

**Exhibit Number: 25**

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59th Legislature

Amendments must be Voted  
on separately!

*Gregg Handberg*

*Farker Spidigkenson*

HOUSE BILL NO. 464

2 INTRODUCED BY

*Berggren TESTED Lenhart*  
(Primary Sponsor)

3

*Deannet Lindem Bay Matthews Oltt Lemhart*

4

BY REQUEST OF THE GOVERNOR

5

*Musgrove Furey Putra Frobley Oshner Driscoll*  
*Mike Juel*

6

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO THE PRODUCTION OF

7

ALCOHOL FOR FUEL PURPOSES AND RELATING TO FUEL CONTAINING ALCOHOL; ~~INCLUDING~~

8

~~BIODIESEL AS A PERMISSIBLE USE OF ALCOHOL; REDUCING THE TAX INCENTIVE FROM 30 CENTS~~

9

TO <sup>15</sup> ~~40~~ CENTS PER GALLON; REVISING THE TIME IN WHICH TAX CREDITS MAY BE PAID; PROVIDING

10

THAT INCENTIVE PAYMENTS MAY BEGIN WITHIN 12 MONTHS AFTER THE COMPLETION OR

11

REMODELING OF A PRODUCTION FACILITY IF CERTAIN PRODUCTION CRITERIA ARE MET; ~~REDUCING~~

12

~~THE AMOUNT OF PAYMENTS THAT MAY BE MADE TO AN ALCOHOL DISTRIBUTOR IN A CALENDAR~~

13

~~YEAR FROM \$3 MILLION TO \$1 MILLION; CLARIFYING THAT PAYMENTS MUST BE PRORATED AMONG~~

14

DISTRIBUTORS; ELIMINATING REQUIREMENTS FOR BUSINESS PLANS AND LOSS OF PRIORITY;

15

REVISING THE CONDITIONS FOR AN IN-STATE INVESTMENT FOR ALCOHOL PRODUCTION TO BE USED

16

FOR FUEL; EXTENDING THE PERMISSIBLE PERIOD FOR LOANS; ALLOWING THE PAYMENT OF

17

DIVIDENDS AND BONUSES UNDER CERTAIN CONDITIONS; DIRECTING THE DEPARTMENT OF LABOR

18

AND INDUSTRY TO ADOPT STANDARDS AND SPECIFICATIONS ENSURING THAT ALL GASOLINE SOLD

19

TO CONSUMERS FOR USE IN MOTOR VEHICLES TO BE OPERATED ON PUBLIC ROADS IS BLENDED

20

WITH ETHANOL AND PROVIDING THAT THE GASOLINE MAY NOT CONTAIN MORE THAN TRACE

21

AMOUNTS OF MTBE; CREATING CERTAIN EXCEPTIONS TO THE REQUIREMENT TO USE

22

ETHANOL-BLENDED GASOLINE; PROVIDING FOR ENFORCEMENT BY THE DEPARTMENT OF LABOR

23

AND INDUSTRY; ELIMINATING THE ALTERNATIVE FUEL MOTOR VEHICLE CONVERSION TAX CREDIT

24

FOR CONVERSION OF A MOTOR VEHICLE TO THE USE OF METHANOL, ETHANOL, OR OTHER

25

ALCOHOL; REVISING THE PROVISIONS TAXING GASOHOL ~~AND BIODIESEL~~ AT 85 PERCENT OF THE

26

GASOLINE LICENSE TAX AND SPECIAL FUEL TAX RATES; REMOVING THE REQUIREMENTS THAT TAX

27

LABELS BE PLACED ON GASOHOL ~~AND BIODIESEL~~ PUMPS; AMENDING SECTIONS 15-30-164, 15-70-204,

28

45-70-321, 15-70-502, 15-70-503, 15-70-522, 17-6-317, 82-15-103, <sup>82-15-102 82-15-104, 82-15-106</sup> AND 82-15-110, MCA; REPEALING

29

SECTIONS <sup>SECTION</sup> 15-70-245 ~~AND 15-70-370~~, MCA, AND SECTION 13, CHAPTER 568, LAWS OF 2001; AND

30

PROVIDING AN IMMEDIATE EFFECTIVE DATE."

ENACTS FOR VIOLATIONS OF MTBE REQUIREMENTS; PROVIDING AN EXEMPTION FOR AVIATION FUEL;



1

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

3

4 **Section 1.** Section 15-30-164, MCA, is amended to read:

5 **"15-30-164. Credit for alternative fuel motor vehicle conversion.** (1) (a) Except as provided in  
6 subsection (1)(b), an individual, a corporation, a partnership, or a small business corporation as defined in  
7 15-30-1101 is allowed a tax credit against taxes imposed by 15-30-103 or 15-31-101 for equipment and labor  
8 costs incurred to convert a motor vehicle licensed in Montana to operate on alternative fuel.

9 (b) A seller of alternative fuel may not receive a credit for converting its own vehicles to the alternative  
10 fuel that it sells.

11 (2) The maximum credit a taxpayer may claim in a year under this section is an amount equal to 50%  
12 of the equipment and labor costs incurred but the credit may not exceed:

13 (a) \$500 for conversion of a motor vehicle with a gross weight of 10,000 pounds or less; or

14 (b) \$1,000 for conversion of a motor vehicle with a gross vehicle weight over 10,000 pounds.

15 (3) For the purposes of this section, "alternative fuel" means:

16 (a) natural gas;

17 (b) liquefied petroleum gas;

18 (c) liquefied natural gas;

19 (d) hydrogen; or

20 (e) electricity; or

21 ~~(f) any other fuel if at least 85% of the fuel is methanol, ethanol or other alcohol, ether, or any~~  
22 ~~combination of them.~~

23 (4) (a) The credit allowed under this section may not exceed the taxpayer's income tax liability.

24 (b) There is no carryback or carryforward of the credit permitted under this section, and the credit must  
25 be applied in the year the conversion is made, as determined by the taxpayer's accounting method."

26 **SECTION 2. 15-70-201. DEFINITIONS**

27 **Section <sup>3</sup>2.** Section 15-70-204, MCA, is amended to read:

28 **"15-70-204. (Temporary) Gasoline license tax -- rate.** (1) Each distributor shall pay to the department  
29 a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to:

30 (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,

1 which is allocated to the department as provided by 67-1-301; and

2 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon  
3 which the gasoline license tax has not been paid by any other distributor.

4 (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the  
5 distributor is not licensed and is not paying the tax to the state the fuel is destined for.

6 ~~(3) Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to a tax per  
7 gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1).~~

8 **15-70-204. (Effective on occurrence of contingency) Gasoline license tax -- rate.** (1) Each  
9 distributor shall pay to the department a license tax for the privilege of engaging in and carrying on business in  
10 this state in an amount equal to:

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

13 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon  
14 which the gasoline license tax has not been paid by any other distributor.

15 (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the  
16 distributor is not licensed and is not paying the tax to the state the fuel is destined for.

17 (3) ~~(a) Gasohol, as defined in 15-70-204, Subject to subsection (3)(b), gasohol is subject to 85% of the  
18 tax imposed in subsection (1)(b).~~

19 (b) On the date that the requirement for use of gasohol contained in [section 401] occurs, gasohol is  
20 subject to the tax imposed in subsection (1)(b). (Terminates June 30 of fourth year following date of occurrence  
21 of contingency--sec. 13, Ch. 568, L. 2004.)

22 **15-70-204. (Effective July 1 of fourth year following date of occurrence of contingency) Gasoline**  
23 **license tax -- rate.** (1) Each distributor shall pay to the department a license tax for the privilege of engaging  
24 in and carrying on business in this state in an amount equal to:

25 ~~\_\_\_\_\_ (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply center,  
26 which is allocated to the department as provided by 67-1-301; and~~

27 ~~\_\_\_\_\_ (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and upon  
28 which the gasoline license tax has not been paid by any other distributor.~~

29 ~~\_\_\_\_\_ (2) Gasoline exported may not be included in the measure of the distributor's license tax unless the  
30 distributor is not licensed and is not paying the tax to the state the fuel is destined for.~~

1 ~~(3) Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to a tax per~~  
2 ~~gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1)."~~

3

4 ~~Section 3. Section 15-70-321, MCA, is amended to read:~~

5 **"15-70-321. (Temporary) Tax on special fuel and volatile liquids.** (1) The department shall, under  
6 the provisions of rules issued by it, collect or cause to be collected from the owners or operators of motor  
7 vehicles a tax, as provided in subsection (2):

8 (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less  
9 than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor  
10 power to operate motor vehicles upon the public roads and highways of this state;

11 (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46  
12 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles, motorized  
13 equipment, and the internal combustion of any engines, including stationary engines, used in connection with  
14 any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any  
15 highway or street and their appurtenances awarded by any public agencies, including federal, state, county,  
16 municipal, or other political subdivisions; and

17 (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway  
18 vehicle, regardless of weight, operating upon the public roads and highways of this state.

19 (2) The tax imposed in subsection (1) is 27 3/4 cents per gallon.

20 **15-70-321. (Effective on occurrence of contingency) Tax on special fuel and volatile liquids.** (1)  
21 The department shall, under the provisions of rules issued by it, collect or cause to be collected from the owners  
22 or operators of motor vehicles a tax, as provided in subsection (2):

23 (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas and  
24 biodiesel, of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used  
25 to produce motor power to operate motor vehicles upon the public roads and highways of this state;

26 (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas and biodiesel, of  
27 less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor  
28 vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, used  
29 in connection with any work performed under any contracts pertaining to the construction, reconstruction, or  
30 improvement of any highway or street and their appurtenances awarded by any public agencies, including

① federal, state, county, municipal, or other political subdivisions;

2 (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway  
3 vehicle, regardless of weight, operating upon the public roads and highways of this state; and

4 (d) for each gallon of biodiesel delivered into the fuel supply tank of a highway vehicle, regardless of  
5 weight, operating upon the public roads and highways of this state.

6 (2) (a) The tax imposed in subsections (1)(a) through (1)(c) is 27 3/4 cents per gallon.

7 (b) ~~The Except as provided in subsection (2)(c), the tax imposed in subsection (1)(d) is 85% of the~~  
8 amount provided for in subsection (2)(a).

9 ~~(c) On the date that the requirement for use of gasoline contained in [section 10] occurs, biodiesel is~~  
10 ~~subject to the tax imposed in subsection (2)(a). (Terminates June 30 of fourth year following date of occurrence~~  
11 ~~of contingency--sec. 13, Ch. 568, L. 2001.)~~

12 ~~15-70-321. (Effective July 1 of fourth year following date of occurrence of contingency) Tax on~~  
13 ~~special fuel and volatile liquids. (1) The department shall, under the provisions of rules issued by it, collect~~  
14 ~~or cause to be collected from the owners or operators of motor vehicles a tax, as provided in subsection (2):~~

15 ~~— (a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less~~  
16 ~~than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor~~  
17 ~~power to operate motor vehicles upon the public roads and highways of this state;~~

18 ~~— (b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46~~  
19 ~~degrees A.P.I. (American petroleum institute) gravity test when actually sold or used in motor vehicles, motorized~~  
20 ~~equipment, and the internal combustion of any engines, including stationary engines, used in connection with~~  
21 ~~any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any~~  
22 ~~highway or street and their appurtenances awarded by any public agencies, including federal, state, county,~~  
23 ~~municipal, or other political subdivisions; and~~

24 ~~— (c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway~~  
25 ~~vehicle, regardless of weight, operating upon the public roads and highways of this state.~~

26 ~~— (2) The tax imposed in subsection (1) is 27 3/4 cents per gallon."~~

27

28 ~~Section 4. Section 15-70-502, MCA, is amended to read:~~

29 ~~"15-70-502. Purpose. The purpose of this part is to establish schedules for the tax incentive for the~~  
30 ~~production of alcohol to be blended for gasoline or biodiesel and to provide for the proper administration and~~

1 ~~enforcement of the tax incentive. The schedules for the tax incentive are designed to stimulate the development~~  
 2 ~~of alcohol fuel production in Montana while limiting the cost to the state of the tax incentive to amounts that are~~  
 3 ~~reasonable in relation to the highway revenue needs of Montana."~~

4  
 5 **Section 4.** Section 15-70-503, MCA, is amended to read:

6 **"15-70-503. Definitions.** As used in this part, the definitions in 15-70-201 and the following definitions  
 7 apply:

8 (1) "Alcohol distributor" means any person who, for the purpose of making gasohol ~~or biodiesel,~~  
 9 engages in the business of producing alcohol for sale, use, or distribution.

10 (2) "Department" means the department of transportation.

11 (3) "Export" means to transport out of Montana from any point of origin within Montana by any means  
 12 other than in the fuel supply tank of a motor vehicle. (4) "Gasohol" means . . .

13 ~~(4) "Gasohol dealer" means any person who blends alcohol with gasoline or diesel fuel to produce~~  
 14 ~~gasohol or biodiesel for sale, use, or distribution in this state."~~

15  
 16 **Section 5.** Section 15-70-522, MCA, is amended to read:

17 **"15-70-522. Tax incentive for production of alcohol -- written plan required -- reservation of**  
 18 **incentives -- rules.** (1) (a) If the alcohol was produced in Montana from Montana agricultural products, including  
 19 Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when  
 20 Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol  
 21 that:

22 (i) is to be blended with gasoline ~~or diesel fuel~~ for sale as gasohol ~~or biodiesel~~ in Montana;

23 (ii) was exported from Montana to be blended with gasoline for sale as gasohol ~~or biodiesel~~; or

24 (iii) is to be used in the production of ethyl butyl ether for use in reformulated gasoline.

25 (b) Payment must be made by the department out of the amount collected under 15-70-204.

26 (2) Except as provided in subsections (3) and (4), the tax incentive on each gallon of alcohol distilled  
 27 in accordance with subsection (1) is ~~30-10~~<sup>v15</sup> cents a gallon for each gallon that is 100% produced from Montana  
 28 products, with the amount of the tax incentive for each gallon reduced proportionately, based upon the amount  
 29 of agricultural or wood products not produced in Montana that is used in the production of the alcohol. Beginning  
 30 July 1, 2010, there is no tax incentive. The tax incentive is available to a facility for the first <sup>v8</sup> years from the date