Working draft for discussion at May 11-12 TIC meeting

**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FUEL TAXES; AMENDING SECTIONS 15-70-103, 15-70-104, 15-70-111, 15-70-121, 15-70-126, 15-70-128, 15-70-402, 15-70-403, 15-70-410, 15-70-411, 15-70-412, 15-70-416, 15-70-418, 15-70-420, 15-70-421, 15-70-425, 15-70-426, 15-70-443, 60-3-201, 67-1-301, 67-1-306, 67-1-307, 67-1-308, 67-1-309, 75-11-314, AND 80-7-816, MCA."

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

Section 1. Section 15-70-103, MCA, is amended to read:

"**15-70-103. Time of mailing and filing.** (1) Any claim, statement, remittance, or other document which is transmitted to this state through the United States mail shall be deemed filed and received by this state on the date shown by the post-office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. Any claim, statement, remittance, or other document which is mailed but not received by this state or where received with a cancellation mark that is illegible, erroneous, or omitted shall be deemed filed and received on the date mailed if the sender establishes by competent evidence that the claim, statement, remittance, or other document was deposited in the United States mail on or before the date due for filing. In cases of such nonreceipt of a claim, statement, remittance, or other document, the sender must file with the state a duplicate within 30 days after written notification is given to the sender by the state of its nonreceipt of such claim, statement, remittance, or other document.

(2) If any claim, statement, remittance, or other document is sent by United States registered mail, certified mail, or certificate of mailing, a record authenticated by the United States post office of such registration, certification, or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance, or other document was mailed to the addressee, and the date of registration, certification, or certificate shall be deemed the postmarked date.

(3) If the date for filing any claim, statement, remittance, or other document falls upon a Saturday,

Sunday, or legal holiday, the filing shall be considered timely if done on the next business day. Such reports shall be considered filed or received on the date or as provided in this chapter."

Section 2. Section 15-70-104, MCA, is amended to read:

"**15-70-104. Rules to be established by department.** (1) The department of transportation shall adopt, publish, and enforce the rules consistent with and necessary for carrying out the provisions of this chapter.

(2) The department may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of parts 4 and 7 and the International Fuel Tax Agreement authorized by 15-70-121."

Section 3. Section 15-70-111, MCA, is amended to read:

"**15-70-111. Judicial review and appeals.** Any final written determination by the director of the department of transportation under this chapter may be appealed to the Montana tax appeal board which may, upon the record of a hearing, affirm, modify, or reverse the decision of the department. Any party aggrieved by the decision of the board may petition for judicial review by the district court of Lewis and Clark County, and an appeal may be taken from the judgment of the district court to the supreme court."

Section 4. Section 15-70-121, MCA, is amended to read:

"**15-70-121. International Fuel Tax Agreement.** (1) The department of transportation may enter into the International Fuel Tax Agreement for audits, exchange of information, and collection and distribution of motor fuel taxes pertaining to users of motor fuel in fleets of motor vehicles operated or intended to operate across jurisdictional boundaries. The International Fuel Tax Agreement is not effective unless it is in writing and is signed by the department and the department has adopted rules implementing the agreement.

(2) The agreement may determine:

(a) the base jurisdiction for motor fuel users;

(b) motor fuel user records requirements;

(c) audit procedures;

(d) procedures for the exchange of information;

(e) persons eligible for tax licensing;

(f) the definition of qualified motor vehicles;

(g) bonding requirements;

(h) reporting requirements and periods;

(i) uniform penalty and interest rates for late reporting or payment of taxes;

(j) methods for collecting and forwarding of motor fuel taxes and penalties to another jurisdiction; and

(k) other provisions to facilitate the administration of the agreement.

(3) The department may, as required by the terms of the agreement, forward to officers of another jurisdiction any information in its possession relative to the manufacture, receipt, sale, use, transportation, or shipment of motor fuel. The department may disclose to officers of another jurisdiction the location of offices, motor vehicles, and other real and personal property of users of motor fuel.

(4) The agreement may provide each jurisdiction authority to audit the records of persons based in the jurisdiction to determine if the motor fuel taxes due each jurisdiction are properly reported and paid. Each jurisdiction shall forward the findings of the audits performed on persons based in the jurisdiction to each jurisdiction in which the person has taxable use of motor fuel. For a person not based in Montana who has taxable use of motor fuel in Montana, the department may serve the audit findings received from another jurisdiction in the form of an assessment on the person, as though an audit was conducted by the department.

(5) The agreement entered into pursuant to this section does not preclude the department from auditing the records of any person covered by the provisions of this chapter.

(6) If the specific requirements of the agreement, as the agreement reads on the effective date of adoption by the department, differ from the general provisions of this chapter or other rules promulgated by the department, the rules implementing the cooperative agreement prevail.

(7) The legal remedies for a person served with an order or assessment under this section are as prescribed in this chapter.

(8) As used in this section:

(a) "agreement" means the International Fuel Tax Agreement provided for in this section; and

(b) "motor fuel" includes gasoline and special fuel as defined in 15-70-401."

Section 5. Section 15-70-126, MCA, is amended to read:

"**15-70-126. 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), (2)(c), (3)(b), and (3)(c);

(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;

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

(e) electric vehicle registration fees as provided in 61-3-572.

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

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

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

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

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

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

(k) 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 6. Section 15-70-128, MCA, is amended to read:

"**15-70-128. Local government road construction and maintenance restricted account -- statutory appropriation.** (1) There is a local government road construction and maintenance restricted account in the state special revenue fund provided for in 17-2-102 to provide funding to cities, towns, counties, and consolidated city-county governments for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, and bridges. The funds in this account are statutorily appropriated, as provided in 17-7-502, to the department of transportation for distribution as provided in 15-70-101.

(2) 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 fuel taxes must be deposited in the account pursuant to 15-70-403(2)(c) and (3)(c).

(3) The money in the account is restricted as provided in Article VIII, section 6, of the Montana constitution."

Section 7. Section 15-70-402, MCA, is amended to read:

"**15-70-402. (Temporary) License and security of distributors -- denial or disciplinary action.** (1) (a) Prior to doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-401, shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports fuel is $25,000.

(c) Upon approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered or revoked.

(2) The department may deny the issuance of a distributor license or take disciplinary action against the distributor if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the gasoline or special fuel tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

(4) If an application for a distributor license is denied or revoked or if the distributor is under disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

(6) Failure to obtain a distributor license as required in this section subjects the distributor to the provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

(7) As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties;

(b) a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

(c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special fuel for a distributor is not subject to the provisions of this section.

(9) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid.

15-70-402. (Effective July 1, 2026) License and security of distributors -- denial or disciplinary action. (1) (a) Prior to doing business, each gasoline or special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-401, shall file:

(i) an application for a license with the department, on forms prescribed and furnished by the department, setting forth the information that may be requested by the department; and

(ii) security with the department in an amount to be determined by the department.

(b) (i) Except as provided in subsection (1)(b)(ii), the required amount of security may not exceed twice the estimated amount of gasoline or special fuel taxes the distributor will pay to this state each month.

(ii) The minimum required security for a distributor who imports or exports fuel is $25,000.

(c) On approval of the application, the department shall issue to the distributor a nonassignable license that is in force until surrendered, canceled, or revoked.

(2) The department may deny the issuance of a distributor license or take disciplinary action against the distributor if it determines that the applicant or distributor:

(a) has violated any provision of this chapter or any rule of the department relating to gasoline or special fuel, or both;

(b) fails to provide the security required by the department;

(c) has had a distributor license revoked or denied by the department or another jurisdiction within a 3-year period;

(d) is not in compliance with motor fuels laws in other jurisdictions; or

(e) fails to pay the gasoline or special fuel tax.

(3) Disciplinary action against a distributor may result in revocation of the license or issuance of a probationary license. At its discretion, the department may issue a probationary license to a distributor who repeatedly fails to report in the manner prescribed. The probationary license must be issued for a specified time period and may require the distributor to attend motor fuel tax training conducted by the department. If a distributor issued a probationary license fails to provide accurate reports by the end of the time period specified by the probationary license, the department may revoke the distributor license.

(4) If an application for a distributor license is denied or revoked or if the distributor is under disciplinary action, the applicant or distributor has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

(5) Only a licensed distributor may withdraw gasoline or special fuel from a refinery or terminal.

(6) Failure to obtain a distributor license as required in this section subjects the distributor to the provisions of 15-70-419 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

(7) As used in this section, "security" means:

(a) a bond executed by a distributor as principal with a corporate surety qualified under the laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of this part, including the payment of all taxes and penalties;

(b) a deposit made by the distributor with the department, under the conditions that the department may prescribe; or

(c) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal deposit insurance corporation.

(8) The owner of a commercial motor vehicle that is engaged in transporting gasoline or special fuel for a distributor is not subject to the provisions of this section.

(9) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be licensed, the distributor is required to buy biodiesel fuel on which the special fuel tax has been paid.

(10) A distributor who blends ethanol with gasoline must be licensed by the department. If the distributor cannot be licensed, the distributor is required to buy ethanol-blended gasoline on which the gasoline tax has been paid."

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

"**15-70-403. (Temporary) Gasoline, special fuel, and aviation 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) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which the gasoline tax has not been paid by any other distributor;

(b) 29.75 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; and

(c) 5 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 provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-

126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the local government road construction and maintenance restricted account provided for in 15-70-128.

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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 fuel on which Montana fuel tax has been paid.

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

15-70-403. (Effective July 1, 2026) Gasoline, special fuel, and aviation 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) 33 cents for each gallon of gasoline distributed by the distributor within the state and on which the gasoline tax has not been paid by any other distributor;

(b) 29.75 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; and

(c) 5 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 provided for in subsection (1)(a) must be deposited as follows:

(a) the revenue from 22 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax less the allocations provided for in 60-3-201(1)(a) through (1)(d) to the local government road construction and maintenance restricted account provided for in 15-70-128.

(3) The special fuel tax provided for in subsection (1)(b) must be deposited as follows:

(a) the revenue from 24.6 cents of the tax to the highway restricted account provided for in 15-70-126;

(b) the revenue from 4 cents of the tax to the highway patrol administration state special revenue account established in 44-1-110; and

(c) the remaining revenue from the tax to the local government road construction and maintenance restricted account provided for in 15-70-128.

(4) (a) Except as provided in subsection (4)(b), when gasoline, special fuel, or aviation fuel is withdrawn from a refinery or pipeline terminal in this state, the gasoline, special fuel, or aviation fuel is

considered to be distributed by the distributor who is the owner of the gasoline, special fuel, or aviation fuel prior to the time of withdrawal.

(b) If gasoline, special fuel, or aviation fuel is withdrawn for shipment or delivery to a licensed distributor, it is considered to be distributed by the first licensed distributor to take possession of the gasoline, special fuel, or aviation fuel as shown by the bill of lading issued by the terminal or refinery.

(5) Imported gasoline, special fuel, or aviation fuel, except for gasoline, special fuel, or aviation fuel placed in storage at a refinery or pipeline terminal, is considered to be distributed after it arrives and is brought to rest in this state by the person who is the owner of the gasoline, special fuel, or aviation fuel at the time the gasoline, special fuel, or aviation fuel is unloaded from its shipping vessel. If the owner is not licensed as a Montana distributor and if the gasoline, special fuel, or aviation fuel is shipped or delivered in this state by a person who is licensed as a distributor, then the gasoline, special fuel, or aviation fuel is considered to be distributed by the licensed distributor.

(6) For the purposes of the tax provided for in this section, gasoline, special fuel, and aviation fuel may not be exchanged tax-free between licensed distributors more than one time.

(7) 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.

(8) 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.

(9) 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.

(10) 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.

(11) 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 fuel on which Montana fuel tax has been paid.

(12) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (11) must be produced using fuel on which Montana fuel tax has been paid."

Section 9. Section 15-70-410, MCA, is amended to read:

"**15-70-410. Distributor's statement and payment -- confidentiality.** (1) Each distributor shall, not later than the 25th day of each calendar month, except as provided in 15-70-113(3), render to the department of transportation a signed statement that specifies all gasoline or special fuel distributed and received by the distributor in this state during the preceding calendar month and that contains other information the department may reasonably require in order to administer the fuel tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-403, less any refund credit issued under 15-70-425 and less 1% of the total tax that may be deducted by the distributor as an allowance for collection. An allowance may not be deducted from the tax on aviation fuel.

(2) A distributor engaged in or carrying on a business at more than one location in this state may include all places of business in one statement.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of fuel. This section does not prohibit:

(a) the delivery to a distributor or a distributor's authorized representative of a certified copy of any return or report filed in connection with the distributor's tax;

(b) the inspection by the attorney general or by another legal representative of the state of the report or return of a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on gasoline or special fuel or by any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 10. Section 15-70-411, MCA, is amended to read:

"**15-70-411. Recordkeeping requirements.** Each distributor or any other person dealing in, transporting, receiving, or storing gasoline or special fuel shall keep records, receipts, and invoices and any other pertinent papers and information that the department of transportation may require for a minimum of 3 years."

Section 11. Section 15-70-412, MCA, is amended to read:

"**15-70-412. Invoice of distributors and aviation fuel dealers.** Each distributor and aviation fuel dealer in this state shall at the time of delivery, except when authorized by the department of transportation, issue to the purchaser an invoice that states the number of gallons of gasoline or special fuel covered by the invoice and any other information the department may require."

Section 12. Section 15-70-416, MCA, is amended to read:

"**15-70-416. Information reports -- penalty -- confidentiality.** (1) A person receiving gasoline or special fuel, including an importer, exporter, common carrier, private carrier, and contract carrier of property who hauls, receives, transports, or ships gasoline or special fuel from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state shall submit to the department of transportation, upon its request and within the time specified, a statement showing the number of gallons of gasoline or special fuel contained in each shipment in interstate commerce and the movement of the products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and addresses of the consignor and the consignee, and the date of delivery to the consignee.

(2) A person, except a licensed distributor, importer, or exporter, who refuses or fails to file a statement as required in this section is subject to a penalty of $100 for each failure or refusal.

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of gasoline or special fuel. This section may not be construed to prohibit:

(a) the delivery to a person or the person's authorized representative of a certified copy of any report filed under subsection (1);

(b) the inspection by the attorney general or other legal representative of the state of the report or statement of a person if a person or distributor brings an action to set aside or review the tax based on the report or statement or if an action or proceeding has been instituted in accordance with the provisions of Title 15 against that person or distributor;

(c) the publication of statistics classified to prevent the identification of particular reports or statements and the items in the reports or statements;

(d) the inspection by the commissioner of internal revenue of the United States or by the proper officer of any state imposing a tax on gasoline or special fuel or by the authorized representative of either officer of the report or statement of any person or the furnishing to the officer or authorized representative of an abstract of the report or statement, but permission may be granted or information may be furnished to the officer or the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 13. Section 15-70-418, MCA, is amended to read:

"**15-70-418. Fraudulent returns -- penalty.** If a distributor files a false or fraudulent return with intent to evade the tax imposed by this part, there is added to the amount of deficiency determined by the department of transportation a penalty equal to 25% of the deficiency, together with interest at the rate of 1% a month, prorated daily, on the deficiency from the date the tax was due to the date of payment, in addition to all other penalties prescribed by law."

Section 14. Section 15-70-420, MCA, is amended to read:

"**15-70-420. Warrant for distraint.** If all or part of the tax imposed by this part is not paid when due, the department of transportation may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The resulting lien has precedence over any other claim, lien, or demand filed or recorded thereafter. An action may not be maintained to enjoin the collection of all or any part of the tax."

Section 15. Section 15-70-421, MCA, is amended to read:

"**15-70-421. Statute of limitations.** Except in the case of a fraudulent return or of neglect or refusal to make a return, every deficiency must be assessed within 3 years from the due date of the return or the date of filing the return, whichever period expires later."

Section 16. Section 15-70-425, MCA, is amended to read:

"**15-70-425. Refund or credit authorized.** (1) A person who purchases and uses any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid for denaturing ethanol to be used in ethanol-blended gasoline, operating stationary gasoline or special fuel engines used off the public roads and highways of this state, or for any commercial use other than operating vehicles on any of the public roads and highways of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline or special fuel used if the person has records, as provided in 15-70-426, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state. A refund is not allowed for the tax per gallon on aviation fuel allocated to the department of transportation as provided in 67-1-301.

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(3) A distributor who pays the gasoline or special fuel tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline or special fuel with a tax liability of $200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(5) A person who purchases and exports for sale, use, or consumption outside Montana any gasoline or special fuel on which the Montana gasoline or special fuel tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined. Upon completion of the reports required under 15-70-416, the department shall authorize the credit or refund."

Section 17. Section 15-70-426, MCA, is amended to read:

"**15-70-426. Required records.** (1) Except as provided in subsection (6), gasoline or special fuel purchased and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must be fully accounted for by detailed withdrawal records to accurately show the manner in which it was used. Gasoline or special fuel on hand, determined by actual measurement, must be deducted from a claim and must be reported as an opening inventory on the next claim.

(2) Service stations, bulk dealers, and marinas shall prepare a complete invoice identifying the type of fuel for each withdrawal of gasoline or special fuel for which a refund is to be claimed.

(3) Special storage facilities used for certain periods must be identified and explained. If gasoline or special fuel withdrawn from special storage is used entirely for off-highway purposes and is not used in licensed vehicles, no records will be required other than purchase invoices showing the delivery into special storage.

(4) When no highway use of gasoline or special fuel is deducted from the claim, the applicant shall substantiate purchases of gasoline or special fuel and miles traveled for licensed motor vehicles on request of the department of transportation.

(5) Any person who operates a licensed motor vehicle on and off the public roads for commercial purposes may claim refund of the state tax on the gasoline or special fuel used to operate the vehicle on roads or property in private ownership if the person has maintained the following records:

(a) the total number of miles traveled on and off public roads by each licensed vehicle;

(b) the total number of gallons of gasoline or special fuel used in each vehicle; and

(c) purchase invoices supporting all gasoline or special fuel handled through bulk storage.

(6) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is not required to keep dispersal records in order to claim a refund of special fuel taxes.

(7) An exporter or any other person who transports gasoline or special fuel out of Montana for sale, use, or consumption outside Montana shall maintain detailed and current records of withdrawal, transportation, ownership, and delivery of the gasoline or special fuel to destinations outside Montana as required by the department."

Section 18. Section 15-70-443, MCA, is amended to read:

"**15-70-443. Penalties.** A distributor or other person who fails, neglects, or refuses to make and file the statements required by this part in the manner or within the time provided, who is delinquent in the payment of any gasoline or special fuel tax imposed by this part, who makes any false statement with reference to the distributor's business, who makes any false statement on any claim for refund, or who violates any provision of this part shall, in addition to any other penalties imposed, be guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed $1,000 or be imprisoned in the county jail for not to exceed 6 months, or both."

Section 19. Section 60-3-201, MCA, is amended to read:

"**60-3-201. Distribution and use of proceeds of gasoline tax.** (1) 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 (3) and used and expended as provided in 15-70-126 and 15-70-128 and this section. 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 to be used pursuant to 23-2-825;

(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 as provided for in 15-70-126 and 15-70-128.

(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) 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 operations account provided for in 67-1-308 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 not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 20. Section 67-1-301, MCA, is amended to read:

"**67-1-301. Money -- receipt and disbursement.** (1) All costs and expenses of administering this title, including the salaries of employees of the department engaged in functions pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary to carry out the purposes of this title, must be paid out of the following revenue:

(a) all gifts and all legislative appropriations to the department for aeronautics; and

(b) all money received from any branch or department of the federal government or from other sources for the purposes of this title or for the furtherance of aeronautics generally in this state.

(2) All money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

(3) The following amounts must be deposited from the proceeds of the tax imposed on aviation fuel by 15-70-403(1)(c):

(a) in the aeronautics operations account provided for in 67-1-308, an amount equal to the proceeds of 0.5 cents a gallon collected under 15-70-403(1)(c) for the sole purpose of carrying out department functions pertaining to aeronautics;

(b) in the airport grant account provided for in 67-1-309, an amount equal to the proceeds of 4.5 cents a gallon.

(4) Proceeds of all repayments of loans, including interest, made under 67-1-307 must be deposited in the account provided for in 67-1-306.

(5) The gasoline tax imposed by the laws of this state on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

Section 21. Section 67-1-306, MCA, is amended to read:

"**67-1-306. Special aeronautical loan account.** There is a special aeronautical loan account in the state special revenue fund. Principal and interest payments deposited in the account may be used only for providing loans specified in 67-1-307."

Section 22. Section 67-1-307, MCA, is amended to read:

"**67-1-307. Aeronautical loans.** Money deposited in the account created in 67-1-306 may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the account created in 67-1-306."

Section 23. Section 67-1-308, MCA, is amended to read:

"**67-1-308. Aeronautics operations account.** (1) There is an aeronautics operations account in the state special revenue fund. Revenue from the aviation fuel tax must be deposited in the account to the credit of the department pursuant to 67-1-301(3)(a).

(2) Money in the account must be used for the purpose of administering department functions pertaining to aeronautical powers and duties as provided in 67-2-101."

Section 24. Section 67-1-309, MCA, is amended to read:

"**67-1-309. Airport grant account.** (1) There is an airport grant account in the state special revenue fund. Revenue from the aviation fuel tax must be deposited in the account to the credit of the department pursuant to 67-1-301(3)(b).

(2) Money in the account is statutorily appropriated, as provided in 17-7-502, and with the approval of the board may be used to provide grants to local governments for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.

(3) The board shall establish procedures for the awarding of grants. The grant procedures must include a provision allowing a grant for the entire local match required for a project funded with federal funds."

Section 25. Section 75-11-314, MCA, is amended to read:

"**75-11-314. Petroleum storage tank cleanup fee -- collection -- penalties -- warrant for distraint -- statute of limitations.** (1) Except as provided in subsection (4), each distributor shall pay to the department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee has not been paid by any other distributor. The fee must equal:

(a) 0.75 cent for each gallon of gasoline;

(b) 0.75 cent for each gallon of aviation gasoline;

(c) 0.75 cent for each gallon of special fuel; or

(d) 0.75 cent for each gallon of heating oil.

(2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the state must be included in the measure of a distributor's fee.

(3) Ethanol that is blended with gasoline to be sold as ethanol-blended gasoline is subject to the fee provided in subsection (1).

(4) A fee may not be imposed or collected beginning on the first day of the first month in the first calendar quarter after the unobligated balance in the fund equals or exceeds $10 million. Whenever the unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than $6 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee is reinstated beginning on the first day of the first month that begins no less than 30 days after the date of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance again equals or exceeds $10 million.

(5) The department of transportation shall collect the fee in the same manner as the gasoline tax and special fuel tax under Title 15, chapter 70, part 4. The provisions of 15-70-103, 15-70-111, 15-70-402, 15-70-410, 15-70-411, 15-70-416 through 15-70-418, 15-70-420, 15-70-421, 15-70-425(3), and 15-70-443 apply to the fee. The provisions of 15-70-403, 15-70-412, 15-70-425(1), and 15-70-426 do not apply to the fee."

Section 26. Section 80-7-816, MCA, is amended to read:

"**80-7-816. Account -- deposit -- investment.** (1) There is a noxious weed account in the state special revenue fund established in 17-2-102. The interest from the noxious weed management trust fund and the funds directed to be deposited as provided in 80-7-823, excluding unrealized gains and losses, must be deposited in the account and must be expended as provided in 80-7-705 and 80-7-814.

(2) The department may direct the board of investments to invest the funds collected under subsection (1) pursuant to the provisions of 17-6-201. The income from the investments must be credited to the account in the state special revenue fund."

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