

1 SB133  
2 164937-1  
3 By Senator Whatley  
4 RFD: Finance and Taxation General Fund  
5 First Read: 03-MAR-15

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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.

1                   This bill would change the date which  
2                   importers importing motor fuel from a bulk plank or  
3                   some other non-terminal storage location would pay  
4                   the tax levied pursuant to the Alabama Terminal  
5                   Excise Tax.

6  
7                   A BILL  
8                   TO BE ENTITLED  
9                   AN ACT

10  
11                   To amend Sections 8-17-80, 8-17-84, 8-17-87,  
12                   8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975; to repeal  
13                   Section 8-17-89 of the Code of Alabama 1975; to add Sections  
14                   8-17-95, 8-17-96, 8-17-97, 8-17-98, 8-17-99, 8-17-100,  
15                   8-17-101, and 8-17-102 to Chapter 17, Article 5, Title 8 of  
16                   the Code of Alabama 1975; and to amend Sections 40-17-325,  
17                   40-17-329, 40-17-340, 40-17-359, and 40-17-362, Code of  
18                   Alabama 1975, relating to the collection and distribution of  
19                   certain petroleum products by the Department of Revenue.

20                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21                   Section 1. Sections 8-17-80, 8-17-84, 8-17-87,  
22                   8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975, are  
23                   amended to read as follows:

24                   "§8-17-80.

25                   "(a) The following words and phrases, when used in  
26                   this ~~division~~ article, shall have the meanings ascribed to

1 them in this section, except where the context clearly  
2 indicates a different meaning:

3 ~~"(1) GASOLINE. Gasoline, naphtha and other liquid  
4 motor fuels or any devices or substitutes therefor that are  
5 commonly used in internal combustion engines and are there  
6 ignited by electric spark.~~

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

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

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

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

3                   ~~"(6) COMMISSIONER. The Alabama Commissioner of~~  
4                   ~~Agriculture and Industries.~~

5                   ~~"(7) DEPARTMENT. The Alabama Department of~~  
6                   ~~Agriculture and Industries.~~

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

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

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

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

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

23                   ~~"a. By making application which shall be approved by~~  
24                   ~~the Commissioner of Agriculture and Industries, the reseller~~  
25                   ~~shall file with the Department of Agriculture and Industries a~~  
26                   ~~bond in an approximate amount equal to the average monthly~~  
27                   ~~inspection fee estimated by the commissioner which will be due~~

1 by the reseller; provided, that in no case shall the bond be  
2 less than \$2,500 or more than \$5,000. The bond shall be in  
3 such form and amount as may be approved by the commissioner,  
4 shall be executed by a surety company licensed and duly  
5 authorized to do business in Alabama, shall be payable to the  
6 State of Alabama and shall be conditioned upon the prompt  
7 filing of true reports and the payment by the reseller to the  
8 Department of Agriculture and Industries of any and all  
9 inspection fees which are imposed by this division with  
10 respect to any petroleum products and which, but for the  
11 election made pursuant to this section, would be payable by  
12 the person from whom said petroleum products are purchased by  
13 the reseller, together with all penalties and interest  
14 thereon, and generally upon faithful compliance with the  
15 provisions of this division. In lieu of a guaranty bond, the  
16 reseller may post Alabama state coupon bonds or United States  
17 government bonds under such terms, rules and regulations as  
18 may be approved by the commissioner.

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

1 ~~such new or additional bond, the commissioner shall cancel the~~  
2 ~~permit issued to such reseller.~~

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

16 ~~"d. The commissioner may reduce the amount of any~~  
17 ~~bond upon written application of any reseller if satisfied~~  
18 ~~that a bond in a reduced amount will insure payment of all~~  
19 ~~amounts due or to become due to the State of Alabama. The~~  
20 ~~total amount of bond or bonds to be given by any reseller~~  
21 ~~under this subdivision shall in no event be less than \$2,500~~  
22 ~~nor more than \$5,000; provided, however, that the commissioner~~  
23 ~~may require such additional bond as may be deemed necessary to~~  
24 ~~insure the prompt payment of all inspection fees on the sale~~  
25 ~~or withdrawal of petroleum products due, or to become due, the~~  
26 ~~state by the reseller, but no demand for additional bond above~~  
27 ~~\$5,000 shall be made without first determining from a study of~~

1 the reseller's financial statement which shall be supplied  
2 upon request of the commissioner that such additional bond is  
3 necessary.

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

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

25 "(2) BIODIESEL FUEL. Any motor fuel or mixture of  
26 motor fuels that is derived, in whole or in part, from  
27 agricultural products or animal fats, or the wastes of such



1 products or fats, and is advertised as, offered for sale as,  
2 suitable for use, or used as motor fuel in a diesel engine.

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

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

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

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

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

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

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

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

25 "d. A two-party exchange between licensed suppliers  
26 or between licensed suppliers and permissive suppliers.

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

4           "(9) BULK USER. A person who receives into his or  
5 her own storage facilities, in transport truck lots, taxable  
6 motor fuel for his or her own consumption.

7           "(10) COMMISSIONER. The Alabama Commissioner of  
8 Agriculture and Industries.

9           "(11) DEPARTMENT. The Alabama Department of  
10 Agriculture and Industries.

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

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

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

23           "(15) GASOHOL. A blended motor fuel composed of  
24 gasoline and motor fuel grade alcohol.

25           "(16) GASOLINE. Any product commonly or commercially  
26 known as gasoline, regardless of classification, that is  
27 advertised, offered for sale, or sold for use as or used as

1 motor fuel in an internal combustion engine, including gasohol  
2 and blended fuel which contains gasoline. Gasoline also  
3 includes gasoline blendstocks as defined under Section 4081,  
4 Title 26 of the United States Code and the regulations  
5 promulgated thereunder. Gasoline does not include special fuel  
6 or aviation gasoline sold to a licensed aviation fuel  
7 purchaser for use in an aircraft motor.

8 "(17) IMPORT. To bring petroleum products into this  
9 state for sale, use, or storage by any means of conveyance  
10 other than in the fuel supply tank of a motor vehicle.  
11 Petroleum products delivered into this state from out-of-state  
12 by or for the seller constitutes an import by the seller.  
13 Petroleum products delivered into this state from out-of-state  
14 by or for the purchaser constitutes an import by the  
15 purchaser.

16 "(18) IMPORTER. A person who imports petroleum  
17 products into this state.

18 "(19) K-1 KEROSENE. A petroleum product having an  
19 A.P.I. gravity of not less than 40 degrees, at a temperature  
20 of 60 degrees Fahrenheit and a minimum flash point of 100  
21 degrees Fahrenheit, and which meets American Society for  
22 Testing Materials Standard D-3699 as in effect on January 1,  
23 1999.

24 "(20) KEROSENE. All grades of kerosene, including,  
25 but not limited to, the two grades of kerosene, No. 1-K and  
26 No. 2-K, commonly known as K-1 kerosene and K-2 kerosene,  
27 respectively, described in the American Society for Testing

1 Materials Standard D-3699, in effect on January 1, 1999, and  
2 kerosene-type jet fuel described in the American Society for  
3 Testing Materials Standard D-1655 and military specifications  
4 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8) and any  
5 grade described as kerosene or kerosene-type jet fuel by the  
6 Internal Revenue Code and administrative guidance promulgated  
7 thereunder.

8 "(21) LUBRICATING OIL. Those products of petroleum  
9 that are commonly used in lubricating or oiling engines and  
10 any devices or substitutes for such products of petroleum.

11 "(22) NET GALLONS. The amount of dyed diesel fuel  
12 and dyed kerosene measured in gallons when adjusted to a  
13 temperature of 60 degrees Fahrenheit and a pressure of  
14 fourteen and seven-tenths pounds pressure per square inch.

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

18 "(24) PERSON. Any natural person, firm, partnership,  
19 association, corporation, receiver, trust, estate, or other  
20 entity as well as any other group or combination thereof  
21 acting as a unit.

22 "(25) PERSON FIRST SELLING. Any person, as herein  
23 defined, who first sells dyed diesel fuel, dyed kerosene,  
24 and/or lubricating oil in Alabama on which an inspection fee  
25 is imposed by this article. The first seller of dyed diesel  
26 fuel, dyed kerosene, and/or lubricating oil must obtain an

1 inspection fee permit by making application to the Department  
2 of Revenue.

3 "(26) PETROLEUM PRODUCTS. Gasoline, diesel fuel, and  
4 lubricating oil.

5 "(27) RETAILER. A person other than a wholesale  
6 distributor that engages in the business of selling or  
7 distributing taxable motor fuel to the end user within this  
8 state.

9 "(28) REVENUE COMMISSIONER. The Commissioner of the  
10 Alabama Department of Revenue.

11 "(29) SPECIAL FUEL. Any gas or liquid, other than  
12 gasoline, used or suitable for use as motor fuel in an  
13 internal combustion engine or motor to propel any form of  
14 vehicle, machine, or mechanical contrivance, and includes  
15 products commonly known as natural or casing-head gasoline,  
16 biodiesel fuel, and transmix. Special fuel does not include  
17 any petroleum product or chemical compound such as alcohol,  
18 industrial solvent, or lubricant, unless blended in or sold  
19 for use as motor fuel in an internal combustion engine.

20 "(30) STATE. The State of Alabama.

21 "(31) SUPPLIER. A person who is subject to the  
22 general taxing jurisdiction of this state and registered under  
23 Section 4101 of the Internal Revenue Code for transactions in  
24 motor fuel in the bulk transfer/terminal distribution system  
25 and who owns motor fuel in the bulk transfer/terminal system,  
26 or a person who receives motor fuel in this state pursuant to  
27 a two-party exchange. A terminal operator shall not be

1 considered a supplier based solely on the fact that the  
2 terminal operator handles motor fuel consigned to it within a  
3 terminal.

4 "(32) UNDYED DIESEL FUEL. Diesel fuel that has not  
5 been dyed in accordance with the Internal Revenue Service fuel  
6 dyeing provisions.

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

10 "(c) Any pronoun or pronouns used herein shall be  
11 deemed to include both singular and plural and to cover all  
12 genders.

13 "§8-17-84.

14 ~~"(a) Every person selling, offering for sale,~~  
15 ~~storing or using petroleum products in the state shall keep a~~  
16 ~~record of all such petroleum products manufactured, refined,~~  
17 ~~purchased, received, sold, imported, stored, delivered, or~~  
18 ~~used by him, which record shall show the number of gallons so~~  
19 ~~manufactured, refined, purchased, received, sold, imported,~~  
20 ~~stored, delivered, or used and the date or dates of each such~~  
21 ~~transaction. Each person required to be licensed under Section~~  
22 ~~40-17-332(a), (b), or (f) for gasoline, or permitted under~~  
23 ~~Section 8-17-96 for dyed diesel fuel, dyed kerosene, or~~  
24 ~~lubricating oil, and each bulk user and retailer shall keep~~  
25 ~~and maintain all records pertaining to the petroleum products~~  
26 ~~received, produced, manufactured, refined, compounded, used,~~  
27 ~~sold, imported, or delivered, together with delivery tickets,~~

1 invoices, bills of lading, and other pertinent records and  
2 papers required by the Department of Revenue for the  
3 reasonable administration of this article, for a period of no  
4 less than three years.

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

10 " (c) ~~The Commissioner of Agriculture and Industries~~  
11 ~~shall~~ Revenue Commissioner may prescribe regulations  
12 respecting the keeping of the records required in this section  
13 and the forms thereof.

14 "§8-17-87.

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

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

1           ~~"(2) Diesel~~(b) An inspection fee is imposed on the  
2 ultimate consumer of undyed diesel fuel other than that  
3 referred to in subdivisions (a) (5), (a) (6), (a) (7), (a) (8),  
4 and (a) (9) of this section, \$.02 at the rate of two cents  
5  (\$.02) per gallon, if the excise tax levied on diesel fuel  
6  under Section 40-17-325(a) (2) is refunded by the Department of  
7  Revenue unless the ultimate consumer is specifically exempted  
8  from the inspection fee by the Code of Alabama or unless the  
9  undyed diesel fuel is subject to a reduced rate inspection fee  
10  in subdivision (i). The Department of Revenue is authorized to  
11  reduce the excise tax refund by the amount due for the  
12  inspection fee. Provided, however, diesel fuel that is subject  
13  to the excise taxes levied on motor fuel under Sections  
14  40-17-2 and 40-17-220 shall be exempt from the inspection fee  
15  levied on diesel fuel pursuant to this subdivision.

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

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

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

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



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

10           ~~"(8) Diesel fuel that is of the types customarily~~  
11           ~~used as, and that is intended to be used as, only fuel to~~  
12           ~~propel railroad locomotives, one fortieth of \$.01 per gallon.~~  
13           ~~Diesel fuel of the types referred to in this subdivision shall~~  
14           ~~be inspected in a manner determined and prescribed by the~~  
15           ~~Commissioner of Agriculture and Industries.~~

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

20           ~~"(b) It shall be the duty of the person first~~  
21           ~~selling, storing, or using any petroleum product in the state~~  
22           ~~to pay such inspection fee. The inspection fee shall be paid~~  
23           ~~to the Commissioner of Agriculture and Industries on or before~~  
24           ~~the twentieth day of each month in respect of all petroleum~~  
25           ~~products sold, stored, or used in the state during the~~  
26           ~~preceding month. Each remittance shall be accompanied by a~~  
27           ~~certificate stating that the amount remitted is correct and~~

1 that the petroleum products so sold, stored, or used are of  
2 standard not less than the minimum specified for that  
3 petroleum product in the standards prescribed by the board  
4 pursuant to Section 8-17-81.

5 "(c) If, at the time the inspection fee is due, the  
6 person liable therefor is unable to ascertain the correct  
7 amount of such inspection fee because the use to be made of  
8 any diesel fuel or kerosene with respect to which the  
9 inspection fee is then due has not been or cannot be  
10 ascertained at such time, then such person shall pay to the  
11 Commissioner of Agriculture and Industries as the inspection  
12 fee payable with respect to such diesel fuel and kerosene,  
13 \$.02 for each gallon of such diesel fuel and \$.01 for each  
14 gallon of such kerosene.

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

1 ~~purpose or purposes; provided, that should the credit to which~~  
2 ~~a person is entitled hereunder exceed the amount of the~~  
3 ~~inspection fee becoming due from such person on the twentieth~~  
4 ~~day of the then next following calendar month, then the excess~~  
5 ~~of the credit over the amount of the inspection fee becoming~~  
6 ~~due shall be refunded to such person or, at such person's~~  
7 ~~election, credited against the amount of any inspection fees~~  
8 ~~subsequently becoming due from such person.~~

9 ~~"(e) The Board of Agriculture and Industries shall~~  
10 ~~have authority to promulgate rules and regulations with~~  
11 ~~respect to the form and content of the proof of use which must~~  
12 ~~be supplied by a person seeking such a credit or refund and~~  
13 ~~with respect to the procedure to be followed in applying for~~  
14 ~~such a credit or refund.~~

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

26 ~~"(g) The inspection fee and any penalty added~~  
27 ~~thereto shall constitute and operate as a lien at all times~~

1 ~~until paid upon any petroleum products sold, offered for sale,~~  
2 ~~stored, or used in the state by the person liable for the fee,~~  
3 ~~and shall be immediately enforceable by the Commissioner of~~  
4 ~~Agriculture and Industries when due in the same manner as are~~  
5 ~~tax liens upon personal property of a delinquent taxpayer.~~

6 "(c) An inspection fee of two cents (\$.02) per  
7 gallon is imposed on the first sale within this state or upon  
8 importation into this state of dyed diesel fuel unless (1) the  
9 purchaser or importer is a bonded distributor, in which case  
10 the inspection fee is imposed at the point the bonded  
11 distributor makes a sale to a purchaser who is not a bonded  
12 distributor, or (2) the purchaser is subject to a reduced rate  
13 inspection fee in subsections (e), (f), (g), and (h). The  
14 person first selling, the person importing, or the bonded  
15 distributor shall collect the fee imposed by this article. If  
16 the importer purchases dyed diesel fuel destined for Alabama  
17 from a supplier or permissive supplier and the importer is not  
18 a bonded distributor and does not have a valid inspection fee  
19 permit issued by the Alabama Department of Revenue, the  
20 supplier or permissive supplier shall collect and remit the  
21 inspection fee imposed by this article. If the importer brings  
22 dyed diesel fuel in from bulk storage outside the terminal  
23 system, the importer is responsible for collecting and  
24 remitting the inspection fee imposed by this article.

25 "(d) An inspection fee of one cent (\$.01) per gallon  
26 is imposed on the first sale within this state or upon  
27 importation into this state of dyed kerosene unless (1) the

1 purchaser or importer is a bonded distributor, in which case  
2 the inspection fee is imposed at the point the bonded  
3 distributor makes a sale to a purchaser who is not a bonded  
4 distributor, or (2) the purchaser is subject to a reduced rate  
5 inspection fee in subsections (e), (f), (g), and (h). The  
6 person first selling, the person importing, or the bonded  
7 distributor shall collect the fee imposed by this article. If  
8 the importer purchases dyed kerosene destined for Alabama from  
9 a supplier or permissive supplier and the importer is not a  
10 bonded distributor and does not have a valid inspection fee  
11 permit issued by the Alabama Department of Revenue, the  
12 supplier or permissive supplier shall collect and remit the  
13 inspection fee imposed by this article. If the importer brings  
14 dyed kerosene in from bulk storage outside the terminal  
15 system, the importer is responsible for collecting and  
16 remitting the inspection fee imposed by this article.

17 "(e) Dyed diesel fuel and dyed kerosene that is used  
18 by the ultimate consumer thereof as motor fuel to operate  
19 boats, yachts, ships, or other maritime vehicles, whether such  
20 boats, yachts, ships, or other maritime vehicles are used  
21 commercially or for pleasure, shall be subject to the reduced  
22 inspection fee of one fortieth of \$.01 (\$.00025) per gallon.  
23 This reduced rate only applies to purchases by the ultimate  
24 consumer directly from a bonded distributor. The person first  
25 selling, the person importing, or the bonded distributor shall  
26 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) As solvent or other agent in the treatment or  
25 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 fifteen cents (\$.15) per  
5 gallon is imposed on the person first selling lubricating oil  
6 in this state or importing lubricating oil into this state,  
7 regardless of whether the excise taxes levied on lube oil  
8 under Sections 40-17-171 and 40-17-220 are paid, unless the  
9 purchaser or importer is a bonded distributor, in which case  
10 the inspection fee is imposed at the point the bonded  
11 distributor makes a sale to a purchaser who is not a bonded  
12 distributor. The person first selling, the person importing,  
13 or bonded distributor shall collect the fee imposed by this  
14 article.

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

25           "(l) An inspection fee of two cents (\$.02) per  
26 gallon is imposed at the time gasoline and undyed diesel fuel  
27 is imported into this state, other than by bulk transfer, for



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

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

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

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

1           "(p) Aviation gasoline and aviation jet fuel are  
2 exempt from the inspection fee.

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

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

21           "§8-17-91.

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

1 subdivision (1) of subsection (a) of Section 40-17-325, shall  
2 be paid into the State Treasury and distributed by the State  
3 Treasurer as follows:

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

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

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

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

26 ~~"There is hereby created a committee to be referred~~  
27 ~~to as the Secondary Road Committee comprised of two county~~

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

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

1 provide all supplies and clerical help necessary for the  
2 committee to execute its responsibilities.

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

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

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

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

1 available to the State Department of Transportation. In the  
2 event that in any fiscal year other State Department of  
3 Transportation funds are insufficient to match the  
4 department's regular federal aid apportionment, then at the  
5 Director of the State Department of Transportation's  
6 recommendation, and approval by the Governor, funds  
7 appropriated under this subsection may be used to match ~~said~~  
8 the federal aid apportionment.

9 "c. 2.76 percent of the balance of the proceeds  
10 shall be allocated among the incorporated municipalities of  
11 the state as follows:

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

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

25 "3. The amount so allocated or apportioned to each  
26 county shall be distributed among the municipalities in the  
27 county with respect to which the allocation or apportionment

1 is made, each such distribution among the ~~said~~ municipalities  
2 to be on the basis of the ratio of the population of each such  
3 municipality to the total population of all municipalities in  
4 the applicable county according to the then next preceding  
5 federal decennial census.

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

18 "5. Use of the inspection fee by a municipality  
19 shall be for transportation planning, the construction,  
20 reconstruction, maintenance, widening, alteration, and  
21 improvement of public roads, bridges, streets, and other  
22 public ways, including payment of the principal of and  
23 interest on any securities at any time issued by the  
24 municipality pursuant to law for the payment of which any part  
25 of the net tax proceeds were or may be lawfully pledged;  
26 provided, that no part of the balance of the proceeds referred  
27 to in this section shall be expended contrary to the

1 provisions of the Constitution; and provided further, that  
2 funds distributed to municipalities under the provisions of  
3 this division shall not be commingled with other funds of the  
4 municipality, except the municipalities' portion of the  
5 highway gasoline tax, and shall be kept and disbursed by such  
6 municipality from a special fund only for the purposes  
7 hereinabove provided.

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

12 "e. In addition to any and all other funds  
13 heretofore or hereafter appropriated, for the fiscal year  
14 beginning October 1, 2015, there is appropriated to the  
15 Department of Revenue as a first charge against the fees  
16 collected pursuant to this article, the sum of five hundred  
17 thousand dollars (\$500,000) to offset the Revenue Department's  
18 costs to implement and administer this article. Beginning  
19 October 1, 2016, and every year thereafter an amount equal to  
20 two and one-half percent of the balance of the proceeds  
21 received each month after deducting the distributions in  
22 paragraphs a., b., c., and d. or no less than eighty-seven  
23 thousand five hundred dollars (\$87,500), whichever is greater,  
24 is appropriated and shall accrue to the credit of, and be  
25 deposited to, the Department of Revenue to offset its costs of  
26 collection.



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

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

1 be paid out of current months' collections before any  
2 distribution is made under subsection (a) of this section.

3 "(c) The application for refund of the permit fees  
4 provided for in this ~~section must~~ article shall be filed with  
5 the Commissioner of Agriculture and Industries within 12  
6 calendar months from the date upon which the overpayment was  
7 made, and no amount shall be refunded unless the application  
8 therefor is filed within the time prescribed herein.

9 "For any period prior to October 1, 2016, the  
10 application for refund of the inspection fee provided for in  
11 this article shall be filed with the Revenue Commissioner  
12 within 12 calendar months from the date upon which the  
13 overpayment was made, and no amount shall be refunded unless  
14 the application therefor is filed within the time prescribed  
15 herein. For the period beginning October 1, 2016, the  
16 application for refund of the inspection fee provided for in  
17 this article must be filed with the Revenue Commissioner  
18 within the time limits provided by the Taxpayer Bill of Rights  
19 in Chapter 2A of Title 40. No amount shall be approved for  
20 refund by the Revenue Commissioner unless the application  
21 therefor is filed within the time prescribed therein.

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

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

12           "§8-17-92.

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

20           "(b) Any such person may also be restrained or  
21 enjoined from selling, offering for sale, storing, or using  
22 any petroleum product without having a permit as required by  
23 ~~this division~~ Section 8-17-96, from selling, distributing,  
24 offering for sale, storing, or using in this state any  
25 petroleum product upon which the inspection fee imposed by  
26 ~~this division~~ Section 8-17-87 is not paid or from otherwise

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

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

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

8 "§8-17-93.

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

22 "(b) The Commissioner of Agriculture and Industries  
23 may revoke the permit, referenced in Section 8-17-85, of any  
24 person found upon investigation to have sold, offered for  
25 sale, stored, or used any petroleum product below the minimum  
26 standards adopted by the Board of Agriculture and Industries  
27 pursuant to the provisions of this ~~division~~ article or ~~who~~

1 when the Revenue Commissioner has notified the Commissioner of  
2 Agriculture and Industries that the taxpayer has failed or  
3 refused, after 10 days' notice by registered, or certified,  
4 mail of such delinquency, subject to the appeal provisions of  
5 Chapter 2A of Title 40, to file the delinquent tax return or  
6 to pay the inspection fee required by this ~~division~~ article.

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

19 Section 2. Section 8-17-89, Code of Alabama 1975, is  
20 repealed.

21 Section 3. Sections 8-17-95, 8-17-96, 8-17-97,  
22 8-17-98, 8-17-99, 8-17-100, 8-17-101, and 8-17-102 are added  
23 to Chapter 17, Article 5, Title 8 of the Code of Alabama 1975,  
24 to read as follows:

25 §8-17-95.

26 (a) There is hereby imposed a floor-stocks  
27 inspection fee on gasoline held in inventory outside of the

1 bulk transfer/terminal system, as defined in Section  
2 40-17-322, but not at the retail level, on October 1, 2016,  
3 if:

4 (1) No inspection fee was imposed on the gasoline  
5 under Section 8-17-87, as of September 30, 2016; and

6 (2) The inspection fee would have been imposed on  
7 the gasoline by this article had it been in effect for the  
8 periods prior to October 1, 2016.

9 (b) The rate of the inspection fee imposed by this  
10 section shall be the amount of the fee imposed under Section  
11 8-17-87, on September 30, 2016.

12 (c) Any person owning gasoline on October 1, 2016,  
13 to which the inspection fee imposed by this section applies,  
14 shall be liable for the inspection fee. The inspection fee  
15 imposed by this section shall be paid on or before December  
16 31, 2016, and shall be paid in the manner prescribed by the  
17 Department of Revenue.

18 §8-17-96.

19 (a) The supplier or permissive supplier of gasoline  
20 or undyed diesel fuel sold to a licensed exempt entity other  
21 than the federal government at the rack, or the supplier or  
22 permissive supplier selling dyed diesel fuel or dyed kerosene  
23 at the rack at an out-of-state terminal to an importer for  
24 delivery into Alabama that is not a bonded distributor and  
25 does not have a valid inspection fee permit used by the  
26 Alabama Department of Revenue, or the person first selling,  
27 the person importing, or the person who makes application to

1 become a bonded distributor of dyed diesel fuel, dyed  
2 kerosene, or lubricating oil in this state shall submit an  
3 application for an inspection fee permit to the Department of  
4 Revenue, which shall be approved by the Department of Revenue.  
5 Upon approval of the inspection fee application, the supplier  
6 or permissive supplier of gasoline or undyed diesel fuel sold  
7 to a licensed exempt entity other than the federal government  
8 by a supplier or permissive supplier at the rack, or the  
9 supplier or permissive supplier selling dyed diesel fuel or  
10 dyed kerosene at the rack at an out-of-state terminal to an  
11 importer for delivery into Alabama that is not a bonded  
12 distributor and does not have a valid inspection fee permit  
13 issued by the Alabama Department of Revenue, or the first  
14 person selling, the person importing, or the bonded  
15 distributor of dyed diesel, dyed kerosene, or lubricating oil  
16 shall file with the Department of Revenue a bond in the amount  
17 of five thousand dollars (\$5,000) prior to the issuance of an  
18 inspection fee permit. The bond shall be in such form and  
19 amount as may be approved by the Revenue Commissioner, shall  
20 be executed by a surety company licensed and duly authorized  
21 to do business in Alabama, shall be payable to the State of  
22 Alabama and shall be conditioned upon the prompt filing of  
23 true reports and the payment by the supplier or permissive  
24 supplier of gasoline or undyed diesel fuel sold to a licensed  
25 exempt entity other than the federal government by a supplier  
26 or permissive supplier at the rack, or the supplier or  
27 permissive supplier selling dyed diesel fuel or dyed kerosene

1 at the rack at an out-of-state terminal to an importer for  
2 delivery into Alabama that is not a bonded distributor and  
3 does not have a valid inspection fee permit issued by the  
4 Alabama Department of Revenue, or the first person selling,  
5 the person importing, or the bonded distributor of dyed diesel  
6 fuel, dyed kerosene, or lubricating oil to the Department of  
7 Revenue of all inspection fees which are imposed by Section  
8 8-17-87 with respect to gasoline, undyed diesel fuel, dyed  
9 diesel fuel, dyed kerosene, or lubricating oil, together with  
10 all penalties and interest thereon, and generally upon  
11 faithful compliance with the provisions of this division. Upon  
12 approval of the required bond, the Revenue Department shall  
13 issue to the applicant an inspection fee permit. This permit  
14 is not transferable and remains in effect until surrendered or  
15 canceled.

16 (b) In the event that liability upon any bond filed  
17 under the provisions of this subsection shall be discharged or  
18 reduced, whether by judgment entered, payment made, or  
19 otherwise, or if in the opinion of the Revenue Commissioner  
20 any surety on the bond theretofore given shall become  
21 unsatisfactory or unacceptable, then the Revenue Commissioner  
22 may require the filing of a new or additional bond conditioned  
23 as hereinabove provided.

24 (c) The Department of Revenue shall notify a permit  
25 holder at his or her last known address by first class U.S.  
26 mail or, at the option of the Department of Revenue, certified  
27 mail, return receipt requested, that it is requiring such new



1 or additional bond for any reason as provided above, and the  
2 permit holder, within 30 days from the date such notice is  
3 mailed by the Department of Revenue, shall (1) file the new or  
4 additional bond as requested by the Department of Revenue, or  
5 (2) file a notice of appeal as allowed in Section 40-2A-8. The  
6 Department of Revenue may immediately cancel the permit upon  
7 the expiration of the 30-day appeal period set out in Section  
8 40-2A-8 if the permit holder fails to either provide the new  
9 or additional bond requested by the Department of Revenue or  
10 timely appeal under Section 40-2A-8.

11 (d) The total amount of bond or bonds to be given by  
12 any supplier, permissive supplier, importer, first seller, or  
13 bonded distributor under this subsection shall in no event be  
14 less than five thousand dollars (\$5,000); except that the  
15 Revenue Commissioner may require such additional bond as may  
16 be deemed necessary to insure the prompt payment of all  
17 inspection fees on the sale of gasoline or undyed diesel fuel  
18 sold to exempt entities, other than the federal government, by  
19 the supplier or permissive supplier at the terminal rack, or  
20 the supplier or permissive supplier selling dyed diesel fuel  
21 or dyed kerosene at the rack at an out-of-state terminal to an  
22 importer for delivery into Alabama that is not a bonded  
23 distributor and does not have a valid inspection fee permit  
24 issued by the Alabama Department of Revenue, or on the sale of  
25 dyed diesel fuel, dyed kerosene, or lubricating oil due, or to  
26 become due, the state by the supplier or permissive supplier  
27 of gasoline or undyed diesel fuel to exempt entities, other

1 than the federal government, by the supplier or permissive  
2 supplier at the terminal rack, or the supplier or permissive  
3 supplier selling dyed diesel fuel or dyed kerosene at the rack  
4 at an out-of-state terminal to an importer for delivery into  
5 Alabama that is not a bonded distributor and does not have a  
6 valid inspection fee permit issued by the Alabama Department  
7 of Revenue, or by the person first selling, the person  
8 importing, or the bonded distributor of dyed diesel fuel, dyed  
9 kerosene, or lubricating oil.

10 (e) Any surety on any bond furnished by the supplier  
11 or permissive supplier of gasoline or undyed diesel fuel sold  
12 to exempt entities, other than the federal government by the  
13 supplier or permissive supplier at the terminal rack, or the  
14 supplier or permissive supplier selling dyed diesel fuel or  
15 dyed kerosene at the rack at an out-of-state terminal to an  
16 importer for delivery into Alabama that is not a bonded  
17 distributor and does not have a valid inspection fee permit  
18 issued by the Alabama Department of Revenue, or by the person  
19 first selling, the person importing, or the bonded distributor  
20 of dyed diesel fuel, dyed kerosene, or lubricating oil, as  
21 above provided, shall be released and discharged from any and  
22 all liability to the State of Alabama accruing on such bond  
23 after the expiration of 30 days from the date upon which  
24 surety shall have filed with the Department of Revenue written  
25 request to be released and discharged; provided, however, that  
26 such request shall not operate to relieve, release, or  
27 discharge such surety from any liability already accrued or

1 which shall accrue before the expiration of such 30-day  
2 period. The Revenue Commissioner shall promptly, upon receipt  
3 of notice of such request, notify the supplier or permissive  
4 supplier of gasoline or undyed diesel fuel to exempt entities,  
5 other than the federal government, or the supplier or  
6 permissive supplier selling dyed diesel fuel or dyed kerosene  
7 at the rack at an out-of-state terminal to an importer for  
8 delivery into Alabama that is not a bonded distributor and  
9 does not have a valid inspection fee permit issued by the  
10 Alabama Department of Revenue, or the person first selling,  
11 the person importing, or the bonded distributor of dyed diesel  
12 fuel, dyed kerosene, or lubricating oil who furnished such  
13 bond of the request of the surety on the bond and, unless such  
14 supplier or permissive supplier of gasoline or undyed diesel  
15 fuel to exempt entities, other than the federal government, or  
16 the supplier or permissive supplier selling dyed diesel fuel  
17 or dyed kerosene at the rack at an out-of-state terminal to an  
18 importer for delivery into Alabama that is not a bonded  
19 distributor and does not have a valid inspection fee permit  
20 issued by the Alabama Department of Revenue, or the person  
21 first selling, the person importing, or the bonded distributor  
22 of dyed diesel fuel, dyed kerosene, or lubricating oil shall  
23 file, on or before the expiration of such 30-day period, with  
24 the Department of Revenue a new bond in the amount and form  
25 hereinbefore in this subsection provided, the Revenue  
26 Commissioner shall cancel the permit of the supplier or  
27 permissive supplier of gasoline or undyed diesel fuel to

1 exempt entities, other than the federal government, or the  
2 supplier or permissive supplier selling dyed diesel fuel or  
3 dyed kerosene at the rack at an out-of-state terminal to an  
4 importer for delivery into Alabama that is not a bonded  
5 distributor and does not have a valid inspection fee permit  
6 issued by the Alabama Department of Revenue, or the person  
7 first selling, person importing, or the bonded distributor of  
8 dyed diesel fuel, dyed kerosene, or lubricating oil in  
9 accordance with the provisions of Section 40-2A-8.

10 §8-17-97.

11 (a) It shall be the duty of the person first selling  
12 dyed diesel fuel, dyed kerosene, or lubricating oil in this  
13 state or importing dyed diesel fuel, dyed kerosene, or  
14 lubricating oil into the state, on which an inspection fee is  
15 due to collect and pay such inspection fee to the Department  
16 of Revenue each month in respect of all dyed diesel fuel, dyed  
17 kerosene, or lubricating oil sold or imported in the state  
18 during the preceding month unless the purchaser is a bonded  
19 distributor. It shall be the duty of the supplier or  
20 permissive supplier to collect and pay the inspection fee to  
21 the Department of Revenue each month in respect of all dyed  
22 diesel fuel or dyed kerosene destined for Alabama that is sold  
23 to an importer that is not a bonded distributor and does not  
24 have a valid inspection fee permit issued by the Alabama  
25 Department of Revenue.

26 (b) It shall be the duty of the supplier or  
27 permissive supplier to collect and pay the inspection fee to

1 the Department of Revenue each month in respect of all dyed  
2 diesel fuel or dyed kerosene destined for Alabama that is sold  
3 to an importer that is not a bonded distributor and does not  
4 have a valid inspection fee permit issued by the Alabama  
5 Department of Revenue.

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

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

21 (e) The inspection fee provided for in this section  
22 shall be paid but once with respect to the same product; but  
23 in the event any person fails to make the required electronic  
24 report or payment as herein provided on or before the date  
25 such payment is due, the Revenue Commissioner shall add to the  
26 inspection fee already due interest as prescribed in Section  
27 40-1-44 and any applicable penalties as prescribed in Chapter

1 2A of Title 40. The Revenue Commissioner shall then proceed to  
2 collect the inspection fee, together with the interest and  
3 penalties, in accordance with the provisions of Title 40.

4 (f) The inspection fee, interest, and any penalties  
5 added thereto shall constitute and operate as a lien at all  
6 times until paid upon any petroleum products sold, offered for  
7 sale, stored, or used in the state by the person liable for  
8 the fee, and shall be immediately enforceable by the Revenue  
9 Commissioner in accordance with established collection  
10 procedures of the Department of Revenue.

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

18 §8-17-98.

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

26 (1) Undyed diesel fuel used by the ultimate consumer  
27 to operate boats, yachts, ships, or other maritime vehicles,

1 whether such boats, yachts, ships, or other maritime vehicles  
2 are used commercially or for pleasure.

3 (2) Undyed diesel fuel used by the ultimate consumer  
4 to propel or operate tractors which are not operated on public  
5 highways but which are used exclusively in preparing and  
6 cultivating land, harvesting any agricultural commodity, or  
7 for other agricultural purposes, including pasture and hay  
8 production; provided, however, that the term "tractors" as  
9 used herein shall not include automobiles, trucks, pickups,  
10 trailers, semitrailers, or other such vehicles.

11 (3) Undyed diesel fuel used to propel railroad  
12 locomotives.

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

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

23 (c) 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 fuel for  
26 sales to the United States government or any agency thereof,  
27 the inspection fee levied under this article shall not be due.

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

6 §8-17-99.

7 (a) The person first selling, the person importing,  
8 or the bonded distributor of dyed diesel fuel or dyed kerosene  
9 may take a deduction on the monthly return for sales of dyed  
10 diesel fuel or dyed kerosene to the following:

11 (1) United States Government.

12 (2) Exports by the bonded distributor.

13 (3) Sales from one Alabama bonded distributor to  
14 another Alabama bonded distributor.

15 (4) Sales to the ultimate consumer for use in firing  
16 steam boilers or combustion generating turbines by  
17 compression.

18 (b) The person first selling, the person importing,  
19 or the bonded distributor of lubricating oil may take a  
20 deduction on the monthly return for sales of lubricating oil  
21 to the following:

22 (1) United States Government.

23 (2) Exports by the bonded distributor.

24 (3) Sales from one Alabama bonded distributor to  
25 another Alabama bonded distributor.

26 §8-17-100.



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

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

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

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

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

15 (c) Any refusal by the Department of Revenue under  
16 this section to issue an inspection fee permit may be appealed  
17 under the provisions of Title 40, Chapter 2A.

18 §8-17-101.

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

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

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

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

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

11           (5) Failure to file a new or additional surety bond  
12 upon request of the Department of Revenue pursuant to Section  
13 40-17-96.

14           (6) Conviction of the permit holder or a principal  
15 of the permit holder for any act prohibited under this  
16 article.

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

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

22           (9) For any change in the ownership or control of  
23 the business.

24           (b) Upon cancellation of any permit for any cause  
25 listed above, the inspection fee levied under this article  
26 becomes due and payable on all untaxed petroleum products held  
27 in storage or otherwise in the possession of the permit holder

1 and all petroleum products sold, delivered, imported, or used  
2 prior to the cancellation on which the fee has not been paid.

3 (c) The permit can be canceled upon the written  
4 request of the permit holder.

5 §8-17-102.

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

11 Section 4. Sections 40-17-325, 40-17-329, 40-17-340,  
12 40-17-359, and 40-17-362, Code of Alabama 1975, are amended to  
13 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 seven cents (\$.07) excise  
20 tax, a supplemental five cents (\$.05) excise tax, and an  
21 additional ~~\$.04~~ six cent (\$.06) excise tax.

22 "(2) Nineteen cents (\$.19) per gallon on diesel  
23 fuel, comprised of a thirteen cents (\$.13) excise tax and an  
24 additional six cents (\$.06) excise 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 "§40-17-340.

24 "(a) Each supplier, importer, blender, permissive  
25 supplier, and exporter shall file the monthly return required  
26 herein, in a format prescribed by the commissioner, on or

1 before the 22nd day of each calendar month for the preceding  
2 month.

3 "(b) Other than importers, the tax levied by this  
4 article shall be paid to the department by each taxpayer on or  
5 before the 22nd day of each calendar month for the preceding  
6 month and shall be accompanied by any required returns. The  
7 department may require all or certain taxpayers to file tax  
8 returns and payments electronically.

9 "(c) Importers importing motor fuel from a bulk  
10 plant or some other non-terminal storage location shall pay  
11 the tax levied by this article to the department on or before  
12 ~~the 3rd business day following the day of importation~~ 22nd day  
13 of each calendar month for the preceding month, and the  
14 payment shall be accompanied by any required returns. The  
15 department may require all or certain taxpayers to file tax  
16 returns and payments electronically.

17 "(d) Importers importing motor fuel acquired at an  
18 out-of-state terminal from a supplier who has not precollected  
19 the tax imposed under Section 40-17-325 at the time of such  
20 removal shall pay the tax so levied to the department on or  
21 before the 3rd business day following the day of importation,  
22 and the payment shall be accompanied by any required returns.

23 "(e) A supplier or permissive supplier who timely  
24 files a return with the payment due may deduct from the amount  
25 of tax payable with the return an administrative discount of  
26 one half of one percent (.005) of the amount of tax payable to  
27 the state.

1           "§40-17-359.

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

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

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

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

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

12           "(5) DEPARTMENT OF TRANSPORTATION. The Department of  
13 Transportation of the state.

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

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

19           "b. The excise tax levied by Sections 40-17-140 to  
20 40-17-155, inclusive, except that portion of the tax imposed  
21 on diesel fuel.

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

25           "(8) MUNICIPALITY. An incorporated city or town in  
26 the state.

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

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

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

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

22           "(13) SUPPLEMENTAL NET TAX PROCEEDS. That portion of  
23 the highway gasoline tax remaining after the deduction of the  
24 net tax proceeds and ~~additional four cents (\$.04) and~~  
25 ~~applicable costs of collection and refunds have been deducted,~~  
26 one-third of all revenues received or collected by the  
27 department remaining after the payment of refunds from the



1 additional six cents (\$.06) tax levied on gasoline under  
2 Section 40-17-325(a)(1) and two-thirds revenues received or  
3 collected by the department after the payment of refunds and  
4 the expense of administration and enforcement of this article  
5 from the additional six cents (\$.06) tax levied on gasoline  
6 under Section 40-17-325(a)(1), less the cost of collection and  
7 less any refunds of the highway gasoline tax applicable to the  
8 supplemental gasoline excise tax imposed in subdivision (1) of  
9 subsection (a) of Section 40-17-325.

10 "The foregoing definitions shall be deemed  
11 applicable whether terms defined are used in the singular or  
12 plural.

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

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

1 the Department of Conservation and Natural Resources in this  
2 state as follows:

3 "a. Thirty-five one hundredths of one percent of all  
4 ~~state-imposed~~ state-imposed taxes collected pursuant to this  
5 subsection on the sale of gasoline, except gasoline and other  
6 fuels consumed in airplanes, shall be credited as follows: 60  
7 percent to the State Water Safety Fund of the Marine Police  
8 Division and 40 percent to the Seafood Fund of the Marine  
9 Resources Division.

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

20 "c. An amount equal to eighteen one hundredths of  
21 one percent of all state-imposed taxes levied pursuant to this  
22 subsection and collected on the sale of gasoline, except  
23 gasoline and other fuels consumed in airplanes, and which  
24 would otherwise be credited to the Public Road and Bridge Fund  
25 pursuant to this section shall be credited as follows: 60  
26 percent to the State Water Safety Fund of the Marine Police  
27 Division and 40 percent to the Seafood Fund of the Marine

1 Resources Division. Provided, however, that this additional  
2 credit to the State Water Safety Fund and Seafood Fund shall  
3 not diminish the allocations provided by subsection (d).

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

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

3           "(1) Forty-five percent of the net tax proceeds are  
4 hereby allocated and appropriated for state highway purposes  
5 and as the state's share of the net tax proceeds to be covered  
6 into the State Treasury to the credit of the Public Road and  
7 Bridge Fund and to be disbursed as hereinafter provided in  
8 this section.

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

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

25           "(4) A portion of the state's share of the net tax  
26 proceeds that is equal in amount to one twenty-first of the  
27 net tax proceeds shall be disbursed to pay at their respective

1 maturities the principal of and interest on the bonds issued  
2 by the Alabama Highway Authority after March 1, 1959, and  
3 prior to March 1, 1967, in the order in which the one  
4 twenty-first of the net tax proceeds was pledged for the  
5 bonds.

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

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

24 "b. For payment at their respective maturities of  
25 the principal of and interest on the bonds, other than  
26 refunding bonds, issued by the Alabama Highway Authority under  
27 the provisions of Act No. 781, 1969 Regular Session (Acts

1 1969, p. 1398), to the extent that the portion of the motor  
2 vehicle license taxes and registration fees provided in  
3 Section 40-12-270, to be used for the payment of the principal  
4 of and interest on the bonds, other than refunding bonds,  
5 issued by the Alabama Highway Authority under the provisions  
6 of Act No. 781, should be insufficient to pay the principal  
7 and interest at their respective maturities.

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

19 "d. For payment at their respective maturities of  
20 the principal of and interest on any bonds or other  
21 obligations, including refunding obligations, issued after  
22 December 1, 1977, by a public corporation existing at the time  
23 of issuance under the laws of the state pursuant to then  
24 existing statutory authorization, or by the state pursuant to  
25 then existing authorization, effective at the time of  
26 issuance, under the constitution and laws of the state, and  
27 for which the aforesaid residue, referred to in this

1 subdivision, of the state's share of the net tax proceeds  
2 shall have been appropriated and pledged in a then effective  
3 statute or constitutional provision (including any enabling  
4 act under a constitutional provision) under which the bonds  
5 may be issued, all in the manner and to the extent and subject  
6 to the priorities in rank as may be provided in a statute or  
7 constitutional provision or in any authorizing resolution  
8 thereunder.

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

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

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

24 "(1) Fifty-five percent of the net tax proceeds are  
25 hereby allocated and appropriated to be used for highway  
26 purposes by the counties and municipalities to be covered into

1 the State Treasury and shall be disbursed and allocated as  
2 hereinafter provided in this section.

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

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

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

23 "a. Ten percent of the amount so allocated or  
24 apportioned to each county shall be distributed among the  
25 municipalities in the county with respect to which the  
26 allocation or apportionment is made; each distribution among  
27 the municipalities shall be made on the basis of the ratio of



1 the population of each municipality to the total population of  
2 all municipalities in the applicable county according to the  
3 then next preceding federal decennial census.

4 "b. The remaining portion of the amount so allocated  
5 or apportioned to each county shall be distributed to the  
6 county with respect to which the allocation or apportionment  
7 is made. The distributions provided for in this subsection  
8 shall be made monthly.

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

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

1 agreeable to the Department of Transportation and the  
2 municipality.

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

1 The Legislature may by general or local laws prescribe other  
2 distributions within counties to local governments. The two  
3 fifths of the supplemental net tax proceeds shall be used for  
4 the same purposes and deposited in the same state, county, and  
5 municipal funds as provided by Section 40-17-362. Where the  
6 use is by a county, the funds may be used to match federal aid  
7 on any projects that meet the requirements for federal funding  
8 and the funds may also be used for new construction without  
9 regard to the provision that 90 percent of the county's paved  
10 road system has achieved a grade of 85 percent based on the  
11 State of Alabama Department of Transportation's annual  
12 maintenance report of county roads and bridges.

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

23 "The county governing body may determine the  
24 proportions set out in this section.

25 "(h) The county commissions may pay a portion of the  
26 compensation of their clerks out of the Public Road and Bridge  
27 Fund or gasoline tax funds in the county treasury; provided,

1 that not more than 75 percent of the total salary payable  
2 shall be paid out of the fund or funds.

3 "(i) For the purpose of this section, each federal  
4 decennial census shall be deemed to be effective on October 1  
5 next following the publication of the results of the decennial  
6 census.

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

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

21 "(2) Where the use is by a county, the use shall be  
22 for transportation planning, the construction, reconstruction,  
23 maintenance, widening, alteration, and improvement of public  
24 roads and bridges as is now or may hereafter be provided by  
25 law, including payment of the principal of and interest on any  
26 securities at any time issued by the county pursuant to law  
27 for payment of which all or any of the net tax proceeds were

1 or may be lawfully pledged, and the use may also be for the  
2 purpose and subject to the provisions contained in subsection  
3 (g).

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

19 "(k) The county commission of each of the counties  
20 may use or expend the proceeds of the state gasoline tax  
21 levied by Section 40-17-325, distributed to the county  
22 pursuant to this section, for the construction and maintenance  
23 of streets within the corporate limits of any municipality  
24 located within the county, anything in Sections 40-17-322 to  
25 40-17-356, inclusive, to the contrary notwithstanding.

26 "(l) The county commission of each of the counties  
27 may use or expend the state gasoline tax proceeds referred to

1 in subsection (k) for the construction, reconstruction,  
2 maintenance, and repair of public highways and traffic control  
3 areas located on public school property or state school  
4 property within the county.

5 "(m) The State Treasurer shall make all allocations  
6 of the net tax proceeds and the supplemental net tax proceeds  
7 and shall make the distributions and payments thereof pursuant  
8 to the allocations provided for in this section.

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

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

25 "(p) The remaining two-thirds revenues received or  
26 collected by the department from the additional six cents  
27  (\$.06) tax levied on gasoline under subdivision (1) of

1 subsection (a) of Section 40-17-325, after the payment of  
2 refunds and the expense of administration and enforcement of  
3 this article shall be paid into the State Treasury and  
4 distributed by the State Treasurer as follows:

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

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

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

25           "b. The entire residue of the local subdivisions'  
26 shares of the remaining two-thirds revenues received or  
27 collected by the department from the additional ~~\$.04~~ six cents

1     (\$.06) tax levied, being an amount equal to 30 percent of the  
2     remaining two-thirds revenues received or collected by the  
3     department from the additional ~~\$.04~~ six cents (\$.06) tax  
4     levied, shall be allocated among the 67 counties of the state  
5     on the basis of the ratio of the population of each county to  
6     the total population of the state according to the then next  
7     preceding federal decennial census, or any special federal  
8     census heretofore held in any county subsequent to the  
9     effective date of the 1970 Federal Decennial Census. The  
10    allocation provided for in this subsection shall be made on or  
11    prior to the tenth day of each month with respect to receipts  
12    of the highway gasoline tax by the state during the preceding  
13    month.

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

17            "1. 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. Provided, that  
25    any local laws or general laws of local application now in  
26    effect regarding the distribution of the tax levied by Section  
27    40-17-325 shall govern the distribution of the amounts



1 allocated or apportioned within every county by this section;  
2 provided further, that the Legislature may by general or local  
3 laws prescribe other distributions within counties to local  
4 governments.

5 "2. The remaining portion of the amount so allocated  
6 or apportioned to each county shall be distributed to the  
7 county with respect to which such allocation or apportionment  
8 is made.

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

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

1 may be mutually agreeable to the Department of Transportation  
2 and the municipality.

3 "~~(p)~~ (q) The State Treasurer shall make all  
4 allocations of the revenue collections and shall make the  
5 distribution and payments thereof pursuant to such allocations  
6 provided for in this article.

7 "§40-17-362.

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

10 "(1) BRIDGE REPLACEMENT. Bridge replacement includes  
11 the replacement of existing bridge structures and, if  
12 necessary, the realignment of the adjacent approaches.

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

26 "(3) VEGETATION MANAGEMENT. Action taken to maintain  
27 the right-of-way of a paved road in a condition that is

1 beneficial to public safety and the longevity of the road  
2 infrastructure including, but not limited to, restoration and  
3 maintenance and cleaning of the full width of the right-of-way  
4 through the use of herbicides, heavy equipment, and other  
5 means.

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

15 "(1) Where the use is by the Department of  
16 Transportation, the use shall, with the approval of the  
17 Governor, be for the construction and maintenance of public  
18 roads and bridges on the state highway system.

19 "(2) Where the use is by a county, the use shall be  
20 for vegetation management or resurfacing, restoration, and  
21 rehabilitation of the paved county roads and bridges or bridge  
22 replacement on the county road system. These funds shall not  
23 be used for new construction unless 90 percent of the county's  
24 paved road system has achieved a grade of 85 percent based on  
25 the State of Alabama Department of Transportation's annual  
26 maintenance report of county roads and bridges. These funds  
27 shall not be used for the purchase of equipment or herbicides.

1 The net tax proceeds distributed to the county shall not be  
2 commingled with other funds of the county, including any other  
3 gasoline tax revenues, and shall be kept and disbursed by the  
4 county from a special fund only for the purposes hereinabove  
5 provided.

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

16 Section 5. All laws or parts of laws which conflict  
17 with this act are repealed.

18 Section 6. In Section 4, Section 40-17-340, Code of  
19 Alabama 1975, shall become effective on the first day of the  
20 second month following its passage and approval by the  
21 Governor, or its otherwise becoming law. In Section 1, in the  
22 amended Section 8-17-91(a)(2)e., the new paragraph e. shall  
23 become effective October 1, 2015, following its passage and  
24 approval by the Governor, or its otherwise becoming law. All  
25 other parts of this act shall become effective on October 1,  
26 2016, following its passage and approval by the Governor, or  
27 its otherwise becoming law.

