

HOUSE BILL NO. 66

INTRODUCED BY FABREGA

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

January 3, 1983	Introduced and referred to Committee on Taxation.
January 6, 1983	Committee recommend bill do pass. Report adopted.
January 7, 1983	Bill printed and placed on members' desks.
January 10, 1983	Second reading, do pass.
January 11, 1983	Considered correctly engrossed.
January 12, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 13, 1983	Introduced and referred to Committee on Taxation.
January 26, 1983	Committee recommend bill be concurred in. Report adopted.
January 28, 1983	Second reading, concurred in.
January 31, 1983	Third reading, concurred in. Ayes, 48; Noes, 1.

IN THE HOUSE

January 31, 1983	Returned to House.
February 1, 1983	Sent to enrolling. Reported correctly enrolled.

1 HOUSE BILL NO. 66
2 INTRODUCED BY FABREGA
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
6 REQUIREMENT THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE
7 MOTOR FUELS AUDIT; AMENDING SECTIONS 15-70-208 AND
8 15-70-324, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 15-70-208, MCA, is amended to read:
12 "15-70-208. Examination of records. (1) The department
13 of revenue or its authorized representative is hereby
14 empowered to examine the books, papers, records, and
15 equipment of any gasoline distributor or any person dealing
16 in, transporting, or storing gasoline as defined in this
17 part and to investigate the character of the disposition
18 which any person makes of such gasoline in order to
19 ascertain and determine whether all license taxes due
20 hereunder are being properly reported and paid. If such
21 books, papers, records, and equipment are not maintained in
22 this state at the time of demand, they must be furnished to
23 ~~at the direction of~~ the department for review ~~or such dealer~~
24 ~~must bear the reasonable cost of examination by an agent~~
25 ~~authorized or designated by the department at the place~~

1 ~~where such books or records are kept. However, the taxpayer~~
2 ~~is not liable for such costs for a period exceeding 1 week~~
3 ~~or for such longer period as he may consent to in writing~~
4 ~~unless the result of such examination is the payment of a~~
5 ~~tax deficiency either in the offices of the department or at~~
6 ~~the business location of the taxpayer.~~

7 (2) The records, receipts, and invoices and any other
8 pertinent papers supporting sales of every distributor or
9 any person dealing in, transporting, or storing gasoline
10 must be open and subject to inspection by the department or
11 any of its employees or assistants during business hours in
12 order to ascertain the amount of license tax due."

13 Section 2. Section 15-70-324, MCA, is amended to read:
14 "15-70-324. Examination of records. (1) The department
15 shall enforce the provisions of this part.

16 (2) The department or its authorized representative is
17 hereby empowered to examine the books, papers, records, and
18 equipment of any special fuel dealer or special fuel user or
19 any person dealing in, transporting, or storing special fuel
20 as defined in this part and to investigate the character of
21 the disposition which any person makes of such special fuel
22 in order to ascertain and determine whether all excise taxes
23 due hereunder are being properly reported and paid. If such
24 books, papers, records, and equipment are not maintained in
25 this state at the time of demand, they shall be furnished to

1 ~~at the direction of the department for review either in the~~
2 ~~offices of the department or at the business location of the~~
3 ~~taxpayer and shall be, if requested by the department,~~
4 accompanied by the special fuel dealer or special fuel user
5 ~~or such dealer or user shall bear the reasonable cost of~~
6 ~~examination by an agent authorized or designated by the~~
7 ~~department at the place where such books or records are~~
8 ~~kept, provided the taxpayer shall not be liable for such~~
9 ~~costs for a period exceeding 1 week or for such longer~~
10 ~~period as he may consent to in writing unless the result of~~
11 ~~said examination is the payment of a tax deficiency.~~

12 (3) For the purpose of enforcing the provisions of
13 this part, the fact that a special fuel dealer or a special
14 fuel user has placed or received special fuel into storage
15 or dispensing equipment designed to fuel motor vehicles
16 shall be prima facie evidence that all of such special fuel
17 has been delivered by the special fuel dealer or special
18 fuel user into the fuel supply tanks of motor vehicles and
19 consumed in the propulsion of motor vehicles upon the
20 highways as herein defined unless the contrary shall be
21 established by satisfactory evidence.

22 (4) The department shall, upon request from officials
23 to whom are entrusted the enforcement of the special fuel
24 tax law of any other state, the District of Columbia, the
25 United States, its territories and possessions, or the

1 provinces of the Dominion of Canada, forward to such
2 officials any information which it may have relative to the
3 receipt, storage, delivery, sale, use, or other disposition
4 of special fuel by any special fuel dealer or special fuel
5 user, provided such other state or states furnish like
6 information to this state."

-End-

STATE OF MONTANA

REQUEST NO. 046-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 6, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 66 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 OF PROPOSED LEGISLATION:

House Bill 66 removes the requirement that a taxpayer pay the costs of an out-of-state motor fuels audit.

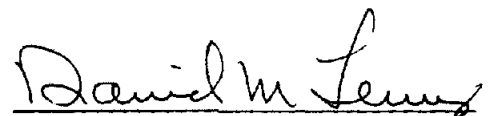
ASSUMPTION:

- 1) The Department of Revenue estimates the costs of out-of-state travel for motor fuels audits to be \$13,500 annually.
- 2) Funds for out-of-state motor fuel audit expense will be appropriated from the highway earmarked account.

FISCAL IMPACT:

	<u>FY84</u>	<u>FY85</u>
Expenditures for Out-of-State Audits (Net of taxpayer reimbursements)		
Under Current Law	0	0
Under Proposed Law	<u>13,500</u>	<u>13,500</u>
Estimated increase in expenditures from the highway earmarked account	<u>13,500</u>	<u>13,500</u>

FISCAL NOTE1:EE/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-10-83

Approved by Committee
on Taxation

1 HOUSE BILL NO. 66
2 INTRODUCED BY FABREGA
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE
6 REQUIREMENT THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE
7 MOTOR FUELS AUDIT; AMENDING SECTIONS 15-70-208 AND
8 15-70-324, MCA."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 15-70-208, MCA, is amended to read:
12 "15-70-208. Examination of records. (1) The department
13 of revenue or its authorized representative is hereby
14 empowered to examine the books, papers, records, and
15 equipment of any gasoline distributor or any person dealing
16 in, transporting, or storing gasoline as defined in this
17 part and to investigate the character of the disposition
18 which any person makes of such gasoline in order to
19 ascertain and determine whether all license taxes due
20 hereunder are being properly reported and paid. If such
21 books, papers, records, and equipment are not maintained in
22 this state at the time of demand, they must be furnished to
23 at the direction of the department for review ~~or such dealer~~
24 ~~must bear the reasonable cost of examination by an agent~~
25 ~~authorized or designated by the department at the place~~

1 ~~where such books or records are kept. However, the taxpayer~~
2 ~~is not liable for such costs for a period exceeding 1 week~~
3 ~~or for such longer period as he may consent to in writing~~
4 ~~unless the result of such examination is the payment of a~~
5 ~~tax deficiency either in the offices of the department or at~~
6 ~~the business location of the taxpayer.~~

7 (2) The records, receipts, and invoices and any other
8 pertinent papers supporting sales of every distributor or
9 any person dealing in, transporting, or storing gasoline
10 must be open and subject to inspection by the department or
11 any of its employees or assistants during business hours in
12 order to ascertain the amount of license tax due."

13 Section 2. Section 15-70-324, MCA, is amended to read:
14 "15-70-324. Examination of records. (1) The department
15 shall enforce the provisions of this part.

16 (2) The department or its authorized representative is
17 hereby empowered to examine the books, papers, records, and
18 equipment of any special fuel dealer or special fuel user or
19 any person dealing in, transporting, or storing special fuel
20 as defined in this part and to investigate the character of
21 the disposition which any person makes of such special fuel
22 in order to ascertain and determine whether all excise taxes
23 due hereunder are being properly reported and paid. If such
24 books, papers, records, and equipment are not maintained in
25 this state at the time of demand, they shall be furnished to

1 ~~at the direction of the department for review either in the~~
2 ~~offices of the department or at the business location of the~~
3 ~~taxpayer and shall be, if requested by the department,~~
4 ~~accompanied by the special fuel dealer or special fuel user~~
5 ~~or such dealer or user shall bear the reasonable cost of~~
6 ~~examination by an agent authorized or designated by the~~
7 ~~department at the place where such books or records are~~
8 ~~kept, provided the taxpayer shall not be liable for such~~
9 ~~costs for a period exceeding 1 week or for such longer~~
10 ~~period as he may consent to in writing unless the result of~~
11 ~~said examination is the payment of a tax deficiency.~~

12 (3) For the purpose of enforcing the provisions of
13 this part, the fact that a special fuel dealer or a special
14 fuel user has placed or received special fuel into storage
15 or dispensing equipment designed to fuel motor vehicles
16 shall be prima facie evidence that all of such special fuel
17 has been delivered by the special fuel dealer or special
18 fuel user into the fuel supply tanks of motor vehicles and
19 consumed in the propulsion of motor vehicles upon the
20 highways as herein defined unless the contrary shall be
21 established by satisfactory evidence.

22 (4) The department shall, upon request from officials
23 to whom are entrusted the enforcement of the special fuel
24 tax law of any other state, the District of Columbia, the
25 United States, its territories and possessions, or the

1 provinces of the Dominion of Canada, forward to such
2 officials any information which it may have relative to the
3 receipt, storage, delivery, sale, use, or other disposition
4 of special fuel by any special fuel dealer or special fuel
5 user, provided such other state or states furnish like
6 information to this state."

-End-

HOUSE BILL NO. 66

INTRODUCED BY FABREGA

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE REQUIREMENT THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE MOTOR FUELS AUDIT; AMENDING SECTIONS 15-70-208 AND 15-70-324, MCA."

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

Section 1. Section 15-70-208, MCA, is amended to read:

"15-70-208. Examination of records. (1) The department of revenue or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any gasoline distributor or any person dealing in, transporting, or storing gasoline as defined in this part and to investigate the character of the disposition which any person makes of such gasoline in order to ascertain and determine whether all license taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished to ~~at the direction of~~ the department for review or such dealer ~~must bear the reasonable cost of examination by an agent authorized or designated by the department at the place~~

~~where such books or records are kept. However, the taxpayer is not liable for such costs for a period exceeding 1 week or for such longer period as he may consent to in writing unless the result of such examination is the payment of a tax deficiency either in the offices of the department or at the business location of the taxpayer.~~

(2) The records, receipts, and invoices and any other pertinent papers supporting sales of every distributor or any person dealing in, transporting, or storing gasoline must be open and subject to inspection by the department or any of its employees or assistants during business hours in order to ascertain the amount of license tax due."

Section 2. Section 15-70-324, MCA, is amended to read:

"15-70-324. Examination of records. (1) The department shall enforce the provisions of this part.

(2) The department or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any special fuel dealer or special fuel user or any person dealing in, transporting, or storing special fuel as defined in this part and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they shall be furnished to

THIRD READING

1 ~~at the direction of the department for review either in the~~
2 ~~offices of the department or at the business location of the~~
3 ~~taxpayer and shall be, if requested by the department,~~
4 ~~accompanied by the special fuel dealer or special fuel user~~
5 ~~or such dealer or user shall bear the reasonable cost of~~
6 ~~examination by an agent authorized or designated by the~~
7 ~~department at the place where such books or records are~~
8 ~~kept, provided the taxpayer shall not be liable for such~~
9 ~~costs for a period exceeding 1 week or for such longer~~
10 ~~period as he may consent to in writing unless the result of~~
11 ~~said examination is the payment of a tax deficiency.~~

12 (3) For the purpose of enforcing the provisions of
13 this part, the fact that a special fuel dealer or a special
14 fuel user has placed or received special fuel into storage
15 or dispensing equipment designed to fuel motor vehicles
16 shall be prima facie evidence that all of such special fuel
17 has been delivered by the special fuel dealer or special
18 fuel user into the fuel supply tanks of motor vehicles and
19 consumed in the propulsion of motor vehicles upon the
20 highways as herein defined unless the contrary shall be
21 established by satisfactory evidence.

22 (4) The department shall, upon request from officials
23 to whom are entrusted the enforcement of the special fuel
24 tax law of any other state, the District of Columbia, the
25 United States, its territories and possessions, or the

1 provinces of the Dominion of Canada, forward to such
2 officials any information which it may have relative to the
3 receipt, storage, delivery, sale, use, or other disposition
4 of special fuel by any special fuel dealer or special fuel
5 user, provided such other state or states furnish like
6 information to this state."

-End-

HOUSE BILL NO. 66

INTRODUCED BY FABREGA

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE REQUIREMENT THAT A TAXPAYER PAY THE COSTS OF AN OUT-OF-STATE MOTOR FUELS AUDIT; AMENDING SECTIONS 15-70-208 AND 15-70-324, MCA."

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

Section 1. Section 15-70-208, MCA, is amended to read:

"15-70-208. Examination of records. (1) The department of revenue or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any gasoline distributor or any person dealing in, transporting, or storing gasoline as defined in this part and to investigate the character of the disposition which any person makes of such gasoline in order to ascertain and determine whether all license taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished to at the direction of the department for review ~~or such dealer must bear the reasonable cost of examination by an agent authorized or designated by the department at the place~~

~~where such books or records are kept. However, the taxpayer is not liable for such costs for a period exceeding 1 week or for such longer period as he may consent to in writing unless the result of such examination is the payment of a tax deficiency either in the offices of the department or at the business location of the taxpayer.~~

(2) The records, receipts, and invoices and any other pertinent papers supporting sales of every distributor or any person dealing in, transporting, or storing gasoline must be open and subject to inspection by the department or any of its employees or assistants during business hours in order to ascertain the amount of license tax due."

Section 2. Section 15-70-324, MCA, is amended to read:

"15-70-324. Examination of records. (1) The department shall enforce the provisions of this part.

(2) The department or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any special fuel dealer or special fuel user or any person dealing in, transporting, or storing special fuel as defined in this part and to investigate the character of the disposition which any person makes of such special fuel in order to ascertain and determine whether all excise taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they shall be furnished to

1 at the direction of the department for review either in the
 2 offices of the department or at the business location of the
 3 taxpayer and shall be, if requested by the department,
 4 accompanied by the special fuel dealer or special fuel user
 5 or--such--dealer--or--user--shall--bear--the--reasonable--cost--of
 6 examination--by--an--agent--authorized--or--designated--by--the
 7 department--at--the--place--where--such--books--or--records--are
 8 kept,--provided--the--taxpayer--shall--not--be--liable--for--such
 9 costs--for--a--period--exceeding--1--week--or--for--such--longer
 10 period--as--he--may--consent--to--in--writing--unless--the--result--of
 11 said--examination--is--the--payment--of--a--tax--deficiency.

12 (3) For the purpose of enforcing the provisions of
 13 this part, the fact that a special fuel dealer or a special
 14 fuel user has placed or received special fuel into storage
 15 or dispensing equipment designed to fuel motor vehicles
 16 shall be prima facie evidence that all of such special fuel
 17 has been delivered by the special fuel dealer or special
 18 fuel user into the fuel supply tanks of motor vehicles and
 19 consumed in the propulsion of motor vehicles upon the
 20 highways as herein defined unless the contrary shall be
 21 established by satisfactory evidence.

22 (4) The department shall, upon request from officials
 23 to whom are entrusted the enforcement of the special fuel
 24 tax law of any other state, the District of Columbia, the
 25 United States, its territories and possessions, or the

1 provinces of the Dominion of Canada, forward to such
 2 officials any information which it may have relative to the
 3 receipt, storage, delivery, sale, use, or other disposition
 4 of special fuel by any special fuel dealer or special fuel
 5 user, provided such other state or states furnish like
 6 information to this state."

-End-