

HOUSE BILL NO. 776

INTRODUCED BY RASER, BERGREN, WAITSCHIES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING TAX INCENTIVES FOR ~~THE BLENDING OF~~
5 BIODIESEL FUEL; PROVIDING A TAX CREDIT FOR INVESTMENTS IN DEPRECIABLE PROPERTY TO
6 BLEND BIODIESEL MADE FROM MONTANA PRODUCTS WITH DIESEL; PROVIDING FOR THE
7 RECAPTURE OF THE CREDIT UNDER CERTAIN CONDITIONS; REQUIRING THE DEPARTMENT OF
8 REVENUE TO REPORT TO THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE ON THE
9 AMOUNT OF TAX CREDITS CLAIMED; PROVIDING A TAX REFUND TO DISTRIBUTORS AND OWNERS
10 OR OPERATORS OF MOTOR FUEL OUTLETS FOR SPECIAL FUEL TAXES PAID ON ~~BLEND~~ BIODIESEL;
11 PROVIDING THAT THE SPECIAL FUEL TAX REFUNDS BE REIMBURSED FROM THE STATE GENERAL
12 FUND; REQUIRING THE DEPARTMENT OF TRANSPORTATION TO REPORT TO THE REVENUE AND
13 TRANSPORTATION INTERIM COMMITTEE ON THE AMOUNT OF REFUNDS CLAIMED; ELIMINATING THE
14 PROVISION TAXING BIODIESEL AT 85 PERCENT OF THE SPECIAL FUEL TAX RATE; REMOVING THE
15 REQUIREMENT THAT TAX LABELS BE PLACED ON BIODIESEL PUMPS; PROVIDING A STATUTORY
16 APPROPRIATION; AMENDING SECTIONS 15-70-301, 15-70-304, 15-70-341, AND 17-7-502, MCA, AND
17 SECTIONS 12 AND 13, CHAPTER 568, LAWS OF 2001; REPEALING SECTION 15-70-370, MCA, AND
18 SECTIONS 7 AND 9, CHAPTER 568, LAWS OF 2001; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
19 AND APPLICABILITY DATES."

20
21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22
23 NEW SECTION. **Section 1. Biodiesel blending and storage tax credit -- recapture -- report to**
24 **interim committee.** (1) An individual, corporation, partnership, or small business corporation, as defined in
25 15-30-1101, may receive a credit against taxes imposed by Title 15, chapter 30 or 31, for the cost of storage and
26 blending equipment to be used for blending biodiesel with petroleum diesel.

27 (2) Subject to subsection (4), a special fuel distributor or an owner or operator of a motor fuel outlet
28 qualifying for a credit under this section is entitled to claim a credit, as provided in subsection (3), for the cost
29 of installing storage and blending equipment only in the year in which the taxpayer begins blending biodiesel
30 fuel.

1 (3) (a) The amount of the credit that may be claimed by a distributor under this section for investments
2 in depreciable property is 15% of the cost of the storage and blending equipment. The amount of the credit may
3 not exceed \$52,500. The credit must be claimed in the tax year in which the distributor begins blending biodiesel
4 for sale.

5 (b) The amount of the credit that may be claimed by an owner or operator of a motor fuel outlet under
6 this section for investments in depreciable property is 15% of the cost of the storage and blending equipment.
7 The amount of the credit may not exceed \$7,500. The credit must be claimed in the tax year in which the retailer
8 begins blending of biodiesel for fuel.

9 (4) The following requirements must be met in order to be entitled to a tax credit for investment in
10 property to blend biodiesel:

11 (a) The investment must be for depreciable property used primarily to blend biodiesel made entirely
12 from Montana-produced ingredients with petroleum diesel.

13 (b) Sales of biodiesel must be at least 2% of the taxpayer's total diesel sales by the end of the third year
14 following the tax year in which the credit is claimed.

15 (c) (i) The taxpayer claiming a credit must be a person who as an owner, including a contract purchaser
16 or lessee, or who pursuant to an agreement owns, leases, or has a beneficial interest in a business that blends
17 biodiesel.

18 (ii) If more than one person has an interest in a business with qualifying property, they may allocate all
19 or any part of the investment cost among themselves and their successors or assigns.

20 (d) The business must be owned or leased during the tax year by the taxpayer claiming the credit,
21 except as otherwise provided in subsection (4)(c), and must have been blending biodiesel during the tax year
22 for which the credit is claimed.

23 (5) The credit provided by this section is not in lieu of any depreciation or amortization deduction for the
24 investment or other tax incentive to which the taxpayer otherwise may be entitled under Title 15.

25 (6) A tax credit otherwise allowable under this section that is not used by the taxpayer in the tax year
26 may not be carried forward to offset a taxpayer's tax liability for any succeeding tax year. If a facility for which
27 a credit is claimed ceases operations within 5 years of the claiming of a credit under this section or if the
28 taxpayer claiming the credit fails to satisfy the conditions of subsection (4)(b), the credit is subject to recapture.
29 The person claiming the credit is liable for the amount of the credit in the event of recapture.

30 (7) The taxpayer's adjusted basis for determining gain or loss may not be further decreased by any tax

1 credits allowed under this section.

2 (8) If the taxpayer is a shareholder of an electing small business corporation, the credit must be
3 computed using the shareholder's pro rata share of the corporation's cost of investing in the biodiesel blending
4 facility. In all other respects, the allowance and effect of the tax credit apply to the corporation as otherwise
5 provided by law.

6 (9) As used in this section, "biodiesel" has the meaning provided in 15-70-301.

7 (10) Beginning after January 1, 2006, the department shall report to the revenue and transportation
8 interim committee at least once each year the number and type of taxpayers claiming the credit under this
9 section, the total amount of the credit claimed, and the department's cost associated with administering the
10 credit.

11
12 **NEW SECTION. Section 2. Refund for taxes paid on biodiesel blend by distributor or retailer --**
13 **statement -- payment -- appropriation -- records -- report to interim committee.** (1) A licensed distributor
14 who pays the special fuel tax under ~~15-70-326~~ 15-70-343 on biodiesel blend, as defined in 15-70-301, may claim
15 a refund equal to 2 cents a gallon of ~~blended~~ biodiesel sold during the previous calendar quarter if the biodiesel
16 is produced entirely from biodiesel ingredients produced in Montana.

17 (2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon of
18 ~~blended~~ biodiesel on which the special fuel tax has been paid purchased from a licensed distributor if the
19 biodiesel is produced entirely from biodiesel ingredients produced in Montana.

20 (3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner
21 or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on
22 a form provided by the department.

23 (b) The statement provided by a licensed distributor must set forth information required by the
24 department, including the gallons of biodiesel ~~blend~~ sold and the source of ingredients used to produce
25 biodiesel.

26 (c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth
27 information required by the department, including the gallons of biodiesel purchased.

28 (4) The payment of the refund allowed by this section must be made by the department within 90 days
29 after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet.
30 Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state

1 general fund.

2 (5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be
3 kept for a period of not more than 3 years and must include receipts, invoices, and other information as the
4 department may require.

5 (6) The department or its authorized representative may examine the books, papers, or records of any
6 licensed distributor or owner or operator of a retail motor fuel outlet.

7 (7) The department shall report to the revenue and transportation interim committee at least once each
8 year the number and type of taxpayers claiming the refund under this section, the total amount of the refund
9 claimed, and the department's cost associated with administering the refund.

10

11 **Section 3.** Section 15-70-301, MCA, is amended to read:

12 ~~"15-70-301. (Temporary) Definitions. As used in this part, the following definitions apply:~~

13 ~~—— (1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the
14 business of farming or ranching and who files farm or income reports for tax purposes as required by the United
15 States internal revenue service.~~

16 ~~—— (2) "Bond" means:~~

17 ~~—— (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws
18 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of
19 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out
20 of this part; or~~

21 ~~—— (b) a deposit with the department by the special fuel user, under terms and conditions that the
22 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured
23 by the federal deposit insurance corporation.~~

24 ~~—— (3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term
25 does not mean special fuel delivered into the supply tank of a motor vehicle.~~

26 ~~—— (4) "Cardrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's
27 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique
28 device.~~

29 ~~—— (5) "Department" means the department of transportation.~~

30 ~~—— (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank;~~

- 1 a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by
2 pipeline to another refinery in this state or a pipeline terminal in this state of the following:
- 3 ~~—— (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage
4 tanks in this state;~~
- 5 ~~—— (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the
6 refinery or terminal; or~~
- 7 ~~—— (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal:~~
- 8 ~~—— (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed
9 only by a person who is the holder of a valid distributor's license.~~
- 10 ~~—— (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or
11 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.~~
- 12 ~~—— (7) "Distributor" means:~~
- 13 ~~—— (a) a person who engages in the business in this state of producing, refining, manufacturing, or
14 compounding special fuel for sale, use, or distribution;~~
- 15 ~~—— (b) an importer who imports special fuel for sale, use, or distribution;~~
- 16 ~~—— (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to
17 become licensed to assume the Montana state special fuel tax liability; and~~
- 18 ~~—— (d) an exporter.~~
- 19 ~~—— (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a
20 motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.~~
- 21 ~~—— (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,
22 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,
23 use, or consumption outside Montana.~~
- 24 ~~—— (10) "Import" means to first receive special fuel into possession or custody after its arrival and coming
25 to rest at a destination within the state or to first receive any special fuel shipped or transported into this state
26 from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.~~
- 27 ~~—— (11) "Importer" means a person who transports or arranges for the transportation of special fuel into
28 Montana for sale, use, or distribution.~~
- 29 ~~—— (12) "Improperly imported fuel" means special fuel that is:~~
- 30 ~~—— (a) consigned to a Montana destination and imported into the state without the distributor first having~~

1 ~~obtained a Montana special fuel distributor license as required in 15-70-341; or~~
2 ~~——— (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,~~
3 ~~chapter 70.~~
4 ~~——— (13) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state~~
5 ~~and that are operated in whole or in part by the combustion of special fuel.~~
6 ~~——— (14) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or~~
7 ~~corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,~~
8 ~~as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied~~
9 ~~to joint-stock companies and corporations, the officers.~~
10 ~~——— (15) "Public roads and highways of this state" means all streets, roads, highways, and related structures:~~
11 ~~——— (a) built and maintained with appropriated funds of the United States, the state of Montana, or any~~
12 ~~political subdivision of the state;~~
13 ~~——— (b) dedicated to public use;~~
14 ~~——— (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or~~
15 ~~——— (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any~~
16 ~~political subdivision of the state.~~
17 ~~——— (16) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or~~
18 ~~any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid~~
19 ~~petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within~~
20 ~~the state of Montana. The term special fuel includes all other types of additives when the additive is mixed or~~
21 ~~blended into special fuel, regardless of the additive's classifications or uses.~~
22 ~~——— (17) "Special fuel dealer" means:~~
23 ~~——— (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply~~
24 ~~tank or tanks of a motor vehicle not then owned or controlled by the person;~~
25 ~~——— (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump~~
26 ~~by use of a cardtrol, keylock, or similar device; or~~
27 ~~——— (c) a person who provides a facility, with or without attended services, from which more than one special~~
28 ~~fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.~~
29 ~~——— (18) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation~~
30 ~~of motor vehicles owned or controlled by the person upon the highways of this state.~~

1 ~~_____ (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or~~
 2 ~~a school district of this state.~~

3 ~~_____ (19) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user~~
 4 ~~of special fuels in the operation of a motor vehicle on the highways of this state.~~

5 **15-70-301. (Effective on occurrence of contingency) Definitions.** As used in this part, the following
 6 definitions apply:

7 (1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the
 8 business of farming or ranching and who files farm or income reports for tax purposes as required by the United
 9 States internal revenue service.

10 (2) (a) "Biodiesel" means:

11 ~~_____ (a) (i) a fuel sold for use in motor vehicles operating upon the public roads and highways within the state~~
 12 ~~that contains at least 20% esterified vegetable oil, at least 10% alcohol, or an equivalent mixture of both oil and~~
 13 ~~alcohol, with the balance being diesel fuel or any other petroleum-based volatile liquid of less than 46 degrees~~
 14 ~~A.P.I. (American petroleum institute) gravity test and other additives; or~~

15 ~~_____ (ii) a monoalkyl ester that:~~

16 ~~_____ (A) is derived from domestically produced vegetable oils, renewable lipids, rendered animal fats, or any~~
 17 ~~combination of those ingredients; and~~

18 ~~_____ (B) meets the requirements of ASTM PS 121, also known as the Provisional Specification for Biodiesel~~
 19 ~~Fuel (B100) Blend Stock for Distillate Fuels, as adopted by the American society of testing and materials a fuel~~
 20 ~~produced from monoalkyl esters of long-chain fatty acids derived from vegetable oils, renewable lipids, animal~~
 21 ~~fats, or any combination of those ingredients. The fuel must meet the requirements of ASTM PS 121 ASTM~~
 22 ~~D6751, also known as the Provisional STANDARD Specification for Biodiesel Fuel (B100) Blend Stock for Distillate~~
 23 ~~Fuels, as adopted by the American society of testing and materials.~~

24 (b) Biodiesel is also known as "B-20" "B-100".

25 (3) "Biodiesel blend" means a blend of biodiesel and petroleum diesel fuel that is at least 2% biodiesel.

26 ~~(3)(4)~~ (4) "Bond" means:

27 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws
 28 of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of
 29 this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out
 30 of this part; or

1 (b) a deposit with the department by the special fuel user, under terms and conditions that the
2 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured
3 by the federal deposit insurance corporation.

4 ~~(4)~~(5) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The
5 term does not mean special fuel delivered into the supply tank of a motor vehicle.

6 ~~(5)~~(6) "Cardtrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's
7 unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique
8 device.

9 ~~(6)~~(7) "Department" means the department of transportation.

10 ~~(7)~~(8) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage
11 tank, a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than
12 by pipeline to another refinery in this state or a pipeline terminal in this state of the following:

13 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage
14 tanks in this state;

15 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the
16 refinery or terminal; or

17 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

18 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed
19 only by a person who is the holder of a valid distributor's license.

20 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or
21 pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

22 ~~(8)~~(9) "Distributor" means:

23 (a) a person who engages in the business in this state of producing, refining, manufacturing, or
24 compounding special fuel for sale, use, or distribution;

25 (b) an importer who imports special fuel for sale, use, or distribution;

26 (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to
27 become licensed to assume the Montana state special fuel tax liability; and

28 (d) an exporter.

29 ~~(9)~~(10) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of
30 a motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

1 ~~(10)~~(11) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,
2 special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,
3 use, or consumption outside Montana.

4 ~~(11)~~(12) "Import" means to first receive special fuel into possession or custody after its arrival and
5 coming to rest at a destination within the state or to first receive any special fuel shipped or transported into this
6 state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

7 ~~(12)~~(13) "Importer" means a person who transports or arranges for the transportation of special fuel into
8 Montana for sale, use, or distribution.

9 ~~(13)~~(14) "Improperly imported fuel" means special fuel that is:

10 (a) consigned to a Montana destination and imported into the state without the distributor first having
11 obtained a Montana special fuel distributor license as required in 15-70-341; or

12 (b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,
13 chapter 70.

14 ~~(14)~~(15) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this
15 state and that are operated in whole or in part by the combustion of special fuel.

16 ~~(15)~~(16) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership,
17 or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or
18 both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as
19 applied to joint-stock companies and corporations, the officers.

20 ~~(16)~~(17) "Public roads and highways of this state" means all streets, roads, highways, and related
21 structures:

22 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any
23 political subdivision of the state;

24 (b) dedicated to public use;

25 (c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or

26 (d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any
27 political subdivision of the state.

28 ~~(17)~~(18) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel
29 or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid
30 petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within

1 the state of Montana. The term special fuel includes biodiesel and additives of all types when the additive is
 2 mixed or blended into special fuel, regardless of the additive's classifications or uses.

3 ~~(18)~~(19) "Special fuel dealer" means:

4 (a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply
 5 tank or tanks of a motor vehicle not then owned or controlled by the person;

6 (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump
 7 by use of a cardtrol, keylock, or similar device; or

8 (c) a person who provides a facility, with or without attended services, from which more than one special
 9 fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.

10 ~~(19)~~(20) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation
 11 of motor vehicles owned or controlled by the person upon the highways of this state.

12 (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or
 13 a school district of this state.

14 ~~(20)~~(21) "Use", when the term relates to a special fuel user, means the consumption by a special fuel
 15 user of special fuels in the operation of a motor vehicle on the highways of this state. ~~(Terminates June 30 of~~
 16 ~~fourth year following date of occurrence of contingency--sec. 13, Ch. 568, L. 2001.)~~

17 ~~15-70-301. (Effective July 1 of fourth year following date of occurrence of contingency)~~

18 **Definitions.** ~~As used in this part, the following definitions apply:~~

19 ~~————(1) "Agricultural use" means use of special fuel by a person who earns income while engaging in the~~
 20 ~~business of farming or ranching and who files farm income reports for tax purposes as required by the United~~
 21 ~~States internal revenue service.~~

22 ~~————(2) "Bond" means:~~

23 ~~————(a) a bond executed by a special fuel user as principal with a corporate surety qualified under the laws~~
 24 ~~of Montana, payable to the state of Montana, and conditioned upon faithful performance of all requirements of~~
 25 ~~this part, including the payment of all taxes, penalties, and other obligations of the special fuel user arising out~~
 26 ~~of this part; or~~

27 ~~————(b) a deposit with the department by the special fuel user, under terms and conditions that the~~
 28 ~~department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and insured~~
 29 ~~by the federal deposit insurance corporation.~~

30 ~~————(3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The term~~

- 1 ~~does not mean special fuel delivered into the supply tank of a motor vehicle.~~
- 2 ~~——— (4) "Cardtrol" or "keylock" means a unique device intended to allow access to a special fuel dealer's~~
3 ~~unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user of the unique~~
4 ~~device.~~
- 5 ~~——— (5) "Department" means the department of transportation.~~
- 6 ~~——— (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a storage tank,~~
7 ~~a refinery, or a terminal storage in this state for sale or use in this state or for the transportation other than by~~
8 ~~pipeline to another refinery in this state or a pipeline terminal in this state of the following:~~
- 9 ~~——— (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage~~
10 ~~tanks in this state;~~
- 11 ~~——— (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at the~~
12 ~~refinery or terminal; or~~
- 13 ~~——— (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.~~
- 14 ~~——— (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be distributed~~
15 ~~only by a person who is the holder of a valid distributor's license.~~
- 16 ~~——— (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery or~~
17 ~~pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.~~
- 18 ~~——— (7) "Distributor" means:~~
- 19 ~~——— (a) a person who engages in the business in this state of producing, refining, manufacturing, or~~
20 ~~compounding special fuel for sale, use, or distribution;~~
- 21 ~~——— (b) an importer who imports special fuel for sale, use, or distribution;~~
- 22 ~~——— (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to~~
23 ~~become licensed to assume the Montana state special fuel tax liability; and~~
- 24 ~~——— (d) an exporter.~~
- 25 ~~——— (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a~~
26 ~~motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.~~
- 27 ~~——— (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor vehicle,~~
28 ~~special fuel received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale,~~
29 ~~use, or consumption outside Montana.~~
- 30 ~~——— (10) "Import" means to first receive special fuel into possession or custody after its arrival and coming~~

1 ~~to rest at a destination within the state or to first receive any special fuel shipped or transported into this state~~
2 ~~from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.~~

3 ~~———(11) "Importer" means a person who transports or arranges for the transportation of special fuel into~~
4 ~~Montana for sale, use, or distribution.~~

5 ~~———(12) "Improperly imported fuel" means special fuel that is:~~

6 ~~———(a) consigned to a Montana destination and imported into the state without the distributor first having~~
7 ~~obtained a Montana special fuel distributor license as required in 15-70-341; or~~

8 ~~———(b) delivered, possessed, sold, or transferred in the state in any manner not authorized under Title 15,~~
9 ~~chapter 70.~~

10 ~~———(13) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of this state~~
11 ~~and that are operated in whole or in part by the combustion of special fuel.~~

12 ~~———(14) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership, or~~
13 ~~corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment, or both,~~
14 ~~as applied to a firm, association, syndicate, or partnership, it includes the partners or members and, as applied~~
15 ~~to joint-stock companies and corporations, the officers.~~

16 ~~———(15) "Public roads and highways of this state" means all streets, roads, highways, and related structures:~~

17 ~~———(a) built and maintained with appropriated funds of the United States, the state of Montana, or any~~
18 ~~political subdivision of the state;~~

19 ~~———(b) dedicated to public use;~~

20 ~~———(c) acquired by eminent domain, as provided in Title 60, chapter 4, or Title 70, chapter 30; or~~

21 ~~———(d) acquired by adverse use by the public, with jurisdiction having been assumed by the state or any~~
22 ~~political subdivision of the state.~~

23 ~~———(16) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel or~~
24 ~~any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except liquid~~
25 ~~petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and highways within~~
26 ~~the state of Montana. The term special fuel includes all other types of additives when the additive is mixed or~~
27 ~~blended into special fuel, regardless of the additive's classifications or uses.~~

28 ~~———(17) "Special fuel dealer" means:~~

29 ~~———(a) a person in the business of handling special fuel who delivers any part of the fuel into the fuel supply~~
30 ~~tank or tanks of a motor vehicle not then owned or controlled by the person;~~

1 ~~———— (b) a person who sells special fuel at a location unattended by the dealer through an unattended pump~~
 2 ~~by use of a cardtrol, keylock, or similar device; or~~

3 ~~———— (c) a person who provides a facility, with or without attended services, from which more than one special~~
 4 ~~fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then controlled by the dealer.~~

5 ~~———— (18) (a) "Special fuel user" means a person who consumes in this state special fuel for the operation~~
 6 ~~of motor vehicles owned or controlled by the person upon the highways of this state.~~

7 ~~———— (b) The term does not include the U.S. government, a state, a county, an incorporated city or town, or~~
 8 ~~a school district of this state.~~

9 ~~———— (19) "Use", when the term relates to a special fuel user, means the consumption by a special fuel user~~
 10 ~~of special fuels in the operation of a motor vehicle on the highways of this state."~~

11

12 **Section 4.** Section 15-70-304, MCA, is amended to read:

13 ~~**"15-70-304. (Temporary) Bonding, release of surety, and additional bond.** (1) Except as provided~~
 14 ~~in this section, a special fuel user's permit may not be issued to a person or continued in force unless the person~~
 15 ~~has furnished a bond, as defined in 15-70-301 and in a form as the department may require, to secure its~~
 16 ~~compliance with this part and the payment of any taxes, interest, and penalties due and to become due under~~
 17 ~~this part. The department shall waive the bond requirement of a special fuel user not subject to the provisions~~
 18 ~~of subsection (2)(a) or (2)(b).~~

19 ~~———— (2) The total amount of the bond or bonds required of a special fuel user must be equivalent to twice~~
 20 ~~the special fuel user's estimated quarterly tax payments as provided in this part, determined as the department~~
 21 ~~considers proper; however, the total amount of the bond or bonds may not be less than:~~

22 ~~———— (a) \$5,000 for a special fuel user awarded a contract in accordance with 15-70-321; and~~

23 ~~———— (b) \$500 for any other special fuel user who:~~

24 ~~———— (i) requests a special fuel user's permit to be reissued after being canceled for cause; or~~

25 ~~———— (ii) fails to file timely reports and pay tax due as required by 15-70-325 and 15-70-327.~~

26 ~~———— (3) A surety on a bond furnished by a special fuel user, as provided in this section, must be released~~
 27 ~~and discharged from any liability to the state accruing on the bond after the expiration of 30 days from the date~~
 28 ~~when the surety has lodged with the department a written request to be released and discharged, but this~~
 29 ~~provision may not operate to relieve, release, or discharge the surety from any liability already accrued or that~~
 30 ~~accrues before the expiration of the 30-day period. The department shall, promptly upon receiving a release~~

1 request, notify the special fuel user who furnished the bond, and unless the special fuel user, on or before the
 2 expiration of the 30-day period, files a new bond in accordance with the requirements of this section or makes
 3 a deposit in lieu of a bond as provided in 15-70-301(2), the department shall cancel the special fuel user's
 4 permit.

5 ~~—— (4) The department may require a special fuel user to give a new or additional surety bond or to deposit
 6 additional securities of the character specified in 15-70-301(2) if, in its opinion, the security of the surety bond
 7 previously filed by the special fuel user or the market value of the properties deposited as security by the special
 8 fuel user becomes impaired or inadequate. Upon failure of the special fuel user to give a new additional surety
 9 bond or to deposit additional securities within 30 days after being requested to do so by the department, the
 10 department shall cancel the permit.~~

11 **15-70-304. (Effective on occurrence of contingency) Bonding, release of surety, and additional**
 12 **bond.** (1) Except as provided in this section, a special fuel user's permit may not be issued to a person or
 13 continued in force unless the person has furnished a bond, as defined in 15-70-301 and in a form as the
 14 department may require, to secure its compliance with this part and the payment of any taxes, interest, and
 15 penalties due and to become due under this part. The department shall waive the bond requirement of a special
 16 fuel user not subject to the provisions of subsection (2)(a) or (2)(b).

17 (2) The total amount of the bond or bonds required of a special fuel user must be equivalent to twice
 18 the special fuel user's estimated quarterly tax payments as provided in this part, determined as the department
 19 considers proper; ~~however~~ However, the total amount of the bond or bonds may not be less than:

20 (a) \$5,000 for a special fuel user awarded a contract in accordance with 15-70-321; and

21 (b) \$500 for any other special fuel user who:

22 (i) requests a special fuel user's permit to be reissued after being canceled for cause; or

23 (ii) fails to file timely reports and pay tax due as required by 15-70-325 and 15-70-327.

24 (3) A surety on a bond furnished by a special fuel user, as provided in this section, must be released
 25 and discharged from any liability to the state accruing on the bond after the expiration of 30 days from the date
 26 when the surety has lodged with the department a written request to be released and discharged, but this
 27 provision may not operate to relieve, release, or discharge the surety from any liability already accrued or that
 28 accrues before the expiration of the 30-day period. The department shall, promptly upon receiving a release
 29 request, notify the special fuel user who furnished the bond, and unless the special fuel user, on or before the
 30 expiration of the 30-day period, files a new bond in accordance with the requirements of this section or makes

1 a deposit in lieu of a bond as provided in 15-70-301(3)(4), the department shall cancel the special fuel user's
2 permit.

3 (4) The department may require a special fuel user to give a new or additional surety bond or to deposit
4 additional securities of the character specified in 15-70-301(3)(4) if, in its opinion, the security of the surety bond
5 previously filed by the special fuel user or the market value of the properties deposited as security by the special
6 fuel user becomes impaired or inadequate. Upon failure of the special fuel user to give a new additional surety
7 bond or to deposit additional securities within 30 days after being requested to do so by the department, the
8 department shall cancel the permit. ~~(Terminates June 30 of fourth year following date of occurrence of~~
9 ~~contingency--sec. 13, Ch. 568, L. 2001.)~~

10 **15-70-304. (Effective July 1 of fourth year following date of occurrence of contingency) Bonding;**
11 **release of surety, and additional bond.** ~~(1) Except as provided in this section, a special fuel user's permit may~~
12 ~~not be issued to a person or continued in force unless the person has furnished a bond, as defined in 15-70-301~~
13 ~~and in a form as the department may require, to secure its compliance with this part and the payment of any~~
14 ~~taxes, interest, and penalties due and to become due under this part. The department shall waive the bond~~
15 ~~requirement of a special fuel user not subject to the provisions of subsection (2)(a) or (2)(b):~~

16 ~~_____ (2) The total amount of the bond or bonds required of a special fuel user must be equivalent to twice~~
17 ~~the special fuel user's estimated quarterly tax payments as provided in this part, determined as the department~~
18 ~~considers proper; however, the total amount of the bond or bonds may not be less than:~~

19 ~~_____ (a) \$5,000 for a special fuel user awarded a contract in accordance with 15-70-321; and~~

20 ~~_____ (b) \$500 for any other special fuel user who:~~

21 ~~_____ (i) requests a special fuel user's permit to be reissued after being canceled for cause; or~~

22 ~~_____ (ii) fails to file timely reports and pay tax due as required by 15-70-325 and 15-70-327.~~

23 ~~_____ (3) A surety on a bond furnished by a special fuel user, as provided in this section, must be released~~
24 ~~and discharged from any liability to the state accruing on the bond after the expiration of 30 days from the date~~
25 ~~when the surety has lodged with the department a written request to be released and discharged, but this~~
26 ~~provision may not operate to relieve, release, or discharge the surety from any liability already accrued or that~~
27 ~~accrues before the expiration of the 30-day period. The department shall, promptly upon receiving a release~~
28 ~~request, notify the special fuel user who furnished the bond, and unless the special fuel user, on or before the~~
29 ~~expiration of the 30-day period, files a new bond in accordance with the requirements of this section or makes~~
30 ~~a deposit in lieu of a bond as provided in 15-70-301(2), the department shall cancel the special fuel user's~~

1 permit.

2 ~~———(4) The department may require a special fuel user to give a new or additional surety bond or to deposit~~
 3 ~~additional securities of the character specified in 15-70-301(2) if, in its opinion, the security of the surety bond~~
 4 ~~previously filed by the special fuel user or the market value of the properties deposited as security by the special~~
 5 ~~fuel user becomes impaired or inadequate. Upon failure of the special fuel user to give a new additional surety~~
 6 ~~bond or to deposit additional securities within 30 days after being requested to do so by the department, the~~
 7 ~~department shall cancel the permit."~~

8

9 **Section 5.** Section 15-70-341, MCA, is amended to read:

10 **"15-70-341. (Temporary) License and security of special fuel distributors -- denial or revocation**

11 **of license -- reissuance fee.** (1) (a) Each special fuel distributor, including an exporter and importer, as those
 12 terms are defined in 15-70-301, prior to the commencement of doing business, shall file:

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

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

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

18 ~~———(ii) The minimum required security for a distributor who imports or exports special fuel, or both, is~~
 19 ~~\$25,000.~~

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

22 ~~———(2) The department may deny the issuance of a special fuel distributor license or revoke a special fuel~~
 23 ~~distributor license if it determines that the applicant or distributor:~~

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

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

27 ~~———(c) has had a distributor license revoked or denied by the department or another jurisdiction within a~~
 28 ~~3-year period;~~

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

30 ~~———(e) fails to pay the special fuel license tax.~~

1 ~~———(3) If an application for a special fuel distributor license is denied or revoked, the applicant or distributor~~
 2 ~~has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.~~

3 ~~———(4) If the distributor's license is surrendered or revoked, the distributor shall pay a reissuance fee of~~
 4 ~~\$100.~~

5 ~~———(5) Failure to obtain a special fuel distributor license as required in this section subjects the distributor~~
 6 ~~to the provisions of 15-70-357 allowing for the seizure, confiscation, and possible forfeiture of the fuel.~~

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

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

11 ~~———(b) (i) a deposit made by the distributor with the department, under the conditions that the department~~
 12 ~~may prescribe; or~~

13 ~~———(ii) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal~~
 14 ~~deposit insurance corporation.~~

15 ~~———(7) The owner of a commercial motor vehicle that is engaged in transporting special fuel for a distributor~~
 16 ~~is not subject to the provisions of this section.~~

17 **15-70-341. ~~(Effective on occurrence of contingency) License and security of special fuel~~**
 18 **~~distributors -- denial or revocation of license -- reissuance fee.~~** (1) (a) Each special fuel distributor, including
 19 an exporter and importer, as those terms are defined in 15-70-301, prior to the commencement of doing
 20 business, shall file:

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

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

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

26 (ii) The minimum required security for a distributor who imports or exports special fuel, or both, is
 27 \$25,000.

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

30 (2) The department may deny the issuance of a special fuel distributor license or revoke a special fuel

1 distributor license if it determines that the applicant or distributor:

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

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

5 (c) has had a distributor license revoked or denied by the department or another jurisdiction within a
6 3-year period;

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

8 (e) fails to pay the special fuel license tax.

9 (3) If an application for a special fuel distributor license is denied or revoked, the applicant or distributor
10 has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.

11 (4) If the distributor's license is surrendered or revoked, the distributor shall pay a reissuance fee of
12 \$100.

13 (5) Failure to obtain a special fuel distributor license as required in this section subjects the distributor
14 to the provisions of 15-70-357 allowing for the seizure, confiscation, and possible forfeiture of the fuel.

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

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

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

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

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

25 (8) A distributor who blends biodiesel must be licensed with the department. If the distributor cannot be
26 licensed, the distributor is required to buy ~~preblended biodiesel fuel on which the tax has been paid.~~ (Terminates
27 June 30 of fourth year following date of occurrence of contingency--sec. 13, Ch. 568, L. 2001.)

28 **~~15-70-341. (Effective July 1 of fourth year following date of occurrence of contingency) License~~**
29 **~~and security of special fuel distributors --- denial or revocation of license --- reissuance fee.~~** (1) (a) Each
30 special fuel distributor, including an exporter and importer, as those terms are defined in 15-70-301, prior to the

1 commencement of doing business, shall file:

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

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

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

7 ~~—— (ii) The minimum required security for a distributor who imports or exports special fuel, or both, is~~
8 ~~\$25,000.~~

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

11 ~~—— (2) The department may deny the issuance of a special fuel distributor license or revoke a special fuel~~
12 ~~distributor license if it determines that the applicant or distributor:~~

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

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

16 ~~—— (c) has had a distributor license revoked or denied by the department or another jurisdiction within a~~
17 ~~3-year period;~~

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

19 ~~—— (e) fails to pay the special fuel license tax.~~

20 ~~—— (3) If an application for a special fuel distributor license is denied or revoked, the applicant or distributor~~
21 ~~has the right to appeal the department's decision pursuant to Title 2, chapter 4, part 6.~~

22 ~~—— (4) If the distributor's license is surrendered or revoked, the distributor shall pay a reissuance fee of~~
23 ~~\$100.~~

24 ~~—— (5) Failure to obtain a special fuel distributor license as required in this section subjects the distributor~~
25 ~~to the provisions of 15-70-357 allowing for the seizure, confiscation, and possible forfeiture of the fuel.~~

26 ~~—— (6) As used in this section, "security" means:~~

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

30 ~~—— (b) (i) a deposit made by the distributor with the department, under the conditions that the department~~

1 ~~may prescribe; or~~

2 ~~—— (ii) certificates of deposit or irrevocable letters of credit issued by a bank and insured by the federal~~
 3 ~~deposit insurance corporation.~~

4 ~~—— (7) The owner of a commercial motor vehicle that is engaged in transporting special fuel for a distributor~~
 5 ~~is not subject to the provisions of this section."~~

6

7 **Section 6.** Section 17-7-502, MCA, is amended to read:

8 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 9 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
 10 the need for a biennial legislative appropriation or budget amendment.

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

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

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

16 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
 17 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
 18 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; [section 2]; 16-11-404; 17-3-106; 17-3-212;
 19 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512;
 20 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409;
 21 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102;
 22 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214;
 23 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and
 24 90-9-306.

25 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 26 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 27 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 28 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 29 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 30 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of

1 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
2 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
3 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
4 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion
5 of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch.
6 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003,
7 the inclusion of 2-15-151 terminates June 30, 2005.)"

8

9 **Section 7.** Section 12, Chapter 568, Laws of 2001, is amended to read:

10 "**Section 12. Contingent effective date.** ~~[This act] is~~ [Sections 1 through 4] are effective 30 days after
11 the director of the department of transportation certifies to the governor, sending a copy of the certification to
12 the secretary of state and the code commissioner, that:

13 (1) an ethanol plant is operational and producing fuel in Montana; and

14 (2) the net working capital in the restricted highway state special revenue account, excluding any
15 proceeds obtained through debt financing, is at least \$20 million on June 30 following the date on which the
16 condition in subsection (1) is complied with."

17

18 **Section 8.** Section 13, Chapter 568, Laws of 2001, is amended to read:

19 "**Section 13. Contingent termination.** ~~[This act] terminates~~ [Sections 1 through 4] terminate June 30
20 of the fourth year following [the effective date of this act]."

21

22 NEW SECTION. **Section 9. Repealer.** Section 15-70-370, MCA, and sections 7 and 9, Chapter 568,
23 Laws of 2001, are repealed.

24

25 NEW SECTION. **Section 10. Codification instruction.** (1) [Section 1] is intended to be codified as
26 an integral part of Title 15, chapter 32, and the provisions of Title 15, chapter 32, apply to [section 1].

27 (2) [Section 2] is intended to be codified as an integral part of Title 15, chapter 70, part 3, and the
28 provisions of Title 15, chapter 70, part 3, apply to [section 2].

29

30 NEW SECTION. **Section 11. Effective date.** [This act] is effective on passage and approval.

1
2
3
4
5
6

NEW SECTION. Section 12. Applicability. (1) [Section 1] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2004.

(2) [Section 2] applies to biodiesel blend distributed or purchased in calendar quarters beginning after June 30, 2005.

- END -