

SENATE BILL NO. 359

INTRODUCED BY NATHE, L. NELSON, HALLIGAN

IN THE SENATE

FEBRUARY 11, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 29, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 30, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 47; NOES, 3.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 31, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 7, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
APRIL 12, 1993	SECOND READING, CONCURRED IN.
APRIL 13, 1993	THIRD READING, CONCURRED IN. AYES, 92; NOES, 6.
APRIL 14, 1993	RETURNED TO SENATE.

IN THE SENATE

APRIL 15, 1993	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *359*
 2 INTRODUCED BY *NATHAN L. Nelson Halpin*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ENHANCING LOCAL RAIL
 5 TRANSPORTATION SERVICES IN MONTANA; PROVIDING LOANS AND
 6 GRANTS FOR THE CONTINUED OPERATION OF LOCAL RAIL FREIGHT
 7 TRANSPORTATION SERVICES AND FOR THE DEVELOPMENT AND
 8 IMPROVEMENT OF INTERMODAL TRANSPORTATION FACILITIES TO
 9 MITIGATE LONG-TERM HIGHWAY IMPACTS AND TO PROMOTE EFFICIENCY
 10 AND EFFECTIVENESS IN THE STATEWIDE TRANSPORTATION SYSTEM;
 11 INCREASING THE GASOLINE LICENSE TAX BY 1/2 CENT; DEPOSITING
 12 1/2 CENT OF THE TAX COLLECTED ON EACH GALLON OF GASOLINE
 13 INTO THE SPECIAL RAILROAD FACILITIES AND INTERMODAL
 14 TRANSPORTATION FACILITIES ACCOUNT; AUTHORIZING THE
 15 DEPARTMENT OF TRANSPORTATION TO USE THE TAX PROCEEDS TO
 16 PROVIDE LOANS OR GRANTS TO CERTAIN RAILROADS AND PORT
 17 AUTHORITIES; AMENDING SECTIONS 15-70-101, 15-70-204,
 18 60-11-111, 60-11-121, 60-11-122, AND 60-11-123, MCA; AND
 19 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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

23 "15-70-101. Disposition of funds. All Except as
 24 provided in subsection (8), all taxes, interest, and
 25 penalties collected under this chapter, except those

1 collected by a justice's court, must be turned over promptly
 2 to the state treasurer, who shall place the money in the
 3 state special revenue fund to the credit of the department
 4 of transportation. Those funds allocated to cities, towns,
 5 and counties in this section must be paid by the department
 6 of transportation from the state special revenue fund to the
 7 cities, towns, and counties.

8 (1) \$14,000,000 of the funds collected under this
 9 chapter, except those collected by a justice's court, is
 10 statutorily appropriated, as provided in 17-7-502, to the
 11 department of transportation and must be allocated each
 12 fiscal year on a monthly basis to the counties and
 13 incorporated cities and towns in Montana for construction,
 14 reconstruction, maintenance, and repair of rural roads and
 15 city or town streets and alleys, as provided in subsections
 16 (1)(a) through (1)(c):

17 (a) \$54,000 must be designated for the purposes and
 18 functions of the Montana rural technical assistance
 19 transportation program in Bozeman;

20 (b) \$6,323,000 must be divided among the various
 21 counties in the following manner:

22 (i) 40% in the ratio that the rural road mileage in
 23 each county, exclusive of the federal-aid interstate system
 24 and the federal-aid primary system, bears to the total rural
 25 road mileage in the state, exclusive of the federal-aid

1 interstate system and the federal-aid primary system;

2 (ii) 40% in the ratio that the rural population in each

3 county outside incorporated cities and towns bears to the

4 total rural population in the state outside incorporated

5 cities and towns;

6 (iii) 20% in the ratio that the land area of each county

7 bears to the total land area of the state;

8 (c) \$7,623,000 must be divided among the incorporated

9 cities and towns in the following manner:

10 (i) 50% of the sum in the ratio that the population

11 within the corporate limits of the city or town bears to the

12 total population within corporate limits of all the cities

13 and towns in Montana;

14 (ii) 50% in the ratio that the city or town street and

15 alley mileage, exclusive of the federal-aid interstate

16 system and the federal-aid primary system, within corporate

17 limits bears to the total street and alley mileage,

18 exclusive of the federal-aid interstate system and

19 federal-aid primary system, within the corporate limits of

20 all cities and towns in Montana.

21 (2) All funds allocated by this section to counties,

22 cities, and towns must be used for the construction,

23 reconstruction, maintenance, and repair of rural roads or

24 city or town streets and alleys or for the share that the

25 city, town, or county might otherwise expend for

1 proportionate matching of federal funds allocated for the

2 construction of roads or streets that are part of the

3 federal-aid primary or secondary highway system or urban

4 extensions to those systems, except that the governing body

5 of a town or third-class city, as defined in 7-1-4111, may

6 each year expend no more than 25% of the funds allocated to

7 that town or third-class city for the purchase of capital

8 equipment and supplies to be used for the maintenance and

9 repair of town or third-class city streets and alleys.

10 (3) All funds allocated by this section to counties,

11 cities, and towns must be disbursed to the lowest

12 responsible bidder according to applicable bidding

13 procedures followed in all cases in which the contract for

14 construction, reconstruction, maintenance, or repair is in

15 excess of \$4,000.

16 (4) For the purposes of this section in which

17 distribution of funds is made on a basis related to

18 population, the population must be determined by the last

19 preceding official federal census.

20 (5) For the purposes of this section in which

21 determination of mileage is necessary for distribution of

22 funds, it is the responsibility of the cities, towns, and

23 counties to furnish to the department of transportation a

24 yearly certified statement indicating the total mileage

25 within their respective areas applicable to this chapter.

All mileage submitted is subject to review and approval by the department of transportation.

(6) Except by a town or third-class city as provided in subsection (2), the funds authorized by this section may not be used for the purchase of capital equipment.

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

(8) One-half cent of the tax collected on each gallon of gasoline, excluding the tax collected on aviation gasoline, must be deposited in the special railroad facilities and intermodal transportation facilities account created in 60-11-122."

Section 2. Section 15-70-204, MCA, is amended to read:

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to 1 cent for each gallon of aviation gasoline, which ~~shall~~ must be allocated to the department of transportation as provided by 67-1-301, ~~as-amended,~~ and ~~20~~ 20 1/2 cents for each gallon of all other gasoline distributed by ~~him~~ the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

Section 3. Section 60-11-111, MCA, is amended to read:

"60-11-111. Identification and acquisition of railroad rights-of-way -- identification of railroad lines for rehabilitation. (1) Identification of those railroad lines proposed for abandonment in the state of Montana that may have potential for local transportation service or future use as transportation corridors is necessary to determine the feasibility of acquisition by the state and to allow the state to negotiate for acquisition of those railroad lines or easements therein.

(2) Identification of those railroad branch lines in the state that may have potential for local rail freight transportation service is necessary to determine the feasibility of providing loans or grants to the owner or operator of the railroad line as provided in [section 7].

~~(2)~~ (3) The department of transportation:

(a) shall identify railroad rights-of-way in this state that may be abandoned and research the feasibility of acquisition by the state of Montana of those rights-of-way that may be abandoned;

(b) shall identify, under the state rail planning

1 program, railroad branch lines that should be preserved for
 2 continued operation;

3 {b}{c} shall report periodically to the legislative
 4 finance committee, created in 5-12-201, on the progress of
 5 the duties imposed upon it pursuant to ~~subsection {2}{a}~~
 6 subsections {3}{a} and {3}{b};

7 {c}{d} may negotiate for and acquire easements in the
 8 rights-of-way or the railroad rights-of-way and attendant
 9 facilities identified pursuant to subsection ~~{2}{a}~~ {3}{a}
 10 and:

11 (i) hold all ~~such~~ acquired lands in trust for
 12 transportation purposes; and

13 (ii) upon creation of an appropriate local authority,
 14 other than an agency of state government, shall transfer to
 15 ~~such the~~ local authority all attendant facilities and all
 16 rights and responsibility to operate and maintain
 17 transportation services over the lands acquired in
 18 subsection ~~{2}{c}~~ {3}{d}; and

19 {d}{e} shall cooperate with and assist persons
 20 representing recreational, transportation, and utility
 21 interests and other interested persons, including adjacent
 22 landowners, in acquiring ownership or easement of abandoned
 23 railbeds; and

24 {f} shall establish procedures, including the use of
 25 federal funds received for rail freight assistance programs

1 under 49 U.S.C. 1654, for providing loans and grants under
 2 [section 7].

3 {3}{4} Abandoned rights-of-way acquired and held in
 4 trust pursuant to subsection ~~{2}{c}~~ {3}{d}{i} must be
 5 administered by the department of state lands, as prescribed
 6 in Title 77, until ~~such-time--as~~ the land is needed for
 7 transportation purposes."

8 **Section 4.** Section 60-11-121, MCA, is amended to read:

9 "60-11-121. Legislative findings. (1) The legislature
 10 finds that it is in the interests of the state of Montana to
 11 preserve and encourage, whenever possible, Montana's
 12 railroad transportation infrastructure, especially:

13 (a) those railroads classified as Class III carriers
 14 under 49 CFR, chapter 10, that operate mainly within the
 15 state; and

16 (b) those railroads within the state that are eligible
 17 for rail freight assistance programs under 49 U.S.C. 1654.

18 (2) The legislature further finds that:

19 (a) the railroad transportation infrastructure of the
 20 state is enhanced by the development and improvement of
 21 intermodal transportation facilities by port authorities
 22 created under Title 7, chapter 14, part 11; and

23 (b) abandonment of railroad branch lines and the
 24 increased demands for shipping have a negative impact on the
 25 highways of the state.

(3) The legislature further finds that the preservation of those railroads described in subsection (1)(b) and the development and improvement of intermodal transportation facilities are necessary to mitigate long-term negative impacts on the highways of the state and to promote the efficiency and effectiveness of the state's transportation system.

(4) The legislature declares that loans and grants made available under [section 7] to railroads and to port authorities are in the interest of the state and that the loans and grants are an appropriate use of state gas tax revenue."

Section 5. Section 60-11-122, MCA, is amended to read:

"60-11-122. Special railroad facilities and intermodal transportation facilities account. There is a special railroad facilities and intermodal transportation facilities account in the state special revenue fund."

Section 6. Section 60-11-123, MCA, is amended to read:

"60-11-123. Disposition of revenue from state-owned railroads and revenue from gas tax -- use of money. (1) Unless otherwise required by law, revenue from the lease or sale of assets of or revenue paid to the state of Montana by an operator of a railroad owned by the state of Montana must be deposited in the special railroad facilities and intermodal transportation facilities account created in

60-11-122.

(2) The department of transportation is authorized to administer, as provided in 60-11-121 through 60-11-123 and [section 7], the special railroad facilities and intermodal transportation facilities account created in 60-11-122 to provide for improvement of railroad tracks and associated facilities of any state-owned railroad in Montana and to provide loans and grants to railroad lines and intermodal transportation facilities as provided in [section 7]."

NEW SECTION. Section 7. Railroad and intermodal transportation facility loans and grants -- authorization -- eligibility. (1) Money deposited in the special railroad facilities and intermodal transportation facilities account created in 60-11-122 from the gasoline license tax, as provided in 15-70-101(8), may be used by the department of transportation, after deducting the necessary costs and expenses for administering this section, to provide loans and grants for the preservation and continued operation of railroad branch lines identified in 60-11-111 and for the development and improvement of intermodal transportation facilities. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the special railroad facilities and intermodal transportation facilities account.

(2) An owner or operator of a railroad identified in

60-11-111(2) is eligible for a loan or grant under this section provided that the owner or operator:

(a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad for local rail transportation service; and

(b) derives revenue from the continued operation of the railroad.

(3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan or grant under this section for the development or improvement of an intermodal transportation facility under this section provided that:

(a) the port authority is included in the state transportation planning process as described in 23 U.S.C. 135; and

(b) the intermodal transportation facility for which a loan or grant is sought is integrally related to the railroad transportation system of the state.

NEW SECTION. Section 8. Three-fifths vote required. Because [section 1] diverts highway revenue for nonhighway purposes, Article VIII, section 6, of the Montana constitution requires a vote of three-fifths of the members of each house of the legislature for passage.

NEW SECTION. Section 9. Codification instruction. [Section 7] is intended to be codified as an integral part of Title 60, chapter 11, part 1, and the provisions of Title

60, chapter 11, part 1, apply to [section 7].

NEW SECTION. Section 10. Effective date. [This act] is effective July 1, 1993.

NEW SECTION. Section 11. Termination. [This act] terminates July 1, 2003.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0359, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act enhancing local rail transportation services in Montana; providing loans and grants for the continued operation of local rail freight transportation services and for the development and improvement of intermodal transportation facilities to mitigate long-term highway impacts and to promote efficiency and effectiveness in the statewide transportation system; increasing the gasoline license tax by 1/2 cent; depositing 1/2 cent of the tax collected on each gallon of gasoline into the special railroad facilities and intermodal transportation facilities account; authorizing the Department of Transportation to use the tax proceeds to provide loans or grants to certain railroads and port authorities; and providing an effective date and a termination date.


ASSUMPTIONS:


1. The proposed legislation would distribute additional revenue prior to refunds being paid.
2. The revenues reflected below represent revenues accrued to each applicable fiscal year. Actual collections would lag by approximately one month.
3. The distribution of the additional revenues equivalent to \$0.005 would be made prior to the distributions established pursuant to 60-3-201, MCA. Therefore, the additional \$0.005 tax rate would benefit the snowmobile, motorboat, off-road, and aeronautics state special revenue accounts at the expense of the highways special revenue account.

FISCAL IMPACT:

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Highways State Special (gas tax net of refunds)	\$82,762,764	\$ 82,727,847	\$ (34,918)	\$82,831,346	\$ 82,796,401	\$ (34,945)
Railroad State Special	0	2,231,143	2,231,143	0	2,232,938	2,232,938
Snowmobile State Special	441,766	452,922	11,156	442,122	453,286	11,164
Motorboat State Special	795,179	815,260	20,081	795,819	815,915	20,096
Off Road State Special	110,442	113,230	2,788	110,530	113,322	2,792
Aeronautics State Special	35,341	36,234	893	35,370	36,263	893
Total Revenue	\$84,145,492	\$ 86,376,636	\$2,231,143	\$84,215,187	\$ 86,448,125	\$2,232,938


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


DENNIS G. NATHE, PRIMARY SPONSOR DATE

Fiscal Note for SB0359, as introduced

SB 359

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0359, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act enhancing local rail transportation services in Montana; providing loans and grants for the continued operation of local rail freight transportation services and for the development and improvement of intermodal transportation facilities to mitigate long-term highway impacts and to promote efficiency and effectiveness in the statewide transportation system; authorizing the Department of Transportation to provide loans or grants to certain railroads and port authorities; and providing an effective date and a termination date.

ASSUMPTIONS:

1. The bill provides a statutory mechanism for the administration of loans and grants for the continued operation of local rail freight transportation services and for the development and improvement of intermodal transportation facilities.
2. No funds would be available for loans and grants under the proposed legislation. Therefore, there is no fiscal impact for the Department of Transportation. Should funds become available for the purposes described in the bill, the department may require additional budget authority for the administration of loans and grants.

FISCAL IMPACT:

None.

David Lewis 4-1-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Dennis G. Nathe 4/2/93
DENNIS G. NATHE, PRIMARY SPONSOR DATE

Fiscal Note for SB0359, second reading

SB 359 #2

APPROVED BY COMMITTEE
ON TAXATION

SENATE BILL NO. 359

INTRODUCED BY NATHE, L. NELSON, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ENHANCING LOCAL RAIL
TRANSPORTATION SERVICES IN MONTANA; PROVIDING LOANS AND
GRANTS FOR THE CONTINUED OPERATION OF LOCAL RAIL FREIGHT
TRANSPORTATION SERVICES AND FOR THE DEVELOPMENT AND
IMPROVEMENT OF INTERMODAL TRANSPORTATION FACILITIES TO
MITIGATE LONG-TERM HIGHWAY IMPACTS AND TO PROMOTE EFFICIENCY
AND EFFECTIVENESS IN THE STATEWIDE TRANSPORTATION SYSTEM;
~~INCREASING THE GASOLINE LICENSE TAX BY 1/2 CENT; DEPOSITING~~
~~1/2 CENT OF THE TAX COLLECTED ON EACH GALLON OF GASOLINE~~
~~INTO THE SPECIAL RAILROAD FACILITIES AND INTERMODAL~~
~~TRANSPORTATION FACILITIES ACCOUNT; AUTHORIZING THE~~
DEPARTMENT OF TRANSPORTATION TO USE THE TAX PROCEEDS TO
PROVIDE LOANS OR GRANTS TO CERTAIN RAILROADS AND PORT
AUTHORITIES; AMENDING SECTIONS 15-70-101, 15-70-204,
60-11-111, 60-11-121, 60-11-122, AND 60-11-123, MCA; AND
PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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

"15-70-101. Disposition of funds. All Except as
provided in subsection (8), all taxes, interest, and
penalties collected under this chapter, except those

collected by a justice's court, must be turned over promptly
to the state treasurer, who shall place the money in the
state special revenue fund to the credit of the department
of transportation. Those funds allocated to cities, towns,
and counties in this section must be paid by the department
of transportation from the state special revenue fund to the
cities, towns, and counties.

(1) \$14,000,000 of the funds collected under this
chapter, except those collected by a justice's court, is
statutorily appropriated, as provided in 17-7-502, to the
department of transportation and must be allocated each
fiscal year on a monthly basis to the counties and
incorporated cities and towns in Montana for construction,
reconstruction, maintenance, and repair of rural roads and
city or town streets and alleys, as provided in subsections
(1)(a) through (1)(c):

(a) \$54,000 must be designated for the purposes and
functions of the Montana rural technical assistance
transportation program in Bozeman;

(b) \$6,323,000 must be divided among the various
counties in the following manner:

(1) 40% in the ratio that the rural road mileage in
each county, exclusive of the federal aid interstate system
and the federal aid primary system, bears to the total rural
road mileage in the state, exclusive of the federal aid

interstate-system-and-the-federal-aid-primary-system;

(ii)-40%-in-the-ratio-that-the-rural-population-in-each county-outside-incorporated-cities-and-towns--bears--to--the total-rural-population--in--the-state-outside-incorporated cities-and-towns;

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

(c)--\$7,623,000-must-be-divided-among--the--incorporated cities-and-towns-in-the-following-manner:

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

(ii)-50%-in--the-ratio-that-the-city-or-town-street-and alley-mileage--exclusive--of--the--federal-aid--interstate system-and-the-federal-aid-primary-system--within--corporate limits--bears--to--the--total--street--and--alley--mileage-- exclusive--of--the--federal-aid--interstate--system--and federal-aid--primary--system--within-the-corporate-limits-of all-cities-and-towns-in-Montana;

(2)--All-funds-allocated-by-this--section--to--counties, cities--and--towns--must--be--used--for--the--construction, reconstruction--maintenance--and--repair-of-rural-roads-or city-or-town-streets-and-alleys-or-for-the--share--that--the city--town--or--county--might--otherwise--expend--for

proportionate-matching-of-federal-funds--allocated--for--the construction--of--roads--or--streets--that--are--part-of-the federal-aid-primary-or-secondary--highway--system--or--urban extensions--to--those-systems--except-that-the-governing-body of-a-town-or-third-class-city--as-defined-in--7-1-4111--may each--year-expend-no-more-than-25%-of-the-funds-allocated-to that-town-or-third-class-city-for-the--purchase--of--capital equipment--and--supplies--to-be-used-for-the-maintenance-and repair-of-town-or-third-class-city-streets-and-alleys.

(3)--All-funds-allocated-by-this--section--to--counties, cities--and--towns--must--be--disbursed--to--the--lowest responsible--bidder--according--to--applicable--bidding procedures-followed-in-all-cases-in-which-the--contract--for construction--reconstruction--maintenance--or-repair-is-in excess-of-\$4,000;

(4)--For--the--purposes--of--this--section--in--which distribution--of--funds--is--made--on--a--basis--related--to population--the--population--must-be-determined-by-the-last preceding-official-federal-census;

(5)--For--the--purposes--of--this--section--in--which determination--of--mileage--is-necessary-for-distribution-of funds--it-is-the-responsibility-of-the--cities--towns--and counties--to--furnish--to-the-department-of-transportation-a yearly-certified--statement--indicating--the--total--mileage within--their--respective--areas-applicable-to-this-chapter.

1 All-mileage-submitted-is-subject-to-review-and--approval--by
2 the-department-of-transportation;

3 {6}--Except-by-a-town-or-third-class-city-as-provided-in
4 subsection-{2}, the-funds-authorized-by-this-section-may-not
5 be-used-for-the-purchase-of-capital-equipment;

6 {7}--Funds--authorized--by-this-section-must-be-used-for
7 construction-and-maintenance-programs-only;

8 {8}--One-half-cent-of-the-tax-collected-on--each--gallon
9 of--gasoline,--excluding--the--tax--collected--on--aviation
10 gasoline,--must--be--deposited--in--the--special--railroad
11 facilities--and-intermodal-transportation-facilities-account
12 created-in-60-11-122."

13 **Section 2.**--Section-15-70-204, MCA, is-amended-to-read:--

14 "15-70-204. Gasoline-license-tax-----rate.--{1}--Every
15 distributor--shall-pay-to-the-department-of-transportation-a
16 license-tax-for-the-privilege-of-engaging-in-and-carrying-on
17 business-in-this-state-in-an-amount-equal-to-1-cent-for-each
18 gallon-of-aviation-gasoline, which shall must be--allocated
19 to-the-department-of-transportation-as-provided-by-67-1-301,
20 as-amended, and 20 20-1/2 cents-for-each-gallon-of-all-other
21 gasoline-distributed-by him the-distributor within-the-state
22 and-upon-which-the-gasoline-license-tax-has-not-been-paid-by
23 any-other-distributor;

24 {2}--Gasoline--exported shall may not-be-included-in-the
25 measure-of-the-distributor's-license-tax;

1 {3}--Alcohol-that-is-blended-or-is-to--be--blended--with
2 gasoline--to--be--sold--as--gasohol--is-subject-to-a-tax-per
3 gallon-equal-to--the--license--tax--imposed--on--nonaviation
4 gasoline-distributors-under-subsection-{1};"

5 **Section 1.** Section 60-11-111, MCA, is amended to read:

6 "60-11-111. Identification and acquisition of railroad
7 rights-of-way -- identification of railroad lines for
8 rehabilitation. (1) Identification of those railroad lines
9 proposed for abandonment in the state of Montana that may
10 have potential for local transportation service or future
11 use as transportation corridors is necessary to determine
12 the feasibility of acquisition by the state and to allow the
13 state to negotiate for acquisition of those railroad lines
14 or easements therein.

15 (2) Identification of those railroad branch lines in
16 the state that may have potential for local rail freight
17 transportation service is necessary to determine the
18 feasibility of providing loans or grants to the owner or
19 operator of the railroad line as provided in [section 7 5].

20 {2}{3} The department of transportation:

21 (a) shall identify railroad rights-of-way in this state
22 that may be abandoned and research the feasibility of
23 acquisition by the state of Montana of those rights-of-way
24 that may be abandoned;

25 (b) shall identify, under the state rail planning

1 program, railroad branch lines that should be preserved for
2 continued operation;

3 {b}{c} shall report periodically to the legislative
4 finance committee, created in 5-12-201, on the progress of
5 the duties imposed upon it pursuant to subsection-{2}{a}
6 subsections {3}{a} and {3}{b};

7 {c}{d} may negotiate for and acquire easements in the
8 rights-of-way or the railroad rights-of-way and attendant
9 facilities identified pursuant to subsection {2}{a} {3}{a}
10 and:

11 (i) hold all such acquired lands in trust for
12 transportation purposes; and

13 (ii) upon creation of an appropriate local authority,
14 other than an agency of state government, shall transfer to
15 such the local authority all attendant facilities and all
16 rights and responsibility to operate and maintain
17 transportation services over the lands acquired in
18 subsection {2}{c}{3}{d}; and

19 {d}{e} shall cooperate with and assist persons
20 representing recreational, transportation, and utility
21 interests and other interested persons, including adjacent
22 landowners, in acquiring ownership or easement of abandoned
23 railbeds; and

24 {f} shall establish procedures, including the use of
25 federal funds received for rail freight assistance programs

1 under 49 U.S.C. 1654, for providing loans and grants under
2 [section 7 5].

3 {3}{4} Abandoned rights-of-way acquired and held in
4 trust pursuant to subsection {2}{c}{3}{d}{i} must be
5 administered by the department of state lands, as prescribed
6 in Title 77, until such-time--as the land is needed for
7 transportation purposes."

8 **Section 2.** Section 60-11-121, MCA, is amended to read:

9 **"60-11-121. Legislative findings. {1}** The legislature
10 finds that it is in the interests of the state of Montana to
11 preserve and encourage, whenever possible, Montana's
12 railroad transportation infrastructure, especially:

13 {a} those railroads classified as Class III carriers
14 under 49 CFR, chapter 10, that operate mainly within the
15 state; and

16 {b} those railroads within the state that are eligible
17 for rail freight assistance programs under 49 U.S.C. 1654.

18 {2} The legislature further finds that:

19 {a} the railroad transportation infrastructure of the
20 state is enhanced by the development and improvement of
21 intermodal transportation facilities by port authorities
22 created under Title 7, chapter 14, part 11; and

23 {b} abandonment of railroad branch lines and the
24 increased demands for shipping have a negative impact on the
25 highways of the state.

(3) The legislature further finds that the preservation of those railroads described in subsection (1)(b) and the development and improvement of intermodal transportation facilities are necessary TO ENHANCE ACCESS TO MARKETS, to mitigate RURAL ISOLATION AND long-term negative impacts on the highways of the state, and to promote the efficiency and effectiveness of the state's transportation system.

(4) The legislature declares that loans and grants made available under [section 7 5] to railroads and to port authorities are in the interest of the state and that the loans and grants are an appropriate use of state gas tax revenue."

Section 3. Section 60-11-122, MCA, is amended to read:

"60-11-122. Special railroad facilities and intermodal transportation facilities account. There is a special railroad facilities and intermodal transportation facilities account in the state special revenue fund."

Section 4. Section 60-11-123, MCA, is amended to read:

"60-11-123. Disposition of revenue from state-owned railroads and revenue from gas tax -- use of money. (1) Unless otherwise required by law, revenue from the lease or sale of assets of or revenue paid to the state of Montana by an operator of a railroad owned by the state of Montana must be deposited in the special railroad facilities and intermodal transportation facilities account created in

60-11-122.

(2) The department of transportation is authorized to administer, as provided in 60-11-121 through 60-11-123 and [section 7 5], the special railroad facilities and intermodal transportation facilities account created in 60-11-122 to provide for improvement of railroad tracks and associated facilities of any state-owned railroad in Montana and to provide loans and grants to railroad lines and intermodal transportation facilities as provided in [section 7 5]."

NEW SECTION. Section 5. Railroad and intermodal transportation facility loans and grants -- authorization -- eligibility. (1) Money deposited in the special railroad facilities and intermodal transportation facilities account created in 60-11-122 ~~from the gasoline license tax, as provided in 15-70-101(8),~~ may be used by the department of transportation, after deducting the necessary costs and expenses for administering this section, to provide loans and grants for the preservation and continued operation of railroad branch lines identified in 60-11-111 and for the development and improvement of intermodal transportation facilities. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the special railroad facilities and intermodal transportation facilities account.

(2) An owner or operator of a railroad identified in 60-11-111(2) is eligible for a loan or grant under this section provided that the owner or operator:

(a) undertakes to repair, improve, or replace rail facilities to allow the continued operation of the railroad for local rail transportation service; and

(b) derives revenue from the continued operation of the railroad.

(3) A port authority created under Title 7, chapter 14, part 11, is eligible for a loan or grant under this section for the development or improvement of an intermodal transportation facility under this section provided that:

(a) the port authority is included in the state transportation planning process as described in 23 U.S.C. 135; and

(b) the intermodal transportation facility for which a loan or grant is sought is integrally related to the railroad transportation system of the state.

~~NEW SECTION. Section 8. Three-fifths vote required. Because section 11 diverts highway revenue for nonhighway purposes, Article VIII, section 6, of the Montana constitution requires a vote of three-fifths of the members of each house of the legislature for passage.~~

NEW SECTION. Section 6. Codification instruction.
[Section 7 5] is intended to be codified as an integral part

of Title 60, chapter 11, part 1, and the provisions of Title 60, chapter 11, part 1, apply to [section 7 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

~~NEW SECTION. Section 11. Termination. This act terminates July 1, 2003.~~

-End-

SENATE BILL NO. 359

INTRODUCED BY NATHE, L. NELSON, HALLIGAN

A BILL FOR AN ACT ENTITLED: "AN ACT ENHANCING LOCAL RAIL TRANSPORTATION SERVICES IN MONTANA; PROVIDING LOANS AND GRANTS FOR THE CONTINUED OPERATION OF LOCAL RAIL FREIGHT TRANSPORTATION SERVICES AND FOR THE DEVELOPMENT AND IMPROVEMENT OF INTERMODAL TRANSPORTATION FACILITIES TO MITIGATE LONG-TERM HIGHWAY IMPACTS AND TO PROMOTE EFFICIENCY AND EFFECTIVENESS IN THE STATEWIDE TRANSPORTATION SYSTEM; INCREASING THE GASOLINE LICENSE TAX BY 1/2 CENT; DEPOSITING 1/2 CENT OF THE TAX COLLECTED ON EACH GALLON OF GASOLINE INTO THE SPECIAL RAILROAD FACILITIES AND INTERMODAL TRANSPORTATION FACILITIES ACCOUNT; AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO USE THE TAX PROCEEDS TO PROVIDE LOANS OR GRANTS TO CERTAIN RAILROADS AND PORT AUTHORITIES; AMENDING SECTIONS 15-70-101, 15-70-204, 60-11-111, 60-11-121, 60-11-122, AND 60-11-123, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

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

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

"15-70-101. Disposition of funds. All Except as provided in subsection (8), all taxes, interest, and penalties collected under this chapter, except those

collected by a justice's court, must be turned over promptly to the state treasurer, who shall place the money in the state special revenue fund to the credit of the department of transportation. Those funds allocated to cities, towns, and counties in this section must be paid by the department of transportation from the state special revenue fund to the cities, towns, and counties:

(1) \$14,000,000 of the funds collected under this chapter, except those collected by a justice's court, is statutorily appropriated, as provided in 17-7-502, to the department of transportation and must be allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (1)(a) through (1)(c):

(a) \$54,000 must be designated for the purposes and functions of the Montana rural technical assistance

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

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(a) \$54,000 must be designated for the purposes and functions of the Montana rural technical assistance transportation program in Bozeman;

(b) \$6,323,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the federal aid interstate system and the federal aid primary system, bears to the total rural road mileage in the state, exclusive of the federal aid

1 interstate-system-and-the-federal-aid-primary-system;
 2 (ii)-40%-in-the-ratio-that-the-rural-population-in-each
 3 county-outside-incorporated-cities-and-towns-bears-to-the
 4 total-rural-population-in-the-state-outside-incorporated
 5 cities-and-towns;
 6 (iii)-20%-in-the-ratio-that-the-land-area-of-each-county
 7 bears-to-the-total-land-area-of-the-state;
 8 (c)-\$7,623,000-must-be-divided-among-the-incorporated
 9 cities-and-towns-in-the-following-manner:
 10 (i)-50%-of-the-sum-in-the-ratio-that-the-population
 11 within-the-corporate-limits-of-the-city-or-town-bears-to-the
 12 total-population-within-corporate-limits-of-all-the-cities
 13 and-towns-in-Montana;
 14 (ii)-50%-in-the-ratio-that-the-city-or-town-street-and
 15 alley-mileage-exclusive-of-the-federal-aid-interstate
 16 system-and-the-federal-aid-primary-system-within-corporate
 17 limits-bears-to-the-total-street-and-alley-mileage,
 18 exclusive-of-the-federal-aid-interstate-system-and
 19 federal-aid-primary-system-within-the-corporate-limits-of
 20 all-cities-and-towns-in-Montana;
 21 (2)-All-funds-allocated-by-this-section-to-counties,
 22 cities-and-towns-must-be-used-for-the-construction,
 23 reconstruction,-maintenance,-and-repair-of-rural-roads-or
 24 city-or-town-streets-and-alleys-or-for-the-share-that-the
 25 city,-town,-or-county-might-otherwise-expend-for

1 proportionate-matching-of-federal-funds-allocated-for-the
 2 construction-of-roads-or-streets-that-are-part-of-the
 3 federal-aid-primary-or-secondary-highway-system-or-urban
 4 extensions-to-those-systems,-except-that-the-governing-body
 5 of-a-town-or-third-class-city,-as-defined-in-7-1-4111,-may
 6 each-year-expend-no-more-than-25%-of-the-funds-allocated-to
 7 that-town-or-third-class-city-for-the-purchase-of-capital
 8 equipment-and-supplies-to-be-used-for-the-maintenance-and
 9 repair-of-town-or-third-class-city-streets-and-alleys;
 10 (3)-All-funds-allocated-by-this-section-to-counties,
 11 cities,-and-towns-must-be-disbursed-to-the-lowest
 12 responsible-bidder-according-to-applicable-bidding
 13 procedures-followed-in-all-cases-in-which-the-contract-for
 14 construction,-reconstruction,-maintenance,-or-repair-is-in
 15 excess-of-\$4,000;
 16 (4)-For-the-purposes-of-this-section-in-which
 17 distribution-of-funds-is-made-on-a-basis-related-to
 18 population,-the-population-must-be-determined-by-the-last
 19 preceding-official-federal-census;
 20 (5)-For-the-purposes-of-this-section-in-which
 21 determination-of-mileage-is-necessary-for-distribution-of
 22 funds,-it-is-the-responsibility-of-the-cities,-towns,-and
 23 counties-to-furnish-to-the-department-of-transportation-a
 24 yearly-certified-statement-indicating-the-total-mileage
 25 within-their-respective-areas-applicable-to-this-chapter;

1 All-mileage submitted is subject to review and approval by
2 the department of transportation.

3 {6}--Except by a town or third-class city as provided in
4 subsection {2}, the funds authorized by this section may not
5 be used for the purchase of capital equipment.

6 {7}--Funds authorized by this section must be used for
7 construction and maintenance programs only.

8 {8}--One-half cent of the tax collected on each gallon
9 of gasoline, excluding the tax collected on aviation
10 gasoline, must be deposited in the special railroad
11 facilities and intermodal transportation facilities account
12 created in 60-11-122."

13 Section 2.--Section 15-70-204, MCA, is amended to read:--

14 "15-70-204.--Gasoline license tax-----rate:--(1)--Every
15 distributor shall pay to the department of transportation a
16 license tax for the privilege of engaging in and carrying on
17 business in this state in an amount equal to 1 cent for each
18 gallon of aviation gasoline, which shall must be allocated
19 to the department of transportation as provided by 67-1-301,
20 as amended, and 20 20-1/2 cents for each gallon of all other
21 gasoline distributed by him the distributor within the state
22 and upon which the gasoline license tax has not been paid by
23 any other distributor.

24 {2}--Gasoline exported shall may not be included in the
25 measure of the distributor's license tax.

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

5 Section 1. Section 60-11-111, MCA, is amended to read:

6 "60-11-111. Identification and acquisition of railroad
7 rights-of-way -- identification of railroad lines for
8 rehabilitation. (1) Identification of those railroad lines
9 proposed for abandonment in the state of Montana that may
10 have potential for local transportation service or future
11 use as transportation corridors is necessary to determine
12 the feasibility of acquisition by the state and to allow the
13 state to negotiate for acquisition of those railroad lines
14 or easements therein.

15 (2) Identification of those railroad branch lines in
16 the state that may have potential for local rail freight
17 transportation service is necessary to determine the
18 feasibility of providing loans or grants to the owner or
19 operator of the railroad line as provided in [section 7 5].

20 {2}{3} The department of transportation:

21 (a) shall identify railroad rights-of-way in this state
22 that may be abandoned and research the feasibility of
23 acquisition by the state of Montana of those rights-of-way
24 that may be abandoned;

25 (b) shall identify, under the state rail planning

program, railroad branch lines that should be preserved for continued operation;

(b)(c) shall report periodically to the legislative finance committee, created in 5-12-201, on the progress of the duties imposed upon it pursuant to subsection-(2)(a) subsections (3)(a) and (3)(b);

(c)(d) may negotiate for and acquire easements in the rights-of-way or the railroad rights-of-way and attendant facilities identified pursuant to subsection (2)(a) (3)(a) and:

(i) hold all such acquired lands in trust for transportation purposes; and

(ii) upon creation of an appropriate local authority, other than an agency of state government, shall transfer to such the local authority all attendant facilities and all rights and responsibility to operate and maintain transportation services over the lands acquired in subsection (2)(c)(3)(d); and

(d)(e) shall cooperate with and assist persons representing recreational, transportation, and utility interests and other interested persons, including adjacent landowners, in acquiring ownership or easement of abandoned railbeds; and

(f) shall establish procedures, including the use of federal funds received for rail freight assistance programs

under 49 U.S.C. 1654, for providing loans and grants under [section 7 5].

(3)(4) Abandoned rights-of-way acquired and held in trust pursuant to subsection (2)(c)(3)(d)(i) must be administered by the department of state lands, as prescribed in Title 77, until such-time--as the land is needed for transportation purposes."

Section 2. Section 60-11-121, MCA, is amended to read:

"60-11-121. Legislative findings. (1) The legislature finds that it is in the interests of the state of Montana to preserve and encourage, whenever possible, Montana's railroad transportation infrastructure, especially:

(a) those railroads classified as Class III carriers under 49 CFR, chapter 10, that operate mainly within the state; and

(b) those railroads within the state that are eligible for rail freight assistance programs under 49 U.S.C. 1654.

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(a) the railroad transportation infrastructure of the state is enhanced by the development and improvement of intermodal transportation facilities by port authorities created under Title 7, chapter 14, part 11; and

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NEW SECTION. Section 5. Railroad and intermodal transportation facility loans and grants -- authorization -- eligibility. (1) Money deposited in the special railroad facilities and intermodal transportation facilities account created in 60-11-122 ~~from the gasoline license tax, as provided in 15-70-101(8),~~ may be used by the department of transportation, after deducting the necessary costs and expenses for administering this section, to provide loans and grants for the preservation and continued operation of railroad branch lines identified in 60-11-111 and for the development and improvement of intermodal transportation facilities. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the special railroad facilities and intermodal transportation facilities account.

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~~NEW SECTION. Section 8. Three-fifths vote required. Because (section 1) diverts highway revenue for nonhighway purposes, Article VIII, section 6, of the Montana constitution requires a vote of three-fifths of the members of each house of the legislature for passage.~~

NEW SECTION. Section 6. Codification instruction. [Section 7 5] is intended to be codified as an integral part

of Title 60, chapter 11, part 1, and the provisions of Title 60, chapter 11, part 1, apply to [section 7 5].

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 1993.

~~NEW SECTION. Section 11. Termination. (This act) terminates July 1, 2003.~~

-End-