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SENATE BILL NO. 48
INTRODUCED BY M. FOX
BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE TRANSFER OF CERTAIN REVENUE TO TRIBES FOR HIGHWAY-RELATED PURPOSES; AMENDING SECTIONS 15-70-101 AND 15-70-126, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-70-101, MCA, is amended to read:

"15-70-101. Disposition of funds. (1) 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 from the highway restricted account provided for in 15-70-126 to the cities, towns, counties, and consolidated city-county governments.

(2) The amount of \$16,816,000 of the taxes collected under this chapter and deposited in the highway restricted account in 15-70-126 is statutorily appropriated, as provided in 17-7-502, to the department of transportation and, except as provided in subsection (10) of this section, must be 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 \$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



1 to the total rural population in the state outside incorporated cities and towns;

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

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

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

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

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

15 (i) Percentage factors must be calculated to determine separate populations for the city and rural
16 county by using the last official decennial federal census population figures that recognized an incorporated city
17 and the rural county. The factors must be based on the ratio of the city to the rural county population,
18 considering the total population in the county minus the population of any other incorporated city or town in the
19 county.

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

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

26 (4) All funds allocated by this section to counties, cities, towns, and consolidated city-county
27 governments must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or
28 town streets and alleys or for the share that the city, town, county, or consolidated city-county government

1 might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or
2 streets that are part of the primary or secondary highway system or urban extensions to those systems. The
3 governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25%
4 of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be
5 used for the maintenance and repair of town or third-class city streets and alleys. The governing body of a town
6 or third-class city may place all or a part of the 25% in a restricted asset account within the gas tax
7 apportionment fund that is carried forward until there is a need for the expenditure.

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

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

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

21 (8) Except by a town or third-class city as provided in subsection (4), the funds authorized by this
22 section may not be used for the purchase of capital equipment.

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

24 (10) At the request of a tribal government eligible to participate in the federal tribal transportation
25 program, the department shall distribute the on-reservation share of revenue calculated for distribution to a
26 county pursuant to subsection (2)(b) to the tribal government through the transfer process established in 23
27 U.S.C. 202(a)(9). The on-reservation share is the portion of the distribution calculated using the rural road
28 mileage, rural population, and land area within the exterior boundaries of the reservation that lie within the

1 county. Transferred funds must be used in the same manner as allowed by the federal tribal transportation
2 program."

3

4 **Section 2.** Section 15-70-126, MCA, is amended to read:

5 **"15-70-126. Highway restricted account.** (1) There is a highway restricted account in the state
6 special revenue fund provided for in 17-2-102. All interest and income earned on the account must, in
7 accordance with the provisions of 17-2-124, be deposited to the credit of the account and any unexpended
8 balance in the account must remain in the account.

9 (2) Subject to subsection (4) and 15-70-403(2), all revenue sources provided for in Article VIII, section
10 6, of the Montana constitution must be deposited in the account, including but not limited to:

11 (a) all taxes collected under this chapter except as provided in 15-70-403(2)(b), (2)(c), (3)(b), and
12 (3)(c);

13 (b) taxes collected for improperly imported fuel as provided in 15-70-419;

14 (c) fees collected for temporary special fuel permits as provided in 15-70-456; and

15 (d) GVW license fees as provided in 61-10-225 and 61-10-226.

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

18 (a) for statutory refunds and adjustments;

19 (b) for debt service on highway revenue bonds;

20 (c) to the department for distribution to local and tribal governments as provided in 15-70-101;

21 (d) to the department for railroad grade crossing protection as provided in 15-70-102;

22 (e) until June 30, 2018, to the department of justice for expenses of the motor vehicle division;

23 (f) for gasoline tax allocations as provided in 60-3-201;

24 (g) to the department for administration of the motor carrier services functions;

25 (h) to the department for the highways in this state selected and designated by the transportation
26 commission provided for in 2-15-2502;

27 (i) to the department for the collection of fuel taxes;

28 (j) for driver education, which may not exceed \$10,000; and

1 (k) for tourist promotion, which may not exceed \$10,000.

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

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

9 (5) The money in the account may be appropriated for purposes other than those listed in subsection
10 (3) by a three-fifths vote of the members of each house of the legislature."
11

12 NEW SECTION. Section 3. Notification to tribal governments. The secretary of state shall send a
13 copy of [this act] to each federally recognized tribal government in Montana.
14

15 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2021.
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