

HOUSE BILL NO. 835  
INTRODUCED BY D. O'HARA

IN THE HOUSE

March 4, 1981	Introduced and referred to Committee on Taxation.
March 5, 1981	Fiscal note requested.
March 6, 1981	Fiscal note returned.
March 30, 1981	On motion rules suspended and bill allowed to be transmitted on the 75th legislative day.
April 3, 1981	Committee recommend bill do pass. Report adopted.
April 4, 1981	Bill printed and placed on members' desks.  Transmittal date extended to 76th legislative day.
April 6, 1981	Second reading, do pass.  On motion rules suspended and bill placed on third reading this day.  Third reading, passed. Ayes, 76; Noes, 14. Transmitted to Senate.

IN THE SENATE

April 7, 1981	By motion and consent bill allowed to be received and considered this session.  Introduced and referred to Committee on Taxation.
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April 15, 1981

Committee recommend bill be concurred in as amended. Report adopted.

April 17, 1981

Second reading, concurred in.

On motion rules suspended. Bill placed on calendar for third reading this day.

Third reading, concurred in as amended. Ayes, 42; Noes, 8.

#### IN THE HOUSE

April 20, 1981

Returned from Senate with amendments.

April 22, 1981

Second reading, amendments concurred in.

On motion rules suspended and bill placed on third reading this day.

Third reading, amendments concurred in. Ayes, 89; Noes, 5. Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. 835

INTRODUCED BY D. Shea

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY AND REVISE THE LOCAL OPTION MOTOR FUEL TAX; ALLOWING THE DEPARTMENT OF REVENUE TO COLLECT THE TAX; ESTABLISHING FILING PROCEDURES FOR DISTRIBUTORS; ESTABLISHING PENALTY AND INTEREST FOR DELINQUENT TAX, ENFORCEMENT PROCEDURES, AND A STATUTE OF LIMITATIONS; AMENDING SECTIONS 7-14-301 THROUGH 7-14-304, MCA."

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

Section 1. Section 7-14-301, MCA, is amended to read:

"7-14-301. Local option motor fuel tax authorized. (1) The people of a county by initiative may impose a motor fuel excise tax of not more than, in increments of 1 cent per gallon, not to exceed 2 cents per gallon upon gasoline distributed within the county sold at retail within the county for use in motor vehicles operated upon public highways, streets, and roads within the state. The initiative must specify whether the tax is to be collected by the county or the department of revenue.

(2) A county imposing the tax authorized under subsection (1) shall provide a means to provide refunds to persons who have paid the tax on motor fuel for uses other

~~than on public streets and roads. Such a motor fuel excise tax may not be assessed sooner than 90 days from the date of passage of such an initiative.~~

(3) ~~The term "gasoline" has the meaning ascribed to it in 15-70-201. Every distributor shall pay the motor fuel excise tax to the agency specified in the initiative as provided in subsection (1). When the tax is collected by the department of revenue, each distributor shall render a monthly statement to the department of all gasoline distributed during the preceding calendar month in the county in which it is sold at retail and such other information as the department may reasonably require in order to administer the motor fuel excise tax.~~

~~(4) The information, recordkeeping, and examination of records provisions of Title 15, Chapter 70, apply to this part.~~

~~(5) The department of revenue or a county collecting the tax authorized under subsection (1) shall establish procedures to provide a refund to a person who has paid the excise tax but who can substantiate that the motor fuel was purchased for a use other than on public highways, streets, and roads within the state.~~

~~(6) In this part, the terms "distributor", "gasoline", "import", "motor vehicle", "person", and "use" have the meanings ascribed to them in 15-70-201."~~

1 Section 2. Section 7-14-302, MCA, is amended to read:

2 "7-14-302. Use of local motor fuel ~~excise~~ tax revenue.

3 (1) A county or municipality receiving revenue from the tax  
4 authorized by 7-14-301 shall use the revenue derived only  
5 for the construction, reconstruction, maintenance, and  
6 repair of public streets and roads.

7 (2) Two percent of the motor fuel ~~excise~~ tax revenue  
8 collected in a county ~~to~~ ~~may~~ ~~be~~ allocated to the county  
9 governing body for use in administering the tax. ~~When the~~  
10 ~~tax is collected by the department of revenue, a county~~  
11 ~~shall contract with the department for reimbursement of the~~  
12 ~~actual costs of collection, one~~ ~~one~~ percent of the motor  
13 fuel ~~excise~~ tax revenue collected in a county is to be  
14 reimbursed ~~at the point of collection for use in~~  
15 ~~administering the tax to the distributor for the cost of~~  
16 ~~compliance with this part."~~

17 Section 3. Section 7-14-303, MCA, is amended to read:

18 "7-14-303. Allocation of revenue ~~and disposition of~~  
19 funds from county-imposed motor fuel tax. (1) Revenue  
20 derived from a motor fuel ~~excise~~ tax imposed by a county  
21 under 7-14-301 must be ~~divided~~ ~~apportioned~~ among the county  
22 and municipalities in the county:

23 (a) in the proportion of motor vehicles registered in  
24 the county outside of the municipalities to those registered  
25 within the municipalities during the preceding year; ~~or~~

1 ~~(b) as determined by an interlocal agreement.~~

2 ~~(2) All taxes, interest, and penalties collected by~~  
3 ~~the department of revenue under this part shall be promptly~~  
4 ~~transmitted to the state treasurer who shall deposit such~~  
5 ~~funds in an earmarked revenue fund to the credit of the~~  
6 ~~department of highways account. Such funds shall be paid~~  
7 ~~quarterly by the state treasurer directly to the county in~~  
8 ~~which the tax was imposed."~~

9 Section 4. Section 7-14-304, MCA, is amended to read:

10 "7-14-304. Penalties ~~lien for delinquent tax --~~  
11 ~~interest and penalty -- statute of limitations. Penalties~~  
12 ~~for violation of this part shall be the same as provided in~~  
13 ~~15-70-220. (1) The lien provisions of 15-70-211 apply to all~~  
14 ~~delinquent motor fuel excise taxes, penalties, and interest~~  
15 ~~due from a distributor under this part. Such a lien has the~~  
16 ~~same force and effect as a lien for delinquent gasoline~~  
17 ~~license tax imposed under Title 15, chapter 70, part 2.~~

18 ~~(2) Penalties and interest for any delinquent motor~~  
19 ~~fuel excise tax are the same as provided for the gasoline~~  
20 ~~license tax under Title 15, chapter 70, part 2.~~

21 ~~(3) Any action to recover a delinquent motor fuel~~  
22 ~~excise tax must be initiated within 3 years from the due~~  
23 ~~date of the return or the date of filing the return,~~  
24 ~~whichever period expires later. Upon discovery of fraud, an~~  
25 ~~action must be initiated within 3 years of the discovery."~~

-End-

-4-

HB 835

STATE OF MONTANA

REQUEST NO. 421-81

FISCAL NOTE

Form BD-15

In compliance with a written request received March 5, 19 81, there is hereby submitted a Fiscal Note for HOUSE BILL 835 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

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.

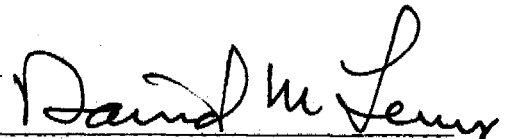
DESCRIPTION

An act to generally clarify and revise the local option motor fuel tax; allowing the Department of Revenue to collect the tax; establishing filing procedures for distributors; establishing penalty and interest for delinquent tax; enforcement procedures and a statute of limitations.

FISCAL IMPACT

The proposed legislation would have no fiscal impact at the state level. The legislation provides for a county imposing the local option motor fuel tax to contract with the Department of Revenue for reimbursement of the actual costs of collection, so no administrative costs would be involved.

PREPARED BY THE DEPARTMENT OF REVENUE



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-6-81

Approved by Committee on Taxation

1 HOUSE BILL NO. 835  
2 INTRODUCED BY D. P. [Signature]

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY  
5 AND REVISE THE LOCAL OPTION MOTOR FUEL TAX; ALLOWING THE  
6 DEPARTMENT OF REVENUE TO COLLECT THE TAX; ESTABLISHING  
7 FILING PROCEDURES FOR DISTRIBUTORS; ESTABLISHING PENALTY AND  
8 INTEREST FOR DELINQUENT TAX, ENFORCEMENT PROCEDURES, AND A  
9 STATUTE OF LIMITATIONS; AMENDING SECTIONS 7-14-301 THROUGH  
10 7-14-304, MCA."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7-14-301, MCA, is amended to read:

14 "7-14-301. Local option motor fuel tax authorized. (1)  
15 The people of a county by initiative may impose a motor fuel  
16 excise tax of ~~not more than~~ in increments of 1 cent per  
17 gallon, not to exceed 2 cents per gallon upon gasoline  
18 distributed within the county sold at retail within the  
19 county for use in motor vehicles operated upon public  
20 highways, streets, and roads within the state. The  
21 initiative must specify whether the tax is to be collected  
22 by the county or the department of revenue.

23 (2) ~~A county imposing the tax authorized under~~  
24 ~~subsection (1) shall provide a means to provide refunds to~~  
25 ~~persons who have paid the tax on motor fuel for uses other~~

1 ~~than on public streets and roads. Such a motor fuel excise~~  
2 ~~tax may not be assessed sooner than 90 days from the date of~~  
3 ~~passage of such an initiative.~~

4 (3) ~~The term "gasoline" has the meaning ascribed to it~~  
5 ~~in 15-70-201. Every distributor shall pay the motor fuel~~  
6 ~~excise tax to the agency specified in the initiative as~~  
7 ~~provided in subsection (1). When the tax is collected by the~~  
8 ~~department of revenue, each distributor shall render a~~  
9 ~~monthly statement to the department of all gasoline~~  
10 ~~distributed during the preceding calendar month in the~~  
11 ~~county in which it is sold at retail and such other~~  
12 ~~information as the department may reasonably require in~~  
13 ~~order to administer the motor fuel excise tax.~~

14 (4) ~~The information, recordkeeping, and examination of~~  
15 ~~records provisions of Title 15, chapter 70, apply to this~~  
16 ~~part.~~

17 (5) ~~The department of revenue or a county collecting~~  
18 ~~the tax authorized under subsection (1) shall establish~~  
19 ~~procedures to provide a refund to a person who has paid the~~  
20 ~~excise tax but who can substantiate that the motor fuel was~~  
21 ~~purchased for a use other than on public highways, streets,~~  
22 ~~and roads within the state.~~

23 (6) ~~In this part, the terms "distributor", "gasoline",~~  
24 ~~"import", "motor vehicle", "person", and "use" have the~~  
25 ~~meanings ascribed to them in 15-70-201."~~

-2- SECOND READING  
HB 835

1 Section 2. Section 7-14-302, MCA, is amended to read:

2 "7-14-302. Use of local motor fuel ~~excise~~ tax revenue.

3 (1) A county or municipality receiving revenue from the tax  
4 authorized by 7-14-301 shall use the revenue derived only  
5 for the construction, reconstruction, maintenance, and  
6 repair of public streets and roads.

7 (2) Two percent of the motor fuel ~~excise~~ tax revenue  
8 collected in a county ~~is~~ may be allocated to the county  
9 governing body for use in administering the tax. ~~When the~~  
10 ~~tax is collected by the department of revenue, a county~~  
11 ~~shall contract with the department for reimbursement of the~~  
12 ~~actual costs of collection, one~~ ~~one~~ percent of the motor  
13 fuel ~~excise~~ tax revenue collected in a county is to be  
14 reimbursed ~~at the point of collection for use in~~  
15 ~~administering the tax to the distributor for the cost of~~  
16 compliance with this part."

17 Section 3. Section 7-14-303, MCA, is amended to read:

18 "7-14-303. Allocation of revenue and disposition of  
19 funds from county-imposed motor fuel tax. (1) Revenue  
20 derived from a motor fuel ~~excise~~ tax imposed by a county  
21 under 7-14-301 must be ~~divided~~ apportioned among the county  
22 and municipalities in the county;

23 (a) in the proportion of motor vehicles registered in  
24 the county outside of the municipalities to those registered  
25 within the municipalities during the preceding year; or

1 (b) as determined by an interlocal agreement.

2 (2) All taxes, interest, and penalties collected by  
3 the department of revenue under this part shall be promptly  
4 transmitted to the state treasurer who shall deposit such  
5 funds in an earmarked revenue fund to the credit of the  
6 department of highways account. Such funds shall be paid  
7 quarterly by the state treasurer directly to the county in  
8 which the tax was imposed."

9 Section 4. Section 7-14-304, MCA, is amended to read:

10 "7-14-304. Penalties lien for delinquent tax --  
11 interest and penalty -- statute of limitations. Penalties  
12 for violation of this part shall be the same as provided in  
13 15-70-252. (1) The lien provisions of 15-70-211 apply to all  
14 delinquent motor fuel excise taxes, penalties, and interest  
15 due from a distributor under this part. Such a lien has the  
16 same force and effect as a lien for delinquent gasoline  
17 license tax imposed under Title 15, chapter 70, part 2.

18 (2) Penalties and interest for any delinquent motor  
19 fuel excise tax are the same as provided for the gasoline  
20 license tax under Title 15, chapter 70, part 2.

21 (3) Any action to recover a delinquent motor fuel  
22 excise tax must be initiated within 3 years from the due  
23 date of the return or the date of filing the return,  
24 whichever period expires later. Upon discovery of fraud, an  
25 action must be initiated within 3 years of the discovery."

-End-

-4-

1                    HOUSE    BILL NO.    835

2    INTRODUCED BY D. Olson

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16    excise tax of ~~not more than~~ in increments of 1 cent per  
17    gallon, not to exceed 2 cents per gallon upon gasoline  
18    distributed within the county sold at retail within the  
19    county for use in motor vehicles operated upon public  
20    highways, streets, and roads within the state. The  
21    initiative must specify whether the tax is to be collected  
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23            (2) ~~A county imposing the tax authorized under~~  
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25 within the municipalities during the preceding year; or

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2 (2) All taxes, interest, and penalties collected by  
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5 funds in an earmarked revenue fund to the credit of the  
6 department of highways account. Such funds shall be paid  
7 quarterly by the state treasurer directly to the county in  
8 which the tax was imposed."

9 Section 4. Section 7-14-304, MCA, is amended to read:

10 "7-14-304. Penalties lien for delinquent tax --  
11 interest and penalty -- statute of limitations. Penalties  
12 for violation of this part shall be the same as provided in  
13 15-70-222. (1) The lien provisions of 15-70-211 apply to all  
14 delinquent motor fuel excise taxes, penalties, and interest  
15 due from a distributor under this part. Such a lien has the  
16 same force and effect as a lien for delinquent gasoline  
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23 date of the return or the date of filing the return,  
24 whichever period expires later. Upon discovery of fraud, an  
25 action must be initiated within 3 years of the discovery."

-End-

-4-

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2 INTRODUCED BY D. O'HARA

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17 ~~gallon, not to exceed 2 cents per gallon upon gasoline~~  
18 ~~distributed within the county sold at retail TO THE ULTIMATE~~  
19 ~~CONSUMER within the county for use in motor vehicles~~  
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 2 Section 2. Section 7-14-302, MCA, is amended to read:  
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 4 (1) A county or municipality receiving revenue from the tax  
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 6 for the construction, reconstruction, maintenance, and  
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 18 Section 3. Section 7-14-303, MCA, is amended to read:  
 19 "7-14-303. Allocation of revenue and disposition of  
 20 funds from county-imposed motor fuel tax. (1) Revenue  
 21 derived from a motor fuel excise tax imposed by a county  
 22 under 7-14-301 must be divided apportioned among the county  
 23 and municipalities in the county:  
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 10 Section 4. Section 7-14-304, MCA, is amended to read:  
 11 "7-14-304. Penalties Lien for delinquent tax --  
 12 interest and penalty -- statute of limitations. Penalties  
 13 for violation of this part shall be the same as provided in  
 14 15-70-232. (1) The lien provisions of 15-70-211 apply to all  
 15 delinquent motor fuel excise taxes, penalties, and interest  
 16 due from a distributor under this part. Such a lien has the  
 17 same force and effect as a lien for delinquent gasoline  
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 24 date of the return or the date of filing the return,  
 25 whichever period expires later. Upon discovery of fraud, an

HB 0835/02

1 action must be initiated within 3 years of the discovery."

-End-

April 15, 1981

SENATE STANDING COMMITTEE REPORT  
(Taxation)

That House Bill No. 835 be amended as follows:

1. Page 1, line 18  
Following: "sold"  
Strike: "at retail"  
Insert: "to the ultimate consumer"
2. Page 1, line 20.  
Following: "roads"  
Strike: "within the state"
3. Page 1, line 21.  
Following: "specify"  
Strike: "whether"
4. Page 1, line 22.  
Following: "by"  
Strike: "the county or"
5. Page 2, line 11.  
Following: "sold"  
Strike: "at retail"  
Insert: "to the ultimate consumer"
6. Page 2, line 17.  
Following: "revenue"  
Strike: "or a county"
7. Page 2, line 22.  
Following: "and"  
Strike: "roads within the state"  
Insert: "roads"
8. Page 3, lines 7 through 10.  
Following: "(2)"  
Strike: all material through "a" on line 10  
Insert: "A" before "county" on line 10