

AN ACT

RELATING TO TAXATION; PROVIDING FOR A DEDUCTION FROM THE SPECIAL FUEL EXCISE TAX FOR NUMBER 2 DIESEL FUEL SOLD FOR THE GENERATION OF POWER TO PROPEL A SCHOOL BUS; PROVIDING FOR A REFUND OF SPECIAL FUEL EXCISE TAX PAID ON SPECIAL FUEL USED TO PROPEL A SCHOOL BUS.

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

Section 1. Section 7-16A-10 NMSA 1978 (being Laws 1992, Chapter 51, Section 10, as amended) is amended to read:

"7-16A-10. DEDUCTIONS--SPECIAL FUEL EXCISE TAX--SPECIAL FUEL SUPPLIERS.--In computing the tax due, the following amounts of special fuel may be deducted from the total amount of special fuel received in New Mexico during the tax period, provided that satisfactory proof thereof is furnished to the department:

A. special fuel received in New Mexico, but exported from this state by a rack operator, special fuel supplier or dealer, other than in the fuel supply tank of a motor vehicle or sold for export by a rack operator or distributor; provided that, in either case:

(1) the person exporting the special fuel is registered in or licensed by the destination state to pay that state's special fuel or equivalent fuel tax;

(2) proof is submitted that the destination

state's special fuel or equivalent fuel tax has been paid or is not due with respect to the special fuel; or

(3) the destination state's special fuel or equivalent fuel tax is paid to New Mexico in accordance with the terms of an agreement entered into pursuant to Section 9-11-12 NMSA 1978 with the destination state;

B. special fuel sold to the United States or any agency or instrumentality thereof for the exclusive use of the United States or any agency or instrumentality thereof. Special fuel sold to the United States includes special fuel delivered into the supply tank of a government-licensed vehicle;

C. special fuel sold to the state of New Mexico or any political subdivision, agency or instrumentality thereof for the exclusive use of the state of New Mexico or any political subdivision, agency or instrumentality thereof. Special fuel sold to the state of New Mexico includes special fuel delivered into the supply tank of a government-licensed vehicle;

D. special fuel sold to an Indian nation, tribe or pueblo or any agency or instrumentality thereof for the exclusive use of the Indian nation, tribe or pueblo or any agency or instrumentality thereof. Special fuel sold to an Indian nation, tribe or pueblo includes special fuel delivered into the supply tank of a government-licensed vehicle;

E. special fuel sold to the holder of a special bulk storage user permit and delivered into special bulk storage pursuant to the provisions of Section 7-16A-8 NMSA 1978;

F. special fuel dyed in accordance with federal regulations; and

G. special fuel that is number 2 diesel fuel sold for the generation of power to propel a vehicle authorized by contract with the public education department as a school bus; provided that the fuel has a distillation temperature of five hundred degrees Fahrenheit at a ten percent recovery point and six hundred forty degrees Fahrenheit at a ninety percent recovery point."

Section 2. Section 7-16A-13.1 NMSA 1978 (being Laws 2001, Chapter 43, Section 2) is amended to read:

"7-16A-13.1. CLAIM FOR REFUND OF SPECIAL FUEL EXCISE TAX PAID ON SPECIAL FUEL.--

A. Upon the submission of proof satisfactory to the department, a user of special fuel, other than a holder of a bulk storage user permit, may submit and the department may allow a claim for refund of tax paid on special fuel used to propel a vehicle authorized by contract with the public education department as a school bus, to propel a vehicle off-road, to operate auxiliary equipment by a power take-off from the main engine or transmission of a vehicle or to operate a

non-automotive apparatus mounted on a vehicle when the special fuel used for such purposes and the special fuel used to propel the vehicle on the highways are drawn from a common supply tank. The vehicle must be registered with the department. The user must be registered with the department for purposes of reporting and paying gross receipts tax.

B. No person may submit claims for refund pursuant to the provisions of this section more frequently than quarterly. No claim for refund may be submitted or allowed on less than one hundred gallons.

C. The department may prescribe the documents necessary to support a claim for refund pursuant to the provisions of this section. The department may prescribe the use of types of monitoring or measuring equipment.

D. This section applies to special fuel purchased on or after July 1, 2001, except for the refund for special fuel used to propel a school bus, which applies to special fuel purchased on or after July 1, 2005."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2005. \_\_\_\_\_