

HOUSE BILL NO. 665

Introduced: 02/05/83

Referred to Committee on Taxation: 02/05/83

Hearing: 3/8/83

Report: 03/14/83, Do Pass, As Amended

2nd Reading: 3/19/83, Do Not Pass, As Amended

2nd Reading: 03/23/83, Do Not Pass, As Amended

Bill Killed

House BILL NO. 665 Connelly

INTRODUCED BY

BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A RAILWAY FUEL USE TAX; PROVIDING FOR ITS COLLECTION AND DISPOSITION; CREATING A SPECIAL RAILWAY FACILITIES ACCOUNT AND ALLOCATING FUNDS; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Short title. [This act] may be cited as the

"Montana Railway Fuel Use Tax Act".

Section 2. Definitions. As used in [this act], the following definitions apply:

(1) "Department" means the department of revenue provided for in Title 2, chapter 15, part 13.

(2) "Railway fuel" or "fuel" means those combustible gases and liquids commonly referred to as diesel fuel or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually used for the generation of power to propel a railway vehicle in this state.

(3) "Railway vehicle" means a vehicle designed and used upon railways for self-propulsion or for propelling conveyances.

(4) "Use" means the consumption of railway fuel for

the propulsion of railway vehicles in this state.

Section 3. Railway fuel use tax imposed. The department shall collect or cause to be collected from any person or company using railway fuel for the propulsion of a railway vehicle within this state a license tax of 6 cents a gallon for each gallon of railway fuel used. The tax attaches at the time of use and must be paid monthly to the department by the user. Railway fuel dispensed in this state may be dispensed only through meters approved for accuracy by and sealed by the department of commerce.

Section 4. Railway fuel user's license required. A railroad company responsible for paying the tax imposed by [section 3] shall obtain a railway fuel user's license from the department. The application for the railway fuel user's license must include:

- (1) the name of the railroad company;
- (2) the location of its principal office in the state, if any;
- (3) a list of each location where fuel is dispensed on a regular basis; and
- (4) other information the department requires.

Section 5. Reports -- tax computation and payment. (1) To determine a railroad company's tax liability, each railroad company required to obtain a license under [section 4] shall file with the department a monthly report by the

1 25th day of the month following the month of use. The report  
2 must include:

- 3 (a) the total gallons of fuel dispensed in Montana;
- 4 (b) the total gallons of fuel dispensed in Montana and  
5 placed in railway vehicles used solely within the state  
6 during the reporting period;
- 7 (c) the total gallons of fuel dispensed in Montana for  
8 nontaxable purposes;
- 9 (d) the total gallons of fuel dispensed in Montana and  
10 placed in railway vehicles used within and without the  
11 state;
- 12 (e) the total gallons of fuel dispensed outside  
13 Montana and placed into railway vehicles traveling within  
14 and without the state; and
- 15 (f) other information the department requires.

16 (2) The payment of tax due shall accompany the report.  
17 The taxable gallons of fuel must be computed by adding the  
18 number of gallons of fuel dispensed in Montana and placed  
19 into railway vehicles traveling solely within the state  
20 during the reporting period and the result of multiplying  
21 the total gallons of fuel used in railway vehicles traveling  
22 within and without Montana by a fraction the numerator of  
23 which is miles traveled in Montana by railway vehicles  
24 traveling within and without Montana and the denominator of  
25 which is the total miles traveled by the same railway

1 vehicles. The tax must be computed by multiplying the  
2 taxable gallons times the tax rate imposed in [section 2].

3 (3) If a railroad company believes that the method of  
4 computing the tax by the prescribed mileage formula subjects  
5 to taxation a greater portion of fuel than is reasonably  
6 attributable to use for the propulsion of a railway vehicle  
7 in this state, it may file with the department a statement  
8 of objections and of such alternative method of determining  
9 fuel use in this state as it believes to be proper under the  
10 circumstances. If the department concludes that the mileage  
11 formula, in fact, does not reasonably attribute fuel use to  
12 the state, it shall redetermine the fuel use by such methods  
13 as it determines best calculated to assign to the state the  
14 portion of fuel reasonably used in this state.

15 Section 6. Retention of records. The railroad company  
16 shall retain for 3 years the records reasonably required by  
17 the department.

18 Section 7. Statutes applicable. The department shall  
19 administer the tax imposed by [this act] in the same manner  
20 as it administers the special fuels use tax pursuant to  
21 15-70-304 through 15-70-307, 15-70-324, and 15-70-330  
22 through 15-70-336, by construing those sections to apply to  
23 railway fuel users, railway companies, and the railway fuel  
24 use tax for the purposes set forth in [this act].

25 Section 8. Disposition of revenue. The proceeds of the

1 railway fuel use tax imposed under [this act] and any  
2 penalties collected under [this act] or under the applicable  
3 sections cited in [section 7] must be credited to the  
4 special railway facilities account established in [section  
5 9].

6 Section 9. Special railway facilities account. There  
7 is created in the earmarked revenue fund a special railway  
8 facilities account. The money deposited in the special  
9 railway facilities account each year is allocated in these  
10 proportions:

11 (1) 83.33% to a railway improvement account in the  
12 earmarked revenue fund to be expended by the department of  
13 commerce to subsidize rail passenger service in this state  
14 and for other essential railway purposes, under rules to be  
15 adopted by the department of commerce; and

16 (2) (a) 16.67% to a farm-to-rail-terminal highway  
17 improvement account in the earmarked revenue fund to be  
18 expended by the department of highways, subject to this  
19 subsection (2)(b), exclusively for the maintenance, repair,  
20 and reconstruction of public highways and roads traveled by  
21 trucks transporting agricultural products to railway  
22 terminal points and for maintenance and improvements on  
23 railroad grade crossings, with priority given to highways  
24 and roads severely impacted by abandonments of railroad  
25 lines.

1 (b) The highway commission shall allocate money from  
2 the farm-to-rail-terminal highway improvement account for  
3 expenditure on projects that meet the criteria provided in  
4 this subsection.

5 Section 10. Codification instruction. This act is  
6 intended to be codified as an integral part of Title 15.

7 Section 11. Effective date. This act is effective July  
8 1, 1983.

-End-

## STATE OF MONTANA

REQUEST NO. 355-83

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 8, 19 83, there is hereby submitted a Fiscal Note for House Bill 665 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 665 establishes a railway fuel use tax; provides for its collection and disposition; creates a special railway facilities account; allocates funds; and provides an effective date.

ASSUMPTIONS:

- 1) 1981 diesel fuel use by railroads in Montana - 1.455 million barrels (42 gallons/barrel) (U.S. Department of Energy)
- 2) Assume the same level of consumption for FY84 and FY85.
- 3) Tax Rate - 6¢/gallon.
- 4) Effective Date - July 1, 1983.
- 5) Department of Revenue will have negligible additional cost to administer the tax.
- 6) The Department of Commerce's Weights and Measure's Bureau will incur some increased costs in checking fuel meters.

REVENUE:

	<u>FY84</u>	<u>FY85</u>
Railway Fuel Use Tax		
Under Current Law	--	--
Under Proposed Law	<u>\$3.667M</u>	<u>\$3.667M</u>
Estimated Increase	<u>3.667M</u>	<u>3.667M</u>

## Special Railway Facilities Account

Railway Improvement Account		
Under Current Law	--	--
Under Proposed Law	<u>3.056M</u>	<u>3.056M</u>
Estimated Increase	<u>3.056M</u>	<u>3.056M</u>

## Farm-to-Rail Terminal Highway

Improvement Account		
Under Current Law	--	--
Under Proposed Law	<u>.611M</u>	<u>.611M</u>
Estimated Increase	<u>.611M</u>	<u>.611M</u>

EXPENDITURES:

Administrative Cost	\$4,719	\$4,719
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FISCAL NOTE 12/FF/1

  
 BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-14-83

Approved by committee  
on Taxation

## HOUSE BILL NO. 665

INTRODUCED BY YARDLEY, WILLIAMS, BRAND, SHONTZ, HART,  
METCALF, QUILICI, CONNELLY, HAFLEY, JACOBSON, DAILY,  
DANIELS, BOYLAN, STIMATZ, MENAHAN, REAM, DOZIER,  
ABRAMS, VINCENT, HAGER, ZABROCKI, LYNCH, HARRINGTON,  
MOYAR, ASAY, KEMMIS, NORMAN, GRAHAM, KADAS, DRISCOLL,  
O'CONNELL, SPAETH, THOMAS, CONOVER, ECK, D. BROWN,  
R. MANNING, MCBRIDE, MCCORMICK, LANE, WALDRON, HOWE,  
HALLIGAN, REGAN, FULLER, OCHSNER, PAVLOVICH, PECK,  
STORY, VELEBER, HANSEN, VAN VALKENBURG, TONE

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A RAILWAY  
FUEL USE TAX; PROVIDING FOR ITS COLLECTION AND DISPOSITION;  
CREATING A SPECIAL RAILWAY FACILITIES ACCOUNT AND ALLOCATING  
FUNDS; AND PROVIDING AN EFFECTIVE DATE."

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Section 1. Short title. [This act] may be cited as the  
"Montana Railway Fuel Use Tax Act".

Section 2. Definitions. As used in [this act], the  
following definitions apply:

(1) "Department" means the department of revenue  
provided for in Title 2, chapter 15, part 13.

(2) "DEVICE" MEANS A MECHANISM OR MACHINE DESIGNED TO  
MEASURE FUEL BY DEFINITE VOLUME OR WEIGHT.

(3) "DISPENSED" MEANS THE PLACEMENT OF FUEL BY A  
SUPPLIER EITHER DIRECTLY INTO A RAILWAY VEHICLE OR INTO A  
RAILWAY-OWNED FUEL STORAGE FACILITY.

~~(2)~~(4) "Railway fuel" or "fuel" means those  
combustible gases and liquids commonly referred to as diesel  
fuel or any other volatile liquid of less than 46 degrees  
A.P.I. (American petroleum institute) gravity test when  
actually used for the generation of power to propel a  
railway vehicle in this state.

~~(3)~~(5) "Railway vehicle" means a vehicle LOCOMOTIVE  
designed and used upon railways for self-propulsion or for  
propelling conveyances.

~~(4)~~(6) "Use" means the consumption of railway fuel for  
the propulsion of railway vehicles in this state.

Section 3. Railway fuel use tax imposed -- EXEMPTION.  
The ~~(1) EXCEPT AS PROVIDED IN SUBSECTION (2),~~ THE department  
shall collect or cause to be collected from any person or  
company using railway fuel for the propulsion of a railway  
vehicle within this state a license tax of 6 cents a gallon  
for each gallon of railway fuel used. The tax attaches at  
the time of use and must be paid monthly to the department  
by the user. Railway fuel dispensed in this state may be  
dispensed only through meters DEVICES approved for accuracy  
by and sealed by the department of commerce.

(2) THE FIRST 200,000 GALLONS OF RAILWAY FUEL USED BY

1 ~~A PERSON OR COMPANY IN A CALENDAR YEAR IS EXEMPT FROM THE~~  
2 ~~FUEL USE TAX IMPOSED BY THIS SECTION.~~

3 Section 4. Railway fuel user's license required. A  
4 railroad company responsible for paying the tax imposed by  
5 [section 3] shall obtain a railway fuel user's license from  
6 the department. The application for the railway fuel user's  
7 license must include:

- 8 (1) the name of the railroad company;
- 9 (2) the location of its principal office in the state,  
10 if any;
- 11 (3) a list of each location where fuel is dispensed on  
12 a regular basis; and
- 13 (4) other information the department requires.

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18 25th day of the month following the month of use. The report  
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23 during the reporting period;
- 24 (c) the total gallons of fuel dispensed in Montana for  
25 nontaxable purposes;

1 (d) the total gallons of fuel dispensed in Montana and  
2 placed in railway vehicles used within and without the  
3 state;

4 (e) the total gallons of fuel dispensed outside  
5 Montana and placed into railway vehicles traveling within  
6 and without the state; and

7 (f) other information the department requires.

8 (2) The payment of tax due shall accompany the report.  
9 The taxable gallons of fuel must be computed by adding the  
10 number of gallons of fuel dispensed in Montana and placed  
11 into railway vehicles traveling solely within the state  
12 during the reporting period and the result of multiplying  
13 the total gallons of fuel used in railway vehicles traveling  
14 within and without Montana by a fraction the numerator of  
15 which is miles traveled in Montana by railway vehicles  
16 traveling within and without Montana and the denominator of  
17 which is the total miles traveled by the same railway  
18 vehicles. The tax must be computed by multiplying the  
19 taxable gallons times the tax rate imposed in [section 2].

20 (3) If a railroad company believes that the method of  
21 computing the tax by the prescribed mileage formula subjects  
22 to taxation a greater portion of fuel than is reasonably  
23 attributable to use for the propulsion of a railway vehicle  
24 in this state, it may file with the department a statement  
25 of objections and of such alternative method of determining

1 fuel use in this state as it believes to be proper under the  
2 circumstances. If the department concludes that the mileage  
3 formula, in fact, does not reasonably attribute fuel use to  
4 the state, it shall redetermine the fuel use by such methods  
5 as it determines best calculated to assign to the state the  
6 portion of fuel reasonably used in this state.

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13 15-70-304 through 15-70-307, 15-70-324, and 15-70-330  
14 through 15-70-336, by construing those sections to apply to  
15 railway fuel users, railway companies, and the railway fuel  
16 use tax for the purposes set forth in [this act].

17 Section 8. Disposition of revenue. The proceeds of the  
18 railway fuel use tax imposed under [this act] and any  
19 penalties collected under [this act] or under the applicable  
20 sections cited in [section 7] must be credited to the  
21 special railway facilities account established in [section  
22 9].

23 Section 9. Special railway facilities account. (1)  
24 There is created in the earmarked revenue fund a special  
25 railway facilities account. The money deposited in the

1 special railway facilities account each year is allocated in  
2 these proportions:

3 ~~(1)~~(1A) 83.33% to a railway improvement account in the  
4 earmarked revenue fund to be expended by the department of  
5 commerce to subsidize rail passenger service in this state  
6 and for other essential railway purposes, under rules to be  
7 adopted by the department of commerce; and

8 ~~(2)~~~~---~~(B) (1) 16.67% to a farm-to-rail-terminal  
9 highway improvement account in the earmarked revenue fund to  
10 be expended by the department of highways, subject to this  
11 subsection ~~(2)~~(b) ~~(1)~~(B)(1), exclusively for the  
12 maintenance, repair, and reconstruction of public highways  
13 and roads traveled by trucks transporting agricultural  
14 products to railway terminal points and for maintenance and  
15 improvements on railroad grade crossings, with priority  
16 given to highways and roads severely impacted by  
17 abandonments of railroad lines.

18 ~~(b)~~(1) The highway commission shall allocate money  
19 from the farm-to-rail-terminal highway improvement account  
20 for expenditure on projects that meet the criteria provided  
21 in this subsection.

22 ~~(2) ANY MONEY ALLOCATED TO THE RAILWAY IMPROVEMENT~~  
23 ~~ACCOUNT UNDER SUBSECTION (1)(A) THAT IS NOT USED WITHIN 1~~  
24 ~~YEAR OF ALLOCATION TO SUBSIDIZE RAIL PASSENGER SERVICE IN~~  
25 ~~THIS STATE IS WITHDRAWN FROM THE RAILWAY IMPROVEMENT ACCOUNT~~



1 ~~UNDER SUBSECTION (11)(A) AND ALLOCATED TO THE~~  
2 ~~EARM-TO-RAIL-TERMINAL HIGHWAY IMPROVEMENT ACCOUNT UNDER~~  
3 ~~SUBSECTION (11)(B) TO BE USED PURSUANT TO SUBSECTION (11)(B).~~

4 Section 10. Codification instruction. This act is  
5 intended to be codified as an integral part of Title 15.

6 Section 11. Effective date. This act is effective July  
7 1, 1983.

-End-