

1 HB674
2 151878-1
3 By Representative Jones
4 RFD: Agriculture and Forestry
5 First Read: 24-APR-13

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8 SYNOPSIS: Existing law requires that an inspection fee
9 is collected on petroleum products sold, offered
10 for sale, stored, or used in the state. Currently,
11 this fee is collected by the Department of
12 Agriculture and Industries.

13 This bill would move the collection of the
14 agriculture fee that pertains to gasoline, aviation
15 gasoline and jet fuel to the terminal excise tax
16 return and other remaining petroleum products to a
17 separate return.

18 This bill would provide that the fees would
19 be collected by the Department of Revenue and
20 change the disposition of the funds to provide for
21 an amount to the Department of Revenue for
22 administration in collecting the fees.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Sections 8-17-80, 8-17-84, 8-17-87,
2 8-17-89, and 8-17-91, as amended by Act 2012-400, 2012 Regular
3 Session, (Acts 2012), 8-17-92, 8-17-93, 40-17-325, and
4 40-17-359 of the Code of Alabama 1975, relating to collection
5 and distribution of certain fees on petroleum products by the
6 Department of Revenue.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 8-17-80, 8-17-84, 8-17-87,
9 8-17-89, and 8-17-91, as amended by Act 2012-400, 2012 Regular
10 Session, (Acts 2012), 8-17-92, 8-17-93, 40-17-325, and
11 40-17-359 of the Code of Alabama 1975, are amended to read as
12 follows:

13 "§8-17-80.

14 "(a) The following words and phrases, when used in
15 this division, shall have the meanings ascribed to them in
16 this section, except where the context clearly indicates a
17 different meaning:

18 "(1) GASOLINE. Gasoline, naphtha and other liquid
19 motor fuels or any devices or substitutes therefor that are
20 commonly used in internal combustion engines and are there
21 ignited by electric spark.

22 "(2) DIESEL FUEL. Those products of petroleum that
23 are commonly used in internal combustion engines and are there
24 ignited by pressure and not by electric spark and that are of
25 the types commonly referred to and known commercially as
26 diesel fuel No. 1 and diesel fuel No. 2; provided, however,
27 that "diesel fuel" shall not mean any petroleum product used

1 in firing steam boilers or combustion generating turbines by
2 compression.

3 "(3) KEROSENE. That certain product of petroleum
4 commonly referred to as kerosene and commonly used for
5 illuminating, heating, or cooking purposes and other like
6 products of petroleum used for the same purposes for which
7 kerosene is commonly used, regardless of the actual purpose or
8 purposes for which the said kerosene or other product may
9 actually be used; provided, however, that "kerosene" shall not
10 mean any petroleum product used in firing steam boilers or
11 combustion generating turbines by compression.

12 "(4) LUBRICATING OIL. Those products of petroleum
13 that are commonly used in lubricating or oiling engines and
14 any devices or substitutes for such products of petroleum.

15 "(5) PETROLEUM PRODUCTS. Gasoline, diesel fuel,
16 kerosene, and lubricating oil.

17 "(6) COMMISSIONER. The Alabama Commissioner of
18 Agriculture and Industries.

19 "(7) DEPARTMENT. The Alabama Department of
20 Agriculture and Industries.

21 "(8) BOARD. The Alabama Board of Agriculture and
22 Industries.

23 "(9) STATE. The State of Alabama.

24 "(10) PERSON. Any natural person, firm, partnership,
25 association, corporation, receiver, trust, estate, or other
26 entity as well as any other group or combination thereof
27 acting as a unit.

1 "(11) BRAND. The trade name or other designation
2 under which a particular petroleum product is sold, offered
3 for sale or otherwise identified.

4 "(12) REVENUE COMMISSIONER. The Commissioner of the
5 Department of Revenue.

6 "~~(12)~~ (13) PERSON FIRST SELLING. Any person, as
7 herein defined, who first sells petroleum products in Alabama
8 on which inspection fees are imposed by this division, unless
9 such first sale is made to a reseller who elects in writing to
10 qualify as a first seller by complying with the following
11 provisions:

12 "a. By making application which shall be approved by
13 the Revenue Commissioner of Agriculture and Industries, the
14 reseller shall file with the Department of ~~Agriculture and~~
15 ~~Industries~~ Revenue a bond in an approximate amount equal to
16 the average monthly inspection fee estimated by the
17 ~~commissioner~~ Revenue Commissioner which will be due by the
18 reseller; provided, that in no case shall the bond be less
19 than \$2,500 or more than \$5,000. The bond shall be in such
20 form and amount as may be approved by the ~~commissioner~~ Revenue
21 Commissioner, shall be executed by a surety company licensed
22 and duly authorized to do business in Alabama, shall be
23 payable to the State of Alabama and shall be conditioned upon
24 the prompt filing of true reports and the payment by the
25 reseller to the Department of ~~Agriculture and Industries~~
26 Revenue of any and all inspection fees which are imposed by
27 ~~this division~~ Section 8-17-87 with respect to any petroleum

1 products and which, but for the election made pursuant to this
2 section, would be payable by the person from whom said
3 petroleum products are purchased by the reseller, together
4 with all penalties and interest thereon, and generally upon
5 faithful compliance with the provisions of this division. ~~In~~
6 ~~lieu of a guaranty bond, the reseller may post Alabama state~~
7 ~~coupon bonds or United States government bonds under such~~
8 ~~terms, rules and regulations as may be approved by the~~
9 ~~commissioner.~~

10 "b. In the event that liability upon any bond filed
11 under the provisions of this subsection shall be discharged or
12 reduced, whether by judgment entered, payment made or
13 otherwise, or if in the opinion of the ~~commissioner~~ Revenue
14 Commissioner any surety on the bond theretofore given shall
15 become unsatisfactory or unacceptable, then the ~~commissioner~~
16 Revenue Commissioner may require the filing of a new or
17 additional bond conditioned as hereinabove provided, ~~and, in~~
18 ~~the event of the failure of any reseller within 10 days after~~
19 ~~written notice to it by the commissioner to file such new or~~
20 ~~additional bond, the commissioner shall cancel the permit~~
21 ~~issued to such reseller.~~

22 "c. ~~If upon a hearing had by the Commissioner of~~
23 ~~Agriculture and Industries after five days' written notice to~~
24 ~~any reseller the commissioner shall decide that the amount of~~
25 ~~any existing bond filed by any reseller is insufficient, the~~
26 ~~commissioner may order such reseller to file, within 10 days~~
27 ~~after written notice by the commissioner to such reseller, a~~

1 ~~new or additional bond in such amount as the commissioner upon~~
2 ~~said hearing may find reasonably necessary to insure payment~~
3 ~~of all amounts due or to become due to the State of Alabama,~~
4 ~~conditioned as hereinabove provided; and, if such new or~~
5 ~~additional bond is not filed within 10 days after such notice~~
6 ~~from the commissioner, the commissioner may cancel the permit~~
7 ~~already issued to such reseller. The Department of Revenue~~
8 ~~shall notify a permit holder at his or her last known address~~
9 ~~by first class U.S. mail or, at the option of the Department~~
10 ~~of Revenue, certified mail, return receipt requested, that it~~
11 ~~is requiring such new or additional bond for any reason as~~
12 ~~provided above, and the permit holder, within 60 days from the~~
13 ~~date such notice is mailed by the Department of Revenue, shall~~
14 ~~1. file the new or additional bond as requested by the~~
15 ~~Department of Revenue, or 2. file a notice of appeal with the~~
16 ~~Administrative Law Division as allowed in Section 40-2A-8. The~~
17 ~~Department of Revenue may immediately cancel the permit upon~~
18 ~~the expiration of the 30-day appeal period set out in Section~~
19 ~~40-2A-8 if the permit holder fails to either provide the new~~
20 ~~or additional bond requested by the Department of Revenue or~~
21 ~~timely appeal to the Administrative Law Division.~~

22 "d. The ~~commissioner~~ Revenue Commissioner may reduce
23 the amount of any bond upon written application of any
24 reseller if satisfied that a bond in a reduced amount will
25 insure payment of all amounts due or to become due to the
26 State of Alabama. The total amount of bond or bonds to be
27 given by any reseller under this subdivision shall in no event

1 be less than \$2,500 nor more than \$5,000; provided, however,
2 that the ~~commissioner~~ Revenue Commissioner may require such
3 additional bond as may be deemed necessary to insure the
4 prompt payment of all inspection fees on the sale or
5 withdrawal of petroleum products due, or to become due, the
6 state by the reseller, but no demand for additional bond above
7 \$5,000 shall be made without first ~~determining from a study of~~
8 examining the reseller's financial ~~statement which shall be~~
9 ~~supplied upon request of the commissioner that such additional~~
10 ~~bond is necessary~~ condition.

11 "e. Any surety on any bond furnished by any
12 reseller, as above provided, shall be released and discharged
13 from any and all liability to the State of Alabama accruing on
14 such bond after the expiration of 60 days from the date upon
15 which surety shall have filed with the Department of
16 Agriculture and Industries written request to be released and
17 discharged; provided, however, that such request shall not
18 operate to relieve, release or discharge such surety from any
19 liability already accrued or which shall accrue before the
20 expiration of such 60-day period. The Revenue Commissioner ~~of~~
21 ~~Agriculture and Industries~~ shall promptly, upon receipt of
22 notice of such request, notify the reseller who furnished such
23 bond of the request of the surety on ~~said~~ the bond and, unless
24 such reseller shall file, on or before the expiration of such
25 60-day period, with the Department of ~~Agriculture and~~
26 ~~Industries~~ Revenue a new bond in the amount and form
27 hereinbefore in this subdivision provided, the ~~commissioner~~

1 Revenue Commissioner shall ~~forthwith~~ cancel the permit of ~~said~~
2 the reseller in accordance with the provisions of Section
3 40-2A-8.

4 "(b) The definitions set forth in this section shall
5 be deemed applicable whether the words defined are herein used
6 in the singular or plural.

7 "(c) Any pronoun or pronouns used herein shall be
8 deemed to include both singular and plural and to cover all
9 genders.

10 "§8-17-84.

11 "(a) Every person selling, offering for sale,
12 storing or using petroleum products in the state shall keep a
13 record of all such petroleum products manufactured, refined,
14 purchased, received, sold, imported, stored, delivered, or
15 used by him, which record shall show the number of gallons so
16 manufactured, refined, purchased, received, sold, imported,
17 stored, delivered, or used and the date or dates of each such
18 transaction.

19 "(b) All such records shall be preserved for a
20 period of ~~two~~ three years and shall at all times during the
21 business hours of the day be subject to inspection by the
22 Revenue Commissioner of Agriculture and Industries or his or
23 her agents or representatives.

24 "(c) The Revenue Commissioner of Agriculture and
25 Industries shall prescribe regulations respecting the keeping
26 of the records required in this section and the forms thereof.

27 "§8-17-87.

1 "(a) An inspection fee is hereby imposed and shall
2 be collected in respect of petroleum products sold, offered
3 for sale, stored, or used in the state, the said fee to be
4 measured by the number of gallons and to be at the following
5 rates:

6 "(1) Gasoline, \$.02 per gallon, except on gasoline
7 for which the excise taxes levied on motor fuel under Section
8 40-17-325(a) (1) are paid as required therein and aviation
9 gasoline, \$.02 per gallon, except on aviation gasoline for
10 which the excise taxes levied on motor fuel under Section
11 40-17-325(a) (3) are paid as required therein.

12 "(2) Diesel fuel other than that referred to in
13 subdivisions (a) (5), (a) (6), (a) (7), (a) (8), and (a) (9) of
14 this section, \$.02 per gallon, ~~Provided, however, diesel fuel~~
15 ~~that is subject to the excise taxes levied on motor fuel under~~
16 ~~Sections 40-17-2 and 40-17-220 shall be exempt from the~~
17 ~~inspection fee levied on diesel fuel pursuant to this~~
18 ~~subdivision~~ except on diesel fuel on which the excise taxes
19 levied under Section 40-17-325(a) (2) are paid as required
20 therein.

21 "(3) Kerosene other than that referred to in
22 subdivisions (a) (5), (a) (6), (a) (7), and (a) (9) of this
23 section, \$.01 per gallon and not subject to the tax under
24 Section 40-17-325(a) (2).

25 "(4) Lubricating oil, regardless of whether the
26 excise taxes levied on lube oil under Sections 40-17-171 and
27 40-17-220 are paid, \$.15 per gallon.

1 "(5) Kerosene or diesel fuel that is of the types
2 customarily used as, and that is intended to be used only as,
3 fuel to propel jet aircraft, one fortieth of \$.01 per gallon,
4 except on which the excise tax has been paid under Section
5 40-17-325(a) (3).

6 "(6) Kerosene or diesel fuel that is used by the
7 ultimate consumer thereof as motor fuel to operate boats,
8 yachts, ships, or other maritime vehicles, whether such boats,
9 yachts, ships, or other maritime vehicles are used
10 commercially or for pleasure, one fortieth of \$.01 per gallon,
11 except on which the excise tax has been paid under Section
12 40-17-325(a) (2).

13 "(7) Kerosene or diesel fuel used by the ultimate
14 consumer thereof to propel or operate tractors which are not
15 operated on public highways but which are used exclusively in
16 preparing and cultivating land, harvesting any agricultural
17 commodity, or for other agricultural purposes, including
18 pasture and hay production; provided, however, that the term
19 "tractors" as used herein shall not include automobiles,
20 trucks, pickups, trailers, semitrailers, or other such
21 vehicles, one fortieth of \$.01 per gallon, except on which the
22 excise tax has been paid under Section 40-17-325(a) (2).

23 "(8) Diesel fuel that is of the types customarily
24 used as, and that is intended to be used as, only fuel to
25 propel railroad locomotives, one fortieth of \$.01 per gallon,
26 except on which the excise tax has been paid under Section
27 40-17-325(a) (2). Diesel fuel of the types referred to in this

1 subdivision shall be inspected in a manner determined and
2 prescribed by the Commissioner of Agriculture and Industries.

3 "(9) Kerosene or diesel fuel used by the ultimate
4 consumer thereof as a solvent or other agent in the treatment
5 or preservation of wood products, one fortieth of \$.01 per
6 gallon, except on which the excise tax has been paid under
7 Section 40-17-325(a)(2).

8 "(b) It shall be the duty of the person first
9 selling, storing, or using any petroleum product in the state
10 on which an inspection fee is due to pay such inspection fee
11 to the Department of Revenue. ~~The inspection fee shall be paid~~
12 ~~to the Commissioner of Agriculture and Industries on or before~~
13 ~~the twentieth day of each month in respect of all petroleum~~
14 ~~products sold, stored, or used in the state during the~~
15 ~~preceding month. Each monthly remittance shall be made at such~~
16 ~~times and in such manner as the Revenue Commissioner shall~~
17 ~~prescribe, and shall be accompanied by a certificate stating~~
18 ~~that the amount remitted is correct and that the petroleum~~
19 ~~products so sold, stored, or used are of standard not less~~
20 ~~than the minimum specified for that petroleum product in the~~
21 ~~standards prescribed by the board pursuant to Section 8-17-81~~
22 ~~report of the petroleum products sold, stored, or used in the~~
23 ~~state during the preceding month as prescribed by the Revenue~~
24 Commissioner.

25 "(c) If, at the time the inspection fee is due, the
26 person liable therefor is unable to ascertain whether the
27 motor fuel excise taxes levied under Article 12 of Chapter 17

1 of Title 40 on any taxable motor fuels have been paid, or
2 whether the correct amount of such inspection fee because the
3 use to be made of any diesel fuel or kerosene with respect to
4 which the inspection fee is then due has not been or cannot be
5 ascertained at such time, then such person shall pay to the
6 Revenue Commissioner of Agriculture and Industries as the
7 inspection fee payable with respect to such diesel fuel and
8 kerosene petroleum products, \$.02 for each gallon of such
9 gasoline and diesel fuel and \$.01 for each gallon of such
10 kerosene regardless of whether the petroleum products may
11 later qualify for an exemption from the inspection fee or a
12 reduced inspection fee pursuant to this section.

13 " (d) Upon furnishing proof satisfactory to the
14 Revenue Commissioner of Agriculture and Industries that the
15 motor fuel excise taxes levied under Article 12 of Chapter 17
16 of Title 40 have been paid with respect to all or any portion
17 of such the gasoline, diesel fuel, or kerosene with respect to
18 which an the inspection fee at the rate of \$.02 or \$.01 per
19 gallon respectively levied herein has been paid or that the
20 diesel fuel or kerosene has been or will be used for a purpose
21 or purposes qualifying for a reduced inspection fee pursuant
22 to this section specified in subdivisions (a) (5), (a) (6),
23 (a) (7), (a) (8), and (a) (9), then such person the permitted
24 inspection fee distributor who has paid the motor fuel excise
25 taxes for the petroleum products or the person using the
26 diesel fuel or kerosene for the purpose or purposes qualifying
27 for the reduced inspection fee shall be entitled to a credit

1 against the amount of inspection fee becoming due from such
2 person on the twentieth day of the then next following
3 calendar month, such credit to be in an amount equal to
4 thirty-nine fortieths of \$.01 for each gallon of kerosene or
5 one thirty-nine fortieths cents for each gallon of diesel fuel
6 proved to have been used or to be used for such specified
7 purpose or purposes; provided, that should the credit to which
8 a person is entitled hereunder exceed the amount of the
9 inspection fee becoming due from such person on the twentieth
10 day of the then next following calendar month, then the excess
11 of the credit over the amount of the inspection fee becoming
12 due shall be refunded to such person or, at such person's
13 election, credited against the amount of any inspection fees
14 subsequently becoming due from such person refund of the
15 inspection fee that exceeds the amount determined to be
16 properly payable.

17 "(e) The Board of Agriculture and Industries
18 Commissioner of Revenue shall have authority to promulgate
19 rules and regulations with respect to the form and content of
20 the proof of motor fuel excise tax payment and the proof of
21 use of the diesel fuel or kerosene which must be supplied by a
22 person seeking ~~such a credit or refund,~~ and with respect to
23 the procedure to be followed in applying for ~~such a credit or~~
24 refund.

25 "(f) The inspection fee provided for in this section
26 shall be paid but once with respect to the same product; but
27 in the event any person fails to make the required report or

1 payment as herein provided on or before the date such payment
2 is due, the Revenue Commissioner of Agriculture and Industries
3 shall add to the inspection fee already due ~~an amount equal to~~
4 ~~10 percent thereof as a penalty for the failure of such person~~
5 ~~to make such report and payment upon the date provided in this~~
6 ~~section and~~ interest as prescribed in Section 40-1-44 and any
7 applicable penalties as prescribed in Chapter 2A of Title 40.
8 The Revenue Commissioner shall then proceed to collect such
9 the inspection fee, together with all costs incident to such
10 collection, including the penalty the interest and penalties,
11 as if the inspection fees were taxes payable under Title 40.

12 "(g) The inspection fee, interest and any penalty
13 penalties added thereto shall constitute and operate as a lien
14 at all times until paid upon any petroleum products sold,
15 offered for sale, stored, or used in the state by the person
16 liable for the fee, and shall be immediately enforceable by
17 the Revenue Commissioner of Agriculture and Industries when
18 ~~due in the same manner as are tax liens upon personal property~~
19 ~~of a delinquent taxpayer~~ in accordance with established
20 collection procedures of the Department of Revenue.

21 "(h) The inspection fee provided for in this section
22 is in addition to all other fees and all taxes payable with
23 respect to petroleum products.

24 "(i) Notwithstanding anything to the contrary in
25 this section, no inspection fee or penalty shall be due or
26 payable with respect to petroleum products which are sold,
27 offered for sale, stored, or used while they are in interstate

1 or international commerce; but if, after such petroleum
2 products are removed from interstate or international
3 commerce, such petroleum products are sold, offered for sale,
4 stored or used in the state, the fee provided for in this
5 section shall be payable with respect to such petroleum
6 products.

7 "(j) The ~~Board of Agriculture and Industries~~ Revenue
8 Commissioner shall have authority to adopt and promulgate
9 reasonable rules and regulations to effectuate the evident
10 intent and purpose of this section with respect to reporting,
11 collection, remittance, and payments of the petroleum products
12 inspection fees imposed under this section which shall not
13 conflict with any of the express provisions and requirements
14 of this section.

15 "§8-17-89.

16 "(a) It shall be the duty of each person selling in
17 or for importation into the state any petroleum product to
18 notify the Revenue Commissioner ~~of Agriculture and Industries~~
19 in writing by mail or otherwise on the day of shipment or
20 other delivery for transportation, or within 24 hours
21 thereafter, of such sale and shipment or delivery.

22 "(b) Such notice shall briefly describe the
23 particular petroleum product and the number of gallons thereof
24 and shall state the name and address of the person to which
25 such products are sold, shipped or delivered.

1 "(c) The provisions of this section shall not apply
2 to any person who is operating under a permit from the Revenue
3 Commissioner of Agriculture and Industries.

4 "§8-17-91.

5 "(a) The proceeds from the permit fees, inspection
6 fees, and penalties, if any, collected by the Commissioner of
7 Agriculture and Industries and the Revenue Commissioner
8 pursuant to ~~the provisions of this division~~ Section 8-17-87
9 together with one-third of the proceeds of the \$.06 additional
10 motor fuel excise tax levied on gasoline under subdivision (1)
11 of subsection (a) of Section 40-17-325, shall be paid into the
12 State Treasury and distributed by the State Treasurer as
13 follows:

14 "(1) An amount equal to five percent or no less than
15 \$175,000, whichever is greater, of the combined proceeds
16 received each month shall accrue to the credit of, and be
17 deposited in, the Agricultural Fund; and

18 "(2) The balance of the proceeds shall be
19 distributed as follows:

20 "a. 13.87 percent of the balance of the proceeds
21 shall be distributed equally among each of the 67 counties of
22 the state monthly. Such funds shall be used by the counties
23 for the following purpose:

24 "When the use is by a county, such use shall be for
25 the construction, including draining, grading, basing, paving,
26 signing, and erosion items, of certain high density unpaved
27 roads as herein provided and for the construction or

1 reconstruction of bridges on such high density roads. The use
2 may also be for the reconstruction, resurfacing, restoration,
3 and rehabilitation of the paved county roads and bridges or
4 bridge replacement on the county road system. The use may also
5 be for the construction, including draining, grading, basing,
6 and paving of certain unpaved roads, and reconstruction of
7 certain paved roads accessing certain public and private
8 recreational facilities and areas.

9 "There is hereby created a committee to be referred
10 to as the Secondary Road Committee comprised of two county
11 engineers appointed by the Director of the State Department of
12 Transportation, two county commission members appointed by the
13 Governor, and the Chief of the Bureau of Secondary Roads. The
14 committee members shall serve at the pleasure of the
15 appointing authority. The committee shall elect one of its
16 members to serve as chairman. A quorum of the committee shall
17 consist of no less than three members. Committee members shall
18 serve without compensation.

19 "The Secondary Road Committee shall develop and
20 publish criteria for the designation of high density roads and
21 bridges and for the designation of eligible recreational
22 access roads. The committee may in its discretion provide
23 different criteria for counties according to population,
24 topography, and road mileage. The committee shall also develop
25 and publish minimum design standards, including allowable cost
26 items, for the construction, reconstruction, surfacing,
27 resurfacing, restoration, and rehabilitation of such high

1 density roads and bridges and recreational access roads.
2 Criteria and standards developed by the committee shall be
3 published by distributing printed copies thereof to the
4 chairman of each county commission in Alabama no later than 90
5 days after May 1, 1984. The committee may from time to time
6 amend the criteria and standards developed provided that at
7 least 60 days' notice is provided in writing to the chairman
8 of each county commission before the effective date of such
9 amendment. The State Department of Transportation shall
10 provide all supplies and clerical help necessary for the
11 committee to execute its responsibilities.

12 "County commissions are hereby required to submit
13 all plans for the use of such proceeds to the Director of the
14 State Department of Transportation or his designee for
15 approval. The Director of the State Department of
16 Transportation or his designee shall review all plans and
17 approve them or disapprove them, based on the criteria and
18 standards developed by the committee.

19 "The funds distributed to the counties under this
20 subsection shall not be commingled with other funds of the
21 county except the counties' portion of the auto license tax
22 distributed under Section 40-12-270(a)(1), as amended and
23 shall be kept and disbursed by such county from a special fund
24 only for the purposes hereinabove provided.

25 "The provisions of this section notwithstanding, any
26 county may at any time deposit all or any portion of such
27 proceeds into the county's special RRR Fund as provided for in

1 Section ~~40-17-224~~ 40-17-362, and may use the proceeds so
2 deposited for any purpose authorized under said section.

3 "b. \$408,981 shall be allocated to the State
4 Department of Transportation monthly and deposited in the
5 State Treasury to the credit of the Public Road and Bridge
6 Fund. Such funds are hereby appropriated to the State
7 Department of Transportation to be used to match federal aid
8 discretionary funds that may from time to time become
9 available to the State Department of Transportation. In the
10 event that in any fiscal year other State Department of
11 Transportation funds are insufficient to match the
12 department's regular federal aid apportionment, then at the
13 Director State Department of Transportation's recommendation
14 and approval by the Governor funds appropriated under this
15 subsection may be used to match said federal aid
16 apportionment.

17 "c. 2.76 percent of the balance of the proceeds
18 shall be allocated among the incorporated municipalities of
19 the state as follows:

20 "1. A portion of the municipalities' share of the
21 balance of the proceeds that is equal to 45.45 percent of the
22 municipalities' share of the balance of the proceeds shall be
23 allocated equally among the 67 counties of the state.

24 "2. The entire residue of the municipalities' share
25 of the balance of the proceeds being an amount equal to 54.55
26 percent of the municipalities' share of the balance of the
27 proceeds shall be allocated among the 67 counties of the state

1 on the basis of the ratio of the population of each such
2 county to the total population of the state according to the
3 then next preceding federal decennial census, or any special
4 federal census heretofore held in any county subsequent to the
5 effective date of the 1980 federal decennial census.

6 "3. The amount so allocated or apportioned to each
7 county shall be distributed among the municipalities in the
8 county with respect to which the allocation or apportionment
9 is made, each such distribution among the said municipalities
10 to be on the basis of the ratio of the population of each such
11 municipality to the total population of all municipalities in
12 the applicable county according to the then next preceding
13 federal decennial census.

14 "4. The population of any municipality incorporated
15 subsequent to the taking of the then next preceding federal
16 decennial census shall be deemed to be the population shown by
17 the census for that municipality taken pursuant to the
18 requirements of Section 11-41-4. Any municipality incorporated
19 after September, 1983, shall not participate in the
20 distribution provided for in this section until the fiscal
21 year next succeeding the fiscal year during which it is
22 incorporated, the first distribution to such municipality to
23 be made in respect of receipts of the inspection fee by the
24 state during October of the fiscal year next succeeding the
25 said incorporation.

26 "5. Use of the inspection fee by a municipality
27 shall be for transportation planning, the construction,

1 reconstruction, maintenance, widening, alteration, and
2 improvement of public roads, bridges, streets, and other
3 public ways, including payment of the principal of and
4 interest on any securities at any time issued by the
5 municipality pursuant to law for the payment of which any part
6 of the net tax proceeds were or may be lawfully pledged;
7 provided, that no part of the balance of the proceeds referred
8 to in this section shall be expended contrary to the
9 provisions of the Constitution; and provided further, that
10 funds distributed to municipalities under the provisions of
11 this division shall not be commingled with other funds of the
12 municipality, except the municipalities' portion of the
13 highway gasoline tax, and shall be kept and disbursed by such
14 municipality from a special fund only for the purposes
15 hereinabove provided.

16 "d. An additional five percent of the balance each
17 month computed after deducting the distributions in paragraphs
18 a. and c. shall accrue to the credit of, and be deposited in,
19 the Agricultural Fund.

20 "e. In addition to any and all other funds
21 heretofore or hereafter appropriated, for the fiscal year
22 ending September 30, 2014, there is appropriated to the
23 Department of Revenue an amount equal to two and one-half
24 percent of the balance of the proceeds received each month
25 after deducting the distributions in paragraphs a., b., c.,
26 and d. or no less than eighty-seven thousand five hundred
27 dollars (\$87,500), whichever is greater, to offset its costs

1 of collection. Every year thereafter an amount equal to two
2 and one-half percent of the balance of the proceeds received
3 each month after deducting the distributions in paragraphs a.,
4 b., c., and d. or no less than eighty-seven thousand five
5 hundred dollars (\$87,500), whichever is greater, is
6 appropriated and shall accrue to the credit of, and be
7 deposited to, the Department of Revenue to offset its costs of
8 collection.

9 "e.f. The balance of the proceeds after a., b., c.,
10 and d. above have been distributed monthly shall accrue to the
11 credit of and be deposited in the Public Road and Bridge Fund.

12 "(b) In the event of the collection hereunder from
13 any person of an amount in excess of the amount of all permit
14 fees, inspection fees, interest, or penalties properly and
15 lawfully required to be paid by such person, such person may
16 apply to the Revenue Commissioner in the case of the
17 inspection fees, interest, and penalties paid to the Revenue
18 Commissioner or the Commissioner of Agriculture and Industries
19 in the case of the permit fees, inspection fees, or penalties
20 paid to the Commissioner of Agriculture and Industries for a
21 refund of the amount of such overpayment. If such application
22 for refund is approved in whole or in part by the
23 commissioner, the commissioner shall submit to the state
24 Comptroller a statement, approved by the state Attorney
25 General, setting forth the amount determined to have been
26 overpaid and the date of the overpayment. ~~The~~ If an
27 application for refund submitted to the Revenue Commissioner

1 is approved in whole or in part by the Revenue Commissioner,
2 he or she shall submit to the state Comptroller a statement,
3 setting forth the amount determined to have been overpaid and
4 the date of the overpayment. In each case, the state
5 Comptroller shall then draw his warrant in favor of the person
6 making such overpayment upon the State Treasurer for the
7 amount specified in the said statement, and such amount shall
8 be paid out of current months' collections before any
9 distribution is made under subsection (a) of this section.

10 "(c) The application for refund provided for in this
11 section ~~must~~ for amounts paid to the commissioner shall be
12 filed with the Commissioner of Agriculture and Industries
13 within 12 calendar months from the date upon which the
14 overpayment was made, and no amount shall be refunded unless
15 the application therefor is filed within the time prescribed
16 herein. In the case of an application for refund provided for
17 in this section for amounts paid to the Revenue Commissioner,
18 the application must be filed with the Revenue Commissioner
19 within the time limits provided by the Taxpayer Bill of Rights
20 in Chapter 2A of Title 40. No amount shall be approved for
21 refund by the Revenue Commissioner unless the application
22 therefor is filed within the time prescribed therein.

23 "(d) The Department of Agriculture and Industries
24 and the Department of Revenue shall have authority to make and
25 issue rules and regulations relating to the procedure to be
26 followed in filing an application for a refund and for payment
27 of any refund made under this section.

1 "(e) In the event of the collection from any person
2 by the Revenue Commissioner of an amount in excess of the
3 amount lawfully required for the \$.06 additional motor fuel
4 excise tax levied on gasoline under subdivision (1) of
5 subsection (a) of Section 40-17-325, when one-third of the
6 amounts so collected have been deposited in the State Treasury
7 and distributed as provided herein, any refund properly
8 approved by the Revenue Commissioner shall be paid out of
9 current months' collections before any distribution of the
10 current month's collections is made under subsection (a) of
11 this section.

12 "§8-17-92.

13 "(a) In addition to penalty and other enforcement
14 provisions of this division and notwithstanding the existence
15 of another adequate remedy, the circuit court shall have
16 jurisdiction for cause shown to grant a temporary restraining
17 order or permanent injunction, or both, restraining and
18 enjoining any person from violation or continuing to violate
19 any requirements of this division declared to be unlawful.

20 "(b) Any such person may also be restrained or
21 enjoined from selling, offering for sale, storing, or using
22 any petroleum product without having a permit as required by
23 ~~this division~~ Section 8-17-80, from selling, distributing,
24 offering for sale, storing, or using in this state any
25 petroleum product upon which the inspection fee imposed by
26 ~~this division~~ Section 8-17-87 is not paid or from otherwise

1 violating any of the provisions and requirements of ~~this~~
2 ~~division~~ Title 8 of Chapter 17.

3 "(c) Such injunction or restraining order shall be
4 issued without bond.

5 "(d) Any action commenced under this section shall
6 be brought in the name of the State of Alabama upon the
7 relation of the Attorney General.

8 "§8-17-93.

9 "(a) Any person who sells, offers for sale, stores,
10 or uses any petroleum product in the state which is below the
11 legal standard, who makes a false statement or certificate as
12 to the quantity or standard of such petroleum product, sells,
13 offers for sale, stores, or uses any petroleum product without
14 having procured a permit as required by this division, fails
15 to make any report to the Revenue Commissioner ~~of Agriculture~~
16 ~~and Industries~~ as required by this division, makes a false
17 certificate of the number of gallons of such petroleum product
18 sold, stored or used during the preceding month or who
19 otherwise violates or fails to comply with the provisions of
20 this division shall be guilty of a misdemeanor.

21 "(b) The Commissioner of Agriculture and Industries
22 may revoke the permit of any person found upon investigation
23 to have sold, offered for sale, stored, or used any petroleum
24 product below the minimum standards adopted by the Board of
25 Agriculture and Industries pursuant to the provisions of this
26 division or when the Revenue Commissioner has notified the
27 Commissioner of Agriculture and Industries that the taxpayer

1 who has failed or refused, ~~after 10 days' notice by~~
2 ~~registered, or certified, mail of such delinquency,~~ subject to
3 the appeal provisions of Chapter 2A of Title 40, to file the
4 delinquent tax return or to pay the inspection fee required by
5 this division.

6 "(c) The holder of any permit that may be revoked
7 pursuant to the provisions of this section shall have the
8 right, upon request of such holder, to a hearing before the
9 Commissioner of Agriculture and Industries or the
10 Administrative Law Division in accordance with Section
11 40-2A-8, at which such holder may appear personally or by
12 legal representative, and he may appeal from the decision of
13 the commissioner by filing in the Circuit Court of Montgomery
14 County a petition for an injunction against the commissioner.
15 In the event such an injunction is sought, sufficient bond
16 shall be filed with the court and conditioned as the law now
17 provides relative to injunction bonds. The findings of the
18 commissioner shall be presumed to be correct.

19 "§40-17-325.

20 "(a) Subject to the exemptions provided for in this
21 article, the tax is imposed on net gallons of motor fuel
22 according to Section 40-17-326 at the following rates:

23 "(1) ~~Sixteen~~ Eighteen cents per gallon on gasoline,
24 which is comprised of a \$.07 excise tax, a supplemental \$.05
25 excise tax, and an additional ~~\$.04~~ \$.06 excise tax.

1 "(2) Nineteen cents per gallon on diesel fuel,
2 comprised of a \$.13 excise tax and an additional \$.06 excise
3 tax.

4 "(3) ~~Nine~~ Eleven and one-half cents per gallon
5 ~~(\$.095)~~ \$.115 on aviation gasoline and three and ~~one-half~~
6 21/40 cents per gallon ~~(\$.035)~~ (\$.03525) on aviation jet fuel
7 when the aviation fuel is sold to a licensed aviation fuel
8 purchaser. Aviation gasoline is to be taxed as gasoline and
9 aviation jet fuel is to be taxed as diesel fuel when not sold
10 to a licensed aviation fuel purchaser.

11 "(b) The motor fuel subject to the excise tax levied
12 by this section shall not be subject to any other excise tax
13 levied by this state.

14 "However, the payment of the motor fuel excise tax
15 levied by this section shall not exempt the seller or importer
16 of fuel from the license fees levied by Section 40-17-174.

17 "§40-17-359.

18 "(a) For the purpose of this section, the following
19 terms shall have the meanings ascribed below:

20 "(1) BASE ANNUAL COUNTY DISTRIBUTION. Five hundred
21 fifty thousand dollars (\$550,000).

22 "(2) COST OF COLLECTION. The amounts from the
23 proceeds of the highway gasoline tax that may be appropriated
24 by the Legislature to the department for its operating
25 expenses.

26 "(3) COUNTY. Each county in the state.

27 "(4) FISCAL YEAR. The fiscal year of the state.

1 "(5) DEPARTMENT OF TRANSPORTATION. The Department of
2 Transportation of the state.

3 "(6) HIGHWAY GASOLINE TAX. Both of the following:

4 "a. The excise tax levied under subdivision (1) of
5 subsection (a) of Section 40-17-325, with the exception of
6 those portions of the tax levied on aviation fuel and marine
7 gasoline.

8 "b. The excise tax levied by Sections 40-17-140 to
9 40-17-155, inclusive, except that portion of the tax imposed
10 on diesel fuel.

11 "(7) LOCAL SUBDIVISIONS' SHARES OF THE NET TAX
12 PROCEEDS. The 55 percent of the net tax proceeds referred to
13 in the first sentence of subsection (d).

14 "(8) MUNICIPALITY. An incorporated city or town in
15 the state.

16 "(9) NET TAX PROCEEDS. The entire proceeds from the
17 highway gasoline tax, except the proceeds from the
18 supplemental excise tax of five cents (\$.05) per gallon and
19 additional ~~four~~ six cents (~~\$.04~~) (\$.06) imposed by subdivision
20 (1) of subsection (a) of Section 40-17-325, less the cost of
21 collection and less any refunds pursuant to the provisions of
22 this article.

23 "(10) PUBLIC HIGHWAY. Every highway, road, street,
24 alley, lane, court, place, trail, drive, bridge, viaduct, or
25 trestle located either within a municipality or in
26 unincorporated territory and laid out or erected by the public
27 or dedicated or abandoned to the public or intended for use by

1 or for the public. The term "public highway" shall apply to
2 and include driveways upon the grounds of universities,
3 colleges, schools, and institutions but shall not be deemed to
4 include private driveways, private roads, or private places
5 not intended for use by the public.

6 "(11) STATE. The State of Alabama.

7 "(12) STATE'S SHARE OF THE NET TAX PROCEEDS. The 45
8 percent of the net tax proceeds referred to in the first
9 sentence of subsection (c).

10 "(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of
11 the highway gasoline tax remaining after the net tax proceeds
12 and additional ~~four~~ six cents ~~(\$.04)~~ (\$.06) and applicable
13 costs of collection and refunds have been deducted, less the
14 cost of collection and less any refunds of the highway
15 gasoline tax applicable to the supplemental gasoline excise
16 tax imposed in subdivision (1) of subsection (a) of Section
17 40-17-325.

18 "The foregoing definitions shall be deemed
19 applicable whether terms defined are used in the singular or
20 plural.

21 "(b) The revenue, less the cost of collection and
22 refunds authorized by law, from the seven cents (\$.07) excise
23 tax and the supplemental excise tax of five cents (\$.05) per
24 gallon on gasoline, shall not be used for any purposes other
25 than the following:

26 "(1) The Legislature hereby finds as a fact that of
27 all the gasoline sold in this state not less than one and

1 twenty-three hundredths percent thereof is used for marine
2 purposes to propel vessels on inland and coastal waterways of
3 this state. The Legislature hereby declares that it is the
4 policy of this state to use the funds derived pursuant to this
5 section from the sale of marine gasoline to provide for the
6 programs and activities of the Marine Police, Marine
7 Resources, and Wildlife and Freshwater Fisheries Divisions of
8 the Department of Conservation and Natural Resources in this
9 state as follows:

10 "a. Thirty-five one hundredths of one percent of all
11 state imposed taxes collected pursuant to this subsection on
12 the sale of gasoline, except gasoline and other fuels consumed
13 in airplanes, shall be credited as follows: 60 percent to the
14 State Water Safety Fund of the Marine Police Division and 40
15 percent to the Seafood Fund of the Marine Resources Division.

16 "b. An amount equal to seventy-one hundredths of one
17 percent of all state-imposed taxes levied pursuant to this
18 subsection and collected on the sale of gasoline, except
19 gasoline and other fuels consumed in airplanes, and which
20 would otherwise be credited to the Public Road and Bridge Fund
21 pursuant to this section shall be credited to the Game and
22 Fish Fund of the Division of Wildlife and Freshwater
23 Fisheries. Provided, however, that the above credit to the
24 Game and Fish Fund shall not diminish the allocations provided
25 by subsection (d).

26 "c. An amount equal to eighteen one hundredths of
27 one percent of all state-imposed taxes levied pursuant to this

1 subsection and collected on the sale of gasoline, except
2 gasoline and other fuels consumed in airplanes, and which
3 would otherwise be credited to the Public Road and Bridge Fund
4 pursuant to this section shall be credited as follows: 60
5 percent to the State Water Safety Fund of the Marine Police
6 Division and 40 percent to the Seafood Fund of the Marine
7 Resources Division. Provided, however, that this additional
8 credit to the State Water Safety Fund and Seafood Fund shall
9 not diminish the allocations provided by subsection (d).

10 "(2) The revenue arising from the sale of gasoline
11 as herein defined, except gasoline sold for use as fuel to
12 propel aircraft and which gasoline is subject to the tax
13 imposed in subdivision (3) of subsection (a) of Section
14 40-17-325, and except for revenues from the supplemental net
15 tax proceeds, for all other purposes shall not be used for any
16 purpose other than for the construction, improvement,
17 maintenance, and supervision of highways, bridges, and
18 streets, including the retirement of bonds for the payment of
19 which such revenues have been or may hereafter be pledged. The
20 payment of the per diem and mileage of members of county
21 governing bodies when engaged in supervising the construction,
22 improvement, and maintenance of highways, bridges, and streets
23 shall be construed as used in supervision. The governing body
24 of each county may expend an amount not to exceed one third of
25 the total amount of such revenue that may be received by such
26 county in the payment of any debt that may have been incurred
27 by such county for the construction or maintenance of roads or

1 bridges. This fund shall be allocated in the manner now
2 provided by law. On the 20th day of each month following that
3 quarter of any fiscal year, all revenue derived from the sale
4 of gasoline to be consumed in the motor of a boat or vessel as
5 defined in subdivision (1) shall be allocated to the State
6 Water Safety Fund, Seafood Fund, and Game and Fish Fund.

7 "(c) Distribution of forty-five percent of net tax
8 proceeds shall be distributed as follows:

9 "(1) Forty-five percent of the net tax proceeds are
10 hereby allocated and appropriated for state highway purposes
11 and as the state's share of the net tax proceeds to be covered
12 into the State Treasury to the credit of the Public Road and
13 Bridge Fund and to be disbursed as hereinafter provided in
14 this section.

15 "(2) A portion of the state's share of the net tax
16 proceeds that is equal in amount to two sevenths (equivalent
17 to six twenty-firsts) of the net tax proceeds shall be
18 disbursed, to pay at their respective maturities the principal
19 of and interest on the bonds issued prior to March 1, 1967, by
20 the Alabama Highway Authority, a public corporation organized
21 and existing under the provisions of Sections 23-1-150 to
22 23-1-160, inclusive, in the order in which the two sevenths of
23 the net tax proceeds were pledged for the bonds.

24 "(3) A portion of the state's share of the net tax
25 proceeds that is equal in amount to two twenty-firsts of the
26 net tax proceeds shall be disbursed to pay at their respective
27 maturities the principal of and interest on the bonds issued

1 prior to March 1, 1967, by the Alabama Highway Authority, in
2 the order in which the two twenty-firsts of the net tax
3 proceeds were pledged for the bonds.

4 "(4) A portion of the state's share of the net tax
5 proceeds that is equal in amount to one twenty-first of the
6 net tax proceeds shall be disbursed to pay at their respective
7 maturities the principal of and interest on the bonds issued
8 by the Alabama Highway Authority after March 1, 1959, and
9 prior to March 1, 1967, in the order in which the one
10 twenty-first of the net tax proceeds was pledged for the
11 bonds.

12 "(5) The residue of the state's share of the net tax
13 proceeds remaining after provision shall have been made out of
14 the aforesaid nine twenty-firsts of the net tax proceeds for
15 payment of the obligations referred to in the foregoing
16 subdivisions (2), (3), and (4) shall be disbursed for the
17 following purposes, in the following order and to the extent
18 necessary:

19 "a. For payment at their respective maturities of
20 the principal of and interest on bonds, other than refunding
21 bonds, issued by the Alabama Highway Authority under the
22 provisions of Act No. 225, 1967 Special Session (Acts 1967, p.
23 302), to the extent that the portion of the motor vehicle
24 license taxes and registration fees provided in Section
25 40-12-270, to be used for the payment of the principal of and
26 interest on the bonds, other than refunding bonds, issued by
27 the Alabama Highway Authority under the provisions of Act No.

1 225, should be insufficient to pay the principal and interest
2 at their respective maturities.

3 "b. For payment at their respective maturities of
4 the principal of and interest on the bonds, other than
5 refunding bonds, issued by the Alabama Highway Authority under
6 the provisions of Act No. 781, 1969 Regular Session (Acts
7 1969, p. 1398), to the extent that the portion of the motor
8 vehicle license taxes and registration fees provided in
9 Section 40-12-270, to be used for the payment of the principal
10 of and interest on the bonds, other than refunding bonds,
11 issued by the Alabama Highway Authority under the provisions
12 of Act No. 781, should be insufficient to pay the principal
13 and interest at their respective maturities.

14 "c. For payment at their respective maturities of
15 the principal of and interest on the bonds, other than
16 refunding bonds, issued by the Alabama Highway Authority under
17 the provisions of Act No. 1416, 1971 Regular Session (Acts
18 1971, p. 2412), to the extent that the portion of the motor
19 vehicle license taxes and registration fees provided in
20 Section 40-12-270, to be used for the payment of the principal
21 of and interest on the bonds, other than refunding bonds,
22 issued by the Alabama Highway Authority under the provisions
23 of Act No. 1416, should be insufficient to pay the principal
24 and interest at their respective maturities.

25 "d. For payment at their respective maturities of
26 the principal of and interest on any bonds or other
27 obligations, including refunding obligations, issued after

1 December 1, 1977, by a public corporation existing at the time
2 of issuance under the laws of the state pursuant to then
3 existing statutory authorization, or by the state pursuant to
4 then existing authorization, effective at the time of
5 issuance, under the constitution and laws of the state, and
6 for which the aforesaid residue, referred to in this
7 subdivision, of the state's share of the net tax proceeds
8 shall have been appropriated and pledged in a then effective
9 statute or constitutional provision (including any enabling
10 act under a constitutional provision) under which the bonds
11 may be issued, all in the manner and to the extent and subject
12 to the priorities in rank as may be provided in a statute or
13 constitutional provision or in any authorizing resolution
14 thereunder.

15 "e. For allocation on September 30 of each fiscal
16 year to each county to which allocation shall have been made
17 under the provisions of subsection (d), during that fiscal
18 year less than the base annual county distribution, which,
19 when added to the amounts so allocated to that county under
20 subsection (d), will equal the base annual county
21 distribution.

22 "(6) The state's share of the net tax proceeds paid
23 into the Public Road and Bridge Fund and not required for any
24 of the purposes referred to in any of the foregoing
25 subdivisions (2), (3), (4), and (5) may be withdrawn by the
26 Department of Transportation and used by it for highway
27 purposes.

1 "(d) Fifty-five percent of net tax proceeds shall be
2 distributed as follows:

3 "(1) Fifty-five percent of the net tax proceeds are
4 hereby allocated and appropriated to be used for highway
5 purposes by the counties and municipalities to be covered into
6 the State Treasury and shall be disbursed and allocated as
7 hereinafter provided in this section.

8 "(2) A portion of the local subdivisions' shares of
9 the net tax proceeds that is equal to 25 percent of the net
10 tax proceeds shall be allocated equally among the 67 counties
11 of the state.

12 "(3) The entire residue of the local subdivisions'
13 shares of the net tax proceeds, being an amount equal to 30
14 percent of the net tax proceeds less any amount paid pursuant
15 to the contingent appropriation in subdivision (2), shall be
16 allocated among the 67 counties of the state on the basis of
17 the ratio of the population of each county to the total
18 population of the state according to the then next preceding
19 federal decennial census, or any special federal census
20 heretofore held in any county subsequent to the effective date
21 of the 1960 Federal Decennial Census. The allocation provided
22 for in this subdivision shall be made on or prior to the tenth
23 day of each month with respect to receipts of the highway
24 gasoline tax by the state during the preceding month.

25 "(e) (1) The amounts allocated or apportioned to each
26 county pursuant to each of subsections (c) and (d) shall be
27 disposed of as follows:

1 "a. Ten percent of the amount so allocated or
2 apportioned to each county shall be distributed among the
3 municipalities in the county with respect to which the
4 allocation or apportionment is made; each distribution among
5 the municipalities shall be made on the basis of the ratio of
6 the population of each municipality to the total population of
7 all municipalities in the applicable county according to the
8 then next preceding federal decennial census.

9 "b. The remaining portion of the amount so allocated
10 or apportioned to each county shall be distributed to the
11 county with respect to which the allocation or apportionment
12 is made. The distributions provided for in this subsection
13 shall be made monthly.

14 "(2) The population of any municipality incorporated
15 subsequent to the taking of the then next preceding federal
16 decennial census shall be deemed to be the population shown by
17 the census for that municipality taken pursuant to the
18 requirements of Section 11-41-4. Any municipality incorporated
19 after September 30, 1967, shall not participate in the
20 distribution provided for in this section until the fiscal
21 year next succeeding the fiscal year during which it is
22 incorporated, the first distribution to the municipality to be
23 made from the receipts of the highway gasoline tax by the
24 state during October of the fiscal year next succeeding its
25 incorporation.

26 "(3) When requested to do so by any municipality,
27 the Department of Transportation may make available the

1 services and advice of its engineers and other employees with
2 respect to any work for which that municipality proposes to
3 expend moneys distributed to it under this section. Any
4 services and advice that may be made available shall be
5 provided under the terms and conditions that may be mutually
6 agreeable to the Department of Transportation and the
7 municipality.

8 "(f) Three-fifths of the supplemental net tax
9 proceeds on gasoline, as defined in subsection (a), shall be
10 deposited in the State Treasury to the credit of the Public
11 Road and Bridge Fund of the Department of Transportation and
12 shall be used exclusively in the construction, repair,
13 maintenance, and operation of public roads and bridges in this
14 state, including public roads in state parks and any toll road
15 or toll bridge constructed by the state Department of
16 Transportation or maintained and operated by it or under its
17 supervision. It is further provided that of the receipts
18 collected under this section dedicated to the Public Road and
19 Bridge Fund, the sum of one million dollars (\$1,000,000) shall
20 be set aside in the fiscal year ending September 30, 1992, and
21 the sum of at least five hundred thousand dollars (\$500,000)
22 for the fiscal year ending September 30, 1993, and in each
23 fiscal year thereafter, to coordinate with the Department of
24 Conservation and Natural Resources on the construction,
25 maintenance, and repair of public roads in the state's park
26 system. The remaining two-fifths of the supplemental net tax
27 proceeds shall be distributed, as provided for distribution of

1 the net tax proceeds, according to subsections (c), (d), and
2 (e). Any local laws or general laws of local application now
3 in effect regarding the distribution of the tax levied by
4 Section 40-17-325 shall govern the distribution of the amounts
5 allocated or apportioned within every county by this section.
6 The Legislature may by general or local laws prescribe other
7 distributions within counties to local governments. The two
8 fifths of the supplemental net tax proceeds shall be used for
9 the same purposes and deposited in the same state, county, and
10 municipal funds as provided by Section 40-17-362. Where the
11 use is by a county, the funds may be used to match federal aid
12 on any projects that meet the requirements for federal funding
13 and the funds may also be used for new construction without
14 regard to the provision that 90 percent of the county's paved
15 road system has achieved a grade of 85 percent based on the
16 State of Alabama Department of Transportation's annual
17 maintenance report of county roads and bridges.

18 "(g) In all counties wherein members of the county
19 governing bodies are compensated or paid on a salary basis,
20 the county governing bodies may pay a part of the salary out
21 of the county gasoline tax revenues. The part paid out of
22 county gasoline tax revenues shall bear the same proportion to
23 the total salary paid to the member as the time devoted by the
24 member to supervising, inspecting, accepting, building, or
25 repairing county roads or bridges bears to the total time
26 devoted by the member to all of his or her duties as a member
27 of the county governing body.

1 "The county governing body may determine the
2 proportions set out in this section.

3 "(h) The county commissions may pay a portion of the
4 compensation of their clerks out of the Public Road and Bridge
5 Fund or gasoline tax funds in the county treasury; provided,
6 that not more than 75 percent of the total salary payable
7 shall be paid out of the fund or funds.

8 "(i) For the purpose of this section, each federal
9 decennial census shall be deemed to be effective on October 1
10 next following the publication of the results of the decennial
11 census.

12 "(j) Wherever in this section any portion of the net
13 tax proceeds is provided to be applied or used for highway
14 purposes, it shall be used as follows:

15 "(1) Where the use is by the Department of
16 Transportation, with the approval of the Governor, the use
17 shall be for the construction of public roads and bridges in
18 the state, the maintenance of public roads and bridges on the
19 state highway system, the equipment and preparation of
20 convicts for use upon the public roads and bridges in the
21 state, the maintenance of the convicts while at work upon the
22 roads and bridges, the compensation to the state for the use
23 of any convicts, and for other public road and bridge purposes
24 in the state as may be authorized by the Department of
25 Transportation with the approval of the Governor.

26 "(2) Where the use is by a county, the use shall be
27 for transportation planning, the construction, reconstruction,

1 maintenance, widening, alteration, and improvement of public
2 roads and bridges as is now or may hereafter be provided by
3 law, including payment of the principal of and interest on any
4 securities at any time issued by the county pursuant to law
5 for payment of which all or any of the net tax proceeds were
6 or may be lawfully pledged, and the use may also be for the
7 purpose and subject to the provisions contained in subsection
8 (g).

9 "(3) Where the use is by a municipality, the use
10 shall be for transportation planning, the construction,
11 reconstruction, maintenance, widening, alteration, and
12 improvement of public roads, bridges, streets, and other
13 public ways, including payment of the principal of and
14 interest on any securities at any time issued by the
15 municipality pursuant to law for the payment of which any part
16 of the net tax proceeds were or may be lawfully pledged;
17 provided, that no part of the net tax proceeds referred to in
18 this section shall be expended contrary to the provisions of
19 the constitution; and provided further, that funds distributed
20 to municipalities under the provisions of this section shall
21 not be commingled with other funds of the municipality and
22 shall be kept and disbursed by the municipality from a special
23 fund only for the purposes hereinabove provided.

24 "(k) The county commission of each of the counties
25 may use or expend the proceeds of the state gasoline tax
26 levied by Section 40-17-325, distributed to the county
27 pursuant to this section, for the construction and maintenance

1 of streets within the corporate limits of any municipality
2 located within the county, anything in Sections 40-17-322 to
3 40-17-356, inclusive, to the contrary notwithstanding.

4 "(l) The county commission of each of the counties
5 may use or expend the state gasoline tax proceeds referred to
6 in subsection (k) for the construction, reconstruction,
7 maintenance, and repair of public highways and traffic control
8 areas located on public school property or state school
9 property within the county.

10 "(m) The State Treasurer shall make all allocations
11 of the net tax proceeds and the supplemental net tax proceeds
12 and shall make the distributions and payments thereof pursuant
13 to the allocations provided for in this section.

14 "(n) It is the intention of the Legislature in
15 enacting this section to preserve inviolate all pledges
16 heretofore made pursuant to law of any portion of the proceeds
17 derived from the highway gasoline tax for the benefit of those
18 bonds now outstanding that are referred to in subsection (c),
19 or for the benefit of securities now outstanding that were
20 issued pursuant to law by any county or municipality.

21 "(o) ~~All~~ One-third of all revenues received or
22 collected by the department from the additional ~~four~~ six cents
23 ~~(\$.04)~~ (\$.06) tax levied on gasoline under subdivision (1) of
24 subsection (a) of Section 40-17-325, remaining after the
25 payment of refunds, ~~and~~ shall be paid into the State Treasury
26 and distributed in accordance with subsection (a) of Section
27 8-17-91. The remaining revenues received or collected by the

1 department from the additional six cents (\$.06) tax levied on
2 gasoline, after the expense of administration and enforcement
3 of this article are hereby allocated and appropriated in the
4 following manner:

5 "(1) Forty-five percent for state highway purposes
6 and as the state's share of two-thirds of the additional ~~\$.04~~
7 \$.06 tax levied. This 45 percent shall be deposited into the
8 State Treasury to the credit of the Public Road and Bridge
9 Fund and shall be disbursed as provided in this article.

10 "(2) Fifty-five percent for highway purposes by the
11 counties and municipalities. The 55 percent of two-thirds of
12 the additional ~~\$.04~~ \$.06 tax levied shall be deposited into
13 the State Treasury and shall be disbursed and allocated as
14 hereinafter provided in this section.

15 "a. A portion of the local subdivisions' shares of
16 two-thirds of the additional ~~\$.04~~ \$.06 tax levied that is
17 equal to 25 percent of the additional ~~\$.04~~ \$.06 tax levied
18 shall be allocated equally among the 67 counties of the state.

19 "b. The entire residue of the local subdivisions'
20 shares of two-thirds of the additional ~~\$.04~~ \$.06 tax levied,
21 being an amount equal to 30 percent of two-thirds of the
22 additional ~~\$.04~~ \$.06 tax levied, shall be allocated among the
23 67 counties of the state on the basis of the ratio of the
24 population of each county to the total population of the state
25 according to the then next preceding federal decennial census,
26 or any special federal census heretofore held in any county
27 subsequent to the effective date of the 1970 Federal Decennial

1 Census. The allocation provided for in this subsection shall
2 be made on or prior to the tenth day of each month with
3 respect to receipts of the highway gasoline tax by the state
4 during the preceding month.

5 "c. The distributions provided for in this
6 subdivision shall be made monthly. The amounts allocated or
7 apportioned to each county shall be disposed of as follows:

8 "1. Ten percent of the amount so allocated or
9 apportioned to each county shall be distributed among the
10 municipalities in the county with respect to which the
11 allocation or apportionment is made, each distribution among
12 the municipalities shall be made on the basis of the ratio of
13 the population of each municipality to the total population of
14 all municipalities in the applicable county according to the
15 then next preceding federal decennial census. Provided, that
16 any local laws or general laws of local application now in
17 effect regarding the distribution of the tax levied by Section
18 40-17-325 shall govern the distribution of the amounts
19 allocated or apportioned within every county by this section;
20 provided further, that the Legislature may by general or local
21 laws prescribe other distributions within counties to local
22 governments.

23 "2. The remaining portion of the amount so allocated
24 or apportioned to each county shall be distributed to the
25 county with respect to which such allocation or apportionment
26 is made.

1 "d. The population of any municipality incorporated
2 subsequent to the taking of the then next preceding federal
3 decennial census shall be deemed to be the population shown by
4 the census for that municipality taken pursuant to the
5 requirements of Section 11-41-4. Any municipality incorporated
6 after September 30, 1978, shall not participate in the
7 distribution provided for in this section until the fiscal
8 year next succeeding the fiscal year during which it is
9 incorporated, the first distribution to the municipality shall
10 be made in respect of receipts of the highway gasoline tax by
11 the state during October of the fiscal year next succeeding
12 its incorporation.

13 "e. When requested to do so by any municipality, the
14 Department of Transportation may at its discretion make
15 available the services and advice of its engineers and other
16 employees with respect to any work for which that municipality
17 proposes to expend moneys distributed to it under this
18 subdivision. Any services and advice that may be so made
19 available shall be provided under the terms and conditions as
20 may be mutually agreeable to the Department of Transportation
21 and the municipality.

22 "(p) The State Treasurer shall make all allocations
23 of the revenue collections and shall make the distribution and
24 payments thereof pursuant to such allocations provided for in
25 this article."

1 Section 2. The changes made by Section 1 of this
2 amendatory act shall apply to sales of petroleum products
3 occurring on or after April 1, 2014.

4 Section 3. There is hereby appropriated to the
5 Department of Revenue from the Public Road and Bridge Fund, to
6 offset its costs of developing and implementing the changes
7 made by this amendatory act, for the fiscal year ending
8 September 30, 2014, the sum of five hundred thousand dollars
9 (\$500,000).

10 Section 4. The provisions of this act are severable.
11 If any part of this act is declared invalid or
12 unconstitutional, that declaration shall not affect the part
13 which remains.

14 Section 5. All laws or parts of laws which conflict
15 with this act are repealed.

16 Section 6. Section 3 of this act shall become
17 effective October 1, 2013. The remainder of this act shall
18 become effective on April 1, 2014, following its passage and
19 approval by the Governor, or its otherwise becoming law.