

CHAPTER 371

TAXATION

HOUSE BILL 00-1479

BY REPRESENTATIVES May, George, Kester, Larson, Lee, Paschall, and Scott;
also SENATORS Dennis and Hillman.

AN ACT

CONCERNING ADMINISTRATION OF THE EXCISE TAX ON FUELS, AND, IN CONNECTION THEREWITH,
AMENDING AND RELOCATING PART 2 OF ARTICLE 27 OF TITLE 39, COLORADO REVISED STATUTES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-27-101 (1.2), (1.4), (1.5), (1.6), (1.7), (2.2), (5), (6), (6.6), (8), and (9), Colorado Revised Statutes, are amended, and the said 39-27-101 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-101. Definitions - construction. As used in this part 1, unless the context otherwise requires:

(1.1) **[Formerly 39-27-201 (1)]** ~~(1)~~ "Blended special fuel" means any mixture of taxable or tax-exempt special fuel with any other liquid on which the excise tax has not been imposed pursuant to this section, other than special fuel that has been dyed in accordance with federal regulations.

(1.2) "Blender" means a person who produces blended gasoline OR BLENDED SPECIAL FUEL outside of the gasoline OR SPECIAL FUEL distribution system consisting of refineries, pipelines, vessels, and terminals. For purposes of this subsection (1.2), gasoline in a refinery, pipeline, vessel, or terminal is in the gasoline distribution system, AND SPECIAL FUEL IN A REFINERY, PIPELINE, VESSEL, OR TERMINAL IS IN THE SPECIAL FUEL DISTRIBUTION SYSTEM. Gasoline OR SPECIAL FUEL in the tank of any vehicle or in any railcar, trailer, truck, or other equipment suitable for ground transportation is not in the gasoline or SPECIAL FUEL distribution system, RESPECTIVELY.

(1.4) "Common carrier" or "carrier" means a person, including a railroad operator,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

who transports gasoline OR SPECIAL FUEL from a terminal LOCATED IN THIS STATE or transports gasoline OR SPECIAL FUEL imported into this state and who does not own the gasoline OR SPECIAL FUEL.

~~(1.5) "Distributor" means a gasoline broker or a person who acquires gasoline from a supplier, importer, blender, or another distributor for the subsequent sale and distribution by tank cars, tank trucks, or both. [Formerly 39-27-201 (1.5)]~~ (a) "Distributor" means: any

(I) A GASOLINE OR SPECIAL FUEL BROKER AND ANY PERSON WHO SELLS SPECIAL FUEL TO ANOTHER DISTRIBUTOR, BROKER, OR VENDOR, AND ANY VENDOR OF LIQUIFIED PETROLEUM GASES;

(II) ANY person who acquires GASOLINE OR special fuel from a supplier, importer, blender, or another distributor for the subsequent sale and distribution by tank cars, tank trucks, or both; ~~"Distributor" also means;~~ OR

(III) Any person who refines, manufactures, produces, compounds, blends, or imports special fuel OR GASOLINE.

(b) "Distributor" includes every person importing GASOLINE OR special fuel by means of a pipeline or in any other manner, but does not include persons importing GASOLINE OR special fuel contained only in the fuel tank of a motor vehicle. ~~"Distributor" also includes a special fuel broker and any person who sells special fuel to another distributor, broker, or vendor, and any vendor of liquefied petroleum gases.~~

~~(1.6) "Exporter" means a person who acquires gasoline in this state exclusively for delivery in another state in which he or she is licensed. [Formerly 39-27-201 (1.6)]~~ "Dyed diesel" means diesel fuel that is dyed under the rules of the United States environmental protection agency or the internal revenue service for high sulphur diesel fuel or low sulphur diesel fuel or under any other requirements subsequently set by such agencies for special fuel sold for nontaxable uses.

~~(1.7) "Gallons" means gallons as measured on a gross gallons basis, as defined in section 8-20-201 (3), C.R.S. [Formerly 39-27-201 (1.8)]~~ ~~(1.8)~~ "Exporter" means a person who acquires GASOLINE OR special fuel in this state exclusively for delivery to another state in which he or she is licensed.

(1.8) ~~[Formerly 39-27-201 (2)]~~ ~~(2)~~ "Fuel tank" means any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the vehicle, exclusive of a cargo tank, ~~"Fuel tank"~~ AND includes any separate compartment of a cargo tank used as a fuel tank and any auxiliary tank or receptacle of any kind from which fuel is supplied for the propulsion of the vehicle, whether or not such tank or receptacle is directly connected to the fuel supply line of the vehicle.

(1.9) ~~[Formerly 39-27-201 (2.5)]~~ ~~(2.5)~~ "Gallons" means gallons as measured on a gross gallons basis, as defined in section 8-20-201 (3), C.R.S.

(2.1) ~~[Formerly 39-27-201 (3)]~~ ~~(3)~~ "Highway" means any way or place in this state of whatever nature, open to the use of the public, for purposes of traffic, including highways under construction.

(2.2) "Importer" means a person who imports gasoline OR SPECIAL FUEL in bulk or by transport load into this state from another state by truck, rail, or pipeline.

(2.3) **[Formerly 39-27-201 (4)]** ~~(4)~~ "In this state" means within the exterior limits of the state of Colorado and includes all territories within these limits owned by or ceded to the United States of America.

(2.5) **[Formerly 39-27-201 (5)]** ~~(5)~~ "Motor vehicle" means any self-propelled vehicle required to be licensed or subject to licensing for operation upon the highways of this state.

(5) "Refiner" means a person who processes crude oil or who produces, refines, prepares, distills, or manufactures gasoline OR SPECIAL FUEL in this state.

(6) "Refinery" means any place where gasoline, SPECIAL FUEL, or crude oil is produced, refined, compounded, blended, or manufactured.

(6.1) **[Formerly 39-27-201 (7)]** ~~(7)~~ "Sell" means to transfer title or possession, exchange, or barter in any manner or by any means whatsoever.

(6.3) **[Formerly 39-27-201 (8)]** ~~(8)~~ "Special fuel" means diesel engine fuel, kerosene, liquefied petroleum ~~gases~~ GAS, and natural gas used for the generation of power to propel a motor vehicle on the highways of this state. "Special fuel" does not include gasoline as defined in section 39-27-101 (2).

(6.6) "Supplier" means a person who owns and stores gasoline OR SPECIAL FUEL in a pipeline terminal, terminal, or refinery in or outside of this state for sale or use within or outside the boundaries of this state.

(8) "Tank farm" means any collection of tanks for storage of gasoline OR SPECIAL FUEL located at or appurtenant to any refinery or pipeline terminal for storage of gasoline OR SPECIAL FUEL before the sale thereof in this state.

(9) "Terminal" means a gasoline OR SPECIAL FUEL storage and distribution facility that is supplied by a pipeline, vessel, or refinery, or a tank farm from which gasoline OR SPECIAL FUEL may be removed for distribution.

(11) **[Formerly 39-27-201 (9)]** ~~(9)~~ "Use" or "uses" means the placing of special fuel into any fuel tank, unless it is established to the satisfaction of the executive director of the department of revenue that the fuel was consumed for a purpose other than to propel a motor vehicle on the highways of this state. With respect to fuel brought into this state in a fuel tank, "use" means the consumption of the fuel in this state. A vendor placing special fuel into a fuel tank of a motor vehicle not owned by ~~him~~ THE VENDOR is not deemed to have used the fuel.

(12) **[Formerly 39-27-201 (10)]** ~~(10)~~ "User" means any person who uses special fuel.

(13) **[Formerly 39-27-201 (11)]** ~~(11)~~ "Vendor" means any person who sells special fuel in this state and places the fuel, or causes the fuel to be placed, into any fuel tank or receptacle from which a fuel tank is supplied; ~~"Vendor" includes~~

INCLUDING service station dealers, brokers, and users who sell SPECIAL fuel to others and distributors who sell special fuel to users. For the purposes of this ~~part 2~~ PART 1, a vendor of liquefied petroleum gases shall be deemed a distributor and shall comply with all of the requirements imposed upon distributors in this ~~part 2~~ PART 1.

SECTION 2. 39-27-102 (1) (a) (I) and (1.5), Colorado Revised Statutes, are amended to read:

39-27-102. Tax imposed on gasoline - deposits - penalties. (1) (a) (I) Other than as provided in subparagraph (III) of this paragraph (a), an excise tax is imposed and shall be collected on all gasoline sold, offered for sale, or used in this state for any purpose whatsoever, but only one tax shall be paid upon the same gasoline in this state. Except as otherwise provided in this subparagraph (I), no more than three tax-deferred transactions shall take place after the gasoline has left the terminal of its origin, either within or outside of this state; EXCEPT THAT, FOR PURPOSES OF COUNTING THE APPLICABLE TRANSACTIONS IN ORDER TO COLLECT THE TAX IMPOSED BY THIS SUBPARAGRAPH (I), COUNTING SHALL BEGIN WHEN THE GASOLINE FIRST ENTERS THIS STATE, WHETHER BY TRUCK OR BY RAIL. If more than three distributors acquire the gasoline, the third distributor shall be liable for payment of the tax imposed. Nothing in this paragraph (a) shall preclude previous distributors from paying the tax. A distributor shall not be required to pay tax on gasoline that is exempt pursuant to section 39-27-103 (2). The tax imposed shall be computed upon the total amount of gasoline, measured in gallons, acquired by each distributor in this state and shall be paid in the manner provided in this section.

~~(1.5) (a) Any distributor, supplier, blender, or exporter who transports gasoline to any destination outside of this state shall submit to the department of revenue a monthly report containing any information relative to the export of gasoline that the executive director of the department of revenue shall require. The executive director shall consult with persons in the gasoline industry to determine such reporting requirements and establish said requirements by rule in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S. The executive director may by rule require that such reports be filed electronically.~~

~~(b) If the tax is paid on gasoline that is subsequently exported, it shall be refunded pursuant to section 39-27-103 to the exporter who paid the tax.~~

~~(c) Immediately upon discovery of a violation of this subsection (1.5), the department of revenue and agents thereof:~~

~~(I) May require payment of the excise tax imposed pursuant to paragraph (a) of subsection (1) of this section and all applicable civil fines imposed pursuant to this subsection (1.5) from any person who violates the provisions of subsection (9) of this section; and~~

~~(II) May detain the shipment of gasoline until payment is collected.~~

~~(d) Any licensed distributor, supplier, or exporter who diverts gasoline for use or sale within this state after claiming such shipment as an export shall report such diversion to the department within one working day after the diversion.~~

~~(e) If any person other than a licensed distributor, supplier, or exporter physically diverts to one or more destinations within the boundaries of this state any or all of a shipment of gasoline that is claimed as an export on the bill of lading or other affidavit, such person shall report to the department of revenue, within one working day after such diversion, the destinations within this state to which the diverted gasoline shipment was delivered. Such person shall be liable for payment of the excise tax established in paragraph (a) of subsection (1) of this section on the amount of gasoline diverted to a destination within this state.~~

~~(f) Any person who violates the reporting requirements of this subsection (1.5) shall be subject to the civil penalties set forth in subsection (9) of this section.~~

SECTION 3. 39-27-104 (1) and (2), Colorado Revised Statutes, are amended, and the said 39-27-104 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-104. License and deposit - exception. (1) (a) It is unlawful for any person to act as a distributor, supplier, importer, exporter, carrier, or blender of gasoline OR SPECIAL FUEL in this state without being licensed as such. Any person who acts as a distributor, supplier, importer, exporter, carrier, or blender of gasoline OR SPECIAL FUEL within this state without being licensed as such is guilty of a misdemeanor. Each day of operation without a license shall be considered a separate offense. SUCH PERSON SHALL ALSO BE SUBJECT TO THE CIVIL PENALTIES IMPOSED PURSUANT TO SECTION 39-27-105 (5).

(b) Each applicant for the gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender license required by this section shall file with the executive director of the department of revenue an application in such form and manner as the executive director shall prescribe, stating the name and address of the applicant and such other information as may be required by this section or by the executive director. The application shall include a statement that such application is signed under oath and under the penalty of perjury in the second degree, as defined in section 18-8-503, C.R.S. An applicant for a license to export gasoline OR SPECIAL FUEL from this state shall provide verification as required by the executive director that the applicant has an appropriate license valid in any state into which the gasoline will be exported. Each application for a gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender license shall be accompanied by a ten-dollar filing fee.

(c) The executive director OF THE DEPARTMENT OF REVENUE shall issue a license to an applicant if the application for a gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender license is in proper form, has been accepted for filing, and meets the other conditions and requirements of this section. The license shall be valid until surrendered, suspended, or revoked.

(d) A person who engages in the business of blending or compounding any products to make gasoline OR SPECIAL FUEL thereof shall obtain a blender license and set forth in his or her application the kind and general characteristics of the products to be blended, the place where such blending is done, the purpose of such blending, and the intended disposition of such blended products and any other information as

the executive director OF THE DEPARTMENT OF REVENUE deems necessary or advisable for the enforcement of this part 1.

(e) When any person ceases to be a distributor, supplier, importer, exporter, carrier, or blender of gasoline OR SPECIAL FUEL by reason of discontinuance, sale, or transfer of such person's business at any location, such person shall notify the executive director of the department of revenue in writing at the time the discontinuance, sale, or transfer takes effect. The notice shall state the date of discontinuance and, in the event of sale or transfer, the name and address of the purchaser or transferee. All taxes, penalties, and interest not yet due and payable under the provisions of this part 1 shall, notwithstanding any other provisions of this part 1, become due and payable concurrently with the discontinuance, sale, or transfer; and the distributor shall make a report and pay all taxes, penalties, and interest and shall surrender to the executive director OF THE DEPARTMENT OF REVENUE the gasoline distributor, supplier, importer, exporter, carrier, or blender license together with all duplicates issued to him or her.

(f) The gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender license issued under the provisions of this section shall be conspicuously displayed in the established place of business of the licensee. A licensee shall obtain a duplicate license for each established branch office or location, which shall be displayed in a like manner as the original license. Each such duplicate license shall be issued by the executive director OF THE DEPARTMENT OF REVENUE upon payment of a five-dollar fee.

(g) (I) No person shall export gasoline OR SPECIAL FUEL out of this state without a valid license pursuant to this section. Any person who VIOLATES THE REPORTING REQUIREMENTS OF THIS PART 1, exports gasoline OR SPECIAL FUEL out of this state without a valid license OR IMPORTS GASOLINE OR SPECIAL FUEL INTO THIS STATE WITHOUT A LICENSE shall be subject to the following civil penalties:

- (A) A five-thousand-dollar fine for the first violation;
- (B) A ten-thousand-dollar fine for the second violation;
- (C) A fifteen-thousand-dollar fine for a third or subsequent violation.

(II) The executive director OF THE DEPARTMENT OF REVENUE is authorized to waive, for good cause shown, any civil penalty assessed pursuant to this paragraph (g).

(III) All moneys collected pursuant to this paragraph (g) shall be credited to the highway users tax fund, created in section 43-4-201, C.R.S.

(IV) Nothing in this paragraph (g) shall be construed to prohibit the criminal prosecution of any person who commits a criminal offense in connection with or as a result of violating any provision of this part 1.

(V) Immediately upon discovery of a violation of this paragraph (g), the department of revenue and agents thereof:

(A) May require payment of the excise tax imposed pursuant to ~~section 39-27-102~~ ~~(1)(a)~~ SECTIONS 39-27-102 (1) (a) AND 39-27-102.5 (1) (a), and all applicable civil penalties imposed pursuant to this paragraph (g) from any person who violates the provisions of this paragraph (g); and

(B) May detain the shipment of gasoline OR SPECIAL FUEL until payment is collected.

(h) The executive director of the department of revenue may refuse to issue a gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender license if the executive director finds, after affording the applicant due notice and an opportunity to be heard, that the application:

(I) Was filed by any person whose license has previously been suspended or revoked for cause by the executive director OF THE DEPARTMENT OF REVENUE;

(II) Contains any misrepresentation, misstatement, or omission of material information required by the application;

(III) Was filed by some person other than the real person in interest whose license has been previously suspended or revoked for cause by the executive director OF THE DEPARTMENT OF REVENUE;

(IV) Was filed by any person who is or has been delinquent in the payment of any fee, tax, penalty, or other amount due to the department of revenue for more than two taxable periods; or

(V) Was submitted by a person who the executive director OF THE DEPARTMENT OF REVENUE determines is unable or unwilling to perform the duties and responsibilities of a licensed gasoline OR SPECIAL FUEL distributor, supplier, importer, exporter, carrier, or blender, as applicable, based upon evidence furnished to him or her.

(2) (a) (I) No license to act as a distributor, ~~or~~ refiner, OR TERMINAL OPERATOR of gasoline OR SPECIAL FUEL shall be issued until the applicant therefor has deposited with the department of revenue evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, C.R.S., or a surety bond or a negotiable certificate of deposit issued by a commercial bank doing business in this state acceptable to the executive director ~~in an amount not less than three thousand dollars nor more than one hundred thousand dollars, the exact amount to be fixed by the executive director~~ OF THE DEPARTMENT OF REVENUE. WHEN SUCH DEPOSIT IS A SURETY BOND, SUCH BOND SHALL BE IN THE SUM OF APPROXIMATELY THREE TIMES THE MONTHLY TAX LIABILITY ESTIMATED BY THE EXECUTIVE DIRECTOR TO BECOME DUE BY THE LICENSEE; EXCEPT THAT THE AMOUNT OF THE SURETY BOND SHALL NEVER BE LESS THAN TWENTY-FIVE THOUSAND DOLLARS NOR MORE THAN TWO HUNDRED THOUSAND DOLLARS. If the deposit is a surety bond, it shall ALSO be conditioned upon compliance by the distributor or refiner with all provisions of this part 1 and payment of all taxes and penalties to become due and payable thereunder; if it is a negotiable certificate of deposit, it shall be subject to forfeiture upon failure of the distributor or refiner to comply with said provisions or to pay all said taxes and penalties. Upon approval by the executive director of the application, a license to act

as a distributor or refiner shall be issued to the applicant.

(II) **[Formerly 39-27-204 (4) (b)]** ~~(4)(b)~~ The total amount of bond required of a distributor shall be fixed by the executive director OF THE DEPARTMENT OF REVENUE and may be increased or decreased by ~~him~~ SUCH DIRECTOR at any time, subject to the limitations imposed by this ~~subsection (4)~~ SUBSECTION (2).

(b) If at any time after issuance of the license the executive director OF THE DEPARTMENT OF REVENUE finds that the licensee is acquiring gasoline OR SPECIAL FUEL in a quantity that makes the licensee liable for payment of excise tax for the preceding and current month in an amount greater than the amount of the deposit, the executive director shall, by written notice to the licensee, demand an additional surety bond or negotiable certificate of deposit to be deposited in an amount determined necessary to secure payment of a greater amount of taxes, but the aggregate amount of deposit shall in no event exceed two hundred thousand dollars. If the licensee fails or refuses within ten days after receipt of the written notice and demand to deposit an additional surety bond or negotiable certificate of deposit in the amount determined, the executive director may by written notice suspend or revoke the license held by the licensee. The requirements of this section relative to making a deposit shall apply only to distributors who are liable to the state for payment of the tax imposed by section 39-27-102.

(c) If the surety upon any surety bond so elects, said surety bond may be conditionally cancelled by the filing by said surety with the licensee and the executive director OF THE DEPARTMENT OF REVENUE of written notices of such conditional cancellation, but said surety shall not be discharged from any liability already accrued or that may accrue under said bond before the expiration of sixty days after the filing of said notices; if the licensee fails or refuses within sixty days after receiving said notice to deposit a new surety bond or a negotiable certificate of deposit acceptable to the executive director, then ~~his~~ SUCH license shall be revoked and cancelled.

(d) When a new surety bond or a negotiable certificate of deposit is deposited by a licensee, the executive director OF THE DEPARTMENT OF REVENUE shall surrender the old surety bond as soon as ~~he~~ SUCH DIRECTOR shall be satisfied that all liability thereunder has been fully discharged. When the liability upon a surety bond deposited by a licensee is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or when a surety bond deposited by a licensee becomes insufficient by reason of the insolvency of the surety, or when for any other cause such surety bond is found to be insufficient, the executive director shall require the licensee to deposit a new surety bond or a negotiable certificate of deposit, in default of which ~~he~~ THE EXECUTIVE DIRECTOR may revoke and cancel ~~his~~ SAID license. The validity of any surety bond and the liability of the surety thereon shall not be affected by the revocation of a license, or by partial recovery upon said surety bond, or by the deposit of a new surety bond or a negotiable certificate of deposit, but all such surety bonds shall continue in force and effect until surrendered by the executive director.

(e) **[Formerly 39-27-204 (4) (e)]** ~~(4)(e)~~ Any surety on a bond furnished by a distributor pursuant to this ~~subsection (4)~~ SUBSECTION (2), upon written request to the executive director OF THE DEPARTMENT OF REVENUE, shall be discharged from any liability to this state accruing on the bond after expiration of sixty days from the date

of filing the request but not from liability already accrued or accruing before the expiration of the sixty-day period. The executive director, upon receipt of such a request, shall promptly notify the distributor who furnished the bond in question and, unless such distributor, prior to the expiration of the sixty-day period, files a new bond satisfactory to the executive director, the executive director shall forthwith revoke such distributor's license.

(2.1) **[Formerly 39-27-204 (5)]** ~~(5)~~ (a) No person, unless qualified as a distributor or exempt from payment of the special fuel tax imposed by this ~~part 2~~ PART 1, shall be issued authorization to purchase special fuel ex-tax from a distributor for use as the propulsion source for a motor vehicle ~~which~~ THAT is operated upon the highways of this state, as provided in ~~section 39-27-202 (3)~~ SECTION 39-27-102.5 (3), until such person has filed A SURETY BOND with the executive director ~~a surety bond~~ OF THE DEPARTMENT OF REVENUE. The terms and conditions of such surety bond shall be the same as those provided under ~~subsection (4)~~ SUBSECTION (2) of this section for the bonding of distributors; except that the amount of such bond shall never be less than one hundred dollars nor more than fifty thousand dollars. The executive director may accept cash or certificates of deposits in lieu of surety MEETING THE REQUIREMENTS OF SECTION 11-35-101, C.R.S., OR AN IRREVOCABLE LETTER OF CREDIT MEETING THE REQUIREMENTS OF SECTION 11-35-101.5, C.R.S.

(b) Any person who fails or refuses to furnish additional bond or file a new bond upon the request of the executive director OF THE DEPARTMENT OF REVENUE or who has ~~his~~ authorization to purchase special fuel ex-tax from a distributor revoked by the executive director and who continues to use such authorization is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of fifty dollars for each such offense.

(c) **[Formerly 39-27-204 (6)]** ~~(6)~~ If an examination of the financial responsibility of a person who has been issued authorization to purchase special fuel ex-tax from a distributor indicates that a financial guarantee is necessary to guarantee payment of the tax, such person may be required to deposit a surety bond. The terms and conditions of such surety bond shall be the same as those provided in ~~subsection (4)~~ SUBSECTION (2) of this section for the bonding of distributors; except that the amount of such bond shall never be less than one hundred dollars nor more than fifty thousand dollars. In lieu of a surety bond, the executive director OF THE DEPARTMENT OF REVENUE may accept cash or certificates of deposit meeting the requirements of section 11-35-101, C.R.S., or an irrevocable letter of credit meeting the requirements of section 11-35-101.5, C.R.S.

(4) **[Formerly 39-27-204 (1) (f)]** ~~(1) (f)~~ Notwithstanding the amount specified for any fee in ~~this~~ subsection (1) OF THIS SECTION, the executive director of the department of revenue, by rule or as otherwise provided by law, may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director, by rule or as otherwise provided by law, may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

SECTION 4. The introductory portion to 39-27-105 (1) and 39-27-105 (1) (e), (1.5), (2), and (3), Colorado Revised Statutes, are amended, and the said 39-27-105 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-105. Collection of tax on gasoline and special fuel. (1) In addition to the reporting requirements set forth in subsection (1.5) of this section, every distributor, ~~and~~ blender, REFINER, OR TERMINAL OPERATOR OF GASOLINE on or before the twenty-fifth day of each calendar month shall file with the executive director of the department of revenue, on forms prescribed and furnished by the department, an itemized statement made under penalty of perjury in the second degree, showing the following:

(e) Further information pertaining to the acquisition of gasoline and its disposition as the executive director OF THE DEPARTMENT OF REVENUE may reasonably require. In the case of a distributor duly licensed as a blender OF GASOLINE, the report shall show the amount and character of the unblended products and the blended products on hand on the last day of the preceding calendar month, the amount of unblended products acquired and the amount of products blended during said calendar month, and any other information relative to the disposition of the blended products as the executive director may deem necessary or advisable for the correct determination of the amount of excise tax applicable to gasoline acquired, used, or offered for sale by the distributor.

(1.3) (a) [~~Formerly 29-27-205 (1)~~] (~~†~~) Every distributor, BLENDER, REFINER, OR TERMINAL OPERATOR of special fuel shall, on or before the twenty-fifth day of each month, file with the executive director of the department of revenue a report stating the total amount of special fuel ~~sold~~ ACQUIRED by ~~the~~ SUCH distributor during the prior calendar month, ~~the amount of special fuel subject to the tax imposed by this part 2~~; and such other information relating to the sale of special fuel as the executive director may require. Failure to receive the authorized report form does not relieve a distributor from the obligation of submitting a report to the executive director setting forth all information required on the prescribed report form. The report shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S.

(b) The executive director OF THE DEPARTMENT OF REVENUE, if ~~he~~ SAID EXECUTIVE DIRECTOR deems it necessary in order to ~~insure~~ ENSURE payment of the tax imposed by this ~~part 2~~ PART 1 or to facilitate the administration of this ~~part 2~~ PART 1, may require a report of a distributor and payment of the tax due by the distributor to be made for other than, or in addition to, the monthly period. When such option is authorized, the amount of surety bond required by ~~section 39-27-204 (4)~~ SECTION 39-27-104 (2) may be adjusted by the executive director proportionately with the change in liability.

(c) Distributors may aggregate figures stated in the reports required by this ~~subsection (1)~~ SUBSECTION (1.3) for liquified petroleum gas and natural gas for all service stations or other facilities ~~which~~ THAT dispense liquified petroleum gas or natural gas for sale to users and ~~which~~ THAT are owned or operated by the same distributor.

(d) Distributors may aggregate figures stated in the reports required by this ~~subsection (1)~~ ~~SUBSECTION (1.3)~~ for liquified petroleum gas and natural gas for sales of such fuels to a particular class or type of individual user or holder of the decals authorized by ~~section 39-27-202 (5)~~ SECTION 39-27-102.5 (5). Distributors of liquified petroleum gas and natural gas shall not be required to separately report the amount of sales to individual users.

(e) Any inventory reporting requirements established pursuant to this ~~subsection (1)~~ ~~SUBSECTION (1.3)~~ shall not apply to distributors of natural gas whose service stations or other facilities receive special fuel for sale through a pipeline and have a maximum special fuel storage capacity of less than one-thousand-gallon equivalents at the site where sales are made to users.

(1.5) On or before the twenty-fifth day of each calendar month, every licensee shall file with the executive director of the department of revenue, on forms prescribed and furnished by the department, a report made under penalty of perjury in the second degree specifying any information that the executive director of the department of revenue shall require. The executive director shall consult with persons in the gasoline OR SPECIAL FUEL industry to determine such reporting requirements and promulgate said requirements by rule in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

(2) It is the duty of every distributor OF GASOLINE to compute the amount of tax payable on all gasoline acquired during the preceding calendar month at the rate of tax per gallon imposed thereon in section 39-27-102 (1), and, in computing the amount of tax, the allowance of two percent provided for in section 39-27-102 (1) shall be taken into account. From the amount of tax so computed, the distributor OF GASOLINE shall deduct one-half of one percent to cover expenses of collection of the tax and bad debt losses and shall pay the remaining balance to the department of revenue at the time of filing the statement required to be filed by the provisions of this section. A penalty of thirty dollars or ten percent of the tax due, plus one-half of one percent per month from the date when due, not to exceed eighteen percent in the aggregate, whichever is greater, shall be imposed for failure to file any statement when due or pay the tax as provided in this section, in addition to any other penalties provided by this part 1.

(3) If any distributor OF GASOLINE fails or refuses to make and file the sworn statement and pay the tax due for any calendar month or if any distributor OF GASOLINE makes and files any incorrect or fraudulent statement or return for any calendar month as required by this part 1, the executive director OF THE DEPARTMENT OF REVENUE, upon such information as is available in his OR HER office or elsewhere, shall determine the amount of gasoline taxes due from said distributor and shall add to said amount a penalty of thirty percent thereof for failure to file such report or for filing such false or fraudulent report and collect the amount of said tax and penalty plus interest on the whole amount due from said distributor at the rate imposed under section 39-21-110.5 from the date due until paid. The executive director may waive, for good cause shown, any penalty assessed as provided in this article and article 21 of this title.

(4) **[Formerly 39-27-205 (2) (a)]** ~~(2)~~ (a) Every person who has obtained a passenger-mile tax permit pursuant to section 42-3-137, C.R.S., where such permit

relates to a motor vehicle ~~which~~ THAT is powered by special fuel, shall, on or before the last day of the month following the end of the quarter, file with the executive director of the department of revenue a report stating the amount of special fuel subject to the tax imposed by this ~~part 2~~ PART 1 consumed by such person during the prior quarter and such other information relating to the use of special fuel for the propulsion of a motor vehicle on the highways of this state as the executive director may require. The executive director, under rules and procedures established by ~~him~~ ~~or her~~ SAID EXECUTIVE DIRECTOR, may exempt from the reporting requirement of this ~~subsection (2)~~ SUBSECTION (4) any motor vehicle used exclusively within this state. Failure to receive the authorized report form does not relieve such person from the obligation of submitting a report to the executive director setting forth all information required on the prescribed report form. The report shall contain or be accompanied by a written declaration that it is made under the penalties of perjury in the second degree, as defined in section 18-8-503, C.R.S.

(b) From the tax due, an authorized user may claim credit for tax paid on purchases of special fuel from vendors within this state. Any credit in excess of the tax due from a user under this ~~part 2~~ PART 1 may be claimed on a consolidated report authorized under paragraph (c) of this ~~subsection (2)~~ SUBSECTION (4) as a credit against the taxes imposed under section 42-3-134, C.R.S. Otherwise, such credit is refundable under the provisions of ~~section 39-27-203~~ SECTION 39-27-103.5 and such rules and procedures as the executive director OF THE DEPARTMENT OF REVENUE may adopt.

(c) The executive director OF THE DEPARTMENT OF REVENUE may authorize, under rules and procedures established by ~~him~~ ~~or her~~ SAID EXECUTIVE DIRECTOR, the consolidation of the report required by this ~~subsection (2)~~ SUBSECTION (4) and the report required by section 42-3-136, C.R.S., into a single report.

(d) Notwithstanding any other provision of this section to the contrary, any owner or operator of a motor vehicle required to pay a special fuel tax imposed by the provisions of paragraph (a) of this ~~subsection (2)~~ SUBSECTION (4) may pay the tax and file the statement required by said paragraph (a) on a quarterly basis. THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE, UNDER RULES AND PROCEDURES ESTABLISHED BY THE EXECUTIVE DIRECTOR, MAY EXEMPT FROM THE REPORTING REQUIREMENT OF THIS SUBSECTION (4) ANY MOTOR VEHICLE USED EXCLUSIVELY WITHIN THIS STATE.

(5) (a) **[Formerly 39-27-205 (3)]** ~~(3)~~ Except as provided in paragraph (a) of ~~subsection (2)~~ SUBSECTION (4) of this section and in ~~section 39-27-202 (2) (d)~~ SECTION 39-27-102.5 (2) (c), every person who imports into this state special fuel within the fuel tank of a motor vehicle and who is not required to report special fuel usage under the provisions of ~~subsection (2)~~ SUBSECTION (4) of this section shall obtain from the port of entry, ~~or~~ from the office of the department of revenue nearest the point of entry into this state, or from any officer of the Colorado state patrol a single trip permit that shall contain a description of the motor vehicle, a description of the points of travel within the state of Colorado, and such other information as the executive director OF THE DEPARTMENT OF REVENUE may require. At the time of issuance of such single trip permit, a tax will be computed and paid based on the consumption rate of four miles per gallon for special fuel consumed within Colorado at the special fuel tax rate provided by ~~section 39-27-202~~ SECTION 39-27-102.5. A

fee of one dollar shall be paid for each single trip permit and the permit shall be valid for a period of seventy-two hours.

(b) (I) The holder of a single trip permit shall be entitled to a refund of any tax imposed by this ~~part 2~~ PART 1 paid to a vendor within this state if:

(A) The special fuel, upon which such tax is paid, is placed into the fuel tank of the motor vehicle described within the permit; and

(B) The sale and delivery of such special fuel is within the seventy-two-hour period for which the permit is valid.

(II) The refund allowed by this paragraph (b) shall be issued under the provisions of ~~section 39-27-203~~ SECTION 39-27-103.5 and such rules and procedures as the executive director OF THE DEPARTMENT OF REVENUE may adopt.

(c) Any person whose use of special fuel is for the propulsion of a privately operated automobile shall be exempt from the provisions of this ~~subsection (3)~~ SUBSECTION (5). A privately operated passenger automobile does not include a motor vehicle used for the transportation of persons for hire or for compensation or designed, used, or maintained primarily for the transportation of property. A motor vehicle exempt from the mileage taxes of article 3 of title 42, C.R.S., is deemed to be a privately operated passenger automobile for purposes of this ~~subsection (3)~~ SUBSECTION (5).

(d) Any person who violates this ~~subsection (3)~~ SUBSECTION (5) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of seventy-five dollars, which shall be in addition to the civil penalties imposed by ~~paragraph (b) of subsection (3.5) of this section~~ SECTION 39-27-104 (1) (g).

(6) [**Formerly 39-27-205 (3.5)**] ~~(3.5)~~ (a) Every person who imports special fuel into this state for use or sale in this state without a single trip permit or a valid importer's, supplier's, or distributor's license is liable for and shall pay an excise tax pursuant to ~~section 39-27-202~~ SECTION 39-27-102.5 (1) on all undyed special fuel such person imports for use or sale in this state.

(b) Immediately upon discovering a violation of this ~~subsection (3.5)~~ SUBSECTION (6), the department of revenue and agents thereof:

(I) May demand payment of such excise tax and all applicable fines associated with the unlicensed importation of special fuel, as set forth in this ~~subsection (3.5)~~ SUBSECTION (6); and

(II) May detain the shipment of special fuel until such excise tax and fines are collected.

(c) Any person who imports special fuel into this state without a valid license pursuant to ~~section 39-27-204~~ SECTION 39-27-104 shall be subject to the civil penalties set forth in ~~subsection (8) of this section~~ SECTION 39-27-104 (1) (g).

(7) [**Formerly 39-27-205 (3.8)**] ~~(3.8)~~ (a) If any person other than a licensed

distributor or supplier physically diverts to one or more destinations within the boundaries of this state all or any portion of a shipment of special fuel that is claimed as an export on the bill of lading or other affidavit, such person shall report to the department of revenue the destinations within this state to which the diverted special fuel shipment was delivered within one working day after such diversion. Such person shall be liable for payment of the excise tax established in this ~~part 2~~ PART 1 on the amount of special fuel diverted to a destination within this state.

(b) Any licensed distributor or supplier who diverts special fuel for use or sale within this state after claiming such shipment as an export shall report such diversion to the department within one working day after the diversion.

(c) Any person who violates the reporting requirements of this ~~subsection (3-8)~~ SUBSECTION (7) shall be subject to the civil penalties set forth in ~~subsection (8) of this section~~ SECTION 39-27-104 (1) (g).

(d) Immediately upon discovery of a violation of this section, the department of revenue and agents thereof may require payment of the excise tax and all applicable civil penalties from any person who violates the provisions of this section and may detain the shipment of special fuel until payment is collected.

(8) [**Formerly 39-27-205 (4)**] ~~(4)~~ (a) Each report required by this section shall be accompanied by a remittance payable to the department of revenue for the amount of tax due, which shall be computed in the following manner:

(I) As to a distributor, the gallons of taxable special fuel ~~sold or delivered~~ ACQUIRED by ~~him to vendors~~ SUCH DISTRIBUTOR, multiplied by the rate per gallon as set forth within ~~section 39-27-202~~ SECTION 39-27-102.5, less an amount equal to one percent of the tax due and payable to be retained by ~~him~~ THE DISTRIBUTOR for expenses incurred ~~in~~ ON behalf of the state in maintaining records and collecting the tax and as an offset against losses due to circumstances beyond ~~his~~ THE DISTRIBUTOR'S control;

(II) As to persons required to report under ~~subsection (2)~~ SUBSECTION (4) of this section, the number of gallons of special fuel used in this state, multiplied by the rate per gallon as set forth in ~~section 39-27-202~~ SECTION 39-27-102.5.

(b) Any person who imports special fuel in bulk for use in motor vehicles owned or operated by such person shall file a report and pay the tax due thereon as if ~~he were a~~ THAT person WERE authorized by the executive director OF THE DEPARTMENT OF REVENUE to purchase special fuel ex-tax from a distributor.

(c) If a report or a remittance of tax due as shown on a report is sent through the United States mail, it shall be deemed to have been received on the date of the postmark stamped on the envelope containing such report or remittance.

(9) [**Formerly 39-27-205 (5)**] ~~(5)~~ (a) Any person who fails to file a report or to pay the tax due thereon shall pay a penalty of ten percent of the tax due, plus one-half of one percent per month from the date when due, not to exceed eighteen percent in the aggregate, or thirty dollars, whichever is greater, and the interest due under the provisions of section 39-21-109.

(b) Tax assessed pursuant to an error contained on a previously filed return ~~which~~ THAT was due to negligence or disregard of the law shall have added thereto:

(I) A penalty of twenty-five percent of the tax assessed; and

(II) Penalty interest of one-half of one percent per month, not to exceed eighteen percent in the aggregate, in addition to the interest due under section 39-21-109, on the tax assessed.

(10) **[Formerly 39-27-205 (6)]** ~~(6)~~ If any person fails, neglects, or refuses to file a report required by this section, the executive director OF THE DEPARTMENT OF REVENUE may, upon such information as may be available to ~~him~~ SAID EXECUTIVE DIRECTOR, estimate the amount of tax due for the period for which no report was filed, with applicable penalties and interest and mail such estimate to the last-known address of such person. The amount so estimated, together with the penalties and interest, shall become fixed, due, and payable, as if such person had filed a report showing such amounts, unless, within ten days after receiving the estimate, such person files a true and correct report for the period and pays the tax, penalty, and interest due thereon.

(11) **[Formerly 39-27-205 (7)]** ~~(7)~~ Distributors who sell natural gas exclusively to distributors, vendors, or other retailers of special fuels shall be exempt from the reporting and tax collection and remittance requirements of this section. This ~~subsection (7)~~ SUBSECTION (11) shall not apply to any distributor who sells natural gas to a user.

SECTION 5. 39-27-105.5 (2), Colorado Revised Statutes, is amended to read:

39-27-105.5. Lien to secure payment of taxes - exemption - recovery. (2) If a distributor fails to comply with the provisions of ~~section 39-27-105~~ SECTION 39-27-105 OR 39-27-105.3, the executive director of the department of revenue may seek to enforce collection of the unpaid taxes, penalties, and interest in accordance with the provisions of article 21 of this title.

SECTION 6. 39-27-106, Colorado Revised Statutes, is amended to read:

39-27-106. Distributor trustee of tax. Every distributor who sells any gasoline OR SPECIAL FUEL for any purpose THAT IS SUBJECT TO THE TAX IMPOSED BY THIS PART 1 shall collect from the purchaser the amount of excise tax thereon, and any sums of money paid by the purchaser to the distributor as gasoline OR SPECIAL FUEL taxes shall be and remain public money, the property of the state in the hands of such distributor, and ~~he~~ SUCH DISTRIBUTOR shall hold the same in trust for the sole use and benefit of the state until paid to the executive director of the department of revenue as provided in this part 1. Any distributor who willfully fails or refuses upon demand to pay over to the executive director the moneys paid to ~~him~~ THE DISTRIBUTOR as gasoline OR SPECIAL FUEL taxes ~~which~~ THAT are by this part 1 declared to be trust funds in ~~his~~ THE DISTRIBUTOR'S hands and the property of the state of Colorado or who fraudulently withholds, converts to ~~his~~ SUCH DISTRIBUTOR'S own use, or appropriates or otherwise uses such moneys or any part thereof belonging to the state shall be punished as provided by section 39-21-118.

SECTION 7. 39-27-108, Colorado Revised Statutes, is amended to read:

39-27-108. Penalty for failure to report or pay tax. Any person who willfully fails or refuses to make the report or payment OF TAX DUE to the executive director of the department of revenue as provided in sections 39-27-105 to 39-27-108, for which no penalty is expressly provided, and any person who willfully makes any false report or statement as to the amount of gasoline OR SPECIAL FUEL acquired, sold, or used or any false statement relative to the kind or character and the amount of the ~~products~~ GASOLINE OR SPECIAL FUEL received BY SUCH PERSON and required to be reported, with intent to evade the payment of the tax imposed in this part 1 on gasoline OR SPECIAL FUEL, shall be punished as provided by section 39-21-118. The making and filing of any false statement shall be deemed prima facie evidence of intent to evade the payment of tax imposed in this part 1 on gasoline OR SPECIAL FUEL by that means.

SECTION 8. 39-27-109.7, Colorado Revised Statutes, is amended to read:

39-27-109.7. Data collection services. In order to track the movement of gasoline OR SPECIAL FUEL within this state and thereby facilitate and expedite the collection of excise taxes imposed pursuant to this part 1, the executive director of the department of revenue may enter into a contract with one or more private entities for the provision of a computer-based program to monitor and track the data that licensees are required to report to the department pursuant to this part 1. Such computer-based program shall be funded solely with moneys from the highway users tax fund.

SECTION 9. 39-27-110, Colorado Revised Statutes, is amended, and the said 39-27-110 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-110. Inspection of records. (1) Every distributor of gasoline shall keep a true and complete record of all purchases, acquisitions, sales, and distribution of each kind of gasoline handled by the distributor, as to which a record of the total volume of sales and deliveries shall be kept for each calendar month. Every person carrying, transporting, importing, or delivering into or within this state gasoline shall keep true and correct records of shipments of gasoline for each calendar month. Every blender OF GASOLINE shall keep true and accurate records of all blended gasoline on hand, acquired, sold, used, or otherwise disposed of. All the books, records, papers, receipts, invoices, and equipment of every distributor, carrier, or blender that pertain to the acquisition, sale, or shipment of gasoline shall be retained for a period of three years and shall be subject to inspection at any time during ordinary business hours by the executive director or representatives of the department of revenue. Any information gained by the executive director or the director's representatives by the investigation shall be confidential and any person divulging the information, except as such disclosure may be rendered necessary by law, shall be subject to penalties provided in this part 1.

(2) In order that the amount of taxable gasoline may be accurately determined by the department of revenue, every refiner or blender OF GASOLINE in the state of Colorado shall maintain full and complete records of all purchases of whatever kind

and of all crude runs, still charges, pumping operations, distillation processes, blending operations, treating operations, transfers of stock, invoices, and any other records as are necessary to determine the correct gallonage, and such additional information as the department of revenue may from time to time require. Every refiner OF GASOLINE shall keep a complete record of all sales made and copies of all refinery invoices and shall submit to the executive director of the department of revenue a report of all such invoices in a form and manner as is prescribed by the executive director. Such records shall be available for inspection by authorized employees of the department of revenue during ordinary business hours.

(3) (a) ~~The fact that such books, papers, records, and equipment are not maintained in this state shall not cause the executive director or his representatives to lose any right of such examination.~~ [Formerly 39-27-209 (1)] (†) Every distributor OF SPECIAL FUEL shall keep a true and complete record of all purchases, receipts, sales, and distribution of each kind of special fuel HANDLED BY SUCH DISTRIBUTOR. Every person authorized by the executive director of the department of revenue to purchase special fuel ex-tax from a distributor shall keep a true and complete record of all purchases of each kind of special fuel consumed by motor vehicles operating on the highways of this state and the miles traveled by such vehicles on highways, both within and ~~without~~ OUTSIDE this state. Every person carrying, transporting, importing, or delivering into or within this state special fuel shall keep true and correct records of such shipments for each calendar month. Every refiner in this state shall keep a true and complete record of all sales made of special fuel and copies of all refiner invoices detailing such sales.

(b) Each sale or transfer of special fuel by a distributor to any person shall be recorded upon a preprinted, serially numbered invoice, which shall contain at least the following information:

(I) The name and address of the distributor;

(II) The name and department of revenue identification of the purchaser;

(III) The date of sale or transfer;

(IV) The amount of special fuel sold, price per unit volume, and total amount of the sale.

(c) Each sale or transfer of special fuel by a vendor into the tank of a motor vehicle weighing more than ten thousand pounds shall be recorded upon a preprinted, serially numbered invoice, a copy of which shall be furnished the purchaser and shall contain at least the following information:

(I) The name and address of the vendor;

(II) The date of sale;

(III) The amount of special fuel sold, price per unit volume, and total amount of the sale;

(IV) A description of the motor vehicle sufficiently detailed to identify the motor

vehicle into which such special fuel was delivered.

(4) ~~[Formerly 39-27-209 (2)] (2)~~ All the books, records, papers, receipts, invoices, and equipment of every vendor, distributor, carrier, user, refiner, or other person ~~which~~ THAT pertain to the receipt, sale, or shipment of special fuel shall be subject to inspection at any time during regular business hours by the executive director OF THE DEPARTMENT OF REVENUE or ~~his~~ THE EXECUTIVE DIRECTOR'S representative. ANY INFORMATION GAINED BY THE EXECUTIVE DIRECTOR OR THE DIRECTOR'S REPRESENTATIVES BY THE INVESTIGATION SHALL BE CONFIDENTIAL AND ANY PERSON DIVULGING THE INFORMATION, EXCEPT AS SUCH DISCLOSURE MAY BE RENDERED NECESSARY BY LAW, SHALL BE SUBJECT TO PENALTIES PROVIDED IN THIS PART 1.

(5) ~~[Formerly 39-27-209 (3)] (3)~~ The executive director OF THE DEPARTMENT OF REVENUE may, under rules and procedures adopted by ~~him~~ THE EXECUTIVE DIRECTOR, establish the format under which the records required by this section are to be maintained, adjust the record-keeping requirements of distributors of liquefied petroleum gases, and require such other information as ~~he~~ THE EXECUTIVE DIRECTOR deems necessary for the proper administration of this ~~part 2~~ PART 1. The records required by this section shall be retained for a period of at least three years.

(6) ~~[Formerly 39-27-110 (3)] (3)~~ The fact that ~~such~~ ANY books, papers, records, and equipment required to be maintained by this section are not maintained in this state shall not cause the executive director OF THE DEPARTMENT OF REVENUE or representatives of the executive director to lose any right of such examination.

SECTION 10. 39-27-111, Colorado Revised Statutes, is amended to read:

39-27-111. Tax in lieu of all other taxes imposed. The tax imposed by this part 1 shall be in lieu of all other taxes imposed upon gasoline OR SPECIAL FUEL by this state or any political subdivision thereof, except for the tax on aviation fuel used in turbo-propeller or jet engine aircraft imposed pursuant to sections 39-26-104 and 39-26-202.

SECTION 11. 39-27-113, Colorado Revised Statutes, is amended, and the said 39-27-113 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-113. Tax lien - priority. (1) ~~When the property of any distributor is seized upon any mesne or final process of any court of this state or when the business of any distributor is suspended by the action of creditors or put into the hands of any assignee, receiver, or trustee, then in all such cases all gasoline tax moneys collected by such distributor under the provisions of this part 1 and due and owing to the state shall be considered and treated as preferred claims, and the state of Colorado shall be a preferred creditor and shall be paid in full.~~ ~~[Formerly 39-27-210 (1)] (1)~~ (1) If any person fails, neglects, or refuses to pay the tax imposed by this ~~part 2~~ PART 1, the amount of the tax, together with any penalties or interest or any costs that accrue in addition thereto, shall be a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, tangible or intangible, belonging to or thereafter acquired by that person, whether the property is employed by that person

in the operation of a business or is in possession of an assignee, trustee, or receiver for the benefit of creditors.

(2) **[Formerly 39-27-210 (2)]** (~~2~~) When the property of any distributor is seized upon any mesne or final process of any court of this state or when the business of any distributor is suspended by the action of creditors or put into the hands of any assignee, receiver, or trustee, then in all such cases all GASOLINE OR special fuel tax moneys collected by such distributor under the provisions of this ~~part 2~~ PART 1 and due and owing to the state shall be considered and treated as preferred claims, and the state of Colorado shall be a preferred creditor and shall be paid in full.

(3) (a) **[Formerly 39-27-210 (3)]** (~~3~~) Notwithstanding the provisions of subsection (1) of this section, the tax imposed by this ~~part 2~~ PART 1, except when paid by the user to a vendor, together with penalties and interest thereon, constitutes a lien against any motor vehicle in connection with which the taxable use is made. The lien shall not be removed until the tax, together with penalties and interest, is paid or the motor vehicle subject to the lien is sold in payment of the tax, penalty, and interest. The lien shall be prior to all private liens and encumbrances and to the rights of a conditional vendor or other holder of the legal or equitable title to the motor vehicle.

(b) If ownership of a motor vehicle subject to lien under this subsection (3) is transferred by operation of law or otherwise, no registration or title with respect to such vehicle shall be issued until the lien has been removed.

SECTION 12. 39-27-117, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

39-27-117. Filing with executive director - when deemed to have been made.

(4) ANY REPORT, CLAIM, TAX RETURN, STATEMENT, OR OTHER DOCUMENT REQUIRED OR AUTHORIZED UNDER THIS PART 1 TO BE FILED WITH THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF REVENUE THAT IS FILED ELECTRONICALLY SHALL BE TREATED FOR ALL PURPOSES IN THE SAME MANNER AS ANY OTHER REPORT OR OTHER DOCUMENT FILED ELECTRONICALLY PURSUANT TO SECTION 39-21-120.

SECTION 13. 39-27-120, Colorado Revised Statutes, is amended to read:

39-27-120. Penalties. Any person who in any way violates any of the provisions of ~~sections 39-27-101 to 39-27-119~~ THIS PART 1 for which no penalty is expressly provided shall be punished as provided by section 39-21-118. In addition to the foregoing penalties, the executive director of the department of revenue may suspend or revoke the license of any distributor who violates any of the provisions of ~~sections 39-27-101 to 39-27-119~~ THIS PART 1 and shall notify such distributor of such suspension or revocation and, upon application to any court of competent jurisdiction without furnishing bond, shall be entitled to an injunction, restraining any such distributor ~~of gasoline~~ from operating, transporting, using, selling, delivering, or transferring any gasoline OR SPECIAL FUEL in this state while ~~his or~~ IT'S THE license or permit OF SUCH DISTRIBUTOR has been suspended or revoked. The attorney general shall institute an action on behalf of the state against any ~~distributor of gasoline~~ PERSON REQUIRED TO COLLECT OR PAY THE TAX IMPOSED BY THIS PART 1, or ~~his~~ THE sureties OF SUCH PERSON, to collect or recover the amount of tax due from such ~~distributor of gasoline~~ PERSON, together with penalties and interest thereon.

SECTION 14. 39-27-121, Colorado Revised Statutes, is amended to read:

39-27-121. State treasurer custodian of deposits. All surety bonds and negotiable certificates of deposit deposited in compliance with the provisions of this part 1 shall be delivered into the custody of the state treasurer and held by ~~him~~ THE TREASURER subject to further order of the EXECUTIVE DIRECTOR OF THE department of revenue. In the event any licensee ceases operations, voluntarily or otherwise, the deposit made by ~~him~~ THE LICENSEE, or any balance thereof, shall be returned to ~~him~~ THE LICENSEE after all taxes, penalties, fees, and charges owing by ~~him~~ SAID LICENSEE, pursuant to this part 1, have been paid.

SECTION 15. Part 1 of article 27 of title 39, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

39-27-102.5. Tax imposed on special fuel - exemptions - ex-tax purchases. [Formerly 39-27-202] (1) (a) (I) An excise tax is imposed and shall be collected on all special fuel ~~sold, offered for sale, or used~~ ACQUIRED in this state, ~~for the propulsion of a motor vehicle on any highway of this state;~~ but only one such tax shall be paid upon the same special fuel in this state. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBPARAGRAPH (I), NO MORE THAN THREE TAX DEFERRED TRANSACTIONS SHALL TAKE PLACE AFTER THE SPECIAL FUEL HAS LEFT THE TERMINAL OF ITS ORIGIN, EITHER WITHIN OR OUTSIDE THE STATE; EXCEPT THAT, FOR PURPOSES OF COUNTING THE APPLICABLE TRANSACTIONS IN ORDER TO COLLECT THE TAX IMPOSED BY THIS SUBPARAGRAPH (I), COUNTING SHALL BEGIN WHEN THE GASOLINE FIRST ENTERS THE STATE, WHETHER BY TRUCK OR BY RAIL. IF MORE THAN THREE DISTRIBUTORS ACQUIRE THE SPECIAL FUEL, THE THIRD DISTRIBUTOR SHALL BE LIABLE FOR PAYMENT OF THE TAX IMPOSED. NOTHING IN THIS PARAGRAPH (a) SHALL PRECLUDE DISTRIBUTORS FROM PAYING THE TAX. The tax IMPOSED shall be ~~collected and remitted to this state or paid to this state as follows:~~ COMPUTED UPON THE TOTAL AMOUNT OF SPECIAL FUEL MEASURED BY THE VOLUME OF SPECIAL FUEL ACQUIRED BY EACH DISTRIBUTOR IN THIS STATE AND SHALL BE PAID IN THE MANNER PROVIDED IN THIS SECTION.

~~(I) By a distributor, measured by the volume of special fuel which is sold by him to a vendor or which is used by him on the highways of this state in the propulsion of a motor vehicle operated by him;~~

(II) ~~By~~ IN THE CASE OF a user, THE TAX IMPOSED BY THIS SECTION SHALL BE measured by the volume of special fuel imported into this state or acquired without payment of the tax imposed by this section and used in the propulsion of a motor vehicle on the highways of this state.

(b) The tax, with respect to special fuel acquired by a user in a manner ~~other than through delivery by a vendor~~ for which the tax is paid to the distributor, shall attach at the time of the consumption of such special fuel in the propulsion of a motor vehicle upon the highways of this state and shall be paid over to the executive director OF THE DEPARTMENT OF REVENUE by the user with the report required by, and in accordance with, other applicable provisions of this ~~part2~~ PART 1.

(c) The excise tax imposed by paragraph (a) of this subsection (1) shall be twenty

and one-half cents per gallon or fraction thereof from August 1, 1989, through December 31, 1989, eighteen cents per gallon or fraction thereof from January 1, 1990, through December 31, 1991, and twenty and one-half cents per gallon or a fraction thereof for calendar years beginning on and after January 1, 1992.

(1.5) Except as otherwise provided in paragraph (b) of subsection (2) of this section and paragraph (b) of subsection (3) of this section, indelible dye meeting federal regulations must be added to special fuel before or upon withdrawal at a terminal or refinery rack for that special fuel to be exempt from the excise tax imposed pursuant to this ~~part 2~~ PART 1. Such tax-exempt special fuel shall not be used for taxable purposes; except that dyed special fuel may be used for a taxable purpose to the extent that such use is allowed under federal law or regulations with such fuel being subject to the excise tax imposed pursuant to this ~~part 2~~ PART 1. For purposes of this subsection (1.5), "taxable purpose" means any use on which an excise tax on special fuel is imposed pursuant to this ~~part 2~~ PART 1. The terminal operator shall ensure that tax-exempt special fuel is dyed before it leaves the terminal. The seller shall give notice to the purchaser in accordance with federal regulations that the dyed special fuel is not legal for taxable use.

(2) (a) Dyed diesel fuel purchased to propel farm vehicles, when the same are being used on farms and ranches, ~~and~~ farm tractors, and implements of husbandry only incidentally operated or moved on a highway, when operated off the public highways, and vehicles or construction equipment operated within the confines of highway construction projects when the same are actually being used in the construction of such highways shall be exempt from the excise tax imposed pursuant to this ~~part 2~~ PART 1. A person who purchases undyed special fuel for the purposes set forth in this paragraph (a) may, in accordance with ~~section 39-27-203~~ SECTION 39-27-103.5, apply to the department of revenue for a refund of the excise tax paid thereon.

(b) (I) All purchases of special fuel for the propulsion of a motor vehicle on the highways of this state by the United States or any of its agencies shall be exempt from the provisions of this ~~part 2~~ PART 1 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities. A PERSON WHO PURCHASES SPECIAL FUEL FOR THE PURPOSES SET FORTH IN THIS SUBPARAGRAPH (I) MAY, IN ACCORDANCE WITH SECTION 39-27-103.5, APPLY TO THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON.

(II) Dyed diesel purchased by the state of Colorado, ~~or~~ any of its agencies, any town, city, county, city and county, ~~or~~ school district of this state, ~~and~~ OR any other political subdivision of this state shall be exempt from the excise tax imposed pursuant to this ~~part 2~~ PART 1 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities. A PERSON WHO PURCHASES DYED DIESEL FUEL FOR THE PURPOSES SET FORTH IN THIS SUBPARAGRAPH (II) MAY, IN ACCORDANCE WITH SECTION 39-27-103.5, APPLY TO THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON.

(III) Any state or local governmental entity referred to in subparagraph (II) of this paragraph (b) may obtain an exemption certificate from the executive director of the department of revenue pursuant to subsection (3) of this section. Upon receipt of an exemption certificate, such governmental entity may purchase from a distributor

undyed special fuel without payment of the excise tax imposed pursuant to this ~~part 2~~ PART 1 if the special fuel is used exclusively by the governmental entity in performing its governmental functions and activities.

~~(c) (Deleted by amendment, L. 98, p. 1033, § 8, effective July 1, 1998.)~~

~~(d)~~ (c) Any person operating a vehicle other than a qualified motor vehicle pursuant to the motor fuel tax cooperative agreement entered into under part 3 of this article may bring into this state for the operation of such vehicle only the amount of special fuel that is in the ordinary fuel tank attached to such vehicle without being liable for the payment of the tax under this ~~part 2~~ PART 1.

(3) (a) ~~A distributor of special fuel who sells and delivers such fuel shall, at the time of sale, collect the tax from the vendor. The sales price as advertised or as shown on the delivery device used by a vendor to place special fuel into the fuel tank of a motor vehicle shall include the tax imposed by this part 2. The tax collected by the distributor PURSUANT TO THIS SECTION is deemed to have been received by the distributor at the time of the sale SUCH FUEL IS ACQUIRED irrespective of when payment is received by the distributor for the amount of the invoice, including the tax, and the tax required to be collected by the distributor constitutes a debt owed by the distributor to this state.~~

(b) The executive director of the department of revenue shall issue an exemption certificate to a user of special fuel to purchase undyed special fuel from a distributor without payment of the tax if such user is exempt under the provisions of paragraph (b) of subsection (2) of this section.

~~(c) and (d) (Deleted by amendment, L. 98, p. 1033, § 8, effective July 1, 1998.)~~

~~(e)~~ (c) With each sale of special fuel made without payment of the tax pursuant to this subsection (3), the distributor shall secure evidence that the user has authorization from the executive director OF THE DEPARTMENT OF REVENUE to purchase special fuel ex-tax, together with ~~his~~ THE DISTRIBUTOR'S name and address and such other information as the executive director may require.

(4) ~~For the proper administration of this part 2 and to prevent evasion of the tax, it shall be presumed, until the contrary is established by competent proof under rules and procedures adopted by the executive director, that all special fuel sold or delivered by a distributor is consumed in propelling a motor vehicle on the highways of this state.~~

(5) (a) The tax imposed by paragraph (c) of subsection (1) of this section shall not apply to any motor vehicle ~~which~~ THAT has been registered in this state, ~~which~~ THAT is powered by liquefied petroleum gas or natural gas, and for which a valid decal has been acquired as provided in this subsection (5). The owners or operators of such motor vehicles shall, in lieu of the tax imposed under paragraph (c) of subsection (1) of this section, pay an annual license tax fee on each such vehicle in accordance with the following schedule of motor vehicle gross weights:

Gross Weight in Pounds Annual License Tax Fee

(I) 1-10,000	\$ 70.00
(II) 10,001-16,000	100.00
(III) Over 16,000	125.00

(b) ~~(H)~~ The executive director of the department of revenue shall annually, starting January 1 of each year commencing in 1984, collect or cause to be collected from owners or operators of the motor vehicles specified in paragraph (a) of this subsection (5) the annual license tax fee. Applications for such licenses shall be supplied by the department of revenue. In the case of a motor vehicle ~~which THAT is not in operation~~ ~~by~~ PURCHASED OR CONVERTED TO LIQUIFIED PETROLEUM GAS OR NATURAL GAS BY January 1 of any year, a license shall be purchased for a fractional period of such year, and the amount of the license tax shall be reduced by one-twelfth for each complete month ~~which THAT~~ shall have elapsed since the beginning of such year.

~~(H) Repealed.~~

(c) Upon payment of the tax required by this subsection (5), the executive director OF THE DEPARTMENT OF REVENUE shall issue a decal, which shall be valid for the current calendar year and shall be attached to the upper right-hand corner of the front windshield on the motor vehicle for which it was issued.

(d) The identifying decal and license tax fee paid for each motor vehicle shall be transferable upon a change of ownership of the motor vehicle. Such transfer shall be accomplished in accordance with rules promulgated by the executive director OF THE DEPARTMENT OF REVENUE.

(e) It is unlawful for any person to operate a motor vehicle required to have a liquefied petroleum gas or natural gas decal upon the highways of this state without such decal unless such motor vehicle is titled outside Colorado and all Colorado purchases are taxed pursuant to paragraph (c) of subsection (1) of this section or such vehicle is otherwise exempt from the provisions of this ~~part~~2 PART 1.

(f) No person shall PUT, OR cause to be put, ~~or put,~~ liquefied petroleum gas or natural gas into the fuel tank of a motor vehicle required to have a liquefied petroleum gas or natural gas decal unless the motor vehicle has such decal attached to it or written or electronic evidence that a valid decal has been acquired for the motor vehicle AND SUCH EVIDENCE has been provided to such person or such person's employer. Sales of fuel placed in the fuel tank of a motor vehicle not displaying such decal or otherwise evidencing acquisition of a valid decal and for which the distributor is obligated to collect the tax specified by paragraph (c) of subsection (1) of this section shall be recorded upon an invoice, which invoice shall include the date, the motor vehicle license number, the number of gallons or, in the case of natural gas, the energy equivalent in gallons placed in such fuel tank, and the tax due thereon.

(g) Any person violating any provision of this subsection (5) is subject to the penalty provisions of ~~sections 39-27-216 and 39-27-217~~ SECTIONS 39-27-114 AND

39-27-120.

(h) Motor vehicles displaying a liquefied petroleum gas or natural gas decal are exempt from the licensing and reporting requirements stated in the remainder of this ~~part 2~~ PART 1.

(6) (a) The department of revenue shall promulgate rules ~~and regulations~~ allowing for payment of the annual license tax fee, if applicable, and acquisition of the decal as set forth in subsection (5) of this section by a user directly from a vendor or distributor of liquefied petroleum gas or natural gas.

(b) Such rules ~~and regulations~~ shall permit each vendor or distributor who participates in the program to return decals ~~which~~ THAT are not issued by the vendor or distributor and remit the applicable annual license tax fees collected by the vendor or distributor not earlier than one hundred twenty days from the time decals are supplied to the vendor or distributor by the department of revenue.

(7) Motor vehicles ~~which~~ THAT are owned or operated by a nonprofit transit agency ~~which~~ THAT receives public funds and ~~which~~ THAT are used exclusively in performing the agency's nonprofit functions and activities shall be exempt from the provisions of subsection (5) of this section and from the special fuel tax imposed by paragraph (c) of subsection (1) of this section upon liquefied petroleum gas and natural gas. A PERSON WHO PURCHASES SPECIAL FUEL FOR THE PURPOSES SET FORTH IN THIS SUBSECTION (7) MAY, IN ACCORDANCE WITH SECTION 39-27-103.5, APPLY TO THE DEPARTMENT OF REVENUE FOR A REFUND OF THE EXCISE TAX PAID THEREON.

(8) The department of revenue is authorized to promulgate reasonable rules, ~~and regulations~~, consistent with this ~~part 2~~ PART 1, concerning annual license tax fees collected and decals issued pursuant to subsections (5) and (6) of this section, including, but not limited to, reporting procedures, reporting forms, and the penalties described in ~~sections 39-27-216 and 39-27-217~~ SECTIONS 39-27-114 AND 39-27-120.

39-27-103.5. Refunds of the tax paid on special fuel. [Formerly 39-27-203]

(1) (a) Any person who purchased special fuel and paid the tax thereon to the vendor at the time of such purchase, who used the diesel engine fuel, kerosene, liquefied petroleum gases, and natural gas for purposes other than the operation of a motor vehicle upon the highways of this state, or who is otherwise entitled to a refund under the provisions of this ~~part 2~~ PART 1 or of federal law, shall be entitled to a refund by the controller upon vouchers certified by the department of revenue for the amount of tax paid on such fuel; except that such person shall not be entitled to a refund on purchases of special fuel in quantities of less than twenty gallons. When a person purchases and uses special fuel in a vehicle equipped with a power take-off unit, a refund may be claimed for all tax paid on special fuel used to operate said power take-off unit if the vehicle is equipped with a metering device approved by the department of revenue and designed to operate only while the vehicle is stationary and the parking brake is engaged; the quantity of special fuel measured by the metering device shall be presumed to be the quantity of special fuel consumed by the operation of the power take-off unit.

(b) All applicants claiming a refund under the provisions of paragraph (a) of this subsection (1) shall be subject to the applicable provisions of section 39-27-103 (3)

to (5), and, for purposes of such subsections (3) to (5), special fuel shall be treated as if it were gasoline.

(2) A refund shall be allowed to a distributor for the tax paid on special fuel pursuant to the provisions of this ~~part 2~~ ~~which~~ PART 1 THAT was erroneously paid due to mistake of fact, law, or computation. A special fuel distributor who has paid any such tax may, within three years from the date of payment thereof, file with the department of revenue an application for refund of such tax so erroneously paid. ~~Such~~ SAID application shall be on such forms as prescribed by the department of revenue.

SECTION 16. 11-35-101 (1), Colorado Revised Statutes, is amended to read:

11-35-101. Alternatives to surety bonds permitted - requirements. (1) The requirement of a surety bond as a condition to licensure or authority to conduct business or perform duties in this state provided in sections 10-2-408, 12-5.5-202 (2) (b), 12-6-111, 12-6-112, 12-6-112.2, 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-14-124 (1), 12-20-103 (3), 12-59-115 (1), 12-60-509 (2.5) (b), 33-4-101 (1), 33-12-104 (1), 35-33-403 (3), 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2), 39-21-105 (4), 39-27-104 (2) (a), (b), (c), (d), AND (e), (2.1) (a), (b), AND (c), (2.5) (a), and (2.5) (b), ~~39-27-204 (4) (a), (4.5), and (6)~~; 39-28-105 (1), 42-6-115 (2), and 42-7-301 (6), C.R.S., may be satisfied by a savings account or deposit in or a certificate of deposit issued by a state or national bank doing business in this state or by a savings account or deposit in or a certificate of deposit issued by a state or federal savings and loan association doing business in this state. Such savings account, deposit, or certificate of deposit shall be in the amount specified by statute, if any, and shall be assigned to the appropriate state agency for the use of the people of the state of Colorado. The aggregate liability of the bank or savings and loan association shall in no event exceed the amount of the deposit. For the purposes of the sections referred to in this section, "bond" includes the savings account, deposit, or certificate of deposit authorized by this section.

SECTION 17. 11-35-101.5 (1), Colorado Revised Statutes, is amended to read:

11-35-101.5. Irrevocable letter of credit permitted - requirements. (1) Where there is the requirement of either an irrevocable letter of credit or a bond as a condition to licensure in sections 12-16-106 (1) and 12-16-218 (1), C.R.S., or where an irrevocable letter of credit is permitted as an alternative to a surety bond, evidence of a savings account, deposit, or certificate of deposit meeting the requirements of section 11-35-101, as a condition to licensure or authority to conduct business or perform duties in this state, provided in sections 12-11-101 (1) (d), 12-11-104, 12-11-106, 12-16-105 (5), 12-16-106 (1) (a), 12-16-218 (1) (a), 33-4-101 (1), 33-12-104 (1), 37-91-107 (2), and ~~39-27-204 (6)~~ AND 39-27-104.5, C.R.S., the requirement shall be satisfied by an irrevocable letter of credit issued by a state or national bank or a state or federal savings and loan association doing business in this state. The requirement shall also be satisfied by an irrevocable letter of credit issued by the bank or banks for cooperatives which are organized pursuant to federal statutes and which serve the region in which the state of Colorado is located. Such letter of credit shall be in an amount specified by statute, if any, and shall name the appropriate state agency as beneficiary, in favor of the people of the state of Colorado.

SECTION 18. 39-26-114 (1) (a) (XV), Colorado Revised Statutes, is amended to read:

39-26-114. Exemptions - disputes - credits or refunds - definitions - creation of fund - repeal. (1) (a) There shall be exempt from taxation under the provisions of this part 1 the following:

(XV) The sale of special fuel, as defined in ~~section 39-27-201 (8)~~ SECTION 39-27-101 (6.3), used for the operation of farm vehicles when such vehicles are being used on farms and ranches;

SECTION 19. 39-26-203 (1) (c) (I), Colorado Revised Statutes, is amended to read:

39-26-203. Exemptions - definitions. (1) This part 2 is declared to be supplementary to the "Emergency Retail Sales Tax Law of 1935", part 1 of this article, and shall not apply:

(c) (I) To the storage, use, or consumption of gasoline which is taxed under the provisions of part 1 of article 27 of this title and to all gasoline which is taxed under said provisions and the tax on which is refunded and to special fuel, as defined in ~~section 39-27-201 (8)~~ SECTION 39-27-101 (6.3), used for the operation of farm vehicles when the same are being used on farms or ranches; except that aviation fuel used in turbo-propeller or jet engine aircraft and upon which a tax was collected pursuant to the provisions of this part 2 prior to January 1, 1989, shall not be exempt.

SECTION 20. 43-1-106 (13), Colorado Revised Statutes, is amended to read:

43-1-106. Transportation commission - powers and duties. (13) The commission shall provide the joint budget committee, the house transportation and energy committee, and the senate transportation committee with the specific construction, improvements, maintenance, and traffic control activities that have been accomplished with the revenues provided for in sections 39-27-102 (1) (a) (II) ~~and 39-27-202 (1) (e)~~ AND 39-27-102.5 (c), C.R.S.

SECTION 21. 43-4-201 (3) (a) (V), Colorado Revised Statutes, is amended to read:

43-4-201. Funds created - repeal. (3) (a) (V) Notwithstanding any other provision in this section, the general assembly may make an annual appropriation or statutory distribution from the highway users tax fund to the department of revenue for the data collection services provided for under ~~sections 39-27-109.7 and 39-27-218~~ SECTION 39-27-109.7, C.R.S.

SECTION 22. The introductory portions to 43-4-205 (5) and (6), Colorado Revised Statutes, are amended to read:

43-4-205. Allocation of fund. (5) Revenues raised by the excise tax imposed on gasoline and special fuel pursuant to sections 39-27-102 ~~and 39-27-202~~ AND 39-27-102.5, C.R.S., equal to the first seven cents per gallon of such tax shall be placed in the highway users tax fund to be allocated as follows:

(6) Revenues raised by the excise tax imposed on gasoline and special fuel pursuant to sections 39-27-102 and ~~39-27-202~~ AND 39-27-102.5, C.R.S., in excess of seven cents per gallon of tax, shall be placed in the highway users tax fund to be allocated as follows; except that revenues raised by the excise tax imposed on gasoline in excess of eighteen cents per gallon of tax shall be allocated according to the provisions of paragraph (b) of this subsection (6):

SECTION 23. Repeal of provisions being relocated in this act. Part 2 of article 27 of title 39, Colorado Revised Statutes, is repealed.

SECTION 24. Repeal of provisions not being relocated in this act. Sections 39-27-102 (1.5), 39-27-201 (1.2), (1.4), (3.5), (6), (6.2), (6.4), (8.5), (8.6), (8.7), and (8.9), 39-27-202 (4), 39-27-204 (2.5), 39-27-205 (3.7) and (9), 39-27-205.5, 39-27-206, 39-27-208, 39-27-209 (1), 39-27-211, 39-27-212, 39-27-213, 39-27-214, 39-27-215, 39-27-216, 39-27-217, and 39-27-218, Colorado Revised Statutes, are repealed.

SECTION 25. Effective date. This act shall take effect October 1, 2000, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on April 1, 2001.

Approved: June 1, 2000