

HOUSE BILL 509

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Roberto "Bobby" J. Gonzales and Carl Trujillo
and Patricio Ruiloba

AN ACT

RELATING TO TAXATION; REPLACING THE GASOLINE TAX ACT AND THE
SPECIAL FUELS SUPPLIER TAX ACT WITH THE MOTOR FUEL TAXES ACT TO
IMPOSE TAX ON GASOLINE AND SPECIAL FUELS REMOVED FROM THE RACK
OR TERMINAL EFFECTIVE JULY 1, 2018; PROVIDING LICENSING
REQUIREMENTS; PROVIDING EXEMPTIONS AND PROCEDURES FOR FILING
CREDITS TO REFUNDS; REQUIRING INFORMATION RETURNS; INCREASING
THE TAX ON GASOLINE AND THE TAX ON SPECIAL FUEL BY FIVE CENTS
(\$.05) EFFECTIVE JULY 1, 2017; DISTRIBUTING A PORTION OF THE
GASOLINE AND SPECIAL FUEL EXCISE TAX TO THE DEPARTMENT OF
TRANSPORTATION FOR MAINTAINING REST STOPS FOR FIVE YEARS, A
PORTION TO THE TAX STABILIZATION RESERVE UNTIL STATE RESERVES
REACH EIGHT PERCENT AND THE REMAINDER TO THE STATE ROAD FUND
AND THE LOCAL GOVERNMENTS ROAD FUND; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978.

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

2 SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
3 through 43 of this act may be cited as the "Motor Fuel Taxes
4 Act".

5 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
6 Motor Fuel Taxes Act:

7 A. "aviation fuel" means gasoline sold for use in
8 aircraft propelled by engines other than turbo-prop or jet-type
9 engines;

10 B. "biodiesel" means a renewable, biodegradable,
11 mono alkyl ester combustible liquid fuel that is derived from
12 agricultural plant oils or animal fats and that meets the
13 American society for testing and materials specifications for
14 biodiesel fuel, B100 or B99 blend stock for distillate fuels;

15 C. "blended biodiesel" means a diesel engine fuel
16 that contains at least two percent biodiesel;

17 D. "blender" means a person who produces blended
18 motor fuel outside the bulk transfer-terminal system;

19 E. "blending" means the mixing together of liquids
20 that produces a product that is offered for sale, sold, used,
21 or capable of use as fuel for a gasoline-powered engine or
22 diesel-powered engine. "Blending" does not include mixing that
23 occurs in the process of refining by the original refiner of
24 crude petroleum or the commingling of products during
25 transportation in a pipeline;

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1 F. "bulk plant" means a motor fuel storage and
2 distribution facility:

3 (1) that is a terminal that has not been
4 approved as a terminal by the federal internal revenue service;
5 and

6 (2) from which motor fuel may be removed at a
7 rack;

8 G. "bulk storage" means a container of more than
9 ten gallons;

10 H. "bulk transfer" means a transfer of motor fuel
11 from one location to another by pipeline, including:

12 (1) a pipeline movement of motor fuel from a
13 refinery or terminal to a terminal;

14 (2) a book transfer or intank transfer of
15 motor fuel within a terminal between licensed suppliers before
16 completion of removal across the rack; and

17 (3) a two-party exchange between licensed
18 suppliers or between licensed suppliers and permissive
19 suppliers;

20 I. "bulk transfer-terminal system" means the motor
21 fuel distribution system consisting of refineries, pipelines
22 and terminals approved by the federal internal revenue service.
23 Motor fuel is in the bulk transfer-terminal system if the motor
24 fuel is in a refinery, a pipeline or a terminal. Motor fuel is
25 not in the bulk transfer-terminal system if the motor fuel is

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1 in a motor fuel storage facility, including:

2 (1) a bulk plant that is not part of a
3 refinery or terminal;

4 (2) the motor fuel supply tank of an engine or
5 a motor vehicle; or

6 (3) a tank car, railcar, trailer, truck or
7 other equipment suitable for ground transportation;

8 J. "bulk user" means a person who maintains storage
9 facilities for motor fuel and uses all or part of the stored
10 motor fuel to operate a motor vehicle, vessel or aircraft and
11 for other uses;

12 K. "dealer" means a person who sells motor fuel at
13 retail or dispenses motor fuel at a retail location;

14 L. "department" means the taxation and revenue
15 department, the secretary of taxation and revenue or any
16 employee of the department exercising authority lawfully
17 delegated to that employee by the secretary;

18 M. "distributor" means a person who makes sales of
19 motor fuel at wholesale. A distributor's activities may also
20 include sales of motor fuel at retail;

21 N. "dyed special fuel" means diesel fuel that is
22 intended for off-highway use and meets the dyeing and marking
23 requirements of Section 4082 of the Internal Revenue Code
24 regardless of how diesel fuel is dyed;

25 O. "exporter" means a person that exports motor

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1 fuel from this state. The seller is the exporter of motor fuel
2 delivered out of this state by or for the seller, and the
3 purchaser is the exporter of motor fuel delivered out of this
4 state by or for the purchaser;

5 P. "fuel supply tank" means a receptacle on a motor
6 vehicle, non-highway equipment or stationary engine from which
7 motor fuel is supplied for the operation of its engine;

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

14 R. "gasoline" means any flammable liquid
15 hydrocarbon used primarily as fuel for the propulsion of motor
16 vehicles, motorboats or aircraft except for diesel engine fuel,
17 kerosene, liquefied petroleum gas, compressed or liquefied
18 natural gas and products specially prepared and sold for use in
19 aircraft propelled by turbo-prop or jet-type engines;

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

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1 T. "importer" means a person that imports motor
2 fuel into this state. A seller is the importer for motor fuel
3 delivered into this state from outside of this state by or for
4 the seller, and the purchaser is the importer for motor fuel
5 delivered into this state from outside of this state by or for
6 the purchaser;

7 U. "Internal Revenue Code" means the Internal
8 Revenue Code of 1986, as that code may be amended or its
9 sections renumbered;

10 V. "license holder" means a person licensed
11 pursuant to the Motor Fuel Taxes Act;

12 W. "motor fuel" means gasoline or special fuel;

13 X. "motor fuel transporter" means a person who
14 transports gasoline, diesel fuel, gasoline blended fuel,
15 aviation fuel or any other motor fuel, except liquefied gas,
16 compressed natural gas or liquefied natural gas outside the
17 bulk transfer-terminal system. "Motor fuel transporter" does
18 not include a person who:

19 (1) is licensed pursuant to the Motor Fuel
20 Taxes Act as a supplier, permissive supplier or distributor;
21 and

22 (2) exclusively transports gasoline, diesel
23 fuel, gasoline blended fuel, aviation fuel or any other motor
24 fuel to which the person retains ownership while the fuel is
25 being transported by the person;

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

7 Z. "net gallons" means the amount of motor fuel
8 measured in gallons when adjusted to a temperature of sixty
9 degrees Fahrenheit and a pressure of fourteen and seven-tenths
10 pounds per square inch;

11 AA. "permissive supplier" means a person who
12 elects, but is not required, to have a supplier's license and
13 who:

14 (1) is registered under Section 4101 of the
15 Internal Revenue Code for transactions in motor fuel in the
16 bulk transfer-terminal system; and

17 (2) is a position holder in motor fuel located
18 only in another state or a person who receives motor fuel only
19 in another state under a two-party exchange;

20 BB. "person" means an individual or any other
21 entity, including, to the extent permitted by law, any federal,
22 state or other government or any department, agency,
23 instrumentality or political subdivision of any federal, state
24 or other government;

25 CC. "position holder" means the person who holds

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1 the inventory position in motor fuel in a terminal, as
2 reflected on the records of the terminal operator. A person
3 holds the inventory position in motor fuel when that person has
4 a contract with the terminal operator for the use of storage
5 facilities and terminaling services for motor fuel at the
6 terminal. "Position holder" includes a terminal operator who
7 owns motor fuel in the terminal;

8 DD. "rack" means a mechanism for delivering motor
9 fuel from a refinery, terminal or bulk plant into a transport
10 vehicle, railroad tank car or other means of transfer that is
11 outside the bulk transfer-terminal system;

12 EE. "refinery" means a facility for the manufacture
13 or reprocessing of finished or unfinished petroleum products
14 usable as motor fuel and from which motor fuel may be removed
15 by pipeline or at a rack;

16 FF. "removal" means a physical transfer other than
17 by evaporation, loss or destruction. A physical transfer to a
18 transport vehicle or other means of conveyance outside the bulk
19 transfer-terminal system is complete on delivery into the means
20 of conveyance;

21 GG. "sale" means any delivery, exchange, gift or
22 other disposition;

23 HH. "special fuel" means any diesel-engine fuel,
24 biodiesel, blended biodiesel or kerosene used for the
25 generation of power to propel a motor vehicle, except for

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1 gasoline, liquefied petroleum gas, compressed or liquefied
2 natural gas and products specially prepared and sold for use in
3 aircraft propelled by turbo-prop or jet-type engines;

4 II. "state" or "jurisdiction" means a state,
5 territory or possession of the United States, the District of
6 Columbia, the commonwealth of Puerto Rico, a foreign country or
7 a state or province of a foreign country;

8 JJ. "supplier" means a person that:

9 (1) is subject to the general taxing
10 jurisdiction of this state; and

11 (2) is registered under Section 4101 of the
12 Internal Revenue Code, as that section may be amended or
13 renumbered, for transactions in motor fuel in the bulk
14 transfer-terminal distribution system, and is:

15 (a) a position holder in motor fuel in a
16 terminal or refinery in this state and may concurrently also be
17 a position holder in motor fuel in another state; or

18 (b) a person who receives motor fuel in
19 this state under a two-party exchange; and

20 (c) may also be a terminal operator,
21 provided that a terminal operator is not considered to also be
22 a supplier based solely on the fact that the terminal operator
23 handles motor fuel consigned to it within a terminal;

24 KK. "terminal" means a motor fuel storage and
25 distribution facility to which a terminal control number has

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1 been assigned by the internal revenue service, to which motor
2 fuel is supplied by pipeline and from which motor fuel may be
3 removed at a rack;

4 LL. "terminal operator" means a person who owns,
5 operates or otherwise controls a terminal; and

6 MM. "two-party exchange" means a transaction in
7 which motor fuel is transferred from one licensed supplier or
8 permissive supplier to another licensed supplier or permissive
9 supplier under an exchange agreement, including a transfer from
10 the person who holds the inventory position in taxable motor
11 fuel in the terminal as reflected on the records of the
12 terminal operator, and that is:

13 (1) completed before removal of the product
14 from the terminal by the receiving exchange partner; and

15 (2) recorded on the terminal operator's books
16 and records with the receiving exchange partner as the supplier
17 that removes the motor fuel across the terminal rack for
18 purposes of reporting the transaction to this state.

19 SECTION 3. [NEW MATERIAL] POINT OF IMPOSITION OF MOTOR
20 FUELS TAXES.--

21 A. A tax is imposed on the removal of motor fuel
22 from the terminal using the terminal rack other than by bulk
23 transfer. The supplier or permissive supplier is liable for
24 and shall collect the tax imposed by this section from the
25 person who orders the withdrawal at the terminal rack.

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1 B. A tax is imposed at the time motor fuel is
2 imported into this state, other than by a bulk transfer, for
3 delivery to a destination in this state. The supplier or
4 permissive supplier is liable for and shall collect the tax
5 imposed by this section from the person who imports the motor
6 fuel into this state. If the seller is not a supplier or
7 permissive supplier, the person who imports the motor fuel into
8 this state is liable for and shall pay the tax.

9 C. A tax is imposed on the removal of motor fuel
10 from the bulk transfer-terminal system in this state. The
11 supplier is liable for and shall collect the tax imposed by
12 this section from the person who orders the removal from the
13 bulk transfer-terminal system.

14 D. A tax is imposed on the blending of motor fuel
15 at the point blended motor fuel is made in this state outside
16 the bulk transfer-terminal system. The blender is liable for
17 and shall pay the tax. The number of gallons of blended motor
18 fuel on which the tax is imposed is equal to the difference
19 between the number of gallons of blended motor fuel made and
20 the number of gallons of previously taxed motor fuel used to
21 make the blended motor fuel.

22 E. The terminal operator in this state is
23 considered a supplier for the purpose of the tax imposed under
24 this section unless at the time of removal:

25 (1) the terminal operator has a terminal

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1 operator's license issued for the facility from which the motor
2 fuel is withdrawn;

3 (2) the terminal operator verifies that the
4 person who removes the motor fuel has a supplier's license; and

5 (3) the terminal operator does not have a
6 reason to believe that the supplier's license is not valid.

7 F. In each subsequent sale of motor fuel on which
8 the tax has been paid, the amount of the tax shall be added to
9 the selling price so that the tax is paid ultimately by the
10 person using or consuming the motor fuel. Motor fuel is
11 considered to be used when it is delivered into a fuel supply
12 tank.

13 SECTION 4. [NEW MATERIAL] TAX RATES--DENOMINATION AS
14 "GASOLINE TAX" AND "SPECIAL FUEL EXCISE TAX".--

15 A. The tax rate on gasoline is twenty-two cents
16 (\$.22) for each net gallon or fractional part on which the tax
17 is imposed pursuant to Section 3 of the Motor Fuel Taxes Act.
18 The tax imposed on gasoline may be referred to as the "gasoline
19 tax".

20 B. The tax rate on special fuels is twenty-six
21 cents (\$.26) for each net gallon or fractional part on which
22 the tax is imposed pursuant to Section 3 of the Motor Fuel
23 Taxes Act. The tax imposed on special fuel may be referred to
24 as the "special fuel excise tax".

25 SECTION 5. [NEW MATERIAL] ADDITIONAL TAX APPLIES TO

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1 INVENTORIES.--

2 A. On the effective date of an increase in the
3 rates of the taxes imposed by the Motor Fuel Taxes Act, a
4 distributor or dealer that possesses, for the purpose of sale,
5 two thousand or more gallons of gasoline or special fuel at
6 each business location on which the taxes imposed at a previous
7 rate have been paid shall report to the department the volume
8 of that gasoline and special fuel and at the time of the report
9 shall pay a tax on that gasoline and special fuel at a rate
10 equal to the rate of the tax increase.

11 B. On the effective date of a reduction of the
12 rates of taxes imposed by the Motor Fuel Taxes Act, a
13 distributor or dealer that possesses, for the purpose of sale,
14 two thousand or more gallons of gasoline or special fuel at
15 each business location on which the taxes imposed at the
16 previous rate have been paid becomes entitled to a refund in an
17 amount equal to the difference in the amount of taxes paid on
18 that gasoline or special fuel at the previous rate and at the
19 rate in effect on the effective date of the reduction in the
20 tax rates. The rules of the department shall provide for the
21 method of claiming a refund pursuant to the Motor Fuel Taxes
22 Act and may require that the refund for the dealer be paid
23 through the distributor or supplier from whom the dealer
24 received the motor fuel.

25 SECTION 6. [NEW MATERIAL] SEPARATE STATEMENT OF TAX

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1 COLLECTED FROM PURCHASER.--

2 A. In each subsequent sale of motor fuel on which
3 tax has been paid, the tax imposed shall be collected from the
4 purchaser so that the tax is paid ultimately by the person who
5 uses the motor fuel. Motor fuel is considered to be used when
6 it is delivered into a fuel supply tank.

7 B. The tax imposed shall be stated separately from
8 the sale price of motor fuel and identified as gasoline tax or
9 special fuel excise tax on the invoice or receipt issued to a
10 purchaser. The tax shall be separately stated and identified
11 in the same manner on a shipping document if the shipping
12 document includes the sale price of the motor fuel.

13 C. Except as provided by Subsection D of this
14 section, the sale price of motor fuel stated on an invoice,
15 receipt or shipping document is presumed to be exclusive of the
16 tax imposed by the Motor Fuel Taxes Act. The seller or
17 purchaser may overcome the presumption by using the seller's
18 records to show that the tax was included in the sale price.

19 D. Subsection B of this section does not apply to a
20 sale of motor fuel by a licensed dealer to a person who
21 delivers the motor fuel at the dealer's place of business into
22 a fuel supply tank or into a container having a capacity of not
23 more than ten gallons.

24 SECTION 7. [NEW MATERIAL] TRANSACTIONS NOT SUBJECT TO
25 TAX.--

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1 A. The taxes imposed by the Motor Fuel Taxes Act do
2 not apply to:

3 (1) motor fuel sold to the United States or
4 any agency or instrumentality thereof for the exclusive use of,
5 and not the resale by, the United States or any agency or
6 instrumentality thereof. Motor fuel sold to the United States
7 includes motor fuel delivered into the supply tank of a
8 government-licensed vehicle;

9 (2) motor fuel sold to the state of New Mexico
10 or any political subdivision, agency or instrumentality thereof
11 for the exclusive use of, and not the resale by, the state of
12 New Mexico or any political subdivision, agency or
13 instrumentality thereof. Motor fuel sold to the state of New
14 Mexico includes motor fuel delivered into the supply tank of a
15 government-licensed vehicle;

16 (3) motor fuel sold to an Indian nation, tribe
17 or pueblo or any agency or instrumentality thereof for the
18 exclusive use of, and not the resale by, the Indian nation,
19 tribe or pueblo or any agency or instrumentality thereof.
20 Motor fuel sold to an Indian nation, tribe or pueblo includes
21 motor fuel delivered into the supply tank of a government-
22 licensed vehicle;

23 (4) twenty percent of motor fuel sold by a
24 retail station within the sovereign territory of an Indian
25 nation, tribe or pueblo, less the amount exempted pursuant to

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1 Paragraph (3) of this subsection;

2 (5) motor fuel for which proof of export is
3 available in the form of a terminal-issued destination state
4 shipping paper or bill of lading and that is either:

5 (a) exported by a supplier who is
6 licensed in the destination state; or

7 (b) sold by a supplier to a distributor
8 for immediate export;

9 (6) motor fuel moved by truck or railcar
10 between licensed suppliers or licensed permissive suppliers and
11 in which the motor fuel removed from the first terminal comes
12 to rest in the second terminal, provided that the removal from
13 the second terminal rack is subject to tax imposed by the Motor
14 Fuel Taxes Act;

15 (7) motor fuel exported to a foreign country
16 if the bill of lading indicates the foreign destination and the
17 motor fuel is actually exported to the foreign country;

18 (8) dyed special fuel sold or delivered by a
19 supplier to another supplier and dyed special fuel sold or
20 delivered by a supplier or distributor into the bulk storage
21 facility of a dyed special fuel bonded user or to a purchaser
22 who provides a signed statement as provided by Section 9 of the
23 Motor Fuel Taxes Act;

24 (9) dyed special fuel sold by a supplier or
25 permissive supplier to a distributor or by a distributor to

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1 another distributor; and

2 (10) dyed special fuel delivered by a license
3 holder into the fuel supply tanks of railway engines,
4 motorboats or refrigeration units or other stationary equipment
5 powered by a separate motor from a separate fuel supply tank.

6 B. Paragraph (5) of Subsection A of this section
7 does not apply to motor fuel that is transported and delivered
8 outside this state in the motor fuel supply tank of a motor
9 vehicle.

10 C. If an exporter described by Subparagraph (b) of
11 Paragraph (5) of Subsection A of this section does not have an
12 exporter's license, the supplier shall collect the tax imposed
13 by the Motor Fuel Taxes Act.

14 D. Subparagraph (b) of Paragraph (5) of Subsection
15 A of this section does not apply to a sale by a distributor.

16 **SECTION 8. [NEW MATERIAL] PERSONS REQUIRED TO BE**
17 **LICENSED.--**

18 A. A person shall obtain the appropriate license
19 issued by the department before conducting the activities of:

20 (1) a supplier, who may also act as a
21 distributor, importer, exporter, blender or motor fuel
22 transporter without securing a separate license, but who is
23 subject to all other conditions, requirements and liabilities
24 imposed on those license holders;

25 (2) a permissive supplier, who may also act as

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1 a distributor, importer, exporter, blender or motor fuel
2 transporter without securing a separate license, but who is
3 subject to all other conditions, requirements and liabilities
4 imposed on those license holders;

5 (3) a distributor, who may also act as an
6 importer, exporter, blender or motor fuel transporter without
7 securing a separate license, but who is subject to all other
8 conditions, requirements and liabilities imposed on those
9 license holders;

10 (4) an importer, who may also act as an
11 exporter, blender or motor fuel transporter without securing a
12 separate license, but who is subject to all other conditions,
13 requirements and liabilities imposed on those license holders;

14 (5) a terminal operator;

15 (6) an exporter;

16 (7) a blender;

17 (8) a motor fuel transporter; and

18 (9) a dyed special fuel bonded user.

19 B. A person shall obtain a license as a dyed
20 special fuel bonded user to purchase dyed special fuel in
21 amounts that exceed the limitations prescribed by Subsection C
22 of Section 9 of the Motor Fuel Taxes Act. The requirements of
23 this subsection do not affect the right of a purchaser to
24 purchase not more than the number of gallons of dyed special
25 fuel prescribed by Subsection C of Section 9 of the Motor Fuel

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1 Taxes Act each month for the purchaser's own use using a signed
2 statement.

3 SECTION 9. [NEW MATERIAL] STATEMENT OF PURCHASE OF DYED
4 SPECIAL FUEL.--

5 A. The first removal of motor fuel from a terminal
6 in this state is taxable, except the sale of dyed special fuel
7 may be made without collecting the tax if the purchaser
8 furnishes to a licensed supplier or distributor a signed
9 statement that includes an end user number issued by the
10 department. A person who wants to use a signed statement to
11 purchase dyed special fuel shall apply to the department for an
12 end user number to be used in conjunction with a signed
13 statement. A licensed supplier or distributor shall not make a
14 tax-exempt sale of any special fuel to a purchaser using a
15 signed statement unless the purchaser has an end user number
16 issued by the department pursuant to this section. A taxable
17 sale or removal of dyed special fuel shall not be made except
18 as prescribed by Subsection E of this section.

19 B. A sale of dyed special fuel may be made without
20 collecting the special fuel excise tax if the purchaser
21 furnishes to a licensed supplier or distributor a signed
22 statement, including an end user number issued by the
23 department, that stipulates that:

24 (1) all of the dyed special fuel purchased on
25 the signed statement will be consumed by the purchaser and will

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1 not be resold; and

2 (2) none of the dyed special fuel purchased on
3 the signed statement will be delivered or permitted to be
4 delivered into the fuel supply tank of a motor vehicle operated
5 on the public highways of this state.

6 C. A person shall not make a tax-exempt purchase
7 and a licensed supplier or distributor shall not make a tax-
8 exempt sale to a purchaser of any dyed special fuel pursuant to
9 this section using a signed statement for the first sale or
10 purchase and for any subsequent sale or purchase in a calendar
11 month for more than ten thousand gallons of dyed special fuel.

12 D. The limitations provided in Subsection C of this
13 section apply regardless of whether the dyed special fuel is
14 purchased in a single transaction during that month or in
15 multiple transactions during that month.

16 E. Any gallons purchased or sold in excess of the
17 limitations prescribed by Subsection C of this section
18 constitute a taxable purchase or sale. A purchaser that
19 exceeds the limitations provided in Subsection C of this
20 section shall be required to obtain a dyed special fuel bonded
21 user license.

22 F. The signed statement and end user number from
23 the purchaser relieves the licensed supplier or distributor
24 from the burden of proof that the sale of dyed special fuel for
25 a non-highway purpose was not taxable to the purchaser and

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1 remains in effect unless:

2 (1) the statement is revoked in writing by the
3 purchaser or licensed supplier or distributor;

4 (2) the department notifies the licensed
5 supplier or distributor in writing that the purchaser may no
6 longer make tax-exempt purchases; or

7 (3) the licensed supplier or distributor is
8 put on notice by making taxable sales of dyed special fuel to a
9 purchaser who has previously furnished a signed statement to
10 the licensed supplier or distributor.

11 G. For purposes of Paragraph (3) of Subsection F of
12 this section, a licensed supplier or distributor is not put on
13 notice when taxable sales of dyed special fuel are made in
14 accordance with Subsection E of this section.

15 H. The statement shall be signed by the purchaser
16 or the purchaser's representative.

17 I. For purposes of this section, the purchaser is
18 considered to have temporarily furnished the signed statement
19 to the licensed supplier or distributor if the supplier or
20 distributor verifies that the purchaser has an end user number
21 issued by the department. The licensed supplier or distributor
22 shall use the department's website or other materials provided
23 or produced by the department to verify this information until
24 the purchaser provides to the supplier or distributor a
25 completed signed statement.

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1 J. The department, by rule, may allow separate
2 operating divisions of a corporation to give separate signed
3 statements as if the divisions were different legal entities.

4 K. The department may adopt necessary forms and
5 rules to administer and enforce this section.

6 L. A taxable use of any part of dyed special fuel
7 purchased under a signed statement shall, in addition to
8 application of any criminal penalty, forfeit the right of the
9 person to purchase tax-exempt dyed special fuel for a period of
10 one year from the date of the offense. Any tax, interest and
11 penalty found to be due through false or erroneous execution or
12 continuance of a promissory statement by the purchaser, if
13 assessed to the licensed supplier or distributor, is a debt of
14 the purchaser to the licensed supplier or distributor until
15 paid and is recoverable at law in the same manner as the
16 purchase price of the fuel.

17 M. Properly completed signed statements shall be in
18 the possession of the licensed supplier or distributor at the
19 time the sale of dyed special fuel occurs. If the licensed
20 supplier or distributor is not in possession of the signed
21 statements within sixty days after the date written notice
22 requiring possession of them is given to the licensed supplier
23 or distributor by the department, exempt sales claimed by the
24 licensed supplier or distributor that require delivery of the
25 signed statements shall be disallowed. If the licensed

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1 supplier or distributor delivers the signed statements to the
2 department within the sixty-day period, the department may
3 verify the reason or basis for the signed statements before
4 allowing the exempt sales. An exempt sale shall not be granted
5 on the basis of signed statements delivered to the department
6 after the sixty-day period.

7 N. On receipt of notice transmitted by an
8 electronic means of a final judgment entered by a court against
9 a purchaser of dyed special fuel for failure to pay an amount
10 owed to a licensed supplier or distributor for the purchase of
11 dyed special fuel, the department shall revoke the end user
12 number issued to the purchaser. The department shall provide
13 the notice described by Paragraph (2) of Subsection F of this
14 section to the licensed supplier or distributor if the
15 purchaser's end user number is revoked.

16 O. The department may reinstate an end user number
17 that is revoked pursuant to Subsection N of this section on
18 receipt of proof transmitted by an electronic means and
19 satisfactory to the department that the purchaser whose end
20 user number was revoked has satisfied the judgment described by
21 Subsection N of this section, including all costs and other
22 amounts awarded in the judgment.

23 SECTION 10. [NEW MATERIAL] PERMISSIVE SUPPLIER
24 REQUIREMENTS ON OUT-OF-STATE REMOVAL.--

25 A. A person may obtain a permissive supplier

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1 license to collect the taxes imposed by the Motor Fuel Taxes
2 Act for motor fuel that is removed at a terminal in another
3 state and has this state as the destination state.

4 B. With respect to motor fuel that is removed by
5 the licensed permissive supplier at a terminal located in
6 another state and that has this state as the destination state,
7 a licensed permissive supplier shall:

8 (1) collect the tax due to this state on the
9 motor fuel;

10 (2) waive any defense that this state lacks
11 jurisdiction to require the supplier to collect the tax due to
12 this state on the motor fuel pursuant to the Motor Fuel Taxes
13 Act;

14 (3) report and pay the taxes due on the motor
15 fuel in the same manner as if the removal had occurred at a
16 terminal located in this state;

17 (4) keep records of the removal of the motor
18 fuel and submit to audits concerning the motor fuel as if the
19 removal had occurred at a terminal located in this state; and

20 (5) report sales by the permissive supplier to
21 a person who is not licensed in this state.

22 C. A permissive supplier shall acknowledge in the
23 supplier's license application that this state imposes the
24 requirements listed in Subsection B of this section under this
25 state's general police power and that the permissive supplier

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1 submits to the jurisdiction of this state only for purposes
2 related to the administration of the Motor Fuel Taxes Act.

3 SECTION 11. [NEW MATERIAL] LICENSE APPLICATION

4 PROCEDURE.--

5 A. To obtain a license required by the Motor Fuel
6 Taxes Act, an applicant shall file an application using a form
7 adopted by the department. The application shall contain:

8 (1) the name under which the applicant
9 transacts or intends to transact business;

10 (2) the applicant's principal office,
11 residence, place of business in this state or other location of
12 the applicant;

13 (3) if the applicant is not an individual, the
14 names of the principal officers of an applicant corporation, or
15 the names of the members of an applicant partnership, and the
16 office, street or post office addresses of each; and

17 (4) other information that may be required by
18 the department.

19 B. An applicant for a license as a supplier,
20 permissive supplier or terminal operator shall have a federal
21 certificate of registry issued pursuant to Section 4101 of the
22 Internal Revenue Code that authorizes the applicant to enter
23 into federal tax-exempt transactions of motor fuel in the bulk
24 terminal-transfer system. An applicant that is required to
25 have a federal certificate of registry shall include the

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1 registration number of the certificate on the application for a
2 license. An applicant for a license as an importer, exporter
3 or distributor who has a federal certificate of registry issued
4 pursuant to Section 4101 of the Internal Revenue Code shall
5 include the registration number of the certificate on the
6 application for a license.

7 C. An applicant for a license as an importer or
8 distributor shall list on the application each state from which
9 the applicant intends to import motor fuel and, if required by
10 a listed state, shall be licensed or registered for purposes of
11 taxing motor fuel in that state. If a listed state requires
12 the applicant to be licensed or registered, the applicant shall
13 provide the applicant's license or registration number from
14 that state.

15 D. An applicant for a license as an exporter shall
16 designate an agent located in this state for service of process
17 and provide the agent's name and address. An applicant for a
18 license as an exporter or distributor shall list on the
19 application each state to which the applicant intends to export
20 motor fuel received in this state by means of a transfer that
21 is outside the bulk terminal-transfer system and shall be
22 licensed or registered for purposes of taxing motor fuel in
23 that state. The applicant shall provide the applicant's
24 license or registration number from that state.

25 E. An applicant for a license as a motor fuel

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1 transporter shall list on the application each state from which
2 and to which the applicant intends to transport motor fuel and,
3 if required by a listed state, shall be licensed or registered
4 for purposes of taxing motor fuel in that state. If a listed
5 state requires the applicant to be licensed or registered, the
6 applicant shall provide the applicant's license or registration
7 number from that state.

8 SECTION 12. [NEW MATERIAL] ISSUANCE AND DISPLAY OF
9 LICENSE.--If the department approves a license application, the
10 department shall issue a license to the applicant. A license
11 shall be posted in a conspicuous place or kept available for
12 inspection at the principal place of business of the license
13 holder. A copy of the license shall be kept at each place of
14 business or other place of storage from which motor fuel is
15 sold, distributed or used and in each motor vehicle used by the
16 license holder to transport motor fuel purchased by the license
17 holder for resale, distribution or use.

18 SECTION 13. [NEW MATERIAL] LICENSES--PERIODS OF
19 VALIDITY.--

20 A. A license issued to a supplier, permissive
21 supplier, distributor, importer, terminal supplier, exporter,
22 blender, motor fuel transporter or dyed special fuel bonded
23 user is permanent and is valid during the period the license
24 holder has in force and effect the required bond or security
25 and furnishes timely reports and supplements as required, or

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1 until the license is surrendered by the holder or canceled by
2 the department. The department shall cancel a license if a
3 purchase, sale or use of motor fuel has not been reported by
4 the license holder during the previous nine months.

5 B. A license issued pursuant to this section is not
6 transferable.

7 SECTION 14. [NEW MATERIAL] BOND AND OTHER SECURITY FOR
8 TAXES.--

9 A. The department shall determine the amount of
10 security required of a supplier, permissive supplier,
11 distributor, exporter, importer, blender or dyed special fuel
12 bonded user, taking into consideration the amount of tax that
13 has or is expected to become due from the person, any past
14 history of the person as a license holder and its predecessor
15 and the necessity to protect this state against the failure to
16 pay the tax as the tax becomes due.

17 B. If it is determined that the posting of security
18 is necessary to protect this state, the department may require
19 a license holder to post a bond. A license holder shall post a
20 bond equal to two times the maximum amount of tax that could
21 accrue on tax-exempt motor fuel purchased or acquired during a
22 reporting period. The minimum bond is one thousand dollars
23 (\$1,000).

24 C. A license holder who has filed a bond or other
25 security pursuant to this section is entitled, on request, to

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1 have the department return, refund or release the bond or
2 security if in the judgment of the department the person has
3 for four consecutive years continuously complied with the
4 conditions of the bond or other security filed pursuant to this
5 section. However, if the department determines that the
6 revenues of this state would be jeopardized by the return,
7 refund or release of the bond or security, the department may
8 elect not to return, refund or release the bond or security and
9 may reimpose a requirement of a bond or other security as the
10 department determines necessary to protect the revenues of this
11 state.

12 D. A bond shall be a continuing instrument, shall
13 constitute a new and separate obligation in the penal sum named
14 in the bond for each calendar year or portion of a year while
15 the bond is in force and shall remain in effect until the
16 surety on the bond is released and discharged.

17 E. Instead of filing a surety bond, an applicant
18 for a license may substitute the following security:

19 (1) cash in the form of United States currency
20 in an amount equal to the required bond to be deposited in a
21 suspense account of the state treasury;

22 (2) an assignment to the department of a
23 certificate of deposit in any bank or savings and loan
24 association in this state that is a member of the federal
25 deposit insurance corporation in an amount at least equal to

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1 the bond amount required; or

2 (3) an irrevocable letter of credit to the
3 department from any bank or savings and loan association in
4 this state that is a member of the federal deposit insurance
5 corporation in an amount of credit at least equal to the bond
6 amount required.

7 F. If the amount of an existing bond becomes
8 insufficient or a security becomes unsatisfactory or
9 unacceptable, the department may require the filing of a new or
10 additional bond or security.

11 G. A surety bond or other form of security shall
12 not be released until it is determined by examination or audit
13 that a tax, penalty or interest liability does not exist. The
14 cash or securities shall be released within sixty days after
15 the department determines that liability does not exist.

16 H. The department may use the cash or certificate
17 of deposit security to satisfy a final determination of
18 delinquent liability or a judgment secured in any action by
19 this state to recover taxes, costs, penalties and interest
20 found to be due to this state by a person in whose behalf the
21 cash or certificate security was deposited.

22 I. A surety on a bond furnished by a license holder
23 shall be released and discharged from liability to this state
24 accruing on the bond on the thirty-first day after the date the
25 surety files with the department a written request to be

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1 released and discharged. The request does not relieve, release
2 or discharge the surety from a liability already accrued, or
3 that accrues before the expiration of the thirty-day period.
4 The department, promptly on receipt of the request, shall
5 notify the license holder who furnished the bond, and unless
6 the license holder, before the expiration date of the existing
7 security, files with the department a new bond with a surety
8 company duly authorized to do business under the laws of this
9 state, or other authorized security, in the amount required in
10 this section, the department shall cancel the license pursuant
11 to the Motor Fuel Taxes Act.

12 J. The department shall immediately notify the
13 issuer of a letter of credit of a final determination of the
14 license holder's delinquent liability or a judgment secured in
15 any action by this state to recover taxes, costs, penalties and
16 interest found to be due this state by a license holder in
17 whose behalf the letter of credit was issued. The letter of
18 credit allowed as security for the remittance of taxes pursuant
19 to the Motor Fuel Taxes Act shall contain a statement that the
20 issuer agrees to respond to the department's notice of
21 liability with amounts to satisfy the department's delinquency
22 claim against the license holder.

23 K. A license holder may request an examination or
24 audit to obtain release of the security when the license holder
25 relinquishes the license or when the license holder wants to

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1 substitute one form of security for an existing one.

2 SECTION 15. [NEW MATERIAL] REMITTANCE OF TAX TO SUPPLIER
3 OR PERMISSIVE SUPPLIER.--

4 A. Each licensed distributor and licensed importer
5 shall remit to the supplier or permissive supplier, as
6 applicable, the taxes imposed pursuant to Section 3 of the
7 Motor Fuel Taxes Act for motor fuel removed at a terminal rack.
8 A licensed distributor or licensed importer may elect to defer
9 payment of the tax to the supplier or permissive supplier until
10 two days before the date the supplier or permissive supplier is
11 required to remit the tax to this state. The distributor or
12 importer shall pay the taxes by electronic funds transfer.

13 B. A supplier, a permissive supplier or its
14 representative that conducts electronic transactions to draft
15 an account of a licensed distributor or licensed importer for
16 the payment of taxes due pursuant to the Motor Fuel Taxes Act
17 shall provide at least two days' notice using an electronic
18 means of the amount to be drafted from the account of the
19 licensed distributor or licensed importer and the number of the
20 account to be drafted from.

21 C. If the supplier or permissive supplier cannot
22 secure from the licensed distributor or licensed importer
23 payment of taxes due for motor fuel removed from the terminal
24 during the previous reporting period and the supplier elects to
25 take a credit against a subsequent payment of tax on motor fuel

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1 to this state for the taxes not remitted to the supplier or
2 permissive supplier by the licensed distributor or licensed
3 importer, the supplier or permissive supplier shall notify the
4 department of the licensed distributor's or licensed importer's
5 failure to remit tax in conjunction with the report requesting
6 a credit.

7 D. The supplier or permissive supplier, after
8 requesting a credit under this section, shall terminate the
9 ability of the licensed distributor or licensed importer to
10 defer the payment of the tax. The supplier or permissive
11 supplier shall not reinstate the right of the licensed
12 distributor or licensed importer to defer the payment of the
13 tax until the first anniversary of the date the supplier or
14 permissive supplier requested the credit, subject to Subsection
15 E of this section.

16 E. A supplier or permissive supplier may reinstate
17 the right of a licensed distributor or licensed importer to
18 defer the payment of the tax before the date prescribed by
19 Subsection D of this section if the department determines that:

20 (1) the supplier or permissive supplier
21 erroneously requested the credit that resulted in the
22 termination of the licensed distributor's or licensed
23 importer's right to defer payment; or

24 (2) the licensed distributor or licensed
25 importer failed to pay the amount of tax due because of

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1 circumstances that may have been outside the distributor's or
2 importer's control.

3 F. A licensed distributor or licensed importer that
4 makes timely payments of the taxes imposed pursuant to the
5 Motor Fuel Taxes Act is entitled to retain an amount equal to
6 one and seventy-five thousandths percent of the total taxes to
7 be paid to the supplier or permissive supplier to cover
8 administrative expenses.

9 G. The license of a distributor, exporter or
10 importer who fails to pay the full amount of tax due is subject
11 to cancellation as provided by Section 36 of the Motor Fuel
12 Taxes Act.

13 SECTION 16. [NEW MATERIAL] RETURNS AND PAYMENT.--

14 A. Except as provided by Subsection B of this
15 section, each person who is liable for the tax imposed by the
16 Motor Fuel Taxes Act, a terminal operator and a licensed
17 distributor shall file a return on or before the twenty-fifth
18 day of the month following the end of each calendar month.

19 B. A motor fuel transporter and dyed special fuel
20 bonded user shall file a return on or before the twenty-fifth
21 day of the month following the end of the calendar quarter.

22 C. The return required by this section shall be
23 accompanied by a payment for the amount of tax reported due.

24 SECTION 17. [NEW MATERIAL] RECORDS.--

25 A. A supplier and permissive supplier shall keep:

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1 (1) a record including the number of gallons
2 of:

3 (a) all motor fuel inventories on hand
4 at the first of each month;

5 (b) all motor fuel refined, compounded
6 or blended;

7 (c) all motor fuel purchased or
8 received, including the name of the seller and the date of each
9 purchase or receipt;

10 (d) all motor fuel sold, distributed or
11 used, including the name of the purchaser and the date of the
12 sale, distribution or use; and

13 (e) all motor fuel lost by fire, theft
14 or accident; and

15 (2) an itemized statement including by load
16 the number of gallons of all motor fuel:

17 (a) received during the preceding
18 calendar month for export and the location of the loading;

19 (b) exported from this state by
20 destination state or country; and

21 (c) imported during the preceding
22 calendar month, by state or country of origin.

23 B. A distributor shall keep:

24 (1) a record including the number of gallons
25 of:

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1 (a) all motor fuel inventories on hand
2 at the first of each month;

3 (b) all motor fuel blended;

4 (c) all motor fuel purchased or
5 received, including the name of the seller and the date of each
6 purchase or receipt;

7 (d) all motor fuel sold, distributed or
8 used, including the name of the purchaser and the date of the
9 sale, distribution or use; and

10 (e) all motor fuel lost by fire, theft
11 or accident;

12 (2) an itemized statement including by load
13 the number of gallons of all motor fuel:

14 (a) received during the preceding
15 calendar month for export and the location of the loading;

16 (b) exported from this state by
17 destination state or country; and

18 (c) imported during the preceding
19 calendar month, by state or country of origin; and

20 (3) for motor fuel exported outside this
21 state, proof of payment of tax to the destination state, in a
22 form acceptable to the department.

23 C. An importer shall keep:

24 (1) a record including the number of gallons
25 of:

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1 (a) all motor fuel inventories on hand
2 at the first of each month;

3 (b) all motor fuel compounded or
4 blended;

5 (c) all motor fuel purchased or
6 received, including the name of the seller and the date of each
7 purchase or receipt;

8 (d) all motor fuel sold, distributed or
9 used, including the name of the purchaser and the date of the
10 sale, distribution or use; and

11 (e) all motor fuel lost by fire, theft
12 or accident; and

13 (2) an itemized statement including by load
14 the number of gallons of all motor fuel:

15 (a) received during the preceding
16 calendar month for export and the location of the loading;

17 (b) exported from this state, by
18 destination state or country; and

19 (c) imported during the preceding
20 calendar month, by state or country of origin.

21 D. An exporter shall keep:

22 (1) a record including the number of gallons
23 of:

24 (a) all motor fuel inventories on hand
25 at the first of each month;

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1 (b) all motor fuel compounded or
2 blended;

3 (c) all motor fuel purchased or
4 received, including the name of the seller and the date of each
5 purchase or receipt;

6 (d) all motor fuel sold, distributed or
7 used, including the name of the purchaser and the date of the
8 sale or use; and

9 (e) all motor fuel lost by fire, theft
10 or accident;

11 (2) an itemized statement including by load
12 the number of gallons of all motor fuel:

13 (a) received during the preceding
14 calendar month for export and the location of the loading; and

15 (b) exported from this state, by
16 destination state or country;

17 (3) proof of payment of tax to the destination
18 state in a form acceptable to the department; and

19 (4) if an exemption pursuant to Subparagraph
20 (b) of Paragraph (5) of Subsection A of Section 7 of the Motor
21 Fuel Taxes Act is claimed, proof of payment of tax to the
22 destination state or proof that the transaction was exempt in
23 the destination state, in a form acceptable to the department.

24 E. A blender shall keep a record including the
25 number of gallons of:

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1 (1) all motor fuel inventories on hand at the
2 first of each month;

3 (2) all motor fuel compounded or blended;

4 (3) all motor fuel purchased or received,
5 including the name of the seller and the date of each purchase
6 or receipt;

7 (4) all motor fuel sold, distributed or used,
8 including the name of the purchaser and the date of the sale,
9 distribution or use; and

10 (5) all motor fuel lost by fire, theft or
11 accident.

12 F. A terminal operator shall keep:

13 (1) a record including the number of gallons
14 of:

15 (a) all motor fuel inventories on hand
16 at the first of each month, including the name and license
17 number of each owner and the amount of motor fuel held for each
18 owner;

19 (b) all motor fuel received, including
20 the name of the seller and the date of each purchase or
21 receipt;

22 (c) all motor fuel sold, distributed or
23 used, including the name of the purchaser and the date of the
24 sale, distribution or use; and

25 (d) all motor fuel lost by fire, theft

1 or accident; and

2 (2) an itemized statement including by load
3 the number of gallons of all motor fuel:

4 (a) received during the preceding
5 calendar month for export and the location of the loading;

6 (b) exported from this state, by
7 destination state or country; and

8 (c) imported during the preceding
9 calendar month, by state or country of origin.

10 G. A motor fuel transporter shall keep a complete
11 and separate record of each intrastate and interstate
12 transportation of motor fuel, including:

13 (1) the date of transportation;

14 (2) the name of the consignor and consignee;

15 (3) the method of transportation;

16 (4) the quantity and kind of motor fuel

17 transported;

18 (5) full data concerning the diversion of
19 shipments, including the number of gallons diverted from
20 interstate to intrastate and intrastate to interstate commerce;
21 and

22 (6) the points of origin and destination, the
23 number of gallons shipped or transported, the date, the
24 consignee and the consignor, and the kind of motor fuel that
25 has been diverted.

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H. A dealer shall keep a record including the number of gallons of:

- (1) motor fuel inventories on hand at the first of each month;
- (2) all motor fuel purchased or received, including the name of the seller and the date of each purchase or receipt;
- (3) all motor fuel sold or used, including the date of the sale or use; and
- (4) all motor fuel lost by fire, theft or accident.

I. A dyed special fuel bonded user shall keep a record including the number of gallons of:

- (1) dyed and undyed special fuel inventories on hand at the first of each month;
- (2) dyed and undyed special fuel purchased or received, including the name of the seller and the date of each purchase or receipt;
- (3) dyed and undyed special fuel delivered into the fuel supply tanks of motor vehicles;
- (4) dyed and undyed special fuel used in off-highway equipment or for other non-highway purposes; and
- (5) dyed and undyed special fuel lost by fire, theft or accident.

J. The department may require selective schedules

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1 from a supplier, permissive supplier, distributor, importer,
2 exporter, blender, terminal operator, motor fuel transporter,
3 dealer and dyed special fuel bonded user for any purchase, sale
4 or delivery of special fuel if the schedules are not
5 inconsistent with the requirements of this section.

6 K. The records required by this section shall be
7 kept until the fourth anniversary of the date they are created
8 and are open to inspection at all times by the department and
9 the attorney general.

10 L. In addition to the records specifically required
11 by this section, a license holder, dealer or person required to
12 hold a license shall keep any other record required by the
13 department.

14 SECTION 18. [NEW MATERIAL] INFORMATION REQUIRED ON
15 SUPPLIER'S AND PERMISSIVE SUPPLIER'S RETURN--CREDITS.--

16 A. The monthly return and supplements of each
17 supplier and permissive supplier shall contain for the period
18 covered by the return:

19 (1) the number of net gallons of motor fuel
20 received by the supplier or permissive supplier during the
21 month, sorted by product code, seller, point of origin,
22 destination state, carrier and receipt date;

23 (2) the number of net gallons of motor fuel
24 removed at a terminal rack during the month from the account of
25 the supplier, sorted by product code, person receiving the

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1 diesel fuel, terminal code and carrier;

2 (3) the number of net gallons of motor fuel
3 removed during the month for export, sorted by product code,
4 person receiving the diesel fuel, terminal code, destination
5 state and carrier;

6 (4) the number of net gallons of motor fuel
7 removed during the month from a terminal located in another
8 state for conveyance to this state, as indicated on the
9 shipping document for the diesel fuel, sorted by product code,
10 person receiving the diesel fuel, terminal code and carrier;

11 (5) the number of net gallons of motor fuel
12 the supplier or permissive supplier sold during the month in
13 transactions exempt pursuant to Section 7 of the Motor Fuel
14 Taxes Act, sorted by product code, carrier, purchaser and
15 terminal code;

16 (6) the number of net gallons of motor fuel
17 sold in the bulk transfer-terminal system in this state to any
18 person not holding a supplier's or permissive supplier's
19 license; and

20 (7) any other information as required by the
21 department.

22 B. A supplier or permissive supplier may take a
23 credit for any taxes that were not remitted in a previous
24 period to the supplier or permissive supplier by a licensed,
25 distributor or licensed importer as required by Section 15 of

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1 the Motor Fuel Taxes Act. The supplier or permissive supplier
2 is eligible to take this credit if the department is notified
3 of the default within fifteen days after the default occurs.
4 If a license holder pays to a supplier or permissive supplier
5 the tax owed, but the payment occurs after the supplier or
6 permissive supplier has taken a credit on its return, the
7 supplier or permissive supplier shall remit the payment to the
8 department with the next monthly return after receipt of the
9 tax, plus a penalty of ten percent of the amount of unpaid
10 taxes and interest at the rate provided by Section 7-1-69 NMSA
11 1978 beginning on the date the credit is taken.

12 SECTION 19. [NEW MATERIAL] DUTIES OF SELLER OF MOTOR
13 FUEL.--

14 A. A seller who receives or collects tax holds the
15 amount received or collected in trust for the benefit of this
16 state and has a fiduciary duty to remit to the department the
17 amount of tax received or collected.

18 B. A seller shall furnish the purchaser with an
19 invoice, bill of lading or other documentation as evidence of
20 the number of gallons received by the purchaser.

21 C. A seller who receives a payment of tax shall not
22 apply the payment of tax to a debt that the person making the
23 payment owes for motor fuel purchased from the seller.

24 D. A person required to receive or collect a tax
25 pursuant to the Motor Fuel Taxes Act is liable for and shall

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1 pay the tax in the manner provided by that act.

2 SECTION 20. [NEW MATERIAL] INFORMATION REQUIRED ON
3 DISTRIBUTOR'S RETURN.--The monthly return and supplements of
4 each distributor shall contain for the period covered by the
5 return:

6 A. the number of net gallons of motor fuel received
7 by the distributor during the month, sorted by product code,
8 seller, point of origin, destination state, carrier and receipt
9 date;

10 B. the number of net gallons of motor fuel removed
11 at a terminal rack by the distributor during the month, sorted
12 by product code, seller, terminal code and carrier;

13 C. the number of net gallons of motor fuel removed
14 by the distributor during the month for export, sorted by
15 product code, terminal code, bulk plant address, destination
16 state and carrier;

17 D. the number of net gallons of motor fuel removed
18 by the distributor during the month from a terminal located in
19 another state for conveyance to this state, as indicated on the
20 shipping document for the motor fuel, sorted by product code,
21 seller, terminal code, bulk plant address and carrier;

22 E. the number of net gallons of motor fuel the
23 distributor sold during the month in transactions exempt
24 pursuant to Section 7 of the Motor Fuel Taxes Act, dyed special
25 fuel sold to a purchaser under a signed statement or dyed

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1 special fuel sold to a dyed special fuel bonded user, sorted by
2 product code and by the entity receiving the fuel; and

3 F. any other information as required by the
4 department.

5 SECTION 21. [NEW MATERIAL] INFORMATION REQUIRED ON
6 IMPORTER'S RETURNS.--The monthly return and supplements of an
7 importer shall contain for the period covered by the return:

8 A. the number of net gallons of imported motor fuel
9 acquired from a supplier or permissive supplier who collected
10 the tax due this state on the motor fuel;

11 B. the number of net gallons of imported motor fuel
12 acquired from a person who did not collect the tax due to this
13 state on the motor fuel, listed by product code, source state,
14 person and terminal;

15 C. the number of net gallons of imported motor fuel
16 acquired from a bulk plant outside this state, listed by bulk
17 plant name, address and product code; and

18 D. any other information as required by the
19 department.

20 SECTION 22. [NEW MATERIAL] INFORMATION REQUIRED ON
21 TERMINAL OPERATOR'S RETURN.--

22 A. A terminal operator shall file with the
23 department a monthly information return and supplement showing
24 the amount of motor fuel received and removed from the terminal
25 during the month. The return also shall contain the following

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1 summary information:

2 (1) the beginning and ending inventory that
3 relates to the applicable reporting month;

4 (2) the number of net gallons of motor fuel
5 received in inventory at the terminal during the month;

6 (3) the number of net gallons of motor fuel
7 removed from inventory at the terminal during the month; and

8 (4) any other summary information as required
9 by the department.

10 B. The department may accept a terminal operator
11 report provided to and accepted by the internal revenue service
12 instead of the required state terminal operator report.

13 SECTION 23. [NEW MATERIAL] INFORMATION REQUIRED ON MOTOR
14 FUEL TRANSPORTER'S RETURN.--The quarterly return and
15 supplements of a motor fuel transporter shall contain for the
16 period covered by the return:

17 A. the name, license number and terminal control
18 number of each person or terminal from whom the transporter
19 received motor fuel outside this state for delivery in this
20 state, the gross gallons of motor fuel received, the date the
21 motor fuel was received, the product code and the name and
22 license number of the purchaser of the motor fuel;

23 B. the name, license number and terminal control
24 number of each person or terminal from whom the transporter
25 received motor fuel in this state for delivery outside this

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1 state, the gross gallons of motor fuel delivered, the date the
2 motor fuel was delivered, the product code and the destination
3 state of the motor fuel; and

4 C. any other information as required by the
5 department.

6 SECTION 24. [NEW MATERIAL] INFORMATION REQUIRED ON
7 EXPORTER'S RETURN AND PAYMENT OF TAX ON IMPORTS.--The monthly
8 return and supplements of an exporter shall contain for the
9 period covered by the return:

10 A. the number of net gallons of motor fuel acquired
11 from a supplier and exported during the month, including
12 supplier name, terminal control number and product code;

13 B. the number of net gallons of motor fuel acquired
14 from a bulk plant and exported during the month, including bulk
15 plant name and product code;

16 C. the number of net gallons of motor fuel acquired
17 from a source other than a supplier or bulk plant and exported
18 during the month, including the name of the source from which
19 the motor fuel was acquired and the name and address of the
20 person receiving the motor fuel;

21 D. the destination state of the motor fuel exported
22 during the month; and

23 E. any other information as required by the
24 department.

25 SECTION 25. [NEW MATERIAL] INFORMATION REQUIRED ON

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1 BLENDER'S RETURN.--The monthly return and supplements of each
2 blender shall contain for the period covered by the return:

3 A. the number of net gallons of motor fuel received
4 by the blender during the month, sorted by product code,
5 seller, point of origin, carrier and receipt date;

6 B. the number of net gallons of product blended
7 with motor fuel during the month, sorted by product code, type
8 of blending agent if no product code exists, seller and
9 carrier;

10 C. the number of net gallons of blended motor fuel
11 sold during the month and the license number or name and
12 address of the entity receiving the blended motor fuel; and

13 D. any other information as required by the
14 department.

15 SECTION 26. [NEW MATERIAL] INFORMATION REQUIRED ON DYED
16 SPECIAL FUEL BONDED USER'S RETURN.--The quarterly return and
17 supplements of each dyed special fuel bonded user shall contain
18 for the period covered by the return:

19 A. the number of net gallons of tax-exempt dyed
20 special fuel received by the dyed special fuel bonded user
21 during the quarter, sorted by product code and receipt date;

22 B. the number of net gallons of dyed special fuel
23 used by the dyed special fuel bonded user during the quarter,
24 sorted by product code; and

25 C. any other information as required by the

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1 department.

2 SECTION 27. [NEW MATERIAL] REFUND OR CREDIT FOR CERTAIN
3 TAXES PAID.--

4 A. A license holder may take a credit on a return
5 for the period in which the sale occurred if the license holder
6 paid tax on the purchase of motor fuel and subsequently resells
7 the motor fuel without collecting the tax to:

8 (1) the United States or any agency or
9 instrumentality thereof for the exclusive use of the United
10 States or any agency or instrumentality thereof;

11 (2) the state of New Mexico or any political
12 subdivision, agency or instrumentality thereof for the
13 exclusive use of the state of New Mexico or any political
14 subdivision, agency or instrumentality thereof;

15 (3) an Indian nation, tribe or pueblo or any
16 agency or instrumentality thereof for the exclusive use of the
17 Indian nation, tribe or pueblo or any agency or instrumentality
18 thereof; or

19 (4) an exporter licensed pursuant to the Motor
20 Fuel Taxes Act if the seller is a licensed supplier or
21 distributor and the exporter subsequently exports the motor
22 fuel to another state.

23 B. For truck or railcar movements between licensed
24 suppliers or licensed permissive suppliers in which the motor
25 fuel removed from the first terminal comes to rest in the

1 second terminal and tax was paid on the first removal, the
2 license holder that receives the motor fuel in the second
3 terminal may take the credit.

4 C. A license holder may take a credit on a return
5 for the period in which the purchase occurred, and a person
6 that does not hold a license pursuant to the Motor Fuel Taxes
7 Act may file a refund claim with the department if the license
8 holder or person paid tax on motor fuel and the license holder
9 or person:

10 (1) is the United States government and the
11 motor fuel is for its exclusive use; provided that a credit or
12 refund is not allowed for motor fuel used by a license holder
13 or person operating under a contract with the United States;

14 (2) an Indian nation, tribe or pueblo for the
15 exclusive use of the Indian nation, tribe or pueblo; provided
16 that the resale occurred within the sovereign territory of the
17 Indian nation, tribe or pueblo; or

18 (3) a member of an Indian nation, tribe or
19 pueblo for the exclusive use by that member; provided that the
20 resale occurred within the sovereign territory of the Indian
21 nation, tribe or pueblo.

22 D. A person that paid tax on the purchase of motor
23 fuel may claim a credit or seek a refund with the department if
24 one hundred or more gallons of motor fuel is subsequently
25 exported or lost by fire, theft or accident. A credit or

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1 refund claimed pursuant to this subsection shall be taken or
2 filed within the limitations period provided by Section 30 of
3 the Motor Fuel Taxes Act.

4 E. The right to receive a refund or take a credit
5 pursuant to this section is not assignable.

6 F. The department may adopt rules specifying
7 procedures and requirements that shall be followed to claim a
8 credit or refund under this section.

9 G. A license holder may take a credit on a return
10 for the tax included in the retail purchase price of motor fuel
11 for the period in which the purchase occurred when made by one
12 of the following purchasers; provided that the purchase was
13 made by acceptance of a credit card not issued by the license
14 holder, the credit card issuer did not collect the tax from the
15 purchaser and the license holder reimbursed the credit card
16 issuer for the amount of tax included in the retail purchase
17 price:

18 (1) the United States government for its
19 exclusive use;

20 (2) an Indian nation, tribe or pueblo for the
21 exclusive use of the Indian nation, tribe or pueblo; provided
22 that the resale occurred within the sovereign territory of the
23 Indian nation, tribe or pueblo; or

24 (3) a member of an Indian nation, tribe or
25 pueblo for the exclusive use by that member; provided that the

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1 resale occurred within the sovereign territory of the Indian
2 nation, tribe or pueblo.

3 SECTION 28. [NEW MATERIAL] REFUND FOR BAD DEBTS--CREDIT
4 FOR NONPAYMENT.--

5 A. A licensed distributor may file a refund claim
6 with the department if:

7 (1) the distributor has paid the taxes imposed
8 by the Motor Fuel Taxes Act on motor fuel sold on account;

9 (2) the distributor determines that the
10 account is uncollectible and worthless; and

11 (3) the account is written off as a bad debt
12 on the accounting books of the distributor.

13 B. A licensed supplier or permissive supplier may
14 take a credit on the monthly report to be filed with the
15 department if:

16 (1) on a previous report, the supplier or
17 permissive supplier paid the taxes imposed by the Motor Fuel
18 Taxes Act on motor fuel sold on account;

19 (2) the person to whom the supplier or
20 permissive supplier sold the motor fuel has not remitted the
21 tax to the supplier or permissive supplier; and

22 (3) at the time of the transaction, the person
23 to whom the supplier or permissive supplier sold the motor fuel
24 held a license issued by the department.

25 C. The return on which the refund is claimed or the

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1 credit is taken shall state, if applicable, the license number
2 of the person whose account has been written off as a bad debt,
3 or who failed to remit the tax, and any other information
4 required by the department. The amount of the refund or credit
5 that may be claimed under Subsection A or B of this section may
6 equal but shall not exceed the amount of tax paid on the motor
7 fuel to which the written-off account or unpaid taxes apply.

8 D. If, after a refund is received under Subsection
9 A of this section or a credit is taken under Subsection B of
10 this section, the account on which the refund or credit was
11 based is paid, or if the department otherwise determines that
12 the refund or credit was not authorized by Subsection A or B of
13 this section, the unpaid taxes shall be paid by the distributor
14 receiving the refund or the supplier or permissive supplier
15 taking the credit, plus a penalty of ten percent of the amount
16 of the unpaid tax and interest at the rate provided by Section
17 7-1-69 NMSA 1978 beginning on the day the refund was issued.

18 E. This section does not apply to a sale of motor
19 fuel that is delivered into the fuel supply tank of a motor
20 vehicle or motorboat and for which payment is made through the
21 use and acceptance of a credit card.

22 F. A refund pursuant to this section shall be
23 claimed at the time the account is written off as a bad debt,
24 but may only be claimed before the expiration of the applicable
25 limitation period as provided by Section 7-1-26 NMSA 1978.

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1 G. The department may take action against a person
2 in relation to whom a distributor, supplier or permissive
3 supplier has made a refund claim or taken a credit for
4 collection of the tax owed and for penalty and interest as
5 provided by Section 7-1-26 NMSA 1978.

6 SECTION 29. [NEW MATERIAL] CLAIMS FOR REFUND.--

7 A. A refund claim shall be filed on a form provided
8 by the department, be supported by the original invoice issued
9 by the seller and contain:

10 (1) the stamped or preprinted name and address
11 of the seller;

12 (2) the name of the purchaser;

13 (3) the date of delivery of the motor fuel;

14 (4) the date of the issuance of the invoice,
15 if different from the date of motor fuel delivery;

16 (5) the number of gallons of motor fuel
17 delivered;

18 (6) the amount of tax, either separately
19 stated from the selling price or stated with a notation that
20 the selling price includes the tax; and

21 (7) the type of vehicle or equipment into
22 which the motor fuel is delivered.

23 B. The purchaser shall obtain the original invoice
24 from the seller of motor fuel not later than the thirtieth day
25 after the date the motor fuel is delivered to the purchaser.

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1 If the delivery of motor fuel is made through an automated
2 method in which the purchase is automatically applied to the
3 purchaser's account, one invoice may be issued at the time of
4 billing that covers multiple purchases made during a thirty-day
5 billing cycle.

6 C. A distribution log filed with the department to
7 support the number of gallons of motor fuel removed from a bulk
8 user's own bulk storage shall contain the name and address of
9 the bulk user making the delivery stamped or preprinted on the
10 log and, for each individual delivery from the bulk storage:

11 (1) the date of delivery;

12 (2) the number of gallons of motor fuel
13 delivered;

14 (3) the signature of the bulk user; and

15 (4) the type or description of off-highway
16 equipment into which the motor fuel was delivered, or the type
17 of licensed motor vehicle into which the motor fuel was
18 delivered, including the state highway license plate number or
19 vehicle identification number and odometer or hubmeter reading.

20 D. A distributor or person who does not hold a
21 license who files a valid refund claim with the department
22 shall be paid by a warrant issued by the department. For
23 purposes of this section, a distributor meets the requirement
24 of filing a valid refund claim if the distributor designates
25 the gallons of motor fuel sold or used that are the subject of

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1 the refund claim on the monthly report submitted by the
2 distributor to the department.

3 E. A person who files a claim for a tax refund on
4 motor fuel used for a purpose for which a tax refund is not
5 authorized or who files an invoice supporting a refund claim on
6 which the date, figures or any material information has been
7 falsified or altered, forfeits the person's right to the entire
8 amount of the refund claim filed unless the claimant provides
9 proof satisfactory to the department that the incorrect refund
10 claim filed was due to a clerical or mathematical calculation
11 error.

12 F. After examination of the refund claim, the
13 department, before issuing a refund warrant, shall deduct from
14 the amount of the refund the two percent deducted originally by
15 the license holder on the first sale or distribution of the
16 motor fuel.

17 SECTION 30. [NEW MATERIAL] WHEN A GASOLINE OR SPECIAL
18 FUEL EXCISE TAX REFUND OR CREDIT MAY BE FILED.--

19 A. Except as otherwise provided by this section, a
20 claim for a refund shall be filed with the department before
21 the first anniversary of the first day of the calendar month
22 following the purchase, use, delivery or export, or loss by
23 fire, theft or accident of motor fuel, whichever period expires
24 latest.

25 B. If the department assesses a supplier or

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1 permissive supplier for a tax-exempt sale that is taxable, and
2 the supplier or permissive supplier subsequently collects the
3 tax from the purchaser, the purchaser may file a refund claim
4 before the first anniversary of the date the supplier's or
5 permissive supplier's deficiency assessment becomes final if
6 the purchaser used the motor fuel in an exempt manner.

7 C. A supplier, permissive supplier, distributor,
8 importer, exporter or blender that determines taxes were
9 erroneously reported and remitted or that paid more taxes than
10 were due to this state because of a mistake of fact or law may
11 take a credit on the monthly tax report on which the error has
12 occurred and tax payment made to the department. The credit
13 shall be taken before the expiration of the applicable period
14 of limitation as provided by Section 7-1-26 NMSA 1978.

15 SECTION 31. [NEW MATERIAL] NOTICE REGARDING DYED SPECIAL
16 FUEL.--A notice stating "DYED SPECIAL FUEL, NONTAXABLE USE
17 ONLY, PENALTY FOR TAXABLE USE" shall be:

18 A. provided by a licensed supplier, permissive
19 supplier or distributor to a person who receives dyed special
20 fuel;

21 B. provided by a seller of dyed special fuel to the
22 person's buyers; and

23 C. posted by a seller on a retail pump or bulk
24 plant at which the person sells dyed special fuel for use by
25 the person's buyers.

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1 SECTION 32. ~~[NEW MATERIAL]~~ DYED SPECIAL FUEL NOTICE
2 REQUIRED ON SHIPPING DOCUMENTS, BILLS OF LADING AND INVOICES.--
3 The form of notice required by Subsections A and B of Section
4 31 of the Motor Fuel Taxes Act shall be provided when the dyed
5 special fuel is removed or sold and shall appear on each
6 shipping document, bill of lading, cargo manifest and invoice
7 accompanying the sale or removal of the dyed special fuel.

8 SECTION 33. ~~[NEW MATERIAL]~~ UNAUTHORIZED SALE OR USE OF
9 DYED SPECIAL FUEL.--

10 A. A person shall not sell or hold for sale dyed
11 special fuel for any use that the person knows or has reason to
12 know is a taxable use of the special fuel.

13 B. A person shall not use or hold for use dyed
14 special fuel for a use other than a nontaxable use if the
15 person knows or has reason to know that the special fuel is
16 dyed special fuel.

17 SECTION 34. ~~[NEW MATERIAL]~~ ALTERATION OF DYE OR MARKER IN
18 DYED SPECIAL FUEL PROHIBITED.--A person, with the intent to
19 evade payment of tax, shall not alter or attempt to alter the
20 strength or composition of a dye or marker in dyed special
21 fuel.

22 SECTION 35. ~~[NEW MATERIAL]~~ USE OF DYED SPECIAL FUEL
23 PROHIBITED.--

24 A. A person shall not operate a motor vehicle on a
25 public highway in this state with taxable motor fuel that

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1 contains dye in the fuel supply tank of the motor vehicle.

2 B. This section does not apply to a use of dyed
3 special fuel that is lawful under the Internal Revenue Code and
4 implementing regulations, including use in state and local
5 government vehicles or buses, unless otherwise prohibited by
6 the Motor Fuel Taxes Act.

7 SECTION 36. [NEW MATERIAL] CANCELLATION OR REFUSAL OF
8 LICENSE.--

9 A. The department may cancel or refuse to issue or
10 reissue a motor fuel license to any person who has violated or
11 has failed to comply with a provision of the Motor Fuel Taxes
12 Act or a rule of the department. Before the cancellation or
13 refusal to issue or reissue a motor fuel license, the license
14 holder shall be given ten days' notice, except as provided in
15 Subsection B of this section.

16 B. The department may suspend a person's license
17 without notice or a hearing for the person's failure to comply
18 with the Motor Fuel Taxes Act if the person's continued
19 operation constitutes an immediate and substantial threat to
20 the collection of taxes imposed by the Motor Fuel Taxes Act and
21 attributable to the person's operation.

22 C. Unless a more specific provision for review
23 exists, any person may dispute the cancellation or refusal to
24 issue or reissue a motor fuel license by filing with the
25 department a written protest against the action or inaction by

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1 the department. Every protest shall identify the person and
2 the action or inaction that is in dispute, the grounds for the
3 protest and the affirmative relief requested. The statement of
4 grounds for protest shall specify individual grounds upon which
5 the protest is based and a summary statement of the evidence
6 expected to be produced supporting each ground asserted, if
7 any; provided that the person may supplement the statement at
8 any time prior to a hearing conducted on the protest pursuant
9 to the provisions of the Administrative Hearings Office Act.
10 The department may, in appropriate cases, provide for an
11 informal conference before the administrative hearings office
12 sets a hearing of the protest.

13 D. Any protest by a person shall be filed within
14 thirty days of the date of the mailing or verbal notification
15 of the action proposed to be taken by the department. If a
16 protest is not filed within the time required for filing a
17 protest, the department may proceed with the action proposed by
18 the department.

19 SECTION 37. [NEW MATERIAL] ENFORCEMENT OF LICENSE
20 CANCELLATION, SUSPENSION OR REFUSAL.--

21 A. The department may examine any books and records
22 incident to the conduct of the business of a person whose
23 license has been canceled or suspended on the person's failure
24 to file the reports required by the Motor Fuel Taxes Act or to
25 remit all taxes due. If necessary, the department shall issue

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1 an audit deficiency determination for any tax amount due. If
2 the amount is not paid on or before the fifteenth day after the
3 deficiency determination becomes final, the bond or other
4 security required pursuant to the Motor Fuel Taxes Act shall be
5 forfeited. The demand for payment shall be addressed to both
6 the surety or sureties and the person who owes the delinquency.

7 B. If the forfeiture of the bond or other security
8 does not satisfy the delinquency, the department shall certify
9 the taxes, penalty and interest delinquent to the attorney
10 general, who may file suit against the person or the person's
11 surety, or both, to collect the amount due. After being given
12 notice of an order of cancellation or summary suspension, it is
13 unlawful for any person to continue to operate the person's
14 business under a canceled or suspended license. The attorney
15 general may file suit to enjoin the person from operating under
16 the canceled or suspended license until the department reissues
17 a license.

18 C. An appeal from an order of the department
19 canceling or suspending or refusing the issuance or reissuance
20 of a license may be taken to a district court of Santa Fe
21 county by the aggrieved license holder or applicant. The trial
22 shall be de novo under the same rules as ordinary civil suits,
23 except that:

24 (1) an appeal shall be perfected and filed
25 within thirty days after the effective date of the order,

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1 decision or ruling of the department;

2 (2) the trial of the case shall begin within
3 ten days after its filing; and

4 (3) the order, decision or ruling of the
5 department may be suspended or modified by the court pending a
6 trial on the merits.

7 SECTION 38. [NEW MATERIAL] INSPECTION OF PREMISES AND
8 RECORDS.--For the purpose of determining the amount of tax
9 collected and payable to this state, the amount of tax accruing
10 and due, and whether a tax liability has been incurred pursuant
11 to the Motor Fuel Taxes Act, the department may:

12 A. inspect any premises where motor fuel, crude
13 petroleum, natural gas, derivatives or condensates of crude
14 petroleum, natural gas or their products, methyl alcohol, ethyl
15 alcohol or other blending agents are produced, made, prepared,
16 stored, transported, sold or offered for sale or exchange;

17 B. examine the books and records required to be
18 kept and records incident to the business of any license holder
19 or person required to be licensed, or any person receiving,
20 possessing, delivering or selling motor fuel, crude oil,
21 derivatives or condensates of crude petroleum, natural gas or
22 their products, or any blending agents;

23 C. examine and either gauge or measure the contents
24 of all storage tanks, containers and other property or
25 equipment; and

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1 D. take samples of any and all of these products
2 stored on the premises.

3 SECTION 39. [NEW MATERIAL] AUTHORITY TO STOP AND
4 EXAMINE.--To enforce the Motor Fuel Taxes Act, the department
5 or a peace officer may stop a motor vehicle that appears to be
6 operating with or transporting motor fuel to examine the
7 shipping document, cargo manifest or invoices required to be
8 carried, examine a license or copy of a license that may be
9 required to be carried, take samples from the fuel supply or
10 cargo tanks and make any other investigation that could
11 reasonably be made to determine whether the taxes have been
12 paid or accounted for by a license holder or a person required
13 to be licensed. The department, a peace officer, an employee
14 of the attorney general's office or an employee of the New
15 Mexico department of agriculture may take samples of motor fuel
16 from a storage tank or container to:

17 A. determine if the fuel contains hazardous waste
18 or is adulterated; or

19 B. allow the department to determine whether taxes
20 on the fuel have been paid or accounted for to this state.

21 SECTION 40. [NEW MATERIAL] IMPOUNDMENT AND SEIZURE.--

22 A. If after examination or other investigation, the
23 department believes that the owner or operator of a motor
24 vehicle or cargo tank, or a person receiving, possessing,
25 delivering or selling gasoline or diesel fuel, has not paid all

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1 taxes due, or does not have a valid license entitling that
2 person to possess or transport tax-exempt motor fuel, the
3 department or peace officer may impound the fuel, motor
4 vehicle, cargo tank, storage tank, equipment, paraphernalia or
5 other tangible personal property used for or incident to the
6 storage, sale or transportation of that motor fuel. Unless
7 proof is produced within three working days after the beginning
8 of impoundment that the owner, operator or other person has
9 paid the taxes established by the department to be due on the
10 gasoline or diesel fuel stored, sold, used or transported and
11 any other taxes due to this state, or that the owner, operator
12 or other person holds a valid license to possess or transport
13 tax-exempt motor fuel, the department may demand payment of all
14 taxes, penalties and interest due to this state, and all costs
15 of impoundment.

16 B. If the owner or operator does not produce the
17 required documentation or required license or pay the taxes,
18 penalties, interest and costs due within three working days
19 after the beginning of the impoundment, the department may
20 seize the impounded property to satisfy the tax liability.

21 C. The department may seize:

22 (1) all motor fuel on which taxes are imposed
23 by the Motor Fuel Taxes Act that is found in the possession,
24 custody or control of any person for the purpose of being sold,
25 transported, removed or used by the person in violation of that

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1 act;

2 (2) all motor fuel that is removed or is
3 deposited, stored or concealed in any place with intent to
4 avoid payment of taxes;

5 (3) any automobile, truck, tank truck, boat,
6 trailer conveyance or other vehicle used in the removal or
7 transportation of the motor fuel to avoid payment of taxes; and

8 (4) all equipment, paraphernalia, storage
9 tanks or tangible personal property incident to and used for
10 avoiding the payment of taxes and found in the place, building
11 or vehicle where the motor fuel is found.

12 SECTION 41. [NEW MATERIAL] SALE OF SEIZED PROPERTY.--

13 A. The department may sell property seized pursuant
14 to Section 40 of the Motor Fuel Taxes Act.

15 B. Notice of the time and place of a sale shall be
16 given to the delinquent person in writing by certified mail at
17 least twenty days before the date set for the sale. The notice
18 shall be enclosed in an envelope addressed to the person at the
19 person's last known address or place of business. It shall be
20 deposited in the United States mail, postage prepaid. The
21 notice shall also be published once a week for two consecutive
22 weeks before the date of the sale in a newspaper of general
23 circulation published in the county in which the property
24 seized is to be sold. If there is no newspaper of general
25 circulation in the county, notice shall be posted in three

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1 public places in the county fourteen days before the date set
2 for the sale. The notice shall contain a description of the
3 property to be sold, a statement of the amount due, including
4 interest, penalties and costs, the name of the delinquent and
5 the further statement that unless the amount due, interest,
6 penalties and costs are paid on or before the time fixed in the
7 notice for the sale, the property, or as much of it as may be
8 necessary, will be sold at public auction in accordance with
9 the law and the notice.

10 C. At the sale, the department shall sell the
11 property and shall deliver to the purchaser a bill of sale for
12 personal property and a deed for real property sold. The bill
13 of sale or deed vests the interest or title of the person
14 liable for the amount in the purchaser. The unsold portion of
15 any property seized may be left at the place of sale at the
16 risk of the person liable for the amount.

17 D. The proceeds of a sale shall be allocated
18 according to the following priorities:

19 (1) the payment of expenses of seizure,
20 appraisal, custody, advertising, auction and any other expenses
21 incident to the seizure and sale;

22 (2) the payment of the tax, penalty and
23 interest; and

24 (3) the repayment of the remaining balance to
25 the person liable for the amount unless a claim is presented

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1 before the sale by any other person who has an ownership
2 interest evidenced by a financing statement or lien, in which
3 case the department shall withhold the remaining balance
4 pending a determination of the rights of the respective
5 parties.

6 SECTION 42. [NEW MATERIAL] PRESUMPTIONS.--A person
7 licensed pursuant to the Motor Fuel Taxes Act or required to be
8 licensed under that act or other user, who fails to keep a
9 record, issue an invoice or file a return or report required by
10 that act, is presumed to have sold or used for taxable purposes
11 all motor fuel shown by an audit by the department to have been
12 sold to the license holder or other user. Motor fuel
13 unaccounted for is presumed to have been sold or used for
14 taxable purposes. If an exporter claims an exemption pursuant
15 to Subparagraph (b) of Paragraph (5) of Subsection A of Section
16 7 of the Motor Fuel Taxes Act and fails to produce proof of
17 payment of tax to the destination state or proof that the
18 transaction was exempt in the destination state, the exporter
19 is presumed to have not paid the destination state's tax or
20 this state's tax on the exported motor fuel, and the department
21 shall assess the tax imposed on the exported motor fuel against
22 the exporter. The department may fix or establish the amount
23 of taxes, penalties and interest due this state from the
24 records of deliveries or from any records or information
25 available. If a tax claim, as developed from this procedure,

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1 is not paid, after the opportunity to request a
2 redetermination, the claim and any audit made by the department
3 or any report filed by the license holder or other user is
4 evidence in any suit or judicial proceedings filed by the
5 attorney general and is prima facie evidence of the correctness
6 of the claim or audit. A prima facie presumption of the
7 correctness of the claim may be overcome at the trial by
8 evidence adduced by the license holder or other user.

9 SECTION 43. [NEW MATERIAL] LICENSE HOLDER STATUS LIST.--

10 A. The department, on or before December 20 of each
11 year, shall make available to all license holders an
12 alphabetical list of licensed suppliers, permissive suppliers,
13 distributors, importers, exporters, blenders and terminal
14 operators. A supplemental list of additions and deletions
15 shall be made available to the license holders each month. A
16 current and effective license or the list furnished by the
17 department is evidence of the validity of the license until the
18 department notifies license holders of a change in the status
19 of a license holder.

20 B. A licensed supplier, permissive supplier or
21 distributor who sells tax-exempt motor fuel to a person whose
22 supplier's or permissive supplier's license has been canceled
23 or revoked pursuant to the Motor Fuel Taxes Act is liable for
24 any tax due on motor fuel sold after receiving notice of the
25 cancellation or revocation.

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1 C. The department shall notify all license holders
2 pursuant to the Motor Fuel Taxes Act when a canceled or revoked
3 license is subsequently reinstated and include in the notice
4 the effective date of the reinstatement. Sales to the supplier
5 or permissive supplier after the effective date of the
6 reinstatement may be made tax exempt.

7 **SECTION 44.** Section 7-1-2 NMSA 1978 (being Laws 1965,
8 Chapter 248, Section 2, as amended) is amended to read:

9 "7-1-2. APPLICABILITY.--The Tax Administration Act
10 applies to and governs:

11 A. the administration and enforcement of the
12 following taxes or tax acts as they now exist or may hereafter
13 be amended:

- 14 (1) Income Tax Act;
- 15 (2) Withholding Tax Act;
- 16 (3) Venture Capital Investment Act;
- 17 (4) Gross Receipts and Compensating Tax Act
- 18 and any state gross receipts tax;
- 19 (5) Liquor Excise Tax Act;
- 20 (6) Local Liquor Excise Tax Act;
- 21 (7) any municipal local option gross receipts
- 22 tax;
- 23 (8) any county local option gross receipts
- 24 tax;
- 25 ~~[(9) Special Fuels Supplier Tax Act;~~

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1 ~~(10) Gasoline Tax Act;~~ (9) Motor Fuel Taxes
2 Act;

3 ~~(11)~~ (10) petroleum products loading fee,
4 which fee shall be considered a tax for the purpose of the Tax
5 Administration Act;

6 ~~(12)~~ (11) Alternative Fuel Tax Act;

7 ~~(13)~~ (12) Cigarette Tax Act;

8 ~~(14)~~ (13) Estate Tax Act;

9 ~~(15)~~ (14) Railroad Car Company Tax Act;

10 ~~(16)~~ (15) Investment Credit Act, rural job
11 tax credit, Laboratory Partnership with Small Business Tax
12 Credit Act, Technology Jobs and Research and Development Tax
13 Credit Act, Film Production Tax Credit Act, Affordable Housing
14 Tax Credit Act and high-wage jobs tax credit;

15 ~~(17)~~ (16) Corporate Income and Franchise Tax
16 Act;

17 ~~(18)~~ (17) Uniform Division of Income for Tax
18 Purposes Act;

19 ~~(19)~~ (18) Multistate Tax Compact;

20 ~~(20)~~ (19) Tobacco Products Tax Act; and

21 ~~(21)~~ (20) the telecommunications relay
22 service surcharge imposed by Section 63-9F-11 NMSA 1978, which
23 surcharge shall be considered a tax for the purposes of the Tax
24 Administration Act;

25 B. the administration and enforcement of the

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1 following taxes, surtaxes, advanced payments or tax acts as
2 they now exist or may hereafter be amended:

- 3 (1) Resources Excise Tax Act;
- 4 (2) Severance Tax Act;
- 5 (3) any severance surtax;
- 6 (4) Oil and Gas Severance Tax Act;
- 7 (5) Oil and Gas Conservation Tax Act;
- 8 (6) Oil and Gas Emergency School Tax Act;
- 9 (7) Oil and Gas Ad Valorem Production Tax Act;
- 10 (8) Natural Gas Processors Tax Act;
- 11 (9) Oil and Gas Production Equipment Ad
12 Valorem Tax Act;
- 13 (10) Copper Production Ad Valorem Tax Act;
- 14 (11) any advance payment required to be made
15 by any act specified in this subsection, which advance payment
16 shall be considered a tax for the purposes of the Tax
17 Administration Act;
- 18 (12) Enhanced Oil Recovery Act;
- 19 (13) Natural Gas and Crude Oil Production
20 Incentive Act; and
- 21 (14) intergovernmental production tax credit
22 and intergovernmental production equipment tax credit;

23 C. the administration and enforcement of the
24 following taxes, surcharges, fees or acts as they now exist or
25 may hereafter be amended:

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- 1 (1) Weight Distance Tax Act;
- 2 (2) the workers' compensation fee authorized
- 3 by Section 52-5-19 NMSA 1978, which fee shall be considered a
- 4 tax for purposes of the Tax Administration Act;
- 5 (3) Uniform Unclaimed Property Act (1995);
- 6 (4) 911 emergency surcharge and the network
- 7 and database surcharge, which surcharges shall be considered
- 8 taxes for purposes of the Tax Administration Act;
- 9 (5) the solid waste assessment fee authorized
- 10 by the Solid Waste Act, which fee shall be considered a tax for
- 11 purposes of the Tax Administration Act;
- 12 (6) the water conservation fee imposed by
- 13 Section 74-1-13 NMSA 1978, which fee shall be considered a tax
- 14 for the purposes of the Tax Administration Act; and
- 15 (7) the gaming tax imposed pursuant to the
- 16 Gaming Control Act; and

17 D. the administration and enforcement of all other
18 laws, with respect to which the department is charged with
19 responsibilities pursuant to the Tax Administration Act, but
20 only to the extent that the other laws do not conflict with the
21 Tax Administration Act."

22 SECTION 45. Section 7-1-6.7 NMSA 1978 (being Laws 1994,
23 Chapter 5, Section 2, as amended) is amended to read:

24 "7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

25 A. A distribution pursuant to Section 7-1-6.1 NMSA

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1 1978 shall be made to the state aviation fund in an amount
2 equal to four and seventy-nine hundredths percent of the
3 taxable gross receipts attributable to the sale of fuel
4 specially prepared and sold for use in turboprop or jet-type
5 engines as determined by the department.

6 B. A distribution pursuant to Section 7-1-6.1 NMSA
7 1978 shall be made to the state aviation fund in an amount
8 equal to [~~twenty-six hundredths~~] two hundred one-thousandths
9 percent of [~~gasoline~~] the taxes [~~exclusive of penalties and~~
10 ~~interest~~] collected pursuant to the Gasoline Tax Act and the
11 Motor Fuel Taxes Act.

12 C. From July 1, 2013 through June 30, 2021, a
13 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
14 made to the state aviation fund in an amount equal to forty-six
15 thousandths percent of the net receipts attributable to the
16 gross receipts tax distributable to the general fund.

17 D. A distribution pursuant to Section 7-1-6.1 NMSA
18 1978 shall be made to the state aviation fund from the net
19 receipts attributable to the gross receipts tax distributable
20 to the general fund in an amount equal to

21 [~~(1) eighty thousand dollars (\$80,000) monthly~~
22 ~~from July 1, 2007 through June 30, 2008;~~

23 [~~(2) one hundred sixty-seven thousand dollars~~
24 ~~(\$167,000) monthly from July 1, 2008 through June 30, 2009; and~~

25 [~~(3)~~] two hundred fifty thousand dollars

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1 (\$250,000) [~~monthly after July 1, 2009~~]."

2 SECTION 46. Section 7-1-6.8 NMSA 1978 (being Laws 1983,
3 Chapter 211, Section 13, as amended) is amended to read:

4 "7-1-6.8. DISTRIBUTION--MOTORBOAT FUEL TAX FUND.--A
5 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
6 made to the motorboat fuel tax fund in an amount equal to
7 [~~thirteen hundredths of one~~] one hundred one-thousandths
8 percent of the net receipts attributable to the gasoline tax."

9 SECTION 47. Section 7-1-6.9 NMSA 1978 (being Laws 1991,
10 Chapter 9, Section 11, as amended) is amended to read:

11 "7-1-6.9. DISTRIBUTION OF GASOLINE TAXES TO
12 MUNICIPALITIES AND COUNTIES.--

13 A. A distribution pursuant to Section 7-1-6.1 NMSA
14 1978 shall be made in an amount equal to [~~ten and thirty-eight~~
15 ~~hundredths~~] eight and twenty-one thousandths percent of the net
16 receipts attributable to the taxes [~~exclusive of penalties and~~
17 ~~interest~~] imposed by the Gasoline Tax Act and the Motor Fuel
18 Taxes Act.

19 B. [~~Except as provided in Subsection D of this~~
20 ~~section~~] The amount determined in Subsection A of this section
21 shall be distributed as follows:

22 (1) ninety percent of the amount shall be paid
23 to the treasurers of municipalities and H class counties in the
24 proportion that the taxable motor fuel sales in each of the
25 municipalities and H class counties bears to the aggregate

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1 taxable motor fuel sales in all of these municipalities and H
2 class counties; and

3 (2) ten percent of the amount shall be paid to
4 the treasurers of the counties, including H class counties, in
5 the proportion that the taxable motor fuel sales outside of
6 incorporated municipalities in each of the counties bears to
7 the aggregate taxable motor fuel sales outside of incorporated
8 municipalities in all of the counties.

9 C. Except as provided in Subsection D of this
10 section, this distribution shall be paid into a separate road
11 fund in the municipal treasury or county road fund for
12 expenditure only for construction, reconstruction, resurfacing
13 or other improvement or maintenance of public roads, streets,
14 alleys or bridges, including right-of-way and materials
15 acquisition. Money distributed pursuant to this section may be
16 used by a municipality or county to provide matching funds for
17 projects subject to cooperative agreements entered into with
18 the [~~state highway and~~] department of transportation
19 [~~department~~] pursuant to Section 67-3-28 NMSA 1978. Any
20 municipality or H class county that has created or that creates
21 a "street improvement fund" to which gasoline tax revenues or
22 distributions are irrevocably pledged under Sections 3-34-1
23 through 3-34-4 NMSA 1978 or that has pledged all or a portion
24 of gasoline tax revenues or distributions to the payment of
25 bonds shall receive its proportion of the distribution of

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1 revenues under this section impressed with and subject to these
2 pledges.

3 D. This distribution may be paid into a separate
4 road fund or the general fund of the municipality or county if
5 the municipality has a population less than three thousand or
6 the county has a population less than four thousand."

7 SECTION 48. Section 7-1-6.10 NMSA 1978 (being Laws 1983,
8 Chapter 211, Section 15, as amended) is amended to read:

9 "7-1-6.10. DISTRIBUTIONS--STATE ROAD FUND.--

10 A. A distribution pursuant to Section 7-1-6.1 NMSA
11 1978 shall be made to the state road fund in an amount equal to
12 the net receipts attributable to the taxes, surcharges,
13 surtaxes, fees, penalties and interest imposed pursuant to the
14 Gasoline Tax Act [~~and to the taxes, surtaxes, fees, penalties~~
15 ~~and interest imposed pursuant to~~], the Special Fuels Supplier
16 Tax Act, the Motor Fuel Taxes Act and the Alternative Fuel Tax
17 Act less:

18 (1) the amount distributed to the state
19 aviation fund pursuant to Subsection B of Section 7-1-6.7 NMSA
20 1978;

21 (2) the amount distributed to the motorboat
22 fuel tax fund pursuant to Section 7-1-6.8 NMSA 1978;

23 (3) the amount distributed to municipalities
24 and counties pursuant to Subsection A of Section 7-1-6.9 NMSA
25 1978;

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1 (4) the amount distributed to the county
2 government road fund pursuant to Section 7-1-6.19 NMSA 1978;

3 (5) the amount distributed to the local
4 governments road fund pursuant to Section 7-1-6.39 NMSA 1978;

5 (6) the amount distributed to the
6 municipalities pursuant to Section 7-1-6.27 NMSA 1978;

7 (7) the amount distributed to the municipal
8 arterial program of the local governments road fund pursuant to
9 Section 7-1-6.28 NMSA 1978;

10 [~~(8) the amount distributed to a qualified~~
11 ~~tribe pursuant to a gasoline tax sharing agreement entered into~~
12 ~~between the secretary of transportation and the qualified tribe~~
13 ~~pursuant to the provisions of Section 67-3-8.1 NMSA 1978;~~] and

14 [~~(9)~~] (8) the amount distributed to the
15 [general fund pursuant to Section 7-1-6.44 NMSA 1978]
16 department of transportation pursuant to Section 54 of this
17 2017 act.

18 B. A distribution pursuant to Section 7-1-6.1 NMSA
19 1978 shall be made to the state road fund in an amount equal to
20 the net receipts attributable to the taxes, interest and
21 penalties from the Weight Distance Tax Act."

22 SECTION 49. Section 7-1-6.19 NMSA 1978 (being Laws 1991,
23 Chapter 9, Section 15, as amended) is amended to read:

24 "7-1-6.19. DISTRIBUTION--COUNTY GOVERNMENT ROAD FUND
25 CREATED.--

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1 A. There is created in the state treasury the
2 "county government road fund".

3 B. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the county government road fund in an
5 amount equal to [~~five and seventy-six hundredths~~] four and four
6 hundred fifty-one thousandths percent of the net receipts
7 attributable to the gasoline tax."

8 SECTION 50. Section 7-1-6.27 NMSA 1978 (being Laws 1991,
9 Chapter 9, Section 20, as amended) is amended to read:

10 "7-1-6.27. DISTRIBUTION--MUNICIPAL ROADS.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to municipalities for the purposes and
13 amounts specified in this section in an aggregate amount equal
14 to [~~five and seventy-six hundredths~~] four and four hundred
15 fifty-one thousandths percent of the net receipts attributable
16 to the gasoline tax.

17 B. The distribution authorized in this section
18 shall be used for the following purposes:

19 (1) reconstructing, resurfacing, maintaining,
20 repairing or otherwise improving existing alleys, streets,
21 roads or bridges, or any combination of the foregoing; or
22 laying off, opening, constructing or otherwise acquiring new
23 alleys, streets, roads or bridges, or any combination of the
24 foregoing; provided that any of the foregoing improvements may
25 include, but are not limited to, the acquisition of rights of

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1 way;

2 (2) to provide matching funds for projects
3 subject to cooperative agreements with the [~~state highway and~~
4 department of transportation [~~department~~] pursuant to Section
5 67-3-28 NMSA 1978; and

6 (3) for expenses of purchasing, maintaining
7 and operating transit operations and facilities, for the
8 operation of a transit authority established by the Municipal
9 Transit Law and for the operation of a vehicle emission
10 inspection program. A municipality may engage in the business
11 of the transportation of passengers and property within the
12 political subdivision by whatever means the municipality may
13 decide and may acquire cars, trucks, motor buses and other
14 equipment necessary for operating the business. A municipality
15 may acquire land, erect buildings and equip the buildings with
16 all the necessary machinery and facilities for the operation,
17 maintenance, modification, repair and storage of the cars,
18 trucks, motor buses and other equipment needed. A municipality
19 may do all things necessary for the acquisition and the conduct
20 of the business of public transportation.

21 C. For the purposes of this section:

22 (1) "computed distribution amount" means the
23 distribution amount calculated for a municipality for a month
24 pursuant to Paragraph (2) of Subsection D of this section prior
25 to any adjustments to the amount due to the provisions of

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1 Subsections E and F of this section;

2 (2) "floor amount" means four hundred
3 seventeen dollars (\$417);

4 (3) "floor municipality" means a municipality
5 whose computed distribution amount is less than the floor
6 amount; and

7 (4) "full distribution municipality" means a
8 municipality whose population at the last federal decennial
9 census was at least two hundred thousand.

10 D. Subject to the provisions of Subsections E and F
11 of this section, each municipality shall be distributed a
12 portion of the aggregate amount distributable under this
13 section in an amount equal to the greater of:

14 (1) the floor amount; or

15 (2) eighty-five percent of the aggregate
16 amount distributable under this section times a fraction, the
17 numerator of which is the municipality's reported taxable
18 gallons of gasoline for the immediately preceding state fiscal
19 year and the denominator of which is the reported total taxable
20 gallons for all municipalities for the same period.

21 E. Fifteen percent of the aggregate amount
22 distributable under this section shall be referred to as the
23 "redistribution amount". Beginning in August 1990, and each
24 month thereafter, from the redistribution amount there shall be
25 taken an amount sufficient to increase the computed

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1 distribution amount of every floor municipality to the floor
2 amount. In the event that the redistribution amount is
3 insufficient for this purpose, the computed distribution amount
4 for each floor municipality shall be increased by an amount
5 equal to the redistribution amount times a fraction, the
6 numerator of which is the difference between the floor amount
7 and the municipality's computed distribution amount and the
8 denominator of which is the difference between the product of
9 the floor amount multiplied by the number of floor
10 municipalities and the total of the computed distribution
11 amounts for all floor municipalities.

12 F. If a balance remains after the redistribution
13 amount has been reduced pursuant to Subsection E of this
14 section, there shall be added to the computed distribution
15 amount of each municipality that is neither a full distribution
16 municipality nor a floor municipality an amount that equals the
17 balance of the redistribution amount times a fraction, the
18 numerator of which is the computed distribution amount of the
19 municipality and the denominator of which is the sum of the
20 computed distribution amounts of all municipalities that are
21 neither full distribution municipalities nor floor
22 municipalities."

23 SECTION 51. Section 7-1-6.28 NMSA 1978 (being Laws 1991,
24 Chapter 9, Section 22, as amended) is amended to read:

25 "7-1-6.28. DISTRIBUTION--MUNICIPAL ARTERIAL PROGRAM OF

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1 LOCAL GOVERNMENTS ROAD FUND.--A distribution pursuant to
2 Section 7-1-6.1 NMSA 1978 shall be made to the municipal
3 arterial program of the local governments road fund created in
4 Section 67-3-28.2 NMSA 1978 in an amount equal to [~~one and~~
5 ~~forty-four hundredths~~] one and one hundred thirteen-thousandths
6 percent of the net receipts attributable to the gasoline tax."

7 SECTION 52. Section 7-1-6.39 NMSA 1978 (being Laws 1995,
8 Chapter 6, Section 9, as amended) is amended to read:

9 "7-1-6.39. DISTRIBUTION OF SPECIAL FUEL EXCISE TAX AND
10 GASOLINE TAX TO LOCAL GOVERNMENTS ROAD FUND.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the local governments road fund in an
13 amount equal to [~~nine and fifty-two~~] nine and sixty-one
14 hundredths percent of the net receipts attributable to the
15 taxes [~~exclusive of penalties and interest, from the special~~
16 ~~fuel excise tax~~] imposed [~~by the Special Fuels Supplier Tax~~
17 ~~Act~~] on special fuel pursuant to the Special Fuels Supplier Tax
18 Act and the Motor Fuel Taxes Act.

19 B. A distribution pursuant to Section 7-1-6.1 NMSA
20 1978 shall be made to the local governments road fund in an
21 amount equal to two and twenty-eight hundredths percent of the
22 net receipts attributable to the taxes imposed on special fuel
23 pursuant to the Special Fuels Supplier Tax Act and the Motor
24 Fuel Taxes Act."

25 SECTION 53. A new section of the Tax Administration Act

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1 is enacted to read:

2 "[NEW MATERIAL] DISTRIBUTION--GASOLINE TAX AND SPECIAL
3 FUEL EXCISE TAX TO TAX STABILIZATION RESERVE.--

4 A. A distribution pursuant to Section 7-1-6.1 NMSA
5 1978 shall be made to the tax stabilization reserve in an
6 amount equal to thirteen and sixty-four hundredths percent of
7 the net receipts attributable to the gasoline tax and in an
8 amount equal to eleven and fifty-four hundredths percent of the
9 net receipts attributable to the special fuel excise tax until
10 the month following a certification by the state board of
11 finance to the secretary of taxation and revenue that the total
12 amount in state reserve funds at the end of the prior fiscal
13 year, according to the general fund financial summary that is
14 prepared by the department of finance and administration in
15 August of each year, was at least eight percent of the total
16 general fund appropriations for the prior fiscal year,
17 whichever occurs first.

18 B. As used in this section, "state reserve funds"
19 means the general fund operating reserve, the appropriation
20 contingency fund, the tax stabilization reserve and the tobacco
21 settlement permanent fund."

22 SECTION 54. A new section of the Tax Administration Act
23 is enacted to read:

24 "[NEW MATERIAL] DISTRIBUTION--GASOLINE TAX AND SPECIAL
25 FUEL EXCISE TAX TO DEPARTMENT OF TRANSPORTATION FOR REST

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1 STOPS.--Beginning July 1, 2017 and prior to July 1, 2022, a
2 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
3 made to the department of transportation in an amount equal to
4 two and twenty-eight hundredths percent of the net receipts
5 attributable to the gasoline tax and one and nine hundred
6 twenty-three thousandths percent of the net receipts
7 attributable to the special fuel excise tax for improvements
8 and maintenance of rest stops in New Mexico."

9 SECTION 55. Section 7-1-8.2 NMSA 1978 (being Laws 2009,
10 Chapter 243, Section 4) is amended to read:

11 "7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

12 A. The department shall:

13 (1) furnish returns and return information
14 required by a provision of the Tax Administration Act to be
15 made available to the public by the department;

16 (2) answer all inquiries concerning whether a
17 person is or is not a registered taxpayer for tax programs that
18 require registration, but nothing in this subsection shall be
19 construed to allow the department to answer inquiries
20 concerning whether a person has filed a tax return;

21 (3) furnish, upon request for inspection by a
22 member of the public pursuant to:

23 (a) Section 7-1-28 or [Section] 7-1-29
24 NMSA 1978, the taxpayer name, abatement, refund or credit
25 amount, tax program or business tax credit and the date the

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1 abatement, refund or credit was issued; and

2 (b) Section 7-1-21 NMSA 1978, the
3 installment agreement; and

4 (4) with respect to the [~~tax on gasoline~~
5 ~~imposed by the~~] gasoline tax [~~Act~~], make available for public
6 inspection at monthly intervals a report covering the number of
7 gallons of gasoline and ethanol blended fuels received and
8 deducted and the amount of tax paid by each person required to
9 file a gasoline tax return or pay gasoline tax in the state of
10 New Mexico.

11 B. Nothing in this section shall be construed to
12 require the release of information that would violate an
13 agreement between the state and the federal internal revenue
14 service for sharing of information or any provision or rule of
15 the federal Internal Revenue Code to which a state is subject."

16 SECTION 56. Section 7-1-8.10 NMSA 1978 (being Laws 2009,
17 Chapter 243, Section 12) is amended to read:

18 "7-1-8.10. INFORMATION THAT MAY BE REVEALED TO PRIVATE
19 PERSONS OTHER THAN THE TAXPAYER.--An employee of the department
20 may reveal to:

21 A. a transferee, assignee, buyer or lessor of a
22 liquor license, the amount and basis of an unpaid assessment of
23 tax for which the transferor, assignor, seller or lessee is
24 liable;

25 B. a purchaser of a business as provided in

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1 Sections 7-1-61 through 7-1-63 NMSA 1978, the amount and basis
2 of an unpaid assessment of tax for which the purchaser's seller
3 is liable;

4 C. a rack operator, importer, blender, distributor
5 or supplier, the identity of a rack operator, importer,
6 blender, supplier or distributor and the number of gallons
7 reported on returns required [~~under the Gasoline Tax Act,~~
8 ~~Special Fuels Supplier Tax~~] pursuant to the Motor Fuel Taxes
9 Act or Alternative Fuel Tax Act, but only when it is necessary
10 to enable the department to carry out its duties under [~~the~~
11 ~~Gasoline Tax Act, the Special Fuels Supplier Tax Act or the~~
12 ~~Alternative Fuel Tax Act~~] those acts; and

13 D. a corporation authorized to be formed under the
14 Educational Assistance Act, upon its written request, the last
15 known address and the date of that address of every person
16 certified to the department as an absent obligor of an
17 educational debt due and owed to the corporation or that the
18 corporation has lawfully contracted to collect; this
19 information may only be used by the corporation and its
20 officers and employees to enforce the educational debt
21 obligation of the absent obligors."

22 SECTION 57. Section 7-1-13.1 NMSA 1978 (being Laws 1988,
23 Chapter 99, Section 3, as amended) is amended to read:

24 "7-1-13.1. METHOD OF PAYMENT OF CERTAIN TAXES DUE.--

25 A. Payment of the taxes, including any applicable

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1 penalties and interest, described in Paragraph (1), (2), (3) or
2 (4) of this subsection shall be made on or before the date due
3 in accordance with Subsection [B] C of this section if the
4 taxpayer's average tax payment for the group of taxes during
5 the preceding calendar year equaled or exceeded twenty-five
6 thousand dollars (\$25,000):

7 (1) Group 1: all taxes due under the
8 Withholding Tax Act, the Gross Receipts and Compensating Tax
9 Act, local option gross receipts tax acts, the Interstate
10 Telecommunications Gross Receipts Tax Act and the Leased
11 Vehicle Gross Receipts Tax Act;

12 (2) Group 2: all taxes due under the Oil and
13 Gas Severance Tax Act, the Oil and Gas Conservation Tax Act,
14 the Oil and Gas Emergency School Tax Act and the Oil and Gas Ad
15 Valorem Production Tax Act;

16 (3) Group 3: the tax due under the Natural
17 Gas Processors Tax Act; or

18 (4) Group 4: all taxes and fees due under the
19 [~~Gasoline Tax Act, the Special Fuels Supplier Tax~~] Motor Fuel
20 Taxes Act and the Petroleum Products Loading Fee Act.

21 B. For taxpayers who have more than one
22 identification number issued by the department, the average tax
23 payment shall be computed by combining the amounts paid under
24 the several identification numbers.

25 [~~B.~~] C. Taxpayers who are required to make payment

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1 in accordance with the provisions of this section shall make
2 payment by one or more of the following means on or before the
3 due date so that funds are immediately available to the state
4 on or before the due date:

5 (1) electronic payment; provided that a result
6 of the payment is that funds are immediately available to the
7 state of New Mexico on or before the due date;

8 (2) currency of the United States;

9 (3) check drawn on and payable at any New
10 Mexico financial institution; provided that the check is
11 received by the department at the place and time required by
12 the department at least one banking day prior to the due date;
13 or

14 (4) check drawn on and payable at any domestic
15 non-New Mexico financial institution provided that the check
16 is received by the department at the time and place required by
17 the department at least two banking days prior to the due date.

18 [~~G.~~] D. If the taxes required to be paid under this
19 section are not paid in accordance with Subsection [~~B~~] C of
20 this section, the payment is not timely and is subject to the
21 provisions of Sections 7-1-67 and 7-1-69 NMSA 1978.

22 [~~D.~~] E. For the purposes of this section, "average
23 tax payment" means the total amount of taxes paid with respect
24 to a group of taxes listed under Subsection A of this section
25 during a calendar year divided by the number of months in that

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1 calendar year containing a due date on which the taxpayer was
2 required to pay one or more taxes in the group."

3 SECTION 58. Section 7-1-26 NMSA 1978 (being Laws 1965,
4 Chapter 248, Section 28, as amended) is amended to read:

5 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
6 OR REFUND.--

7 A. A person who believes that an amount of tax has
8 been paid by or withheld from that person in excess of that for
9 which the person was liable, who has been denied any credit or
10 rebate claimed or who claims a prior right to property in the
11 possession of the department pursuant to a levy made under
12 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim
13 a refund by directing to the secretary, within the time limited
14 by the provisions of [~~Subsections~~] Subsection D [~~and E~~] of this
15 section, a written claim for refund. Except as provided in
16 Subsection [~~F~~] H of this section, a refund claim shall include:

17 (1) the taxpayer's name, address and
18 identification number;

19 (2) the type of tax for which a refund is
20 being claimed, the credit or rebate denied or the property
21 levied upon;

22 (3) the sum of money or other property being
23 claimed;

24 (4) with respect to refund, the period for
25 which overpayment was made; and

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1 (5) a brief statement of the facts and the law
2 on which the claim is based, which may be referred to as the
3 "basis for the refund".

4 B. The secretary or the secretary's delegate may
5 allow the claim in whole or in part or may deny the claim.

6 (1) If the claim is denied in whole or in part
7 in writing, no claim may be refiled with respect to that which
8 was denied, but the person, within ninety days after either the
9 mailing or delivery of the denial of all or any part of the
10 claim, may elect to pursue one, but not more than one, of the
11 remedies in Subsection C of this section.

12 (2) If the department has neither granted nor
13 denied any portion of a claim for refund within one hundred
14 twenty days of the date the claim was mailed or delivered to
15 the department, the person may refile it within the time limits
16 set forth in Subsection D of this section or may within ninety
17 days elect to pursue one, but only one, of the remedies in
18 Subsection C of this section. After the expiration of the two
19 hundred ten days from the date the claim was mailed or
20 delivered to the department, the department may not approve or
21 disapprove the claim unless the person has pursued one of the
22 remedies under Subsection C of this section.

23 C. A person may elect to pursue no more than one of
24 the remedies in Paragraphs (1) and (2) of this subsection. A
25 person who timely pursues more than one remedy shall be deemed

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1 to have elected the first remedy invoked. The person may:

2 (1) direct to the secretary, pursuant to the
3 provisions of Section 7-1-24 NMSA 1978, a written protest that
4 shall set forth:

5 (a) the circumstances of: 1) an alleged
6 overpayment; 2) a denied credit; 3) a denied rebate; or 4) a
7 denial of a prior right to property levied upon by the
8 department;

9 (b) an allegation that, because of that
10 overpayment or denial, the state is indebted to the taxpayer
11 for a specified amount, including any allowed interest, or for
12 the property;

13 (c) demanding the refund to the taxpayer
14 of that amount or that property; and

15 (d) reciting the facts of the claim for
16 refund; or

17 (2) commence a civil action in the district
18 court for Santa Fe county by filing a complaint setting forth
19 the circumstance of the claimed overpayment, denied credit or
20 rebate or denial of a prior right to property levied upon by
21 the department alleging that on account thereof the state is
22 indebted to the plaintiff in the amount or property stated,
23 together with any interest allowable, demanding the refund to
24 the plaintiff of that amount or property and reciting the facts
25 of the claim for refund. The plaintiff or the secretary may

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1 appeal from any final decision or order of the district court
2 to the court of appeals.

3 D. ~~[Except as otherwise provided in Subsection E of~~
4 ~~this section]~~ No credit or refund of any amount may be allowed
5 or made to any person unless as the result of a claim made by
6 that person as provided in this section:

7 (1) within three years of the end of the
8 calendar year in which:

9 (a) the payment was originally due or
10 the overpayment resulted from an assessment by the department
11 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

12 (b) the final determination of value
13 occurs with respect to any overpayment that resulted from a
14 disapproval by any agency of the United States or the state of
15 New Mexico or any court of increase in value of a product
16 subject to taxation under the Oil and Gas Severance Tax Act,
17 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
18 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
19 or the Natural Gas Processors Tax Act;

20 (c) property was levied upon pursuant to
21 the provisions of the Tax Administration Act; or

22 (d) an overpayment of New Mexico tax
23 resulted from: 1) an internal revenue service audit adjustment
24 or a federal refund paid due to an adjustment of an audit by
25 the internal revenue service or an amended federal return; or

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1 2) making a change to a federal return for which federal
2 approval is required by the Internal Revenue Code;

3 (2) when an amount of a claim for credit under
4 the provisions of the Investment Credit Act, Laboratory
5 Partnership with Small Business Tax Credit Act or Technology
6 Jobs and Research and Development Tax Credit Act or for the
7 rural job tax credit pursuant to Section 7-2E-1.1 NMSA 1978 or
8 similar credit has been denied, the taxpayer may claim a refund
9 of the credit no later than one year after the date of the
10 denial;

11 (3) when a taxpayer under audit by the
12 department has signed a waiver of the limitation on assessments
13 on or after July 1, 1993 pursuant to Subsection F of Section
14 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
15 the same tax paid for the same period for which the waiver was
16 given, until a date one year after the later of the date of the
17 mailing of an assessment issued pursuant to the audit, the date
18 of the mailing of final audit findings to the taxpayer or the
19 date a proceeding is begun in court by the department with
20 respect to the same tax and the same period;

21 (4) if the payment of an amount of tax was not
22 made within three years of the end of the calendar year in
23 which the original due date of the tax or date of the
24 assessment of the department occurred, a claim for refund of
25 that amount of tax can be made within one year of the date on

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1 which the tax was paid; or

2 (5) when a taxpayer has been assessed a tax on
3 or after July 1, 1993 under Subsection B, C or D of Section
4 7-1-18 NMSA 1978 and when the assessment applies to a period
5 ending at least three years prior to the beginning of the year
6 in which the assessment was made, the taxpayer may claim a
7 refund for the same tax for the period of the assessment or for
8 any period following that period within one year of the date of
9 the assessment unless a longer period for claiming a refund is
10 provided in this section.

11 ~~[E. No credit or refund shall be allowed or made to~~
12 ~~any person claiming a refund of gasoline tax under Section~~
13 ~~7-13-11 NMSA 1978 unless notice of the destruction of the~~
14 ~~gasoline was given the department within thirty days of the~~
15 ~~actual destruction and the claim for refund is made within six~~
16 ~~months of the date of destruction. No credit or refund shall~~
17 ~~be allowed or made to any person claiming a refund of gasoline~~
18 ~~tax under Section 7-13-17 NMSA 1978 unless the refund is~~
19 ~~claimed within six months of the date of purchase of the~~
20 ~~gasoline and the gasoline has been used at the time the claim~~
21 ~~for refund is made.~~

22 F.] E. If as a result of an audit by the department
23 or a managed audit covering multiple periods an overpayment of
24 tax is found in any period under the audit, that overpayment
25 may be credited against an underpayment of the same tax found

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1 in another period under audit pursuant to Section 7-1-29 NMSA
2 1978, provided that the taxpayer files a claim for refund for
3 the overpayments identified in the audit.

4 ~~[G.]~~ F. Any refund of tax paid under any tax or tax
5 act administered under Subsection B of Section 7-1-2 NMSA 1978
6 may be made, at the discretion of the department, in the form
7 of credit against future tax payments if future tax liabilities
8 in an amount at least equal to the credit amount reasonably may
9 be expected to become due.

10 ~~[H.]~~ G. For the purposes of this section, "oil and
11 gas tax return" means a return reporting tax due with respect
12 to oil, natural gas, liquid hydrocarbons, carbon dioxide,
13 helium or nonhydrocarbon gas pursuant to the Oil and Gas
14 Severance Tax Act, the Oil and Gas Conservation Tax Act, the
15 Oil and Gas Emergency School Tax Act, the Oil and Gas Ad
16 Valorem Production Tax Act, the Natural Gas Processors Tax Act
17 or the Oil and Gas Production Equipment Ad Valorem Tax Act.

18 ~~[I.]~~ H. The filing of a fully completed original
19 income tax return, corporate income tax return, corporate
20 income and franchise tax return, estate tax return or special
21 fuel excise tax return that shows a balance due the taxpayer or
22 a fully completed amended income tax return, an amended
23 corporate income tax return, an amended corporate income and
24 franchise tax return, an amended estate tax return, an amended
25 special fuel excise tax return or an amended oil and gas tax

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1 return that shows a lesser tax liability than the original
2 return constitutes the filing of a claim for refund for the
3 difference in tax due shown on the original and amended
4 returns."

5 SECTION 59. Section 7-1-28 NMSA 1978 (being Laws 1965,
6 Chapter 248, Section 30, as amended) is amended to read:

7 "7-1-28. AUTHORITY FOR ABATEMENTS OF ASSESSMENTS OF
8 TAX.--

9 A. In response to a written protest against an
10 assessment, submitted in accordance with the provisions of
11 Section 7-1-24 NMSA 1978, but before any court acquires
12 jurisdiction of the matter, or when a "notice of assessment of
13 taxes" is incorrect, the secretary or the secretary's delegate
14 may abate any part of an assessment determined by the secretary
15 or the secretary's delegate to have been incorrectly,
16 erroneously or illegally made. An abatement in the amount of
17 twenty thousand dollars (\$20,000) or more shall be made with
18 the prior approval of the attorney general; except that the
19 secretary or the secretary's delegate may make abatements with
20 respect to the Oil and Gas Severance Tax Act, the Oil and Gas
21 Conservation Tax Act, the Oil and Gas Emergency School Tax Act,
22 the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas
23 Processors Tax Act or the Oil and Gas Production Equipment Ad
24 Valorem Tax Act [~~abatements of gasoline tax made under Section~~
25 ~~7-13-17 NMSA 1978~~] and abatements of cigarette tax made under

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1 the Cigarette Tax Act without the prior approval of the
2 attorney general regardless of the amount.

3 B. Pursuant to the final order of the district
4 court, the court of appeals, the supreme court of New Mexico or
5 any federal court, from which order, appeal or review is not
6 successfully taken by the department, adjudging that any person
7 is not required to pay any portion of tax assessed to that
8 person, the secretary or the secretary's delegate shall cause
9 that amount of the assessment to be abated.

10 C. Pursuant to a compromise of taxes agreed to by
11 the secretary and according to the terms of the closing
12 agreement formalizing the compromise, the secretary or the
13 secretary's delegate shall cause the abatement of the
14 appropriate amount of any assessment of tax.

15 D. The secretary or the secretary's delegate shall
16 cause the abatement of the amount of an assessment of tax that
17 is equal to the amount of fee paid to or retained by an out-of-
18 state attorney or collection agency from a judgment or the
19 amount collected by the attorney or collection agency pursuant
20 to Section 7-1-58 NMSA 1978.

21 E. Records of abatements made in excess of ten
22 thousand dollars (\$10,000) shall be available for inspection by
23 the public. The department shall keep such records for a
24 minimum of three years from the date of the abatement.

25 F. In response to a timely protest pursuant to

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1 Section 7-1-24 NMSA 1978 of an assessment by the department and
2 notwithstanding any other provision of the Tax Administration
3 Act, the secretary or the secretary's delegate may abate that
4 portion of an assessment of tax, including applicable penalties
5 and interest, representing the amount of tax previously paid by
6 another person on behalf of the taxpayer on the same
7 transaction; provided that the requirements of equitable
8 recoupment are met. For purposes of this subsection, the
9 protest pursuant to Section 7-1-24 NMSA 1978 of the
10 department's assessment may be made by the taxpayer to whom the
11 assessment was issued or by the other person who claims to have
12 previously paid the tax on behalf of the taxpayer."

13 SECTION 60. Section 7-1-29 NMSA 1978 (being Laws 1965,
14 Chapter 248, Section 31, as amended) is amended to read:

15 "7-1-29. AUTHORITY TO MAKE REFUNDS OR CREDITS.--

16 A. In response to a claim for refund, credit or
17 rebate made as provided in Section 7-1-26 NMSA 1978, but before
18 a court acquires jurisdiction of the matter, the secretary or
19 the secretary's delegate may authorize payment to a person in
20 the amount of the [~~creditor~~] credit or rebate claimed or refund
21 an overpayment of tax determined by the secretary or the
22 secretary's delegate to have been erroneously made by the
23 person, together with allowable interest. A payment of a
24 credit rebate claimed or a refund of tax and interest
25 erroneously paid amounting to twenty thousand dollars (\$20,000)

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1 or more shall be made with the prior approval of the attorney
2 general, except that the secretary or the secretary's delegate
3 may make refunds with respect to the Oil and Gas Severance Tax
4 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
5 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
6 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
7 Production Equipment Ad Valorem Tax Act, Section 7-13-17 NMSA
8 1978 and the Cigarette Tax Act without the prior approval of
9 the attorney general regardless of the amount.

10 B. Pursuant to the final order of the district
11 court, the court of appeals, the supreme court of New Mexico or
12 a federal court, from which order, appeal or review is not
13 successfully taken, adjudging that a person has properly
14 claimed a credit or rebate or made an overpayment of tax, the
15 secretary shall authorize the payment to the person of the
16 amount thereof.

17 C. In the discretion of the secretary, any amount
18 of credit or rebate to be paid or tax to be refunded may be
19 offset against any amount of tax for which the person due to
20 receive the credit, rebate payment or refund is liable. The
21 secretary or the secretary's delegate shall give notice to the
22 taxpayer that the credit, rebate payment or refund will be made
23 in this manner, and the taxpayer shall be entitled to interest
24 pursuant to Section 7-1-68 NMSA 1978 until the tax liability is
25 credited with the credit, rebate or refund amount.

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1 D. In an audit by the department or a managed audit
2 covering multiple reporting periods in which both underpayments
3 and overpayments of a tax have been made in different reporting
4 periods, the department shall credit the tax overpayments
5 against the underpayments, provided that the taxpayer files a
6 claim for refund of the overpayments. An overpayment shall be
7 applied as a credit first to the earliest underpayment and then
8 to succeeding underpayments. An underpayment of tax to which
9 an overpayment is credited pursuant to this section shall be
10 deemed paid in the period in which the overpayment was made or
11 the period to which the overpayment was credited against an
12 underpayment, whichever is later. If the overpayments credited
13 pursuant to this section exceed the underpayments of a tax, the
14 amount of the net overpayment for the periods covered in the
15 audit shall be refunded to the taxpayer.

16 E. When a taxpayer makes a payment identified to a
17 particular return or assessment, and the department determines
18 that the payment exceeds the amount due pursuant to that return
19 or assessment, the secretary may apply the excess to the
20 taxpayer's other liabilities pursuant to the tax acts to which
21 the return or assessment applies, without requiring the
22 taxpayer to file a claim for a refund. The liability to which
23 an overpayment is applied pursuant to this section shall be
24 deemed paid in the period in which the overpayment was made or
25 the period to which the overpayment was applied, whichever is

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1 later.

2 F. If the department determines, upon review of an
3 original or amended income tax return, corporate income and
4 franchise tax return, estate tax return, special fuels excise
5 tax return or oil and gas tax return, that there has been an
6 overpayment of tax for the taxable period to which the return
7 or amended return relates in excess of the amount due to be
8 refunded to the taxpayer pursuant to the provisions of
9 [~~Subsection I of~~] Section 7-1-26 NMSA 1978, the department may
10 refund that excess amount to the taxpayer without requiring the
11 taxpayer to file a refund claim.

12 G. Records of refunds and credits made in excess of
13 ten thousand dollars (\$10,000) shall be available for
14 inspection by the public. The department shall keep such
15 records for a minimum of three years from the date of the
16 refund or credit.

17 H. In response to a timely refund claim pursuant to
18 Section 7-1-26 NMSA 1978 and notwithstanding any other
19 provision of the Tax Administration Act, the secretary or the
20 secretary's delegate may refund or credit a portion of an
21 assessment of tax paid, including applicable penalties and
22 interest representing the amount of tax previously paid by
23 another person on behalf of the taxpayer on the same
24 transaction, provided that the requirements of equitable
25 recoupment are met. For purposes of this subsection, the

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1 refund claim may be filed by the taxpayer to whom the
2 assessment was issued or by another person who claims to have
3 previously paid the tax on behalf of the taxpayer. Prior to
4 granting the refund or credit, the secretary may require a
5 waiver of all rights to claim a refund or credit of the tax
6 previously paid by another person paying a tax on behalf of the
7 taxpayer."

8 SECTION 61. Section 7-1-69.1 NMSA 1978 (being Laws 2005,
9 Chapter 109, Section 1, as amended) is amended to read:

10 "7-1-69.1. CIVIL PENALTY FOR FAILURE TO FILE AN
11 INFORMATION RETURN.--A taxpayer, wholesaler, retailer or rack
12 operator who fails to file an information return on time
13 pursuant to the [~~Gasoline Tax Act or the Special Fuels Supplier~~
14 ~~Tax~~] Motor Fuel Taxes Act shall pay a penalty of fifty dollars
15 (\$50.00) for each late report. This penalty shall be in
16 addition to other applicable penalties."

17 SECTION 62. Section 7-1B-1 NMSA 1978 (being Laws 2015,
18 Chapter 73, Section 1) is amended to read:

19 "7-1B-1. SHORT TITLE.--~~[Sections 1 through 9 of this act]~~
20 Chapter 7, Article 1B NMSA 1978 may be cited as the
21 "Administrative Hearings Office Act"."

22 SECTION 63. Section 7-1B-6 NMSA 1978 (being Laws 2015,
23 Chapter 73, Section 6) is amended to read:

24 "7-1B-6. HEARING OFFICER CODE OF CONDUCT--INDEPENDENCE.--

25 A. The chief hearing officer shall:

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1 (1) adopt and promulgate a hearing officer
2 code of conduct; and

3 (2) periodically evaluate each hearing
4 officer's performance for competency, efficiency and
5 professional demeanor in accord with relevant legal standards
6 and the hearing officer code of conduct.

7 B. The chief hearing officer shall ensure that each
8 hearing officer has decisional independence; however, the chief
9 hearing officer may:

10 (1) consult with a hearing officer about a
11 genuine question of law; and

12 (2) review with a hearing officer any issue on
13 appeal addressed by a court of this state.

14 C. The administrative hearings office shall:

15 (1) hear all tax protests pursuant to the
16 provisions of the Tax Administration Act;

17 (2) hear property tax protests pursuant to the
18 provisions of the Property Tax Code;

19 (3) hear all certificate-denial protests
20 pursuant to the provisions of Section 13-1-22 NMSA 1978;

21 (4) conduct all adjudicatory hearings pursuant
22 to the Motor Vehicle Code;

23 (5) conduct all driver's license revocation
24 hearings pursuant to the provisions of the Implied Consent Act;

25 (6) conduct all hearings regarding the

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1 cancellation or refusal to issue or reissue a motor fuel
2 license pursuant to the Motor Fuel Taxes Act;

3 [~~(6)~~] (7) make and preserve a complete record
4 of all proceedings; and

5 [~~(7)~~] (8) maintain confidentiality regarding
6 taxpayer information as required by the provisions of Section
7 7-1-8 NMSA 1978.

8 D. In hearings conducted pursuant to the Tax
9 Administration Act, Section 13-1-22 NMSA 1978 and the Motor
10 Vehicle Code:

11 (1) the Rules of Evidence do not apply. The
12 hearing officer may require reasonable substantiation of
13 statements or records tendered, the accuracy or truth of which
14 is in reasonable doubt, to rule on the admissibility of
15 evidence. A taxpayer or the taxation and revenue department
16 may request a written ruling on a contested question of
17 evidence in a matter in which the taxpayer has filed a written
18 protest and for which that protest is pending. The
19 administrative hearings office shall issue a copy of its
20 written ruling to the taxation and revenue department at the
21 time the ruling is issued to the taxpayer;

22 (2) the Rules of Civil Procedure for the
23 District Courts do not apply. The hearing officer shall
24 conduct a hearing to allow the ample and fair presentation of
25 complaints and defenses. The hearing officer shall hear

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1 arguments, permit discovery, entertain and dispose of motions,
2 require written expositions of the case as the circumstances
3 justify and render a decision in accordance with the law and
4 the evidence presented and admitted. A taxpayer or the
5 taxation and revenue department may request a written ruling on
6 a contested question of procedure in a matter in which the
7 taxpayer has filed a written protest and for which that protest
8 is pending. The administrative hearings office shall issue a
9 copy of its written ruling to the taxation and revenue
10 department at the time the ruling is issued to the taxpayer;
11 and

12 (3) the hearing officer may administer oaths
13 and issue subpoenas for the attendance of witnesses and the
14 production of relevant books and papers, and for hearings
15 conducted for a license suspension pursuant to Section 66-5-30
16 NMSA 1978, the hearing officer may require a reexamination of
17 the licensee."

18 **SECTION 64.** A new section of the Administrative Hearings
19 Office Act is enacted to read:

20 "[NEW MATERIAL] CANCELLATION OR REFUSAL TO ISSUE OR
21 REISSUE MOTOR FUEL LICENSE.--

22 A. A person may dispute the cancellation or refusal
23 to issue or reissue a motor fuel license pursuant to the Motor
24 Fuel Taxes Act. Upon timely receipt of a protest, the chief
25 hearing officer shall promptly designate a hearing officer to

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1 conduct a hearing and shall set a date for the hearing. On
2 that date, the hearing officer shall hear the protest.

3 B. A person may appear at a hearing set pursuant to
4 the provisions of Subsection A of this section for the person's
5 self or be represented by a bona fide employee or an attorney.
6 A hearing shall not be open to the public except upon request
7 of the person. A hearing officer may postpone or continue a
8 hearing.

9 C. At the beginning of the hearing, the hearing
10 officer shall inform the person of the person's right to
11 representation. Within thirty days after the hearing, the
12 hearing officer shall inform the protestant in writing of the
13 decision and of the protestant's right to, and the requirements
14 for perfection of, an appeal from the decision to the district
15 court and of the consequences of a failure to appeal. The
16 written decision shall embody an order granting or denying the
17 relief requested or granting such part of the relief requested,
18 as appropriate.

19 D. If the protestant or the secretary of taxation
20 and revenue is dissatisfied with the decision and order of the
21 hearing officer, the party may appeal pursuant to the
22 provisions of Section 39-3-1.1 NMSA 1978.

23 E. No court of this state has jurisdiction to
24 entertain a proceeding by any person in which the person calls
25 into question the application to that person of any provision

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1 of the Motor Fuel Taxes Act, except as a consequence of the
2 appeal by that person to the district court from the action and
3 order of the hearing officer as provided for in this section.

4 F. Nothing in this section shall be construed to
5 authorize a criminal proceeding or to authorize an
6 administrative protest of the issuance of a subpoena or
7 summons."

8 SECTION 65. Section 7-2-18.21 NMSA 1978 (being Laws 2007,
9 Chapter 204, Section 7) is amended to read:

10 "7-2-18.21. CREDIT--BLENDED BIODIESEL FUEL.--

11 A. A taxpayer who is liable for payment of the
12 special fuel excise tax [~~pursuant to Subsections A through D of~~
13 ~~Section 7-16A-2.1 NMSA 1978~~] and who files a New Mexico income
14 tax return is eligible to claim a credit against income tax
15 liability for each gallon of blended biodiesel fuel on which
16 that person paid the special fuel excise tax in the taxable
17 year, or would have paid the special fuel excise tax in the
18 taxable year but for the [~~deductions~~] exemptions and credits
19 allowed pursuant to [~~Subsections B through F of Section~~
20 ~~7-16A-10 NMSA 1978~~] the Motor Fuel Taxes Act or the treaty
21 exemption for north Atlantic treaty organization use. The
22 credit shall be in the following amounts for the following
23 periods:

24 (1) from January 1, 2007 until December 31,
25 2010, at a rate of three cents (\$.03) per gallon;

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1 (2) from January 1, 2011 until December 31,
2 2011, at a rate of two cents (\$.02) per gallon; and

3 (3) from January 1, 2012 until December 31,
4 2012, at a rate of one cent (\$.01) per gallon.

5 B. The tax credit provided by this section may not
6 be claimed with respect to the same blended biodiesel fuel for
7 which a credit has been claimed pursuant to the Corporate
8 Income and Franchise Tax Act or for which a credit or refund
9 has been claimed pursuant to Section 7-16A-13 NMSA 1978.

10 C. A taxpayer who otherwise qualifies for and
11 claims a credit pursuant to this section for blended biodiesel
12 fuel on which special fuel excise tax has been paid by a
13 partnership or other business association of which the taxpayer
14 is a member may claim a credit only in proportion to the
15 taxpayer's interest in the partnership or business association.
16 The total credit claimed in the aggregate by all members of the
17 partnership or business association shall not exceed the amount
18 of credit allowed pursuant to Subsection A of this section.

19 D. [~~A husband and wife~~] Married individuals who
20 file separate returns for a taxable year in which they could
21 have filed a joint return may each claim only one-half of the
22 credit that would have been allowed on a joint return.

23 E. The tax credit provided by this section may only
24 be applied against the income tax liability of the person who
25 paid the special fuel excise tax on the blended biodiesel fuel

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1 with respect to which the credit is provided, or who would have
2 paid the special fuel excise tax but for the deductions allowed
3 pursuant to Subsections B through F of Section 7-16A-10 NMSA
4 1978 or the treaty exemption for north Atlantic treaty
5 organization use. If the credit exceeds the person's income
6 tax liability for the taxable year in which the credit is
7 granted, the credit may be carried forward for five years.

8 F. A taxpayer claiming a credit pursuant to this
9 section shall provide documentation of eligibility in form and
10 content as determined by the department.

11 G. For the purposes of this section:

12 (1) "biodiesel" means renewable,
13 biodegradable, monoalkyl ester combustible liquid fuel that is
14 derived from agricultural plant oils or animal fats and that
15 meets American society for testing and materials D 6751
16 standard specification for biodiesel B100 blend stock for
17 distillate fuels;

18 (2) "blended biodiesel fuel" means a diesel
19 fuel that contains at least two percent biodiesel; and

20 (3) "diesel fuel" means any diesel-engine fuel
21 used for the generation of power to propel a motor vehicle."

22 SECTION 66. Section 7-2A-23 NMSA 1978 (being Laws 2007,
23 Chapter 204, Section 8) is amended to read:

24 "7-2A-23. CREDIT--BLENDED BIODIESEL FUEL.--

25 A. A taxpayer that is liable for payment of the

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1 special fuel excise tax [~~pursuant to Subsections A through D of~~
2 ~~Section 7-16A-2.1 NMSA 1978~~] and that files a New Mexico
3 corporate income tax return is eligible to claim a credit
4 against corporate income tax liability for each gallon of
5 blended biodiesel fuel on which that person paid the special
6 fuel excise tax in the taxable year or who would have paid the
7 special fuel excise tax in the taxable year but for the
8 [~~deductions~~] exemptions and credits allowed pursuant to
9 [~~Subsections B through F of Section 7-16A-10 NMSA 1978~~] the
10 Motor Fuel Taxes Act or the treaty exemption for north Atlantic
11 treaty organization use. The credit shall be in the following
12 amounts for the following periods:

13 (1) from January 1, 2007 until December 31,
14 2010, at a rate of three cents (\$.03) per gallon;

15 (2) from January 1, 2011 until December 31,
16 2011, at a rate of two cents (\$.02) per gallon; and

17 (3) from January 1, 2012 until December 31,
18 2012, at a rate of one cent (\$.01) per gallon.

19 B. The tax credit provided by this section may not
20 be claimed with respect to the same blended biodiesel fuel for
21 which a credit has been claimed pursuant to the Income Tax Act
22 or for which a credit or refund has been claimed pursuant to
23 Section 7-16A-13 NMSA 1978.

24 C. A taxpayer that otherwise qualifies for and
25 claims a credit pursuant to this section for blended biodiesel

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1 fuel on which special fuel excise tax has been paid by a
2 partnership or other business association of which the taxpayer
3 is a member may claim a credit only in proportion to the
4 taxpayer's interest in the partnership or business association.
5 The total credit claimed in the aggregate by all members of the
6 partnership or business association shall not exceed the amount
7 of credit allowed pursuant to Subsection A of this section.

8 D. The tax credit provided by this section may only
9 be applied against the corporate income tax liability of the
10 person that paid the special fuel excise tax on the blended
11 biodiesel fuel with respect to which the credit is provided or
12 that would have paid the special fuel excise tax but for the
13 deductions allowed pursuant to Subsections B through F of
14 Section 7-16A-10 NMSA 1978 or the treaty exemption for north
15 Atlantic treaty organization use. If the credit exceeds the
16 person's corporate income tax liability for the taxable year in
17 which the credit is granted, the credit may be carried forward
18 for five years.

19 E. A taxpayer claiming a credit pursuant to this
20 section shall provide documentation of eligibility in form and
21 content as determined by the department.

22 F. For the purposes of this section:

23 (1) "biodiesel" means renewable,
24 biodegradable, monoalkyl ester combustible liquid fuel that is
25 derived from agricultural plant oils or animal fats and that

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1 meets American society for testing and materials D 6751
2 standard specification for biodiesel B100 blend stock for
3 distillate fuels;

4 (2) "blended biodiesel fuel" means a diesel
5 fuel that contains at least two percent biodiesel; and

6 (3) "diesel fuel" means any diesel-engine fuel
7 used for the generation of power to propel a motor vehicle."

8 SECTION 67. Section 7-9-26 NMSA 1978 (being Laws 1969,
9 Chapter 144, Section 19, as amended) is amended to read:

10 "7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING TAX--
11 FUEL.--Exempted from the gross receipts and compensating tax
12 are the receipts from selling and the use of gasoline, special
13 fuel or alternative fuel on which the tax imposed by [~~Section~~
14 ~~7-13-3, 7-16-3 or 7-16A-3 NMSA 1978~~] the Motor Fuel Taxes Act
15 or the Alternative Fuel Tax Act has been paid and not
16 refunded."

17 SECTION 68. Section 7-9-79.2 NMSA 1978 (being Laws 2007,
18 Chapter 204, Section 9) is amended to read:

19 "7-9-79.2. GROSS RECEIPTS TAX--COMPENSATING TAX--
20 BIODIESEL BLENDING FACILITY TAX CREDIT.--

21 A. A taxpayer who is a rack operator as defined in
22 the [~~Special Fuels Supplier Tax~~] Motor Fuel Taxes Act and who
23 installs biodiesel blending equipment in property owned by the
24 taxpayer for the purpose of establishing or expanding a
25 facility to produce blended biodiesel fuel is eligible to claim

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1 a credit against gross receipts tax or compensating tax. The
2 credit shall be an amount equal to thirty percent of the
3 purchase cost of the equipment plus thirty percent of the cost
4 of installing that equipment. The credit provided by this
5 section may be referred to as the "biodiesel blending facility
6 tax credit".

7 B. The biodiesel blending facility tax credit shall
8 not exceed fifty thousand dollars (\$50,000) with respect to
9 equipment installed at any one facility.

10 C. Upon application from a taxpayer wishing to
11 claim the biodiesel blending facility tax credit, the energy,
12 minerals and natural resources department shall determine if
13 the equipment for which the tax credit will be claimed meets
14 the requirements of this section and if purchase and
15 installation costs reported by the taxpayer are legitimate.
16 Upon these determinations being made in favor of the taxpayer,
17 the energy, minerals and natural resources department shall
18 issue a dated certificate of eligibility containing this
19 information and an estimate of the amount of the biodiesel
20 blending facility tax credit for which the taxpayer is
21 eligible.

22 D. To claim the biodiesel blending facility tax
23 credit, the taxpayer shall provide to the taxation and revenue
24 department the certificate of eligibility from the energy,
25 minerals and natural resources department. Upon receipt of the

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1 certificate, the taxation and revenue department shall approve
2 the claim for the credit if the total cumulative amount of
3 approved claims for the credit for all taxpayers for the
4 calendar year does not exceed one million dollars (\$1,000,000).
5 The department shall maintain a record of the cumulative amount
6 of claims for the credit that have been approved and when it
7 determines that this cumulative amount has reached one million
8 dollars (\$1,000,000), it shall cease approving any additional
9 claims for the biodiesel blending facility tax credit.

10 E. If a taxpayer who has received the biodiesel
11 blending facility tax credit ceases biodiesel blending without
12 completing at least one hundred eighty days of availability of
13 the facility within the first three hundred sixty-five days
14 after the issuance of the certificate of eligibility from the
15 energy, minerals and natural resources department, any amount
16 of approved credit not applied against the taxpayer's gross
17 receipts tax or compensating tax liability shall be
18 extinguished. The taxpayer must amend the taxpayer's return,
19 self-assess the tax owed and return any biodiesel blending
20 facility tax credit received within four hundred twenty-five
21 days of the date of issuance of the certificate of eligibility.

22 F. The tax credit provided by this section may only
23 be applied against the taxpayer's gross receipts tax liability
24 or compensating tax liability. If the credit exceeds the
25 taxpayer's tax liability in the reporting period for which it

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1 is granted, the credit may be carried forward for four years
2 from the date of the certificate of eligibility.

3 G. For the purposes of this section:

4 (1) "biodiesel" means renewable,
5 biodegradable, monoalkyl ester combustible liquid fuel that is
6 derived from agricultural plant oils or animal fats and that
7 meets American society for testing and materials D 6751
8 standard specification for biodiesel B100 blend stock for
9 distillate fuels;

10 (2) "biodiesel blending equipment" means
11 equipment necessary for the process of blending biodiesel with
12 diesel fuel to produce blended biodiesel fuel;

13 (3) "blended biodiesel fuel" means a diesel
14 fuel that contains at least two percent biodiesel; and

15 (4) "diesel fuel" means any diesel-engine fuel
16 used for the generation of power to propel a motor vehicle."

17 SECTION 69. Section 7-13-3 NMSA 1978 (being Laws 1971,
18 Chapter 207, Section 3, as amended) is amended to read:

19 "7-13-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
20 "GASOLINE TAX".--

21 A. For the privilege of receiving gasoline in this
22 state, there is imposed an excise tax at a rate provided in
23 Subsection B of this section on each gallon of gasoline
24 received in New Mexico.

25 B. The tax imposed by Subsection A of this section

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1 shall be [~~seventeen cents (\$.17)~~] twenty-two cents (\$.22) per
2 gallon received in New Mexico.

3 C. The tax imposed by this section may be called
4 the "gasoline tax".

5 SECTION 70. Section 7-13A-2 NMSA 1978 (being Laws 1990,
6 Chapter 124, Section 15, as amended) is amended to read:

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

9 A. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

13 [~~B. "distributor" means any person registered or
14 required to be registered as a rack operator or distributor for
15 purposes of the Gasoline Tax Act and any person registered or
16 required to be registered as a rack operator or special fuel
17 supplier for purposes of the Special Fuels Supplier Tax Act;~~

18 G.] B. "gallon" means the quantity of liquid
19 necessary to fill a standard United States gallon liquid
20 measure, which is approximately 3.785 liters, or that same
21 quantity adjusted to a temperature of sixty degrees Fahrenheit
22 at the election of [~~any distributor~~] the taxpayer, but [~~a
23 distributor~~] the taxpayer shall report on the same basis for a
24 period of at least one year;

25 [~~D.~~] C. "load" means eight thousand gallons of

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1 petroleum product;

2 ~~[E.]~~ D. "loading" means the act of placing or
3 causing to be placed any petroleum product that is produced,
4 refined, manufactured, blended or compounded at a refinery in
5 this state or stored at a pipeline terminal in this state into
6 tank cars, tank trucks, tank wagons or other types of
7 transportation equipment or into any tank or other container
8 from which sales or deliveries not involving transportation are
9 made;

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

17 ~~[G.]~~ F. "petroleum product" means gasoline as
18 defined in the Gasoline Tax Act and special fuel as defined in
19 the Special Fuels Supplier Tax Act; ~~[and~~

20 ~~H.]~~ G. "secretary" means, unless the context
21 indicates another meaning, the secretary of taxation and
22 revenue or the secretary's delegate;

23 H. "taxpayer" means a person subject to the taxes
24 imposed by the Motor Fuel Taxes Act; and

25 I. "unobligated balance of the corrective action

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1 fund" means corrective action fund equity less all known or
2 anticipated liabilities against the fund."

3 SECTION 71. Section 7-13A-3 NMSA 1978 (being Laws 1990,
4 Chapter 124, Section 16, as amended) is amended to read:

5 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
6 "PETROLEUM PRODUCTS LOADING FEE".--

7 A. ~~[For the privilege of loading gasoline or~~
8 ~~special fuel from a rack at a refinery or pipeline terminal in~~
9 ~~this state into a cargo tank]~~ In addition to the taxes imposed
10 pursuant to the Motor Fuel Taxes Act, there is imposed on
11 taxpayers subject to those taxes, a fee ~~[on the distributor]~~ at
12 a rate provided in Subsection ~~[G]~~ B of this section on:

13 (1) each gallon of gasoline or special fuel
14 loaded in New Mexico on which the petroleum products loading
15 fee has not been previously paid; and

16 ~~[B. For the privilege of importing gasoline or~~
17 ~~special fuel into this state for resale or consumption in this~~
18 ~~state, there is imposed a fee determined as provided in~~
19 ~~Subsection C of this section on]~~ (2) each load of gasoline or
20 special fuel imported into New Mexico for resale or consumption
21 on which the petroleum products loading fee has not been
22 previously paid. For the purposes of this ~~[section]~~ paragraph,
23 "load" means eight thousand gallons of gasoline or special
24 fuel. To determine how many loads a person is to report under
25 the provisions of this section, the person shall divide by

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1 eight thousand the total gallons of gasoline and special fuel
2 reported for the purposes of [~~Section 7-13-3 NMSA 1978 as~~
3 ~~adjusted under the provisions of Section 7-13-4 NMSA 1978 and~~
4 ~~the total gallons of special fuels received in New Mexico less~~
5 ~~any gallons exempted under Section 7-13A-4 NMSA 1978] the Motor
6 Fuel Taxes Act. Loads shall be calculated to the nearest one-
7 hundredth of a load.~~

8 [~~C.~~] B. The fee imposed by this section is and may
9 be referred to as the "petroleum products loading fee" and
10 shall be one hundred fifty dollars (\$150) per load or whichever
11 of the following applies:

12 (1) in the event the secretary of environment
13 certifies that the unobligated balance of the corrective action
14 fund at the end of the prior fiscal year equals or exceeds
15 eighteen million dollars (\$18,000,000), the fee shall be set at
16 forty dollars (\$40.00) per load;

17 (2) in the event the secretary of environment
18 certifies that the unobligated balance of the corrective action
19 fund at the end of the prior fiscal year exceeds twelve million
20 dollars (\$12,000,000) but is less than eighteen million dollars
21 (\$18,000,000), the fee shall be set at eighty dollars (\$80.00)
22 per load;

23 (3) in the event the secretary of environment
24 certifies that the unobligated balance of the corrective action
25 fund at the end of the prior fiscal year exceeds six million

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1 dollars (\$6,000,000) but is less than twelve million dollars
2 (\$12,000,000), the fee shall be set at one hundred twenty
3 dollars (\$120) per load; and

4 (4) in the event the secretary of environment
5 certifies that the unobligated balance of the corrective action
6 fund at the end of the prior fiscal year is less than six
7 million dollars (\$6,000,000), the fee shall be set at one
8 hundred fifty dollars (\$150) per load.

9 [~~D.~~] C. The amount of the petroleum products
10 loading fee set pursuant to Paragraph (1), (2), (3) or (4) of
11 Subsection [~~E.~~] B of this section shall be imposed on the first
12 day of the month following expiration of ninety days after the
13 end of the fiscal year for which the certification was made.

14 [~~E.~~] D. As used in this section, "unobligated
15 balance of the corrective action fund" means corrective action
16 fund equity less all known or anticipated liabilities against
17 the fund."

18 **SECTION 72.** Section 7-13A-7 NMSA 1978 (being Laws 2015
19 (1st S.S.), Chapter 2, Section 20) is amended to read:

20 "7-13A-7. CLAIM FOR REFUND OF PETROLEUM PRODUCTS LOADING
21 FEE ON PRODUCTS PREVIOUSLY LOADED FROM A SOURCE OTHER THAN A
22 REFINER OR PIPELINE TERMINAL.--

23 A. Upon the submission of proof satisfactory to the
24 department, a [~~distributor~~] taxpayer may claim, and the
25 department may allow, a claim for refund of the petroleum

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1 products loading fee paid on petroleum products previously
2 loaded in New Mexico from a source other than a refiner or
3 pipeline terminal in this state and placed in a terminal from
4 which it will be loaded into tank cars, tank trucks, tank
5 wagons or other types of transportation equipment.

6 B. No person may submit claims for refund pursuant
7 to this section more frequently than quarterly. No claim for
8 refund may be submitted or allowed on less than one hundred
9 gallons.

10 C. The department may prescribe the documents
11 necessary to support a claim for refund pursuant to the
12 provisions of this section."

13 SECTION 73. Section 7-16A-3 NMSA 1978 (being Laws 1992,
14 Chapter 51, Section 3, as amended) is amended to read:

15 "7-16A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
16 SPECIAL FUEL EXCISE TAX.--

17 A. For the privilege of receiving or using special
18 fuel in this state, there is imposed an excise tax at a rate
19 provided in Subsection B of this section on each gallon of
20 special fuel received in New Mexico.

21 B. The tax imposed by Subsection A of this section
22 shall be [~~twenty-one cents (\$.21)~~] twenty-six cents (\$.26) per
23 gallon of special fuel received or used in New Mexico.

24 C. The tax imposed by this section may be called
25 the "special fuel excise tax".

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1 SECTION 74. Section 7-29A-5 NMSA 1978 (being Laws 1992,
2 Chapter 38, Section 5) is amended to read:

3 "7-29A-5. SECRETARY OF TAXATION AND REVENUE APPROVAL--
4 REFUND.--

5 A. The person responsible for paying the oil and
6 gas severance tax on production from the enhanced recovery
7 project shall not qualify to receive the recovered oil tax rate
8 unless that person:

9 (1) applies to the secretary of taxation and
10 revenue in the form and manner prescribed by the secretary for
11 approval to pay the oil and gas severance tax on crude oil
12 severed and saved from the enhanced recovery project at the
13 recovered oil tax rate;

14 (2) includes the certifications from the
15 division of approval and designation of the affected areas of
16 the enhanced recovery project and of a positive production
17 response from the enhanced recovery project; and

18 (3) provides all relevant material that the
19 secretary of taxation and revenue considers necessary to
20 administer the applicable provisions of the Enhanced Oil
21 Recovery Act.

22 B. An approval of the secretary of taxation and
23 revenue in accordance with Subsection A of this section shall
24 be applicable to crude oil severed and sold from the enhanced
25 recovery project on and after the first day of the month

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1 following the month in which the division certifies that a
2 positive production response with respect to the enhanced
3 recovery project has occurred. If the oil and gas severance
4 tax is paid at a rate imposed in Paragraph (2) of Subsection A
5 of Section 7-29-4 NMSA 1978 on crude oil severed and saved from
6 the enhanced recovery project after the month in which the
7 division certifies that a positive production response with
8 respect to the enhanced recovery project has occurred, a claim
9 for refund may be filed in accordance with Section 7-1-26 NMSA
10 1978 for the excess in tax over the amount due using the
11 recovered oil tax rate. Notwithstanding the provisions of
12 Subsection [~~E~~] G of Section 7-1-26 NMSA 1978, any such refund
13 granted shall be made in the form of a credit against future
14 oil and gas severance tax liabilities."

15 SECTION 75. Section 7-29B-6 NMSA 1978 (being Laws 1995,
16 Chapter 15, Section 6, as amended) is amended to read:

17 "7-29B-6. QUALIFICATION FOR PRODUCTION RESTORATION
18 INCENTIVE TAX EXEMPTION AND WELL WORKOVER AND STRIPPER WELL
19 PROPERTY INCENTIVE TAX RATE--SECRETARY OF TAXATION AND REVENUE
20 APPROVAL--REFUND.--

21 A. The person responsible for paying the oil and
22 gas severance tax on natural gas or oil produced from a
23 production restoration project shall qualify to receive a ten-
24 year production restoration incentive tax exemption upon:

25 (1) application to the department in the form

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1 and manner prescribed by the department for approval for the
2 ten-year production restoration incentive tax exemption;

3 (2) submission of the certification of
4 approval from the division and designation of the natural gas
5 or oil well as a production restoration project; and

6 (3) submission of any other relevant material
7 that the secretary of taxation and revenue deems necessary to
8 administer the applicable provisions of the Natural Gas and
9 Crude Oil Production Incentive Act.

10 B. The person responsible for payment of the oil
11 and gas severance tax on natural gas or oil produced from a
12 well workover project shall qualify for the well workover
13 incentive tax rate on all the natural gas or oil produced by
14 that project upon:

15 (1) application to the department in the form
16 and manner prescribed by the department for approval to apply
17 the well workover incentive tax rate to the natural gas or oil
18 produced from a well workover project;

19 (2) submission of the certification from the
20 division of approval and designation of the natural gas or oil
21 well as a well workover project; and

22 (3) any other relevant material that the
23 department considers necessary to administer the applicable
24 provisions of the Natural Gas and Crude Oil Production
25 Incentive Act.

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1 C. The person responsible for paying the oil and
2 gas severance tax and the oil and gas emergency school tax on
3 natural gas and crude oil produced from a stripper well
4 property shall qualify to receive the stripper well property
5 incentive tax rate for the fiscal year following certification
6 by the division in the form and manner agreed to by the
7 division and the department designating the property as a
8 stripper well property. The division shall certify stripper
9 well properties for calendar year 1998 no later than June 30,
10 1999 and no later than June 1 of each succeeding year for the
11 preceding calendar year.

12 D. The production restoration incentive tax
13 exemption shall apply to natural gas or oil produced from a
14 production restoration project beginning the first day of the
15 month following the date the division certifies that production
16 has been restored and ending the last day of the tenth year of
17 production following that date. The well workover incentive
18 tax rate applies to the natural gas or oil produced from a well
19 workover project beginning the first day of the month following
20 the date the division certifies that the well workover project
21 has been completed. The stripper well property incentive tax
22 rates apply to the natural gas or oil produced from a stripper
23 well property in the twelve months beginning May 1 prior to
24 July 1 of the fiscal year to which the certification of the
25 property as a stripper well property applies.

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1 E. The person responsible for payment of the oil
2 and gas severance tax on natural gas or oil production from an
3 approved well workover project may file a claim for credit
4 against current tax liability or for refund in accordance with
5 Section 7-1-26 NMSA 1978 for taxes paid in excess of the amount
6 due using the well workover incentive tax rate.

7 Notwithstanding the provisions of Subsection [~~E~~] G of Section
8 7-1-26 NMSA 1978, any such refund granted shall be made in the
9 form of a credit against any future oil and gas severance tax
10 liabilities incurred by the taxpayer.

11 F. Well workover projects certified prior to July
12 1, 1999 shall be deemed to be approved and certified in
13 accordance with the provisions of this 1999 act and natural gas
14 or oil produced from those projects shall be eligible for the
15 well workover incentive tax rate effective beginning July 1,
16 1999.

17 G. The secretary of taxation and revenue may adopt
18 and promulgate rules to enforce the provisions of this
19 section."

20 **SECTION 76.** Section 57-19-27 NMSA 1978 (being Laws 1993,
21 Chapter 98, Section 3, as amended) is amended to read:

22 "57-19-27. DEFINITIONS.--As used in the Petroleum
23 Products Standards Act:

24 A. "biodiesel" means a renewable, biodegradable,
25 mono alkyl ester combustible liquid fuel that is derived from

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1 agricultural plant oils or animal fats and that meets American
2 society for testing and materials specification for biodiesel
3 fuel, B100, blend stock for distillate fuels;

4 B. "board" means the board of regents of New Mexico
5 state university;

6 C. "dealer" means a dealer as defined by the
7 [~~Special Fuels Supplier Tax~~] Motor Fuel Taxes Act;

8 D. "department" means the New Mexico department of
9 agriculture;

10 E. "diesel fuel" means any diesel-engine fuel used
11 for the generation of power to propel a motor vehicle;

12 F. "director" means the director of the New Mexico
13 department of agriculture;

14 G. "distributor" means a distributor as defined by
15 the [~~Gasoline Tax~~] Motor Fuel Taxes Act;

16 H. "lubricating oil" means any oil used to
17 lubricate transmissions, gears or axles;

18 I. "motor fuel" means any liquid product used for
19 the generation of power in an internal combustion engine,
20 excluding liquified petroleum gases and aviation fuels;

21 J. "motor oil" means oil for use in lubricating
22 internal combustion engines;

23 K. "person" means any natural person, firm,
24 partnership, association or corporation;

25 L. "petroleum product" means motor fuel, kerosene,

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1 lubricating oil, motor oil, anti-freeze or brake fluid; and

2 M. "retailer" means any person who sells motor fuel
3 and delivers the motor fuel into the supply tanks of motor
4 vehicles."

5 SECTION 77. Section 65-1-2 NMSA 1978 (being Laws 1978,
6 Chapter 19, Section 1, as amended) is amended to read:

7 "65-1-2. DEFINITIONS.--As used in the Motor
8 Transportation Act:

9 A. "combination" means any connected assemblage of
10 a motor vehicle and one or more semitrailers, trailers or
11 semitrailers converted to trailers by means of a converter
12 gear;

13 B. "combination gross vehicle weight" means the sum
14 total of the gross vehicle weights of all units of a
15 combination;

16 C. "commercial motor carrier vehicle" means a self-
17 propelled or towed vehicle, other than special mobile
18 equipment, used on public highways in commerce to transport
19 passengers or property when the vehicle:

20 (1) is operated interstate and has a gross
21 vehicle weight rating or gross combination weight rating, or
22 gross vehicle weight or gross combination weight, of four
23 thousand five hundred thirty-six kilograms, or ten thousand one
24 pounds or more; or is operated only in intrastate commerce and
25 has a gross vehicle weight rating or gross combination weight

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1 rating, or gross vehicle weight or gross combination weight, of
2 twenty-six thousand one or more pounds;

3 (2) is designed or used to transport more than
4 eight passengers, including the driver, and is used to
5 transport passengers for compensation;

6 (3) is designed or used to transport more than
7 fifteen passengers, including the driver, and is not used to
8 transport passengers for compensation; or

9 (4) is used to transport hazardous materials
10 of the type or quantity requiring placarding under rules
11 prescribed by applicable federal or state law;

12 D. "converter gear" means any assemblage of one or
13 more axles with a fifth wheel mounted thereon, designed for use
14 in a combination to support the front end of a semitrailer but
15 not permanently attached thereto. A "converter gear" shall not
16 be considered a vehicle as that term is used in Chapter 66 NMSA
17 1978, but its weight shall be included in declared gross
18 weight;

19 E. "declared gross weight" means maximum gross
20 vehicle weight or combination gross vehicle weight at which a
21 vehicle or combination will be operated during the registration
22 period as declared by the registrant for registration and fee
23 purposes. The vehicle or combination shall have only one
24 "declared gross weight" for all operating considerations;

25 F. "department", without modification, means the

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1 department of public safety, the secretary of public safety or
2 any employee of the department exercising authority lawfully
3 delegated to that employee by the secretary;

4 G. "director" means the secretary;

5 H. "division" means the New Mexico state police
6 division of the department;

7 I. "evidence of registration" means documentation
8 issued by the taxation and revenue department identifying a
9 motor carrier vehicle as being registered with New Mexico or
10 documentation issued by another state pursuant to the terms of
11 a multistate agreement on registration of vehicles to which
12 this state is a party identifying a motor carrier vehicle as
13 being registered with that state; provided that evidence of
14 payment of the weight distance tax and permits obtained under
15 either the [~~Special Fuels Supplier Tax~~] Motor Fuel Taxes Act or
16 Trip Tax Act are not "evidence of registration";

17 J. "field enforcement" or "in the field" means
18 patrolling of the highway, stopping of commercial motor carrier
19 vehicles or establishing ports of entry and roadblocks for the
20 purpose of checking motor carriers and includes similar
21 activities;

22 K. "freight trailer" means any trailer, semitrailer
23 or pole trailer drawn by a truck tractor or road tractor and
24 any trailer, semitrailer or pole trailer drawn by a truck that
25 has a gross vehicle weight of more than twenty-six thousand

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1 pounds, but the term does not include house trailers, trailers
2 of less than one-ton carrying capacity used to transport
3 animals or fertilizer trailers of less than three thousand five
4 hundred pounds empty weight;

5 L. "gross vehicle weight" means the weight of a
6 vehicle without load plus the weight of any load thereon;

7 M. "motor carrier" means any person that owns,
8 controls, operates or manages any motor vehicle with gross
9 vehicle weight of twelve thousand pounds or more that is used
10 to transport persons or property on the public highways of this
11 state;

12 N. "motor vehicle" means any vehicle or device that
13 is propelled by an internal combustion engine or electric motor
14 power that is used or may be used on the public highways for
15 the purpose of transporting persons or property and includes
16 any connected trailer or semitrailer;

17 O. "one-way rental fleet" means two or more
18 vehicles each having a gross vehicle weight of under twenty-six
19 thousand one pounds and rented to the public without a driver;

20 P. "person" means any individual, estate, trust,
21 receiver, cooperative association, club, corporation, company,
22 firm, partnership, joint venture, syndicate or other
23 association; "person" also means, to the extent permitted by
24 law, any federal, state or other governmental unit or
25 subdivision or an agency, department or instrumentality;

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1 "person" also includes an officer or employee of a corporation,
2 a member or employee of a partnership or any individual who, as
3 such, is under a duty to perform any act in respect of which a
4 violation occurs;

5 Q. "properly registered" means bearing the lawfully
6 issued and currently valid evidence of registration of this or
7 another jurisdiction, regardless of the owner's residence,
8 except in those cases where the evidence has been procured by
9 misrepresentation or fraud;

10 R. "public highway" means every way or place
11 generally open to the use of the public as a matter of right
12 for the purpose of vehicular travel, even though it may be
13 temporarily closed or restricted for the purpose of
14 construction, maintenance, repair or reconstruction;

15 S. "secretary" means the secretary of public safety
16 and, except for the purposes of Section 65-1-33 NMSA 1978, also
17 includes a deputy secretary and any division director delegated
18 by the secretary;

19 T. "state" or "jurisdiction" means a state,
20 territory or possession of the United States, the District of
21 Columbia, the commonwealth of Puerto Rico, a foreign country or
22 a state or province of a foreign country; and

23 U. "utility trailer" means any trailer, semitrailer
24 or pole trailer and includes house trailers that exceed neither
25 eight feet in width nor forty feet in length, but does not

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1 include freight trailers, trailers of less than one-ton
2 carrying capacity used to transport animals or fertilizer
3 trailers of less than three thousand five hundred pounds empty
4 weight."

5 SECTION 78. Section 65-1-28 NMSA 1978 (being Laws 1987,
6 Chapter 128, Section 1, as amended) is amended to read:

7 "65-1-28. PAYMENT BY CREDIT CARD--OPTIONAL SERVICES--
8 FEES--APPROPRIATIONS.--

9 A. Notwithstanding any other provision of law, the
10 department is authorized to enter into agreements with
11 financial institutions and credit card companies under which
12 the department may accept payment by credit card from motor
13 carriers of the taxes, fees or other charges due pursuant to
14 the Motor Transportation Act, Motor Vehicle Code, Trip Tax Act,
15 [~~Special Fuels Tax~~] Motor Fuel Taxes Act with regard to the
16 special fuel excise tax or Weight Distance Tax Act. Any fee
17 payable to the financial institution or credit card company for
18 a payment by credit card authorized under this section may be
19 deducted from the proceeds of the taxes, fees or other charges
20 paid on a pro-rata basis prior to any other distribution of the
21 proceeds required by law. The necessary portion of the
22 proceeds of the taxes, fees and other charges collected under
23 this subsection is [~~hereby~~] appropriated for the purpose of
24 paying the fee payable to the financial institution or credit
25 card company.

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1 B. The secretary is authorized to establish by
2 regulation fees to cover the expense of providing additional
3 services for the convenience of the motoring public. Any
4 service established for which a fee is adopted under this
5 section shall be optional, with the fee not being charged to
6 any person not taking advantage of the service. Amounts
7 collected pursuant to this subsection are appropriated to the
8 department for the purpose of defraying the expense of
9 providing the service."

10 SECTION 79. Section 65-1-28.1 NMSA 1978 (being Laws 1992,
11 Chapter 106, Section 12) is amended to read:

12 "65-1-28.1. SPECIAL METHODS OF PAYMENT.--The department
13 may require the motor carriers specified in this section to
14 make payment of taxes, fees and other charges due under the
15 Motor Transportation Act, Motor Vehicle Code, Trip Tax Act,
16 [~~Special Fuels Tax~~] Motor Fuel Taxes Act or Weight Distance Tax
17 Act by credit card, certified check or other method of
18 guaranteed payment. The provisions of this section apply to
19 any motor carrier whose check in payment of any amount due
20 under any act administered by the department has been
21 dishonored upon presentment on two or more occasions within the
22 previous two years."

23 SECTION 80. Section 66-1-4.21 NMSA 1978 (being Laws 1998
24 (1st S.S.), Chapter 10, Section 9) is amended to read:

25 "66-1-4.21. ADDITIONAL DEFINITIONS.--As used in the Motor

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1 Vehicle Code:

2 A. "evidence of registration" means any
3 documentation issued by the department identifying a motor
4 carrier vehicle as being registered with New Mexico or
5 documentation issued by another state pursuant to the terms of
6 a multistate agreement on registration of vehicles to which
7 this state is a party identifying a motor carrier vehicle as
8 being registered with that state; provided that evidence of
9 payment of the weight distance tax and permits obtained under
10 either the [~~Special Fuels Supplier Tax~~] Motor Fuel Taxes Act or
11 Trip Tax Act are not "evidence of registration";

12 B. "fleet" means one or more motor carrier
13 vehicles, either commercial or noncommercial but not mixed,
14 that are operated in this and at least one other jurisdiction;

15 C. "motor carrier" means any person or firm that
16 owns, controls, operates or manages any motor vehicle with
17 gross vehicle weight of twelve thousand pounds or more that is
18 used to transport persons or property on the public highways of
19 this state;

20 D. "one-way rental fleet" means two or more
21 vehicles each having a gross vehicle weight of under twenty-six
22 thousand one pounds and rented to the public without a driver;

23 E. "preceding year" means a period of twelve
24 consecutive months fixed by the department, which period is
25 within the sixteen months immediately preceding the

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1 commencement of the registration or license year for which
2 proportional registration is sought. The department, in fixing
3 that period, shall make it conform to the terms, conditions and
4 requirements of any applicable agreement or arrangement for the
5 proportional registration of vehicles;

6 F. "properly registered" means bearing the lawfully
7 issued and currently valid evidence of registration of this or
8 another jurisdiction, regardless of the owner's residence,
9 except in those cases where the evidence has been procured by
10 misrepresentation or fraud; and

11 G. "public highway" means every way or place
12 generally open to the use of the public as a matter of right
13 for the purpose of vehicular travel, even though it may be
14 temporarily closed or restricted for the purpose of
15 construction, maintenance, repair or reconstruction."

16 SECTION 81. Section 66-3-1.3 NMSA 1978 (being Laws 1983,
17 Chapter 142, Section 3, as amended) is amended to read:

18 "66-3-1.3. UNREGISTERED FOREIGN COMMERCIAL MOTOR CARRIER
19 VEHICLE OPERATIONS.--

20 A. As used in this section:

21 (1) "foreign commercial motor carrier vehicle"
22 means a commercial motor carrier vehicle as defined in
23 Subsection C of Section 65-1-2 NMSA 1978 that is titled and
24 licensed in a jurisdiction other than New Mexico;

25 (2) "registrant" means the person accepting

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1 financial responsibility for payment of all fees and taxes that
2 become due as a result of vehicle operations. Financial
3 responsibility is assigned to the person named on the
4 registration application;

5 (3) "short-term" means for a period of more
6 than forty-eight hours and less than one hundred eighty days;

7 (4) "short-term registration" means meeting
8 all registration, licensing, posting of security and taxation
9 requirements as provided in this section; and

10 (5) "unregistered" means a foreign commercial
11 motor carrier vehicle not registered with the department under
12 the provisions of Section ~~[65-1-12]~~ 66-3-1.1 NMSA 1978 and
13 Subsection B of Section 66-3-5 NMSA 1978 ~~[and, if applicable,~~
14 ~~the tax-excluded user permit provisions of Section 7-16-6 NMSA~~
15 ~~1978]~~.

16 B. The owner of a foreign commercial motor carrier
17 vehicle that is to be operated within the state on a short-term
18 basis shall comply with the short-term registration provisions
19 as provided in this section before operating the vehicle upon
20 the highways of New Mexico. If an owner or operator of a
21 foreign commercial motor carrier vehicle does not comply with
22 the short-term registration provisions as provided in this
23 section, the owner or operator shall:

24 (1) stop at a port of entry and pay all
25 applicable fees and taxes on a trip basis in accordance with

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1 normal fee and tax schedules applicable to unregistered
2 vehicles; or

3 (2) register with the department in accordance
4 with all registration and permit requirements as specified by
5 this section.

6 C. Any owner or operator electing to register a
7 foreign commercial motor carrier vehicle with the department on
8 a short-term basis shall meet the following requirements before
9 operating that vehicle upon the highways of New Mexico:

10 (1) file with the department a short-term
11 registration application that provides the following
12 information for each commercial motor carrier vehicle to be
13 operated under this section:

- 14 (a) base state;
- 15 (b) unit number;
- 16 (c) year and make of vehicle;
- 17 (d) vehicle serial number;
- 18 (e) declared gross weight;
- 19 (f) type of fuel;
- 20 (g) name and complete address of the
21 registrant;
- 22 (h) individual vehicle highway miles and
23 miles per gallon for each vehicle registered under this
24 section; and
- 25 (i) proof of financial responsibility as

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1 required in the Motor Transportation Act;

2 (2) remit with the application the
3 registration fees as specified in Subsection B of Section
4 66-6-4 NMSA 1978; and

5 (3) file with the application a cash security
6 in the amount of three times the estimated use fee and special
7 [~~fuels~~] fuel excise tax due at the current tax rates.

8 D. Upon receipt of [~~an~~] the application, fees and
9 security pursuant to Subsection C of this section, the
10 department shall issue to the applicant a short-term
11 registration plate and registration document for each foreign
12 commercial motor carrier vehicle. The registration plate shall
13 display the expiration date of the short-term registration
14 period and shall be affixed to the front passenger windshield
15 of the foreign commercial motor carrier vehicle, and the
16 registration document shall be carried in the vehicle during
17 the period of operation in New Mexico. The department shall
18 provide to the applicant weight distance and special [~~fuels~~]
19 fuel excise tax reporting forms on which the applicant shall
20 report and pursuant to which the applicant shall pay weight
21 distance and special [~~fuels~~] fuel excise taxes upon actual
22 miles operated and gallons consumed, at the rates and in the
23 manner established by the Weight Distance Tax Act and the
24 [~~Special Fuels Tax~~] Motor Fuel Taxes Act. The department may
25 assign the one-way haul-use fee rate pursuant to Section

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1 7-15A-6 NMSA 1978, provided that the conditions of that section
2 are met by the applicant.

3 E. The failure of any owner to comply with the
4 requirements of this section is a misdemeanor, and the
5 department or its authorized agent may detain any vehicle until
6 all fees and taxes are paid and all requirements of this
7 section are met.

8 F. Within twenty days after the conclusion of the
9 short-term registration period, the registrant shall file with
10 the department the required tax report along with payment of
11 all weight distance tax and special ~~[fuels]~~ fuel excise tax
12 due. Upon verification of accurate reporting and payment, the
13 department shall refund the security previously filed by the
14 registrant.

15 G. In the event the registrant fails to submit the
16 required tax report within twenty days as specified in
17 Subsection F of this section, the registrant shall forfeit the
18 full amount of security required under this section.

19 H. Any foreign commercial motor carrier vehicle to
20 be operated in excess of one hundred eighty days shall comply
21 with all registration requirements for commercial motor carrier
22 vehicles titled and licensed in New Mexico."

23 **SECTION 82. TEMPORARY PROVISION.**--The provisions of the
24 Gasoline Tax Act and the Special Fuels Supplier Tax Act in
25 effect prior to July 1, 2018 shall apply to gasoline and

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1 special fuel received, as that term is used in those acts,
2 prior to July 1, 2018.

3 SECTION 83. DELAYED REPEAL.--Sections 7-1-6.44, 7-13-1
4 through 7-13-3.2, 7-13-3.5, 7-13-4, 7-13-4.4 through 7-13-8,
5 7-13-10 through 7-13-12, 7-13-17, 7-13-18, 7-16A-1 through
6 7-16A-6, 7-16A-9 through 7-16A-16, 7-16A-19 through 7-16A-21
7 and 67-3-8.1 NMSA 1978 (being Laws 2003, Chapter 150, Section
8 2, Laws 1971, Chapter 207, Sections 1 and 2, Laws 1999, Chapter
9 190, Section 2, Laws 1971, Chapter 207, Section 3, Laws 1979,
10 Chapter 166, Sections 7 and 8, Laws 1997, Chapter 192, Section
11 3, Laws 1991, Chapter 9, Section 32, Laws 2000, Chapter 50,
12 Section 1, Laws 1971, Chapter 207, Sections 5 and 6, Laws 2005,
13 Chapter 109, Sections 4 and 5, Laws 1971, Chapter 207, Sections
14 7 and 8, Laws 1977, Chapter 342, Section 5, Laws 1971, Chapter
15 207, Sections 10 and 11, Laws 1998, Chapter 44, Sections 2 and
16 3, Laws 1992, Chapter 51, Sections 1 and 2, Laws 1997, Chapter
17 192, Section 6, Laws 1992, Chapter 51, Sections 3 through 5,
18 Laws 1997, Chapter 192, Section 14, Laws 1992, Chapter 51,
19 Sections 6 and 9, Laws 2005, Chapter 109, Sections 12 through
20 14, Laws 2013, Chapter 109, Section 3, Laws 1992, Chapter 51,
21 Sections 10 through 13, Laws 2001, Chapter 43, Section 2, Laws
22 1992, Chapter 51, Sections 14 and 15, Laws 2007, Chapter 110,
23 Section 4, Laws 1992, Chapter 51, Sections 16, 19 and 20, Laws
24 2005, Chapter 109, Section 15, Laws 1995, Chapter 16, Section
25 15 and Laws 2003, Chapter 150, Section 3, as amended) are

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1 repealed effective July 1, 2018.

2 SECTION 84. EFFECTIVE DATE.--

3 A. The effective date of the provisions of Sections
4 45 through 54, 69 and 73 of this act is July 1, 2017.

5 B. The effective date of the provisions of Sections
6 1 through 44, 55 through 68, 70 through 72 and 74 through 83 of
7 this act is July 1, 2018.