

1 SB433  
2 156228-4  
3 By Senator Bedford  
4 RFD: Finance and Taxation General Fund  
5 First Read: 04-MAR-14

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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 Alabama Department of  
12 Agriculture and Industries.

13 This bill would move the collection of the  
14 inspection fee that pertains to gasoline to the  
15 terminal excise tax return and dyed diesel fuel,  
16 dyed kerosene, and lubricating oil products to a  
17 separate return.

18 This bill would require the Alabama  
19 Department of Revenue to collect the fees.

20 This bill would clarify the definitions used  
21 for petroleum products fee under Title 8, Chapter  
22 17, Code of Alabama 1975.

23 This bill would change the disposition of  
24 the funds to provide for an amount to the Alabama  
25 Department of Revenue for administration in  
26 collecting the fees.  
27

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
4

5 To amend Sections 8-17-80, 8-17-84, 8-17-87,  
6 8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975; to repeal  
7 Section 8-17-89 of the Code of Alabama 1975; to add Sections  
8 8-17-95, 8-17-96, 8-17-97, 8-17-98, 8-17-99, 8-17-100,  
9 8-17-101, and 8-17-102 to Chapter 17, Article 5, Title 8 of  
10 the Code of Alabama 1975; and to amend Sections 40-17-325,  
11 40-17-329, as amended by Act 2013-200 and Act 2013-372, 2013  
12 Regular Session, Section 40-17-359, Code of Alabama 1975, as  
13 amended by Act 2013-372 and Act 2013-402, 2013 Regular  
14 Session, and 40-17-362 relating to the collection and  
15 distribution of certain petroleum products by the Department  
16 of Revenue.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 8-17-80, 8-17-84, 8-17-87,  
19 8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975, are  
20 amended to read as follows:

21 "§8-17-80.

22 "(a) The following words and phrases, when used in  
23 this ~~division~~ article, shall have the meanings ascribed to  
24 them in this section, except where the context clearly  
25 indicates a different meaning:

26 "~~(1) GASOLINE. Gasoline, naphtha and other liquid~~  
27 ~~motor fuels or any devices or substitutes therefor that are~~

1 commonly used in internal combustion engines and are there  
2 ignited by electric spark.

3 ~~"(2) DIESEL FUEL. Those products of petroleum that~~  
4 ~~are commonly used in internal combustion engines and are there~~  
5 ~~ignited by pressure and not by electric spark and that are of~~  
6 ~~the types commonly referred to and known commercially as~~  
7 ~~diesel fuel No. 1 and diesel fuel No. 2; provided, however,~~  
8 ~~that "diesel fuel" shall not mean any petroleum product used~~  
9 ~~in firing steam boilers or combustion generating turbines by~~  
10 ~~compression.~~

11 ~~"(3) KEROSENE. That certain product of petroleum~~  
12 ~~commonly referred to as kerosene and commonly used for~~  
13 ~~illuminating, heating, or cooking purposes and other like~~  
14 ~~products of petroleum used for the same purposes for which~~  
15 ~~kerosene is commonly used, regardless of the actual purpose or~~  
16 ~~purposes for which the said kerosene or other product may~~  
17 ~~actually be used; provided, however, that "kerosene" shall not~~  
18 ~~mean any petroleum product used in firing steam boilers or~~  
19 ~~combustion generating turbines by compression.~~

20 ~~"(4) LUBRICATING OIL. Those products of petroleum~~  
21 ~~that are commonly used in lubricating or oiling engines and~~  
22 ~~any devices or substitutes for such products of petroleum.~~

23 ~~"(5) PETROLEUM PRODUCTS. Gasoline, diesel fuel,~~  
24 ~~kerosene, and lubricating oil.~~

25 ~~"(6) COMMISSIONER. The Alabama Commissioner of~~  
26 ~~Agriculture and Industries.~~

1                   ~~"(7) DEPARTMENT. The Alabama Department of~~  
2                   ~~Agriculture and Industries.~~

3                   ~~"(8) BOARD. The Alabama Board of Agriculture and~~  
4                   ~~Industries.~~

5                   ~~"(9) STATE. The State of Alabama.~~

6                   ~~"(10) PERSON. Any natural person, firm, partnership,~~  
7                   ~~association, corporation, receiver, trust, estate, or other~~  
8                   ~~entity as well as any other group or combination thereof~~  
9                   ~~acting as a unit.~~

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

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

19                  ~~"a. By making application which shall be approved by~~  
20                  ~~the Commissioner of Agriculture and Industries, the reseller~~  
21                  ~~shall file with the Department of Agriculture and Industries a~~  
22                  ~~bond in an approximate amount equal to the average monthly~~  
23                  ~~inspection fee estimated by the commissioner which will be due~~  
24                  ~~by the reseller; provided, that in no case shall the bond be~~  
25                  ~~less than \$2,500 or more than \$5,000. The bond shall be in~~  
26                  ~~such form and amount as may be approved by the commissioner,~~  
27                  ~~shall be executed by a surety company licensed and duly~~

1 authorized to do business in Alabama, shall be payable to the  
2 State of Alabama and shall be conditioned upon the prompt  
3 filing of true reports and the payment by the reseller to the  
4 Department of Agriculture and Industries of any and all  
5 inspection fees which are imposed by this division with  
6 respect to any petroleum products and which, but for the  
7 election made pursuant to this section, would be payable by  
8 the person from whom said petroleum products are purchased by  
9 the reseller, together with all penalties and interest  
10 thereon, and generally upon faithful compliance with the  
11 provisions of this division. In lieu of a guaranty bond, the  
12 reseller may post Alabama state coupon bonds or United States  
13 government bonds under such terms, rules and regulations as  
14 may be approved by the commissioner.

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

26 "c. If upon a hearing had by the Commissioner of  
27 Agriculture and Industries after five days' written notice to

1     ~~any reseller the commissioner shall decide that the amount of~~  
2     ~~any existing bond filed by any reseller is insufficient, the~~  
3     ~~commissioner may order such reseller to file, within 10 days~~  
4     ~~after written notice by the commissioner to such reseller, a~~  
5     ~~new or additional bond in such amount as the commissioner upon~~  
6     ~~said hearing may find reasonably necessary to insure payment~~  
7     ~~of all amounts due or to become due to the State of Alabama,~~  
8     ~~conditioned as hereinabove provided; and, if such new or~~  
9     ~~additional bond is not filed within 10 days after such notice~~  
10    ~~from the commissioner, the commissioner may cancel the permit~~  
11    ~~already issued to such reseller.~~

12             ~~"d. The commissioner may reduce the amount of any~~  
13    ~~bond upon written application of any reseller if satisfied~~  
14    ~~that a bond in a reduced amount will insure payment of all~~  
15    ~~amounts due or to become due to the State of Alabama. The~~  
16    ~~total amount of bond or bonds to be given by any reseller~~  
17    ~~under this subdivision shall in no event be less than \$2,500~~  
18    ~~nor more than \$5,000; provided, however, that the commissioner~~  
19    ~~may require such additional bond as may be deemed necessary to~~  
20    ~~insure the prompt payment of all inspection fees on the sale~~  
21    ~~or withdrawal of petroleum products due, or to become due, the~~  
22    ~~state by the reseller, but no demand for additional bond above~~  
23    ~~\$5,000 shall be made without first determining from a study of~~  
24    ~~the reseller's financial statement which shall be supplied~~  
25    ~~upon request of the commissioner that such additional bond is~~  
26    ~~necessary.~~

1           ~~"e. Any surety on any bond furnished by any~~  
2           ~~reseller, as above provided, shall be released and discharged~~  
3           ~~from any and all liability to the State of Alabama accruing on~~  
4           ~~such bond after the expiration of 60 days from the date upon~~  
5           ~~which surety shall have filed with the Department of~~  
6           ~~Agriculture and Industries written request to be released and~~  
7           ~~discharged; provided, however, that such request shall not~~  
8           ~~operate to relieve, release or discharge such surety from any~~  
9           ~~liability already accrued or which shall accrue before the~~  
10           ~~expiration of such 60-day period. The Commissioner of~~  
11           ~~Agriculture and Industries shall promptly, upon receipt of~~  
12           ~~notice of such request, notify the reseller who furnished such~~  
13           ~~bond of the request of the surety on said bond and, unless~~  
14           ~~such reseller shall file, on or before the expiration of such~~  
15           ~~60-day period, with the Department of Agriculture and~~  
16           ~~Industries a new bond in the amount and form hereinbefore in~~  
17           ~~this subdivision provided, the commissioner shall forthwith~~  
18           ~~cancel the permit of said reseller.~~

19           "(1) AVIATION GASOLINE. Motor fuel designed for use  
20           in the operation of aircraft other than jet aircraft, and sold  
21           or used for that purpose.

22           "(2) BIODIESEL FUEL. Any motor fuel or mixture of  
23           motor fuels that is derived, in whole or in part, from  
24           agricultural products or animal fats, or the wastes of such  
25           products or fats, and is advertised as, offered for sale as,  
26           suitable for use, or used as motor fuel in a diesel engine.



1           "(3) BLENDED FUEL. A mixture composed of gasoline or  
2 diesel fuel and any other liquid that can be used as a motor  
3 fuel in a highway vehicle.

4           "(4) BOARD. The Alabama Board of Agriculture and  
5 Industries.

6           "(5) BONDED DISTRIBUTOR. A reseller of dyed diesel  
7 fuel, dyed kerosene, and/or lubricating oil who elects to be  
8 bonded in accordance with Section 8-17-96.

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

12           "(7) BULK TRANSFER. Any transfer of motor fuel from  
13 one location to another by pipeline tender or marine delivery  
14 within a bulk transfer/terminal system, including, but not  
15 limited to, the following:

16           "a. The movement of motor fuel from a refinery or  
17 terminal to a terminal by marine vessel or barge.

18           "b. The movement of motor fuel from a refinery or  
19 terminal to a terminal by pipeline.

20           "c. The book or in-tank transfer of motor fuel  
21 within a terminal between licensed suppliers prior to the  
22 completion of removal across the rack.

23           "d. A two-party exchange between licensed suppliers  
24 or between licensed suppliers and permissive suppliers.

25           "(8) BULK TRANSFER/TERMINAL SYSTEM. The motor fuel  
26 distribution system consisting of refineries, pipelines,  
27 marine vessels, and terminals.

1           "(9) COMMISSIONER. The Alabama Commissioner of  
2           Agriculture and Industries.

3           "(10) DEPARTMENT. The Alabama Department of  
4           Agriculture and Industries.

5           "(11) DIESEL FUEL. Any liquid that is advertised,  
6           offered for sale, or sold for use as or used as a motor fuel  
7           in a diesel-powered engine. Diesel fuel includes #1 and #2  
8           fuel oils, kerosene, special fuels, and blended fuels which  
9           contain diesel fuel, but shall not include gasoline or  
10          aviation fuel.

11          "(12) DYED DIESEL FUEL. Diesel fuel that meets the  
12          dyeing and marking requirements of Section 4082, Title 26 of  
13          the United States Code.

14          "(13) DYED KEROSENE. Kerosene that meets the dyeing  
15          and marking requirements of Section 4082, Title 26 of the  
16          United States Code.

17          "(14) GASOHOL. A blended motor fuel composed of  
18          gasoline and motor fuel grade alcohol.

19          "(15) GASOLINE. Any product commonly or commercially  
20          known as gasoline, regardless of classification, that is  
21          advertised, offered for sale, or sold for use as or used as  
22          motor fuel in an internal combustion engine, including gasohol  
23          and blended fuel which contains gasoline. Gasoline also  
24          includes gasoline blendstocks as defined under Section 4081,  
25          Title 26 of the United States Code and the regulations  
26          promulgated thereunder. Gasoline does not include special fuel

1 or aviation gasoline sold to a licensed aviation fuel  
2 purchaser for use in an aircraft motor.

3 "(16) IMPORT. To bring petroleum products into this  
4 state for sale, use, or storage by any means of conveyance  
5 other than in the fuel supply tank of a motor vehicle.

6 Petroleum products delivered into this state from out-of-state  
7 by or for the seller constitutes an import by the seller.

8 Petroleum products delivered into this state from out-of-state  
9 by or for the purchaser constitutes an import by the  
10 purchaser.

11 "(17) IMPORTER. A person who imports petroleum  
12 products into this state.

13 "(18) K-1 KEROSENE. A petroleum product having an  
14 A.P.I. gravity of not less than 40 degrees, at a temperature  
15 of 60 degrees Fahrenheit and a minimum flash point of 100  
16 degrees Fahrenheit, and which meets American Society for  
17 Testing Materials Standard D-3699 as in effect on January 1,  
18 1999.

19 "(19) KEROSENE. All grades of kerosene, including,  
20 but not limited to, the two grades of kerosene, No. 1-K and  
21 No. 2-K, commonly known as K-1 kerosene and K-2 kerosene,  
22 respectively, described in the American Society for Testing  
23 Materials Standard D-3699, in effect on January 1, 1999, and  
24 kerosene-type jet fuel described in the American Society for  
25 Testing Materials Standard D-1655 and military specifications  
26 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8) and any  
27 grade described as kerosene or kerosene-type jet fuel by the

1 Internal Revenue Code and administrative guidance promulgated  
2 thereunder.

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

6 "(21) NET GALLONS. The amount of dyed diesel fuel  
7 and dyed kerosene measured in gallons when adjusted to a  
8 temperature of 60 degrees Fahrenheit and a pressure of  
9 fourteen and seven-tenths pounds pressure per square inch.

10 "(22) PERMISSIVE SUPPLIER. An out-of-state supplier  
11 that elects, but is not required, to have a supplier's license  
12 as required in Section 40-17-332.

13 "(23) PERSON. Any natural person, firm, partnership,  
14 association, corporation, receiver, trust, estate, or other  
15 entity as well as any other group or combination thereof  
16 acting as a unit.

17 "(24) PERSON FIRST SELLING. Any person, as herein  
18 defined, who first sells dyed diesel fuel, dyed kerosene,  
19 and/or lubricating oil in Alabama on which an inspection fee  
20 is imposed by this article. The first seller of dyed diesel  
21 fuel, dyed kerosene, and/or lubricating oil must obtain an  
22 inspection fee permit by making application to the Department  
23 of Revenue.

24 "(25) PETROLEUM PRODUCTS. Gasoline, diesel fuel, and  
25 lubricating oil.

26 "(26) REVENUE COMMISSIONER. The Commissioner of the  
27 Alabama Department of Revenue.

1           "(27) SPECIAL FUEL. Any gas or liquid, other than  
2 gasoline, used or suitable for use as motor fuel in an  
3 internal combustion engine or motor to propel any form of  
4 vehicle, machine, or mechanical contrivance, and includes  
5 products commonly known as natural or casing-head gasoline,  
6 biodiesel fuel, and transmix. Special fuel does not include  
7 any petroleum product or chemical compound such as alcohol,  
8 industrial solvent, or lubricant, unless blended in or sold  
9 for use as motor fuel in an internal combustion engine.

10           "(28) STATE. The State of Alabama.

11           "(29) SUPPLIER. A person who is subject to the  
12 general taxing jurisdiction of this state and registered under  
13 Section 4101 of the Internal Revenue Code for transactions in  
14 motor fuel in the bulk transfer/terminal distribution system  
15 and who owns motor fuel in the bulk transfer/terminal system,  
16 or a person who receives motor fuel in this state pursuant to  
17 a two-party exchange. A terminal operator shall not be  
18 considered a supplier based solely on the fact that the  
19 terminal operator handles motor fuel consigned to it within a  
20 terminal.

21           "(30) UNDYED DIESEL FUEL. Diesel fuel that has not  
22 been dyed in accordance with the Internal Revenue Service fuel  
23 dyeing provisions.

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

1           "(c) Any pronoun or pronouns used herein shall be  
2 deemed to include both singular and plural and to cover all  
3 genders.

4           "§8-17-84.

5           "~~(a) Every person selling, offering for sale,~~  
6 ~~storing or using petroleum products in the state shall keep a~~  
7 ~~record of all such petroleum products manufactured, refined,~~  
8 ~~purchased, received, sold, imported, stored, delivered, or~~  
9 ~~used by him, which record shall show the number of gallons so~~  
10 ~~manufactured, refined, purchased, received, sold, imported,~~  
11 ~~stored, delivered, or used and the date or dates of each such~~  
12 ~~transaction. Each person required to be licensed under Section~~  
13 ~~40-17-332(a), (b), or (f) for gasoline, or permitted under~~  
14 ~~Section 8-17-96 for dyed diesel fuel, dyed kerosene, or~~  
15 ~~lubricating oil, and each bulk user and retailer shall keep~~  
16 ~~and maintain all records pertaining to the petroleum products~~  
17 ~~received, produced, manufactured, refined, compounded, used,~~  
18 ~~sold, imported, or delivered, together with delivery tickets,~~  
19 ~~invoices, bills of lading, and other pertinent records and~~  
20 ~~papers required by the Department of Revenue for the~~  
21 ~~reasonable administration of this article, for a period of no~~  
22 ~~less than three years.~~

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

1           ~~"(c) The Commissioner of Agriculture and Industries~~  
2 ~~shall~~ Revenue Commissioner may prescribe regulations  
3 respecting the keeping of the records required in this section  
4 and the forms thereof.

5           "~~§8-17-87.~~

6           "(a) An inspection fee is ~~hereby~~ imposed ~~and shall~~  
7 ~~be collected in respect of petroleum products sold, offered~~  
8 ~~for sale, stored, or used in the state, the said fee to be~~  
9 ~~measured by the number of gallons and to be at the following~~  
10 ~~rates:~~ on the ultimate consumer of gasoline at the rate of two  
11 cents (\$.02) per gallon, if the excise tax levied on gasoline  
12 under Section 40-17-325(a) (1) is refunded by the Department of  
13 Revenue unless the ultimate consumer is specifically exempted  
14 from the inspection fee by the Code of Alabama. The Department  
15 of Revenue is authorized to reduce the excise tax refund by  
16 the amount due for the inspection fee.

17           "~~(1) Gasoline, \$.02 per gallon.~~

18           "~~(2) Diesel~~(b) An inspection fee is imposed on the  
19 ultimate consumer of undyed diesel fuel other than that  
20 referred to in subdivisions (a) (5), (a) (6), (a) (7), (a) (8),  
21 and (a) (9) of this section, \$.02 at the rate of two cents  
22  (\$.02) per gallon, if the excise tax levied on diesel fuel  
23 under Section 40-17-325(a) (2) is refunded by the Department of  
24 Revenue unless the ultimate consumer is specifically exempted  
25 from the inspection fee by the Code of Alabama or unless the  
26 undyed diesel fuel is subject to a reduced rate inspection fee  
27 in subdivision (i). The Department of Revenue is authorized to

1 reduce the excise tax refund by the amount due for the  
2 inspection fee. Provided, however, diesel fuel that is subject  
3 to the excise taxes levied on motor fuel under Sections  
4 40-17-2 and 40-17-220 shall be exempt from the inspection fee  
5 levied on diesel fuel pursuant to this subdivision.

6 ~~"(3) Kerosene other than that referred to in~~  
7 ~~subdivisions (a) (5), (a) (6), (a) (7), and (a) (9) of this~~  
8 ~~section, \$.01 per gallon.~~

9 ~~"(4) Lubricating oil, \$.15 per gallon.~~

10 ~~"(5) Kerosene or diesel fuel that is of the types~~  
11 ~~customarily used as, and that is intended to be used only as,~~  
12 ~~fuel to propel jet aircraft, one fortieth of \$.01 per gallon.~~

13 ~~"(6) Kerosene or diesel fuel that is used by the~~  
14 ~~ultimate consumer thereof as motor fuel to operate boats,~~  
15 ~~yachts, ships, or other maritime vehicles, whether such boats,~~  
16 ~~yachts, ships, or other maritime vehicles are used~~  
17 ~~commercially or for pleasure, one fortieth of \$.01 per gallon.~~

18 ~~"(7) Kerosene or diesel fuel used by the ultimate~~  
19 ~~consumer thereof to propel or operate tractors which are not~~  
20 ~~operated on public highways but which are used exclusively in~~  
21 ~~preparing and cultivating land, harvesting any agricultural~~  
22 ~~commodity, or for other agricultural purposes, including~~  
23 ~~pasture and hay production; provided, however, that the term~~  
24 ~~"tractors" as used herein shall not include automobiles,~~  
25 ~~trucks, pickups, trailers, semitrailers, or other such~~  
26 ~~vehicles, one fortieth of \$.01 per gallon.~~



1           ~~"(8) Diesel fuel that is of the types customarily~~  
2 ~~used as, and that is intended to be used as, only fuel to~~  
3 ~~propel railroad locomotives, one fortieth of \$.01 per gallon.~~  
4 ~~Diesel fuel of the types referred to in this subdivision shall~~  
5 ~~be inspected in a manner determined and prescribed by the~~  
6 ~~Commissioner of Agriculture and Industries.~~

7           ~~"(9) Kerosene or diesel fuel used by the ultimate~~  
8 ~~consumer thereof as a solvent or other agent in the treatment~~  
9 ~~or preservation of wood products, one fortieth of \$.01 per~~  
10 ~~gallon.~~

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

23           ~~"(c) If, at the time the inspection fee is due, the~~  
24 ~~person liable therefor is unable to ascertain the correct~~  
25 ~~amount of such inspection fee because the use to be made of~~  
26 ~~any diesel fuel or kerosene with respect to which the~~  
27 ~~inspection fee is then due has not been or cannot be~~

1       ~~ascertained at such time, then such person shall pay to the~~  
2       ~~Commissioner of Agriculture and Industries as the inspection~~  
3       ~~fee payable with respect to such diesel fuel and kerosene,~~  
4       ~~\$.02 for each gallon of such diesel fuel and \$.01 for each~~  
5       ~~gallon of such kerosene.~~

6               ~~"(d) Upon furnishing proof satisfactory to the~~  
7       ~~Commissioner of Agriculture and Industries that all or any~~  
8       ~~portion of such diesel fuel or kerosene with respect to which~~  
9       ~~an inspection fee at the rate of \$.02 or \$.01 per gallon~~  
10       ~~respectively has been paid or has been or will be used for a~~  
11       ~~purpose or purposes specified in subdivisions (a) (5), (a) (6),~~  
12       ~~(a) (7), (a) (8), and (a) (9), then such person shall be entitled~~  
13       ~~to a credit against the amount of inspection fee becoming due~~  
14       ~~from such person on the twentieth day of the then next~~  
15       ~~following calendar month, such credit to be in an amount equal~~  
16       ~~to thirty-nine fortieths of \$.01 for each gallon of kerosene~~  
17       ~~or one thirty-nine fortieths cents for each gallon of diesel~~  
18       ~~fuel proved to have been used or to be used for such specified~~  
19       ~~purpose or purposes; provided, that should the credit to which~~  
20       ~~a person is entitled hereunder exceed the amount of the~~  
21       ~~inspection fee becoming due from such person on the twentieth~~  
22       ~~day of the then next following calendar month, then the excess~~  
23       ~~of the credit over the amount of the inspection fee becoming~~  
24       ~~due shall be refunded to such person or, at such person's~~  
25       ~~election, credited against the amount of any inspection fees~~  
26       ~~subsequently becoming due from such person.~~

1           ~~"(e) The Board of Agriculture and Industries shall~~  
2           ~~have authority to promulgate rules and regulations with~~  
3           ~~respect to the form and content of the proof of use which must~~  
4           ~~be supplied by a person seeking such a credit or refund and~~  
5           ~~with respect to the procedure to be followed in applying for~~  
6           ~~such a credit or refund.~~

7           ~~"(f) The inspection fee provided for in this section~~  
8           ~~shall be paid but once with respect to the same product; but~~  
9           ~~in the event any person fails to make payment as herein~~  
10           ~~provided on or before the date such payment is due, the~~  
11           ~~Commissioner of Agriculture and Industries shall add to the~~  
12           ~~inspection fee already due an amount equal to 10 percent~~  
13           ~~thereof as a penalty for the failure of such person to make~~  
14           ~~such report and payment upon the date provided in this section~~  
15           ~~and shall proceed to collect such inspection fee, together~~  
16           ~~with all costs incident to such collection, including the~~  
17           ~~penalty.~~

18           ~~"(g) The inspection fee and any penalty added~~  
19           ~~thereto shall constitute and operate as a lien at all times~~  
20           ~~until paid upon any petroleum products sold, offered for sale,~~  
21           ~~stored, or used in the state by the person liable for the fee,~~  
22           ~~and shall be immediately enforceable by the Commissioner of~~  
23           ~~Agriculture and Industries when due in the same manner as are~~  
24           ~~tax liens upon personal property of a delinquent taxpayer.~~

25           ~~"(c) An inspection fee of two cents (\$.02) per~~  
26           ~~gallon is imposed on the first sale within this state or~~  
27           ~~imported into this state of dyed diesel fuel unless (1) the~~

1 purchaser is a bonded distributor, in which case the  
2 inspection fee is imposed at the point the bonded distributor  
3 makes a sale to a purchaser who is not a bonded distributor,  
4 or (2) the purchaser is subject to a reduced rate inspection  
5 fee in subsections (e), (f), (g), and (h). The person first  
6 selling, the person importing, or the bonded distributor shall  
7 collect the fee imposed by this article.

8 "(d) An inspection fee of one cent (\$.01) per gallon  
9 is imposed on the first sale within this state or imported  
10 into this state of dyed kerosene unless (1) the purchaser is a  
11 bonded distributor, in which case the inspection fee is  
12 imposed at the point the bonded distributor makes a sale to a  
13 purchaser who is not a bonded distributor, or (2) the  
14 purchaser is subject to a reduced rate inspection fee in  
15 subsections (e), (f), (g), and (h). The person first selling,  
16 the person importing, or the bonded distributor shall collect  
17 the fee imposed by this article.

18 "(e) Dyed diesel fuel and dyed kerosene that is used  
19 by the ultimate consumer thereof as motor fuel to operate  
20 boats, yachts, ships, or other maritime vehicles, whether such  
21 boats, yachts, ships, or other maritime vehicles are used  
22 commercially or for pleasure, shall be subject to the reduced  
23 inspection fee of one fortieth of \$.01 (\$.00025) per gallon.  
24 This reduced rate only applies to purchases by the ultimate  
25 consumer directly from a bonded distributor. The person first  
26 selling, the person importing, or the bonded distributor shall  
27 collect the fee imposed by this article.

1           "(f) Dyed diesel fuel or dyed kerosene used by the  
2 ultimate consumer thereof to propel or operate tractors which  
3 are not operated on public highways but which are used  
4 exclusively in preparing and cultivating land, harvesting any  
5 agricultural commodity, or for other agricultural purposes,  
6 including pasture and hay production; provided, however, that  
7 the term "tractors" as used herein shall not include  
8 automobiles, trucks, pickups, trailers, semitrailers, or other  
9 such vehicles, shall be subject to the reduced inspection fee  
10 of one fortieth of \$.01 (\$.00025) per gallon. This reduced  
11 rate only applies to purchases by the ultimate consumer  
12 directly from a bonded distributor. The person first selling,  
13 the person importing, or the bonded distributor shall collect  
14 the fee imposed by this article.

15           "(g) Dyed diesel fuel or dyed kerosene that is of  
16 the types customarily used as, and that is intended to be used  
17 only as, fuel to propel railroad locomotives, shall be subject  
18 to the reduced inspection fee of one fortieth of \$.01  
19 (\$.00025) per gallon. This reduced rate only applies to  
20 purchases by the ultimate consumer directly from a bonded  
21 distributor. The person first selling, the person importing,  
22 or the bonded distributor shall collect the fee imposed by  
23 this article.

24           "(h) Dyed diesel fuel or dyed kerosene used by the  
25 ultimate consumer thereof as a solvent or other agent in the  
26 treatment or preservation of wood products, shall be subject  
27 to the reduced inspection fee of one fortieth of \$.01

1 (\$.00025) per gallon. This reduced rate only applies to  
2 purchases by the ultimate consumer directly from a bonded  
3 distributor. The person first selling, the person importing,  
4 or the bonded distributor shall collect the fee imposed by  
5 this article.

6 "(i) An inspection fee is imposed on the ultimate  
7 consumer of undyed diesel fuel at the rate of one fortieth of  
8 \$.01 (\$.00025) per gallon, if the excise tax levied on undyed  
9 diesel fuel under Section 40-17-325(a)(2) is refunded by the  
10 Department of Revenue and the ultimate consumer specifically  
11 used the undyed diesel fuel:

12 "(1) to operate boats, yachts, ships, or other  
13 maritime vehicles, whether such boats, yachts, ships, or other  
14 maritime vehicles are used commercially or for pleasure;

15 "(2) to propel or operate tractors which are not  
16 operated on public highways but which are used exclusively in  
17 preparing and cultivating land, harvesting any agricultural  
18 commodity, or for other agricultural purposes, including  
19 pasture and hay production; provided, however, that the term  
20 "tractors" as used herein shall not include automobiles,  
21 trucks, pickups, trailers, semitrailers, or other such  
22 vehicles;

23 "(3) to propel railroad locomotives, or

24 "(4) used as solvent or other agent in the treatment  
25 or preservation of wood products.

1           "The Department of Revenue is authorized to reduce  
2 the excise tax refund by the amount due for the inspection  
3 fee.

4           "(j) An inspection fee of \$.15 per gallon is imposed  
5 on the person first selling lubricating oil in this state or  
6 importing lubricating oil into this state, regardless of  
7 whether the excise taxes levied on lube oil under Sections  
8 40-17-171 and 40-17-220 are paid, unless the purchaser is a  
9 bonded distributor, in which case the inspection fee is  
10 imposed at the point the bonded distributor makes a sale to a  
11 purchaser who is not a bonded distributor. The person first  
12 selling, the person importing, or bonded distributor shall  
13 collect the fee imposed by this article.

14           "(k) An inspection fee of \$.02 per gallon is imposed  
15 on removal within this state of gasoline and undyed diesel  
16 fuel from the terminal using the terminal rack, other than by  
17 bulk transfer, if the supplier sells the gasoline or undyed  
18 diesel fuel to a licensed entity which is exempt from the  
19 excise tax levied on gasoline or diesel fuel under Section  
20 40-17-325(a); unless the purchaser is the federal government.  
21 The supplier shall collect the inspection fee imposed by this  
22 article from the purchaser at the time of sale of the gasoline  
23 or undyed diesel fuel.

24           "(l) An inspection fee of \$.02 per gallon is imposed  
25 at the time gasoline and undyed diesel fuel is imported into  
26 this state, other than by bulk transfer, for delivery to a  
27 destination in this state, if the supplier sells the gasoline

1 or undyed diesel fuel to a licensed entity which is exempt  
2 from the excise tax levied on gasoline or diesel fuel under  
3 Section 40-17-325(a); unless the purchaser is the federal  
4 government. The supplier or permissive supplier shall collect  
5 the inspection fee imposed by this article from the person who  
6 imports the gasoline or undyed diesel fuel into this state.

7 "(m) In each subsequent sale of petroleum products  
8 on which the inspection fee has been paid, the amount of the  
9 inspection fee shall be added to the selling price so that the  
10 inspection fee is paid ultimately by the person using or  
11 consuming the petroleum product.

12 "(n) Petroleum products in a refinery, a pipeline, a  
13 terminal, or a marine vessel transporting petroleum products  
14 to a refinery or terminal is in the bulk transfer/terminal  
15 system. Petroleum products in a motor fuel storage facility  
16 including, but not limited to, a bulk plant that is not part  
17 of a refinery or terminal, in the motor fuel supply tank of  
18 any engine or motor vehicle, or in any tank car, rail car,  
19 trailer, truck, or other equipment suitable for ground  
20 transportation is not in the bulk transfer/terminal system.

21 "~~(h)~~(o) The inspection fee provided for in this  
22 section is in addition to all other fees and all taxes payable  
23 with respect to petroleum products. The inspection fee shall  
24 be paid on the net gallons of dyed diesel fuel or dyed  
25 kerosene.

26 "(p) Aviation gasoline and aviation jet fuel is  
27 exempt from the inspection fee.



1           ~~"(i) Notwithstanding anything to the contrary in~~  
2 ~~this section, no inspection fee or penalty shall be due or~~  
3 ~~payable with respect to petroleum products which are sold,~~  
4 ~~offered for sale, stored, or used while they are in interstate~~  
5 ~~or international commerce; but if, after such petroleum~~  
6 ~~products are removed from interstate or international~~  
7 ~~commerce, such petroleum products are sold, offered for sale,~~  
8 ~~stored or used in the state, the fee provided for in this~~  
9 ~~section shall be payable with respect to such petroleum~~  
10 ~~products.~~

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

19           ~~"§8-17-91.~~

20           ~~"(a) The proceeds from the permit fees, inspection~~  
21 ~~fees, and penalties, if any, collected by the Commissioner of~~  
22 ~~Agriculture and Industries and the Revenue Commissioner~~  
23 ~~pursuant to the provisions of this division Section 8-17-87~~  
24 ~~together with one-third of the proceeds of the six cent (\$.06)~~  
25 ~~additional motor fuel excise tax levied on gasoline under~~  
26 ~~subdivision (1) of subsection (a) of Section 40-17-325, shall~~

1 be paid into the State Treasury and distributed by the State  
2 Treasurer as follows:

3 "(1) An amount equal to five percent or no less than  
4 \$175,000, whichever is greater, of the combined proceeds  
5 received each month shall accrue to the credit of, and be  
6 deposited in, the Agricultural Fund; and

7 "(2) The balance of the proceeds shall be  
8 distributed as follows:

9 "a. 13.87 percent of the balance of the proceeds  
10 shall be distributed equally among each of the 67 counties of  
11 the state monthly. Such funds shall be used by the counties  
12 for the following purpose:

13 "When the use is by a county, such use shall be for  
14 the construction, including draining, grading, basing, paving,  
15 signing, and erosion items, of certain high density unpaved  
16 roads as herein provided and for the construction or  
17 reconstruction of bridges on such high density roads. The use  
18 may also be for the reconstruction, resurfacing, restoration,  
19 and rehabilitation of the paved county roads and bridges or  
20 bridge replacement on the county road system. The use may also  
21 be for the construction, including draining, grading, basing,  
22 and paving of certain unpaved roads, and reconstruction of  
23 certain paved roads accessing certain public and private  
24 recreational facilities and areas.

25 "There is hereby created a committee to be referred  
26 to as the Secondary Road Committee comprised of two county  
27 engineers appointed by the Director of the State Department of

1 Transportation, two county commission members appointed by the  
2 Governor, and the Chief of the Bureau of Secondary Roads. The  
3 committee members shall serve at the pleasure of the  
4 appointing authority. The committee shall elect one of its  
5 members to serve as chairman. A quorum of the committee shall  
6 consist of no less than three members. Committee members shall  
7 serve without compensation.

8 "The Secondary Road Committee shall develop and  
9 publish criteria for the designation of high density roads and  
10 bridges and for the designation of eligible recreational  
11 access roads. The committee may in its discretion provide  
12 different criteria for counties according to population,  
13 topography, and road mileage. The committee shall also develop  
14 and publish minimum design standards, including allowable cost  
15 items, for the construction, reconstruction, surfacing,  
16 resurfacing, restoration, and rehabilitation of such high  
17 density roads and bridges and recreational access roads.  
18 Criteria and standards developed by the committee shall be  
19 published by distributing printed copies thereof to the  
20 chairman of each county commission in Alabama no later than 90  
21 days after May 1, 1984. The committee may from time to time  
22 amend the criteria and standards developed provided that at  
23 least 60 days' notice is provided in writing to the chairman  
24 of each county commission before the effective date of such  
25 amendment. The State Department of Transportation shall  
26 provide all supplies and clerical help necessary for the  
27 committee to execute its responsibilities.

1           "County commissions are hereby required to submit  
2 all plans for the use of such proceeds to the Director of the  
3 State Department of Transportation or his designee for  
4 approval. The Director of the State Department of  
5 Transportation or his designee shall review all plans and  
6 approve them or disapprove them, based on the criteria and  
7 standards developed by the committee.

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

14           "The provisions of this section notwithstanding, any  
15 county may at any time deposit all or any portion of such  
16 proceeds into the county's special RRR Fund as provided for in  
17 Section ~~40-17-224~~ 40-17-362, and may use the proceeds so  
18 deposited for any purpose authorized under said section.

19           "b. \$408,981 shall be allocated to the State  
20 Department of Transportation monthly and deposited in the  
21 State Treasury to the credit of the Public Road and Bridge  
22 Fund. Such funds are hereby appropriated to the State  
23 Department of Transportation to be used to match federal aid  
24 discretionary funds that may from time to time become  
25 available to the State Department of Transportation. In the  
26 event that in any fiscal year other State Department of  
27 Transportation funds are insufficient to match the

1 department's regular federal aid apportionment, then at the  
2 Director State Department of Transportation's recommendation  
3 and approval by the Governor funds appropriated under this  
4 subsection may be used to match said federal aid  
5 apportionment.

6 "c. 2.76 percent of the balance of the proceeds  
7 shall be allocated among the incorporated municipalities of  
8 the state as follows:

9 "1. A portion of the municipalities' share of the  
10 balance of the proceeds that is equal to 45.45 percent of the  
11 municipalities' share of the balance of the proceeds shall be  
12 allocated equally among the 67 counties of the state.

13 "2. The entire residue of the municipalities' share  
14 of the balance of the proceeds being an amount equal to 54.55  
15 percent of the municipalities' share of the balance of the  
16 proceeds shall be allocated among the 67 counties of the state  
17 on the basis of the ratio of the population of each such  
18 county to the total population of the state according to the  
19 then next preceding federal decennial census, or any special  
20 federal census heretofore held in any county subsequent to the  
21 effective date of the 1980 federal decennial census.

22 "3. The amount so allocated or apportioned to each  
23 county shall be distributed among the municipalities in the  
24 county with respect to which the allocation or apportionment  
25 is made, each such distribution among the said municipalities  
26 to be on the basis of the ratio of the population of each such  
27 municipality to the total population of all municipalities in

1 the applicable county according to the then next preceding  
2 federal decennial census.

3 "4. The population of any municipality incorporated  
4 subsequent to the taking of the then next preceding federal  
5 decennial census shall be deemed to be the population shown by  
6 the census for that municipality taken pursuant to the  
7 requirements of Section 11-41-4. Any municipality incorporated  
8 after September, 1983, shall not participate in the  
9 distribution provided for in this section until the fiscal  
10 year next succeeding the fiscal year during which it is  
11 incorporated, the first distribution to such municipality to  
12 be made in respect of receipts of the inspection fee by the  
13 state during October of the fiscal year next succeeding the  
14 said incorporation.

15 "5. Use of the inspection fee by a municipality  
16 shall be for transportation planning, the construction,  
17 reconstruction, maintenance, widening, alteration, and  
18 improvement of public roads, bridges, streets, and other  
19 public ways, including payment of the principal of and  
20 interest on any securities at any time issued by the  
21 municipality pursuant to law for the payment of which any part  
22 of the net tax proceeds were or may be lawfully pledged;  
23 provided, that no part of the balance of the proceeds referred  
24 to in this section shall be expended contrary to the  
25 provisions of the Constitution; and provided further, that  
26 funds distributed to municipalities under the provisions of  
27 this division shall not be commingled with other funds of the

1 municipality, except the municipalities' portion of the  
2 highway gasoline tax, and shall be kept and disbursed by such  
3 municipality from a special fund only for the purposes  
4 hereinabove provided.

5 "d. An additional five percent of the balance each  
6 month computed after deducting the distributions in paragraphs  
7 a. and c. shall accrue to the credit of, and be deposited in,  
8 the Agricultural Fund.

9 "e. In addition to any and all other funds  
10 heretofore or hereafter appropriated, for the fiscal year  
11 beginning October 1, 2014, there is appropriated to the  
12 Department of Revenue as a first charge against the fees  
13 collected pursuant to this article, the sum of five hundred  
14 thousand dollars (\$500,000) to offset the Revenue Department's  
15 costs to implement and administer this article. Beginning  
16 October 1, 2015, and every year thereafter an amount equal to  
17 two and one-half percent of the balance of the proceeds  
18 received each month after deducting the distributions in  
19 paragraphs a., b., c., and d. or no less than eighty-seven  
20 thousand five hundred dollars (\$87,500), whichever is greater,  
21 is appropriated and shall accrue to the credit of, and be  
22 deposited to, the Department of Revenue to offset its costs of  
23 collection.

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

1           "(b) In the event of the collection hereunder from  
2 any person of an amount in excess of the amount of all ~~permit~~  
3 ~~fees~~, inspection fees, interest, or penalties properly and  
4 lawfully required to be paid by such person, such person may  
5 apply to the Revenue Commissioner in the case of the  
6 inspection fees, interest, and penalties paid to the Revenue  
7 Commissioner. In the case of overpayment of the permit fees or  
8 penalties paid to the Commissioner of Agriculture and  
9 Industries, the person may apply to the Commissioner of  
10 Agriculture and Industries for a refund of the amount of such  
11 overpayment. If such application for refund is approved in  
12 whole or in part by the commissioner, the commissioner shall  
13 submit to the state Comptroller a statement, approved by the  
14 state Attorney General, setting forth the amount determined to  
15 have been overpaid and the date of the overpayment. ~~The~~ If an  
16 application for refund submitted to the Revenue Commissioner  
17 is approved in whole or in part by the Revenue Commissioner,  
18 he or she shall submit to the state Comptroller a statement,  
19 setting forth the amount determined to have been overpaid and  
20 the date of the overpayment. In each case, the state  
21 Comptroller shall then draw his warrant in favor of the person  
22 making such overpayment upon the State Treasurer for the  
23 amount specified in the said statement, and such amount shall  
24 be paid out of current months' collections before any  
25 distribution is made under subsection (a) of this section.

26           "(c) The application for refund of the permit fees  
27 provided for in this ~~section must~~ article shall be filed with



1 the Commissioner of Agriculture and Industries within 12  
2 calendar months from the date upon which the overpayment was  
3 made, and no amount shall be refunded unless the application  
4 therefor is filed within the time prescribed herein.

5 "For any period prior to October 1, 2015, the  
6 application for refund of the inspection fee provided for in  
7 this article shall be filed with the Revenue Commissioner  
8 within 12 calendar months from the date upon which the  
9 overpayment was made, and no amount shall be refunded unless  
10 the application therefor is filed within the time prescribed  
11 herein. For the period beginning October 1, 2015, the  
12 application for refund of the inspection fee provided for in  
13 this article must be filed with the Revenue Commissioner  
14 within the time limits provided by the Taxpayer Bill of Rights  
15 in Chapter 2A of Title 40. No amount shall be approved for  
16 refund by the Revenue Commissioner unless the application  
17 therefor is filed within the time prescribed therein.

18 "(d) The Department of Agriculture and Industries or  
19 the Department of Revenue shall have authority to make and  
20 issue rules and regulations relating to the procedure to be  
21 followed in filing an application for a refund and for payment  
22 of any refund made under this ~~section~~ article.

23 "(e) In the event of the collection from any person  
24 by the Revenue Commissioner of an amount in excess of the  
25 amount lawfully required for the six cent (\$.06) additional  
26 motor fuel excise tax levied on gasoline under subdivision (1)  
27 of subsection (a) of Section 40-17-325, when one-third of the

1 amounts so collected have been deposited in the State Treasury  
2 and distributed as provided herein, any refund properly  
3 approved by the Revenue Commissioner shall be paid out of  
4 current months' collections before any distribution of the  
5 current months' collections is made under subsection (a) of  
6 this section.

7 "§8-17-92.

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

15 "(b) Any such person may also be restrained or  
16 enjoined from selling, offering for sale, storing, or using  
17 any petroleum product without having a permit as required by  
18 ~~this division~~ Section 8-17-96, from selling, distributing,  
19 offering for sale, storing, or using in this state any  
20 petroleum product upon which the inspection fee imposed by  
21 ~~this division~~ Section 8-17-87 is not paid or from otherwise  
22 violating any of the provisions and requirements of ~~this~~  
23 ~~division~~ Title 8, Chapter 17.

24 "(c) Such injunction or restraining order shall be  
25 issued without bond.

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

4           "§8-17-93.

5           "(a) Any person who sells, offers for sale, stores,  
6 or uses any petroleum product in the state which is below the  
7 legal standard, who makes a false statement or certificate as  
8 to the quantity or standard of such petroleum product, sells,  
9 offers for sale, stores, or uses any petroleum product without  
10 having procured a permit as required by ~~this division~~ Section  
11 8-17-85, fails to make any report to the Revenue Commissioner  
12 ~~of Agriculture and Industries~~ as required by this ~~division~~  
13 article, makes a false certificate of the number of gallons of  
14 such petroleum product sold, stored or used during the  
15 preceding month or who otherwise violates or fails to comply  
16 with the provisions of this ~~division~~ article shall be guilty  
17 of a misdemeanor.

18           "(b) The Commissioner of Agriculture and Industries  
19 may revoke the permit, referenced in Section 8-17-85, of any  
20 person found upon investigation to have sold, offered for  
21 sale, stored, or used any petroleum product below the minimum  
22 standards adopted by the Board of Agriculture and Industries  
23 pursuant to the provisions of this ~~division~~ article or ~~who~~  
24 when the Revenue Commissioner has notified the Commissioner of  
25 Agriculture and Industries that the taxpayer has failed or  
26 refused, after 10 days' notice by registered, or certified,  
27 mail of such delinquency, subject to the appeal provisions of

1 Chapter 2A of Title 40, to file the delinquent tax return or  
2 to pay the inspection fee required by this ~~division~~ article.

3 "(c) The holder of any permit, referenced in Section  
4 8-17-85, that may be revoked pursuant to the provisions of  
5 this section shall have the right, upon request of such  
6 holder, to a hearing before the Commissioner of Agriculture  
7 and Industries, at which such holder may appear personally or  
8 by legal representative, and he may appeal from the decision  
9 of the commissioner by filing in the Circuit Court of  
10 Montgomery County a petition for an injunction against the  
11 commissioner. In the event such an injunction is sought,  
12 sufficient bond shall be filed with the court and conditioned  
13 as the law now provides relative to injunction bonds. The  
14 findings of the commissioner shall be presumed to be correct."

15 Section 2. Section 8-17-89, Code of Alabama 1975, is  
16 repealed.

17 Section 3. Sections 8-17-95, 8-17-96, 8-17-97,  
18 8-17-98, 8-17-99, 8-17-100, 8-17-101, and 8-17-102 are added  
19 to Chapter 17, Article 5, Title 8 of the Code of Alabama 1975,  
20 to read as follows:

21 §8-17-95.

22 (a) There is hereby imposed a floor-stocks  
23 inspection fee on gasoline held in inventory outside of the  
24 bulk transfer/terminal system, as defined in Section  
25 40-17-322, but not at the retail level, on October 1, 2015,  
26 if:

1           (1) No inspection fee was imposed on the gasoline  
2 under Section 8-17-87, as of September 30, 2015; and

3           (2) The inspection fee would have been imposed on  
4 the gasoline by this article had it been in effect for the  
5 periods prior to October 1, 2015.

6           (b) The rate of the inspection fee imposed by this  
7 section shall be the amount of the fee imposed under Section  
8 8-17-87, on September 30, 2015.

9           (c) Any person owning gasoline on October 1, 2015,  
10 to which the inspection fee imposed by this section applies,  
11 shall be liable for the inspection fee. The inspection fee  
12 imposed by this section shall be paid on or before December  
13 31, 2015, and shall be paid in the manner prescribed by the  
14 Department of Revenue.

15           §8-17-96.

16           (a) The supplier or permissive supplier of gasoline  
17 or undyed diesel fuel sold to a licensed exempt entity other  
18 than the federal government at the rack or the person first  
19 selling, the person importing, or the person who makes  
20 application to become a bonded distributor of dyed diesel  
21 fuel, dyed kerosene, or lubricating oil in this state shall  
22 submit an application for an inspection fee permit to the  
23 Department of Revenue, which shall be approved by the  
24 Department of Revenue. Upon approval of the inspection fee  
25 application, the supplier or permissive supplier of gasoline  
26 or undyed diesel fuel sold to a licensed exempt entity other  
27 than the federal government by a supplier or permissive

1 supplier at the rack or the first person selling, the person  
2 importing, or the bonded distributor of dyed diesel, dyed  
3 kerosene, or lubricating oil shall file with the Department of  
4 Revenue a bond in the amount of five thousand dollars (\$5,000)  
5 prior to the issuance of an inspection fee permit. The bond  
6 shall be in such form and amount as may be approved by the  
7 Revenue Commissioner, shall be executed by a surety company  
8 licensed and duly authorized to do business in Alabama, shall  
9 be payable to the State of Alabama and shall be conditioned  
10 upon the prompt filing of true reports and the payment by the  
11 supplier or permissive supplier of gasoline or undyed diesel  
12 fuel sold to a licensed exempt entity other than the federal  
13 government by a supplier or permissive supplier at the rack or  
14 the first person selling, the person importing, or the bonded  
15 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
16 oil to the Department of Revenue of all inspection fees which  
17 are imposed by Section 8-17-87 with respect to gasoline,  
18 undyed diesel fuel, dyed diesel fuel, dyed kerosene, or  
19 lubricating oil, together with all penalties and interest  
20 thereon, and generally upon faithful compliance with the  
21 provisions of this division. Upon approval of the required  
22 bond, the Revenue Department shall issue to the applicant an  
23 inspection fee permit. This permit is not transferable and  
24 remains in effect until surrendered or canceled.

25 (b) In the event that liability upon any bond filed  
26 under the provisions of this subsection shall be discharged or  
27 reduced, whether by judgment entered, payment made, or

1 otherwise, or if in the opinion of the Revenue Commissioner  
2 any surety on the bond theretofore given shall become  
3 unsatisfactory or unacceptable, then the Revenue Commissioner  
4 may require the filing of a new or additional bond conditioned  
5 as hereinabove provided.

6 (c) The Department of Revenue shall notify a permit  
7 holder at his or her last known address by first class U.S.  
8 mail or, at the option of the Department of Revenue, certified  
9 mail, return receipt requested, that it is requiring such new  
10 or additional bond for any reason as provided above, and the  
11 permit holder, within 30 days from the date such notice is  
12 mailed by the Department of Revenue, shall (1) file the new or  
13 additional bond as requested by the Department of Revenue, or  
14 (2) file a notice of appeal with the Administrative Law  
15 Division as allowed in Section 40-2A-8. The Department of  
16 Revenue may immediately cancel the permit upon the expiration  
17 of the 30-day appeal period set out in Section 40-2A-8 if the  
18 permit holder fails to either provide the new or additional  
19 bond requested by the Department of Revenue or timely appeal  
20 to the Administrative Law Division.

21 (d) The total amount of bond or bonds to be given by  
22 any supplier, permissive supplier, importer, first seller, or  
23 bonded distributor under this subsection shall in no event be  
24 less than five thousand dollars (\$5,000); except that the  
25 Revenue Commissioner may require such additional bond as may  
26 be deemed necessary to insure the prompt payment of all  
27 inspection fees on the sale of gasoline or undyed diesel fuel

1 sold to exempt entities, other than the federal government, by  
2 the supplier or permissive supplier at the terminal rack or on  
3 the sale of dyed diesel fuel, dyed kerosene, or lubricating  
4 oil due, or to become due, the state by the supplier or  
5 permissive supplier of gasoline or undyed diesel fuel to  
6 exempt entities, other than the federal government, by the  
7 supplier or permissive supplier at the terminal rack or by the  
8 person first selling, the person importing, or the bonded  
9 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
10 oil.

11 (e) Any surety on any bond furnished by the supplier  
12 or permissive supplier of gasoline or undyed diesel fuel sold  
13 to exempt entities, other than the federal government by the  
14 supplier or permissive supplier at the terminal rack or by  
15 person first selling, the person importing, or the bonded  
16 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
17 oil, as above provided, shall be released and discharged from  
18 any and all liability to the State of Alabama accruing on such  
19 bond after the expiration of 30 days from the date upon which  
20 surety shall have filed with the Department of Revenue written  
21 request to be released and discharged; provided, however, that  
22 such request shall not operate to relieve, release or  
23 discharge such surety from any liability already accrued or  
24 which shall accrue before the expiration of such 30-day  
25 period. The Revenue Commissioner shall promptly, upon receipt  
26 of notice of such request, notify the supplier or permissive  
27 supplier of gasoline or undyed diesel fuel to exempt entities,



1 other than the federal government or the person first selling,  
2 the person importing, or the bonded distributor of dyed diesel  
3 fuel, dyed kerosene, or lubricating oil who furnished such  
4 bond of the request of the surety on the bond and, unless such  
5 supplier or permissive supplier of gasoline or undyed diesel  
6 fuel to exempt entities, other than the federal government or  
7 the person first selling, the person importing, or the bonded  
8 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
9 oil shall file, on or before the expiration of such 30-day  
10 period, with the Department of Revenue a new bond in the  
11 amount and form hereinbefore in this subsection provided, the  
12 Revenue Commissioner shall cancel the permit of the supplier  
13 or permissive supplier of gasoline or undyed diesel fuel to  
14 exempt entities, other than the federal government or the  
15 person first selling, person importing, or the bonded  
16 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
17 oil in accordance with the provisions of Section 40-2A-8.

18 §8-17-97.

19 (a) It shall be the duty of the person first selling  
20 dyed diesel fuel, dyed kerosene, or lubricating oil in this  
21 state or importing dyed diesel fuel, dyed kerosene, or  
22 lubricating oil into the state, on which an inspection fee is  
23 due to collect and pay such inspection fee to the Department  
24 of Revenue each month in respect of all dyed diesel fuel, dyed  
25 kerosene, or lubricating oil sold or imported in the state  
26 during the preceding month unless the purchaser is a bonded  
27 distributor.

1 (b) It shall be the duty of the supplier or  
2 permissive supplier to collect the inspection fee imposed by  
3 this article from the licensed exempt entity unless the  
4 licensed exempt entity is an entity of the federal government  
5 on sales at the terminal rack and remit payment each month in  
6 respect of all gasoline or undyed diesel fuel sold in the  
7 state during the preceding month to licensed exempt entities  
8 other than the federal government.

9 (c) Each supplier, permissive supplier, importer,  
10 first seller, or bonded distributor shall file the monthly  
11 returns and monthly remittance, in a format prescribed by the  
12 Revenue Commissioner, on or before the 20th day of each  
13 calendar month for the preceding month with the Department of  
14 Revenue. The taxpayer is required to file an electronic report  
15 through the Department of Revenue's electronic filing system.

16 (d) The inspection fee provided for in this section  
17 shall be paid but once with respect to the same product; but  
18 in the event any person fails to make the required electronic  
19 report or payment as herein provided on or before the date  
20 such payment is due, the Revenue Commissioner shall add to the  
21 inspection fee already due interest as prescribed in Section  
22 40-1-44 and any applicable penalties as prescribed in Chapter  
23 2A of Title 40. The Revenue Commissioner shall then proceed to  
24 collect the inspection fee, together with the interest and  
25 penalties, in accordance with the provisions of Title 40.

26 (e) The inspection fee, interest, and any penalties  
27 added thereto shall constitute and operate as a lien at all

1 times until paid upon any petroleum products sold, offered for  
2 sale, stored, or used in the state by the person liable for  
3 the fee, and shall be immediately enforceable by the Revenue  
4 Commissioner in accordance with established collection  
5 procedures of the Department of Revenue.

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

13 §8-17-98.

14 (a) Having submitted a refund petition for the  
15 excise tax under the provisions of Section 40-17-329(h), the  
16 following ultimate consumers shall owe an inspection fee to  
17 the Department of Revenue at a reduced rate of one-fortieth of  
18 a cent (\$.00025) per gallon on undyed diesel fuel. The  
19 Department of Revenue is authorized to reduce the excise tax  
20 refund by the amount of the inspection fee that is due.

21 (1) Undyed diesel fuel used by the ultimate consumer  
22 to operate boats, yachts, ships, or other maritime vehicles,  
23 whether such boats, yachts, ships, or other maritime vehicles  
24 are used commercially or for pleasure.

25 (2) Undyed diesel fuel used by the ultimate consumer  
26 to propel or operate tractors which are not operated on public  
27 highways but which are used exclusively in preparing and

1 cultivating land, harvesting any agricultural commodity, or  
2 for other agricultural purposes, including pasture and hay  
3 production; provided, however, that the term "tractors" as  
4 used herein shall not include automobiles, trucks, pickups,  
5 trailers, semitrailers, or other such vehicles.

6 (3) Undyed diesel fuel used to propel railroad  
7 locomotives.

8 (4) Undyed diesel fuel used by the ultimate consumer  
9 as a solvent or other agent in the treatment or preservation  
10 of wood products.

11 (b) Having submitted a refund petition for the  
12 excise tax under the provisions of Section 40-17-329(h) on  
13 undyed diesel fuel used by the ultimate consumer in firing  
14 steam boilers or combustion generating turbines by  
15 compression, the ultimate consumer shall be exempt from the  
16 inspection fee on undyed diesel fuel used in firing steam  
17 boilers or combustion generating turbines by compression.

18 (c) If a refund is issued by the Department of  
19 Revenue for excise taxes levied under Section 40-17-325(1) on  
20 gasoline or Section 40-17-325(2) on undyed diesel fuel for  
21 sales to the United States government or any agency thereof,  
22 the inspection fee levied under this article shall not be due.

23 (d) If a refund is issued by the Department of  
24 Revenue for excise taxes levied under Section 40-17-325(1) on  
25 gasoline or Section 40-17-325(2) on undyed diesel exported out  
26 of Alabama, the inspection fee levied under this article shall  
27 not be due.

1 §8-17-99.

2 (a) The person first selling, the person importing,  
3 or the bonded distributor of dyed diesel fuel or dyed kerosene  
4 may take a deduction on the monthly return for sales of dyed  
5 diesel fuel or dyed kerosene to the following:

6 (1) United States Government.

7 (2) Exports by the bonded distributor.

8 (3) Sales from one Alabama bonded distributor to  
9 another Alabama bonded distributor.

10 (4) Sales to the ultimate consumer for use in firing  
11 steam boilers or combustion generating turbines by  
12 compression.

13 (b) The person first selling, the person importing,  
14 or the bonded distributor of lubricating oil may take a  
15 deduction on the monthly return for sales of lubricating oil  
16 to the following:

17 (1) United States Government

18 (2) Exports by the bonded distributor

19 (3) Sales from one Alabama bonded distributor to  
20 another Alabama bonded distributor

21 §8-17-100.

22 (a) The Department of Revenue may refuse to issue an  
23 inspection fee permit under this article if the applicant or  
24 any principal of the applicant has done any of the following:

25 (1) Had a motor fuel license or registration issued  
26 by this state or another state canceled for cause.

1           (2) Been convicted of any offense involving fraud or  
2 misrepresentation.

3           (3) Been convicted of any other offense that  
4 indicates that the applicant may not comply with this article  
5 if issued an inspection fee permit.

6           (b) The Department of Revenue may also refuse to  
7 issue an inspection fee permit if the applicant is in arrears  
8 to the state for any taxes or fees or for other good cause  
9 shown.

10           (c) Any refusal by the Department of Revenue under  
11 this section to issue an inspection fee permit may be appealed  
12 to the Administrative Law Division under the provisions of  
13 Title 40, Chapter 2A.

14           §8-17-101.

15           (a) In accordance with the provisions of Title 40,  
16 Chapter 2A, the Department of Revenue may cancel the  
17 inspection fee permit required under Section 8-17-96, upon  
18 written notice sent to the permit holder's last known address,  
19 as it appears in the Department of Revenue's files, for any of  
20 the following reasons:

21           (1) Filing by the permit holder of a false report of  
22 the data or information required by this article.

23           (2) Failure, refusal, or neglect of the permit  
24 holder to file a report or to provide any information required  
25 by this article.

1           (3) Failure of the permit holder to pay the full  
2 amount of all excise taxes and inspection fees due or to pay  
3 any penalties or interest due.

4           (4) Failure of the permit holder to keep accurate  
5 records of the quantities of petroleum products received,  
6 produced, refined, manufactured, compounded, sold, imported,  
7 or used in Alabama.

8           (5) Failure to file a new or additional surety bond  
9 upon request of the Department of Revenue pursuant to Section  
10 40-17-96.

11           (6) Conviction of the permit holder or a principal  
12 of the permit holder for any act prohibited under this  
13 article.

14           (7) Failure, refusal, or neglect of a permit holder  
15 to comply with any other provision of this article or any rule  
16 promulgated pursuant to this article.

17           (8) Having a motor fuel license or registration  
18 issued by this state or another state canceled for cause.

19           (9) For any change in the ownership or control of  
20 the business.

21           (b) Upon cancellation of any permit for any cause  
22 listed above, the inspection fee levied under this article  
23 becomes due and payable on all untaxed petroleum products held  
24 in storage or otherwise in the possession of the permit holder  
25 and all petroleum products sold, delivered, imported, or used  
26 prior to the cancellation on which the fee has not been paid.

1 (c) The permit can be canceled upon the written  
2 request of the permit holder.

3 §8-17-102.

4 Every return required to be filed under this article  
5 shall be on forms and by means prescribed by the Revenue  
6 Commissioner and furnished by the Department of Revenue and  
7 shall contain any information the Department of Revenue  
8 considers necessary for the enforcement of this article.

9 Section 4. Sections 40-17-325, 40-17-329, as amended  
10 by Act 2013-200 and Act 2013-372, 2013 Regular Session,  
11 40-17-359, and 40-17-362, as amended by Act 2013-372 and Act  
12 2013-402, 2013 Regular Session, Code of Alabama 1975, are  
13 amended to read as follows:

14 "§40-17-325.

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

18 "(1) ~~Sixteen~~ Eighteen cents (\$.18) per gallon on  
19 gasoline, which is comprised of a \$.07 excise tax, a  
20 supplemental \$.05 excise tax, and an additional ~~\$.04~~ six cent  
21  (\$.06) excise tax.

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

25 "(3) Nine and one-half cents per gallon (\$.095) on  
26 aviation gasoline and three and one-half cents per gallon  
27 (\$.035) on aviation jet fuel when the aviation fuel is sold to



1 a licensed aviation fuel purchaser. Aviation gasoline is to be  
2 taxed as gasoline and aviation jet fuel is to be taxed as  
3 diesel fuel when not sold to a licensed aviation fuel  
4 purchaser.

5 "(b) The motor fuel subject to the excise tax levied  
6 by this section shall not be subject to any other excise tax  
7 levied by this state.

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

11 "§40-17-329.

12 "(a) Unless otherwise provided for in this  
13 subsection, sales of motor fuel to the following are exempt  
14 from the tax levied by subsection (a) of Section 40-17-325 and  
15 shall not be paid at the rack:

16 "(1) All motor fuel exported from this state for  
17 which proof of export is available in the form of a terminal  
18 issued destination state shipping document that is a. exported  
19 by a supplier who is licensed in the destination state or b.  
20 is sold by a supplier to a licensed exporter for immediate  
21 export to a state for which the applicable destination state  
22 motor fuel excise tax has been collected by the supplier who  
23 is licensed to remit the tax to the destination state. If the  
24 motor fuel is exempt from the excise tax due to the product  
25 being exported from this state, then the motor fuel exported  
26 from this state shall also be exempt from the inspection fee  
27 imposed under Section 8-17-87. This exemption shall not apply

1 to any motor fuel which is transported and delivered outside  
2 this state in the motor fuel supply tank of a highway vehicle.

3 "(2) All K-1 Kerosene or aviation jet fuel that is  
4 produced at a refinery in this state and is either exported  
5 from this state directly by the operator of that refinery or  
6 is sold for immediate export by the operator to a licensed  
7 exporter. In either case proof of export is to be available in  
8 the form of a terminal destination state shipping document and  
9 in addition all relevant sales documents are to reference the  
10 product known as "K-1 Kerosene" or "aviation jet fuel," as  
11 applicable. If the K-1 Kerosene is exempt from the excise tax  
12 due to the product being exported from this state, then the  
13 K-1 Kerosene that is exported shall also be exempt from the  
14 inspection fee imposed under Section 8-17-87.

15 "(3) All sales of dyed diesel fuel.

16 "(4) Gasoline blendstocks or cellulosic biofuel, as  
17 defined in Section 40-17-322, when sold to a. a licensed  
18 supplier or b. a person who will not be using the blendstocks  
19 or cellulosic biofuel in the manufacture of gasoline or as a  
20 motor fuel, as evidenced by the exemption certificate  
21 prescribed under regulations promulgated under Section 4081,  
22 Title 26 of the United States Code. If the gasoline  
23 blendstocks or cellulosic biofuel is exempt from the excise  
24 tax due to the product being sold to a licensed supplier or to  
25 a person who will not be using the blendstocks or cellulosic  
26 biofuel in the manufacture of gasoline or as a motor fuel,  
27 then the gasoline blendstocks or cellulosic biofuel shall also

1 be exempt from the inspection fee imposed under Section  
2 8-17-87.

3           "(5) All motor fuel sold by a licensed supplier or  
4 licensed permissive supplier to an exempt agency electing to  
5 be licensed under Section 40-17-332. If the motor fuel is  
6 exempt from the excise tax due to the product being sold to  
7 the United States government or any agency thereof, who is a  
8 licensed exempt entity in this state, then the motor fuel sold  
9 to the United States government or any agency thereof shall  
10 also be exempt from the inspection fee imposed under Section  
11 8-17-87. If the motor fuel is exempt from the excise tax due  
12 to the product being sold to a licensed exempt entity, other  
13 than the federal government, then the motor fuel sold to the  
14 licensed exempt entity shall be subject to the inspection fee  
15 imposed under Section 8-17-87 and the inspection fee shall be  
16 remitted by the supplier or permissive supplier on the monthly  
17 inspection fee return.

18           "(6) Motor fuel that is delivered by a licensed  
19 supplier from one terminal to another terminal when ownership  
20 in the motor fuel has not changed, or by a licensed supplier  
21 from a terminal to a refinery operated by the licensed  
22 supplier. If the motor fuel is exempt from the excise tax due  
23 to the product being transferred from one terminal to another  
24 terminal, then the motor fuel transferred from one terminal to  
25 another terminal shall also be exempt from the inspection fee  
26 imposed under Section 8-17-87.

1           "(b) Having first paid the tax owed under this  
2 article, a licensed distributor shall have the right to apply  
3 to the department on a monthly basis for a refund of the taxes  
4 paid on the gallons sold by that licensed distributor to the  
5 exempt agencies listed under subsection (e), provided the  
6 exempt agency has elected to obtain a license under Section  
7 40-17-332. If the motor fuel is exempt from the excise tax due  
8 to the product being sold to the United States government or  
9 any agency thereof, who is a licensed exempt entity in this  
10 state, then the motor fuel sold to the United States  
11 government or any agency thereof shall also be exempt from the  
12 inspection fee imposed by Section 8-17-87. If the motor fuel  
13 is exempt from the excise tax due to the product being sold to  
14 a licensed exempt entity, other than the federal government,  
15 then the motor fuel sold to the licensed exempt entity shall  
16 be subject to the inspection fee imposed under Section  
17 8-17-87. The department is authorized to reduce the excise tax  
18 refund by the amount of the inspection fee that is due.

19           "(c) Having first paid the tax owed under this  
20 article, an exporter shall have the right to apply to the  
21 department on a monthly basis for a refund of the taxes paid  
22 to this state on the gallons of motor fuel that are ultimately  
23 exported by the exporter. The department will require the  
24 exporter to provide proof of payment of the applicable  
25 destination state excise taxes before issuing a refund. If the  
26 motor fuel is exempt from the excise tax due to the product  
27 being exported from this state, then the motor fuel exported

1 from this state shall also be exempt from the inspection fee  
2 imposed under Section 8-17-87.

3 "(d) Having first paid the tax owed under this  
4 article, a licensed aviation fuel purchaser shall have the  
5 right to apply to the department on a monthly basis for a  
6 refund of the taxes paid to this state on the gallons of jet  
7 fuel sold to a certificated or licensed air carrier that  
8 purchases jet fuel within this state and uses the jet fuel to  
9 propel aircraft powered by jet or turbine engines operated in  
10 scheduled all-cargo operations being conducted on  
11 international flights or in international commerce. For the  
12 purposes of this subsection, the following words or terms  
13 shall be defined and interpreted as follows:

14 "(1) AIR CARRIER. Any person, firm, corporation, or  
15 entity undertaking by any means, directly or indirectly, to  
16 provide air transportation.

17 "(2) ALL-CARGO OPERATIONS. Any flight conducted by  
18 an air carrier for compensation or hire other than a passenger  
19 carrying flight, except passengers as specified in Section  
20 121.583 (a) or 135.85 of the Federal Aviation Regulations, as  
21 amended.

22 "(3) INTERNATIONAL COMMERCE. Any air carrier engaged  
23 in all-cargo operations transporting goods for compensation or  
24 hire on international flights.

25 "(4) INTERNATIONAL FLIGHTS. Any air carrier  
26 conducting scheduled all-cargo operations between any point  
27 within the 50 states of the United States and the District of

1 Columbia and any point outside the 50 states of the United  
2 States and the District of Columbia, including any interim  
3 stops within the United States so long as the ultimate origin  
4 or destination of the aircraft is outside the United States  
5 and the District of Columbia.

6 "(e) Having first paid the tax to its vendor, the  
7 following entities shall have the right to apply to the  
8 department for a refund on a quarterly basis for any purchases  
9 of motor fuel:

10 "(1) The United States government or any agency  
11 thereof. If the motor fuel is exempt from the excise tax due  
12 to the product being sold to the United States government or  
13 any agency thereof, which is a licensed exempt entity in this  
14 state, then the motor fuel sold to the United States  
15 government or any agency thereof shall also be exempt from the  
16 inspection fee imposed under Section 8-17-87.

17 "(2) Any county governing body of this state. If the  
18 motor fuel is exempt from the excise tax due to the product  
19 being sold to a licensed exempt entity, which is a county  
20 governing body, then the motor fuel sold to the licensed  
21 exempt entity shall be subject to the inspection fee imposed  
22 under Section 8-17-87. The department is authorized to reduce  
23 the excise tax refund by the amount of the inspection fee that  
24 is due.

25 "(3) Any incorporated municipal governing body of  
26 this state. If the motor fuel is exempt from the excise tax  
27 due to the product being sold to a licensed exempt entity,

1 which is an incorporated municipal governing body, then the  
2 motor fuel sold to the licensed exempt entity shall be subject  
3 to the inspection fee imposed under Section 8-17-87. The  
4 department is authorized to reduce the excise tax refund by  
5 the amount of the inspection fee that is due.

6 "(4) City and county boards of education of this  
7 state. If the motor fuel is exempt from the excise tax due to  
8 the product being sold to a licensed exempt entity, which is a  
9 city or county board of education, then the motor fuel sold to  
10 the licensed exempt entity shall be subject to the inspection  
11 fee imposed under Section 8-17-87. The department is  
12 authorized to reduce the excise tax refund by the amount of  
13 the inspection fee that is due.

14 "(5) The Alabama Institute for Deaf and Blind, the  
15 Department of Youth Services school district, and private and  
16 church school systems as defined in Section 16-28-1, and which  
17 offer essentially the same curriculum as offered in grades  
18 K-12 in the public schools of this state. If the motor fuel is  
19 exempt from the excise tax due to the product being sold to a  
20 licensed exempt entity, as listed herein, then the motor fuel  
21 sold to the licensed exempt entity shall be subject to the  
22 inspection fee imposed under Section 8-17-87. The department  
23 is authorized to reduce the excise tax refund by the amount of  
24 the inspection fee that is due.

25 "(f) If the sale of taxable motor fuel to exempt  
26 entities listed in subsection (e) occurs at a fixed retail  
27 pump available to the general public and is charged to a

1 credit card issued to the exempt entity, the issuer of the  
2 card, having billed the exempt entity without the tax, may  
3 apply on a quarterly basis for a refund of the motor fuel  
4 excise taxes by submitting the application and supporting  
5 documentation as prescribed by the department. If the motor  
6 fuel is exempt from the excise tax due to the product being  
7 sold to the United States government or any agency thereof,  
8 which is a licensed exempt entity in this state, then the  
9 motor fuel sold to the United States government or any agency  
10 thereof shall also be exempt from the inspection fee imposed  
11 under Section 8-17-87. If the motor fuel is exempt from the  
12 excise tax due to the product being sold to any of the  
13 entities listed in subdivisions (2) through (5) of subsection  
14 (e), which is a licensed exempt entity in this state, then the  
15 motor fuel sold to the entities listed in subdivisions (2)  
16 through (5) of subsection (e) shall be subject to the  
17 inspection fee imposed under Section 8-17-87. The department  
18 is authorized to reduce the excise tax refund by the amount of  
19 the inspection fee that is due.

20 "(g) Having first paid the tax, a licensed air  
21 carrier with a hub operation within this state shall have the  
22 right to apply to the department for a refund on a quarterly  
23 basis for any purchases of jet fuel used to propel aircraft.  
24 For the purposes of this subsection, the words "hub operation  
25 within this state" shall be construed to have all of the  
26 following criteria:



1           "(1) There originates from the location 15 or more  
2 flight departures and five or more different first-stop  
3 destinations five days per week for six or more months during  
4 the calendar year; and

5           "(2) Passengers and/or property are regularly  
6 exchanged at the location between flights of the same or a  
7 different certificated or licensed air carrier.

8           "(h) End users who first pay the tax levied by  
9 subdivision (2) of subsection (a) of Section 40-17-325 on all  
10 gallons of diesel fuel used in designated off-road vehicles,  
11 other off-road equipment, or for other off-road use may apply  
12 to the department for a refund on a quarterly basis. The end  
13 users who apply for a refund under this subsection shall be  
14 subject to the inspection fee levied under Section 8-17-87  
15 unless the end user is taxed at a reduced rate or exempt from  
16 the inspection fee under Section 8-17-98. The department is  
17 authorized to reduce the excise tax refund by the amount of  
18 the inspection fee that is due.

19           "(i) End users who first pay the tax levied by  
20 subdivision (1) of subsection (a) of Section 40-17-325 on  
21 gallons of gasoline blendstocks not used in the manufacture of  
22 gasoline or as a motor fuel may apply to the department for a  
23 refund on a quarterly basis. The end user shall be exempt from  
24 the inspection fee on blendstocks not used in the manufacture  
25 of gasoline or as a motor fuel.

26           "(j) Tax paid on motor fuel that (1) is lost or  
27 destroyed as a direct result of a sudden and unexpected

1 casualty, or (2) becomes unsalable or unusable as highway fuel  
2 due to such things as the contamination by dye or mixture of  
3 gasoline and diesel shall be refundable. If a refund is issued  
4 for the excise tax due to a casualty or contamination, the  
5 inspection fee levied under Section 8-17-87 shall not be due.

6 "(k) Tax paid on transmix not used as a motor fuel  
7 or that is delivered to a refinery for further processing  
8 shall be refundable, with the person so using the transmix  
9 being eligible to file for the refund on a quarterly basis or  
10 if a licensed supplier, a credit may be taken on its monthly  
11 supplier return. If a refund or credit is issued for the  
12 excise tax on transmix, the inspection fee levied under  
13 Section 8-17-87 shall not be due.

14 "(l) Tax paid on motor fuel within the bulk transfer  
15 system may be refunded upon sufficient proof that (1) a second  
16 tax had been paid pursuant to Section 40-17-325 or (2) the  
17 fuel was exported to another state or country. The party  
18 paying the second tax or exporting the fuel may file for a  
19 refund on a monthly basis. If a refund is issued for the  
20 excise tax due to payment of a second tax or exported in the  
21 bulk transfer system, the inspection fee levied under Section  
22 8-17-87 shall not be due.

23 "§40-17-359.

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

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

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

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

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

7           "(5) DEPARTMENT OF TRANSPORTATION. The Department of  
8 Transportation of the state.

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

10          "a. The excise tax levied under subdivision (1) of  
11 subsection (a) of Section 40-17-325, with the exception of  
12 those portions of the tax levied on aviation fuel and marine  
13 gasoline.

14          "b. The excise tax levied by Sections 40-17-140 to  
15 40-17-155, inclusive, except that portion of the tax imposed  
16 on diesel fuel.

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

20          "(8) MUNICIPALITY. An incorporated city or town in  
21 the state.

22          "(9) NET TAX PROCEEDS. The entire proceeds from the  
23 highway gasoline tax, except the proceeds from the  
24 supplemental excise tax of five cents (\$.05) per gallon and  
25 additional ~~four~~ six cents (~~\$.04~~) (\$.06) imposed by subdivision  
26 (1) of subsection (a) of Section 40-17-325, less the cost of

1 collection and less any refunds pursuant to the provisions of  
2 this article.

3 "(10) PUBLIC HIGHWAY. Every highway, road, street,  
4 alley, lane, court, place, trail, drive, bridge, viaduct, or  
5 trestle located either within a municipality or in  
6 unincorporated territory and laid out or erected by the public  
7 or dedicated or abandoned to the public or intended for use by  
8 or for the public. The term "public highway" shall apply to  
9 and include driveways upon the grounds of universities,  
10 colleges, schools, and institutions but shall not be deemed to  
11 include private driveways, private roads, or private places  
12 not intended for use by the public.

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

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

17 "(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of  
18 the highway gasoline tax remaining after the deduction of the  
19 net tax proceeds and ~~additional four cents (\$.04) and~~  
20 ~~applicable costs of collection and refunds have been deducted,~~  
21 one-third of all revenues received or collected by the  
22 department remaining after the payment of refunds from the  
23 additional six cents (\$.06) tax levied on gasoline under  
24 Section 40-17-325(a)(1) and two-thirds revenues received or  
25 collected by the department after the payment of refunds and  
26 the expense of administration and enforcement of this article  
27 from the additional six cents (\$.06) tax levied on gasoline

1 under Section 40-17-325(a)(1), less the cost of collection and  
2 less any refunds of the highway gasoline tax applicable to the  
3 supplemental gasoline excise tax imposed in subdivision (1) of  
4 subsection (a) of Section 40-17-325.

5 "The foregoing definitions shall be deemed  
6 applicable whether terms defined are used in the singular or  
7 plural.

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

13 "(1) The Legislature hereby finds as a fact that of  
14 all the gasoline sold in this state not less than one and  
15 twenty-three hundredths percent thereof is used for marine  
16 purposes to propel vessels on inland and coastal waterways of  
17 this state. The Legislature hereby declares that it is the  
18 policy of this state to use the funds derived pursuant to this  
19 section from the sale of marine gasoline to provide for the  
20 programs and activities of the Marine Police, Marine  
21 Resources, and Wildlife and Freshwater Fisheries Divisions of  
22 the Department of Conservation and Natural Resources in this  
23 state as follows:

24 "a. Thirty-five one hundredths of one percent of all  
25 state imposed taxes collected pursuant to this subsection on  
26 the sale of gasoline, except gasoline and other fuels consumed  
27 in airplanes, shall be credited as follows: 60 percent to the

1 State Water Safety Fund of the Marine Police Division and 40  
2 percent to the Seafood Fund of the Marine Resources Division.

3 "b. An amount equal to seventy-one hundredths of one  
4 percent of all state-imposed taxes levied pursuant to this  
5 subsection and collected on the sale of gasoline, except  
6 gasoline and other fuels consumed in airplanes, and which  
7 would otherwise be credited to the Public Road and Bridge Fund  
8 pursuant to this section shall be credited to the Game and  
9 Fish Fund of the Division of Wildlife and Freshwater  
10 Fisheries. Provided, however, that the above credit to the  
11 Game and Fish Fund shall not diminish the allocations provided  
12 by subsection (d).

13 "c. An amount equal to eighteen one hundredths of  
14 one percent of all state-imposed taxes levied pursuant to this  
15 subsection and collected on the sale of gasoline, except  
16 gasoline and other fuels consumed in airplanes, and which  
17 would otherwise be credited to the Public Road and Bridge Fund  
18 pursuant to this section shall be credited as follows: 60  
19 percent to the State Water Safety Fund of the Marine Police  
20 Division and 40 percent to the Seafood Fund of the Marine  
21 Resources Division. Provided, however, that this additional  
22 credit to the State Water Safety Fund and Seafood Fund shall  
23 not diminish the allocations provided by subsection (d).

24 "(2) The revenue arising from the sale of gasoline  
25 as herein defined, except gasoline sold for use as fuel to  
26 propel aircraft and which gasoline is subject to the tax  
27 imposed in subdivision (3) of subsection (a) of Section

1 40-17-325, and except for revenues from the supplemental net  
2 tax proceeds, for all other purposes shall not be used for any  
3 purpose other than for the construction, improvement,  
4 maintenance, and supervision of highways, bridges, and  
5 streets, including the retirement of bonds for the payment of  
6 which such revenues have been or may hereafter be pledged. The  
7 payment of the per diem and mileage of members of county  
8 governing bodies when engaged in supervising the construction,  
9 improvement, and maintenance of highways, bridges, and streets  
10 shall be construed as used in supervision. The governing body  
11 of each county may expend an amount not to exceed one third of  
12 the total amount of such revenue that may be received by such  
13 county in the payment of any debt that may have been incurred  
14 by such county for the construction or maintenance of roads or  
15 bridges. This fund shall be allocated in the manner now  
16 provided by law. On the 20th day of each month following that  
17 quarter of any fiscal year, all revenue derived from the sale  
18 of gasoline to be consumed in the motor of a boat or vessel as  
19 defined in subdivision (1) shall be allocated to the State  
20 Water Safety Fund, Seafood Fund, and Game and Fish Fund.

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

23 "(1) Forty-five percent of the net tax proceeds are  
24 hereby allocated and appropriated for state highway purposes  
25 and as the state's share of the net tax proceeds to be covered  
26 into the State Treasury to the credit of the Public Road and

1 Bridge Fund and to be disbursed as hereinafter provided in  
2 this section.

3 "(2) A portion of the state's share of the net tax  
4 proceeds that is equal in amount to two sevenths (equivalent  
5 to six twenty-firsts) of the net tax proceeds shall be  
6 disbursed, to pay at their respective maturities the principal  
7 of and interest on the bonds issued prior to March 1, 1967, by  
8 the Alabama Highway Authority, a public corporation organized  
9 and existing under the provisions of Sections 23-1-150 to  
10 23-1-160, inclusive, in the order in which the two sevenths of  
11 the net tax proceeds were pledged for the bonds.

12 "(3) A portion of the state's share of the net tax  
13 proceeds that is equal in amount to two twenty-firsts of the  
14 net tax proceeds shall be disbursed to pay at their respective  
15 maturities the principal of and interest on the bonds issued  
16 prior to March 1, 1967, by the Alabama Highway Authority, in  
17 the order in which the two twenty-firsts of the net tax  
18 proceeds were pledged for the bonds.

19 "(4) A portion of the state's share of the net tax  
20 proceeds that is equal in amount to one twenty-first of the  
21 net tax proceeds shall be disbursed to pay at their respective  
22 maturities the principal of and interest on the bonds issued  
23 by the Alabama Highway Authority after March 1, 1959, and  
24 prior to March 1, 1967, in the order in which the one  
25 twenty-first of the net tax proceeds was pledged for the  
26 bonds.



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

8           "a. For payment at their respective maturities of  
9 the principal of and interest on bonds, other than refunding  
10 bonds, issued by the Alabama Highway Authority under the  
11 provisions of Act No. 225, 1967 Special Session (Acts 1967, p.  
12 302), to the extent that the portion of the motor vehicle  
13 license taxes and registration fees provided in Section  
14 40-12-270, to be used for the payment of the principal of and  
15 interest on the bonds, other than refunding bonds, issued by  
16 the Alabama Highway Authority under the provisions of Act No.  
17 225, should be insufficient to pay the principal and interest  
18 at their respective maturities.

19           "b. For payment at their respective maturities of  
20 the principal of and interest on the bonds, other than  
21 refunding bonds, issued by the Alabama Highway Authority under  
22 the provisions of Act No. 781, 1969 Regular Session (Acts  
23 1969, p. 1398), to the extent that the portion of the motor  
24 vehicle license taxes and registration fees provided in  
25 Section 40-12-270, to be used for the payment of the principal  
26 of and interest on the bonds, other than refunding bonds,  
27 issued by the Alabama Highway Authority under the provisions

1 of Act No. 781, should be insufficient to pay the principal  
2 and interest at their respective maturities.

3 "c. 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. 1416, 1971 Regular Session (Acts  
7 1971, p. 2412), 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. 1416, should be insufficient to pay the principal  
13 and interest at their respective maturities.

14 "d. For payment at their respective maturities of  
15 the principal of and interest on any bonds or other  
16 obligations, including refunding obligations, issued after  
17 December 1, 1977, by a public corporation existing at the time  
18 of issuance under the laws of the state pursuant to then  
19 existing statutory authorization, or by the state pursuant to  
20 then existing authorization, effective at the time of  
21 issuance, under the constitution and laws of the state, and  
22 for which the aforesaid residue, referred to in this  
23 subdivision, of the state's share of the net tax proceeds  
24 shall have been appropriated and pledged in a then effective  
25 statute or constitutional provision (including any enabling  
26 act under a constitutional provision) under which the bonds  
27 may be issued, all in the manner and to the extent and subject

1 to the priorities in rank as may be provided in a statute or  
2 constitutional provision or in any authorizing resolution  
3 thereunder.

4 "e. For allocation on September 30 of each fiscal  
5 year to each county to which allocation shall have been made  
6 under the provisions of subsection (d), during that fiscal  
7 year less than the base annual county distribution, which,  
8 when added to the amounts so allocated to that county under  
9 subsection (d), will equal the base annual county  
10 distribution.

11 "(6) The state's share of the net tax proceeds paid  
12 into the Public Road and Bridge Fund and not required for any  
13 of the purposes referred to in any of the foregoing  
14 subdivisions (2), (3), (4), and (5) may be withdrawn by the  
15 Department of Transportation and used by it for highway  
16 purposes.

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

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

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

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

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

17           "a. Ten percent of the amount so allocated or  
18 apportioned to each county shall be distributed among the  
19 municipalities in the county with respect to which the  
20 allocation or apportionment is made; each distribution among  
21 the municipalities shall be made on the basis of the ratio of  
22 the population of each municipality to the total population of  
23 all municipalities in the applicable county according to the  
24 then next preceding federal decennial census.

25           "b. The remaining portion of the amount so allocated  
26 or apportioned to each county shall be distributed to the  
27 county with respect to which the allocation or apportionment

1 is made. The distributions provided for in this subsection  
2 shall be made monthly.

3 "(2) The population of any municipality incorporated  
4 subsequent to the taking of the then next preceding federal  
5 decennial census shall be deemed to be the population shown by  
6 the census for that municipality taken pursuant to the  
7 requirements of Section 11-41-4. Any municipality incorporated  
8 after September 30, 1967, shall not participate in the  
9 distribution provided for in this section until the fiscal  
10 year next succeeding the fiscal year during which it is  
11 incorporated, the first distribution to the municipality to be  
12 made from the receipts of the highway gasoline tax by the  
13 state during October of the fiscal year next succeeding its  
14 incorporation.

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

24 "(f) Three-fifths of the supplemental net tax  
25 proceeds on gasoline, as defined in subsection (a), shall be  
26 deposited in the State Treasury to the credit of the Public  
27 Road and Bridge Fund of the Department of Transportation and

1 shall be used exclusively in the construction, repair,  
2 maintenance, and operation of public roads and bridges in this  
3 state, including public roads in state parks and any toll road  
4 or toll bridge constructed by the state Department of  
5 Transportation or maintained and operated by it or under its  
6 supervision. It is further provided that of the receipts  
7 collected under this section dedicated to the Public Road and  
8 Bridge Fund, the sum of one million dollars (\$1,000,000) shall  
9 be set aside in the fiscal year ending September 30, 1992, and  
10 the sum of at least five hundred thousand dollars (\$500,000)  
11 for the fiscal year ending September 30, 1993, and in each  
12 fiscal year thereafter, to coordinate with the Department of  
13 Conservation and Natural Resources on the construction,  
14 maintenance, and repair of public roads in the state's park  
15 system. The remaining two-fifths of the supplemental net tax  
16 proceeds shall be distributed, as provided for distribution of  
17 the net tax proceeds, according to subsections (c), (d), and  
18 (e). Any local laws or general laws of local application now  
19 in effect regarding the distribution of the tax levied by  
20 Section 40-17-325 shall govern the distribution of the amounts  
21 allocated or apportioned within every county by this section.  
22 The Legislature may by general or local laws prescribe other  
23 distributions within counties to local governments. The two  
24 fifths of the supplemental net tax proceeds shall be used for  
25 the same purposes and deposited in the same state, county, and  
26 municipal funds as provided by Section 40-17-362. Where the  
27 use is by a county, the funds may be used to match federal aid

1 on any projects that meet the requirements for federal funding  
2 and the funds may also be used for new construction without  
3 regard to the provision that 90 percent of the county's paved  
4 road system has achieved a grade of 85 percent based on the  
5 State of Alabama Department of Transportation's annual  
6 maintenance report of county roads and bridges.

7 "(g) In all counties wherein members of the county  
8 governing bodies are compensated or paid on a salary basis,  
9 the county governing bodies may pay a part of the salary out  
10 of the county gasoline tax revenues. The part paid out of  
11 county gasoline tax revenues shall bear the same proportion to  
12 the total salary paid to the member as the time devoted by the  
13 member to supervising, inspecting, accepting, building, or  
14 repairing county roads or bridges bears to the total time  
15 devoted by the member to all of his or her duties as a member  
16 of the county governing body.

17 "The county governing body may determine the  
18 proportions set out in this section.

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

24 "(i) For the purpose of this section, each federal  
25 decennial census shall be deemed to be effective on October 1  
26 next following the publication of the results of the decennial  
27 census.

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

4           "(1) Where the use is by the Department of  
5 Transportation, with the approval of the Governor, the use  
6 shall be for the construction of public roads and bridges in  
7 the state, the maintenance of public roads and bridges on the  
8 state highway system, the equipment and preparation of  
9 convicts for use upon the public roads and bridges in the  
10 state, the maintenance of the convicts while at work upon the  
11 roads and bridges, the compensation to the state for the use  
12 of any convicts, and for other public road and bridge purposes  
13 in the state as may be authorized by the Department of  
14 Transportation with the approval of the Governor.

15           "(2) Where the use is by a county, the use shall be  
16 for transportation planning, the construction, reconstruction,  
17 maintenance, widening, alteration, and improvement of public  
18 roads and bridges as is now or may hereafter be provided by  
19 law, including payment of the principal of and interest on any  
20 securities at any time issued by the county pursuant to law  
21 for payment of which all or any of the net tax proceeds were  
22 or may be lawfully pledged, and the use may also be for the  
23 purpose and subject to the provisions contained in subsection  
24 (g).

25           "(3) Where the use is by a municipality, the use  
26 shall be for transportation planning, the construction,  
27 reconstruction, maintenance, widening, alteration, and



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

13 "(k) The county commission of each of the counties  
14 may use or expend the proceeds of the state gasoline tax  
15 levied by Section 40-17-325, distributed to the county  
16 pursuant to this section, for the construction and maintenance  
17 of streets within the corporate limits of any municipality  
18 located within the county, anything in Sections 40-17-322 to  
19 40-17-356, inclusive, to the contrary notwithstanding.

20 "(l) The county commission of each of the counties  
21 may use or expend the state gasoline tax proceeds referred to  
22 in subsection (k) for the construction, reconstruction,  
23 maintenance, and repair of public highways and traffic control  
24 areas located on public school property or state school  
25 property within the county.

26 "(m) The State Treasurer shall make all allocations  
27 of the net tax proceeds and the supplemental net tax proceeds

1 and shall make the distributions and payments thereof pursuant  
2 to the allocations provided for in this section.

3 "(n) It is the intention of the Legislature in  
4 enacting this section to preserve inviolate all pledges  
5 heretofore made pursuant to law of any portion of the proceeds  
6 derived from the highway gasoline tax for the benefit of those  
7 bonds now outstanding that are referred to in subsection (c),  
8 or for the benefit of securities now outstanding that were  
9 issued pursuant to law by any county or municipality.

10 "(o) ~~All~~ One-third of all revenues received or  
11 collected by the department from the additional ~~four~~ six cents  
12  ~~(\$.04)~~  (\$.06) tax levied on gasoline under subdivision (1) of  
13 subsection (a) of Section 40-17-325, remaining after the  
14 payment of refunds ~~and the expense of administration and~~  
15 ~~enforcement of this article are hereby allocated and~~  
16 ~~appropriated in the following manner:~~ shall be paid into the  
17 State Treasury and distributed by the State Treasurer as  
18 prescribed under Section 8-17-91.

19 "(p) The remaining two-thirds revenues received or  
20 collected by the department from the additional six cents  
21  (\$.06) tax levied on gasoline under subdivision (1) of  
22 subsection (a) of Section 40-17-325, after the payment of  
23 refunds and the expense of administration and enforcement of  
24 this article shall be paid into the State Treasury and  
25 distributed by the State Treasurer as follows:

26 "(1) Forty-five percent for state highway purposes  
27 and as the state's share of the remaining two-thirds revenues

1 received or collected by the department from the additional  
2 ~~\$.04~~ six cents (\$.06) tax levied. This 45 percent shall be  
3 deposited into the State Treasury to the credit of the Public  
4 Road and Bridge Fund and shall be disbursed as provided in  
5 this article.

6 "(2) Fifty-five percent for highway purposes by the  
7 counties and municipalities. The 55 percent of the remaining  
8 two-thirds revenues received or collected by the department  
9 from the additional ~~\$.04~~ six cents (\$.06) tax levied shall be  
10 deposited into the State Treasury and shall be disbursed and  
11 allocated as hereinafter provided in this section.

12 "a. A portion of the local subdivisions' shares of  
13 the remaining two-thirds revenue received or collected by the  
14 department from the additional ~~\$.04~~ six cents (\$.06) tax  
15 levied that is equal to 25 percent of the remaining two-thirds  
16 revenue received or collected by the department from the  
17 additional ~~\$.04~~ six cents (\$.06) tax levied shall be allocated  
18 equally among the 67 counties of the state.

19 "b. The entire residue of the local subdivisions'  
20 shares of the remaining two-thirds revenues received or  
21 collected by the department from the additional ~~\$.04~~ six cents  
22 (\$.06) tax levied, being an amount equal to 30 percent of the  
23 remaining two-thirds revenues received or collected by the  
24 department from the additional ~~\$.04~~ six cents (\$.06) tax  
25 levied, shall be allocated among the 67 counties of the state  
26 on the basis of the ratio of the population of each county to  
27 the total population of the state according to the then next

1 preceding federal decennial census, or any special federal  
2 census heretofore held in any county subsequent to the  
3 effective date of the 1970 Federal Decennial Census. The  
4 allocation provided for in this subsection shall be made on or  
5 prior to the tenth day of each month with respect to receipts  
6 of the highway gasoline tax by the state during the preceding  
7 month.

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

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

26 "2. The remaining portion of the amount so allocated  
27 or apportioned to each county shall be distributed to the

1 county with respect to which such allocation or apportionment  
2 is made.

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

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

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

1           "§40-17-362.

2           "(a) For the purposes of this section, the following  
3 words and phrases shall have the following meanings:

4           "(1) BRIDGE REPLACEMENT. Bridge replacement includes  
5 the replacement of existing bridge structures and, if  
6 necessary, the realignment of the adjacent approaches.

7           "(2) RESURFACING, RESTORATION, AND REHABILITATION.  
8 Work undertaken primarily to preserve an existing facility.  
9 Restoration and rehabilitation is work required to return the  
10 existing pavement or bridge deck, including shoulders, to a  
11 condition of adequate structural support or to a condition  
12 adequate for placement of an additional state of construction.  
13 Resurfacing consists of the placement of additional surface  
14 material over the existing, restored, or rehabilitated roadway  
15 or bridge deck to improve serviceability or to provide  
16 additional strength. Resurfacing, restoration, and  
17 rehabilitation work may include changes to geometric features,  
18 such as minor widening, flattening curves, or improving sight  
19 distances.

20           "(3) VEGETATION MANAGEMENT. Action taken to maintain  
21 the right-of-way of a paved road in a condition that is  
22 beneficial to public safety and the longevity of the road  
23 infrastructure including, but not limited to, restoration and  
24 maintenance and cleaning of the full width of the right-of-way  
25 through the use of herbicides, heavy equipment, and other  
26 means.

1           "(b) It is the intent of the Legislature that the  
2 proceeds of the ~~tax collected on~~ remaining two-thirds revenues  
3 received or collected by the department from the additional  
4 six cents (\$.06) ~~diesel fuel~~ gasoline excise tax levied under  
5 Section 40-17-325(a)(1) and the revenues received or collected  
6 by the department from the additional ~~four~~ six cents  ~~(\$.04)~~  
7  ~~(\$.06)~~ gasoline diesel fuel excise tax under ~~the provisions of~~  
8 ~~this article~~ Section 40-17-325(a)(2) shall be used in the  
9 following manner:

10           "(1) Where the use is by the Department of  
11 Transportation, the use shall, with the approval of the  
12 Governor, be for the construction and maintenance of public  
13 roads and bridges on the state highway system.

14           "(2) Where the use is by a county, the use shall be  
15 for vegetation management or resurfacing, restoration, and  
16 rehabilitation of the paved county roads and bridges or bridge  
17 replacement on the county road system. These funds shall not  
18 be used for new construction unless 90 percent of the county's  
19 paved road system has achieved a grade of 85 percent based on  
20 the State of Alabama Department of Transportation's annual  
21 maintenance report of county roads and bridges. These funds  
22 shall not be used for the purchase of equipment or herbicides.  
23 The net tax proceeds distributed to the county shall not be  
24 commingled with other funds of the county, including any other  
25 gasoline tax revenues, and shall be kept and disbursed by the  
26 county from a special fund only for the purposes hereinabove  
27 provided.

1           "(3) Where the use is by a municipality, the use  
2 shall be for resurfacing, restoration, and rehabilitation of  
3 roads, bridges, and streets within the municipality. The use  
4 may also be for bridge replacement within the municipality.  
5 From time to time, the funds may also be used to construct new  
6 roads and streets within the municipality. These funds shall  
7 not be commingled with other funds of the municipality,  
8 including any other gasoline tax revenues, and shall be kept  
9 and disbursed by the municipality from a special fund only for  
10 the purposes hereinabove provided."

11           Section 5. All laws or parts of laws which conflict  
12 with this act are repealed.

13           Section 6. In Section 1, in the amended Section  
14 8-17-91(a)(2)e, the new paragraph e. shall become effective  
15 October 1, 2014, following its passage and approval by the  
16 Governor, or its otherwise becoming a law. All other parts of  
17 this act shall become effective on October 1, 2015, following  
18 its passage and approval by the Governor, or its otherwise  
19 becoming law.