



AN ACT REVISING HIGHWAY FUNDING LAWS; REVISING LAWS CONCERNING THE DEPOSIT AND EXPENDITURE OF HIGHWAY REVENUE; ESTABLISHING A HIGHWAY RESTRICTED ACCOUNT AND A BRIDGE AND ROAD SAFETY AND ACCOUNTABILITY RESTRICTED ACCOUNT; INCREASING THE FUEL TAX AND SPECIAL FUEL TAX; PROVIDING THAT THE NEW REVENUE MUST FUND HIGHWAY PROJECTS AND LOCAL ROAD PROJECTS; PROVIDING FOR A LOCAL GOVERNMENT ROAD MATCH PROGRAM; REQUIRING A PERFORMANCE AUDIT OF THE DEPARTMENT OF TRANSPORTATION; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO PUBLISH A WEBSITE SHOWING PROJECTS FUNDED WITH THE INCREASED REVENUE; PROVIDING A STATUTORY APPROPRIATION AND AN APPROPRIATION; AMENDING SECTIONS 15-70-101, 15-70-102, 15-70-403, 15-70-404, 15-70-419, 15-70-456, 17-5-903, 17-7-502, 44-1-501, 60-3-201, 60-5-110, 61-3-738, 61-8-204, 61-8-907, 61-10-126, 61-10-225, 61-10-226, AND 75-11-301, MCA; REPEALING SECTION 60-3-202, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Highway restricted account. (1) There is a highway restricted account in the state special revenue fund provided for in 17-2-102. All interest and income earned on the account must, in accordance with the provisions of 17-2-124, be deposited to the credit of the account and any unexpended balance in the account must remain in the account.

(2) Subject to subsection (4) and 15-70-403(2), all revenue sources provided for in Article VIII, section 6, of the Montana constitution must be deposited in the account, including but not limited to:

- (a) all taxes collected under this chapter except as provided in 15-70-403(2)(b);
- (b) taxes collected for improperly imported fuel as provided in 15-70-419;
- (c) fees collected for temporary special fuel permits as provided in 15-70-456; and
- (d) GVW license fees as provided in 61-10-225 and 61-10-226.

(3) Except as provided in subsection (5), the money in the account is restricted and may be used only for the purpose of providing funding:

- (a) for statutory refunds and adjustments;
- (b) for debt service on highway revenue bonds;
- (c) to the department for distribution to local governments as provided in 15-70-101;
- (d) to the department for railroad grade crossing protection as provided in 15-70-102;
- (e) to the department of justice for expenses of the highway patrol as provided in 44-1-501;
- (f) to the department of justice for expenses of the motor vehicle division;
- (g) for gasoline tax allocations as provided in 60-3-201;
- (h) to the department for administration of the motor carrier services functions;
- (i) to the department for the highways in this state selected and designated by the transportation commission provided for in 2-15-2502;
- (j) to the department for the collection of fuel taxes;
- (k) for driver education, which may not exceed \$10,000; and
- (l) for tourist promotion, which may not exceed \$10,000.

(4) (a) The portion of money collected from all revenue sources provided for in Article VIII, section 6, of the Montana constitution on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102.

(b) The department is authorized to maintain a suspense account for gasoline and special fuel tax refunds and adjustments.

(5) The money in the account may be appropriated for purposes other than those listed in subsection (3) by a three-fifths vote of the members of each house of the legislature.

Section 2. Bridge and road safety and accountability restricted account. (1) There is a bridge and road safety and accountability restricted account in the state special revenue fund provided for in 17-2-102. All interest and income earned on the account must, in accordance with the provisions of 17-2-124, be deposited to the credit of the account and any unexpended balance in the account must remain in the account. Revenue from the gasoline and special fuels taxes must be deposited in the account pursuant to 15-70-403(2)(b).

(2) The money in the account is restricted as provided in Article VIII, section 6, of the Montana constitution and may be used only for statutory refunds and adjustments and for providing annual funding as follows:

(a) for use by the department of transportation for the construction, reconstruction, maintenance, and repair of highways and bridges in the state selected and designated by the transportation commission:

(i) \$12.5 million for fiscal year 2018; and

(ii) 35% or \$9.8 million, whichever is greater, for fiscal year 2019 and thereafter;

(b) the remainder for the local government road construction and maintenance match program provided for in [section 3].

Section 3. Local government road construction and maintenance match program. (1) There is a local government road construction and maintenance match program to provide funding to cities, towns, counties, and consolidated city-county governments for construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, and bridges as provided in this section.

(2) The department of transportation shall allocate funds provided for in [section 2(2)(b)] collected between January 1 and December 31 of the previous year. The first allocations must be made by March 1, 2018, and allocations must be made each March 1 thereafter. The funds provided for in [section 2(2)(b)] are statutorily appropriated, as provided in 17-7-502, to the department and must be allocated to cities, towns, counties, and consolidated city-county governments in the same proportion and using the same ratios provided for in 15-70-101(2)(b), (2)(c), and (3).

(3) A city, town, county, or consolidated city-county government that requests funds under this section shall match each \$20 requested with \$1 of local government matching funds. The funds distributed in 15-70-101(2) may not be used as matching funds. The matching funds must be used along with the requested funding for construction, reconstruction, maintenance, or repair of rural roads, city or town streets and alleys, or bridges.

(4) A city, town, county, or consolidated city-county government may request a distribution of allocated funds by submitting a request to the department of transportation between March 1 and November 1 of the year the funds were allocated. The request must include:

(a) the amount of funding sought, which may not exceed the amount allocated for that year;

(b) a copy of an adopted resolution to request and accept the funding by the governing body of the city, town, county, or consolidated city-county government. The resolution must identify the source of the matching funds required under subsection (3).

(c) a description of the project or projects to be funded, which must be for construction, reconstruction, maintenance, or repair of rural roads, city or town streets and alleys, or bridges, as a match for federal funds used

for the construction of roads and streets that are part of the national, primary, secondary, or urban highway systems, or roads and streets that the city, town, county, or consolidated city-county government has the responsibility to maintain.

(5) A city, town, county, or consolidated city-county government receiving funds under this section shall award construction projects that exceed the thresholds provided for in 7-5-2301 and 7-5-4302 in a competitive bid process.

(6) Except as provided in subsection (9), the department of transportation shall distribute the funds to the city, town, county, or consolidated city-county government for any request for funds that meets the requirements of subsection (4).

(7) Funds not distributed pursuant to this section must remain in the account provided for in [section 2] and be used for the local government road construction and maintenance match program in future years.

(8) A city, town, county, or consolidated city-county government that receives funding distributed under this section may place all or a part of the funds and the corresponding matching funds in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure. The city, town, county, or consolidated city-county government shall obligate the funds by March 1, 5 years after the year in which the funds were distributed or would have been distributed if not reserved pursuant to subsection (9). Funds not obligated within the 5-year period must be returned to the department and deposited in the account provided for in [section 2] and used as provided in [section 2(2)(b)].

(9) The share of funds allocated to a city, town, county, or consolidated city-county government as provided in subsection (2) may be reserved for the city, town, county, or consolidated city-county government for up to 2 years if the city, town, county, or consolidated city-county government is unable to match the funds as required by subsection (3). To reserve the funds, the city, town, county, or consolidated city-county government shall adopt a resolution as provided in subsection (4)(b) and submit a request to reserve the funds by November 1 of the year after the year in which the department allocated the funds. If the city, town, county, or consolidated city-county government does not request distribution of the funds by November 1 of the fiscal year 2 years after the request to reserve the funds, the funds must be deposited in the account provided for in [section 2] and used as provided in [section 2(2)(b)].

(10) A city, town, county, or consolidated city-county government shall submit an annual report to the department providing information on approved projects, changes to the list of projects funded, and final project costs.

(11) Within 90 days of completion of a project, a city, town, county, or consolidated city-county

government shall notify the department of the intent to use the funds for additional projects within the time period provided for in subsection (8) or to remit any unused funds to the department. The unused funds must be deposited in the account provided for in [section 2] and used as provided in [section 2(2)(b)].

Section 4. Audit of department of transportation. (1) By June 30, 2018, there must be a one-time performance audit of the department of transportation provided for in 2-15-2501. The performance audit must be conducted by or at the direction of the legislative auditor and must include but is not limited to:

(a) a comparison of the Montana department of transportation to similar agencies in at least three other similar states or provinces on a quantitative measure, such as dollars spent or highway miles constructed and maintained. The following points of comparison are of specific interest:

- (i) number of full-time equivalent employees;
- (ii) inventory of equipment owned by the department;
- (iii) federal highway dollars received;
- (iv) cost of engineering services; and
- (v) whether engineering services were performed by department staff or a private firm.

(b) an examination of the budgets, costs, and functions of the Montana department of transportation over time; and

(c) consideration of whether any functions of the department of transportation could be performed at the same quality for a lower cost by a private entity.

(2) The purpose of the audit provided for in this section is to accomplish the objectives established in 5-13-308.

(3) The cost of the audit in whole or in part must be paid by the department of transportation from the highway nonrestricted account provided for in 15-70-125.

(4) Following review by the legislative audit committee, the audit must be presented to the revenue and transportation interim committee provided for in 5-5-227 and must be posted on the website of the legislative audit division.

(5) By June 30, 2019, there must be a followup to the performance audit provided for in this section that includes a review of the progress of the department of transportation on recommendations resulting from the audit and information on:

- (a) the number of full-time equivalent employees employed by the department of transportation;
- (b) department costs per full-time equivalent employee;

- (c) pay increases provided to employees in the previous year;
- (d) department costs per road mile constructed; and
- (e) the total cost of contracted labor.

(6) Following review by the legislative audit committee, the audit followup to the performance audit must be presented to the revenue and transportation interim committee provided for in 5-5-227.

Section 5. Department to maintain projects website. (1) The department of transportation shall maintain a website to provide information on projects funded from the bridge and road safety and accountability restricted account.

(2) The website must include:

- (a) total revenue deposited in the account;
- (b) total distributions from the account, including amounts distributed to:
 - (i) the department of transportation for the construction and maintenance of highways; and
 - (ii) local governments for the local government road construction and maintenance match program

provided for in [section 3]; and

(c) a list of projects funded from the distributions listed in subsections (2)(b)(i) and (2)(b)(ii).

(3) The website must also include the total revenue distributed to the accounts provided for in 60-3-201 from the revenue deposited pursuant to 15-70-403(2)(b)(i).

(4) The website must be published within 1 year of [the effective date of this act] and must be updated quarterly.

(5) The list of projects provided for in subsection (2)(c) must be identified by city and county and must be searchable.

Section 6. Section 15-70-101, MCA, is amended to read:

"15-70-101. Disposition of funds. (1) ~~All taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be placed in a highway revenue account in the state special revenue fund to the credit of the department of transportation. All interest and income earned on the account must be deposited to the credit of the account and any unexpended balance in the account must remain in the account.~~ Those funds allocated to cities, towns, counties, and consolidated city-county governments in this section must, in accordance with the provisions of 17-2-124, be paid by the department of transportation from the ~~state special revenue fund~~ highway restricted account provided for in [section 1] to the cities, towns, counties, and consolidated city-county

governments.

(2) The amount of ~~\$16,766,000~~ \$16,816,000 of the taxes collected under this chapter and deposited in the highway restricted account in [section 1] is statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be ~~allocated~~ distributed each fiscal year on a monthly basis to the counties, incorporated cities and towns, and consolidated city-county governments in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (2)(a) through (2)(c), as follows:

(a) The amount of ~~\$100,000~~ \$150,000 must be designated for the purposes and functions of the Montana local technical assistance transportation program in Bozeman.

(b) The amount of \$6,306,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the national highway system and the primary system, bears to the total rural road mileage in the state, exclusive of the national highway system and the primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state.

(c) The amount of \$10,360,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all cities and towns in Montana.

(3) (a) For the purpose of allocating the funds in subsections (2)(b) and (2)(c) to a consolidated city-county government, each entity must be considered to have separate city and county boundaries. The city limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on the location of the urban area have been approved by the department of transportation and must be used to determine city and county populations and road mileages in the following manner:

(i) Percentage factors must be calculated to determine separate populations for the city and rural county by using the last official decennial federal census population figures that recognized an incorporated city and the rural county. The factors must be based on the ratio of the city to the rural county population, considering the total

population in the county minus the population of any other incorporated city or town in the county.

(ii) The city and county populations must be calculated by multiplying the total county population, as determined by the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census, minus the population of any other incorporated city or town in that county, by the factors established in subsection (3)(a)(i).

(b) The amount allocated by this method for the city and the county must be combined, and single monthly payments must be made to the consolidated city-county government.

(4) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, county, or consolidated city-county government might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the primary or secondary highway system or urban extensions to those systems. The governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax apportionment fund that is carried forward until there is a need for the expenditure.

(5) All funds allocated by this section to counties, cities, towns, and consolidated city-county governments must be disbursed to the lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of the amounts provided in 7-5-2301 and 7-5-4302.

(6) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined annually for counties and biennially for cities according to the latest official decennial census or the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(7) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, counties, and consolidated city-county governments to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this section

may not be used for the purchase of capital equipment.

(9) Funds authorized by this section must be used for construction and maintenance programs."

Section 7. Section 15-70-102, MCA, is amended to read:

"15-70-102. Allocation of funds -- participation in railroad grade crossing protection. (1) The amount determined necessary may be allocated from the ~~state special revenue fund~~; highway revenue restricted account provided for in [section 1]; for each fiscal year for expenditures and commitments made for participation by the department of transportation with railroads in construction of railroad grade crossing protection on any public highway or road, except those designated on the interstate, primary, or urban systems within the state. The department of transportation shall select those grade crossings in the state that, in the opinion of the department, are most in need of additional crossing protection and shall finance the cost of the improvements solely from this fund allocation.

(2) Signal protection provided under this section is limited to electric or automatic flashing lights or gates, depending on the amount and nature of the hazards present at the crossing, and participation in construction of the signals must be on the same basis and under the same standards as are applicable and used in connection with protection of grade crossings on federal-aid roads within the state. The highway restricted account may not be used for protection of grade crossings on the secondary system where the protection is considered necessary and when the cost is financed in part with federal-aid highway funds.

(3) In addition to the funds allocated, counties and cities may authorize the use of funds available to counties and cities under the provisions of 15-70-101 for participation in the installation in grade crossing protection within the county or city."

Section 8. Section 15-70-403, MCA, is amended to read:

"15-70-403. Gasoline and special fuel tax -- incidence -- rates. (1) The incidence of the fuel tax is on the distributor for the privilege of engaging in and carrying on business in this state. Each distributor shall pay to the department of transportation a tax in an amount equal to:

(a) ~~27 cents~~ for each gallon of gasoline distributed by the distributor within the state and upon which the gasoline tax has not been paid by any other distributor;

(i) 31.5 cents in fiscal years 2018 and 2019;

(ii) 32 cents in fiscal years 2020 and 2021;

(iii) 32.5 cents in fiscal year 2022; and

(iv) 33 cents in fiscal year 2023 and thereafter;

(b) ~~27 3/4 cents~~ for each gallon of special fuel distributed by the distributor within the state and on which the special fuel tax has not been paid by any other distributor;

(i) 29.25 cents in fiscal years 2018 and 2019;

(ii) 29.45 cents in fiscal years 2020 and 2021;

(iii) 29.55 cents in fiscal year 2022; and

(iv) 29.75 cents in fiscal year 2023 and thereafter; and

(c) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center, which is allocated to the department as provided by 67-1-301.

(2) The gasoline tax and special fuel tax must be deposited as follows:

(a) to the highway restricted account provided for in [section 1]:

(i) the revenue from 27 cents of the tax provided for in subsection (1)(a) less the allocations provided for in 60-3-201(1)(a) through (1)(d); and

(ii) the revenue from 27 3/4 cents of the tax provided for in subsection (1)(b);

(b) to the bridge and road safety and accountability restricted account provided for in [section 2]:

(i) the remaining revenue from the gasoline tax provided for in subsection (1)(a) less the allocations provided for in 60-3-201(1)(a) through (1)(d); and

(ii) the remaining revenue from the special fuel tax provided for in subsection (1)(b).

~~(2)(3)~~ Gasoline or special fuel may not be included in the measure of the distributor's tax if it is sold for export unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

~~(3)(4)~~ Special fuel may not be included in the measure of the distributor's tax if it is dyed by injector at a refinery or terminal for off-highway use.

~~(4)(5)~~ When no Montana fuel tax has been paid by a distributor or any other person, the department shall collect or cause to be collected from the owners or operators of motor vehicles operating on the public roads and highways of this state a tax equal to the tax rate provided for in subsection (1)(a) for gasoline and subsection (1)(b) for dyed or undyed special fuel. The tax must be paid for each gallon of gasoline or special fuel as defined in this part, or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used to produce motor power to operate motor vehicles on the public roads and highways of this state.

~~(5)(6)~~ The tax may not be imposed on dyed special fuel delivered into the fuel supply tank of a vehicle that is equipped with a feed delivery box if:

- (a) the feed delivery box is permanently affixed to the vehicle;
- (b) the vehicle is used exclusively for the feeding of livestock; and
- (c) the gross vehicle weight of the vehicle, exclusive of any towed units, is greater than 12,000 pounds.

~~(6)~~(7) All special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, and used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of a highway or street and its appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions, must be undyed fuel on which Montana fuel tax has been paid.

~~(7)~~(8) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection ~~(6)~~ (7) must be produced using fuel on which Montana fuel tax has been paid."

Section 9. Section 15-70-404, MCA, is amended to read:

"15-70-404. Computation. (1) The tax imposed on the distributor under 15-70-403(1) may be rounded to the nearest whole dollar amount.

(2) The tax imposed under 15-70-403~~(4)~~(5) on owners or operators of the motor vehicles operating on the public roads and highways of this state must be computed, with respect to gasoline or special fuel for which the tax has not been paid in this state and that has been consumed by the purchaser, by multiplying the corresponding tax rate per gallon as provided in 15-70-403(1) by the number of gallons of gasoline or special fuel consumed by the person in the operation of motor vehicles on the public roads and highways of this state."

Section 10. Section 15-70-419, MCA, is amended to read:

"15-70-419. Improperly imported fuel -- seizure. (1) As used in this section, the following definitions apply:

(a) "Conveyance" means a tank car, vehicle, or vessel that is used to transport fuel.

~~(b) "Department" means the department of transportation.~~

~~(c)~~(b) "Peace officer" means an employee of the department of transportation designated or appointed as a peace officer under 61-10-154 or 61-12-201.

(2) Pursuant to 61-12-206(5), a peace officer may:

(a) stop and search a conveyance in the state if the peace officer has reasonable cause to believe that

the conveyance is being used to carry improperly imported fuel and is intentionally avoiding fuel tax responsibilities; and

(b) seize without a warrant imported fuel for which the distributor or transporter has not obtained a valid Montana gasoline or special fuel distributor license as required in 15-70-402.

(3) The peace officer shall obtain authorization from the director of the department of transportation or the director's designee before seizing fuel.

(4) Upon seizing the fuel that the peace officer believes to be improperly imported, the peace officer may:

(a) direct the rerouting or transfer of the fuel to a location designated by the department. The department shall reimburse the carrier for transportation costs from the point of seizure to the location designated by the department.

(b) unload the fuel; and

(c) take three samples of the fuel from the cargo tank for examination.

(5) Within 48 hours after seizure of the improperly imported fuel, the department shall issue a notice of right to file claim for the return of interest or title to the fuel. The notice must be issued to:

(a) the original owner of the fuel;

(b) the owner of the transportation company that conveyed the fuel; and

(c) any other interested party.

(6) The parties listed in subsections (5)(a) through (5)(c) may file a claim for the return of interest or title to the fuel within 30 days after the date of seizure. If a claim is filed for interest or title to the seized fuel, the department shall:

(a) provide the opportunity for a hearing;

(b) if requested, conduct the hearing within 5 days after receiving the claim;

(c) make a final determination of the party to take interest or title to the fuel within 2 working days after the hearing; and

(d) mail notice of the department's determination to interested parties.

(7) (a) The department may determine that the seized fuel be forfeited by the original owner and may:

(i) sell the fuel to the licensed Montana distributor predetermined through a bidding process established in department administrative rule; or

(ii) use the forfeited fuel for a public purpose determined by the department.

(b) The department shall issue a certificate of sale to the licensed distributor who purchases the seized fuel.

(c) The net proceeds from the sale of the fuel must be deposited in the general fund, less:

(i) the applicable taxes, and fees, and penalties, which the department shall deposit in a the highway revenue restricted account in the state special revenue fund, as required in 15-70-104 provided for in [section 1] and the bridge and road safety and accountability restricted account provided for in [section 2] in the proportion provided by 15-70-403(2); and

(ii) the interest and penalties collected under this chapter, which the department shall deposit in the highway nonrestricted account provided for in 15-70-125; and

~~(ii)~~(iii) the administrative costs incurred in conjunction with the seizure and disposal of the improperly imported fuel.

(8) If the department determines that the original owner of the fuel may reclaim interest or title to the fuel, the department may:

(a) return to the owner money, less tax and penalty, equal to the wholesale value of the fuel on the day of the seizure; or

(b) return the fuel.

(9) A person forfeits the interest, right, and title to improperly imported fuel if the person:

(a) fails to file a claim for the seized fuel within the time allowed in subsection (6); or

(b) is determined to be guilty of violating fuel tax laws.

(10) A person whose fuel is seized under this section is not relieved of any penalties imposed for illegal fuel importation in Title 15, chapter 70."

Section 11. Section 15-70-456, MCA, is amended to read:

"15-70-456. Fees for temporary permits -- duration of temporary permits. (1) Temporary special fuel permits issued under 15-70-455(1) cost \$30. The permit is valid for a period of time not to exceed 72 hours and is automatically void if the vehicle leaves the state of Montana during the 72-hour period.

(2) A temporary special fuel permit for a nonresident operating agricultural harvesting equipment costs \$30 per unit for the calendar year in which the fee is collected. The permit is not transferable. A unit is defined as:

(a) one truck suitable for hauling commodities;

(b) one harvesting machine; and

(c) pickup trucks and any other accessory vehicles.

(3) The cost of a special fuel user's agricultural product temporary trip permit for a person operating a

vehicle in the movement of that person's agricultural products, as provided in 15-70-455(3), is:

- (a) \$100 for a permit that is valid for 30 days from the date of issuance; or
- (b) \$300 for a permit that is valid for 3 months from the date of issuance.
- (4) All fees collected must be remitted to the department or deposited directly in the ~~state special revenue fund~~ highway restricted account provided for in [section 1] for the department."

Section 12. Section 17-5-903, MCA, is amended to read:

"17-5-903. Definitions. As used in this part, the following definitions apply:

- (1) "Board" means the board of examiners created under 2-15-1007.
- (2) "Bonds" means bonds, notes, or other evidences of indebtedness issued pursuant to this part as highway revenue bonds.
- (3) "Cost", as applied to any highway project, means any cost of construction or acquisition of any part of the highway project, including but not limited to the cost of supervising, inspecting, and constructing the highway project, interest during construction and for up to 6 months thereafter, and all costs and expenses incidental thereto; the costs of locating, surveying, mapping, resurfacing, restoration, and rehabilitation; acquisition of rights-of-way; relocation assistance; elimination of hazards of railroad grade crossings; acquisition of replacement housing sites; and acquisition, rehabilitation, relocation, and construction of replacement housing; and improvements necessary to directly facilitate and control traffic flow, including grade separation of intersections, widening of lanes, channelization of traffic, and traffic control systems.
- (4) "Department" means the department of transportation provided for in Title 2, chapter 15, part 25.
- (5) "Highway projects" means the construction, reconstruction, maintenance, and repair of federal-aid highways and state highways as such terms are defined in 60-1-103.
- (6) "Highway revenues" means the revenues specified in Article VIII, section 6, of the Montana constitution and [sections 1 and 2] as revenues from gross vehicle weight fees and excise and license taxes (except general sales and use taxes, if any) on gasoline, fuel, and other energy sources used to propel vehicles on public highways and any other revenues, taxes, or receipts credited to the department in the state special revenue fund and the federal special revenue fund.
- (7) "Outstanding bonds" means bonds issued and outstanding at any particular time but does not include bonds owned by the state, bonds that have been refunded, or bonds for the payment of which an irrevocable deposit of cash and United States government securities has been made in an amount sufficient to pay principal, interest, and redemption premium, if any, when due."

Section 13. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; [section 3]; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.

2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December 31, 2023.)"

Section 14. Section 44-1-501, MCA, is amended to read:

"44-1-501. Payment of expenses. All expenses of the highway patrol ~~shall~~ must be paid out of the ~~transportation department's~~ department of transportation's highway restricted account in the ~~state special revenue fund~~ provided for in [section 1]."

Section 15. Section 60-3-201, MCA, is amended to read:

"60-3-201. Distribution and use of proceeds of gasoline tax. (1) ~~All money~~ Money received in payment of the gasoline tax under 15-70-403, except those amounts paid out of the department's suspense account for gasoline tax refund, must be deposited as provided in 15-70-403(2) and used and expended as provided in [sections 1 and 2] and this section. ~~The portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 47-2-402.~~ After deductions for amounts paid out of the suspense account for gasoline tax refunds, the remainder of the gasoline tax collected under 15-70-403 is allocated as follows:

- (a) 9/10 of 1% to the state park account;
- (b) 15/28 of 1% to a snowmobile account in the state special revenue fund;
- (c) 1/8 of 1% to an off-highway vehicle account in the state special revenue fund;
- (d) 1/25 of 1% to the aeronautics revenue fund of the department under the provisions of 67-1-301; and
- (e) the remaining amount:

~~_____ (i) for use by the department on the highways in this state selected and designated by the commission;~~
~~_____ (ii) for collection of the fuel taxes; and~~
~~_____ (iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state as provided for in [sections 1 and 2].~~

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended in accordance with this title. Nothing in this title conflicts with Title 23 of the United States Code and the rules by which it is administered.

(3) The department may enter into cooperative agreements with the national park service and the federal highway administration for the purpose of maintaining national park approach roads in Montana.

(4) Money credited to the state park account in the state special revenue fund may be used only for the creation, improvement, and maintenance of state parks where motorboating is allowed. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) (a) Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost, to promote snowmobile safety, for enforcement purposes, and for the control of noxious weeds.

(b) Of the amounts deposited in the snowmobile account:

(i) 13% of the amount deposited must be used by the department of fish, wildlife, and parks to promote snowmobile safety and education and to enforce snowmobile laws. Two-thirds of the 13% deposited must be used to promote snowmobile safety and education and one-third of the 13% deposited must be used for the enforcement of snowmobile laws.

(ii) 1% of the amount deposited must be credited to the noxious weed management special revenue fund provided for in 80-7-816.

(c) The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 15/28 of 1% is used for propelling registered snowmobiles in this state.

(6) (a) Money credited to the off-highway vehicle account under subsection (1)(c) may be used only to develop and maintain facilities open to the general public at no admission cost, to repair areas that are damaged by off-highway vehicles, and to promote off-highway vehicle safety. Ten percent of the money deposited in the off-highway vehicle account must be used to promote off-highway vehicle safety. Up to 10% of the money deposited in the off-highway vehicle account may be used to repair areas that are damaged by off-highway vehicles.

(b) The legislature finds that of all fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/8 of 1% is used for propelling off-highway vehicles in this state.

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, except fuel for which refunds have been made, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 16. Section 60-5-110, MCA, is amended to read:

"60-5-110. Commercial enterprise or structure prohibited -- exceptions. (1) Except as provided in 60-5-505 and subsections (2) and (3) of this section, a commercial enterprise or structure may not be operated on the publicly owned or leased right-of-way of a controlled-access highway or controlled-access facility.

(2) The department may, under the terms and conditions that it considers appropriate, install or allow others to install electronic communication equipment or electronic informational kiosks on the right-of-way of any state highway, including a controlled-access facility. The department may charge a fee for the use of the equipment or kiosk. The fees must be deposited in the highway nonrestricted ~~highway state special revenue~~ account provided for in 15-70-125 to be used for highway purposes.

(3) (a) The department may, under terms and conditions that it considers appropriate, contract with a blind vendor certified pursuant to Title 18, chapter 5, part 4, for the installation of vending machines on the right-of-way of any state highway, including a controlled-access facility.

(b) A blind vendor installing a vending machine pursuant to this subsection (3) is subject to the applicable provisions of Title 18, chapter 5, part 4."

Section 17. Section 61-3-738, MCA, is amended to read:

"61-3-738. Deposit and distribution of fees on proportionally registered fleets. The light vehicle

registration fees, fees in lieu of tax, and license fees collected under this part must be deposited with the state treasurer in the highway nonrestricted account provided for in 15-70-125."

Section 18. Section 61-8-204, MCA, is amended to read:

"61-8-204. Reward for information on injury to or removal of sign or marker. Upon conviction under the provisions of 61-8-713, a person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person must be paid a reward from the highway nonrestricted account ~~in the state special revenue fund~~ provided for in 15-70-125 in the sum of \$100."

Section 19. Section 61-8-907, MCA, is amended to read:

"61-8-907. Inspection -- fees -- decal. (1) The tow truck equipment of a commercial tow truck operator must have an annual safety inspection. A highway patrol officer, an employee of the department of transportation appointed as a peace officer in accordance with 61-12-201, or an inspector certified by the department shall conduct the inspection and require the commercial tow truck operator to provide proof of compliance with the provisions of 61-8-906.

(2) (a) Upon satisfactory completion of the inspection and verification of the insurance requirements, a decal showing the last inspection date and the expiration date of the insurance coverage must be affixed in a prominent place on the tow truck.

(b) If the commercial tow truck operator is participating in the law enforcement rotation system, the decal must also show the classification of the operator's tow truck equipment.

(3) The department may establish inspection and decal fees that may not exceed the actual costs of the inspection and the decal. The fees for the inspection and decal must be deposited in the ~~state~~ highway nonrestricted account ~~in the state special revenue fund~~ provided for in 15-70-125."

Section 20. Section 61-10-126, MCA, is amended to read:

"61-10-126. Deposit of fees. All fees collected under 61-10-101 through 61-10-104 and 61-10-106 through 61-10-125 must be forwarded to the department of transportation for deposit in the highway nonrestricted account ~~in the state special revenue fund~~ provided for in 15-70-125."

Section 21. Section 61-10-225, MCA, is amended to read:

"61-10-225. Disposition of fees collected by county treasurer. The county treasurer shall transmit

the fees provided for in 61-10-222 to the state, as provided in 15-1-504, for deposit to the credit of the department of transportation in the highway ~~revenue restricted~~ account provided for in [section 1]. The remittance must be made on forms furnished to the county treasurer by the department of transportation."

Section 22. Section 61-10-226, MCA, is amended to read:

"61-10-226. Deposit of state highway money. (1) Money received for the use of the department of transportation from the receipt or transfer of GVW license fees, as provided by law, or from other state sources must be deposited in the highway ~~revenue restricted~~ account ~~in the state special revenue fund~~ provided for in [section 1] to the credit of the department.

(2) Money received from the federal government or other agencies must be deposited in a federal or state special revenue fund to the credit of the department.

(3) Money collected for the department as authorized by law must be credited to the appropriate fund by the state treasurer.

(4) Money received from the counties must be deposited in the appropriate account in the state special revenue fund to the credit of the department."

Section 23. Section 75-11-301, MCA, is amended to read:

"75-11-301. Intent, findings, and purposes. (1) The legislature, mindful of its constitutional obligations under Article II, section 3, and Article IX of the Montana constitution, has enacted this part. It is the legislature's intent that the requirements of this part provide adequate remedies for the protection of the environmental life support system from degradation and provide adequate remedies to prevent unreasonable depletion and degradation of natural resources.

(2) The legislature finds that the use of petroleum products stored in tanks contributes significantly to the economic well-being and quality of life of Montana citizens.

(3) The legislature finds that leaks, spills, and other releases of petroleum products from storage tanks endanger public health and safety, ground water quality, and other state resources.

(4) The legislature finds that current administrative and financial resources of the public and private sectors are inadequate to address problems caused by releases from petroleum storage tanks and need to be supplemented by a major program of release detection and corrective action.

(5) The legislature finds that proper funding for the program is through a petroleum storage tank cleanup fee paid by persons who use and receive the benefits of petroleum products. The legislature further finds that this

general use fee, provided for in 75-11-314, is intended solely to support a program to pay for corrective action and damages caused by releases from petroleum storage tanks. The general use fee is collected from distributors for administrative convenience and is not intended as a method for collecting highway revenue pursuant to the provisions of Article VIII, section 6, of the Montana constitution or [section 1].

(6) The purposes of this part are to:

(a) protect public health and safety and the environment by providing prompt detection and cleanup of petroleum tank releases;

(b) provide adequate financial resources and effective procedures through which tank owners and operators may undertake and be reimbursed for corrective action and payment to third parties for damages caused by releases from petroleum storage tanks;

(c) assist certain tank owners and operators in meeting financial assurance requirements under state and federal law governing releases from petroleum storage tanks; and

(d) provide tank owners with incentives to improve petroleum storage tank facilities in order to minimize the likelihood of accidental releases."

Section 24. Repealer. The following section of the Montana Code Annotated is repealed:

60-3-202. Funding highway system maintenance.

Section 25. Appropriation. There is appropriated to the department of transportation \$12.5 million in fiscal year 2018 and \$9.8 million in fiscal year 2019 from the state special revenue account provided for in [section 2]. The department shall fully expend all state special revenue appropriation authority provided in the 2019 biennium version of House Bill No. 2 for contractor payments within the Construction Program, including the state special revenue appropriation for Highway Construction Contractor Payments (Restricted), before using the appropriation provided for in this section.

Section 26. Implementation. The department of transportation shall implement the local match program provided for in [section 3] within existing resources.

Section 27. Codification instruction. (1) [Sections 1 through 3] are intended to be codified as an integral part of Title 15, chapter 70, part 1, and the provisions of Title 15, chapter 70, part 1, apply to [sections 1 through 3].

(2) [Sections 4 and 5] are intended to be codified as an integral part of Title 60, chapter 2, part 2, and the provisions of Title 60, chapter 2, part 2, apply to [sections 4 and 5].

Section 28. Effective date. [This act] is effective July 1, 2017.

- END -

I hereby certify that the within bill,
HB 0473, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2017.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2017.

HOUSE BILL NO. 473

INTRODUCED BY F. GARNER, L. JONES

AN ACT REVISING HIGHWAY FUNDING LAWS; REVISING LAWS CONCERNING THE DEPOSIT AND EXPENDITURE OF HIGHWAY REVENUE; ESTABLISHING A HIGHWAY RESTRICTED ACCOUNT AND A BRIDGE AND ROAD SAFETY AND ACCOUNTABILITY RESTRICTED ACCOUNT; INCREASING THE FUEL TAX AND SPECIAL FUEL TAX; PROVIDING THAT THE NEW REVENUE MUST FUND HIGHWAY PROJECTS AND LOCAL ROAD PROJECTS; PROVIDING FOR A LOCAL GOVERNMENT ROAD MATCH PROGRAM; REQUIRING A PERFORMANCE AUDIT OF THE DEPARTMENT OF TRANSPORTATION; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO PUBLISH A WEBSITE SHOWING PROJECTS FUNDED WITH THE INCREASED REVENUE; PROVIDING A STATUTORY APPROPRIATION AND AN APPROPRIATION; AMENDING SECTIONS 15-70-101, 15-70-102, 15-70-403, 15-70-404, 15-70-419, 15-70-456, 17-5-903, 17-7-502, 44-1-501, 60-3-201, 60-5-110, 61-3-738, 61-8-204, 61-8-907, 61-10-126, 61-10-225, 61-10-226, AND 75-11-301, MCA; REPEALING SECTION 60-3-202, MCA; AND PROVIDING AN EFFECTIVE DATE.