

HOUSE BILL 168

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

James G. Townsend and Larry R. Scott and Bob Wooley

AN ACT

RELATING TO TAXATION; CHANGING THE INCIDENCE OF THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX; REQUIRING REFUND CLAIMS FOR THE TAXES PAID TO BE SUBMITTED WITHIN SIX MONTHS OF THE DATE OF PURCHASE OF THE GASOLINE OR SPECIAL FUEL; PHASING OUT A GASOLINE TAX DEDUCTION FOR GASOLINE THAT IS SUBJECT TO TRIBAL TAXATION; PROVIDING THAT THE REPEAL OF SECTION 67-3-8.1 NMSA 1978 (BEING LAWS 2003, CHAPTER 150, SECTION 3, AS AMENDED) SHALL NOT MODIFY OR IMPAIR ANY GASOLINE TAX SHARING AGREEMENTS ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THIS ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE GASOLINE TAX ACT, PETROLEUM PRODUCTS LOADING FEE ACT AND SPECIAL FUELS SUPPLIER TAX ACT TO CONFORM WITH THE CHANGE OF INCIDENCE OF THE GASOLINE TAX AND THE SPECIAL FUEL EXCISE TAX.

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

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1 SECTION 1. Section 7-1-26 NMSA 1978 (being Laws 1965,
2 Chapter 248, Section 28, as amended) is amended to read:

3 "7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE
4 OR REFUND.--

5 A. A person who believes that an amount of tax has
6 been paid by or withheld from that person in excess of that for
7 which the person was liable, who has been denied any credit or
8 rebate claimed or who claims a prior right to property in the
9 possession of the department pursuant to a levy made under
10 authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim
11 a refund by directing to the secretary, within the time limited
12 by the provisions of Subsections F and G of this section, a
13 written claim for refund. At the time the written claim is
14 submitted, except as provided in Subsection K of this section,
15 a refund claim shall include:

- 16 (1) the taxpayer's name, address and
17 identification number;
- 18 (2) the type of tax for which a refund is
19 being claimed, the credit or rebate denied or the property
20 levied upon;
- 21 (3) the sum of money or other property being
22 claimed;
- 23 (4) with respect to refund, the period for
24 which overpayment was made;
- 25 (5) a brief statement of the facts and the law

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1 on which the claim is based, which may be referred to as the
2 "basis for the refund", which shall include documentation that
3 substantiates the written claim and supports the taxpayer's
4 basis for the refund; and

5 (6) a copy of an amended return for each tax
6 period for which the refund is claimed.

7 B. A claim for refund that meets the requirements
8 of Subsection A of this section shall be deemed to be properly
9 before the department for consideration, regardless of whether
10 the department requests additional documentation after receipt
11 of the claim for refund; provided that the claim for refund is
12 filed within the time limitations provided in Subsections F and
13 G of this section.

14 C. If the department requests additional relevant
15 documentation from a taxpayer who has submitted a claim for
16 refund, the claim for refund will not be considered complete
17 until the taxpayer provides the requested documentation. The
18 provisions of Paragraph (2) of Subsection D of this section and
19 of Section 7-1-68 NMSA 1978 do not apply until a refund claim
20 is complete.

21 D. The secretary or the secretary's delegate may
22 allow the claim in whole or in part or may deny the claim. If
23 the:

24 (1) claim is denied in whole or in part in
25 writing, no claim may be refiled with respect to that which was

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1 denied, but the person, within ninety days after either the
2 mailing or delivery of the denial of all or any part of the
3 claim, may elect to pursue one, but not more than one, of the
4 remedies in Subsection E of this section; and

5 (2) department has neither granted nor denied
6 any portion of a complete claim for refund within one hundred
7 eighty days of the date the claim was mailed or otherwise
8 delivered to the department, the person may elect to treat the
9 claim as denied and elect to pursue one, but not more than one,
10 of the remedies provided in Subsection ~~[D]~~ E of this section.

11 E. A person may elect to pursue no more than one of
12 the remedies in Paragraphs (1) and (2) of this subsection. A
13 person who timely pursues more than one remedy shall be deemed
14 to have elected the first remedy invoked. The person may:

15 (1) direct to the secretary, pursuant to the
16 provisions of Section 7-1-24 NMSA 1978, a written protest that
17 shall set forth:

18 (a) the circumstances of: 1) an alleged
19 overpayment; 2) a denied credit; 3) a denied rebate; or 4) a
20 denial of a prior right to property levied upon by the
21 department;

22 (b) an allegation that, because of that
23 overpayment or denial, the state is indebted to the taxpayer
24 for a specified amount, including any allowed interest, or for
25 the property;

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1 (c) demanding the refund to the taxpayer
2 of that amount or that property; and

3 (d) reciting the facts of the claim for
4 refund; or

5 (2) commence a civil action in the district
6 court for Santa Fe county by filing a complaint setting forth
7 the circumstance of the claimed overpayment, denied credit or
8 rebate or denial of a prior right to property levied upon by
9 the department alleging that on account thereof the state is
10 indebted to the plaintiff in the amount or property stated,
11 together with any interest allowable, demanding the refund to
12 the plaintiff of that amount or property and reciting the facts
13 of the claim for refund. The plaintiff or the secretary may
14 appeal from any final decision or order of the district court
15 to the court of appeals.

16 F. Except as otherwise provided in Subsection G of
17 this section, no credit or refund of any amount may be allowed
18 or made to any person unless as the result of a claim made by
19 that person as provided in this section:

20 (1) within three years of the end of the
21 calendar year in which:

22 (a) the payment was originally due or
23 the overpayment resulted from an assessment by the department
24 pursuant to Section 7-1-17 NMSA 1978, whichever is later;

25 (b) the final determination of value

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1 occurs with respect to any overpayment that resulted from a
2 disapproval by any agency of the United States or the state of
3 New Mexico or any court of increase in value of a product
4 subject to taxation under the Oil and Gas Severance Tax Act,
5 the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency
6 School Tax Act, the Oil and Gas Ad Valorem Production Tax Act
7 or the Natural Gas Processors Tax Act;

8 (c) property was levied upon pursuant to
9 the provisions of the Tax Administration Act; or

10 (d) an overpayment of New Mexico tax
11 resulted from: 1) an internal revenue service audit adjustment
12 or a federal refund paid due to an adjustment of an audit by
13 the internal revenue service or an amended federal return; or
14 2) making a change to a federal return for which federal
15 approval is required by the Internal Revenue Code;

16 (2) when an amount of a claim for credit under
17 the provisions of the Investment Credit Act, Laboratory
18 Partnership with Small Business Tax Credit Act or Technology
19 Jobs and Research and Development Tax Credit Act or for the
20 rural job tax credit pursuant to Section 7-2E-1.1 NMSA 1978 or
21 similar credit has been denied, the taxpayer may claim a refund
22 of the credit no later than one year after the date of the
23 denial;

24 (3) when a taxpayer under audit by the
25 department has signed a waiver of the limitation on assessments

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1 on or after July 1, 1993 pursuant to Subsection F of Section
2 7-1-18 NMSA 1978, the taxpayer may file a claim for refund of
3 the same tax paid for the same period for which the waiver was
4 given, until a date one year after the later of the date of the
5 mailing of an assessment issued pursuant to the audit, the date
6 of the mailing of final audit findings to the taxpayer or the
7 date a proceeding is begun in court by the department with
8 respect to the same tax and the same period;

9 (4) if the payment of an amount of tax was not
10 made within three years of the end of the calendar year in
11 which the original due date of the tax or date of the
12 assessment of the department occurred, a claim for refund of
13 that amount of tax can be made within one year of the date on
14 which the tax was paid; or

15 (5) when a taxpayer has been assessed a tax on
16 or after July 1, 1993 under Subsection B, C or D of Section
17 7-1-18 NMSA 1978 and when the assessment applies to a period
18 ending at least three years prior to the beginning of the year
19 in which the assessment was made, the taxpayer may claim a
20 refund for the same tax for the period of the assessment or for
21 any period following that period within one year of the date of
22 the assessment unless a longer period for claiming a refund is
23 provided in this section.

24 G. No credit or refund shall be allowed or made to
25 any person claiming a refund of gasoline tax under Section

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1 7-13-11 NMSA 1978 unless notice of the destruction of the
2 gasoline was given to the department within thirty days of the
3 actual destruction and the claim for refund is made within six
4 months of the date of destruction. No credit or refund shall
5 be allowed or made to any person claiming a refund of gasoline
6 tax under Section 7-13-17 NMSA 1978 unless the refund is
7 claimed within six months of the date of purchase of the
8 gasoline and the gasoline has been used at the time the claim
9 for refund is made. No refund shall be made to any person
10 claiming a refund of gasoline tax pursuant to Section 7-13-4.5
11 NMSA 1978, special fuel excise tax pursuant to Section
12 7-16A-13.2 NMSA 1978 or petroleum products loading fee pursuant
13 to 7-13A-7 NMSA 1978 unless the refund claim is submitted
14 within six months of the date of purchase of the gasoline or
15 special fuel by the person claiming the refund.

16 H. If as a result of an audit by the department or
17 a managed audit covering multiple periods an overpayment of tax
18 is found in any period under the audit, that overpayment may be
19 credited against an underpayment of the same tax found in
20 another period under audit pursuant to Section 7-1-29 NMSA
21 1978, provided that the taxpayer files a claim for refund for
22 the overpayments identified in the audit.

23 I. Any refund of tax paid under any tax or tax act
24 administered under Subsection B of Section 7-1-2 NMSA 1978 may
25 be made, at the discretion of the department, in the form of

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1 credit against future tax payments if future tax liabilities in
2 an amount at least equal to the credit amount reasonably may be
3 expected to become due.

4 J. For the purposes of this section, "oil and gas
5 tax return" means a return reporting tax due with respect to
6 oil, natural gas, liquid hydrocarbons, carbon dioxide, helium
7 or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax
8 Act, the Oil and Gas Conservation Tax Act, the Oil and Gas
9 Emergency School Tax Act, the Oil and Gas Ad Valorem Production
10 Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas
11 Production Equipment Ad Valorem Tax Act.

12 K. The filing of a fully completed original income
13 tax return, corporate income tax return, corporate income and
14 franchise tax return, estate tax return or special fuel excise
15 tax return that shows a balance due the taxpayer or a fully
16 completed amended income tax return, an amended corporate
17 income tax return, an amended corporate income and franchise
18 tax return, an amended estate tax return, an amended special
19 fuel excise tax return or an amended oil and gas tax return
20 that shows a lesser tax liability than the original return
21 constitutes the filing of a claim for refund for the difference
22 in tax due shown on the original and amended returns."

23 SECTION 2. Section 7-13-2 NMSA 1978 (being Laws 1971,
24 Chapter 207, Section 2, as amended) is amended to read:

25 "7-13-2. DEFINITIONS.--As used in the Gasoline Tax Act:

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1 A. "aviation gasoline" means gasoline sold for use
2 in aircraft propelled by engines other than turbo-prop or jet-
3 type engines;

4 B. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 C. "distributor" means ~~any~~ a person, not
9 including the United States of America or any of its agencies
10 except to the extent now or hereafter permitted by the
11 constitution and laws thereof, ~~[who receives gasoline in this~~
12 ~~state]~~ that transports, distributes or sells for resale
13 gasoline purchased from a refinery or pipeline terminal in New
14 Mexico or that imports gasoline for resale in New Mexico.

15 "Distributor" shall be construed so that a person
16 simultaneously may be both a distributor and a retailer or
17 ~~[importer]~~ rack operator;

18 D. "drip gasoline" means a combustible hydrocarbon
19 liquid formed as a product of condensation from either
20 associated or nonassociated natural or casing head gas and that
21 remains a liquid at room temperature and pressure;

22 E. "ethanol blended fuel" means gasoline containing
23 a minimum of ten percent by volume of denatured ethanol, of at
24 least one hundred ninety-nine proof, exclusive of denaturants;

25 F. "fuel supply tank" means ~~any~~ a tank or other

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1 receptacle in which or by which fuel may be carried and
2 supplied to the fuel-furnishing device or apparatus of the
3 propulsion mechanism of a motor vehicle when the tank or
4 receptacle either contains gasoline or gasoline is delivered
5 into it;

6 G. "gallon" means the quantity of liquid necessary
7 to fill a standard United States gallon liquid measure or that
8 same quantity adjusted to a temperature of sixty degrees
9 fahrenheit at the election of ~~[any]~~ a distributor, but ~~[a]~~ the
10 distributor shall report on the same basis for a period of at
11 least one year;

12 H. "gasoline" means ~~[any]~~ a flammable liquid
13 hydrocarbon used primarily as fuel for the propulsion of motor
14 vehicles, motorboats or aircraft except for diesel engine fuel,
15 kerosene, liquefied petroleum gas, compressed or liquefied
16 natural gas and products specially prepared and sold for use in
17 aircraft propelled by turbo-prop or jet-type engines;

18 I. "government-licensed vehicle" means a motor
19 vehicle lawfully displaying a registration plate, as defined in
20 the Motor Vehicle Code, issued by the United States or any
21 state, identifying the motor vehicle as belonging to the United
22 States or any of its agencies or instrumentalities or an Indian
23 nation, tribe or pueblo or any of its political subdivisions,
24 agencies or instrumentalities;

25 J. "highway" means every road, highway,

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1 thoroughfare, street or way, including toll roads, generally
2 open to the use of the public as a matter of right for the
3 purpose of motor vehicle travel regardless of whether it is
4 temporarily closed for the purpose of construction,
5 reconstruction, maintenance or repair;

6 K. "motor vehicle" means ~~any~~ a self-propelled
7 vehicle or device that is either subject to registration under
8 Section 66-3-1 NMSA 1978 or used or that may be used on the
9 public highways in whole or in part for the purpose of
10 transporting persons or property and includes ~~any~~ a connected
11 trailer or semitrailer;

12 L. "person" means an individual or any other
13 entity, including, to the extent permitted by law, any federal,
14 state or other government or any department, agency,
15 instrumentality or political subdivision of any federal, state
16 or other government;

17 M. "rack operator" means the operator of a refinery
18 in this state or the owner of gasoline stored at a pipeline
19 terminal in this state. "Rack operator" shall be construed so
20 that a person simultaneously may be a rack operator and a
21 distributor;

22 N. "registered Indian tribal distributor" means an
23 Indian nation, tribe or pueblo recognized by the United States
24 whose reservation or pueblo grant lies wholly or partly in this
25 state, a corporation or other enterprise wholly owned by that

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1 Indian nation, tribe or pueblo or a corporation or other
2 enterprise wholly owned by one or more members of that Indian
3 nation, tribe or pueblo that is registered with the department
4 as a distributor pursuant to the Gasoline Tax Act; provided
5 that the department shall register a corporation or other
6 enterprise as an Indian tribal distributor only upon
7 certification by the Indian nation, tribe or pueblo that the
8 corporation or other enterprise is wholly owned by that nation,
9 tribe or pueblo or wholly owned by one or more of its members;

10 O. "retailer" means a person who sells gasoline
11 generally in quantities of thirty-five gallons or less and
12 delivers such gasoline into the fuel supply tanks of motor
13 vehicles. "Retailer" shall be construed so that a person
14 simultaneously may be both a retailer and a distributor or
15 wholesaler;

16 P. "secretary" means the secretary of taxation and
17 revenue or the secretary's delegate;

18 Q. "taxpayer" means a person required to pay
19 gasoline tax;

20 R. "unloaded" means removal of gasoline from tank
21 cars, tank trucks, tank wagons or other types of transportation
22 equipment into a nonmobile container at the place at which the
23 unloading takes place; and

24 S. "wholesaler" means a person who is not a
25 distributor and who sells gasoline in quantities of thirty-five

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1 gallons or more and does not deliver such gasoline into the
2 fuel supply tanks of motor vehicles. "Wholesaler" shall be
3 construed so that a person simultaneously may be a wholesaler
4 and a retailer."

5 SECTION 3. Section 7-13-2.1 NMSA 1978 (being Laws 1999,
6 Chapter 190, Section 2) is amended to read:

7 "7-13-2.1. WHEN GASOLINE RECEIVED AND BY WHOM.--

8 A. Gasoline that is produced, refined,
9 manufactured, blended or compounded at a refinery in this state
10 or stored at a pipeline terminal in this state by a [person]
11 rack operator is received by that [person] rack operator when
12 it is loaded there into tank cars, tank trucks, tank wagons or
13 other types of transportation equipment, or when it is placed
14 there into a tank or other container from which sales or
15 deliveries not involving transportation are made; however,

16 [~~(1) when gasoline is delivered at the~~
17 ~~refinery or pipeline terminal to a person registered as a~~
18 ~~distributor pursuant to the Gasoline Tax Act, then it is~~
19 ~~received there by the distributor to whom it is delivered at~~
20 ~~the time of the delivery;~~

21 ~~(2) when gasoline is delivered at the refinery~~
22 ~~or pipeline terminal to a person not registered as a~~
23 ~~distributor pursuant to the Gasoline Tax Act for the account of~~
24 ~~a person that is registered as a distributor, it is received~~
25 ~~there by the distributor for whose account it is delivered at~~

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1 ~~the time of delivery; and~~

2 ~~(3)~~] gasoline is not received when it is
3 shipped from one refinery or pipeline terminal to another
4 refinery or pipeline terminal.

5 B. Gasoline imported into New Mexico by any means
6 other than in the fuel supply tank of a motor vehicle or by
7 pipeline is received at the time and place it is imported into
8 this state. The ~~[person]~~ distributor who owns the gasoline at
9 the time of importation receives the gasoline at the time and
10 place of importation ~~[unless the gasoline is delivered to a~~
11 ~~person who is registered as a distributor pursuant to the~~
12 ~~Gasoline Tax Act, in which case the distributor is deemed to~~
13 ~~have received the gasoline at the time and place of~~
14 ~~importation)].~~

15 C. Any product other than gasoline that is blended
16 in this state to produce gasoline other than at a refinery or
17 pipeline terminal is received by the person who is the owner of
18 the gasoline at the time and place the blending is completed.

19 D. If gasoline is received within the exterior
20 boundaries of an Indian reservation or pueblo grant and the
21 gasoline tax is not paid with respect to the gasoline by the
22 person receiving the gasoline within the exterior boundaries of
23 the Indian reservation or pueblo grant, the gasoline is also
24 received when the gasoline is transported off the reservation
25 or pueblo grant by any means other than in the fuel supply tank

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1 of a motor vehicle. In such a case, the person who owns the
2 gasoline immediately after the time of transportation off the
3 reservation or pueblo grant [~~or, if the gasoline is delivered~~
4 ~~to a person registered as a distributor pursuant to the~~
5 ~~Gasoline Tax Act, the distributor~~] receives the gasoline at the
6 time and place the gasoline is transported off the reservation
7 or pueblo grant."

8 SECTION 4. Section 7-13-4 NMSA 1978 (being Laws 1991,
9 Chapter 9, Section 32, as amended) is amended to read:

10 "7-13-4. DEDUCTIONS--GASOLINE TAX.--

11 A. In computing the gasoline tax due, the following
12 amounts of gasoline may be deducted from the total amount of
13 gasoline received in New Mexico during the tax period, provided
14 satisfactory proof thereof is furnished to the department:

15 [~~A.~~] (1) gasoline received in New Mexico, but
16 exported from this state by [~~a rack operator, distributor or~~
17 ~~wholesaler~~] the taxpayer other than in the fuel supply tank of
18 a motor vehicle; [~~or sold for export by a rack operator or~~
19 ~~distributor~~] provided that [~~in either case~~]:

20 [~~(1)~~] (a) the person exporting the
21 gasoline is registered in or licensed by the destination state
22 to pay that state's gasoline or equivalent fuel tax;

23 [~~(2)~~] (b) proof is submitted that the
24 destination state's gasoline or equivalent fuel tax has been
25 paid or is not due with respect to the gasoline; or

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1 [~~3~~] (c) the destination state's
2 gasoline or equivalent fuel tax is paid to New Mexico in
3 accordance with the terms of an agreement entered into pursuant
4 to Section 9-11-12 NMSA 1978 with the destination state;

5 [~~B-~~] (2) gasoline received in New Mexico and
6 sold by the taxpayer to the United States or an agency or
7 instrumentality thereof for the exclusive use of the United
8 States or an agency or instrumentality thereof. Gasoline sold
9 to the United States includes gasoline delivered into the
10 supply tank of a government-licensed vehicle of the United
11 States;

12 [~~G-~~] (3) gasoline received in New Mexico and
13 sold by the taxpayer to an Indian nation, tribe or pueblo or a
14 political subdivision, agency or instrumentality of that Indian
15 nation, tribe or pueblo for the exclusive use of the Indian
16 nation, tribe or pueblo or a political subdivision, agency or
17 instrumentality thereof. Gasoline sold to an Indian nation,
18 tribe or pueblo includes gasoline delivered into the supply
19 tank of a government-licensed vehicle of the Indian nation,
20 tribe or pueblo;

21 [~~D-~~] (4) gasoline received in New Mexico, dyed
22 in accordance with department regulations and used in a manner
23 other than for propulsion of motor vehicles on the highways of
24 this state or motorboats or activities ancillary to that
25 propulsion; and

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1 ~~[E. gasoline received in New Mexico and sold at~~
2 ~~retail by a registered Indian tribal distributor if:~~

3 ~~(1) the sale occurs on the Indian reservation,~~
4 ~~pueblo grant or trust land of the distributor's Indian nation,~~
5 ~~tribe or pueblo;~~

6 ~~(2) the gasoline is placed into the fuel~~
7 ~~supply tank of a motor vehicle on that reservation, pueblo~~
8 ~~grant or trust land; and~~

9 ~~(3) the Indian nation, tribe or pueblo has~~
10 ~~certified to the department that it has in effect an excise,~~
11 ~~privilege or similar tax on the gasoline; provided that the~~
12 ~~volume of gasoline deducted pursuant to this subsection shall~~
13 ~~be the total gallons sold in accordance with the provisions of~~
14 ~~this subsection multiplied by a fraction the numerator of which~~
15 ~~is the rate of the tribal tax certified to the department by~~
16 ~~the Indian nation, tribe or pueblo and the denominator of which~~
17 ~~is the rate of the gasoline tax imposed pursuant to the~~
18 ~~Gasoline Tax Act, but if the fraction exceeds one, it shall be~~
19 ~~one for purposes of determining the deduction;~~

20 ~~F. gasoline received in New Mexico and sold by a~~
21 ~~registered Indian tribal distributor from a nonmobile storage~~
22 ~~container located within that distributor's Indian reservation,~~
23 ~~pueblo grant or trust land for resale outside that~~
24 ~~distributor's Indian reservation, pueblo grant or trust land;~~
25 ~~provided the department certifies that the distributor claiming~~

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1 ~~the deduction sold no less than one million gallons of gasoline~~
2 ~~from a nonmobile storage container located within that~~
3 ~~distributor's Indian reservation, pueblo grant or trust land~~
4 ~~for resale outside that distributor's Indian reservation,~~
5 ~~pueblo grant or trust land during the period of May through~~
6 ~~August 1998; and provided further that the amount of gasoline~~
7 ~~deducted by a registered Indian tribal distributor pursuant to~~
8 ~~this subsection shall not exceed two million five hundred~~
9 ~~thousand gallons per month, calculated as a monthly average~~
10 ~~during the calendar year. Volumes deducted pursuant to~~
11 ~~Subsection E of this section shall not be deducted pursuant to~~
12 ~~this subsection; and~~

13 G.] (5) gasoline received in New Mexico on
14 which New Mexico gasoline tax was paid by the out-of-state
15 terminal at which the gasoline was loaded, provided that
16 documentation that the gasoline was to be imported into New
17 Mexico was provided to the terminal operator by the person
18 receiving the fuel.

19 B. In computing the gasoline tax due, the following
20 amounts of gasoline received in New Mexico and sold at retail
21 by a registered Indian tribal distributor, or a person subject
22 to and in compliance with the tax on gasoline imposed by the
23 Indian nation, tribe or pueblo where the sale occurs, may be
24 deducted from the total amount of gasoline received in New
25 Mexico during the tax period; provided that the satisfactory

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1 proof required pursuant to Subsection C of this section is
2 furnished to the department:

3 (1) prior to July 1, 2019, one hundred percent
4 of gallons that may be deducted, as calculated pursuant to
5 Paragraph (3) of Subsection C of this section;

6 (2) beginning July 1, 2019 and prior to July
7 1, 2020, eighty percent of gallons that may be deducted, as
8 calculated pursuant to Paragraph (3) of Subsection C of this
9 section;

10 (3) beginning July 1, 2020 and prior to July
11 1, 2021, sixty percent of gallons that may be deducted, as
12 calculated pursuant to Paragraph (3) of Subsection C of this
13 section;

14 (4) beginning July 1, 2021 and prior to July
15 1, 2022, forty percent of gallons that may be deducted, as
16 calculated pursuant to Paragraph (3) of Subsection C of this
17 section;

18 (5) beginning July 1, 2022 and prior to July
19 1, 2023, twenty percent of gallons that may be deducted, as
20 calculated pursuant to Paragraph (3) of Subsection C of this
21 section; and

22 (6) beginning July 1, 2023, zero percent.

23 C. Gasoline received in New Mexico and sold at
24 retail by a registered Indian tribal distributor, or a person
25 subject to and in compliance with the tax on gasoline imposed

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1 by the Indian nation, tribe or pueblo where the sale occurs,
2 may be deducted in the amounts allowed pursuant to Subsection B
3 of this section if:

4 (1) the sale occurs on the Indian reservation,
5 pueblo grant or trust land of the distributor's Indian nation,
6 tribe or pueblo;

7 (2) the gasoline is placed into the fuel
8 supply tank of a motor vehicle on that reservation, pueblo
9 grant or trust land; and

10 (3) the Indian nation, tribe or pueblo has
11 certified to the department that it has in effect an excise,
12 privilege or similar tax on the gasoline; provided that the
13 volume of gasoline deducted pursuant to this subsection shall
14 be the total gallons sold in accordance with the provisions of
15 this subsection multiplied by a fraction the numerator of which
16 is the rate of the tribal tax certified to the department by
17 the Indian nation, tribe or pueblo and the denominator of which
18 is the rate of the gasoline tax imposed pursuant to the
19 Gasoline Tax Act, but if the fraction exceeds one, it shall be
20 one for purposes of determining the deduction."

21 SECTION 5. A new Section 7-13-4.5 NMSA 1978 is enacted to
22 read:

23 "7-13-4.5. [NEW MATERIAL] DISTRIBUTORS--REFUNDS OF
24 GASOLINE TAX ON CERTAIN GASOLINE TAXES.--

25 A. A distributor is eligible for a refund of

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1 gasoline tax paid on gasoline for which the distributor
2 provides satisfactory proof to the department that:

3 (1) the gasoline was exported from this state
4 by the distributor other than in the fuel supply tank of a
5 motor vehicle; provided that:

6 (a) the person exporting the gasoline is
7 registered in or licensed by the destination state to pay that
8 state's gasoline or equivalent fuel tax;

9 (b) proof is submitted that the
10 destination state's gasoline or equivalent fuel tax has been
11 paid or is not due with respect to the gasoline; or

12 (c) the destination state's gasoline or
13 equivalent fuel tax is paid to New Mexico in accordance with
14 the terms of an agreement entered into pursuant to Section
15 9-11-12 NMSA 1978 with the destination state;

16 (2) the gasoline was sold by the distributor
17 to the United States or to an agency or instrumentality thereof
18 for the exclusive use of the United States or an agency or
19 instrumentality thereof. Gasoline sold to the United States
20 includes gasoline delivered into the fuel supply tank of a
21 government-licensed vehicle of the United States;

22 (3) the gasoline was sold by the distributor
23 to an Indian nation, tribe or pueblo or to a political
24 subdivision, agency or instrumentality of that Indian nation,
25 tribe or pueblo for the exclusive use of the Indian nation,

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1 tribe or pueblo or a political subdivision, agency or
2 instrumentality thereof. Gasoline sold to an Indian nation,
3 tribe or pueblo includes gasoline delivered into the supply
4 tank of a government-licensed vehicle of the Indian nation,
5 tribe or pueblo; or

6 (4) the gasoline was dyed in accordance with
7 department regulations and used in a manner other than for
8 propulsion of motor vehicles on the highways of this state or
9 motorboats or activities ancillary to that propulsion.

10 B. A distributor is eligible for a refund, as
11 calculated pursuant to Subsection C of this section, of
12 gasoline tax paid on gasoline for which the distributor
13 provides satisfactory proof that the gasoline was sold at
14 retail by a registered Indian tribal distributor, or a person
15 subject to and in compliance with the tax on gasoline imposed
16 by the Indian nation, tribe or pueblo where the sale occurs,
17 and:

18 (1) the sale occurred on the Indian
19 reservation, pueblo grant or trust land of the distributor's
20 Indian nation, tribe or pueblo;

21 (2) the gasoline was placed into the fuel
22 supply tank of a motor vehicle on that reservation, pueblo
23 grant or trust land;

24 (3) the Indian nation, tribe or pueblo has
25 certified to the department that it has in effect an excise,

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1 privilege or similar tax on the gasoline; and

2 (4) the gasoline was not deducted pursuant to
3 Subsection B of Section 7-13-4 NMSA 1978.

4 C. The refund allowed pursuant to Subsection B of
5 this section shall be the amount of gasoline tax paid,
6 multiplied by a fraction the numerator of which is the rate of
7 the tribal tax certified to the department by the Indian
8 nation, tribe or pueblo and the denominator of which is the
9 rate of the gasoline tax imposed pursuant to the Gasoline Tax
10 Act, but if the fraction exceeds one, it shall be one for
11 purposes of determining the refund amount, and multiplied
12 further by the following percentages, based on the date the
13 gasoline tax was paid:

14 (1) prior to July 1, 2019, one hundred
15 percent;

16 (2) beginning July 1, 2019 and prior to July
17 1, 2020, eighty percent;

18 (3) beginning July 1, 2020 and prior to July
19 1, 2021, sixty percent;

20 (4) beginning July 1, 2021 and prior to July
21 1, 2022, forty percent;

22 (5) beginning July 1, 2022 and prior to July
23 1, 2023, twenty percent; and

24 (6) beginning July 1, 2023, zero percent.

25 D. A distributor who is eligible to apply for a

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1 refund of gasoline tax paid shall apply on a form and in the
2 manner determined by the department. The department shall
3 determine what documentation is necessary to establish
4 satisfactory proof that:

5 (1) the gasoline was sold and used as required
6 for the tax to be refundable;

7 (2) gasoline tax was previously paid on the
8 gasoline for which the refund is sought; and

9 (3) a refund was not previously granted by the
10 department for taxes paid on the gasoline for which the
11 refund is sought."

12 SECTION 6. Section 7-13-5 NMSA 1978 (being Laws 1971,
13 Chapter 207, Section 5, as amended) is amended to read:

14 "7-13-5. TAX RETURNS--PAYMENT OF TAX.--~~[Distributors]~~
15 Taxpayers shall file gasoline tax returns in form and content
16 as prescribed by the secretary on or before the twenty-fifth
17 day of the month following the month in which gasoline is
18 received in New Mexico. Such returns shall be accompanied by
19 payment of the amount of gasoline tax due. The department may
20 require that the tax returns be provided through electronic
21 means as long as an exception is provided for ~~[distributors]~~
22 taxpayers with limited amounts of fuel ~~[distributed]~~ received."

23 SECTION 7. A new Section 7-13-6.3 NMSA 1978 is enacted to
24 read:

25 "7-13-6.3. [NEW MATERIAL] RETURNS BY DISTRIBUTORS--

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1 REQUIREMENTS.--Distributors shall file information returns in
2 form and content as prescribed by the department on or before
3 the twenty-fifth day of the month following the month in which
4 gasoline is sold in New Mexico. The department may require
5 that an information return be provided through electronic means
6 if the department provides an exception from that requirement
7 for distributors that distribute limited amounts of fuel."

8 SECTION 8. Section 7-13-7 NMSA 1978 (being Laws 1971,
9 Chapter 207, Section 7, as amended) is amended to read:

10 "7-13-7. REGISTRATION NECESSARY TO ENGAGE IN BUSINESS AS
11 RACK OPERATOR, DISTRIBUTOR, WHOLESALER OR RETAILER.--Each
12 person engaged in the business of selling or delivering
13 gasoline in New Mexico as a rack operator, distributor,
14 wholesaler or retailer shall register as such under the
15 provisions of Section 7-1-12 NMSA 1978."

16 SECTION 9. Section 7-13-12 NMSA 1978 (being Laws 1971,
17 Chapter 207, Section 11, as amended) is amended to read:

18 "7-13-12. MANIFEST OR BILL OF LADING REQUIRED WHEN
19 TRANSPORTING GASOLINE.--

20 A. Every person transporting gasoline from a
21 refinery or pipeline terminal in this state, importing gasoline
22 into this state or exporting gasoline from this state, other
23 than by pipeline or in the fuel supply tanks of motor vehicles,
24 shall carry a manifest or bill of lading in form and content as
25 prescribed by or acceptable to the department. The manifest or

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1 bill of lading shall be signed by the consignor and by every
2 person accepting the gasoline or any part of it, with a
3 notation as to the amount accepted. If a manifest or bill of
4 lading is not required to be carried by the terms of this
5 section, any person transporting gasoline without such a
6 manifest or bill of lading shall, upon demand, furnish proof
7 acceptable to the department that the gasoline so transported
8 was legally acquired by a registered distributor who assumed
9 liability or purchased from a person who is liable for payment
10 of the tax imposed by the Gasoline Tax Act.

11 B. A manifest or bill of lading shall include a
12 statement of the volume of the gasoline transported, imported
13 or exported and the amount of gasoline tax and petroleum
14 products loading fee paid."

15 SECTION 10. Section 7-13A-2 NMSA 1978 (being Laws 1990,
16 Chapter 124, Section 15, as amended) is amended to read:

17 "7-13A-2. DEFINITIONS.--As used in the Petroleum Products
18 Loading Fee Act:

19 A. "department" means the taxation and revenue
20 department, the secretary of taxation and revenue or any
21 employee of the department exercising authority lawfully
22 delegated to that employee by the secretary;

23 B. "distributor" means any person registered or
24 required to be registered as a rack operator or distributor for
25 purposes of the Gasoline Tax Act and any person registered or

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1 required to be registered as a rack operator or special fuel
2 supplier for purposes of the Special Fuels Supplier Tax Act;

3 C. "gallon" means the quantity of liquid necessary
4 to fill a standard United States gallon liquid measure, which
5 is approximately 3.785 liters, or that same quantity adjusted
6 to a temperature of sixty degrees fahrenheit at the election of
7 ~~[any distributor]~~ the taxpayer, but ~~[a distributor]~~ the
8 taxpayer shall report on the same basis for a period of at
9 least one year;

10 D. "load" means eight thousand gallons of petroleum
11 product;

12 E. "loading" means the act of placing or causing to
13 be placed any petroleum product that is produced, refined,
14 manufactured, blended or compounded at a refinery in this state
15 or stored at a pipeline terminal in this state into tank cars,
16 tank trucks, tank wagons or other types of transportation
17 equipment or into any tank or other container from which sales
18 or deliveries not involving transportation are made;

19 F. "person" means an individual or any other legal
20 entity, including any gas, water or electric utility owned or
21 operated by a county, municipality or other political
22 subdivision of the state. "Person" also means, to the extent
23 permitted by law, any federal, state or other government or any
24 department, agency or instrumentality of the state, county,
25 municipality or any political subdivision thereof;

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1 G. "petroleum product" means gasoline as defined in
2 the Gasoline Tax Act and special fuel as defined in the Special
3 Fuels Supplier Tax Act; ~~and~~

4 H. "secretary" means, unless the context indicates
5 another meaning, the secretary of taxation and revenue or the
6 secretary's delegate; ~~and~~

7 I. "special fuel supplier" means "supplier", as
8 that term is defined in the Special Fuels Supplier Tax Act;

9 J. "taxpayer" means a person subject to the taxes
10 imposed by the Gasoline Tax Act and the Special Fuels Supplier
11 Tax Act; and

12 ~~[F.]~~ K. "unobligated balance of the corrective
13 action fund" means corrective action fund equity less all known
14 or anticipated liabilities against the fund."

15 SECTION 11. Section 7-13A-3 NMSA 1978 (being Laws 1990,
16 Chapter 124, Section 16, as amended) is amended to read:

17 "7-13A-3. IMPOSITION AND RATE OF FEE--DENOMINATION AS
18 "PETROLEUM PRODUCTS LOADING FEE".--

19 A. ~~[For the privilege of loading gasoline or~~
20 ~~special fuel from a rack at a refinery or pipeline terminal in~~
21 ~~this state into a cargo tank]~~ There is imposed on a taxpayer a
22 fee ~~[on the distributor]~~ at a rate provided in Subsection C of
23 this section on:

24 (1) each gallon of gasoline or special fuel
25 loaded in New Mexico on which the petroleum products loading

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1 fee has not been previously paid; and

2 ~~[B. For the privilege of importing gasoline or~~
3 ~~special fuel into this state for resale or consumption in this~~
4 ~~state there is imposed a fee determined as provided in~~
5 ~~Subsection C of this section on]~~

6 (2) each load of gasoline or special fuel
7 imported into New Mexico for resale or consumption on which the
8 petroleum products loading fee has not been previously paid.

9 ~~[For the purposes of this section, "load" means eight thousand~~
10 ~~gallons of gasoline or special fuel.]~~

11 B. To determine how many loads a person is to
12 report under the provisions of this section, the person shall
13 divide by eight thousand the total gallons of gasoline reported
14 for the purposes of Section 7-13-3 NMSA 1978, ~~[as adjusted~~
15 ~~under the provisions of]~~ less any gallons deducted pursuant to
16 Section 7-13-4 NMSA 1978 and the total gallons of special
17 ~~[fuels]~~ fuel received in New Mexico less any gallons exempted
18 under Section 7-13A-4 NMSA 1978. Loads shall be calculated to
19 the nearest one-hundredth of a load.

20 C. The fee imposed by this section is and may be
21 referred to as the "petroleum products loading fee" and shall
22 be one hundred fifty dollars (\$150) per load or ~~[whichever of~~
23 ~~the following applies]:~~

24 (1) ~~[in the event]~~ forty dollars (\$40.00) per
25 load if, as certified by the secretary of environment,

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1 ~~[certifies that]~~ the unobligated balance of the corrective
2 action fund at the end of the prior fiscal year equals or
3 exceeds eighteen million dollars (\$18,000,000) ~~[the fee shall~~
4 ~~be set at forty dollars (\$40.00) per load];~~

5 (2) ~~[in the event]~~ eighty dollars (\$80.00) per
6 load if, as certified by the secretary of environment,
7 ~~[certifies that]~~ the unobligated balance of the corrective
8 action fund at the end of the prior fiscal year exceeds twelve
9 million dollars (\$12,000,000) but is less than eighteen million
10 dollars (\$18,000,000) ~~[the fee shall be set at eighty dollars~~
11 ~~(\$80.00) per load];~~

12 (3) ~~[in the event]~~ one hundred twenty dollars
13 (\$120) per load if, as certified by the secretary of
14 environment, ~~[certifies that]~~ the unobligated balance of the
15 corrective action fund at the end of the prior fiscal year
16 exceeds six million dollars (\$6,000,000) but is less than
17 twelve million dollars (\$12,000,000); ~~[the fee shall be set at~~
18 ~~one hundred twenty dollars (\$120) per load; and] or~~

19 (4) ~~[in the event]~~ one hundred fifty dollars
20 (\$150) per load if, as certified by the secretary of
21 environment, ~~[certifies that]~~ the unobligated balance of the
22 corrective action fund at the end of the prior fiscal year is
23 less than six million dollars (\$6,000,000) ~~[the fee shall be~~
24 ~~set at one hundred fifty dollars (\$150) per load].~~

25 D. The amount of the petroleum products loading fee

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1 set pursuant to Paragraph (1), (2), (3) or (4) of Subsection C
2 of this section shall be imposed on the first day of the month
3 following expiration of ninety days after the end of the fiscal
4 year for which the certification was made.

5 ~~[E. As used in this section, "unobligated balance~~
6 ~~of the corrective action fund" means corrective action fund~~
7 ~~equity less all known or anticipated liabilities against the~~
8 ~~fund.]"~~

9 SECTION 12. Section 7-13A-7 NMSA 1978 (being Laws 2015
10 (1st S.S.), Chapter 2, Section 20) is amended to read:

11 "7-13A-7. CLAIM FOR REFUND OF PETROLEUM PRODUCTS LOADING
12 FEE ~~[ON PRODUCTS PREVIOUSLY LOADED FROM A SOURCE OTHER THAN A~~
13 ~~REFINER OR PIPELINE TERMINAL].--~~

14 A. ~~[Upon]~~ On the submission of proof satisfactory
15 to the department, a distributor or special fuel supplier may
16 claim, and the department may allow, a claim for refund of the
17 petroleum products loading fee paid on petroleum products
18 previously loaded in New Mexico from a source other than a
19 refiner or pipeline terminal in this state and placed in a
20 terminal from which it will be loaded into tank cars, tank
21 trucks, tank wagons or other types of transportation equipment.

22 ~~[B. No person may submit claims for refund pursuant~~
23 ~~to this section more frequently than quarterly. No claim for~~
24 ~~refund may be submitted or allowed on less than one hundred~~
25 ~~gallons.~~

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1 ~~C. The department may prescribe the documents~~
2 ~~necessary to support a claim for refund pursuant to the~~
3 ~~provisions of this section.]~~

4 B. A distributor or special fuel supplier is
5 eligible to claim for refund of the petroleum products loading
6 fee paid on petroleum products for which the distributor or
7 special fuel supplier provides satisfactory proof to the
8 department that:

9 (1) the petroleum product was exported from
10 this state by the distributor or special fuel supplier other
11 than in the fuel supply tank of a motor vehicle; provided that:

12 (a) the person exporting the petroleum
13 product is registered in or licensed by the destination state
14 to pay that state's gasoline or equivalent fuel tax;

15 (b) proof is submitted that the
16 destination state's gasoline or equivalent fuel tax has been
17 paid or is not due with respect to the gasoline or special
18 fuel; or

19 (c) the destination state's gasoline or
20 equivalent fuel tax is paid to New Mexico in accordance with
21 the terms of an agreement entered into pursuant to Section
22 9-11-12 NMSA 1978 with the destination state;

23 (2) the petroleum product was sold by the
24 distributor or special fuel supplier to the United States or to
25 an agency or instrumentality thereof for the exclusive use of

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1 the United States or an agency or instrumentality thereof.
2 Petroleum products sold to the United States include gasoline
3 and special fuel delivered into the fuel supply tank of a
4 government-licensed vehicle of the United States;

5 (3) the petroleum product is gasoline and was
6 sold by the distributor or special fuel supplier to an Indian
7 nation, tribe or pueblo or to a political subdivision, agency
8 or instrumentality of that Indian nation, tribe or pueblo for
9 the exclusive use of the Indian nation, tribe or pueblo or a
10 political subdivision, agency or instrumentality thereof.

11 Gasoline sold to an Indian nation, tribe or pueblo includes
12 gasoline delivered into the supply tank of a government-
13 licensed vehicle of the Indian nation, tribe or pueblo; or

14 (4) the petroleum product is gasoline and was
15 dyed in accordance with department regulations and used in a
16 manner other than for propulsion of motor vehicles on the
17 highways of this state or motorboats or activities ancillary to
18 that propulsion.

19 C. A distributor is eligible to claim a refund, as
20 calculated pursuant to Subsection D of this section, of the
21 petroleum products loading fee paid on petroleum products for
22 which the distributor provides satisfactory proof to the
23 department that the petroleum product is gasoline and was sold
24 at retail by a registered Indian tribal distributor, or a
25 person subject to and in compliance with the tax on gasoline

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1 imposed by the Indian nation, tribe or pueblo where the sale
2 occurs, and:

3 (1) the sale occurred on the Indian
4 reservation, pueblo grant or trust land of the distributor's
5 Indian nation, tribe or pueblo;

6 (2) the gasoline was placed into the fuel
7 supply tank of a motor vehicle on that reservation, pueblo
8 grant or trust land; and

9 (3) the Indian nation, tribe or pueblo has
10 certified to the department that it has in effect an excise,
11 privilege or similar tax on the gasoline and the gasoline was
12 not deducted pursuant to Subsection B of Section 7-13-4 NMSA
13 1978.

14 D. The refund allowed pursuant to Subsection C of
15 this section shall be the following percentages of petroleum
16 products loading fee paid, based on the date the fee was paid:

17 (1) prior to July 1, 2019, one hundred
18 percent;

19 (2) beginning July 1, 2019 and prior to July
20 1, 2020, eighty percent;

21 (3) beginning July 1, 2020 and prior to July
22 1, 2021, sixty percent;

23 (4) beginning July 1, 2021 and prior to July
24 1, 2022, forty percent;

25 (5) beginning July 1, 2022 and prior to July

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1 1, 2023, twenty percent; and

2 (6) beginning July 1, 2023, zero percent.

3 E. A distributor or special fuel supplier who is
4 eligible to apply for a refund of petroleum products loading
5 fee paid shall apply on a form and in the manner determined by
6 the department."

7 SECTION 13. Section 7-16A-2.1 NMSA 1978 (being Laws 1997,
8 Chapter 192, Section 6) is amended to read:

9 "7-16A-2.1. WHEN SPECIAL FUEL RECEIVED OR USED--WHO IS
10 REQUIRED TO PAY TAX.--

11 A. A rack operator receives special fuel at the
12 time and place when the rack operator first loads the special
13 fuel at the refinery or pipeline terminal into tank cars, tank
14 trucks, tank wagons or any other type of transportation
15 equipment or when the rack operator places the special fuel
16 into any tank or other container in this state from which sales
17 or deliveries not involving transportation are made. A rack
18 operator who receives special fuel is required to pay [~~special~~
19 ~~fuel excise~~] the tax on the special fuel received. [~~except as~~
20 ~~provided otherwise in Subsection B of this section. Special~~
21 ~~fuel is not received when it is shipped from one refinery or~~
22 ~~pipeline terminal to another refinery or pipeline terminal.~~

23 ~~B. When the rack operator first loads special fuel~~
24 ~~at the refinery or pipeline terminal into tank cars, tank~~
25 ~~trucks, tank wagons or any other type of transportation~~

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1 ~~equipment for the account of another person who is registered~~
2 ~~with the department as a supplier and is taxable under the~~
3 ~~Special Fuels Supplier Tax Act, however, that person receives~~
4 ~~the special fuel and is required to pay the special fuel excise~~
5 ~~tax.~~

6 ~~G.]~~ B. Special fuel imported into New Mexico by any
7 means other than in the supply tank of a motor vehicle or by
8 pipeline is received at the time and place it is imported into
9 this state. The person who owns the special fuel at the time
10 of importation receives the special fuel and is required to pay
11 the [~~special fuel excise~~] tax.

12 ~~[D.]~~ C. If special fuel is received within the
13 exterior boundaries of an Indian reservation or pueblo grant
14 and the person required to pay the [~~special fuel excise~~] tax is
15 immune from state taxation, the special fuel is also received
16 when the special fuel is transported off the reservation or
17 pueblo grant by any means other than in the fuel supply tank of
18 a motor vehicle or by pipeline. Any person who owns special
19 fuel after the special fuel is transported off the reservation
20 or pueblo grant receives the special fuel and is the person
21 required to pay the [~~special fuel excise~~] tax, unless the
22 [~~special fuel excise~~] tax has been paid by a previous owner.

23 ~~[E.]~~ D. Special fuel is used in New Mexico when it
24 is put into the supply tank of any motor vehicle registered,
25 owned or operated by a special fuel user, consumed by a special

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1 fuel user in the propulsion of a motor vehicle on the highways
2 of this state or any activity ancillary to that propulsion or
3 imported into the state in the fuel supply tank of any motor
4 vehicle for the propulsion of the motor vehicle on New Mexico
5 highways."

6 SECTION 14. Section 7-16A-5.1 NMSA 1978 (being Laws 1997,
7 Chapter 192, Section 14) is amended to read:

8 "7-16A-5.1. MANIFEST OR BILL OF LADING REQUIRED WHEN
9 TRANSPORTING SPECIAL FUELS.--

10 A. Every person transporting special fuels from a
11 refinery or other facility at which special fuel is produced,
12 refined, manufactured, blended or compounded or from a pipeline
13 terminal in this state, importing special fuels into this state
14 or exporting special fuels from this state, other than by
15 pipeline or in the fuel supply tanks of motor vehicles, shall
16 carry a manifest or bill of lading in form and content as
17 prescribed by or acceptable to the department. The manifest or
18 bill of lading shall be signed by the consignor and by every
19 person accepting the special fuel or any part of it, with a
20 notation as to the amount accepted. If a manifest or bill of
21 lading is not required to be carried by the terms of this
22 section, any person transporting special fuels without such a
23 manifest or bill of lading shall, upon demand, furnish proof
24 acceptable to the department that the special fuels so
25 transported were legally acquired by a registered supplier who

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1 assumed liability for payment of the tax imposed by the Special
2 Fuels Supplier Tax Act.

3 B. A manifest or bill of lading shall include a
4 statement of the volume of the special fuel transported,
5 imported or exported and the amount of special fuel excise tax
6 and petroleum products loading fee paid."

7 SECTION 15. Section 7-16A-9.3 NMSA 1978 (being Laws 2005,
8 Chapter 109, Section 14) is amended to read:

9 "7-16A-9.3. RETURNS BY [~~RACK OPERATORS~~] SUPPLIERS--
10 REQUIREMENTS--[~~Rack operators~~] Suppliers shall file
11 information returns in form and content as prescribed by the
12 department on or before the twenty-fifth day of the month
13 following the month in which special fuel is distributed in New
14 Mexico. The department may require that the information
15 returns be provided through electronic means if the department
16 provides an exception from that requirement for [~~rack~~
17 ~~operators~~] suppliers that distribute limited amounts of fuel."

18 SECTION 16. A new Section 7-16A-13.2 NMSA 1978 is enacted
19 to read:

20 "7-16A-13.2. [NEW MATERIAL] CLAIM FOR REFUND OF SPECIAL
21 FUEL EXCISE TAX PAID ON SPECIAL FUEL--SUPPLIERS.--

22 A. A supplier is eligible for a refund of tax paid
23 on special fuel for which the supplier provides satisfactory
24 proof to the department that the special fuel was:

25 (1) exported from this state by the supplier

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1 other than in the fuel supply tank of a motor vehicle; provided
2 that:

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

6 (b) proof is submitted that the
7 destination state's special fuel or equivalent fuel tax has
8 been paid or is not due with respect to the special fuel; or

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

13 (2) sold by the supplier to the United States
14 or to an agency or instrumentality thereof for the exclusive
15 use of the United States or an agency or instrumentality
16 thereof. Special fuel sold to the United States includes
17 special fuel delivered into the fuel supply tank of a
18 government-licensed vehicle of the United States;

19 (3) sold to the state of New Mexico or to any
20 political subdivision, agency or instrumentality thereof for
21 the exclusive use of the state of New Mexico or any political
22 subdivision, agency or instrumentality thereof. Special fuel
23 sold to the state of New Mexico includes special fuel delivered
24 into the supply tank of a government-licensed vehicle;

25 (4) sold by the supplier to an Indian nation,

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1 tribe or pueblo or to a political subdivision, agency or
2 instrumentality of that Indian nation, tribe or pueblo for the
3 exclusive use of the Indian nation, tribe or pueblo or a
4 political subdivision, agency or instrumentality thereof.
5 Special fuel sold to an Indian nation, tribe or pueblo includes
6 special fuel delivered into the supply tank of a government-
7 licensed vehicle of the Indian nation, tribe or pueblo;

8 (5) dyed in accordance with department
9 regulations and used in a manner other than for propulsion of
10 motor vehicles on the highways of this state or motorboats or
11 activities ancillary to that propulsion;

12 (6) number 2 diesel fuel and was sold for the
13 generation of power to propel a vehicle authorized by contract
14 with the public education department as a school bus; provided
15 that the fuel had a distillation temperature of five hundred
16 degrees Fahrenheit at a ten percent recovery point and six
17 hundred forty degrees Fahrenheit at a ninety percent recovery
18 point; or

19 (7) received in New Mexico on which New Mexico
20 special fuel excise tax was paid by the out-of-state terminal
21 at which the special fuel was loaded; provided that
22 documentation that the special fuel was to be imported into New
23 Mexico was provided to the terminal operator by the person
24 receiving the fuel.

25 B. A supplier who is eligible to apply for a refund

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1 of tax paid shall apply on a form and in the manner determined
2 by the department. The department shall determine what
3 documentation is necessary to establish satisfactory proof
4 that:

5 (1) the special fuel was sold and used as
6 required for the tax to be refundable;

7 (2) tax was previously paid on the special
8 fuel for which the refund is sought; and

9 (3) a refund was not previously granted by the
10 department for taxes paid on the special fuel for which the
11 refund is sought."

12 SECTION 17. TEMPORARY PROVISION--GASOLINE TAX SHARING
13 AGREEMENTS.--The repeal of Section 67-3-8.1 NMSA 1978 by
14 Section 18 of this act shall not modify or impair any gasoline
15 tax sharing agreement entered into pursuant to that section
16 prior to July 1, 2019.

17 SECTION 18. REPEAL.--Sections 7-13-4.4 and 67-3-8.1 NMSA
18 1978 (being Laws 2000, Chapter 50, Section 1 and Laws 2003,
19 Chapter 150, Section 3, as amended) are repealed.

20 SECTION 19. APPLICABILITY.--The provisions of the
21 Gasoline Tax Act, Petroleum Products Loading Fee Act and
22 Special Fuels Supplier Tax Act apply to gasoline and special
23 fuel received or loaded on or after July 1, 2019.

24 SECTION 20. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2019.

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