

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

1 SB133

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3  
4 ENROLLED, An Act,

5 To amend Sections 8-17-80, 8-17-84, 8-17-87,  
6 8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975; to repeal  
7 Section 8-17-89 of the Code of Alabama 1975; to add Sections  
8 8-17-95, 8-17-96, 8-17-97, 8-17-98, 8-17-99, 8-17-100,  
9 8-17-101, and 8-17-102 to Chapter 17, Article 5, Title 8 of  
10 the Code of Alabama 1975; and to amend Sections 40-17-325,  
11 40-17-329, 40-17-340, 40-17-359, and 40-17-362, Code of  
12 Alabama 1975, relating to the collection and distribution of  
13 certain petroleum products by the Department of Revenue.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 8-17-80, 8-17-84, 8-17-87,  
16 8-17-91, 8-17-92, and 8-17-93, Code of Alabama 1975, are  
17 amended to read as follows:

18 "§8-17-80.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21           ~~"a. By making application which shall be approved by~~  
22           ~~the Commissioner of Agriculture and Industries, the reseller~~  
23           ~~shall file with the Department of Agriculture and Industries a~~  
24           ~~bond in an approximate amount equal to the average monthly~~  
25           ~~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,

1 and, in the event of the failure of any reseller within 10  
2 days after written notice to it by the commissioner to file  
3 such new or additional bond, the commissioner shall cancel the  
4 permit issued to such reseller.

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

18 "d. The commissioner may reduce the amount of any  
19 bond upon written application of any reseller if satisfied  
20 that a bond in a reduced amount will insure payment of all  
21 amounts due or to become due to the State of Alabama. The  
22 total amount of bond or bonds to be given by any reseller  
23 under this subdivision shall in no event be less than \$2,500  
24 nor more than \$5,000; provided, however, that the commissioner  
25 may require such additional bond as may be deemed necessary to

1     ~~insure the prompt payment of all inspection fees on the sale~~  
2     ~~or withdrawal of petroleum products due, or to become due, the~~  
3     ~~state by the reseller, but no demand for additional bond above~~  
4     ~~\$5,000 shall be made without first determining from a study of~~  
5     ~~the reseller's financial statement which shall be supplied~~  
6     ~~upon request of the commissioner that such additional bond is~~  
7     ~~necessary.~~

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

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

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

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

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

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

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

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

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

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

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

6           "d. A two-party exchange between licensed suppliers  
7 or between licensed suppliers and permissive suppliers.

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

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

14           "(10) COMMISSIONER. The Alabama Commissioner of  
15 Agriculture and Industries.

16           "(11) DEPARTMENT. The Alabama Department of  
17 Agriculture and Industries.

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

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

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

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

9           "(16) GASOLINE. Any product commonly or commercially  
10 known as gasoline, regardless of classification, that is  
11 advertised, offered for sale, or sold for use as or used as  
12 motor fuel in an internal combustion engine, including gasohol  
13 and blended fuel which contains gasoline. Gasoline also  
14 includes gasoline blendstocks as defined under Section 4081,  
15 Title 26 of the United States Code and the regulations  
16 promulgated thereunder. Gasoline does not include special fuel  
17 or aviation gasoline sold to a licensed aviation fuel  
18 purchaser for use in an aircraft motor.

19           "(17) IMPORT. To bring petroleum products into this  
20 state for sale, use, or storage by any means of conveyance  
21 other than in the fuel supply tank of a motor vehicle.  
22 Petroleum products delivered into this state from out-of-state  
23 by or for the seller constitutes an import by the seller.  
24 Petroleum products delivered into this state from out-of-state

1 by or for the purchaser constitutes an import by the  
2 purchaser.

3 "(18) IMPORTER. A person who imports petroleum  
4 products into this state.

5 "(19) K-1 KEROSENE. A petroleum product having an  
6 A.P.I. gravity of not less than 40 degrees, at a temperature  
7 of 60 degrees Fahrenheit and a minimum flash point of 100  
8 degrees Fahrenheit, and which meets American Society for  
9 Testing Materials Standard D-3699 as in effect on January 1,  
10 1999.

11 "(20) KEROSENE. All grades of kerosene, including,  
12 but not limited to, the two grades of kerosene, No. 1-K and  
13 No. 2-K, commonly known as K-1 kerosene and K-2 kerosene,  
14 respectively, described in the American Society for Testing  
15 Materials Standard D-3699, in effect on January 1, 1999, and  
16 kerosene-type jet fuel described in the American Society for  
17 Testing Materials Standard D-1655 and military specifications  
18 MIL-t-5624r and MIL-t-83133d (grades jp-5 and jp8) and any  
19 grade described as kerosene or kerosene-type jet fuel by the  
20 Internal Revenue Code and administrative guidance promulgated  
21 thereunder.

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

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

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

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

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

19           "(26) PETROLEUM PRODUCTS. Gasoline, diesel fuel, and  
20 lubricating oil.

21           "(27) RETAILER. A person other than a wholesale  
22 distributor that engages in the business of selling or  
23 distributing taxable motor fuel to the end user within this  
24 state.

1           "(28) REVENUE COMMISSIONER. The Commissioner of the  
2 Alabama Department of Revenue.

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

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

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

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

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

4           "(c) Any pronoun or pronouns used herein shall be  
5 deemed to include both singular and plural and to cover all  
6 genders.

7           "§8-17-84.

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

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

6           "~~(c) The Commissioner of Agriculture and Industries~~  
7 ~~shall~~ Revenue Commissioner may prescribe regulations  
8 respecting the keeping of the records required in this section  
9 and the forms thereof.

10           "§8-17-87.

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

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

23           "~~(2) Diesel~~ (b) An inspection fee is imposed on the  
24 ultimate consumer of undyed diesel fuel other than that  
25 referred to in subdivisions (a) (5), (a) (6), (a) (7), (a) (8),

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

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

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

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

20 ~~"(6) Kerosene or diesel fuel that is used by the~~  
21 ~~ultimate consumer thereof as motor fuel to operate boats,~~  
22 ~~yachts, ships, or other maritime vehicles, whether such boats,~~  
23 ~~yachts, ships, or other maritime vehicles are used~~  
24 ~~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~~

1 preceding month. Each remittance shall be accompanied by a  
2 certificate stating that the amount remitted is correct and  
3 that the petroleum products so sold, stored, or used are of  
4 standard not less than the minimum specified for that  
5 petroleum product in the standards prescribed by the board  
6 pursuant to Section 8-17-81.

7 "(c) If, at the time the inspection fee is due, the  
8 person liable therefor is unable to ascertain the correct  
9 amount of such inspection fee because the use to be made of  
10 any diesel fuel or kerosene with respect to which the  
11 inspection fee is then due has not been or cannot be  
12 ascertained at such time, then such person shall pay to the  
13 Commissioner of Agriculture and Industries as the inspection  
14 fee payable with respect to such diesel fuel and kerosene,  
15 \$.02 for each gallon of such diesel fuel and \$.01 for each  
16 gallon of such kerosene.

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

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

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

19 "(f) The inspection fee provided for in this section  
20 shall be paid but once with respect to the same product; but  
21 in the event any person fails to make payment as herein  
22 provided on or before the date such payment is due, the  
23 Commissioner of Agriculture and Industries shall add to the  
24 inspection fee already due an amount equal to 10 percent  
25 thereof as a penalty for the failure of such person to make

1 such report and payment upon the date provided in this section  
2 and shall proceed to collect such inspection fee, together  
3 with all costs incident to such collection, including the  
4 penalty.

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

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

1 supplier or permissive supplier shall collect and remit the  
2 inspection fee imposed by this article. If the importer brings  
3 dyed diesel fuel in from bulk storage outside the terminal  
4 system, the importer is responsible for collecting and  
5 remitting the inspection fee imposed by this article.

6 "(d) An inspection fee of one cent (\$.01) per gallon  
7 is imposed on the first sale within this state or upon  
8 importation into this state of dyed kerosene 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 kerosene destined for Alabama from  
17 a supplier or permissive supplier and the importer is not a  
18 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 kerosene 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.

1           "(e) Dyed diesel fuel and dyed kerosene that is used  
2 by the ultimate consumer thereof as motor fuel to operate  
3 boats, yachts, ships, or other maritime vehicles, whether such  
4 boats, yachts, ships, or other maritime vehicles are used  
5 commercially or for pleasure, shall be subject to the reduced  
6 inspection fee of one fortieth of \$.01 (\$.00025) per gallon.  
7 This reduced rate only applies to purchases by the ultimate  
8 consumer directly from a bonded distributor. The person first  
9 selling, the person importing, or the bonded distributor shall  
10 collect the fee imposed by this article.

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

1           "(g) Dyed diesel fuel or dyed kerosene that is of  
2 the types customarily used as, and that is intended to be used  
3 only as, fuel to propel railroad locomotives, shall be subject  
4 to the reduced inspection fee of one fortieth of \$.01  
5  (\$.00025) per gallon. This reduced rate only applies to  
6 purchases by the ultimate consumer directly from a bonded  
7 distributor. The person first selling, the person importing,  
8 or the bonded distributor shall collect the fee imposed by  
9 this article.

10           "(h) Dyed diesel fuel or dyed kerosene used by the  
11 ultimate consumer thereof as a solvent or other agent in the  
12 treatment or preservation of wood products, shall be subject  
13 to the reduced inspection fee of one fortieth of \$.01  
14  (\$.00025) per gallon. This reduced rate only applies to  
15 purchases by the ultimate consumer directly from a bonded  
16 distributor. The person first selling, the person importing,  
17 or the bonded distributor shall collect the fee imposed by  
18 this article.

19           "(i) An inspection fee is imposed on the ultimate  
20 consumer of undyed diesel fuel at the rate of one fortieth of  
21 \$.01 (\$.00025) per gallon, if the excise tax levied on undyed  
22 diesel fuel under Section 40-17-325(a)(2) is refunded by the  
23 Department of Revenue and the ultimate consumer specifically  
24 used the undyed diesel fuel:

1           "(1) To operate boats, yachts, ships, or other  
2 maritime vehicles, whether such boats, yachts, ships, or other  
3 maritime vehicles are used commercially or for pleasure;

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

12           "(3) To propel railroad locomotives; or

13           "(4) As solvent or other agent in the treatment or  
14 preservation of wood products.

15           "The Department of Revenue is authorized to reduce  
16 the excise tax refund by the amount due for the inspection  
17 fee.

18           "(j) An inspection fee of fifteen cents (\$.15) per  
19 gallon is imposed on the person first selling lubricating oil  
20 in this state or importing lubricating oil into this state,  
21 regardless of whether the excise taxes levied on lube oil  
22 under Sections 40-17-171 and 40-17-220 are paid, unless the  
23 purchaser or importer is a bonded distributor, in which case  
24 the inspection fee is imposed at the point the bonded  
25 distributor makes a sale to a purchaser who is not a bonded

1 distributor. The person first selling, the person importing,  
2 or bonded distributor shall collect the fee imposed by this  
3 article.

4 "(k) An inspection fee of two cents (\$.02) per  
5 gallon is imposed on removal within this state of gasoline and  
6 undyed diesel fuel from the terminal using the terminal rack,  
7 other than by bulk transfer, if the supplier sells the  
8 gasoline or undyed diesel fuel to a licensed entity which is  
9 exempt from the excise tax levied on gasoline or diesel fuel  
10 under Section 40-17-325(a); unless the purchaser is the  
11 federal government. The supplier shall collect the inspection  
12 fee imposed by this article from the purchaser at the time of  
13 sale of the gasoline or undyed diesel fuel.

14 "(l) An inspection fee of two cents (\$.02) per  
15 gallon is imposed at the time gasoline and undyed diesel fuel  
16 is imported into this state, other than by bulk transfer, for  
17 delivery to a destination in this state, if the supplier sells  
18 the gasoline or undyed diesel fuel to a licensed entity which  
19 is exempt from the excise tax levied on gasoline or diesel  
20 fuel under Section 40-17-325(a); unless the purchaser is the  
21 federal government. The supplier or permissive supplier shall  
22 collect the inspection fee imposed by this article from the  
23 person who imports the gasoline or undyed diesel fuel into  
24 this state.

1           "(m) In each subsequent sale of petroleum products  
2 on which the inspection fee has been paid, the amount of the  
3 inspection fee shall be added to the selling price so that the  
4 inspection fee is paid ultimately by the person using or  
5 consuming the petroleum product.

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

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

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

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

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

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

15 ~~"§8-17-91.~~

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

1           "(1) An amount equal to five percent or no less than  
2 \$175,000, whichever is greater, of the combined proceeds  
3 received each month shall accrue to the credit of, and be  
4 deposited in, the Agricultural Fund; and

5           "(2) The balance of the proceeds shall be  
6 distributed as follows:

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

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

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

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

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

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~~

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

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

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

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

1 federal census heretofore held in any county subsequent to the  
2 effective date of the 1980 federal decennial census.

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

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

23 "5. Use of the inspection fee by a municipality  
24 shall be for transportation planning, the construction,  
25 reconstruction, maintenance, widening, alteration, and

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

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

19 "e. In addition to any and all other funds  
20 heretofore or hereafter appropriated, for the fiscal year  
21 beginning October 1, 2015, there is appropriated to the  
22 Department of Revenue as a first charge against the fees  
23 collected pursuant to this article, the sum of five hundred  
24 thousand dollars (\$500,000) to offset the Revenue Department's  
25 costs to implement and administer this article. Beginning

1 October 1, 2016, and every year thereafter an amount equal to  
2 two and one-half percent of the balance of the proceeds  
3 received each month after deducting the distributions in  
4 paragraphs a., b., c., and d. or no less than eighty-seven  
5 thousand five hundred dollars (\$87,500), whichever is greater,  
6 is appropriated and shall accrue to the credit of, and be  
7 deposited to, the Department of Revenue to offset its costs of  
8 collection.

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

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

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

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

19 "For any period prior to October 1, 2016, the  
20 application for refund of the inspection fee provided for in  
21 this article shall be filed with the Revenue Commissioner  
22 within 12 calendar months from the date upon which the  
23 overpayment was made, and no amount shall be refunded unless  
24 the application therefor is filed within the time prescribed  
25 herein. For the period beginning October 1, 2016, the

1 application for refund of the inspection fee provided for in  
2 this article must be filed with the Revenue Commissioner  
3 within the time limits provided by the Taxpayer Bill of Rights  
4 in Chapter 2A of Title 40. No amount shall be approved for  
5 refund by the Revenue Commissioner unless the application  
6 therefor is filed within the time prescribed therein.

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

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

23           "§8-17-92.

24           "(a) In addition to penalty and other enforcement  
25 provisions of this division and notwithstanding the existence

1 of another adequate remedy, the circuit court shall have  
2 jurisdiction for cause shown to grant a temporary restraining  
3 order or permanent injunction, or both, restraining and  
4 enjoining any person from violation or continuing to violate  
5 any requirements of this division declared to be unlawful.

6 "(b) Any such person may also be restrained or  
7 enjoined from selling, offering for sale, storing, or using  
8 any petroleum product without having a permit as required by  
9 ~~this division~~ Section 8-17-96, from selling, distributing,  
10 offering for sale, storing, or using in this state any  
11 petroleum product upon which the inspection fee imposed by  
12 ~~this division~~ Section 8-17-87 is not paid or from otherwise  
13 violating any of the provisions and requirements of ~~this~~  
14 ~~division~~ Title 8, Chapter 17.

15 "(c) Such injunction or restraining order shall be  
16 issued without bond.

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

20 "§8-17-93.

21 "(a) Any person who sells, offers for sale, stores,  
22 or uses any petroleum product in the state which is below the  
23 legal standard, who makes a false statement or certificate as  
24 to the quantity or standard of such petroleum product, sells,  
25 offers for sale, stores, or uses any petroleum product without

1 having procured a permit as required by ~~this division~~ Section  
2 8-17-85, fails to make any report to the Revenue Commissioner  
3 ~~of Agriculture and Industries~~ as required by this ~~division~~  
4 article, makes a false certificate of the number of gallons of  
5 such petroleum product sold, stored, or used during the  
6 preceding month or who otherwise violates or fails to comply  
7 with the provisions of this ~~division~~ article shall be guilty  
8 of a misdemeanor.

9 "(b) The Commissioner of Agriculture and Industries  
10 may revoke the permit, referenced in Section 8-17-85, of any  
11 person found upon investigation to have sold, offered for  
12 sale, stored, or used any petroleum product below the minimum  
13 standards adopted by the Board of Agriculture and Industries  
14 pursuant to the provisions of this ~~division~~ article or ~~who~~  
15 when the Revenue Commissioner has notified the Commissioner of  
16 Agriculture and Industries that the taxpayer has failed or  
17 refused, after 10 days' notice by registered, or certified,  
18 mail of such delinquency, subject to the appeal provisions of  
19 Chapter 2A of Title 40, to file the delinquent tax return or  
20 to pay the inspection fee required by this ~~division~~ article.

21 "(c) The holder of any permit, referenced in Section  
22 8-17-85, that may be revoked pursuant to the provisions of  
23 this section shall have the right, upon request of such  
24 holder, to a hearing before the Commissioner of Agriculture  
25 and Industries, at which such holder may appear personally or

1 by legal representative, and he may appeal from the decision  
2 of the commissioner by filing in the Circuit Court of  
3 Montgomery County a petition for an injunction against the  
4 commissioner. In the event such an injunction is sought,  
5 sufficient bond shall be filed with the court and conditioned  
6 as the law now provides relative to injunction bonds. The  
7 findings of the commissioner shall be presumed to be correct."

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

10 Section 3. Sections 8-17-95, 8-17-96, 8-17-97,  
11 8-17-98, 8-17-99, 8-17-100, 8-17-101, and 8-17-102 are added  
12 to Chapter 17, Article 5, Title 8 of the Code of Alabama 1975,  
13 to read as follows:

14 §8-17-95.

15 (a) There is hereby imposed a floor-stocks  
16 inspection fee on gasoline held in inventory outside of the  
17 bulk transfer/terminal system, as defined in Section  
18 40-17-322, but not at the retail level, on October 1, 2016,  
19 if:

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

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

1           (b) The rate of the inspection fee imposed by this  
2 section shall be the amount of the fee imposed under Section  
3 8-17-87, on September 30, 2016.

4           (c) Any person owning gasoline on October 1, 2016,  
5 to which the inspection fee imposed by this section applies,  
6 shall be liable for the inspection fee. The inspection fee  
7 imposed by this section shall be paid on or before December  
8 31, 2016, and shall be paid in the manner prescribed by the  
9 Department of Revenue.

10           §8-17-96.

11           (a) The supplier or permissive supplier of gasoline  
12 or undyed diesel fuel sold to a licensed exempt entity other  
13 than the federal government at the rack, or the supplier or  
14 permissive supplier selling dyed diesel fuel or dyed kerosene  
15 at the rack at an out-of-state terminal to an importer for  
16 delivery into Alabama that is not a bonded distributor and  
17 does not have a valid inspection fee permit issued by the  
18 Alabama Department of Revenue, or the person first selling,  
19 the person importing, or the person who makes application to  
20 become a bonded distributor of dyed diesel fuel, dyed  
21 kerosene, or lubricating oil in this state shall submit an  
22 application for an inspection fee permit to the Department of  
23 Revenue, which shall be approved by the Department of Revenue.  
24 Upon approval of the inspection fee application, the supplier  
25 or permissive supplier of gasoline or undyed diesel fuel sold

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

1 person selling, the person importing, or the bonded  
2 distributor of dyed diesel fuel, dyed kerosene, or lubricating  
3 oil to the Department of Revenue of all inspection fees which  
4 are imposed by Section 8-17-87 with respect to gasoline,  
5 undyed diesel fuel, dyed diesel fuel, dyed kerosene, or  
6 lubricating oil, together with all penalties and interest  
7 thereon, and generally upon faithful compliance with the  
8 provisions of this division. Upon approval of the required  
9 bond, the Revenue Department shall issue to the applicant an  
10 inspection fee permit. This permit is not transferable and  
11 remains in effect until surrendered or canceled.

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

20 (c) The Department of Revenue shall notify a permit  
21 holder at his or her last known address by first class U.S.  
22 mail or, at the option of the Department of Revenue, certified  
23 mail, return receipt requested, that it is requiring such new  
24 or additional bond for any reason as provided above, and the  
25 permit holder, within 30 days from the date such notice is

1 mailed by the Department of Revenue, shall (1) file the new or  
2 additional bond as requested by the Department of Revenue, or  
3 (2) file a notice of appeal as allowed in Section 40-2A-8. The  
4 Department of Revenue may immediately cancel the permit upon  
5 the expiration of the 30-day appeal period set out in Section  
6 40-2A-8 if the permit holder fails to either provide the new  
7 or additional bond requested by the Department of Revenue or  
8 timely appeal under Section 40-2A-8.

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

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

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

14 §8-17-97.

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

24 (b) It shall be the duty of the supplier or  
25 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

1 inspection fee already due interest as prescribed in Section  
2 40-1-44 and any applicable penalties as prescribed in Chapter  
3 2A of Title 40. The Revenue Commissioner shall then proceed to  
4 collect the inspection fee, together with the interest and  
5 penalties, in accordance with the provisions of Title 40.

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

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

20 §8-17-98.

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

1 Department of Revenue is authorized to reduce the excise tax  
2 refund by the amount of the inspection fee that is due.

3 (1) Undyed diesel fuel used by the ultimate consumer  
4 to operate boats, yachts, ships, or other maritime vehicles,  
5 whether such boats, yachts, ships, or other maritime vehicles  
6 are used commercially or for pleasure.

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

15 (3) Undyed diesel fuel used to propel railroad  
16 locomotives.

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

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

1 inspection fee on undyed diesel fuel used in firing steam  
2 boilers or combustion generating turbines by compression.

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

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

13 §8-17-99.

14 (a) The person first selling, the person importing,  
15 or the bonded distributor of dyed diesel fuel or dyed kerosene  
16 may take a deduction on the monthly return for sales of dyed  
17 diesel fuel or dyed kerosene to the following:

18 (1) United States Government.

19 (2) Exports by the bonded distributor.

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

22 (4) Sales to the ultimate consumer for use in firing  
23 steam boilers or combustion generating turbines by  
24 compression.

1           (b) The person first selling, the person importing,  
2 or the bonded distributor of lubricating oil may take a  
3 deduction on the monthly return for sales of lubricating oil  
4 to the following:

5           (1) United States Government.

6           (2) Exports by the bonded distributor.

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

9           §8-17-100.

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

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

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

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

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

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

4           §8-17-101.

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

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

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

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

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

23           (5) Failure to file a new or additional surety bond  
24 upon request of the Department of Revenue pursuant to Section  
25 40-17-96.

1           (6) Conviction of the permit holder or a principal  
2 of the permit holder for any act prohibited under this  
3 article.

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

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

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

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

17           (c) The permit can be canceled upon the written  
18 request of the permit holder.

19           §8-17-102.

20           Every return required to be filed under this article  
21 shall be on forms and by means prescribed by the Revenue  
22 Commissioner and furnished by the Department of Revenue and  
23 shall contain any information the Department of Revenue  
24 considers necessary for the enforcement of this article.

1           Section 4. Sections 40-17-325, 40-17-329, 40-17-340,  
2           40-17-359, and 40-17-362, Code of Alabama 1975, are amended to  
3           read as follows:

4           "§40-17-325.

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

8           "(1) ~~Sixteen~~ Eighteen cents (\$.18) per gallon on  
9           gasoline, which is comprised of a seven cents (\$.07) excise  
10          tax, a supplemental five cents (\$.05) excise tax, and an  
11          additional ~~\$.04~~ six cent (\$.06) excise tax.

12          "(2) Nineteen cents (\$.19) per gallon on diesel  
13          fuel, comprised of a thirteen cents (\$.13) excise tax and an  
14          additional six cents (\$.06) excise tax.

15          "(3) Nine and one-half cents per gallon (\$.095) on  
16          aviation gasoline and three and one-half cents per gallon  
17          (\$.035) on aviation jet fuel when the aviation fuel is sold to  
18          a licensed aviation fuel purchaser. Aviation gasoline is to be  
19          taxed as gasoline and aviation jet fuel is to be taxed as  
20          diesel fuel when not sold to a licensed aviation fuel  
21          purchaser.

22          "(b) The motor fuel subject to the excise tax levied  
23          by this section shall not be subject to any other excise tax  
24          levied by this state.

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

4           "§40-17-329.

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

9           "(1) All motor fuel exported from this state for  
10 which proof of export is available in the form of a terminal  
11 issued destination state shipping document that is a. exported  
12 by a supplier who is licensed in the destination state or b.  
13 is sold by a supplier to a licensed exporter for immediate  
14 export to a state for which the applicable destination state  
15 motor fuel excise tax has been collected by the supplier who  
16 is licensed to remit the tax to the destination state. If the  
17 motor fuel is exempt from the excise tax due to the product  
18 being exported from this state, then the motor fuel exported  
19 from this state shall also be exempt from the inspection fee  
20 imposed under Section 8-17-87. This exemption shall not apply  
21 to any motor fuel which is transported and delivered outside  
22 this state in the motor fuel supply tank of a highway vehicle.

23           "(2) All K-1 Kerosene or aviation jet fuel that is  
24 produced at a refinery in this state and is either exported  
25 from this state directly by the operator of that refinery or

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

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

11 "(4) Gasoline blendstocks or cellulosic biofuel, as  
12 defined in Section 40-17-322, when sold to a. a licensed  
13 supplier or b. a person who will not be using the blendstocks  
14 or cellulosic biofuel in the manufacture of gasoline or as a  
15 motor fuel, as evidenced by the exemption certificate  
16 prescribed under regulations promulgated under Section 4081,  
17 Title 26 of the United States Code. If the gasoline  
18 blendstocks or cellulosic biofuel is exempt from the excise  
19 tax due to the product being sold to a licensed supplier or to  
20 a person who will not be using the blendstocks or cellulosic  
21 biofuel in the manufacture of gasoline or as a motor fuel,  
22 then the gasoline blendstocks or cellulosic biofuel shall also  
23 be exempt from the inspection fee imposed under Section  
24 8-17-87.

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

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

1 motor fuel is exempt from the excise tax due to the product  
2 being exported from this state, then the motor fuel exported  
3 from this state shall also be exempt from the inspection fee  
4 imposed under Section 8-17-87.

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

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

19 "(2) ALL-CARGO OPERATIONS. Any flight conducted by  
20 an air carrier for compensation or hire other than a passenger  
21 carrying flight, except passengers as specified in Section  
22 121.583 (a) or 135.85 of the Federal Aviation Regulations, as  
23 amended.

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

4           "(4) INTERNATIONAL FLIGHTS. Any air carrier  
5 conducting scheduled all-cargo operations between any point  
6 within the 50 states of the United States and the District of  
7 Columbia and any point outside the 50 states of the United  
8 States and the District of Columbia, including any interim  
9 stops within the United States so long as the ultimate origin  
10 or destination of the aircraft is outside the United States  
11 and the District of Columbia.

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

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

23           "(2) Any county governing body of this state. If the  
24 motor fuel is exempt from the excise tax due to the product  
25 being sold to a licensed exempt entity, which is a county

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

6 "(3) Any incorporated municipal governing body of  
7 this state. If the motor fuel is exempt from the excise tax  
8 due to the product being sold to a licensed exempt entity,  
9 which is an incorporated municipal governing body, then the  
10 motor fuel sold to the licensed exempt entity shall be subject  
11 to the inspection fee imposed under Section 8-17-87. The  
12 department is authorized to reduce the excise tax refund by  
13 the amount of the inspection fee that is due.

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

22 "(5) The Alabama Institute for Deaf and Blind, the  
23 Department of Youth Services school district, and private and  
24 church school systems as defined in Section 16-28-1, and which  
25 offer essentially the same curriculum as offered in grades

1 K-12 in the public schools of this state. If the motor fuel is  
2 exempt from the excise tax due to the product being sold to a  
3 licensed exempt entity, as listed herein, then the motor fuel  
4 sold to the licensed exempt entity shall be subject to the  
5 inspection fee imposed under Section 8-17-87. The department  
6 is authorized to reduce the excise tax refund by the amount of  
7 the inspection fee that is due.

8 "(f) If the sale of taxable motor fuel to exempt  
9 entities listed in subsection (e) occurs at a fixed retail  
10 pump available to the general public and is charged to a  
11 credit card issued to the exempt entity, the issuer of the  
12 card, having billed the exempt entity without the tax, may  
13 apply on a quarterly basis for a refund of the motor fuel  
14 excise taxes by submitting the application and supporting  
15 documentation as prescribed by the department. If the motor  
16 fuel is exempt from the excise tax due to the product being  
17 sold to the United States government or any agency thereof,  
18 which is a licensed exempt entity in this state, then the  
19 motor fuel sold to the United States government or any agency  
20 thereof shall also be exempt from the inspection fee imposed  
21 under Section 8-17-87. If the motor fuel is exempt from the  
22 excise tax due to the product being sold to any of the  
23 entities listed in subdivisions (2) through (5) of subsection  
24 (e), which is a licensed exempt entity in this state, then the  
25 motor fuel sold to the entities listed in subdivisions (2)

1 through (5) of subsection (e) shall be subject to the  
2 inspection fee imposed under Section 8-17-87. The department  
3 is authorized to reduce the excise tax refund by the amount of  
4 the inspection fee that is due.

5 "(g) Having first paid the tax, a licensed air  
6 carrier with a hub operation within this state shall have the  
7 right to apply to the department for a refund on a quarterly  
8 basis for any purchases of jet fuel used to propel aircraft.  
9 For the purposes of this subsection, the words "hub operation  
10 within this state" shall be construed to have all of the  
11 following criteria:

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

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

19 "(h) End users who first pay the tax levied by  
20 subdivision (2) of subsection (a) of Section 40-17-325 on all  
21 gallons of diesel fuel used in designated off-road vehicles,  
22 other off-road equipment, or for other off-road use may apply  
23 to the department for a refund on a quarterly basis. The end  
24 users who apply for a refund under this subsection shall be  
25 subject to the inspection fee levied under Section 8-17-87

1 unless the end user is taxed at a reduced rate or exempt from  
2 the inspection fee under Section 8-17-98. The department is  
3 authorized to reduce the excise tax refund by the amount of  
4 the inspection fee that is due.

5 "(i) End users who first pay the tax levied by  
6 subdivision (1) of subsection (a) of Section 40-17-325 on  
7 gallons of gasoline blendstocks not used in the manufacture of  
8 gasoline or as a motor fuel may apply to the department for a  
9 refund on a quarterly basis. The end user shall be exempt from  
10 the inspection fee on blendstocks not used in the manufacture  
11 of gasoline or as a motor fuel.

12 "(j) Tax paid on motor fuel that (1) is lost or  
13 destroyed as a direct result of a sudden and unexpected  
14 casualty, or (2) becomes unsalable or unusable as highway fuel  
15 due to such things as the contamination by dye or mixture of  
16 gasoline and diesel shall be refundable. If a refund is issued  
17 for the excise tax due to a casualty or contamination, the  
18 inspection fee levied under Section 8-17-87 shall not be due.

19 "(k) Tax paid on transmix not used as a motor fuel  
20 or that is delivered to a refinery for further processing  
21 shall be refundable, with the person so using the transmix  
22 being eligible to file for the refund on a quarterly basis or  
23 if a licensed supplier, a credit may be taken on its monthly  
24 supplier return. If a refund or credit is issued for the

1 excise tax on transmix, the inspection fee levied under  
2 Section 8-17-87 shall not be due.

3 "(1) Tax paid on motor fuel within the bulk transfer  
4 system may be refunded upon sufficient proof that (1) a second  
5 tax had been paid pursuant to Section 40-17-325 or (2) the  
6 fuel was exported to another state or country. The party  
7 paying the second tax or exporting the fuel may file for a  
8 refund on a monthly basis. If a refund is issued for the  
9 excise tax due to payment of a second tax or exported in the  
10 bulk transfer system, the inspection fee levied under Section  
11 8-17-87 shall not be due.

12 "§40-17-340.

13 "(a) Each supplier, importer, blender, permissive  
14 supplier, and exporter shall file the monthly return required  
15 herein, in a format prescribed by the commissioner, on or  
16 before the 22nd day of each calendar month for the preceding  
17 month.

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

24 "(c) Importers importing motor fuel from a bulk  
25 plant or some other non-terminal storage location shall pay

1 the tax levied by this article to the department on or before  
2 the ~~3rd business day following the day of importation~~ 22nd day  
3 of each calendar month for the preceding month, and the  
4 payment shall be accompanied by any required returns. The  
5 department may require all or certain taxpayers to file tax  
6 returns and payments electronically.

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

13 "(e) A supplier or permissive supplier who timely  
14 files a return with the payment due may deduct from the amount  
15 of tax payable with the return an administrative discount of  
16 one half of one percent (.005) of the amount of tax payable to  
17 the state.

18 "§40-17-359.

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

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

23 "(2) COST OF COLLECTION. The amounts from the  
24 proceeds of the highway gasoline tax that may be appropriated

1 by the Legislature to the department for its operating  
2 expenses.

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

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

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

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

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

12 "b. The excise tax levied by Sections 40-17-140 to  
13 40-17-155, inclusive, except that portion of the tax imposed  
14 on diesel fuel.

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

18 "(8) MUNICIPALITY. An incorporated city or town in  
19 the state.

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

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

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

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

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

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

1 the expense of administration and enforcement of this article  
2 from the additional six cents (\$.06) tax levied on gasoline  
3 under Section 40-17-325(a) (1), less the cost of collection and  
4 less any refunds of the highway gasoline tax applicable to the  
5 supplemental gasoline excise tax imposed in subdivision (1) of  
6 subsection (a) of Section 40-17-325.

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

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

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

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

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

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

1 defined in subdivision (1) shall be allocated to the State  
2 Water Safety Fund, Seafood Fund, and Game and Fish Fund.

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

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

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

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

1 the order in which the two twenty-firsts of the net tax  
2 proceeds were pledged for the bonds.

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

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

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

1 the Alabama Highway Authority under the provisions of Act No.  
2 225, should be insufficient to pay the principal and interest  
3 at their respective maturities.

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

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

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

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

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

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

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

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

18           "(3) The entire residue of the local subdivisions'  
19 shares of the net tax proceeds, being an amount equal to 30  
20 percent of the net tax proceeds less any amount paid pursuant  
21 to the contingent appropriation in subdivision (2), shall be  
22 allocated among the 67 counties of the state on the basis of  
23 the ratio of the population of each county to the total  
24 population of the state according to the then next preceding  
25 federal decennial census, or any special federal census

1 heretofore held in any county subsequent to the effective date  
2 of the 1960 Federal Decennial Census. The allocation provided  
3 for in this subdivision shall be made on or prior to the tenth  
4 day of each month with respect to receipts of the highway  
5 gasoline tax by the state during the preceding month.

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

9 "a. Ten percent of the amount so allocated or  
10 apportioned to each county shall be distributed among the  
11 municipalities in the county with respect to which the  
12 allocation or apportionment is made; each distribution among  
13 the municipalities shall be made on the basis of the ratio of  
14 the population of each municipality to the total population of  
15 all municipalities in the applicable county according to the  
16 then next preceding federal decennial census.

17 "b. The remaining portion of the amount so allocated  
18 or apportioned to each county shall be distributed to the  
19 county with respect to which the allocation or apportionment  
20 is made. The distributions provided for in this subsection  
21 shall be made monthly.

22 "(2) The population of any municipality incorporated  
23 subsequent to the taking of the then next preceding federal  
24 decennial census shall be deemed to be the population shown by  
25 the census for that municipality taken pursuant to the

1 requirements of Section 11-41-4. Any municipality incorporated  
2 after September 30, 1967, shall not participate in the  
3 distribution provided for in this section until the fiscal  
4 year next succeeding the fiscal year during which it is  
5 incorporated, the first distribution to the municipality to be  
6 made from the receipts of the highway gasoline tax by the  
7 state during October of the fiscal year next succeeding its  
8 incorporation.

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

18           "(f) Three-fifths of the supplemental net tax  
19 proceeds on gasoline, as defined in subsection (a), shall be  
20 deposited in the State Treasury to the credit of the Public  
21 Road and Bridge Fund of the Department of Transportation and  
22 shall be used exclusively in the construction, repair,  
23 maintenance, and operation of public roads and bridges in this  
24 state, including public roads in state parks and any toll road  
25 or toll bridge constructed by the state Department of

1 Transportation or maintained and operated by it or under its  
2 supervision. It is further provided that of the receipts  
3 collected under this section dedicated to the Public Road and  
4 Bridge Fund, the sum of one million dollars (\$1,000,000) shall  
5 be set aside in the fiscal year ending September 30, 1992, and  
6 the sum of at least five hundred thousand dollars (\$500,000)  
7 for the fiscal year ending September 30, 1993, and in each  
8 fiscal year thereafter, to coordinate with the Department of  
9 Conservation and Natural Resources on the construction,  
10 maintenance, and repair of public roads in the state's park  
11 system. The remaining two-fifths of the supplemental net tax  
12 proceeds shall be distributed, as provided for distribution of  
13 the net tax proceeds, according to subsections (c), (d), and  
14 (e). Any local laws or general laws of local application now  
15 in effect regarding the distribution of the tax levied by  
16 Section 40-17-325 shall govern the distribution of the amounts  
17 allocated or apportioned within every county by this section.  
18 The Legislature may by general or local laws prescribe other  
19 distributions within counties to local governments. The two  
20 fifths of the supplemental net tax proceeds shall be used for  
21 the same purposes and deposited in the same state, county, and  
22 municipal funds as provided by Section 40-17-362. Where the  
23 use is by a county, the funds may be used to match federal aid  
24 on any projects that meet the requirements for federal funding  
25 and the funds may also be used for new construction without

1 regard to the provision that 90 percent of the county's paved  
2 road system has achieved a grade of 85 percent based on the  
3 State of Alabama Department of Transportation's annual  
4 maintenance report of county roads and bridges.

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

15 "The county governing body may determine the  
16 proportions set out in this section.

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

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

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

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

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

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

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

23           "(l) The county commission of each of the counties  
24 may use or expend the state gasoline tax proceeds referred to  
25 in subsection (k) for the construction, reconstruction,

1 maintenance, and repair of public highways and traffic control  
 2 areas located on public school property or state school  
 3 property within the county.

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

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

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

24 "(p) The remaining two-thirds revenues received or  
 25 collected by the department from the additional six cents

1  (\$.06) tax levied on gasoline under subdivision (1) of  
2  subsection (a) of Section 40-17-325, after the payment of  
3  refunds and the expense of administration and enforcement of  
4  this article shall be paid into the State Treasury and  
5  distributed by the State Treasurer as follows:

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

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

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

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

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

20            "1. Ten percent of the amount so allocated or  
21 apportioned to each county shall be distributed among the  
22 municipalities in the county with respect to which the  
23 allocation or apportionment is made, each distribution among  
24 the municipalities shall be made on the basis of the ratio of  
25 the population of each municipality to the total population of

1 all municipalities in the applicable county according to the  
2 then next preceding federal decennial census. Provided, that  
3 any local laws or general laws of local application now in  
4 effect regarding the distribution of the tax levied by Section  
5 40-17-325 shall govern the distribution of the amounts  
6 allocated or apportioned within every county by this section;  
7 provided further, that the Legislature may by general or local  
8 laws prescribe other distributions within counties to local  
9 governments.

10 "2. The remaining portion of the amount so allocated  
11 or apportioned to each county shall be distributed to the  
12 county with respect to which such allocation or apportionment  
13 is made.

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

1            "e. When requested to do so by any municipality, the  
2 Department of Transportation may at its discretion make  
3 available the services and advice of its engineers and other  
4 employees with respect to any work for which that municipality  
5 proposes to expend moneys distributed to it under this  
6 subdivision. Any services and advice that may be so made  
7 available shall be provided under the terms and conditions as  
8 may be mutually agreeable to the Department of Transportation  
9 and the municipality.

10            "~~(p)~~ (q) The State Treasurer shall make all  
11 allocations of the revenue collections and shall make the  
12 distribution and payments thereof pursuant to such allocations  
13 provided for in this article.

14            "§40-17-362.

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

17            "(1) BRIDGE REPLACEMENT. Bridge replacement includes  
18 the replacement of existing bridge structures and, if  
19 necessary, the realignment of the adjacent approaches.

20            "(2) RESURFACING, RESTORATION, AND REHABILITATION.  
21 Work undertaken primarily to preserve an existing facility.  
22 Restoration and rehabilitation is work required to return the  
23 existing pavement or bridge deck, including shoulders, to a  
24 condition of adequate structural support or to a condition  
25 adequate for placement of an additional state of construction.

1 Resurfacing consists of the placement of additional surface  
2 material over the existing, restored, or rehabilitated roadway  
3 or bridge deck to improve serviceability or to provide  
4 additional strength. Resurfacing, restoration, and  
5 rehabilitation work may include changes to geometric features,  
6 such as minor widening, flattening curves, or improving sight  
7 distances.

8 "(3) VEGETATION MANAGEMENT. Action taken to maintain  
9 the right-of-way of a paved road in a condition that is  
10 beneficial to public safety and the longevity of the road  
11 infrastructure including, but not limited to, restoration and  
12 maintenance and cleaning of the full width of the right-of-way  
13 through the use of herbicides, heavy equipment, and other  
14 means.

15 "(b) It is the intent of the Legislature that the  
16 proceeds of the ~~tax collected on~~ remaining two-thirds revenues  
17 received or collected by the department from the additional  
18 six cents (\$.06) ~~diesel fuel~~ gasoline excise tax levied under  
19 Section 40-17-325(a)(1) and the revenues received or collected  
20 by the department from the additional ~~four~~ six cents  ~~(\$.04)~~  
21  (\$.06) gasoline diesel fuel excise tax under ~~the provisions of~~  
22 ~~this article~~ Section 40-17-325(a)(2) shall be used in the  
23 following manner:

24 "(1) Where the use is by the Department of  
25 Transportation, the use shall, with the approval of the

1 Governor, be for the construction and maintenance of public  
2 roads and bridges on the state highway system.

3 "(2) Where the use is by a county, the use shall be  
4 for vegetation management or resurfacing, restoration, and  
5 rehabilitation of the paved county roads and bridges or bridge  
6 replacement on the county road system. These funds shall not  
7 be used for new construction unless 90 percent of the county's  
8 paved road system has achieved a grade of 85 percent based on  
9 the State of Alabama Department of Transportation's annual  
10 maintenance report of county roads and bridges. These funds  
11 shall not be used for the purchase of equipment or herbicides.  
12 The net tax proceeds distributed to the county shall not be  
13 commingled with other funds of the county, including any other  
14 gasoline tax revenues, and shall be kept and disbursed by the  
15 county from a special fund only for the purposes hereinabove  
16 provided.

17 "(3) Where the use is by a municipality, the use  
18 shall be for resurfacing, restoration, and rehabilitation of  
19 roads, bridges, and streets within the municipality. The use  
20 may also be for bridge replacement within the municipality.  
21 From time to time, the funds may also be used to construct new  
22 roads and streets within the municipality. These funds shall  
23 not be commingled with other funds of the municipality,  
24 including any other gasoline tax revenues, and shall be kept

1 and disbursed by the municipality from a special fund only for  
2 the purposes hereinabove provided."

3 Section 5. All laws or parts of laws which conflict  
4 with this act are repealed.

5 Section 6. In Section 4, Section 40-17-340, Code of  
6 Alabama 1975, shall become effective on the first day of the  
7 second month following its passage and approval by the  
8 Governor, or its otherwise becoming law. In Section 1, in the  
9 amended Section 8-17-91(a)(2)e., the new paragraph e. shall  
10 become effective October 1, 2015, following its passage and  
11 approval by the Governor, or its otherwise becoming law. All  
12 other parts of this act shall become effective on October 1,  
13 2016, following its passage and approval by the Governor, or  
14 its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB133

Senate 17-MAR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 14-APR-15

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By: Senator Whatley