

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE RECYCLING AND  
ILLEGAL DUMPING ACT; EXPANDING THE TIRE RECYCLING PROGRAM;  
PROVIDING PROHIBITIONS; PROVIDING FOR INSPECTIONS OF  
PREMISES; PROVIDING FOR COMPLIANCE ORDERS AND FIELD  
CITATIONS; CREATING THE RECYCLING AND ILLEGAL DUMPING  
ALLIANCE; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
NMSA 1978; PROVIDING PENALTIES; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--Sections 1 through 20 of this  
act may be cited as the "Recycling and Illegal Dumping Act".

Section 2. LEGISLATIVE PURPOSES.--The purposes of the  
Recycling and Illegal Dumping Act are to:

A. protect the health and welfare of current and  
future residents of New Mexico by providing for the  
prevention and abatement of illegal dumpsites;

B. promote environmentally sound methods for reuse  
and recycling;

C. create a statewide recycling alliance involving  
the cooperation of cities, counties, state agencies, tribal  
governments, land grant communities and private business to  
encourage economic development, community development and  
collaboration that foster sustainable use of resources,  
increased recycling and a cleaner and healthier environment;

1 and

2 D. enhance and coordinate existing highway litter  
3 control and removal and recycling efforts that include the  
4 recycling of tires, glass, plastic, metal, paper products,  
5 electronic waste and construction and demolition materials.

6 Section 3. DEFINITIONS.--As used in the Recycling and  
7 Illegal Dumping Act:

8 A. "abatement" means to reduce in amount, degree  
9 or intensity or to eliminate;

10 B. "agricultural use" means the beneficial use of  
11 scrap tires in conjunction with the operations of a farm or  
12 ranch that includes construction projects and aids in the  
13 storage of feed;

14 C. "alliance" means the recycling and illegal  
15 dumping alliance;

16 D. "board" means the environmental improvement  
17 board;

18 E. "civil engineering application" means the use  
19 of scrap tires or other recycled material in conjunction with  
20 other aggregate materials in engineering applications;

21 F. "composting" means the process by which  
22 biological decomposition of organic material is carried out  
23 under controlled conditions and the process stabilizes the  
24 organic fraction into a material that can be easily and  
25 safely stored, handled and used in an environmentally

1 acceptable manner;

2 G. "cooperative association" means a refuse  
3 disposal district created pursuant to the Refuse Disposal  
4 Act, a sanitation district created pursuant to the Water and  
5 Sanitation District Act, a special district created pursuant  
6 to the Special District Procedures Act or other associations  
7 created pursuant to the Joint Powers Agreements Act or the  
8 Solid Waste Authority Act;

9 H. "department" means the department of  
10 environment;

11 I. "dispose" means to deposit scrap tires or solid  
12 waste into or on any land or water;

13 J. "household" means any single and multiple  
14 residence, hotel or motel, bunkhouse, ranger station, crew  
15 quarters, campground, picnic ground or day-use recreation  
16 area;

17 K. "illegal dumping" means disposal of trash,  
18 scrap tires or any solid waste in a manner that violates the  
19 Solid Waste Act or the Recycling and Illegal Dumping Act;

20 L. "illegal dumpsite" means a place where illegal  
21 dumping has occurred except as stated in Subsection A of  
22 Section 4 of the Recycling and Illegal Dumping Act;

23 M. "market development" means activities to expand  
24 or create markets for recyclable and reusable materials;

25 N. "motor vehicle" means a vehicle or device that

1 is propelled by an internal combustion engine or electric  
2 motor power that is used or may be used on the public  
3 highways for the purpose of transporting persons or property  
4 and includes any connected trailer or semitrailer;

5 O. "processing" means techniques to change  
6 physical, chemical or biological character or composition of  
7 solid waste but does not include composting, transformation  
8 or open burning;

9 P. "recycling" means any process by which  
10 recyclable materials are collected, separated or processed  
11 and reused or returned to use in the form of raw materials or  
12 products;

13 Q. "reuse" means the return of a commodity into  
14 the economic stream without a change to its original form;

15 R. "scrap tire" means a tire that is no longer  
16 suitable for its originally intended purpose because of wear,  
17 damage or defect;

18 S. "scrap tire baling" means the process by which  
19 scrap tires are mechanically compressed and bound into block  
20 form;

21 T. "scrap tire generator" means a person who  
22 generates scrap tires, including retail tire dealers,  
23 retreaders, scrap tire processors, automobile dealers,  
24 automobile salvage yards, private company vehicle maintenance  
25 shops, garages, service stations and city, county and state

1 government, but does not include persons who generate scrap  
2 tires in a household or in agricultural operations;

3 U. "scrap tire hauler" means a person who  
4 transports scrap tires for hire for the purpose of recycling,  
5 disposal, transformation or use in a civil engineering  
6 application;

7 V. "secretary" means the secretary of environment;

8 W. "tire" means a continuous solid or pneumatic  
9 rubber covering that encircles the wheel of a motor  
10 vehicle;

11 X. "tire-derived fuel" means whole or chipped  
12 tires that produce a low sulfur, high-heating-value fuel;

13 Y. "tire-derived product" means a usable product  
14 produced from the processing of a scrap tire but does not  
15 include baled tires;

16 Z. "tire recycling" means a process in which scrap  
17 tires are collected, stored, separated or reprocessed for  
18 reuse as a different product or shredded into a form suitable  
19 for use in rubberized asphalt or as raw material for the  
20 manufacture of other products; and

21 AA. "tire recycling facility" means a place  
22 operated or maintained for tire recycling but does not  
23 include:

24 (1) retail business premises where tires are  
25 sold, if no more than five hundred loose scrap tires or two

1 thousand scrap tires, if left in a closed conveyance or  
2 enclosure, are kept on the premises at one time;

3 (2) the premises of a tire retreading  
4 business, if no more than three thousand scrap tires are kept  
5 on the premises at one time;

6 (3) premises where tires are removed from  
7 motor vehicles in the ordinary course of business, if no more  
8 than five hundred scrap tires are kept on the premises at one  
9 time;

10 (4) a solid waste facility having a valid  
11 permit or registration issued pursuant to the provisions of  
12 the Solid Waste Act or regulations adopted pursuant to that  
13 act or registration issued pursuant to the Environmental  
14 Improvement Act; or

15 (5) a site where tires are stored or used  
16 for agricultural uses.

17 Section 4. PROHIBITED ACTS.--

18 A. A person shall not store or use in a civil  
19 engineering application, except for agricultural use, more  
20 than one hundred scrap tires anywhere in this state, unless  
21 the person has a valid permit or registration from the  
22 department.

23 B. A person shall not operate or maintain a tire  
24 recycling facility unless the facility has a valid permit  
25 issued pursuant to the provisions of the Recycling and

1 Illegal Dumping Act or is a facility where tires are stored  
2 and used for agricultural uses and complies with rules  
3 enacted pursuant to the Recycling and Illegal Dumping Act.

4 C. A person shall not transport scrap tires for  
5 hire to a place other than a tire recycling facility unless  
6 the place is specifically excluded from the definition of a  
7 "tire recycling facility".

8 D. A person shall not transport scrap tires for  
9 hire either for disposal or recycling purposes without being  
10 registered as a scrap tire hauler by the department pursuant  
11 to rules adopted in accordance with the Recycling and Illegal  
12 Dumping Act.

13 E. A scrap tire generator shall not release scrap  
14 tires to a person other than a registered scrap tire hauler  
15 pursuant to the Recycling and Illegal Dumping Act or a  
16 registered commercial waste hauler pursuant to the Solid  
17 Waste Act.

18 F. A person shall not engage in the open burning  
19 of scrap tires.

20 G. A person shall not store or dispose of scrap  
21 tires or tire-derived products in a manner that creates a  
22 public nuisance, promotes the breeding or harboring of  
23 disease vectors or creates a potential for fire or other  
24 health or environmental hazards.

25 H. Except for agricultural uses, a person shall

1 not store scrap tires or tire-derived products for a period  
2 exceeding twelve months unless specifically authorized by the  
3 secretary.

4 I. A scrap tire hauler shall not transport scrap  
5 tires without possessing a New Mexico scrap tire manifest  
6 approved by the department.

7 J. A person shall not engage in, maintain or allow  
8 illegal dumping.

9 Section 5. FACILITIES--ENTRY BY DEPARTMENT--  
10 AVAILABILITY OF RECORDS TO DEPARTMENT AND OTHERS.--

11 A. The secretary or any authorized representative,  
12 employee or agent of the department may:

13 (1) enter a facility of a scrap tire  
14 generator, scrap tire hauler or tire recycling facility at  
15 any reasonable time for the purpose of making a routine  
16 inspection or investigation of scrap tire management  
17 practices based on reasonable evidence of a violation of the  
18 Recycling and Illegal Dumping Act;

19 (2) take and analyze samples of the  
20 facility's waste, soil, air or water in order to detect the  
21 nature and concentration of contaminants, including those  
22 produced by leaching, natural decomposition, gas production  
23 or hazardous products in the facility, and the owner or  
24 operator shall have the right to split the sample and conduct  
25 the owner or operator's own analysis;

1 (3) for the purposes of developing or  
2 assisting in the development of rules, conducting a study,  
3 taking corrective action or enforcing the provisions of the  
4 Recycling and Illegal Dumping Act, conduct monitoring or  
5 testing of the equipment, contents or surrounding soil, air,  
6 surface water or ground water at the facility of a scrap tire  
7 generator, scrap tire hauler or tire recycling facility; and

8 (4) in coordination with the secretary of  
9 transportation, conduct at weigh stations or any other  
10 adequate site or facility inspections of scrap tire haulers.

11 B. Records, reports or information obtained by the  
12 department pursuant to this section shall be available to the  
13 public, except that information shall be treated  
14 confidentially upon a showing, satisfactory to the  
15 department, that records, reports or information or a  
16 particular part of the records, reports or information, if  
17 made public, would divulge information entitled to protection  
18 under the provisions of 18 USCA Section 1905. That record,  
19 report or information may be disclosed to officers, employees  
20 or authorized representatives of the United States concerned  
21 with carrying out the federal Resource Conservation and  
22 Recovery Act of 1976 or to officers, employees or authorized  
23 representatives of the state when relevant in any proceedings  
24 pursuant to the Solid Waste Act.

25 C. A person not subject to the provisions of 18

1 USCA Section 1905 who knowingly and willfully divulges or  
2 discloses information entitled to protection pursuant to this  
3 section shall, upon conviction, be subject to a fine of not  
4 more than five thousand dollars (\$5,000) or to imprisonment  
5 not to exceed one year or both.

6 D. In submitting data pursuant to the Recycling  
7 and Illegal Dumping Act, a person required to provide such  
8 data may:

9 (1) designate, in writing and in such manner  
10 as the secretary may prescribe, the data the person believes  
11 is entitled to protection pursuant to this section; and

12 (2) submit the designated data separately  
13 from other data submitted pursuant to the Recycling and  
14 Illegal Dumping Act.

15 Section 6. ADMINISTRATION OF ACT.--The department is  
16 responsible for the administration and enforcement of the  
17 provisions of the Recycling and Illegal Dumping Act and of  
18 all rules adopted by the board pursuant to the provisions of  
19 that act. The department is delegated all authority  
20 necessary and appropriate to carry out its responsibilities.

21 Section 7. RECYCLING AND ILLEGAL DUMPING ALLIANCE.--

22 A. The "recycling and illegal dumping alliance" is  
23 created and is comprised of one member from each of the  
24 following:

25 (1) state government;

- 1 (2) local government;
- 2 (3) a solid waste authority;
- 3 (4) an industry waste generator;
- 4 (5) a tribal government;
- 5 (6) a nonprofit organization;
- 6 (7) a recycling company;
- 7 (8) a retailer;
- 8 (9) an agricultural producer;
- 9 (10) a soil and water conservation district;
- 10 (11) a waste management company; and
- 11 (12) the public at large.

12 B. The secretary shall appoint members of the  
13 alliance to serve two-year terms as volunteers with no  
14 compensation from the state.

15 C. The alliance shall:

16 (1) develop strategies to increase recycling  
17 and decrease illegal dumping in New Mexico;

18 (2) create a state recycling plan, as a  
19 component of the New Mexico solid waste management plan, to  
20 establish programs and goals and update the plan every three  
21 years to measure progress and modify strategies; and

22 (3) review and make recommendations for  
23 funding grant applications from the recycling and illegal  
24 dumping fund.

25 Section 8. RULES--AUTHORITY AND CONTENT.--The board

1 shall adopt rules to implement the provisions of the  
2 Recycling and Illegal Dumping Act. The rules shall be  
3 adopted pursuant to the provisions of the Environmental  
4 Improvement Act and shall include:

5 A. requirements and procedures for the issuance of  
6 permits and registrations to tire recycling facilities, civil  
7 engineering applications, scrap tire generators and scrap  
8 tire haulers;

9 B. standards and requirements for tire recycling  
10 and scrap tire storage and processing;

11 C. record-keeping requirements for tire recycling  
12 facilities, scrap tire haulers and scrap tire generators;

13 D. financial assurance criteria for tire recycling  
14 facilities;

15 E. fire rules for storage of scrap tires and  
16 tire-derived products that are consistent with the rules or  
17 recommendations adopted by the state fire marshal;

18 F. criteria and procedures for making  
19 disbursements pursuant to grant and loan programs authorized  
20 from the recycling and illegal dumping fund;

21 G. requirements and procedures for contracting  
22 with counties, municipalities, Indian nations, pueblos and  
23 tribes, land grant communities and cooperative associations  
24 for the abatement of illegal dumpsites and recycling;

25 H. requirements and procedures for a scrap tire

1 manifest system;

2 I. a fee schedule applicable to scrap tire haulers  
3 and tire recycling facilities not exceeding the estimated  
4 cost of investigating and issuing permits and registrations  
5 and conducting regulatory oversight of permitted and  
6 registered activities; and

7 J. a fee schedule applicable to scrap tire  
8 generators not exceeding the estimated cost of conducting  
9 regulatory oversight of scrap tire generators.

10 Section 9. SCRAP TIRE MANIFEST SYSTEM.--A scrap tire  
11 generator who transports or offers for transportation, scrap  
12 tires for offsite handling, altering, storage, disposal or  
13 for any combination thereof shall complete a scrap tire  
14 manifest pursuant to rules adopted by the board. Upon  
15 demand, the manifest for every generator whose scrap tire  
16 load is transported shall be shown to an officer of the motor  
17 transportation division of the department of public safety,  
18 the New Mexico state police, a local law enforcement officer  
19 or the secretary or the secretary's designee.

20 Section 10. SOLID WASTE PERMIT EXEMPTION.--A person  
21 operating a tire recycling facility under a permit issued  
22 pursuant to the Recycling and Illegal Dumping Act shall not  
23 be required to obtain a permit for that facility pursuant to  
24 the Solid Waste Act.

25 Section 11. ABATEMENT OF ILLEGAL DUMPSITE.--

1           A. The department may bring an abatement action  
2 pursuant to the provisions of Section 30-8-8 NMSA 1978 to  
3 eliminate an illegal dumpsite.

4           B. The secretary may act administratively to  
5 eliminate illegal dumpsites pursuant to the provisions of the  
6 Recycling and Illegal Dumping Act.

7           C. Nothing in this section shall prohibit a  
8 municipality, county, Indian nation, pueblo or tribe, land  
9 grant community or cooperative association from contracting  
10 for services to complete an abatement action.

11           Section 12. AUTHORIZATION FOR ABATEMENT CONTRACTS.--The  
12 secretary may contract with the governing body of a county,  
13 municipality, Indian nation, pueblo or tribe, land grant  
14 community or cooperative association for the abatement of  
15 illegal dumpsites located within the boundaries of the  
16 county, municipality, Indian nation, pueblo or tribe, land  
17 grant community, cooperative association or solid waste  
18 authority. The contract shall provide for the reimbursement  
19 of the county, municipality, Indian nation, pueblo or tribe,  
20 land grant community or cooperative association for expenses  
21 incurred in bringing an abatement action, including court  
22 costs, reasonable attorney fees and the actual expense of  
23 elimination of the illegal dumpsite if that expense is not  
24 recovered from and paid by the owner or operator of the  
25 illegal dumpsite as a result of the abatement action.

1           Section 13. ENFORCEMENT--COMPLIANCE ORDERS.--

2           A. Whenever the secretary determines that a person  
3 has violated or is violating any requirement or prohibition  
4 of the Recycling and Illegal Dumping Act, a rule adopted  
5 pursuant to that act or a condition of a permit issued  
6 pursuant to that act, the secretary may:

7                   (1) issue a compliance order stating with  
8 reasonable specificity the nature of the violation and  
9 requiring compliance immediately or within a specified time  
10 period or assessing a civil penalty for any past or current  
11 violation or both; and

12                   (2) commence a civil action in district  
13 court for appropriate relief, including a temporary or  
14 permanent injunction.

15           B. A compliance order issued pursuant to this  
16 section may include a suspension or revocation of a permit or  
17 portion of the permit issued by the secretary. A penalty  
18 assessed in the compliance order shall not exceed five  
19 thousand dollars (\$5,000) per day of noncompliance for each  
20 violation.

21           C. A compliance order issued pursuant to this  
22 section shall state with reasonable specificity the nature of  
23 the required corrective action or other response measure and  
24 shall specify a time for compliance.

25           D. A compliance order issued pursuant to this

1 section shall become final unless, no later than thirty days  
2 after the order is served, the person named in the order  
3 submits a written request to the secretary for a public  
4 hearing. Upon a request, the secretary promptly shall  
5 conduct a public hearing. The secretary shall appoint an  
6 independent hearing officer to preside over the public  
7 hearing. The hearing officer shall make and preserve a  
8 complete record of the proceedings and forward a  
9 recommendation to the secretary, who shall make the final  
10 decision.

11 E. The secretary may seek enforcement of the order  
12 by filing an action for enforcement in the district court.

13 F. Upon request of a party, the secretary may  
14 issue subpoenas for the attendance and testimony of witnesses  
15 at the hearing and for the production of relevant documents.  
16 The secretary shall adopt procedural rules for the conduct of  
17 the hearing, including provisions for discovery.

18 G. In determining the amount of a penalty  
19 authorized to be assessed pursuant to this section, the  
20 secretary shall take into account the seriousness of the  
21 violation, good-faith efforts of the violator to comply with  
22 applicable requirements of the Recycling and Illegal Dumping  
23 Act or rules issued pursuant to its provisions and other  
24 relevant factors.

25 Section 14. ENFORCEMENT--FIELD CITATIONS.--

1           A. The board shall implement a field citation  
2 program by adopting rules establishing appropriate minor  
3 violations for which field citations assessing civil  
4 penalties not to exceed one thousand dollars (\$1,000) per day  
5 of violation may be issued by local government authorities or  
6 employees of the department as designated by the  
7 secretary.

8           B. A field citation issued pursuant to this  
9 section shall be final unless the person named in the  
10 citation files a written request for a public hearing with  
11 the secretary no later than fifteen days after the date on  
12 which the field citation is served on the person, in which  
13 case the enforcement of the field citation shall be suspended  
14 pending the issuance of a final order of the secretary after  
15 a public hearing. The procedures for scheduling and  
16 conducting a hearing on and for final disposition of a field  
17 citation shall be the same as those provided for a compliance  
18 order pursuant to the Recycling and Illegal Dumping Act.

19           C. Payment of a civil penalty required by a field  
20 citation issued pursuant to this section shall not be a  
21 defense to further enforcement by the department to correct a  
22 continuing violation or to assess the maximum statutory  
23 penalty pursuant to the provisions of the Recycling and  
24 Illegal Dumping Act if the violation continues.

25           D. In determining the amount of a penalty to be

1 assessed pursuant to this section, the secretary or the  
2 person issuing a field citation shall take into account the  
3 seriousness of the violation, good-faith efforts of the  
4 violator to comply with the applicable requirements of the  
5 Recycling and Illegal Dumping Act or rules issued pursuant to  
6 its provisions and other relevant factors.

7 E. In connection with a proceeding pursuant to  
8 this section, the secretary may issue subpoenas for the  
9 attendance and testimony of witnesses and the production of  
10 relevant papers, books and documents and may adopt rules for  
11 discovery.

12 Section 15. JUDICIAL REVIEW OF ADMINISTRATIVE ACTIONS.

13 --A person adversely affected by an administrative action  
14 taken by the secretary pursuant to the provisions of the  
15 Recycling and Illegal Dumping Act may appeal the action  
16 pursuant to Section 39-3-1.1 NMSA 1978.

17 Section 16. PENALTY--CRIMINAL.--

18 A. A person who knowingly violates Section 4 of  
19 the Recycling and Illegal Dumping Act:

20 (1) is guilty of a misdemeanor if the  
21 violation involves a quantity of scrap tires or tire-derived  
22 products that is less than five thousand pounds and shall be  
23 sentenced pursuant to the provisions of Section 31-19-1 NMSA  
24 1978; or

25 (2) is guilty of a fourth degree felony if

1 the violation involves a quantity of scrap tires or  
2 tire-derived products that is five thousand pounds or greater  
3 and shall be sentenced pursuant to the provisions of Section  
4 31-18-15 NMSA 1978.

5 B. A person who knowingly omits any substantive  
6 information or knowingly makes a false substantive statement  
7 or representation required pursuant to the Recycling and  
8 Illegal Dumping Act or rule adopted pursuant to the  
9 provisions of that act is guilty of a fourth degree felony  
10 and shall be sentenced in accordance with the provisions of  
11 Section 31-18-15 NMSA 1978.

12 Section 17. GRANTS--ELIGIBILITY--APPLICATIONS.--

13 A. A municipality, county, Indian nation, pueblo  
14 or tribe, land grant community, cooperative association or  
15 solid waste authority that meets eligibility requirements  
16 established by the board may apply for a grant for providing  
17 funds to public landfills to offset the cost of collecting or  
18 recycling of tires or submit a competitive bid for a loan or  
19 contract for development costs or operating costs to  
20 establish a recycling facility, purchase equipment, perform  
21 marketing, purchase products produced by a recycling  
22 facility, provide educational outreach, develop recycling  
23 infrastructure, abate illegal dumpsites or contract with  
24 vendors to promote recycling and to abate illegal dumpsites  
25 consistent with provisions of the Recycling and Illegal

1 Dumping Act. The first priority for funding shall be  
2 abatement of illegal scrap tire dumpsites and the recycling  
3 of scrap tires.

4 B. A grant, loan or contract for processing shall  
5 not be awarded pursuant to the Recycling and Illegal Dumping  
6 Act to a person who receives less than ninety-five percent of  
7 recyclable materials from sources in New Mexico.

8 C. Nothing in this section prohibits a  
9 municipality, county, Indian nation, pueblo or tribe, land  
10 grant community or cooperative association from contracting  
11 for services to complete an abatement action.

12 D. At least two-thirds of budgeted grant money in  
13 each fiscal year shall be allocated to tire abatement and  
14 recycling programs, and one-third of budgeted grant money in  
15 each fiscal year shall be allocated to abatement of illegal  
16 dumping and recycling of other solid wastes.

17 Section 18. RUBBERIZED ASPHALT PROGRAM.--The department  
18 of transportation may use rubberized asphalt in paving  
19 mixtures for state and local highway projects and to pay  
20 added expenses that may result from using rubberized  
21 asphalt. The department of transportation shall adopt rules  
22 for the administration of the rubberized asphalt program,  
23 including the development of procedures for disbursement of  
24 money to municipalities and counties for the use of  
25 rubberized asphalt in paving mixtures and shall develop

1 paving specifications for the use of rubberized asphalt.

2 Section 19. RECYCLING AND ILLEGAL DUMPING FUND

3 CREATED.--The "recycling and illegal dumping fund" is created  
4 in the state treasury. Fees and penalties collected pursuant  
5 to the Recycling and Illegal Dumping Act shall be deposited  
6 into the fund. Money in the fund is appropriated to the  
7 department for abatement of illegal dumpsites, for  
8 processing, transportation or recycling of all recyclable  
9 materials and scrap tires, for providing funds to public  
10 landfills in New Mexico to offset the cost of collecting or  
11 recycling of tires and for carrying out the provisions of the  
12 Recycling and Illegal Dumping Act. Any unexpended or  
13 unencumbered balance or income earned from the money in the  
14 recycling and illegal dumping fund remaining at the end of a  
15 fiscal year shall not revert to the general fund.  
16 Disbursements from the fund shall be by warrant drawn by the  
17 secretary of finance and administration pursuant to vouchers  
18 signed by the secretary of environment or the secretary's  
19 designee.

20 Section 20. RUBBERIZED ASPHALT FUND CREATED.--The

21 "rubberized asphalt fund" is created in the state treasury.  
22 Money in the fund is appropriated to the department of  
23 transportation to pay additional expenses that might result  
24 from using rubberized asphalt paving mixes, to allocate at  
25 least fifty percent of the fund to local governments for that

1 purpose and to carry out the provisions of the rubberized  
2 asphalt program, including hiring a term employee to  
3 administer the program. Disbursements from the fund shall be  
4 by warrant drawn by the secretary of finance and  
5 administration pursuant to vouchers signed by the secretary  
6 of transportation or the secretary's designee. Any  
7 unexpended or unencumbered balance remaining in the  
8 rubberized asphalt fund at the end of a fiscal year shall not  
9 revert to the general fund.

10 Section 21. Section 66-6-23 NMSA 1978 (being Laws 1978,  
11 Chapter 35, Section 358, as amended) is amended to read:

12 "66-6-23. DISPOSITION OF FEES.--

13 A. After the necessary disbursements for refunds  
14 and other purposes have been made, the money remaining in the  
15 motor vehicle suspense fund, except for remittances received  
16 within the previous two months that are unidentified as to  
17 source or disposition, shall be distributed as follows:

18 (1) to each municipality, county or fee  
19 agent operating a motor vehicle field office:

20 (a) an amount equal to six dollars  
21 (\$6.00) per driver's license and three dollars (\$3.00) per  
22 identification card or motor vehicle or motorboat  
23 registration or title transaction performed; and

24 (b) for each such agent determined by  
25 the secretary pursuant to Section 66-2-16 NMSA 1978 to have

1 performed ten thousand or more transactions in the preceding  
2 fiscal year, other than a class A county with a population  
3 exceeding three hundred thousand or a municipality with a  
4 population exceeding three hundred thousand that has been  
5 designated as an agent pursuant to Section 66-2-14.1 NMSA  
6 1978, an amount equal to one dollar (\$1.00) in addition to  
7 the amount distributed pursuant to Subparagraph (a) of this  
8 paragraph for each driver's license, identification card,  
9 motor vehicle registration, motorboat registration or title  
10 transaction performed;

11 (2) to each municipality or county, other  
12 than a class A county with a population exceeding three  
13 hundred thousand or a municipality with a population  
14 exceeding three hundred thousand that has been designated as  
15 an agent pursuant to Section 66-2-14.1 NMSA 1978, operating a  
16 motor vehicle field office, an amount equal to fifty cents  
17 (\$.50) for each administrative service fee remitted by that  
18 county or municipality to the department pursuant to the  
19 provisions of Subsection A of Section 66-2-16 NMSA 1978;

20 (3) to the state road fund:

21 (a) an amount equal to the fees  
22 collected pursuant to Section 66-7-413.4 NMSA 1978;

23 (b) an amount equal to the fee  
24 collected pursuant to Section 66-3-417 NMSA 1978;

25 (c) the remainder of each driver's

1 license fee collected by the department employees from an  
2 applicant to whom a license is granted after deducting from  
3 the driver's license fee the amount of the distribution  
4 authorized in Paragraph (1) of this subsection with respect  
5 to that collected driver's license fee; and

6 (d) an amount equal to fifty percent of  
7 the fees collected pursuant to Section 66-6-19 NMSA 1978;

8 (4) to the local governments road fund, the  
9 amount of the fees collected pursuant to Subsection B of  
10 Section 66-5-33.1 NMSA 1978 and the remainder of the fees  
11 collected pursuant to Subsection A of Section 66-5-408 NMSA  
12 1978;

13 (5) to the department:

14 (a) any amounts reimbursed to the  
15 department pursuant to Subsection C of Section 66-2-14.1 NMSA  
16 1978;

17 (b) an amount equal to two dollars  
18 (\$2.00) of each motorcycle registration fee collected  
19 pursuant to Section 66-6-1 NMSA 1978;

20 (c) an amount equal to the fees  
21 provided for in Subsection D of Section 66-2-7 NMSA 1978,  
22 Subsection E of Section 66-2-16 NMSA 1978, Subsections J and  
23 K of Section 66-3-6 NMSA 1978 other than the administrative  
24 fee, Subsection C of Section 66-5-44 NMSA 1978 and Subsection  
25 B of Section 66-5-408 NMSA 1978;

1 (d) the amounts due to the department  
2 for the manufacture and issuance of a special registration  
3 plate collected pursuant to the section of law authorizing  
4 the issuance of the specialty plate; and

5 (e) an amount equal to the registration  
6 fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the  
7 purposes of enforcing the provisions of the Mandatory  
8 Financial Responsibility Act and for creating and maintaining  
9 a multilanguage noncommercial driver's license testing  
10 program;

11 (6) to each New Mexico institution of higher  
12 education, an amount equal to that part of the fees  
13 distributed pursuant to Paragraph (2) of Subsection D of  
14 Section 66-3-416 NMSA 1978 proportionate to the number of  
15 special registration plates issued in the name of the  
16 institution to all such special registration plates issued in  
17 the name of all institutions;

18 (7) to the armed forces veterans license  
19 fund, the amount to be distributed pursuant to Paragraph (2)  
20 of Subsection E of Section 66-3-419 NMSA 1978;

21 (8) to the children's trust fund, the amount  
22 to be distributed pursuant to Paragraph (2) of Subsection D  
23 of Section 66-3-420 NMSA 1978;

24 (9) to the department of transportation, an  
25 amount equal to the fees collected pursuant to Section

1 66-5-35 NMSA 1978;

2 (10) to the state equalization guarantee  
3 distribution made annually pursuant to the general  
4 appropriation act, an amount equal to one hundred percent of  
5 the driver safety fee collected pursuant to Subsection D of  
6 Section 66-5-44 NMSA 1978;

7 (11) to the motorcycle training fund, two  
8 dollars (\$2.00) of each motorcycle registration fee collected  
9 pursuant to Section 66-6-1 NMSA 1978;

10 (12) to the recycling and illegal dumping  
11 fund:

12 (a) fifty cents (\$.50) of the tire  
13 recycling fee collected pursuant to the provisions of Section  
14 66-6-1 NMSA 1978;

15 (b) fifty cents (\$.50) of each of the  
16 tire recycling fees collected pursuant to the provisions of  
17 Sections 66-6-2 and 66-6-4 NMSA 1978; and

18 (c) twenty-five cents (\$.25) of each of  
19 the tire recycling fees collected pursuant to Sections 66-6-5  
20 and 66-6-8 NMSA 1978;

21 (13) to the highway infrastructure fund:

22 (a) fifty cents (\$.50) of the tire  
23 recycling fee collected pursuant to the provisions of Section  
24 66-6-1 NMSA 1978;

25 (b) one dollar (\$1.00) of each of the

1 tire recycling fees collected pursuant to the provisions of  
2 Sections 66-6-2 and 66-6-4 NMSA 1978; and

3 (c) twenty-five cents (\$.25) of each of  
4 the tire recycling fees collected pursuant to Sections 66-6-5  
5 and 66-6-8 NMSA 1978;

6 (14) to each county, an amount equal to  
7 fifty percent of the fees collected pursuant to Section  
8 66-6-19 NMSA 1978 multiplied by a fraction, the numerator of  
9 which is the total mileage of public roads maintained by the  
10 county and the denominator of which is the total mileage of  
11 public roads maintained by all counties in the state;

12 (15) to the litter control and  
13 beautification fund, an amount equal to the fees collected  
14 pursuant to Section 66-6-6.2 NMSA 1978; and

15 (16) to the local government division of the  
16 department of finance and administration, an amount equal to  
17 the fees collected pursuant to Section 66-3-424.3 NMSA 1978  
18 for distribution to each county to support animal control  
19 spaying and neutering programs in an amount proportionate to  
20 the number of residents of that county who have purchased pet  
21 care special registration plates pursuant to Section  
22 66-3-424.3 NMSA 1978.

23 B. The balance, exclusive of unidentified  
24 remittances, shall be distributed in accordance with Section  
25 66-6-23.1 NMSA 1978.

1 C. If any of the paragraphs, subsections or  
2 sections referred to in Subsection A of this section are  
3 recompiled or otherwise redesignated without a corresponding  
4 change to Subsection A of this section, the reference in  
5 Subsection A of this section shall be construed to be the  
6 recompiled or redesignated paragraph, subsection or section."

7 Section 22. SAVING CLAUSE--CONTINUING EFFECT OF PRIOR  
8 ACTIONS.--Repeal of the Tire Recycling Act does not affect  
9 the validity of regulations enacted pursuant to the Tire  
10 Recycling Act, which shall continue in force and effect until  
11 amended or repealed. Repeal of the Tire Recycling Act does  
12 not affect prior violations of the Tire Recycling Act or  
13 regulations enacted pursuant to the Tire Recycling Act. All  
14 permits and registrations issued pursuant to the Tire  
15 Recycling Act shall remain in effect until they expire or  
16 they are suspended, revoked or otherwise modified.

17 Section 23. REPEAL.--Sections 74-11-1 through 74-11-17  
18 NMSA 1978 (being Laws 1994, Chapter 117, Sections 1 through 17  
19 and Laws 1994, Chapter 126, Sections 1 through 17, as amended)  
20 are repealed.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25