 period may be credited against the calculated special fuel excise
 13 tax due ~~[or weight distance tax due]~~ for that reporting period,
 14 provided that satisfactory proof of the special fuel excise tax
 15 paid is furnished to the department. "

16 Section 14. Section 7-16A-15 NMSA 1978 (being Laws 1992,
 17 Chapter 51, Section 15, as amended) is amended to read:

18 "7-16A-15. BOND REQUIRED OF SUPPLIER ~~[OR DEALER]~~.--

19 A. Except as provided in Subsection H of this section,
 20 every supplier ~~[and dealer]~~ shall file with the department a bond
 21 on a form approved by the attorney general with a surety company
 22 authorized by the state corporation commission to transact business
 23 in this state as a surety and upon which bond the supplier ~~[or~~
 24 ~~dealer]~~ is the principal obligor and the state the obligee. The
 25 bond shall be conditioned upon the prompt filing of true reports
 and the payment over by the supplier ~~[or dealer]~~ to the department
 of all taxes ~~[levied by]~~ pre-collected by the supplier pursuant to
 the Special Fuels Supplier Tax Act, together with all applicable

1 penalties and interest thereon.

2 B. In lieu of the bond, the supplier [~~or dealer~~] may
3 elect to file with the department cash or bonds of the United
4 States or New Mexico or of any political subdivision of the state.

5 C. The total amount of the bond, cash or securities
6 required of any supplier [~~or dealer~~] shall be fixed by the
7 department and may be increased or reduced by the department at any
8 time, subject to the limitations provided in this section.

9 D. In fixing the total amount of the bond, cash or
10 securities required of any supplier [~~or dealer~~] required to post
11 bond, the department shall require an equivalent in total amount to
12 at least two times the amount of the department's estimate of the
13 supplier's [~~or dealer's quarterly~~] monthly payment of pre-collected
14 special fuel excise tax, determined in such manner as the secretary
15 may deem proper; provided, however, [~~that~~] the total amount of
16 bond, cash or securities required of a supplier [~~or dealer~~] shall
17 never be less than one thousand dollars (\$1,000).

18 E. In the event the department decides that the amount
19 of the existing bond, cash or securities is insufficient to
20 [~~insure~~] ensure payment to this state of the amount of the pre-
21 collected special fuel excise tax and any penalties and interest
22 for which the supplier [~~or dealer~~] is or may at any time become
23 liable, then the supplier [~~or dealer~~] shall forthwith, upon written
24 demand of the department mailed to the last known address of the
25 supplier [~~or dealer~~] as shown on the records of the department,
file an additional bond, cash or securities in the manner, form and
amount determined by the department to be necessary to secure at
all times the payment by the supplier [~~or dealer~~] of all pre-

1 collected taxes and all penalties and interest due [~~under~~] pursuant
 2 to the Special Fuels Supplier Tax Act.

3 F. Any surety on any bond furnished by any supplier [~~or~~
 4 ~~dealer~~] as required by this section shall be released and
 5 discharged from all liability accruing on the bond after the
 6 expiration of ninety days from the date upon which the surety files
 7 with the department a written request to be released and
 8 discharged; provided, however, [~~that such~~] the request shall not
 9 operate to release or discharge the surety from any liability
 10 already accrued or that shall accrue before the expiration of the
 11 ninety-day period, unless a new bond is filed during the ninety-day
 12 period, in which case the previous bond may be canceled as of the
 13 effective date of the new bond. On receipt of notice of such
 14 request, the department shall notify promptly the supplier [~~or~~
 15 ~~dealer~~] who furnished the bond that the supplier [~~or dealer~~] shall,
 16 on or before the expiration of the ninety-day period, file with the
 17 department a new bond with a surety satisfactory to the department
 18 in the amount and form required in this section.

19 G. The supplier [~~or dealer~~] required to file bond with
 20 or provide cash or securities to the department in accordance with
 21 this section and who is required by any other state law to file
 22 another bond with or provide cash or securities to the department
 23 may elect to file a combined bond or provide cash or securities
 24 applicable to the provisions of both this section and the other
 25 law, with the approval of the secretary. The amount of the
 combined bond, cash or securities shall be determined by the
 department, and the form of the combined bond shall be approved by
 the attorney general.

Underscored material = new
 [bracketed material] = delete

1 H. On July 1, 1994, every supplier ~~[or dealer]~~ who, for
 2 the twenty-four month period immediately preceding that date, has
 3 not been ~~[a] delinquent [taxpayer and both has timely filed all tax~~
 4 ~~returns due under]~~ in his obligations pursuant to the Special Fuels
 5 Supplier Tax Act ~~[or the Special Fuels Tax Act and has timely paid~~
 6 ~~all taxes due under those acts]~~ is exempt from the requirement
 7 ~~[under]~~ pursuant to this section to file a bond. A supplier ~~[or~~
 8 ~~dealer]~~ required to file a bond ~~[under]~~ pursuant to the provisions
 9 of this section who, for a twenty-four consecutive month period
 10 ending after July 1, 1994, ~~[timely files all tax returns due under~~
 11 ~~either]~~ has not been delinquent in his obligations pursuant to the
 12 Special Fuels Supplier Tax Act ~~[or the Special Fuels Tax Act is]~~
 13 may request to be exempt from the requirement to file a bond
 14 beginning with the first day of the first month following the end
 15 of the twenty-four month period. If a supplier ~~[or dealer]~~
 16 exempted ~~[under]~~ pursuant to this subsection subsequently becomes
 17 ~~[a] delinquent [taxpayer or twice fails in any twelve consecutive~~
 18 ~~month period either to timely file a tax return or make timely~~
 19 ~~payment of tax due under]~~ in his obligations pursuant to the
 20 Special Fuels Supplier Tax Act, the department may terminate the
 21 exemption and require the filing of a bond in accordance with this
 22 section. If the department terminates the exemption, the
 23 termination shall not be effective any earlier than ten days after
 24 the date the department notifies the supplier ~~[or dealer]~~ in
 25 writing of the termination. "

Section 15. Section 7-16A-19 NMSA 1978 (being Laws 1992,
 Chapter 51, Section 19, as amended) is amended to read:

"7-16A-19. TEMPORARY SPECIAL FUEL USER PERMITS. --

1 A. ~~[The department may issue temporary special fuel~~
 2 ~~user permits for the privilege of using special fuel in New Mexico~~
 3 ~~to] To prevent evasion of the special fuel excise tax, special fuel~~
 4 users whose vehicles are not registered with the department must
 5 acquire a temporary special fuel user permit from the department
 6 before operating the unregistered motor vehicle on the highways of
 7 New Mexico. The temporary special fuel user permit shall be valid
 8 for one entrance and one exit of the state, within a period that
 9 shall not exceed forty-eight hours from the time of issuance.

10 ~~[B. Temporary special fuel user permits shall be~~
 11 ~~secured from the department.]~~

12 ~~C.]~~ B. The fee for a temporary special fuel user permit
 13 is five dollars (\$5.00) for each motor vehicle.

14 ~~[D.]~~ C. It is a violation of the Special Fuels Supplier
 15 Tax Act for any person to act as a temporary special fuel user
 16 without obtaining a valid temporary special fuel user permit from
 17 the department. "

18 Section 16. A new section of the Special Fuels Supplier Tax
 19 Act is enacted to read:

20 "[NEW MATERIAL] MANIFEST OR BILL OF LADING REQUIRED WHEN
 21 TRANSPORTING SPECIAL FUELS. --Every person transporting special
 22 fuels from a refinery or other facility at which special fuel is
 23 produced, refined, manufactured, blended or compounded or from a
 24 pipeline terminal in this state, importing special fuels into this
 25 state or exporting special fuels from this state, other than by
 pipeline or in the fuel supply tanks of motor vehicles, shall carry
 a manifest or bill of lading in form and content as prescribed by
 or acceptable to the department. The manifest or bill of lading

1 shall be signed by the consignor and by every person accepting the
2 special fuel or any part of it, with a notation as to the amount
3 accepted. If a manifest or bill of lading is not required to be
4 carried by the terms of this section, any person transporting
5 special fuels without such a manifest or bill of lading shall, upon
6 demand, furnish proof acceptable to the department that the special
7 fuels so transported were legally acquired by a registered supplier
8 or dealer who assumed liability for payment of the tax imposed by
the Special Fuels Supplier Tax Act. "

9 Section 17. TRANSITION PROVISION. --Gasoline received by a
10 distributor under the Gasoline Tax Act or special fuel received by
11 a supplier under the Special Fuels Supplier Tax Act prior to the
12 effective date of this act shall be subject to gasoline tax or
13 special fuel excise tax, as appropriate, under the provisions of
14 the Gasoline Tax Act or Special Fuels Supplier Tax Act in effect
immediately prior to the effective date of this act.

15 Section 18. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is May 1, 1996, provided that, if this act
17 is enacted without an emergency clause, the effective date is July
18 1, 1996.

19 Section 19. EMERGENCY. --It is necessary for the public
20 peace, health and safety that this act take effect immediately.

Underscored material = new
[bracketed material] = delete

1 FORTY-SECOND LEGISLATURE
2 FIRST SPECIAL, 1996
3

4 March 23, 1996
5

6 Mr. President:
7

8 Your COMMITTEE OF THE WHOLE, to whom has been referred
9

10 HOUSE TAXATION & REVENUE COMMITTEE SUBSTITUTE FOR
11 HOUSE BILL 5

12 has had it under consideration and reports same WITHOUT
13 RECOMMENDATION, amended as follows:
14

15 1. On page 14, line 15, strike "An" and insert in lieu
16 thereof "If an".
17

18 2. On page 14, line 18, after "Mexico", strike the remainder of
19 the line and insert in lieu thereof "agrees not to".
20

21 3. On page 14, line 19, strike "a fuel or other excise tax" and
22 insert in lieu thereof "an excise tax on the gasoline, it".
23

24 4. On page 15, line 4, strike "gasoline tax" and insert in lieu
25 thereof "road fund".

5. On page 15, line 10, after the period, strike the remainder of
the line and strike all of lines 11 through 15.

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HTRC/HB 5

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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SCW/HTRC/HB5

Page 72

Respectfully submitted,

Manny M. Aragon, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

Underscored material = new
[bracketed material] = delete

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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SCW/HTRC/HB5

Page 73

The roll call vote was 23 For 15 Against

Yes: 23

No: Altamirano, Aragon, Benavides, Campos, Chavez, Cisneros,
Garcia, Maes, Naranjo, Pinto, Riley, Rodriguez, Romero,
Stefanics, Tsosie

Excused: Howes, Robinson, Reagan, Scott,

Absent: None

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