



MARCH 23, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED.

MARCH 28, 1991

FREE CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 3, 1991

ON MOTION, FREE CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 18, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 19, 1991

SECOND READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 19, 1991

FREE CONFERENCE COMMITTEE  
REPORT ADOPTED.

IN THE SENATE

APRIL 20, 1991

THIRD READING, FREE CONFERENCE  
COMMITTEE REPORT ADOPTED.

APRIL 22, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *SENATE* BILL NO. *77*  
 2 INTRODUCED BY *Kochubek, Anderson, Foster,*  
 3 *Swett, Blomquist, Reed, Strub*

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE  
 5 TERMINATION OF THE TAX INCENTIVE FOR PRODUCTION OF ALCOHOL  
 6 FOR BLENDING WITH GASOLINE UNTIL 2001; AND AMENDING SECTION  
 7 15-70-522, MCA."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 15-70-522, MCA, is amended to read:

11 "15-70-522. Tax incentive for production of alcohol.

12 (1) (a) Provided if the alcohol was produced in Montana from  
 13 Montana agricultural products, including Montana wood or  
 14 wood products, there is a tax incentive payable to alcohol  
 15 distributors for distilling alcohol that:

16 (i) was blended with gasoline for sale as gasohol in  
 17 Montana; or

18 (ii) was exported from Montana and has been blended with  
 19 gasoline for sale as gasohol.

20 (b) Payment shall must be made by the department of  
 21 revenue out of the amount collected under 15-70-204.

22 (2) Except as provided in subsections (3) through (5),  
 23 the tax incentive on each gallon of alcohol distilled in  
 24 accordance with subsection (1) is:

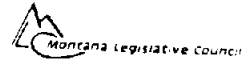
25 (a) beginning July 1, 1983, 70 cents per gallon;

1 (b) beginning April 1, 1985, 50 cents per gallon;  
 2 (c) beginning April 1, 1987, 30 cents per gallon; and  
 3 (d) beginning July 1, 1993 2001, and thereafter, there  
 4 is no tax incentive.

5 (3) The incentive schedule provided for in subsection  
 6 (2) ~~shall~~ must be modified in response to market conditions  
 7 as follows:

8 (a) If for any 2 consecutive calendar quarters ending  
 9 on or before September 30, 1984, the gallons of gasohol sold  
 10 or that have received the benefit of the tax incentive  
 11 during those quarters comprise 8% or more but less than 11%  
 12 of the total gallons of nonaviation gasoline and gasohol  
 13 sold in Montana, the tax incentive for alcohol ~~shall-be~~ is  
 14 50 cents per gallon, effective beginning the second calendar  
 15 quarter after the 2 consecutive calendar quarters during  
 16 which the gallons of gasohol sold or that have received the  
 17 benefit of the tax incentive during those quarters comprised  
 18 8% or more but less than 11% of the total gallons of  
 19 nonaviation gasoline and gasohol sold in Montana.

20 (b) If for any 2 consecutive calendar quarters ending  
 21 on or before September 30, 1986, the gallons of gasohol sold  
 22 or that have received the benefit of the tax incentive  
 23 during those quarters comprise 11% or more but less than 18%  
 24 of the total gallons of nonaviation gasoline and gasohol  
 25 sold in Montana, the tax incentive for alcohol ~~shall-be~~ is



1 30 cents per gallon, effective beginning the second calendar  
 2 quarter after the 2 consecutive calendar quarters during  
 3 which the gallons of gasohol sold or that have received the  
 4 benefit of the tax incentive during those quarters comprised  
 5 11% or more but less than 18% of the total gallons of  
 6 nonaviation gasoline and gasohol sold in Montana.

7 (c) If for any 2 consecutive calendar quarters ending  
 8 on or before September 30, 1988, the gallons of gasohol sold  
 9 or that have received the benefit of the tax incentive  
 10 during those quarters comprise 18% or more of the total  
 11 gallons of nonaviation gasoline and gasohol sold in Montana,  
 12 the tax incentive for alcohol shall must be eliminated,  
 13 effective beginning the second calendar quarter after the 2  
 14 consecutive quarters during which the gallons of gasohol  
 15 sold or that have received the benefit of the tax incentive  
 16 during those quarters comprised 18% or more of the total  
 17 gallons of nonaviation gasoline and gasohol sold in Montana.

18 (d) Each quarter, the department shall compute the  
 19 share of the total nonaviation gasoline and gasohol market  
 20 that is represented by gasohol, according to the information  
 21 contained in gasoline distributors' returns and the  
 22 applications for payment of the alcohol production tax  
 23 incentive. Alcohol that is exported from Montana and  
 24 eligible for the tax incentive must be included in the  
 25 computations.

1 (4) Regardless of the alcohol tax incentive provided in  
 2 subsection (2) or (3), the total payments made for the  
 3 incentive under this part may not exceed \$1,250,000 in any  
 4 consecutive 12-month period beginning April 1, 1985.

5 (5) No An alcohol distributor may not receive tax  
 6 incentive payments under subsection (2) that exceed  
 7 ~~\$1,000,000~~ \$1 million in any consecutive 12-month period  
 8 beginning April 1, 1985, except as follows. If total tax  
 9 incentive payments to all eligible alcohol distributors in  
 10 any consecutive 12-month period beginning April 1, 1985, do  
 11 not reach the percentage of production maximums in  
 12 subsection (3) or the maximum dollar amount in subsection  
 13 (4), an alcohol distributor who has received the maximum  
 14 payment of ~~\$1,000,000~~ \$1 million as herein provided in this  
 15 section may receive additional tax incentive payments  
 16 subject to the percentage of production maximums in  
 17 subsection (3) or the maximum dollar amount in subsection  
 18 (4)."

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0077, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act extending the termination of the tax incentive for production of alcohol for blending with gasoline until 2001.

FISCAL IMPACT:

This proposal would have no impact on state expenditures or revenues for the next biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The Department of Revenue does not have adequate information to predict the long-range effects of this proposal. In FY 90, \$360,000 in gasohol production tax incentives were paid. Under current law, the gasohol incentives are scheduled to be terminated beginning July 1, 1993. There is a cap of \$1,250,000 on incentive payments for any consecutive 12-month period.

  
ROD SUNDSTED, BUDGET DIRECTOR      1-16-91      DATE  
Office of Budget and Program Planning

  
FRANCIS KOEHNKE, PRIMARY SPONSOR      1/17/91      DATE

Fiscal Note for SB0077, as introduced

**SB 77**

APPROVED BY COMMITTEE  
ON TAXATION

SENATE BILL NO. 77

INTRODUCED BY KOEHNKE, SCHYE, ANDERSON, FOSTER, SWIFT,

BURNETT, REA, SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE  
TERMINATION OF THE TAX INCENTIVE FOR PRODUCTION OF ALCOHOL  
FOR BLENDING WITH GASOLINE UNTIL 2001; INCREASING THE  
MAXIMUM TOTAL INCENTIVE PAYMENTS IN ANY CONSECUTIVE 12-MONTH  
PERIOD TO \$6 MILLION; INCREASING THE MAXIMUM INCENTIVE  
PAYMENT TO AN ALCOHOL DISTRIBUTOR IN ANY CONSECUTIVE  
12-MONTH PERIOD TO \$1.5 MILLION; AND AMENDING SECTION  
15-70-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
AND A CONTINGENT RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol.

(1) (a) Provided If the alcohol was produced in Montana from  
Montana agricultural products, including Montana wood or  
wood products, there is a tax incentive payable to alcohol  
distributors for distilling alcohol that:

(i) was blended with gasoline for sale as gasohol in  
Montana; or

(ii) was exported from Montana and has been blended with  
gasoline for sale as gasohol.

(b) Payment ~~shall~~ must be made by the department of  
revenue out of the amount collected under 15-70-204.

(2) Except as provided in subsections ~~(3)~~ through (4)  
AND (5), the tax incentive on each gallon of alcohol  
distilled in accordance with subsection (1) is:

(a) beginning July 1, 1983, 70 cents per gallon;

(b) beginning April 1, 1985, 50 cents per gallon;

(c) beginning April 1, 1987, 30 cents per gallon; and

(d) beginning July 1, ~~1993~~ 2001, and thereafter, there  
is no tax incentive.

(3) ~~The incentive schedule provided for in subsection  
(2) shall must be modified in response to market conditions  
as follows:~~

~~(a) If for any 2 consecutive calendar quarters ending  
on or before September 30, 1984, the gallons of gasohol sold  
or that have received the benefit of the tax incentive  
during those quarters comprise 8% or more but less than 11%  
of the total gallons of nonaviation gasoline and gasohol  
sold in Montana, the tax incentive for alcohol shall be is  
50 cents per gallon, effective beginning the second calendar  
quarter after the 2 consecutive calendar quarters during  
which the gallons of gasohol sold or that have received the  
benefit of the tax incentive during those quarters comprised  
8% or more but less than 11% of the total gallons of  
nonaviation gasoline and gasohol sold in Montana.~~



1 (b) ~~if for any 2 consecutive calendar quarters ending~~  
 2 ~~on or before September 30, 1986, the gallons of gasohol sold~~  
 3 ~~or that have received the benefit of the tax incentive~~  
 4 ~~during those quarters comprise 11% or more but less than 18%~~  
 5 ~~of the total gallons of nonaviation gasoline and gasohol~~  
 6 ~~sold in Montana, the tax incentive for alcohol shall be is~~  
 7 ~~30 cents per gallon, effective beginning the second calendar~~  
 8 ~~quarter after the 2 consecutive calendar quarters during~~  
 9 ~~which the gallons of gasohol sold or that have received the~~  
 10 ~~benefit of the tax incentive during those quarters comprised~~  
 11 ~~11% or more but less than 18% of the total gallons of~~  
 12 ~~nonaviation gasoline and gasohol sold in Montana.~~

13 (c) ~~if for any 2 consecutive calendar quarters ending~~  
 14 ~~on or before September 30, 1988, the gallons of gasohol sold~~  
 15 ~~or that have received the benefit of the tax incentive~~  
 16 ~~during those quarters comprise 18% or more of the total~~  
 17 ~~gallons of nonaviation gasoline and gasohol sold in Montana,~~  
 18 ~~the tax incentive for alcohol shall must be eliminated,~~  
 19 ~~effective beginning the second calendar quarter after the 2~~  
 20 ~~consecutive quarters during which the gallons of gasohol~~  
 21 ~~sold or that have received the benefit of the tax incentive~~  
 22 ~~during those quarters comprised 18% or more of the total~~  
 23 ~~gallons of nonaviation gasoline and gasohol sold in Montana.~~

24 (d) Each quarter, the department shall compute the  
 25 share of the total nonaviation gasoline and gasohol market

1 that is represented by gasohol, according to the information  
 2 contained in gasoline distributors' returns and the  
 3 applications for payment of the alcohol production tax  
 4 incentive. Alcohol that is exported from Montana and  
 5 eligible for the tax incentive must be included in the  
 6 computations.

7 (4) Regardless of the alcohol tax incentive provided in  
 8 subsection (2) or (3), the total payments made for the  
 9 incentive under this part may not exceed \$1,250,000 \$6  
 10 MILLION in any consecutive 12-month period beginning April  
 11 1, 1985.

12 (5) No An alcohol distributor may not receive tax  
 13 incentive payments under subsection (2) that exceed  
 14 \$1,000,000 \$1 million \$1.5 MILLION in any consecutive  
 15 12-month period beginning April 1, 1985, except as follows.  
 16 If total tax incentive payments to all eligible alcohol  
 17 distributors in any consecutive 12-month period beginning  
 18 April 1, 1985, do not reach the percentage of production  
 19 maximums in subsection (3) or the maximum dollar amount in  
 20 subsection (4), an alcohol distributor who has received the  
 21 maximum payment of \$1,000,000 \$1 million \$1.5 MILLION as  
 22 herein provided in this section may receive additional tax  
 23 incentive payments subject to the percentage of production  
 24 maximums in subsection (3) or the maximum dollar amount in  
 25 subsection (4)."

1        NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS  
2        EFFECTIVE ON PASSAGE AND APPROVAL.

3        NEW SECTION. SECTION 3. CONTINGENT                      RETROACTIVE  
4        APPLICABILITY. IF [THIS ACT] IS PASSED AND APPROVED AFTER  
5        APRIL 1, 1991, THE PROVISIONS OF [THIS ACT] APPLY  
6        RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO APRIL 1,  
7        1991.

-End-



SENATE BILL NO. 77

INTRODUCED BY KOEHNKE, SCHYE, ANDERSON, FOSTER, SWIFT,  
BURNETT, REA, SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE  
TERMINATION OF THE TAX INCENTIVE FOR PRODUCTION OF ALCOHOL  
FOR BLENDING WITH GASOLINE UNTIL 2001; INCREASING THE  
MAXIMUM TOTAL INCENTIVE PAYMENTS IN ANY CONSECUTIVE 12-MONTH  
PERIOD TO \$6 MILLION; INCREASING THE MAXIMUM INCENTIVE  
PAYMENT TO AN ALCOHOL DISTRIBUTOR IN ANY CONSECUTIVE  
12-MONTH PERIOD TO \$1.5 MILLION; AND AMENDING SECTION  
15-70-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
AND A CONTINGENT RETROACTIVE APPLICABILITY DATE."

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

**Section 1.** Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol.

(1) (a) Provided If the alcohol was produced in Montana from  
Montana agricultural products, including Montana wood or  
wood products, there is a tax incentive payable to alcohol  
distributors for distilling alcohol that:

(i) was blended with gasoline for sale as gasohol in  
Montana; or

(ii) was exported from Montana and has been blended with  
gasoline for sale as gasohol.

(b) Payment ~~shall~~ must be made by the department of  
revenue out of the amount collected under 15-70-204.

(2) Except as provided in subsections ~~(3)~~ through (4)  
AND (5), the tax incentive on each gallon of alcohol  
distilled in accordance with subsection (1) is:

- (a) beginning July 1, 1983, 70 cents per gallon;
- (b) beginning April 1, 1985, 50 cents per gallon;
- (c) beginning April 1, 1987, 30 cents per gallon; and
- (d) beginning July 1, ~~1993~~ 2001, and thereafter, there

is no tax incentive.

~~(3) The incentive schedule provided for in subsection  
(2) shall must be modified in response to market conditions  
as follows:~~

~~(a) If for any 2 consecutive calendar quarters ending  
on or before September 30, 1984, the gallons of gasohol sold  
or that have received the benefit of the tax incentive  
during those quarters comprise 8% or more but less than 11%  
of the total gallons of nonaviation gasoline and gasohol  
sold in Montana, the tax incentive for alcohol shall be is  
50 cents per gallon, effective beginning the second calendar  
quarter after the 2 consecutive calendar quarters during  
which the gallons of gasohol sold or that have received the  
benefit of the tax incentive during those quarters comprised  
8% or more but less than 11% of the total gallons of  
nonaviation gasoline and gasohol sold in Montana.~~

THIRD READING



1 {b}--if--for--any--2--consecutive--calendar--quarters--ending  
 2 on--or--before--September--30,--1986,--the--gallons--of--gasohol--sold  
 3 or--that--have--received--the--benefit--of--the--tax--incentive  
 4 during--those--quarters--comprise--11%--or--more--but--less--than--18%  
 5 of--the--total--gallons--of--nonaviation--gasoline--and--gasohol  
 6 sold--in--Montana,--the--tax--incentive--for--alcohol--shall--be is  
 7 30--cents--per--gallon, effective beginning--the--second--calendar  
 8 quarter--after--the--2--consecutive--calendar--quarters--during  
 9 which--the--gallons--of--gasohol--sold--or--that--have--received--the  
 10 benefit--of--the--tax--incentive--during--those--quarters--comprised  
 11 11%--or--more--but--less--than--18%--of--the--total--gallons--of  
 12 nonaviation--gasoline--and--gasohol--sold--in--Montana;

13 {c}--if--for--any--2--consecutive--calendar--quarters--ending  
 14 on--or--before--September--30,--1988,--the--gallons--of--gasohol--sold  
 15 or--that--have--received--the--benefit--of--the--tax--incentive  
 16 during--those--quarters--comprise--18%--or--more--of--the--total  
 17 gallons--of--nonaviation--gasoline--and--gasohol--sold--in--Montana,  
 18 the--tax--incentive--for--alcohol shall must be--eliminated,  
 19 effective--beginning--the--second--calendar--quarter--after--the--2  
 20 consecutive--quarters--during--which--the--gallons--of--gasohol  
 21 sold--or--that--have--received--the--benefit--of--the--tax--incentive  
 22 during--those--quarters--comprised--18%--or--more--of--the--total  
 23 gallons--of--nonaviation--gasoline--and--gasohol--sold--in--Montana;

24 {d} Each quarter, the department shall compute the  
 25 share of the total nonaviation gasoline and gasohol market

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 8 subsection (2) or (3), the total payments made for the  
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 10 MILLION in any consecutive 12-month period beginning April  
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 15 12-month period beginning April 1, 1985, except as follows.  
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 18 April 1, 1985, do not reach the percentage of production  
 19 maximums in subsection (3) or the maximum dollar amount in  
 20 subsection (4), an alcohol distributor who has received the  
 21 maximum payment of \$1,000,000 \$1--million \$1.5 MILLION as  
 22 herein provided in this section may receive additional tax  
 23 incentive payments subject to the percentage of production  
 24 maximums in subsection (3) or the maximum dollar amount in  
 25 subsection (4)."

SB 0077/02

1        NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS  
2        EFFECTIVE ON PASSAGE AND APPROVAL.  
3        NEW SECTION. SECTION 3. CONTINGENT                      RETROACTIVE  
4        APPLICABILITY. IF [THIS ACT] IS PASSED AND APPROVED AFTER  
5        APRIL 1, 1991, THE PROVISIONS OF [THIS ACT] APPLY  
6        RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO APRIL 1,  
7        1991.

-End-

#1

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 77  
Representative Schye

March 7, 1991 3:13 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 77 (third reading copy -- blue).

Signed: *Ad Schye*  
Representative Schye

And, that such amendments to Senate Bill 77 read as follows:

- 1. Page 4, lines 18 and 19.  
Strike: "the percentage of production maximums in subsection (3) or"
- 2. Page 4, lines 23 and 24.  
Strike: "the percentage of production maximums in subsection (3) or"

ADOPT

REJECT

HOUSE

SB 77

SENATE BILL NO. 77

INTRODUCED BY KOEHNKE, SCHYE, ANDERSON, FOSTER, SWIFT,  
BURNETT, REA, SVRCEK

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING THE  
TERMINATION OF THE TAX INCENTIVE FOR PRODUCTION OF ALCOHOL  
FOR BLENDING WITH GASOLINE UNTIL 2001; INCREASING THE  
MAXIMUM TOTAL INCENTIVE PAYMENTS IN ANY CONSECUTIVE 12-MONTH  
PERIOD TO \$6 MILLION; INCREASING THE MAXIMUM INCENTIVE  
PAYMENT TO AN ALCOHOL DISTRIBUTOR IN ANY CONSECUTIVE  
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**Section 1.** Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol.

(1) (a) Provided If the alcohol was produced in Montana from  
Montana agricultural products, including Montana wood or  
wood products, there is a tax incentive payable to alcohol  
distributors for distilling alcohol that:

(i) was blended with gasoline for sale as gasohol in  
Montana; or

(ii) was exported from Montana and has been blended with  
gasoline for sale as gasohol.

(b) Payment ~~shall~~ must be made by the department of  
revenue out of the amount collected under 15-70-204.

(2) Except as provided in subsections ~~(3)~~ through (4)  
AND (5), the tax incentive on each gallon of alcohol  
distilled in accordance with subsection (1) is:

- (a) beginning July 1, 1983, 70 cents per gallon;
- (b) beginning April 1, 1985, 50 cents per gallon;
- (c) beginning April 1, 1987, 30 cents per gallon; and
- (d) beginning July 1, ~~1993~~ 2001, and thereafter, there  
is no tax incentive.

(3) ~~The incentive schedule provided for in subsection  
(2) shall must be modified in response to market conditions  
as follows:~~

~~(a) If for any 2 consecutive calendar quarters ending  
on or before September 30, 1984, the gallons of gasohol sold  
or that have received the benefit of the tax incentive  
during those quarters comprise 8% or more but less than 11%  
of the total gallons of nonaviation gasoline and gasohol  
sold in Montana, the tax incentive for alcohol shall be is  
50 cents per gallon, effective beginning the second calendar  
quarter after the 2 consecutive calendar quarters during  
which the gallons of gasohol sold or that have received the  
benefit of the tax incentive during those quarters comprised  
8% or more but less than 11% of the total gallons of  
nonaviation gasoline and gasohol sold in Montana;~~

REFERENCE BILL



~~(b) If for any 2 consecutive calendar quarters ending on or before September 30, 1986, the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for alcohol shall be is 30 cents per gallon, effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold in Montana.~~

~~(c) If for any 2 consecutive calendar quarters ending on or before September 30, 1988, the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprise 18% or more of the total gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for alcohol shall must be eliminated, effective beginning the second calendar quarter after the 2 consecutive quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 18% or more of the total gallons of nonaviation gasoline and gasohol sold in Montana.~~

(d) Each quarter, the department shall compute the share of the total nonaviation gasoline and gasohol market

that is represented by gasohol, according to the information contained in gasoline distributors' returns and the applications for payment of the alcohol production tax incentive. Alcohol that is exported from Montana and eligible for the tax incentive must be included in the computations.

(4) Regardless of the alcohol tax incentive provided in subsection (2) or (3), the total payments made for the incentive under this part may not exceed ~~\$1,250,000~~ \$5 MILLION in any consecutive 12-month period beginning April 1, 1985.

(5) No An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed ~~\$1,000,000~~ \$1 million \$1.5 MILLION in any consecutive 12-month period beginning April 1, 1985, except as follows. If total tax incentive payments to all eligible alcohol distributors in any consecutive 12-month period beginning April 1, 1985, do not reach the ~~percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4), an alcohol distributor who has received the maximum payment of \$1,000,000~~ \$1 million \$1.5 MILLION as herein provided in this section may receive additional tax incentive payments subject to the ~~percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4).~~

SB 0077/03

1        NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS  
2        EFFECTIVE ON PASSAGE AND APPROVAL.

3        NEW SECTION. SECTION 3. CONTINGENT                      RETROACTIVE  
4        APPLICABILITY. IF [THIS ACT] IS PASSED AND APPROVED AFTER  
5        APRIL 1, 1991, THE PROVISIONS OF [THIS ACT] APPLY  
6        RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO APRIL 1,  
7        1991.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 77, met and considered Senate Bill No. 77 (reference copy - salmon) and recommend that it be amended as follows:

1. Title, line 7.  
Following: "2001;"  
Insert: "REVISING THE DEFINITION OF ALCOHOL DISTRIBUTOR;"
2. Title, line 11.  
Following: "MILLION;"  
Insert: "PROVIDING FOR THE RESERVATION OF TAX INCENTIVES;"  
Strike: "SECTION"  
Insert: "SECTIONS 15-70-503 AND"
3. Page 1, line 15.  
Following: line 14  
Insert: " STATEMENT OF INTENT"  
A statement of intent is required for this bill because [section 2(10)] grants rulemaking authority to the department of revenue to allow the reservation of alcohol tax incentives for alcohol distributors who begin production after July 1, 1991, and to reduce or cancel those incentives if a new alcohol distributor does not comply with the written plan. The legislature intends that the department adopt rules that specify the information that must be contained in the written plan. The department shall also develop procedures to verify that the alcohol distributor has obtained financing for the acquisition of the plant, land, and equipment and has secured an adequate supply of agricultural products for the production of alcohol. The rules may include procedures for the review of a new alcohol distributor's business plan or prospectus, architectural plans, and process flows. The department shall also develop procedures for reducing or canceling the reservation of alcohol tax incentives if the department determines that the new alcohol distributor does not comply with the written plan.
4. Page 1, line 16.  
Following: line 15  
Insert: "Section 1. Section 15-70-503, MCA, is amended to read: "15-70-503. Definitions. As used in this part, the definitions in 15-70-201 and the following definitions apply:  
(1) "Alcohol distributor" means any person who, for the purpose of making gasohol—  
(a) engages in the business of producing alcohol for sale, use, or distribution; or  
(b) imports alcohol for sale, use, or distribution.

- (2) "Department" means the department of revenue.
  - (3) "Export" means to transport out of Montana from any point of origin within Montana by any means other than in the fuel supply tank of a motor vehicle.
  - (4) "Gasohol dealer" means any person who blends alcohol with gasoline to produce gasohol for sale, use, or distribution in this state."
- Renumber: subsequent sections
5. Page 1, line 17.  
Following: "alcohol"  
Insert: "-- written plan required -- reservation of incentives -- rules"
  6. Page 1, line 20.  
Following: "products,"  
Insert: "or if the alcohol was produced from non-Montana agricultural products when Montana products are not available,"
  7. Page 1, line 23.  
Strike: "or"
  8. Page 1, line 25.  
Following: "gasohol"  
Insert: "; or"  
(iii) was used in the production of ethyl butyl ether for use in reformulated gasoline
  9. Page 2, line 11 through page 4, line 6.  
Strike: subsection 3 in its entirety  
Renumber: subsequent subsections
  10. Page 4, line 8.  
Strike: "or (3)"
  11. Page 4, lines 15 through 25.  
Strike: ", except" on line 15 through "(4)" on line 25
  12. Page 5, line 1.  
Following: page 4, line 25  
Insert: "(5) An alcohol distributor who begins production after July 1, 1991, may not receive tax incentive payments under subsection (2) unless he has provided a written plan to the department of revenue at least 18 months before his anticipated collection of the tax incentives. The plan must contain the following information:  
(a) the source or sources of financing for the acquisition of the plant, land, and equipment used for the production of gasohol;  
(b) the anticipated source of agricultural products used in the production of gasohol; and

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(c) the anticipated time, quantity, and duration of production of gasohol.

(6) The department shall provide to the department of highways the information received from the alcohol distributor under subsection (5).

(7) An alcohol distributor in production before July 1, 1991, is entitled to apply for the maximum tax incentive payment allowed under subsection (4) without providing a written plan as required in subsection (5).

(8)(a) Except as provided in subsection (8)(b), the department shall reserve, in the order that written plans required under subsection (5) are received by the department, alcohol tax incentives based on the anticipated time, quantity, and duration of production. Payment of the alcohol tax incentives must be based on actual production.

(b) No later than 1 year after the written plan is received under subsection (5), the department shall determine whether an alcohol distributor is complying with the written plan. The department may reduce or cancel the reservation of the tax incentive provided in this subsection if the department determines that the alcohol distributor has not materially complied with the written plan.

(9) A new tax incentive payment may not be made if the total tax incentive established in subsection (3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which the tax incentive has been reduced or canceled is available for reservation as provided in subsection (8)(a).

(10) The department shall prescribe rules necessary to carry out the provisions of this section."

And that this Free Conference Committee report be adopted.

For the Senate:

*Sen. Koehnke*  
Chair, Sen. Koehnke

*Sen. Tveit*  
Sen. Tveit

*Sen. Svrcek*  
Sen. Svrcek

For the House:

*Rep. Schye*  
Chair, Rep. Schye

*Rep. L. Nelson*  
Rep. L. Nelson

*Rep. Foster*  
Rep. Foster

*4-18-91*  
Ad. Coord.

*SP 4/18*  
Sec. of Senate



AN ACT EXTENDING THE TERMINATION OF THE TAX INCENTIVE FOR PRODUCTION OF ALCOHOL FOR BLENDING WITH GASOLINE UNTIL 2001; REVISING THE DEFINITION OF ALCOHOL DISTRIBUTOR; INCREASING THE MAXIMUM TOTAL INCENTIVE PAYMENTS IN ANY CONSECUTIVE 12-MONTH PERIOD TO \$6 MILLION; INCREASING THE MAXIMUM INCENTIVE PAYMENT TO AN ALCOHOL DISTRIBUTOR IN ANY CONSECUTIVE 12-MONTH PERIOD TO \$1.5 MILLION; PROVIDING FOR THE RESERVATION OF TAX INCENTIVES; AMENDING SECTIONS 15-70-503 AND 15-70-522, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A CONTINGENT RETROACTIVE APPLICABILITY DATE.

#### STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2(10)] grants rulemaking authority to the department of revenue to allow the reservation of alcohol tax incentives for alcohol distributors who begin production after July 1, 1991, and to reduce or cancel those incentives if a new alcohol distributor does not comply with the written plan. The legislature intends that the department adopt rules that specify the information that must be contained in the written plan. The department shall also develop procedures to verify that the alcohol distributor has obtained financing for the acquisition of the plant, land, and equipment and has secured an adequate supply of agricultural products for the production of alcohol. The rules may include procedures for the review of a new alcohol distributor's business plan or prospectus, architectural plans, and process flows. The

department shall also develop procedures for reducing or canceling the reservation of alcohol tax incentives if the department determines that the new alcohol distributor does not comply with the written plan.

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

Section 1. Section 15-70-503, MCA, is amended to read:

"15-70-503. Definitions. As used in this part, the definitions in 15-70-201 and the following definitions apply:

(1) "Alcohol distributor" means any person who, for the purpose of making gasohol:

(a) engages in the business of producing alcohol for sale, use, or distribution; ~~or~~

~~(b) imports alcohol for sale, use, or distribution.~~

(2) "Department" means the department of revenue.

(3) "Export" means to transport out of Montana from any point of origin within Montana by any means other than in the fuel supply tank of a motor vehicle.

(4) "Gasohol dealer" means any person who blends alcohol with gasoline to produce gasohol for sale, use, or distribution in this state."

Section 2. Section 15-70-522, MCA, is amended to read:

"15-70-522. Tax incentive for production of alcohol ~~is~~ written plan required -- reservation of incentives -- rules.

(1) (a) Provided If the alcohol was produced in Montana from

Montana agricultural products, including Montana wood or wood products, or if the alcohol was produced from non-Montana agricultural products when Montana products are not available, there is a tax incentive payable to alcohol distributors for distilling alcohol that:

(i) was blended with gasoline for sale as gasohol in Montana;  
or

(ii) was exported from Montana and has been blended with gasoline for sale as gasohol; or

(iii) was used in the production of ethyl butyl ether for use in reformulated gasoline.

(b) Payment shall must be made by the department of revenue out of the amount collected under 15-70-204.

(2) Except as provided in subsections ~~(3)~~ through ~~(4)~~ and (5), the tax incentive on each gallon of alcohol distilled in accordance with subsection (1) is:

- (a) beginning July 1, 1983, 70 cents per gallon;
- (b) beginning April 1, 1985, 50 cents per gallon;
- (c) beginning April 1, 1987, 30 cents per gallon; and
- (d) beginning July 1, ~~1993~~ 2001, and thereafter, there is no tax incentive.

~~(3) The incentive schedule provided for in subsection (2) shall be modified in response to market conditions as follows:~~

~~(a) If for any 2 consecutive calendar quarters ending on or before September 30, 1987, the gallons of gasohol sold or that~~

~~have received the benefit of the tax incentive during those quarters comprise 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for alcohol shall be 50 cents per gallon, effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold in Montana;~~

~~(b) If for any 2 consecutive calendar quarters ending on or before September 30, 1987, the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for alcohol shall be 30 cents per gallon, effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold in Montana;~~

~~(c) If for any 2 consecutive calendar quarters ending on or before September 30, 1987, the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprise 18% or more of the total gallons of nonaviation gasoline and gasohol sold in Montana, the tax incentive for~~

alcohol shall be eliminated effective beginning the second calendar quarter after the 2 consecutive quarters during which the gallons of gasohol sold or that have received the benefit of the tax incentive during those quarters comprised 18% or more of the total gallons of nonaviation gasoline and gasohol sold in Montana.

(d) Each quarter, the department shall compute the share of the total nonaviation gasoline and gasohol market that is represented by gasohol, according to the information contained in gasoline distributors' returns and the applications for payment of the alcohol production tax incentive. Alcohol that is exported from Montana and eligible for the tax incentive must be included in the computations.

(4)(3) Regardless of the alcohol tax incentive provided in subsection (2) or (3), the total payments made for the incentive under this part may not exceed \$1,250,000 \$6 million in any consecutive 12-month period beginning April 1, 1985.

(5)(4) No An alcohol distributor may not receive tax incentive payments under subsection (2) that exceed \$1,000,000 \$1.5 million in any consecutive 12-month period beginning April 1, 1985, except as follows: If total tax incentive payments to all eligible alcohol distributors in any consecutive 12-month period beginning April 1, 1985, do not reach the percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4), an alcohol distributor who has received the maximum payment of \$1,000,000 as herein provided may receive

additional tax incentive payments subject to the percentage of production maximums in subsection (3) or the maximum dollar amount in subsection (4).

(5) An alcohol distributor who begins production after July 1, 1991, may not receive tax incentive payments under subsection (2) unless he has provided a written plan to the department of revenue at least 18 months before his anticipated collection of the tax incentives. The plan must contain the following information:

(a) the source or sources of financing for the acquisition of the plant, land, and equipment used for the production of gasohol;

(b) the anticipated source of agricultural products used in the production of gasohol; and

(c) the anticipated time, quantity, and duration of production of gasohol.

(6) The department shall provide to the department of highways the information received from the alcohol distributor under subsection (5).

(7) An alcohol distributor in production before July 1, 1991, is entitled to apply for the maximum tax incentive payment allowed under subsection (4) without providing a written plan as required in subsection (5).

(8) (a) Except as provided in subsection (8)(b), the department shall reserve, in the order that written plans required under subsection (5) are received by the department, alcohol tax

incentives based on the anticipated time, quantity, and duration of production. Payment of the alcohol tax incentives must be based on actual production.

(b) No later than 1 year after the written plan is received under subsection (5), the department shall determine whether an alcohol distributor is complying with the written plan. The department may reduce or cancel the reservation of the tax incentive provided in this subsection if the department determines that the alcohol distributor has not materially complied with the written plan.

(9) A new tax incentive payment may not be made if the total tax incentive established in subsection (3) has been reserved or paid. If an alcohol tax incentive has been reduced or canceled, the amount by which the tax incentive has been reduced or canceled is available for reservation as provided in subsection (8)(a).

(10) The department shall prescribe rules necessary to carry out the provisions of this section."

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Contingent retroactive applicability. If [this act] is passed and approved after April 1, 1991, the provisions of [this act] apply retroactively within the meaning of 1-2-109, to April 1, 1991.