

SENATE BILL NO. 198

INTRODUCED BY WEEDING, HARP
BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

IN THE SENATE

JANUARY 19, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

FEBRUARY 3, 1993 COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 4, 1993 PRINTING REPORT.

SECOND READING, DO PASS.

FEBRUARY 5, 1993 ENGROSSING REPORT.

THIRD READING, PASSED.
AYES, 50; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 6, 1993 INTRODUCED AND REFERRED TO COMMITTEE
ON HIGHWAYS & TRANSPORTATION.

FIRST READING.

FEBRUARY 12, 1993 COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

POSTED ON CONSENT CALENDAR.

FEBRUARY 13, 1993 CONSENT CALENDAR, QUESTIONS AND ANSWERS.

FEBRUARY 15, 1993 THIRD READING, CONCURRED IN.
AYES, 96; NOES, 1.

FEBRUARY 16, 1993 RETURNED TO SENATE.

IN THE SENATE

FEBRUARY 19, 1993 RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 ~~SENATE~~ BILL NO. 198
 2 INTRODUCED BY Wesley HARP
 3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS
 6 RELATING TO HIGHWAY SYSTEMS AND THE ALLOCATION OF
 7 FEDERAL-AID HIGHWAY FUNDS BY THE HIGHWAY COMMISSION;
 8 AMENDING SECTIONS 2-15-2502, 60-2-110, 60-2-111, 60-2-204,
 9 60-3-201, 60-3-202, 60-3-205, 60-3-206, 60-3-211, 60-3-217,
 10 60-3-218, AND 61-10-148, MCA; AND REPEALING SECTIONS
 11 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104,
 12 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213,
 13 60-3-214, AND 60-3-215, MCA."
 14

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

16 NEW SECTION. Section 1. Definitions. As used in Title
 17 60, chapter 2, part 1, and Title 60, chapter 3, part 2,
 18 unless otherwise provided, the following definitions apply:

19 (1) "National highway system" means the system of
 20 public highways designated by the commission and approved by
 21 the secretary of transportation as provided in Title 23,
 22 U.S.C.

23 (2) "Primary highway system" means the highways that
 24 have been functionally classified by the department as
 25 either principal or minor arterials and that have been

1 selected by the commission to be placed on the primary
 2 highway system.

3 (3) "Secondary highway system" means the highways that
 4 have been functionally classified by the department as
 5 either minor arterials or major collectors and that have
 6 been selected by the commission, in cooperation with the
 7 boards of county commissioners, to be placed on the
 8 secondary highway system.

9 (4) "State highways" means the highways throughout the
 10 state that are not located on a defined highway system but
 11 that are on the state maintenance system.

12 (5) "Urban highway system" means the highways and
 13 streets that are in and near incorporated cities with
 14 populations of over 5,000 and within urban boundaries
 15 established by the department, that have been functionally
 16 classified as either urban arterials or collectors, and that
 17 have been selected by the commission, in cooperation with
 18 local government authorities, to be placed on the urban
 19 highway system.

20 NEW SECTION. Section 2. Designation of public highways
 21 -- allocation of funds. (1) For the purpose of allocating
 22 state and federal-aid highway funds, the commission shall
 23 designate the public highways and streets to be placed on
 24 the following systems:

25 (a) the national highway system;

- (b) the primary highway system;
- (c) the secondary highway system; or
- (d) the urban highway system.

(2) The commission shall consult with the board of county commissioners of the county in which a highway is located prior to designating a public highway to be placed on the secondary highway system.

(3) The commission shall consult with the appropriate local government authorities prior to designating a highway or street to be placed on the urban highway system.

(4) The commission may designate public highways not placed on the systems listed in subsection (1) as state highways.

NEW SECTION. Section 3. Allocation of funds for projects. (1) Each year, out of federal-aid highway funds available for construction purposes, the commission shall allocate a portion of the funds for projects located on:

- (a) the national highway system;
- (b) the primary highway system;
- (c) the secondary highway system;
- (d) the urban highway system; and
- (e) state highways.

(2) In making allocations under subsection (1), the commission shall comply with all applicable provisions relating to the use of federal-aid highway funds contained

in Title 23, U.S.C.

NEW SECTION. Section 4. Maintenance system -- designation of highways. The commission shall designate the public highways that are to be included on the state maintenance system. The system must include all the highways that the department maintained on July 1, 1976.

NEW SECTION. Section 5. Allocation of funds -- apportionment. The federal-aid highway funds allocated to the primary highway system for construction purposes must be apportioned among the five financial districts, corresponding to and congruent with the highway commission districts established in 2-15-2502.

NEW SECTION. Section 6. Allocation of funds. The commission may allocate federal-aid highway funds for projects or programs in which all or a portion of the work is on highways that are not located on the highway systems defined in [section 1]. The allocations must be made without regard to the financial district in which the project or program is located.

Section 7. Section 2-15-2502, MCA, is amended to read:

"2-15-2502. Highway commission. (1) The highway commission consists of five members. One member must be a resident of and appointed from each of these districts, each composed of the counties named:

- (a) District 1. Lincoln, Flathead, Sanders, Lake,

1 Mineral, Missoula, Ravalli, Granite, Powell;

2 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,
3 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

4 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
5 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

6 (d) District 4. Carter, Powder River, Fallon, Custer,
7 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
8 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

9 (e) District 5. Golden Valley, Stillwater, Carbon, Big
10 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
11 Petroleum, Treasure, Wheatland, Sweet Grass.

12 (2) Two members may not be residents of the same
13 district at the time of appointment or ~~thereafter~~ during
14 their respective terms of office.

15 (3) Not more than three members may at the time of
16 appointment or during their respective terms be members of
17 the same political party.

18 (4) An elective state official or state officer, during
19 the term of office to which he ~~was~~ elected or appointed, or
20 a state employee may not be a member of the commission.

21 (5) A resolution, motion, or other decision of the
22 commission may not be adopted or passed without the
23 favorable vote of at least three members.

24 (6) The commission is allocated to the department of
25 transportation for administrative purposes only as

1 prescribed in 2-15-121.

2 (7) The commission is designated as a quasi-judicial
3 board for purposes of 2-15-124; however, the provision of
4 2-15-124(1) that at least one member of a quasi-judicial
5 board be an attorney does not apply to the commission.

6 (8) The commission may adopt rules necessary to perform
7 its duties.

8 ~~{8}~~(9) The administrator of the highway division shall
9 act as liaison between the highway commission and the
10 department of transportation."

11 **Section 8.** Section 60-2-110, MCA, is amended to read:

12 **"60-2-110. Setting priorities and selecting projects.**

13 (1) The commission shall establish priorities and select and
14 designate segments for construction and reconstruction on
15 ~~federal-aid--interstate--and--federal-aid--primary-and-state~~
16 ~~highway-systems~~ the national highway system, the primary
17 highway system, the secondary highway system, the urban
18 highway system, and state highways.

19 (2) The commission shall consult with the board of
20 county commissioners of the county in which a highway is
21 located when establishing priorities and when selecting and
22 designating segments on the secondary highway system for
23 construction and reconstruction.

24 (3) The commission shall consult with the appropriate
25 local government authorities when establishing priorities

1 and selecting and designating segments on the urban highway
2 system for construction and reconstruction.

3 (4) The commission shall use information gathered or
4 discovered by and documents prepared by the department, and
5 department officials and employees shall provide assistance
6 and advice."

7 **Section 9.** Section 60-2-111, MCA, is amended to read:

8 "60-2-111. Letting of contracts on state and
9 federal-aid highways. (1) Except as provided in subsection
10 (2), all contracts for work--on the construction or
11 reconstruction of state--and--federal-aid--highways the
12 highways and streets located on highway systems and state
13 highways as defined in [section 1], including portions in
14 cities and towns, and all contracts entered into under
15 7-14-4108 shall must be let by the commission. Except as
16 otherwise specifically provided, the commission may enter
17 such the types of contracts and upon such terms as it may
18 decide. All contracts shall must meet the requirements of
19 Title 18, chapter 2, part 4. When there is no prevailing
20 rate of wages set by collective bargaining, the commission
21 shall determine the prevailing rate to be stated in the
22 contract.

23 (2) The commission may delegate the authority, with all
24 applicable statutory restrictions, to award any contract
25 covered by this section to the department or to a unit of

1 local government."

2 **Section 10.** Section 60-2-204, MCA, is amended to read:

3 "60-2-204. Maintenance agreements with local
4 governments. The department may enter into an agreement with
5 a local governing body to maintain portions of public
6 highways within its boundaries upon such terms and
7 conditions as may be agreed upon, provided that, in the case
8 of highways in the state maintenance system as defined
9 referred to in 60-2-105 and 60-2-203 and [section 4]:

10 (1) the department shall bear the entire cost of
11 maintenance, operation, and construction work performed by
12 the local governing body pursuant to these agreements; and

13 (2) the department is responsible for the entire cost
14 of placement and maintenance of all traffic control devices
15 involved in these agreements required by 61-8-203."

16 **Section 11.** Section 60-3-201, MCA, is amended to read:

17 "60-3-201. Distribution and use of proceeds of gasoline
18 dealers' license tax. (1) All money received in payment of
19 license taxes under the Distributor's Gasoline License Tax
20 Act, except those amounts paid out of the department of
21 transportation's suspense account for gasoline tax refund,
22 must be used and expended as provided in this section. The
23 portion of that money on hand at any time that is needed to
24 pay highway bonds and interest on highway bonds when due and
25 to accumulate and maintain a reserve for payment of highway

1 bonds and interest, as provided in laws and in resolutions
2 of the state board of examiners authorizing the bonds, must
3 be deposited in the highway bond account in the debt service
4 fund established by 17-2-102. Subject to that provision:

5 (a) 9/10 of 1% of all money must be deposited in the
6 state park account;

7 (b) 1/2 of 1% of all money must be deposited in a
8 snowmobile account in the state special revenue fund;

9 (c) 1/8 of 1% of all money must be deposited in an
10 off-highway vehicle account in the state special revenue
11 fund; and

12 (d) 1/25 of 1% of all money must be deposited in the
13 aeronautics revenue fund of the department of transportation
14 under the provisions of 67-1-301.

15 (e) The remainder of the money must be used:

16 (i) by the department of transportation on the
17 ~~federal-aid~~ highways in this state selected and designated
18 ~~under Title 23, U.S.C., on highways leading from each county~~
19 ~~seat---in---the---state---to---the---federal---highway---system---of~~
20 ~~federal-aid roads if the county seat is not on the system,~~
21 ~~and---on---the---other---roads---that---have---been---or---may---be---authorized~~
22 ~~by the laws of Montana~~ by the commission;

23 (ii) for collection of the license taxes; and

24 (iii) for the enforcement of the Montana highway code
25 under Article VIII, section 6, of the constitution of this

1 state.

2 (2) The department shall, in expending this money,
3 carry forward construction from year to year, using the
4 money expended ~~through---the---matching---up---of---federal-aid~~
5 ~~allocments-to-Montana-upon-the-federal-highway-system-in-the~~
6 ~~various-parts-of---the---state~~ in accordance with ~~60-3-204~~
7 ~~through-60-3-206~~ this title. Nothing in this title conflicts
8 with Title 23, U.S.C., and the rules by which it is
9 administered.

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

14 (4) Money credited to the state park account in the
15 state special revenue fund may be used only for the
16 creation, improvement, and maintenance of state parks where
17 motorboating is allowed, except for the payment of refunds
18 under 15-70-221 through 15-70-226. The legislature finds
19 that of all the fuel sold in the state for consumption in
20 internal combustion engines, not less than 9/10 of 1% is
21 used for propelling boats on waterways of this state.

22 (5) Money credited to the snowmobile account may be
23 used only to develop and maintain facilities open to the
24 general public at no admission cost and to promote
25 snowmobile safety, and 10% of the amount deposited in the

snowmobile account must be used to promote snowmobile safety. The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, not less than 1/2 of 1% is used for propelling snowmobiles on public lands of this state.

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

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

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, not less

than 1/25 of 1% is used for propelling aircraft in this state."

Section 12. Section 60-3-202, MCA, is amended to read:

"60-3-202. **Funding highway system maintenance.** For the purpose of funding the increased cost of maintaining the state highway system as designated in 60-2-105 [section 4], 1/4 cent per gallon of the special fuel tax collected under 15-70-321 and 1/4 cent per gallon of the gasoline license tax collected under 15-70-204 are allocated ~~therefor~~ for highway maintenance."

Section 13. Section 60-3-205, MCA, is amended to read:

"60-3-205. **Apportionment of state funds to federal-aid primary highway system.** (1) Prior to the beginning of each biennium, the commission, referring to highway sufficiency ratings developed by the department, shall designate a level of sufficiency considered adequate and a lesser level of sufficiency considered critical, both to be used to compute the apportionment of construction funds for the ~~federal-aid~~ primary highway system during the succeeding biennium.

(2) The department shall then compute the ratio:

(a) between the mileage rated below adequate sufficiency in each financial district and the total mileage rated below adequate sufficiency of the ~~federal-aid~~ primary highway system in the state; and

(b) between the mileage rated at or below critical

1 sufficiency in each financial district and the total mileage
2 rated at or below critical sufficiency of the ~~federal-aid~~
3 primary highway system in the state.

4 (3) The department, subject to the limitation provided
5 in subsection (4), shall then distribute three-fourths of
6 the available state construction funds for the ~~federal-aid~~
7 primary highway system among the financial districts
8 according to the ratios computed in subsection (2)(a) and
9 one-fourth of the available state construction funds for the
10 ~~federal-aid~~ primary highway system among the financial
11 districts according to the ratios computed in subsection
12 (2)(b).

13 (4) A financial district may not receive more than
14 one-third of the total funds available for the ~~federal-aid~~
15 primary highway system in any biennium. If a financial
16 district would receive more than one-third of the total
17 funds available under the formula in subsection (3), its
18 apportionment is limited to the one-third maximum and any
19 excess funds it would have received must be redistributed
20 among the other districts according to the formula."

21 **Section 14.** Section 60-3-206, MCA, is amended to read:

22 "60-3-206. Apportionment of state funds to ~~federal-aid~~
23 secondary highway system. (1) Each fiscal year the
24 department shall apportion ~~available-state-construction~~ the
25 federal-aid highway funds allocated for the ~~federal-aid~~

1 secondary highway system among the ~~financial--districts~~
2 counties. The proportion which ~~that~~ each district county
3 ~~shall-receive-shall-be~~ receives is computed on the following
4 basis:

5 (a) one-fourth in the ratio of land area in each
6 district county to the total land area in the state;

7 (b) one-fourth in the ratio of the rural population in
8 each district county to the total rural population in the
9 state;

10 (c) one-fourth in the ratio of the rural road mileage
11 in each district county to the total rural road mileage in
12 the state;

13 (d) one-fourth in the ratio of value of rural lands in
14 each district county to the total value of rural lands in
15 the state.

16 (2) ~~Funds-apportioned-to-each-district-shall-be-further~~
17 ~~apportioned-to-each-county--in--the--district--on--the--same~~
18 ~~basis,--considering--ratios--of--land-area--rural-population,~~
19 ~~rural-road-mileage,--and--value--of--rural-lands,--To--the--extent~~
20 ~~necessary--to--permit--orderly--programming--and--construction--of~~
21 ~~projects,--obligations--in--any--county--may--exceed--the--amount~~
22 ~~apportioned--to--that--county--to--the--extent--of--five--times--the~~
23 ~~amount--of--the--last--apportionment--to--the--county,--The--amount~~
24 ~~of--any--excess--obligations--shall--be--deducted--from--future~~
25 ~~apportionments--to--that--county. To the extent necessary to~~

1 permit orderly programming and construction of projects,
 2 obligations in any county may exceed the amount apportioned
 3 to that county. The amount of any excess obligations must be
 4 deducted from future apportionments to that county.

5 (3) For the purposes of this section, terms are defined
 6 as follows:

7 (a) "Rural population" means total population less the
 8 population in cities over 5,000 persons and their
 9 unincorporated fringe urban areas as reported in the latest
 10 federal census. Federal census population figures ~~shall~~ must
 11 be adjusted in the interim between censuses in accordance
 12 with the percentage of change in annual motor vehicle
 13 registration figures for each county.

14 (b) "Rural road mileage" means all road mileage outside
 15 of incorporated cities, exclusive of road mileage on the
 16 ~~federal-aid~~ primary highway system and the ~~federal-aid~~
 17 ~~interstate~~ national highway system. Rural road mileage
 18 reported by the road inventory of the department ~~shall~~ must
 19 be used in determining rural road mileage.

20 (c) "Value of rural lands" includes the value of
 21 state-owned lands from which the state derives grazing,
 22 timber, and agricultural income.

23 (i) The basis for the value of rural lands ~~shall~~ must
 24 be computed from the latest biennial report of the
 25 department of revenue.

1 (ii) The basis for the value of state-owned lands ~~shall~~
 2 must be computed from the latest figures on the total
 3 grazing, timber, and agricultural lands in each county
 4 contained in the latest biennial report of the department of
 5 state lands.

6 (iii) The average value of privately owned lands ~~shall~~
 7 be is the average value of state-owned lands if the actual
 8 value is not available."

9 **Section 15.** Section 60-3-211, MCA, is amended to read:

10 **"60-3-211. Apportionment of state funds to ~~federal-aid~~**
 11 **urban highways highway system.** (1) Each fiscal year, the
 12 department shall apportion ~~state---construction~~ the
 13 federal-aid highway funds ~~available-for-matching-federal-aid~~
 14 ~~urban---funds~~ allocated for the urban highway system to the
 15 cities in the state with populations of over 5,000
 16 ~~population~~ in the ratio of urban population in each city to
 17 the total urban population in all cities in the state with
 18 populations of over 5,000 population.

19 (2) For the purpose of this section, "urban population"
 20 is defined as population within the incorporated limits of
 21 cities with populations of over 5,000 population and that
 22 population within unincorporated urban fringe areas
 23 delineated and reported in the latest federal census.

24 (3) To the extent necessary to permit orderly
 25 programming and construction of projects, obligations in any

city may exceed the amount apportioned to that city. The amount of any excess obligations ~~shall~~ must be deducted from future apportionments to that city."

Section 16. Section 60-3-217, MCA, is amended to read:

"60-3-217. (Temporary) Expenditures. The department shall expend the money of the highway reconstruction trust fund account on the ~~federal-aid-interstate~~ national highway, primary highway, and secondary highway systems and on those highways that it is required to maintain by 60-2-203 and [section 4]. If needed, these funds may be apportioned to the various federal-aid systems to match the federal-aid funds available for obligation. (Terminates July 1, 2003--sec. 1, Ch. 191, L. 1991.)"

Section 17. Section 60-3-218, MCA, is amended to read:

"60-3-218. (Temporary) Reconstruction trust program. ~~{1}~~ Subject to 60-3-217, the department shall administer a program to initiate, plan, design, and carry out reconstruction projects on the national highway, primary highway, and secondary highway systems and on those highways that it is required to maintain by 60-2-203 and [section 4] to straighten, widen, repair, or preserve existing pavement or make major improvements to existing highways. Funds expended under 60-3-217 may be used for pavement preservation projects on the interstate national highway, and primary highway, and secondary highway systems but may

not be used for routine repairs. ~~The department shall expend these funds throughout the state according to need, without regard to 60-3-203.~~ Priority must be given to those projects necessitated in whole or in part by the impact of mineral development.

~~{2}--in order to accommodate changes--in--the--financial district--structure and implementation of the reconstruction program--the department may suspend--the--25%--overrun limitation--on--the--allocation of federal-aid primary funds for--fiscal--years--1984--and--1985.~~ (Terminates July 1, 2003--sec. 1, Ch. 191, L. 1991.)"

Section 18. Section 61-10-148, MCA, is amended to read:

"61-10-148. Disposition of fines and forfeited bonds.

(1) Except as provided in 61-12-701 and subsection (2), one-half of all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be remitted monthly by the county treasurer to the state treasurer for deposit in the state highway account in the state special revenue fund. The remaining half, less the deductions required by law, must be deposited in the county road fund. This subsection does not apply to fines and forfeited bonds paid to justices' courts.

(2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under 60-2-105 [section 4] and

60-2-203, all money collected as fines and forfeited bonds must be distributed to the county treasurer for deposit in the county road fund."

NEW SECTION. Section 19. Repealer. Sections 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214, and 60-3-215, MCA, are repealed.

NEW SECTION. Section 20. Codification instruction. (1) [Sections 1 through 4 and 6] are intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60, chapter 2, part 1, apply to [sections 1 through 4 and 6].

(2) [Section 5] is intended to be codified as an integral part of Title 60, chapter 3, part 2, and the provisions of Title 60, chapter 3, part 2, apply to [section 5].

-End-

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

SENATE BILL NO. 198

INTRODUCED BY WEEDING, HARP

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO HIGHWAY SYSTEMS AND THE ALLOCATION OF FEDERAL-AID HIGHWAY FUNDS BY THE HIGHWAY COMMISSION; AMENDING SECTIONS 2-15-2502, 60-2-110, 60-2-111, 60-2-204, 60-3-201, 60-3-202, 60-3-205, 60-3-206, 60-3-211, 60-3-217, 60-3-218, AND 61-10-148, MCA; AND REPEALING SECTIONS 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214, AND 60-3-215, MCA."

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

NEW SECTION. Section 1. Definitions. As used in Title 60, chapter 2, part 1, and Title 60, chapter 3, part 2, unless otherwise provided, the following definitions apply:

(1) "FEDERAL-AID HIGHWAY FUNDS" MEANS THOSE FUNDS MADE AVAILABLE FOR EXPENDITURE BY THE DEPARTMENT PURSUANT TO TITLE 23, U.S.C.

(2) "National highway system" means the system of public highways designated by the commission and approved by the secretary of transportation as provided in Title 23, U.S.C.

(3) "Primary highway system" means the highways that have been functionally classified by the department as either principal or minor arterials and that have been selected by the commission to be placed on the primary highway system.

(4) "Secondary highway system" means the highways that have been functionally classified by the department as either minor arterials or major collectors and that have been selected by the commission, in cooperation with the boards of county commissioners, to be placed on the secondary highway system.

(5) "State highways" means the highways throughout the state that are not located on a defined highway system but that are on the state maintenance system.

(6) "Urban highway system" means the highways and streets that are in and near incorporated cities with populations of over 5,000 and within urban boundaries established by the department, that have been functionally classified as either urban arterials or collectors, and that have been selected by the commission, in cooperation with local government authorities, to be placed on the urban highway system.

NEW SECTION. Section 2. Designation of public highways -- allocation of funds. (1) For the purpose of allocating state and federal-aid highway funds, the commission shall

1 designate the public highways and streets to be placed on
2 the following systems:

- 3 (a) the national highway system;
- 4 (b) the primary highway system;
- 5 (c) the secondary highway system; or
- 6 (d) the urban highway system.

7 (2) The commission shall consult with the board of
8 county commissioners of the county in which a highway is
9 located prior to designating a public highway to be placed
10 on the secondary highway system.

11 (3) The commission shall consult with the appropriate
12 local government authorities prior to designating a highway
13 or street to be placed on the urban highway system.

14 (4) The commission may designate public highways not
15 placed on the systems listed in subsection (1) as state
16 highways.

17 NEW SECTION. Section 3. Allocation of funds for
18 projects. (1) Each year, out of federal-aid highway funds
19 available for construction purposes, the commission shall
20 allocate a portion of the funds for projects located on:

- 21 (a) the national highway system;
- 22 (b) the primary highway system;
- 23 (c) the secondary highway system;
- 24 (d) the urban highway system; and
- 25 (e) state highways.

1 (2) In making allocations under subsection (1), the
2 commission shall comply with all applicable provisions
3 relating to the use of federal-aid highway funds contained
4 in Title 23, U.S.C.

5 NEW SECTION. Section 4. Maintenance system --
6 designation of highways. The commission shall designate the
7 public highways that are to be included on the state
8 maintenance system. The system must include all the highways
9 that the department maintained on July 1, 1976.

10 NEW SECTION. Section 5. Allocation of funds --
11 apportionment. The federal-aid highway funds allocated to
12 the primary highway system for construction purposes must be
13 apportioned among the five financial districts,
14 corresponding to and congruent with the highway commission
15 districts established in 2-15-2502.

16 NEW SECTION. Section 6. Allocation of funds. The
17 commission may allocate federal-aid highway funds for
18 projects or programs in which all or a portion of the work
19 is on highways that are not located on the highway systems
20 defined in [section 1]. The allocations must be made without
21 regard to the financial district in which the project or
22 program is located.

23 **Section 7.** Section 2-15-2502, MCA, is amended to read:

24 **"2-15-2502. Highway commission.** (1) The highway
25 commission consists of five members. One member must be a

1 resident of and appointed from each of these districts, each
2 composed of the counties named:

3 (a) District 1. Lincoln, Flathead, Sanders, Lake,
4 Mineral, Missoula, Ravalli, Granite, Powell;

5 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,
6 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

7 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
8 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

9 (d) District 4. Carter, Powder River, Fallon, Custer,
10 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
11 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

12 (e) District 5. Golden Valley, Stillwater, Carbon, Big
13 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
14 Petroleum, Treasure, Wheatland, Sweet Grass.

15 (2) Two members may not be residents of the same
16 district at the time of appointment or thereafter during
17 their respective terms of office.

18 (3) Not more than three members may at the time of
19 appointment or during their respective terms be members of
20 the same political party.

21 (4) An elective state official or state officer, during
22 the term of office to which he was elected or appointed, or
23 a state employee may not be a member of the commission.

24 (5) A resolution, motion, or other decision of the
25 commission may not be adopted or passed without the

1 favorable vote of at least three members.

2 (6) The commission is allocated to the department of
3 transportation for administrative purposes only as
4 prescribed in 2-15-121.

5 (7) The commission is designated as a quasi-judicial
6 board for purposes of 2-15-124; however, the provision of
7 2-15-124(1) that at least one member of a quasi-judicial
8 board be an attorney does not apply to the commission.

9 (8) The commission may adopt rules necessary to perform
10 its duties FOR ITS GOVERNMENT.

11 (9) The administrator of the highway division shall
12 act as liaison between the highway commission and the
13 department of transportation."

14 **Section 8.** Section 60-2-110, MCA, is amended to read:

15 "60-2-110. Setting priorities and selecting projects.

16 (1) The commission shall establish priorities and select and
17 designate segments for construction and reconstruction on
18 federal-aid-interstate-and--federal-aid--primary--and--state
19 highway--systems the national highway system, the primary
20 highway system, the secondary highway system, the urban
21 highway system, and state highways.

22 (2) The commission shall consult with the board of
23 county commissioners of the county in which a highway is
24 located when establishing priorities and when selecting and
25 designating segments on the secondary highway system for

1 construction and reconstruction.

2 (3) The commission shall consult with the appropriate
3 local government authorities when establishing priorities
4 and selecting and designating segments on the urban highway
5 system for construction and reconstruction.

6 (4) The commission shall use information gathered or
7 discovered by and documents prepared by the department, and
8 department officials and employees shall provide assistance
9 and advice."

10 **Section 9.** Section 60-2-111, MCA, is amended to read:

11 **"60-2-111. Letting of contracts on state and**
12 **federal-aid highways. (1) Except as provided in subsection**
13 **(2), all contracts for work--on the construction or**
14 **reconstruction of state--and--federal-aid---highways the**
15 **highways and streets located on highway systems and state**
16 **highways as defined in [section 1], including portions in**
17 **cities and towns, and all contracts entered into under**
18 **7-14-4108 shall must be let by the commission. Except as**
19 **otherwise specifically provided, the commission may enter**
20 **such the types of contracts and upon such terms as it may**
21 **decide. All contracts shall must meet the requirements of**
22 **Title 18, chapter 2, part 4. When there is no prevailing**
23 **rate of wages set by collective bargaining, the commission**
24 **shall determine the prevailing rate to be stated in the**
25 **contract.**

1 (2) The commission may delegate the authority, with all
2 applicable statutory restrictions, to award any contract
3 covered by this section to the department or to a unit of
4 local government."

5 **Section 10.** Section 60-2-204, MCA, is amended to read:

6 **"60-2-204. Maintenance agreements with local**
7 **governments. The department may enter into an agreement with**
8 **a local governing body to maintain portions of public**
9 **highways within its boundaries upon such terms and**
10 **conditions as may be agreed upon, provided that, in the case**
11 **of highways in the state maintenance system as defined**
12 **referred to in 60-2-105-and 60-2-203 and [section 4]:**

13 (1) the department shall bear the entire cost of
14 maintenance, operation, and construction work performed by
15 the local governing body pursuant to these agreements; and

16 (2) the department is responsible for the entire cost
17 of placement and maintenance of all traffic control devices
18 involved in these agreements required by 61-8-203."

19 **Section 11.** Section 60-3-201, MCA, is amended to read:

20 **"60-3-201. Distribution and use of proceeds of gasoline**
21 **dealers' license tax. (1) All money received in payment of**
22 **license taxes under the Distributor's Gasoline License Tax**
23 **Act, except those amounts paid out of the department of**
24 **transportation's suspense account for gasoline tax refund,**
25 **must be used and expended as provided in this section. The**

portion of that money on hand at any time that is needed to pay highway bonds and interest on highway bonds when due and to accumulate and maintain a reserve for payment of highway bonds and interest, as provided in laws and in resolutions of the state board of examiners authorizing the bonds, must be deposited in the highway bond account in the debt service fund established by 17-2-102. Subject to that provision:

(a) 9/10 of 1% of all money must be deposited in the state park account;

(b) 1/2 of 1% of all money must be deposited in a snowmobile account in the state special revenue fund;

(c) 1/8 of 1% of all money must be deposited in an off-highway vehicle account in the state special revenue fund; and

(d) 1/25 of 1% of all money must be deposited in the aeronautics revenue fund of the department of transportation under the provisions of 67-1-301.

(e) The remainder of the money must be used:

(i) by the department of transportation on the federal-aid highways in this state selected and designated under Title 23, U.S.C., on highways leading from each county seat in the state to the federal highway system of federal-aid roads if the county seat is not on the system and on the other roads that have been or may be authorized by the laws of Montana by the commission;

(ii) for collection of the license taxes; and

(iii) for the enforcement of the Montana highway code under Article VIII, section 6, of the constitution of this state.

(2) The department shall, in expending this money, carry forward construction from year to year, using the money expended through--the--matching--up--of--federal-aid allotments-to-Montana-upon-the-federal-highway-system-in-the various--parts--of--the--state in accordance with 60-3-204 through-60-3-206 this title. Nothing in this title conflicts with Title 23, U.S.C., 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, except for the payment of refunds under 15-70-221 through 15-70-226. The legislature finds that of all the fuel sold in the state for consumption in internal combustion engines, not less than 9/10 of 1% is used for propelling boats on waterways of this state.

(5) Money credited to the snowmobile account may be

used only to develop and maintain facilities open to the general public at no admission cost and to promote snowmobile safety, and 10% of the amount deposited in the snowmobile account must be used to promote snowmobile safety. The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, not less than 1/2 of 1% is used for propelling snowmobiles on public lands of this state.

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

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

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no

admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 12. Section 60-3-202, MCA, is amended to read:

"60-3-202. Funding highway system maintenance. For the purpose of funding the increased cost of maintaining the state highway system as designated in 60-2-105 [section 4], 1/4 cent per gallon of the special fuel tax collected under 15-70-321 and 1/4 cent per gallon of the gasoline license tax collected under 15-70-204 are allocated therefor for highway maintenance."

Section 13. Section 60-3-205, MCA, is amended to read:

"60-3-205. Apportionment of state funds to federal-aid primary highway system. (1) Prior to the beginning of each biennium, the commission, referring to highway sufficiency ratings developed by the department, shall designate a level of sufficiency considered adequate and a lesser level of sufficiency considered critical, both to be used to compute the apportionment of construction FEDERAL-AID HIGHWAY funds for the federal-aid primary highway system during the succeeding biennium.

(2) The department shall then compute the ratio:

(a) between the mileage rated below adequate

sufficiency in each financial district and the total mileage rated below adequate sufficiency of the ~~federal-aid~~ primary highway system in the state; and

(b) between the mileage rated at or below critical sufficiency in each financial district and the total mileage rated at or below critical sufficiency of the ~~federal-aid~~ primary highway system in the state.

(3) The department, subject to the limitation provided in subsection (4), shall then distribute three-fourths of the available ~~state-construction~~ FEDERAL-AID HIGHWAY funds for the ~~federal-aid~~ primary highway system among the financial districts according to the ratios computed in subsection (2)(a) and one-fourth of the available ~~state construction~~ FEDERAL-AID HIGHWAY funds for the ~~federal-aid~~ primary highway system among the financial districts according to the ratios computed in subsection (2)(b).

(4) A financial district may not receive more than one-third of the total funds available for the ~~federal-aid~~ primary highway system in any biennium. If a financial district would receive more than one-third of the total funds available under the formula in subsection (3), its apportionment is limited to the one-third maximum and any excess funds it would have received must be redistributed among the other districts according to the formula.

(5) TO THE EXTENT NECESSARY TO PERMIT THE ORDERLY

PROGRAMMING AND CONSTRUCTION OF PROJECTS, OBLIGATIONS IN ANY FINANCIAL DISTRICT MAY EXCEED THE AMOUNT APPORTIONED TO THAT DISTRICT BY UP TO 25%. THE AMOUNT OF EXCESS OBLIGATIONS MUST BE DEDUCTED FROM FUTURE APPORTIONMENTS TO THAT DISTRICT."

Section 14. Section 60-3-206, MCA, is amended to read:

"60-3-206. Apportionment of state funds to ~~federal-aid~~ secondary highway system. (1) Each fiscal year the department shall apportion ~~available-state-construction~~ the federal-aid highway funds allocated for the ~~federal-aid~~ secondary highway system among the ~~financial--districts~~ counties. The proportion ~~which that~~ each district county shall-receive-shall-be receives is computed on the following basis:

(a) one-fourth in the ratio of land area in each ~~district county~~ district county to the total land area in the state;

(b) one-fourth in the ratio of the rural population in each ~~district county~~ district county to the total rural population in the state;

(c) one-fourth in the ratio of the rural road mileage in each ~~district county~~ district county to the total rural road mileage in the state;

(d) one-fourth in the ratio of value of rural lands in each ~~district county~~ district county to the total value of rural lands in the state.

(2) ~~Funds-apportioned-to-each-district-shall-be-further~~

1 apportioned-to-each-county--in--the--district--on--the--same
 2 basis,--considering--ratios--of--land-area,--rural-population,
 3 rural-road-mileage,--and--value--of--rural-lands,--to--the--extent
 4 necessary--to--permit--orderly--programming--and--construction--of
 5 projects,--obligations--in--any--county--may--exceed--the--amount
 6 apportioned--to--that--county--to--the--extent--of--five--times--the
 7 amount--of--the--last--apportionment--to--the--county,--The--amount
 8 of--any--excess--obligations--shall--be--deducted--from--future
 9 apportionments--to--that--county. To the extent necessary to
 10 permit orderly programming and construction of projects,
 11 obligations in any county may exceed the amount apportioned
 12 to that county. The amount of any excess obligations must be
 13 deducted from future apportionments to that county.

14 (3) For the purposes of this section, terms are defined
 15 as follows:

16 (a) "Rural population" means total population less the
 17 population in cities over 5,000 persons and their
 18 unincorporated fringe urban areas as reported in the latest
 19 federal census. Federal census population figures shall must
 20 be adjusted in the interim between censuses in accordance
 21 with the percentage of change in annual motor vehicle
 22 registration figures for each county.

23 (b) "Rural road mileage" means all road mileage outside
 24 of incorporated cities, exclusive of road mileage on the
 25 federal-aid primary highway system and the federal-aid

1 interstate national highway system. Rural road mileage
 2 reported by the road inventory of the department shall must
 3 be used in determining rural road mileage.

4 (c) "Value of rural lands" includes the value of
 5 state-owned lands from which the state derives grazing,
 6 timber, and agricultural income.

7 (i) The basis for the value of rural lands shall must
 8 be computed from the latest biennial report of the
 9 department of revenue.

10 (ii) The basis for the value of state-owned lands shall
 11 must be computed from the latest figures on the total
 12 grazing, timber, and agricultural lands in each county
 13 contained in the latest biennial report of the department of
 14 state lands.

15 (iii) The average value of privately owned lands shall
 16 be is the average value of state-owned lands if the actual
 17 value is not available."

18 **Section 15.** Section 60-3-211, MCA, is amended to read:

19 "60-3-211. Apportionment of state funds to federal-aid
 20 urban highways highway system. (1) Each fiscal year, the
 21 department shall apportion state---construction the
 22 federal-aid highway funds available-for-matching-federal-aid
 23 urban--funds allocated for the urban highway system to the
 24 cities in the state with populations of over 5,000
 25 population in the ratio of urban population in each city to

1 the total urban population in all cities in the state with
2 populations of over 5,000 population.

3 (2) For the purpose of this section, "urban population"
4 is defined as population within the incorporated limits of
5 cities with populations of over 5,000 population and that
6 population within unincorporated urban fringe areas
7 delineated and reported in the latest federal census.

8 (3) To the extent necessary to permit orderly
9 programming and construction of projects, obligations in any
10 city may exceed the amount apportioned to that city. The
11 amount of any excess obligations ~~shall~~ must be deducted from
12 future apportionments to that city."

13 **Section 16.** Section 60-3-217, MCA, is amended to read:

14 "60-3-217. (Temporary) Expenditures. The department
15 shall expend the money of the highway reconstruction trust
16 fund account on the ~~federal-aid-interstate~~ national highway,
17 primary highway, and secondary highway systems and on those
18 highways that it is required to maintain by 60-2-203 and
19 ~~{section-4}~~. If needed, these funds may be apportioned to
20 the various federal-aid systems to match the federal-aid
21 funds available for obligation. (Terminates July 1,
22 2003--sec. 1, Ch. 191, L. 1991.)"

23 **Section 17.** Section 60-3-218, MCA, is amended to read:

24 "60-3-218. (Temporary) Reconstruction trust program.
25 {+} Subject to 60-3-217, the department shall administer a

1 program to initiate, plan, design, and carry out
2 reconstruction projects on the national highway, primary
3 highway, and secondary highway systems and on those highways
4 that it is required to maintain by 60-2-203 ~~and-{section-4}~~
5 to straighten, widen, repair, or preserve existing pavement
6 or make major improvements to existing highways. Funds
7 expended under 60-3-217 may be used for pavement
8 preservation projects on the interstate national highway,
9 and primary highway, and secondary highway systems but may
10 not be used for routine repairs. ~~The department shall expend~~
11 ~~these funds throughout the state according to need;--without~~
12 ~~regard to 60-3-203.~~ Priority must be given to those projects
13 necessitated in whole or in part by the impact of mineral
14 development.

15 {+}--in order to accommodate changes--in--the--financial
16 district--structure--and--implementation--of--the--reconstruction
17 program,--the--department--may--suspend--the--25%--overrun
18 limitation--on--the--allocation--of--federal--aid--primary--funds
19 for--fiscal--years--1984--and--1985. (Terminates July 1,
20 2003--sec. 1, Ch. 191, L. 1991.)"

21 **Section 18.** Section 61-10-148, MCA, is amended to read:

22 "61-10-148. Disposition of fines and forfeited bonds.
23 (1) Except as provided in 61-12-701 and subsection (2),
24 one-half of all the money collected as fines and forfeited
25 bonds for violations of Title 61, chapter 10, must be

remitted monthly by the county treasurer to the state treasurer for deposit in the state highway account in the state special revenue fund. The remaining half, less the deductions required by law, must be deposited in the county road fund. This subsection does not apply to fines and forfeited bonds paid to justices' courts.

(2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under 60-2-105 [section 4] and 60-2-203, all money collected as fines and forfeited bonds must be distributed to the county treasurer for deposit in the county road fund."

NEW SECTION. Section 19. Repealer. Sections 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214, and 60-3-215, MCA, are repealed.

NEW SECTION. Section 20. Codification instruction. (1) [Sections 1 through 4 and 6] are intended to be codified as an integral part of Title 60, chapter 2, part 1, and the provisions of Title 60, chapter 2, part 1, apply to [sections 1 through 4 and 6].

(2) [Section 5] is intended to be codified as an integral part of Title 60, chapter 3, part 2, and the provisions of Title 60, chapter 3, part 2, apply to [section 5].

-End-

-19-

SB 198

SENATE BILL NO. 198

INTRODUCED BY WEEDING, HARP

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO HIGHWAY SYSTEMS AND THE ALLOCATION OF FEDERAL-AID HIGHWAY FUNDS BY THE HIGHWAY COMMISSION; AMENDING SECTIONS 2-15-2502, 60-2-110, 60-2-111, 60-2-204, 60-3-201, 60-3-202, 60-3-205, 60-3-206, 60-3-211, 60-3-217, 60-3-218, AND 61-10-148, MCA; AND REPEALING SECTIONS 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214, AND 60-3-215, MCA."

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

NEW SECTION. Section 1. Definitions. As used in Title 60, chapter 2, part 1, and Title 60, chapter 3, part 2, unless otherwise provided, the following definitions apply:

(1) "FEDERAL-AID HIGHWAY FUNDS" MEANS THOSE FUNDS MADE AVAILABLE FOR EXPENDITURE BY THE DEPARTMENT PURSUANT TO TITLE 23, U.S.C.

(2) "National highway system" means the system of public highways designated by the commission and approved by the secretary of transportation as provided in Title 23, U.S.C.

(3) "Primary highway system" means the highways that have been functionally classified by the department as either principal or minor arterials and that have been selected by the commission to be placed on the primary highway system.

(4) "Secondary highway system" means the highways that have been functionally classified by the department as either minor arterials or major collectors and that have been selected by the commission, in cooperation with the boards of county commissioners, to be placed on the secondary highway system.

(5) "State highways" means the highways throughout the state that are not located on a defined highway system but that are on the state maintenance system.

(6) "Urban highway system" means the highways and streets that are in and near incorporated cities with populations of over 5,000 and within urban boundaries established by the department, that have been functionally classified as either urban arterials or collectors, and that have been selected by the commission, in cooperation with

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE BILL NO. 198

INTRODUCED BY WEEDING, HARP

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATING TO HIGHWAY SYSTEMS AND THE ALLOCATION OF FEDERAL-AID HIGHWAY FUNDS BY THE HIGHWAY COMMISSION; AMENDING SECTIONS 2-15-2502, 60-2-110, 60-2-111, 60-2-204, 60-3-201, 60-3-202, 60-3-205, 60-3-206, 60-3-211, 60-3-217, 60-3-218, AND 61-10-148, MCA; AND REPEALING SECTIONS 60-2-103, 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105, 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214, AND 60-3-215, MCA."

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

NEW SECTION. **Section 1.** Definitions. As used in Title 60, chapter 2, part 1, and Title 60, chapter 3, part 2, unless otherwise provided, the following definitions apply:

(1) "FEDERAL-AID HIGHWAY FUNDS" MEANS THOSE FUNDS MADE AVAILABLE FOR EXPENDITURE BY THE DEPARTMENT PURSUANT TO TITLE 23, U.S.C.

(2) "National highway system" means the system of public highways designated by the commission and approved by the secretary of transportation as provided in Title 23, U.S.C.

(3) "Primary highway system" means the highways that have been functionally classified by the department as either principal or minor arterials and that have been selected by the commission to be placed on the primary highway system.

(4) "Secondary highway system" means the highways that have been functionally classified by the department as either minor arterials or major collectors and that have been selected by the commission, in cooperation with the boards of county commissioners, to be placed on the secondary highway system.

(5) "State highways" means the highways throughout the state that are not located on a defined highway system but that are on the state maintenance system.

(6) "Urban highway system" means the highways and streets that are in and near incorporated cities with populations of over 5,000 and within urban boundaries established by the department, that have been functionally classified as either urban arterials or collectors, and that have been selected by the commission, in cooperation with local government authorities, to be placed on the urban highway system.

NEW SECTION. **Section 2.** Designation of public highways -- allocation of funds. (1) For the purpose of allocating state and federal-aid highway funds, the commission shall

1 designate the public highways and streets to be placed on
2 the following systems:

- 3 (a) the national highway system;
- 4 (b) the primary highway system;
- 5 (c) the secondary highway system; or
- 6 (d) the urban highway system.

7 (2) The commission shall consult with the board of
8 county commissioners of the county in which a highway is
9 located prior to designating a public highway to be placed
10 on the secondary highway system.

11 (3) The commission shall consult with the appropriate
12 local government authorities prior to designating a highway
13 or street to be placed on the urban highway system.

14 (4) The commission may designate public highways not
15 placed on the systems listed in subsection (1) as state
16 highways.

17 NEW SECTION. Section 3. Allocation of funds for
18 projects. (1) Each year, out of federal-aid highway funds
19 available for construction purposes, the commission shall
20 allocate a portion of the funds for projects located on:

- 21 (a) the national highway system;
- 22 (b) the primary highway system;
- 23 (c) the secondary highway system;
- 24 (d) the urban highway system; and
- 25 (e) state highways.

1 (2) In making allocations under subsection (1), the
2 commission shall comply with all applicable provisions
3 relating to the use of federal-aid highway funds contained
4 in Title 23, U.S.C.

5 NEW SECTION. Section 4. Maintenance system --
6 designation of highways. The commission shall designate the
7 public highways that are to be included on the state
8 maintenance system. The system must include all the highways
9 that the department maintained on July 1, 1976.

10 NEW SECTION. Section 5. Allocation of funds --
11 apportionment. The federal-aid highway funds allocated to
12 the primary highway system for construction purposes must be
13 apportioned among the five financial districts,
14 corresponding to and congruent with the highway commission
15 districts established in 2-15-2502.

16 NEW SECTION. Section 6. Allocation of funds. The
17 commission may allocate federal-aid highway funds for
18 projects or programs in which all or a portion of the work
19 is on highways that are not located on the highway systems
20 defined in [section 1]. The allocations must be made without
21 regard to the financial district in which the project or
22 program is located.

23 Section 7. Section 2-15-2502, MCA, is amended to read:
24 "2-15-2502. Highway commission. (1) The highway
25 commission consists of five members. One member must be a

resident of and appointed from each of these districts, each composed of the counties named:

(a) District 1. Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Granite, Powell;

(b) District 2. Deer Lodge, Silver Bow, Beaverhead, Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

(c) District 3. Glacier, Toole, Liberty, Hill, Blaine, Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

(d) District 4. Carter, Powder River, Fallon, Custer, Rosebud, Garfield, Phillips, Valley, McCone, Prairie, Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

(e) District 5. Golden Valley, Stillwater, Carbon, Big Horn, Yellowstone, Musselshell, Judith Basin, Fergus, Petroleum, Treasure, Wheatland, Sweet Grass.

(2) Two members may not be residents of the same district at the time of appointment or thereafter during their respective terms of office.

(3) Not more than three members may at the time of appointment or during their respective terms be members of the same political party.

(4) An elective state official or state officer, during the term of office to which he was elected or appointed, or a state employee may not be a member of the commission.

(5) A resolution, motion, or other decision of the commission may not be adopted or passed without the

favorable vote of at least three members.

(6) The commission is allocated to the department of transportation for administrative purposes only as prescribed in 2-15-121.

(7) The commission is designated as a quasi-judicial board for purposes of 2-15-124; however, the provision of 2-15-124(1) that at least one member of a quasi-judicial board be an attorney does not apply to the commission.

(8) The commission may adopt rules necessary to perform its duties FOR ITS GOVERNMENT.

~~(8)~~(9) The administrator of the highway division shall act as liaison between the highway commission and the department of transportation."

Section 8. Section 60-2-110, MCA, is amended to read:

"60-2-110. Setting priorities and selecting projects.

(1) The commission shall establish priorities and select and designate segments for construction and reconstruction on federal-aid-interstate-and--federal-aid--primary--and--state highway--systems the national highway system, the primary highway system, the secondary highway system, the urban highway system, and state highways.

(2) The commission shall consult with the board of county commissioners of the county in which a highway is located when establishing priorities and when selecting and designating segments on the secondary highway system for

1 construction and reconstruction.

2 (3) The commission shall consult with the appropriate
3 local government authorities when establishing priorities
4 and selecting and designating segments on the urban highway
5 system for construction and reconstruction.

6 (4) The commission shall use information gathered or
7 discovered by and documents prepared by the department, and
8 department officials and employees shall provide assistance
9 and advice."

10 **Section 9.** Section 60-2-111, MCA, is amended to read:

11 "60-2-111. Letting of contracts on state and
12 federal-aid highways. (1) Except as provided in subsection
13 (2), all contracts for work--on the construction or
14 reconstruction of state--and--federal-aid---highways the
15 highways and streets located on highway systems and state
16 highways as defined in [section 1], including portions in
17 cities and towns, and all contracts entered into under
18 7-14-4108 shall must be let by the commission. Except as
19 otherwise specifically provided, the commission may enter
20 such the types of contracts and upon such terms as it may
21 decide. All contracts shall must meet the requirements of
22 Title 18, chapter 2, part 4. When there is no prevailing
23 rate of wages set by collective bargaining, the commission
24 shall determine the prevailing rate to be stated in the
25 contract.

1 (2) The commission may delegate the authority, with all
2 applicable statutory restrictions, to award any contract
3 covered by this section to the department or to a unit of
4 local government."

5 **Section 10.** Section 60-2-204, MCA, is amended to read:

6 "60-2-204. Maintenance agreements with local
7 governments. The department may enter into an agreement with
8 a local governing body to maintain portions of public
9 highways within its boundaries upon such terms and
10 conditions as may be agreed upon, provided that, in the case
11 of highways in the state maintenance system as defined
12 referred to in 60-2-105-and 60-2-203 and [section 4]:

13 (1) the department shall bear the entire cost of
14 maintenance, operation, and construction work performed by
15 the local governing body pursuant to these agreements; and

16 (2) the department is responsible for the entire cost
17 of placement and maintenance of all traffic control devices
18 involved in these agreements required by 61-8-203."

19 **Section 11.** Section 60-3-201, MCA, is amended to read:

20 "60-3-201. Distribution and use of proceeds of gasoline
21 dealers' license tax. (1) All money received in payment of
22 license taxes under the Distributor's Gasoline License Tax
23 Act, except those amounts paid out of the department of
24 transportation's suspense account for gasoline tax refund,
25 must be used and expended as provided in this section. The

1 portion of that money on hand at any time that is needed to
 2 pay highway bonds and interest on highway bonds when due and
 3 to accumulate and maintain a reserve for payment of highway
 4 bonds and interest, as provided in laws and in resolutions
 5 of the state board of examiners authorizing the bonds, must
 6 be deposited in the highway bond account in the debt service
 7 fund established by 17-2-102. Subject to that provision:

8 (a) 9/10 of 1% of all money must be deposited in the
 9 state park account;

10 (b) 1/2 of 1% of all money must be deposited in a
 11 snowmobile account in the state special revenue fund;

12 (c) 1/8 of 1% of all money must be deposited in an
 13 off-highway vehicle account in the state special revenue
 14 fund; and

15 (d) 1/25 of 1% of all money must be deposited in the
 16 aeronautics revenue fund of the department of transportation
 17 under the provisions of 67-1-301.

18 (e) The remainder of the money must be used:

19 (i) by the department of transportation on the
 20 ~~federal-aid highways in this state selected and designated~~
 21 ~~under Title 23, U.S.C., on highways leading from each county~~
 22 ~~seat in the state to the federal highway system of~~
 23 ~~federal-aid roads if the county seat is not on the system,~~
 24 ~~and on the other roads that have been or may be authorized~~
 25 ~~by the laws of Montana~~ by the commission;

1 (ii) for collection of the license taxes; and

2 (iii) for the enforcement of the Montana highway code
 3 under Article VIII, section 6, of the constitution of this
 4 state.

5 (2) The department shall, in expending this money,
 6 carry forward construction from year to year, using the
 7 money expended through--the--matching--up--of--federal-aid
 8 allotments-to-Montana-upon-the-federal-highway-system-in-the
 9 various--parts--of--the--state in accordance with 60-3-204
 10 through-60-3-206 this title. Nothing in this title conflicts
 11 with Title 23, U.S.C., and the rules by which it is
 12 administered.

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

17 (4) Money credited to the state park account in the
 18 state special revenue fund may be used only for the
 19 creation, improvement, and maintenance of state parks where
 20 motorboating is allowed, except for the payment of refunds
 21 under 15-70-221 through 15-70-226. The legislature finds
 22 that of all the fuel sold in the state for consumption in
 23 internal combustion engines, not less than 9/10 of 1% is
 24 used for propelling boats on waterways of this state.

25 (5) Money credited to the snowmobile account may be

used only to develop and maintain facilities open to the general public at no admission cost and to promote snowmobile safety, and 10% of the amount deposited in the snowmobile account must be used to promote snowmobile safety. The legislature finds that of all fuels sold in this state for consumption in internal combustion engines, not less than 1/2 of 1% is used for propelling snowmobiles on public lands of this state.

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

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

(7) Money credited to the aeronautics account of the department of transportation may be used only to develop, improve, and maintain facilities open to the public at no

admission cost and to promote aviation safety. The legislature finds that of all the fuel sold in this state for consumption in internal combustion engines, not less than 1/25 of 1% is used for propelling aircraft in this state."

Section 12. Section 60-3-202, MCA, is amended to read:

"60-3-202. Funding highway system maintenance. For the purpose of funding the increased cost of maintaining the state highway system as designated in 60-2-105 [section 4], 1/4 cent per gallon of the special fuel tax collected under 15-70-321 and 1/4 cent per gallon of the gasoline license tax collected under 15-70-204 are allocated therefor for highway maintenance."

Section 13. Section 60-3-205, MCA, is amended to read:

"60-3-205. Apportionment of state funds to federal-aid primary highway system. (1) Prior to the beginning of each biennium, the commission, referring to highway sufficiency ratings developed by the department, shall designate a level of sufficiency considered adequate and a lesser level of sufficiency considered critical, both to be used to compute the apportionment of construction FEDERAL-AID HIGHWAY funds for the federal-aid primary highway system during the succeeding biennium.

(2) The department shall then compute the ratio:

(a) between the mileage rated below adequate

sufficiency in each financial district and the total mileage rated below adequate sufficiency of the federal-aid primary highway system in the state; and

(b) between the mileage rated at or below critical sufficiency in each financial district and the total mileage rated at or below critical sufficiency of the federal-aid primary highway system in the state.

(3) The department, subject to the limitation provided in subsection (4), shall then distribute three-fourths of the available state-construction FEDERAL-AID HIGHWAY funds for the federal-aid primary highway system among the financial districts according to the ratios computed in subsection (2)(a) and one-fourth of the available state construction FEDERAL-AID HIGHWAY funds for the federal-aid primary highway system among the financial districts according to the ratios computed in subsection (2)(b).

(4) A financial district may not receive more than one-third of the total funds available for the federal-aid primary highway system in any biennium. If a financial district would receive more than one-third of the total funds available under the formula in subsection (3), its apportionment is limited to the one-third maximum and any excess funds it would have received must be redistributed among the other districts according to the formula.

(5) TO THE EXTENT NECESSARY TO PERMIT THE ORDERLY

PROGRAMMING AND CONSTRUCTION OF PROJECTS, OBLIGATIONS IN ANY FINANCIAL DISTRICT MAY EXCEED THE AMOUNT APPORTIONED TO THAT DISTRICT BY UP TO 25%. THE AMOUNT OF EXCESS OBLIGATIONS MUST BE DEDUCTED FROM FUTURE APPORTIONMENTS TO THAT DISTRICT."

Section 14. Section 60-3-206, MCA, is amended to read:

"60-3-206. Apportionment of state funds to federal-aid secondary highway system. (1) Each fiscal year the department shall apportion available-state-construction the federal-aid highway funds allocated for the federal-aid secondary highway system among the financial--districts counties. The proportion which that each district county shall-receive-shall-be receives is computed on the following basis:

(a) one-fourth in the ratio of land area in each district county to the total land area in the state;

(b) one-fourth in the ratio of the rural population in each district county to the total rural population in the state;

(c) one-fourth in the ratio of the rural road mileage in each district county to the total rural road mileage in the state;

(d) one-fourth in the ratio of value of rural lands in each district county to the total value of rural lands in the state.

(2) Funds-apportioned-to-each-district-shall-be-further

1 apportioned to each county in the district on the same
 2 basis, considering ratios of land area, rural population,
 3 rural road mileage, and value of rural lands. To the extent
 4 necessary to permit orderly programming and construction of
 5 projects, obligations in any county may exceed the amount
 6 apportioned to that county to the extent of five times the
 7 amount of the last apportionment to the county. The amount
 8 of any excess obligations shall be deducted from future
 9 apportionments to that county. To the extent necessary to
 10 permit orderly programming and construction of projects,
 11 obligations in any county may exceed the amount apportioned
 12 to that county. The amount of any excess obligations must be
 13 deducted from future apportionments to that county.

14 (3) For the purposes of this section, terms are defined
 15 as follows:

16 (a) "Rural population" means total population less the
 17 population in cities over 5,000 persons and their
 18 unincorporated fringe urban areas as reported in the latest
 19 federal census. Federal census population figures shall must
 20 be adjusted in the interim between censuses in accordance
 21 with the percentage of change in annual motor vehicle
 22 registration figures for each county.

23 (b) "Rural road mileage" means all road mileage outside
 24 of incorporated cities, exclusive of road mileage on the
 25 federal-aid primary highway system and the federal-aid

1 interstate national highway system. Rural road mileage
 2 reported by the road inventory of the department shall must
 3 be used in determining rural road mileage.

4 (c) "Value of rural lands" includes the value of
 5 state-owned lands from which the state derives grazing,
 6 timber, and agricultural income.

7 (i) The basis for the value of rural lands shall must
 8 be computed from the latest biennial report of the
 9 department of revenue.

10 (ii) The basis for the value of state-owned lands shall
 11 must be computed from the latest figures on the total
 12 grazing, timber, and agricultural lands in each county
 13 contained in the latest biennial report of the department of
 14 state lands.

15 (iii) The average value of privately owned lands shall
 16 be is the average value of state-owned lands if the actual
 17 value is not available."

18 **Section 15.** Section 60-3-211, MCA, is amended to read:

19 "60-3-211. Apportionment of state funds to federal-aid
 20 urban highways highway system. (1) Each fiscal year, the
 21 department shall apportion state---construction the
 22 federal-aid highway funds available for matching federal-aid
 23 urban--funds allocated for the urban highway system to the
 24 cities in the state with populations of over 5,000
 25 population in the ratio of urban population in each city to

the total urban population in all cities in the state with populations of over 5,000 population.

(2) For the purpose of this section, "urban population" is defined as population within the incorporated limits of cities with populations of over 5,000 population and that population within unincorporated urban fringe areas delineated and reported in the latest federal census.

(3) To the extent necessary to permit orderly programming and construction of projects, obligations in any city may exceed the amount apportioned to that city. The amount of any excess obligations ~~shall~~ must be deducted from future apportionments to that city."

Section 16. Section 60-3-217, MCA, is amended to read:

"60-3-217. (Temporary) Expenditures. The department shall expend the money of the highway reconstruction trust fund account on the ~~federal-aid-interstate~~ national highway, primary highway, and secondary highway systems and on those highways that it is required to maintain by 60-2-203 ~~and~~ {section-4}. If needed, these funds may be apportioned to the various federal-aid systems to match the federal-aid funds available for obligation. (Terminates July 1, 2003--sec. 1, Ch. 191, L. 1991.)"

Section 17. Section 60-3-218, MCA, is amended to read:

"60-3-218. (Temporary) Reconstruction trust program. ~~{}~~ Subject to 60-3-217, the department shall administer a

program to initiate, plan, design, and carry out reconstruction projects on the national highway, primary highway, and secondary highway systems and on those highways that it is required to maintain by 60-2-203 ~~and {section--4}~~ to straighten, widen, repair, or preserve existing pavement or make major improvements to existing highways. Funds expended under 60-3-217 may be used for pavement preservation projects on the interstate national highway, and primary highway, and secondary highway systems but may not be used for routine repairs. ~~The department shall expend these funds throughout the state according to need, without regard to 60-3-203.~~ Priority must be given to those projects necessitated in whole or in part by the impact of mineral development.

~~{2}--in order to accommodate changes in the financial district--structure and implementation of the reconstruction program, the department may suspend the 25% overrun limitation on the allocation of federal-aid primary funds for fiscal years 1984 and 1985. (Terminates July 1, 2003--sec. 1, Ch. 191, L. 1991.)"~~

Section 18. Section 61-10-148, MCA, is amended to read:

"61-10-148. Disposition of fines and forfeited bonds. (1) Except as provided in 61-12-701 and subsection (2), one-half of all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be

1 remitted monthly by the county treasurer to the state
2 treasurer for deposit in the state highway account in the
3 state special revenue fund. The remaining half, less the
4 deductions required by law, must be deposited in the county
5 road fund. This subsection does not apply to fines and
6 forfeited bonds paid to justices' courts.

7 (2) If the apprehension or arrest was for a violation
8 of Title 61, chapter 10, and if the offense occurred on a
9 road or highway not included under 60-2-105 [section 4] and
10 60-2-203, all money collected as fines and forfeited bonds
11 must be distributed to the county treasurer for deposit in
12 the county road fund."

13 NEW SECTION. Section 19. Repealer. Sections 60-2-103,
14 60-2-104, 60-2-105, 60-3-102, 60-3-103, 60-3-104, 60-3-105,
15 60-3-203, 60-3-204, 60-3-209, 60-3-210, 60-3-213, 60-3-214,
16 and 60-3-215, MCA, are repealed.

17 NEW SECTION. Section 20. Codification instruction. (1)
18 [Sections 1 through 4 and 6] are intended to be codified as
19 an integral part of Title 60, chapter 2, part 1, and the
20 provisions of Title 60, chapter 2, part 1, apply to
21 [sections 1 through 4 and 6].

22 (2) [Section 5] is intended to be codified as an
23 integral part of Title 60, chapter 3, part 2, and the
24 provisions of Title 60, chapter 3, part 2, apply to [section
25 5].

-End-

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