

1 House BILL NO. 240
 2 INTRODUCED BY Frank

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 84-1855, R.C.M. 1947, TO AUTHORIZE CLAIMS FOR REFUND OF THE
 6 STATE GASOLINE LICENSE TAX BY CERTAIN SCHOOL DISTRICTS."

7
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Section 34-1855, R.C.M. 1947, is amended to
 10 read as follows:

11 "84-1855. Refund of gasoline license tax--procedure.

12 (1) Any person who shall purchase and use any gasoline, on
 13 which the Montana gasoline license tax has been paid, for
 14 operating or propelling stationary gasoline engines,
 15 tractors used off the public highways and streets,
 16 motorboats, or for cleaning or dyeing, or for any commercial
 17 use other than propelling vehicles upon any of the public
 18 highways or streets of this state, shall be allowed a refund
 19 of the amount of tax paid directly or indirectly on the
 20 gasoline so used. Provided, that such refund or drawback
 21 should in no instance exceed the tax paid or to be paid, to
 22 the state of Montana [, and no refund shall be allowed of
 23 that portion of the tax per gallon upon aviation gasoline
 24 allocated to the board of aeronautics by section 1-501,
 25 R.C.M. 1947].

1 Any distributor paying the gasoline license tax to this
 2 state erroneously shall be allowed a credit or refund of the
 3 amount of tax so paid.

4 (2) The application for refund shall be a signed
 5 statement on a form furnished by the Department, accompanied
 6 by the original invoice or invoices issued to the claimant
 7 at the time of purchase and delivery, showing the total
 8 amount of gasoline purchased, the total amount of gasoline
 9 on which a refund is claimed, and the amount of the tax
 10 claimed for refund. Such further information pertaining to
 11 such claim shall be furnished as required by the department,
 12 provided that gallons of gasoline used off the roadways,
 13 where not verifiable by records of actual use, may be
 14 estimated by the applicant according to the following
 15 schedule:

16 (a) on the first one thousand (1,000) gallons of
 17 gasoline purchased, or any part thereof, forty-five per cent
 18 (45%) of gasoline purchased.

19 (b) on the next one thousand (1,000) gallons of
 20 gasoline purchased, or any part thereof, sixty per cent
 21 (60%) of gasoline purchased.

22 (c) on the next one thousand (1,000) gallons of
 23 gasoline purchased, or any part thereof, sixty-five per cent
 24 (65%) of gasoline purchased.

25 (d) on any gasoline purchased in excess of three

1 thousand (3,000) gallons, seventy per cent (70%) of gasoline
2 purchased.

3 If any invoice is either lost or destroyed, the
4 purchaser may support his claim for refund by submitting an
5 affidavit relating the circumstances of such loss or
6 destruction and by producing such other evidence as may be
7 required by the department.

8 (3) Any applicant who does not elect to estimate the
9 off-highway use of gasoline according to the schedule in
10 subsection (2) shall maintain records as provided for in
11 this subsection.

12 (a) Highway and off-highway use of gasoline from common
13 storage. Gasoline purchased and delivered into bulk storage
14 for use in motor vehicles on public roads and nonhighway use
15 must be fully accounted for by detail withdrawal records to
16 accurately show the manner in which used. Gasoline on hand,
17 determined by actual measurement, shall be deducted from a
18 claim and shall be reported as an opening inventory on the
19 next claim. Credit for the inventory is allowed on the next
20 claim if filed within fourteen (14) months from the filing
21 date of the claim which established the inventory.

22 (b) Highway and off-highway use of gasoline from
23 separate storage. If separate storage tanks are maintained
24 for highway use and off-highway use, the bulk purchase
25 invoices shall be so marked by the dealer at the time of

1 delivery. No further record is required, provided that no
2 gasoline is withdrawn from the off-highway tank for licensed
3 vehicles. Withdrawal of gasoline from the off-highway tank
4 for licensed vehicles will invalidate this method of
5 determining refundable gallonage.

6 (c) Use of gasoline from restricted use storage.
7 Special storage facilities in the woods, or in farm fields,
8 or for other uses for certain periods, must be identified
9 and explained. If such storage is used entirely for
10 off-highway purposes and is not used in licensed vehicles,
11 no records will be required other than purchase invoices
12 showing the delivery into such storage.

13 (d) Gasoline purchased for other than bulk storage.
14 Fuel purchased in small containers for nonhighway use must
15 be identified on the purchase invoice and no further record
16 is required.

17 (e) Resellers. Service stations, bulk dealers and
18 marinas must prepare a separate and complete invoice for
19 each withdrawal of gasoline for own use upon which a refund
20 is to be claimed.

21 (f) Proof of highway use. When no highway use of
22 gasoline is deducted from the claim, the applicant must
23 substantiate purchases of gasoline and miles traveled for
24 licensed motor vehicles upon request of the department.

25 (g) Any person who operates a licensed motor vehicle on

1 and off the public roads for commercial purposes may claim
 2 refund of the state license tax on the gasoline used to
 3 operate the vehicle on roads or property in private
 4 ownership, if such person has maintained the following
 5 records:

6 (i) the total number of highway miles operated by each
 7 licensed motor vehicle, including private passenger cars;

8 (ii) total gallons of gasoline used in each vehicle to
 9 include both refund and nonrefund use;

10 (iii) purchase invoices supporting all gasoline handled
 11 through bulk storage, as well as all fuels purchased at
 12 service stations or received from other sources. Highway
 13 use for each vehicle may be determined by actual
 14 measurement, or may be computed by dividing the average
 15 miles per gallon highway operation consumption rate into the
 16 number of highway miles operated.

17 (4) A school district that operates a school bus, as
 18 defined by section 75-7002, that is owned by a school
 19 district or other public agency may claim a refund of the
 20 state license tax on the gasoline used for transporting
 21 pupils to or from school or to or from school functions.

22 ~~(4)~~ (5) All applications for refunds shall be filed
 23 with the department of revenue within fourteen (14) months
 24 after the date on which the gasoline was purchased as shown
 25 by invoices or after the date on which the tax was

1 erroneously paid. Provided, however, that a distributor may
 2 file a claim for refund of taxes erroneously paid within
 3 three (3) years after the date of such erroneous payment.
 4 The department shall have one hundred twenty (120) days
 5 after receiving the claim to approve or reject it. If
 6 approved, the department shall issue a credit in lieu of
 7 refund for the amount of the claim, if the claimant is a
 8 distributor. For all other persons, a warrant shall be
 9 drawn upon the state treasurer for the amount of the claim.

10 ~~(5)~~ (6) Should the department of revenue find that the
 11 statement contains errors which are not fraudulently
 12 inserted, it may correct the statement and approve it as
 13 corrected, or the department may require the claimant to
 14 file an amended statement. If the state department of
 15 revenue determines that any claim has been fraudulently
 16 presented or is supported by invoice or invoices
 17 fraudulently made or altered or that any statement in the
 18 claim or affidavit is willfully false and made for the
 19 purpose of misleading, the department may reject such claim
 20 in full. If a claim is rejected, the department may suspend
 21 claimant's right to refund for a period not to exceed one
 22 (1) year.

23 ~~(6)~~ (7) Any person, other than a licensed distributor,
 24 shall obtain a license from the state department of revenue
 25 prior to selling gasoline on which a refund may be claimed.

1 The application for license shall contain the applicant's
2 name, address, place or places of business in the state of
3 Montana, and other information which may be required by the
4 department. Licenses issued shall bear a license number and
5 the date of issuance. The department shall keep a record of
6 all licenses issued, canceled, or suspended. A
7 nontransferable license shall be issued for three (3) years
8 upon payment of a fee of three dollars (\$3). Licenses must
9 be renewed and the fee paid every three (3) years from date
10 of issuance.

11 Any person failing to comply with this subsection shall
12 be subject to a fine of not less than twenty-five dollars
13 (\$25) or more than two hundred dollars (\$200) or
14 imprisonment in the county jail for a period not less than
15 ten (10) days or more than sixty (60) days, or both fine and
16 imprisonment."

-End-

STATE OF MONTANA

REQUEST NO. 88-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 75, there is hereby submitted a Fiscal Note for House Bill 240 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 240 authorizes claims for refund of the state gasoline license tax by certain school districts.

ASSUMPTIONS:

- 1. There are presently 578 school buses operated by school districts in Montana.
2. The average school bus travels 70 miles per day, 180 days per year, using an average of 7 MPG of gasoline.
3. Present state gasoline tax rate is 7 cents per gallon.

FISCAL IMPACT:

Table with 3 columns: Description, FY 76, FY 77. Rows include estimated revenue from existing law, proposed law, and estimated decrease in revenue.

LOCAL IMPACT:

The savings to particular school districts should be reflected in lower school mill levies.

CONCLUSIONS:

Enactment of House Bill 240 will result in an estimated reduction in gasoline license tax collections of \$146,000 during the biennium..

Signature of Michael A. Billings, BUDGET DIRECTOR, Office of Budget and Program Planning, Date: January 29, 1975