

HOUSE BILL NO. 780

INTRODUCED BY HARP, BARDANOUVE

IN THE HOUSE

February 14, 1983	Introduced and referred to Committee on Taxation.
March 9, 1983	Committee recommend bill do pass. Report adopted.
March 10, 1983	Bill printed and placed on members' desks.
March 11, 1983	Second reading, do pass.
March 12, 1983	Considered correctly engrossed.
March 14, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 15, 1983	Introduced and referred to Committee on Taxation.
April 8, 1983	Committee recommend bill be concurred in as amended. Report adopted.
April 11, 1983	Second reading, concurred in.
April 12, 1983	Third reading, concurred in. Ayes, 47; Noes, 2.

IN THE HOUSE

April 12, 1983

Returned to House with
amendments.

April 14, 1983

Second reading, amendments
concurred in.

Third reading, amendments
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 780
2 INTRODUCED BY HARP B. Anderson
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH SCHEDULES
5 FOR THE TAX INCENTIVE FOR THE PRODUCTION OF GASOHOL; TO
6 PROVIDE FOR LICENSING OF AND REPORTING BY ALCOHOL
7 DISTRIBUTORS; TO RESCIND THE SUSPENSION PROVISION; AMENDING
8 SECTION 15-70-204, MCA; REPEALING SECTION 3, CHAPTER 576,
9 LAWS OF 1979; AND PROVIDING AN EFFECTIVE DATE."
10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
12 NEW_SECTION. Section 1. Short title. [Sections 1
13 through 13] may be cited as the "Gasohol Tax Incentive and
14 Administration Act of 1983".
15 NEW_SECTION. Section 2. Purpose. The purpose of
16 [sections 1 through 13] is to establish schedules for the
17 tax incentive for the production of gasohol and to provide
18 for the proper administration and enforcement of the tax
19 incentive. The schedules for the tax incentive are designed
20 to stimulate the development of alcohol fuel production in
21 Montana while limiting the cost to the state of the tax
22 incentive to amounts that are reasonable in relation to the
23 highway revenue needs of Montana.
24 NEW_SECTION. Section 3. Definitions. As used in
25 [sections 1 through 13], the definitions in 15-70-201 and

1 the following definitions apply:
2 (1) "Alcohol distributor" means any person who, for
3 the purpose of making gasohol:
4 (a) engages in the business of producing alcohol for
5 sale, use, or distribution in this state; or
6 (b) imports alcohol for sale, use, or distribution in
7 this state.
8 (2) "Department" means the department of revenue.
9 (3) "Gasohol dealer" means any person who blends
10 alcohol with gasoline to produce gasohol for sale, use, or
11 distribution in this state.
12 NEW_SECTION. Section 4. License of alcohol
13 distributors. Every alcohol distributor, prior to doing
14 business, shall file with the department an application for
15 a license, using forms prescribed and furnished by the
16 department and setting forth such information as may be
17 requested by the department. Upon approval of the
18 application, the department shall issue the distributor a
19 nonassignable license that continues in force until
20 surrendered or canceled.
21 NEW_SECTION. Section 5. Distributor's statement. Each
22 alcohol distributor shall, not later than the 25th day of
23 each calendar month, render to the department a statement,
24 signed by him, that includes the following:
25 (1) the number of gallons of alcohol manufactured or

1 imported by the distributor during the preceding calendar
2 month;

3 (2) the name of each gasohol dealer to whom he sold
4 alcohol and the number of gallons sold to each dealer;

5 (3) a declaration, by each gasohol dealer, of the
6 amounts of imported alcohol sold; and

7 (4) such other information as the department may
8 reasonably require to administer the tax laws of this state.

9 **NEW_SECTION.** Section 6. Recordkeeping requirements.
10 The records of each alcohol distributor must be kept for a
11 period of not more than 3 years and must include receipts,
12 invoices, and such other information as the department may
13 require.

14 **NEW_SECTION.** Section 7. Examination of records. The
15 department or its authorized representative may examine the
16 books, papers, records, and equipment of any alcohol
17 distributor.

18 **NEW_SECTION.** Section 8. Payment of tax -- licensed
19 gasoline distributors. (1) Any person licensed as a gasoline
20 distributor who reports and pays the gasohol tax pursuant to
21 15-70-204, imports alcohol, or purchases alcohol imported by
22 a Montana alcohol distributor shall pay tax at the
23 nonaviation gasoline tax rate on each gallon of motor fuel
24 product into which the imported alcohol is mixed.

25 (2) Any alcohol distributor who imports alcohol for

1 the purpose of producing a motor fuel product shall notify
2 the gasohol dealer that the motor fuel product is taxed at
3 the nonaviation gasoline tax rate.

4 (3) Any mixture of imported alcohol with alcohol
5 produced in this state from agricultural products produced
6 in this state results in taxation of the entire mixture at
7 the nonaviation gasoline tax rate.

8 **NEW_SECTION.** Section 9. Refund authorized. Any
9 gasohol dealer who purchases and uses gasoline on which the
10 Montana gasoline tax has been paid to produce gasohol and
11 who is not licensed as a gasoline distributor is entitled to
12 a refund, computed as allowed in [section 11], of tax paid
13 on gasoline used to produce gasohol if the alcohol used to
14 make the gasohol is distilled in the state from agricultural
15 products produced in this state.

16 **NEW_SECTION.** Section 10. Denaturing alcohol -- refund
17 authorized. Any alcohol distributor who, for the purpose of
18 denaturing alcohol, purchases gasoline on which the Montana
19 gasoline tax has been paid is entitled to a refund, computed
20 as allowed in [section 11], of tax paid on the gasoline
21 used.

22 **NEW_SECTION.** Section 11. Refund schedule. The refund
23 allowable under:

24 (1) [section 9] is the difference between the amount
25 of tax paid for gasoline used to produce gasohol and the

1 amount of tax payable on the number of gallons of gasohol
2 produced as determined by the gasohol tax rate;

3 (2) [section 10] is the amount of gasoline tax paid on
4 gasoline used for denaturing of alcohol.

5 ~~NEW_SECTION~~ Section 12. Application for refund. (1)
6 The claimant shall apply for refund by signed statement, on
7 a form furnished by the department, accompanied by the
8 original bulk delivery invoice or invoices issued to the
9 claimant at the time of purchase and delivery, showing total
10 gallons of gasoline purchased.

11 (2) Application for refunds must be filed with the
12 department not later than the 25th day of the calendar month
13 following the month for which the claim is being made.

14 ~~NEW_SECTION~~ Section 13. Penalty for failure to file.
15 Any alcohol distributor who fails to obtain a license under
16 [section 4] or to file the statements required by [section
17 5] in the manner or within the time provided in [section 5]
18 or who makes any false statement is guilty of a misdemeanor
19 and upon conviction must be fined not more than \$1,000 or
20 imprisoned in the county jail for not more than 6 months, or
21 both.

22 Section 14. Section 15-70-204, MCA, is amended to
23 read:

24 "15-70-204. Gasoline license tax -- rate. (1) Every
25 distributor shall pay to the department of revenue a license

1 tax for the privilege of engaging in and carrying on
2 business in this state in an amount equal to 1 cent for each
3 gallon of aviation gasoline, which shall be allocated to the
4 department of commerce as provided by 67-1-301, as amended,
5 and 8 cents for each gallon of all other gasoline
6 distributed by him within the state and upon which the
7 gasoline license tax has not been paid by any other
8 distributor.

9 (2) Gasoline exported or sold for export out of the
10 state shall not be included in the measure of the
11 distributor's license tax.

12 ~~(3) Gasohol shall be subject to gasoline license taxes~~
13 ~~Except as provided in subsection (4), gasohol shall be taxed~~
14 ~~in accordance with the following schedule:~~

15 (a) beginning April 1, 1979, gasohol shall be taxed at
16 the rate of 2 1 cents per gallon ~~less than the rate of tax~~
17 ~~for nonaviation gasoline;~~

18 (b) beginning April 1, 1985, gasohol shall be taxed at
19 the rate of 4 5 cents per gallon ~~less than the rate of tax~~
20 ~~for nonaviation gasoline;~~

21 (c) beginning April 1, 1987, gasohol shall be taxed at
22 the rate of 6 3 cents per gallon ~~less than the rate of tax~~
23 ~~for nonaviation gasoline; and~~

24 ~~Idl. beginning April 1, 1989, gasohol shall be taxed at~~
25 ~~the same rate as nonaviation gasoline.~~

(4) ~~If at any time the gasoline license tax is lower than the current applicable tax on gasohol, the lower tax rate shall be adopted for gasohol. The schedule of tax rates provided for in subsection (3) shall 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 comprise 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold, the rate of tax for gasohol shall be 5 cents per gallon less than the rate of tax for nonaviation gasoline, effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasohol sold comprised 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold.~~

(b) ~~If for any 2 consecutive calendar quarters ending on or before September 30, 1986, the gallons of gasohol sold comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold, the rate of tax for gasohol shall be 3 cents per gallon less than the rate of tax for nonaviation gasoline, effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasohol sold comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold.~~

(c) ~~If for any 2 consecutive calendar quarters ending on or before September 30, 1988, the gallons of gasohol sold comprise 18% or more of the total gallons of nonaviation gasoline and gasohol sold, the rate of tax for gasohol shall be the same rate as the tax for nonaviation gasoline, effective beginning the second calendar quarter after the 2 consecutive quarters during which the gallons of gasohol sold comprised 18% or more of the total gallons of nonaviation gasoline and gasohol sold.~~

(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 requests for refunds from gasohol dealers for the use of gasoline to produce gasohol.~~

NEW SECTION. Section 15. Repealer. Section 3, Chapter 576, Laws of 1979, is repealed.

NEW SECTION. Section 16. Codification instruction. Sections 1 through 13 are intended to be codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, part 1, apply to sections 1 through 13.

NEW SECTION. Section 17. Effective date. This act is effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 427-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 16, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 780 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 780 establishes schedules for tax incentives for the production of gasohol; provides for licensing of and reporting by alcohol distributors; rescinds the suspension provision; and provides an effective date.

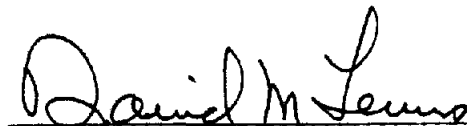
ASSUMPTIONS:

- 1) Total gasoline and gasohol consumption - 430,000,000 gallons.
- 2) Alcohol subsidy - 8% consumption @ 7¢/gallon = \$2,408,000; 11% consumption @ 5¢/gallon = \$2,365,000; 18% consumption @ 3¢/gallon = \$2,322,000.
- 3) Gasoline tax rate - 9¢/gallon.
- 4) Current and proposed law gasohol tax rate - 2¢/gallon.
- 5) No effect on gasohol tax revenues during the biennium.

FISCAL IMPACT:

There should be no change in the revenues collected from the gasoline license tax on gasohol during the biennium. At an 8% rate of gasohol consumption, the 7 cent per gallon subsidy would amount to approximately \$2.4 million yearly.

FISCAL NOTE 17:D/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-83

Approved by committee
on Taxation

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7 this state.
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12 department not later than the 25th day of the calendar month
13 following the month for which the claim is being made.

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17 5] in the manner or within the time provided in [section 5]
18 or who makes any false statement is guilty of a misdemeanor
19 and upon conviction must be fined not more than \$1,000 or
20 imprisoned in the county jail for not more than 6 months, or
21 both.

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5 and 8 cents for each gallon of all other gasoline
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7 gasoline license tax has not been paid by any other
8 distributor.

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14 ~~in accordance with the following schedule:~~

15 (a) beginning April 1, 1979, gasohol shall be taxed at
16 the rate of 2 1/2 cents per gallon ~~less than the rate of tax~~
17 ~~for nonaviation gasoline;~~

18 (b) beginning April 1, 1985, gasohol shall be taxed at
19 the rate of 4 1/2 cents per gallon ~~less than the rate of tax~~
20 ~~for nonaviation gasoline;~~

21 (c) beginning April 1, 1987, gasohol shall be taxed at
22 the rate of 6 1/2 cents per gallon ~~less than the rate of tax~~
23 ~~for nonaviation gasoline; and~~

24 ~~(d) beginning April 1, 1989, gasohol shall be taxed at~~
25 ~~the same rate as nonaviation gasoline.~~

1 ~~(4) If at any time the gasoline license tax is lower~~
 2 ~~than the current applicable tax on gasoline, the lower tax~~
 3 ~~rate shall be adopted for gasoline. The schedule of tax rates~~
 4 ~~provided for in subsection (3) shall be modified in response~~
 5 ~~to market conditions as follows:~~

6 ~~(a) If for any 2 consecutive calendar quarters ending~~
 7 ~~on or before September 30, 1984, the gallons of gasoline sold~~
 8 ~~comprise 8% or more but less than 11% of the total gallons~~
 9 ~~of nonaviation gasoline and gasoline sold, the rate of tax~~
 10 ~~for gasoline shall be 5 cents per gallon less than the rate~~
 11 ~~of tax for nonaviation gasoline, effective beginning the~~
 12 ~~second calendar quarter after the 2 consecutive calendar~~
 13 ~~quarters during which the gallons of gasoline sold comprised~~
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 15 ~~nonaviation gasoline and gasoline sold.~~

16 ~~(b) If for any 2 consecutive calendar quarters ending~~
 17 ~~on or before September 30, 1986, the gallons of gasoline sold~~
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1 ~~(c) If for any 2 consecutive calendar quarters ending~~
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 5 ~~be the same rate as the tax for nonaviation gasoline,~~
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10 ~~(d) Each quarter, the department shall compute the~~
 11 ~~share of the total nonaviation gasoline and gasoline market~~
 12 ~~that is represented by gasoline, according to the information~~
 13 ~~contained in gasoline distributors' returns and requests for~~
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 20 ~~integral part of Title 15, chapter 70, and the provisions of~~
 21 ~~Title 15, chapter 70, part 1, apply to sections 1 through~~
 22 ~~13.~~

23 ~~NEW SECTION. Section 17. Effective date. This act is~~
 24 ~~effective July 1, 1983.~~

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24 "15-70-204. Gasoline license tax -- rate. (1) Every
25 distributor shall pay to the department of revenue a license

1 tax for the privilege of engaging in and carrying on
2 business in this state in an amount equal to 1 cent for each
3 gallon of aviation gasoline, which shall be allocated to the
4 department of commerce as provided by 6T-1-301, as amended,
5 and 8 cents for each gallon of all other gasoline
6 distributed by him within the state and upon which the
7 gasoline license tax has not been paid by any other
8 distributor.

9 (2) Gasoline exported or sold for export out of the
10 state shall not be included in the measure of the
11 distributor's license tax.

12 ~~(3) Gasohol shall be subject to gasoline license taxes~~
13 ~~Except as provided in subsection (4), gasohol shall be taxed~~
14 in accordance with the following schedule:

15 (a) beginning April 1, 1979, gasohol shall be taxed at
16 the rate of 2 1/2 cents per gallon ~~less than the rate of tax~~
17 ~~for nonaviation gasoline;~~

18 (b) beginning April 1, 1985, gasohol shall be taxed at
19 the rate of 4 1/2 cents per gallon ~~less than the rate of tax~~
20 ~~for nonaviation gasoline;~~

21 (c) beginning April 1, 1987, gasohol shall be taxed at
22 the rate of 6 1/2 cents per gallon ~~less than the rate of tax~~
23 ~~for nonaviation gasoline; and~~

24 ~~(d) beginning April 1, 1989, gasohol shall be taxed at~~
25 ~~the same rate as nonaviation gasoline.~~

~~(4) If at any time the gasoline license tax is lower than the current applicable tax on gasoline, the lower tax rate shall be adopted for gasoline. The schedule of tax rates provided for in subsection (3) shall 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 gasoline sold comprise 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasoline sold, the rate of tax for gasoline shall be 5 cents per gallon less than the rate of tax for nonaviation gasoline effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasoline sold comprised 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasoline sold.~~

~~(b) If for any 2 consecutive calendar quarters ending on or before September 30, 1986, the gallons of gasoline sold comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasoline sold, the rate of tax for gasoline shall be 3 cents per gallon less than the rate of tax for nonaviation gasoline effective beginning the second calendar quarter after the 2 consecutive calendar quarters during which the gallons of gasoline sold comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasoline sold.~~

~~(c) If for any 2 consecutive calendar quarters ending on or before September 30, 1988, the gallons of gasoline sold comprise 18% or more of the total gallons of nonaviation gasoline and gasoline sold, the rate of tax for gasoline shall be the same rate as the tax for nonaviation gasoline effective beginning the second calendar quarter after the 2 consecutive quarters during which the gallons of gasoline sold comprised 18% or more of the total gallons of nonaviation gasoline and gasoline sold.~~

~~(d) Each quarter, the department shall compute the share of the total nonaviation gasoline and gasoline market that is represented by gasoline, according to the information contained in gasoline distributors' returns and requests for refunds from gasoline dealers for the use of gasoline to produce gasoline."~~

~~NEW SECTION. Section 15. Repealer. Section 3, Chapter 576, Laws of 1979, is repealed.~~

~~NEW SECTION. Section 16. Codification instruction. Sections 1 through 13 are intended to be codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, part 1, apply to sections 1 through 13.~~

~~NEW SECTION. Section 17. Effective date. This act is effective July 1, 1983.~~

-End-

April 8, 1983

SENATE STANDING COMMITTEE REPORT
(Taxation)

That House Bill No. 780 be amended as follows:

1. Title, line 5.
Following: "THE PRODUCTION OF"
Insert: "ALCOHOL TO BE BLENDED FOR"

2. Title, line 8.
Following: line 7
Strike: "SECTION"
Insert: "SECTIONS"
Following: "15-70-204"
Insert: "AND 15-70-221"

3. Page 1, line 13.
Following: "through"
Strike: "13"
Insert: "11"
Following: "cited as the"
Strike: "Gasohol"
Insert: "Alcohol"

4. Page 1, line 16.
Following: "through"
Strike: "13"
Insert: "11"

5. Page 1, line 17.
Following: "production of"
Insert: "alcohol to be blended for"

6. Page 1, line 25.
Following: "through"
Strike: "13"
Insert: "11"

7. Page 3, line 14.
Following: ";"
Insert: "and"

8. Page 3, lines 5 and 6.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections

9. Page 3, line 10.
Following: "distributor"
Insert: "and gasohol dealers"

10. Page 3, line 17.
Following: "distributor"
Insert: "or gasohol dealer"

SENATE STANDING COMMITTEE REPORT
Taxation - House Bill No. 780
April 8, 1983
Page 2

11. Page 3, line 18 through page 4, line 15.
Strike: sections 8 and 9 in their entirety
Renumber: subsequent sections

12. Page 4, line 18.
Following: "alcohol"
Insert: "distilled in Montana"

13. Page 4, line 20.
Following: "as allowed in"
Strike: "[section 11]"
Insert: "15-70-221"

14. Page 4, line 22 through page 5, line 4.
Strike: section 11 in its entirety
Renumber: subsequent sections

15. Page 5, line 5.
Following: line 4
Insert: "Section 9. Tax incentive for production of alcohol.
(1) There is a tax incentive payable to alcohol distributors for distilling alcohol to be blended with gasoline for sale as gasohol provided the alcohol is distilled in Montana from Montana agricultural products. Payment shall be made by the department of revenue out of the amount collected under 15-70-204.
(2) Except as provided in subsection (3) 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, 1986, 30 cents per gallon; and
(d) beginning April 1, 1989 and thereafter there is no tax incentive.
(3) The incentive schedule provided for in subsection (a) shall 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 comprise 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold.
(b) If for any 2 consecutive calendar quarters ending on or before September 30, 1986, the gallons of gasohol sold comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold.

(c) If for any 2 consecutive calendar quarters ending on or before September 30, 1988, the gallons of gasohol sold comprise 18% or more of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 18% or more of the total gallons of nonaviation gasoline and gasohol sold.

(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."

Renumber: subsequent sections

16. Page 5, line 5.
Following: "Application for"
Strike: "refund"
Insert: "payment of tax incentive"

17. Page 5, line 6.
Following: "shall apply for"
Strike: "refund"
Insert: "payment of tax incentive"

18. Page 5, line 8.
Following: "original"
Strike: "bulk delivery invoice or"
Insert: "production records and"

19. Page 5, line 9.
Following: line 8
Strike: "claimant"
Insert: "gasohol dealer"
Following: "the time of"
Strike: "purchase"
Insert: "sale"

20. Page 5, line 10.
Following: "gallons of"
Strike: "gasoline purchased"
Insert: "alcohol sold"

21. Page 5, line 11.
Following: "Application for"
Strike: "refunds"
Insert: "the payment of the tax incentives"

22. Page 5, line 14.
Following: line 13
Insert: "(3) The payment of the tax incentives shall be reduced by the amount of tax provided for in 15-70-204(3) that is due on alcohol to be blended for gasohol."

23. Page 6, line 13.
Following: line 12
Insert: "Alcohol that is blended or is to be blended with gasoline to be sold as gasohol is subject to a tax per gallon equal to the license tax imposed on nonaviation gasoline distributors under subsection (1)."
Strike: line 13 on page 6 through line 15 on page 8.

24. Page 8, line 16.
Following: line 15
Insert: "Section 13. Section 15-70-221, MCA, is amended to read: "15-70-221. Refund authorized. (1) Any person who shall purchase and use any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Such refund or drawback should in no instance exceed the tax paid or to be paid to the state and no refund shall be allowed of that portion of the tax per gallon upon aviation gasoline allocated to the department of commerce by 67-1-301.
(2) Any distributor paying the gasoline license tax to this state erroneously shall be allowed a credit or refund of the amount of tax so paid."

25. Page 8, line 19.
Following: "through"
Strike: "13"
Insert: "11"

26. Page 8, line 22.
Following: line 21
Strike: "13"
Insert: "11"

HOUSE BILL NO. 780

INTRODUCED BY HARP, BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH SCHEDULES FOR THE TAX INCENTIVE FOR THE PRODUCTION OF ALCOHOL TO BE BLENDED FOR GASOHOL; TO PROVIDE FOR LICENSING OF AND REPORTING BY ALCOHOL DISTRIBUTORS; TO RESCIND THE SUSPENSION PROVISION; AMENDING ~~SECTION~~ SECTIONS 15-70-204 AND 15-70-221, MCA; REPEALING SECTION 3, CHAPTER 576, LAWS OF 1979; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Short title. [Sections 1 through ~~13~~ 11] may be cited as the "~~Gasohol~~ ALCOHOL Tax Incentive and Administration Act of 1983".

NEW SECTION. Section 2. Purpose. The purpose of [sections 1 through ~~13~~ 11] is to establish schedules for the tax incentive for the production of ALCOHOL TO BE BLENDED FOR gasohol and to provide for the proper administration and enforcement of the tax incentive. The schedules for the tax incentive are designed to stimulate the development of alcohol fuel production in Montana while limiting the cost to the state of the tax incentive to amounts that are reasonable in relation to the highway revenue needs of Montana.

NEW SECTION. Section 3. Definitions. As used in

[sections 1 through ~~13~~ 11], 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 in this state; or

(b) imports alcohol for sale, use, or distribution in this state.

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

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

NEW SECTION. Section 4. License of alcohol distributors. Every alcohol distributor, prior to doing business, shall file with the department an application for a license, using forms prescribed and furnished by the department and setting forth such information as may be requested by the department. Upon approval of the application, the department shall issue the distributor a nonassignable license that continues in force until surrendered or canceled.

NEW SECTION. Section 5. Distributor's statement. Each alcohol distributor shall, not later than the 25th day of each calendar month, render to the department a statement.

1 signed by him, that includes the following:

2 (1) the number of gallons of alcohol manufactured or
3 imported by the distributor during the preceding calendar
4 month;

5 (2) the name of each gasohol dealer to whom he sold
6 alcohol and the number of gallons sold to each dealer; AND

7 (3) a declaration by each gasohol dealer of the
8 amounts of imported alcohol sold; and

9 (4) such other information as the department may
10 reasonably require to administer the tax laws of this state.

11 **NEW SECTION.** Section 6. Recordkeeping requirements.
12 The records of each alcohol distributor **AND GASOHOL DEALER**
13 must be kept for a period of not more than 3 years and must
14 include receipts, invoices, and such other information as
15 the department may require.

16 **NEW SECTION.** Section 7. Examination of records. The
17 department or its authorized representative may examine the
18 books, papers, records, and equipment of any alcohol
19 distributor **OR GASOHOL DEALER.**

20 **NEW SECTION.** Section 8. Payment of tax. (1) Any person licensed
21 as a gasoline distributor who reports and pays the gasohol tax
22 pursuant to 15-70-204 imports alcohol or purchases alcohol
23 imported by a Montana alcohol distributor shall pay tax at
24 the nonaviation gasoline tax rate on each gallon of motor
25

1 fuel product into which the imported alcohol is mixed;

2 (2) Any alcohol distributor who imports alcohol for
3 the purpose of producing a motor fuel product shall notify
4 the gasohol dealer that the motor fuel product is taxed at
5 the nonaviation gasoline tax rate;

6 (3) Any mixture of imported alcohol with alcohol
7 produced in this state from agricultural products produced
8 in this state results in taxation of the entire mixture at
9 the nonaviation gasoline tax rate;

10 **NEW SECTION.** Section 9. Refund. Any
11 gasohol dealer who purchases and uses gasoline on which the
12 Montana gasoline tax has been paid to produce gasohol and
13 who is not licensed as a gasoline distributor is entitled to
14 a refund computed as allowed in [section 11] of tax paid
15 on gasoline used to produce gasohol if the alcohol used to
16 make the gasohol is distilled in the state from agricultural
17 products produced in this state;

18 **NEW SECTION.** Section 10. Denaturing alcohol -- refund
19 authorized. Any alcohol distributor who, for the purpose of
20 denaturing alcohol **DISILLED IN MONTANA**, purchases gasoline
21 on which the Montana gasoline tax has been paid is entitled
22 to a refund, computed as allowed in [section 11] 15-10-221,
23 of tax paid on the gasoline used.

24 **NEW SECTION.** Section 11. Refund schedule. The refund
25 allowable under

~~(1) [section 9] is the difference between the amount of tax paid for gasoline used to produce gasohol and the amount of tax payable on the number of gallons of gasohol produced as determined by the gasohol tax rate;~~

~~(2) [section 10] is the amount of gasoline tax paid on gasoline used for denaturing of alcohol.~~

THERE IS A NEW MCA SECTION THAT READS:

Section 9. Tax incentive for production of alcohol.

(1) There is a tax incentive payable to alcohol distributors for distilling alcohol to be blended with gasoline for sale as gasohol provided the alcohol is distilled in Montana from Montana agricultural products. Payment shall be made by the department of revenue out of the amount collected under 15-70-204.

(2) Except as provided in subsection (3), 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, 1986, 30 cents per gallon; and

(d) beginning April 1, 1989, 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, 1984, the gallons of gasohol sold comprise 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 8% or more but less than 11% of the total gallons of nonaviation gasoline and gasohol sold.

(b) If for any 2 consecutive calendar quarters ending on or before September 30, 1986, the gallons of gasohol sold comprise 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 11% or more but less than 18% of the total gallons of nonaviation gasoline and gasohol sold.

(c) If for any 2 consecutive calendar quarters ending on or before September 30, 1988, the gallons of gasohol sold comprise 18% or more of the total gallons of nonaviation gasoline and gasohol sold, 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 comprised 18% or more of the total

1 gallons of nonaviation gasoline and gasohol sold.

2 (d) Each quarter, the department shall compute the
3 share of the total nonaviation gasoline and gasohol market
4 that is represented by gasohol, according to the information
5 contained in gasoline distributors' returns.

6 ~~NEW SECTION.~~ Section 10. Application for refund
7 ~~PAYMENT OF TAX INCENTIVE.~~ (1) The claimant shall apply for
8 refund ~~PAYMENT OF TAX INCENTIVE~~ by signed statement, on a
9 form furnished by the department, accompanied by the
10 original bulk-delivery-invoice--or ~~PRODUCTION RECORDS AND~~
11 invoices issued to the claimant ~~GASOHOL DEALER~~ at the time
12 of purchase ~~SALE~~ and delivery, showing total gallons of
13 gasoline-purchased ~~ALCOHOL SOLD~~.

14 (2) Application for refunds ~~THE PAYMENT OF THE TAX~~
15 ~~INCENTIVES~~ must be filed with the department not later than
16 the 25th day of the calendar month following the month for
17 which the claim is being made.

18 ~~(3) THE PAYMENT OF THE TAX INCENTIVES SHALL BE REDUCED~~
19 ~~BY THE AMOUNT OF TAX PROVIDED FOR IN 15-70-204(3) THAT IS~~
20 ~~DUE ON ALCOHOL TO BE BLENDED FOR GASOHOL.~~

21 ~~NEW SECTION.~~ Section 11. Penalty for failure to file.
22 Any alcohol distributor who fails to obtain a license under
23 [section 4] or to file the statements required by [section
24 5] in the manner or within the time provided in [section 5]
25 or who makes any false statement is guilty of a misdemeanor

1 and upon conviction must be fined not more than \$1,000 or
2 imprisoned in the county jail for not more than 6 months, or
3 both.

4 Section 12. Section 15-70-204, MCA, is amended to
5 read:

6 "15-70-204. Gasoline license tax -- rate. (1) Every
7 distributor shall pay to the department of revenue a license
8 tax for the privilege of engaging in and carrying on
9 business in this state in an amount equal to 1 cent for each
10 gallon of aviation gasoline, which shall be allocated to the
11 department of commerce as provided by 67-1-301, as amended,
12 and 3 cents for each gallon of all other gasoline
13 distributed by him within the state and upon which the
14 gasoline license tax has not been paid by any other
15 distributor.

16 (2) Gasoline exported or sold for export out of the
17 state shall not be included in the measure of the
18 distributor's license tax.

19 ~~(3) Gasohol shall be subject to gasoline license taxes~~
20 ~~ALCOHOL THAT IS BLENDED OR IS TO BE BLENDED WITH GASOLINE TO~~
21 ~~BE SOLD AS GASOHOL IS SUBJECT TO A TAX PER GALLON EQUAL TO~~
22 ~~THE LICENSE TAX IMPOSED ON NONAVIATION GASOLINE DISTRIBUTORS~~
23 ~~UNDER SUBSECTION (1). Except as provided in subsection (4),~~
24 ~~gasohol shall be taxed in accordance with the following~~
25 ~~schedules:~~

1 (a) beginning April 1, 1979, gasoline shall be taxed at
 2 the rate of 2 1/2 cents per gallon less than the rate of tax
 3 for nonaviation gasoline;
 4 (b) beginning April 1, 1985, gasoline shall be taxed at
 5 the rate of 4 1/2 cents per gallon less than the rate of tax
 6 for nonaviation gasoline;
 7 (c) beginning April 1, 1987, gasoline shall be taxed at
 8 the rate of 6 1/2 cents per gallon less than the rate of tax
 9 for nonaviation gasoline; and
 10 (d) beginning April 1, 1989, gasoline shall be taxed at
 11 the same rate as nonaviation gasoline;
 12 (f) if at any time the gasoline license tax is lower
 13 than the current applicable tax on gasoline, the lower tax
 14 rate shall be adopted for gasoline; the schedule of tax rates
 15 provided for in subsection (f) shall be modified to respond
 16 to market conditions as follows:
 17 (1) if for any 2 consecutive calendar quarters ending
 18 on or before September 30, 1984, the gallons of gasoline sold
 19 comprise 8% or more but less than 11% of the total gallons
 20 of nonaviation gasoline and gasoline sold, the rate of tax
 21 for gasoline shall be 5 cents per gallon less than the rate
 22 of tax for nonaviation gasoline effective beginning the
 23 second calendar quarter after the 2 consecutive calendar
 24 quarters during which the gallons of gasoline sold comprised
 25 8% or more but less than 11% of the total gallons of

1 nonaviation gasoline and gasoline sold;
 2 (2) if for any 2 consecutive calendar quarters ending
 3 on or before September 30, 1984, the gallons of gasoline sold
 4 comprise 11% or more but less than 18% of the total gallons
 5 of nonaviation gasoline and gasoline sold, the rate of tax
 6 for gasoline shall be 3 cents per gallon less than the rate
 7 of tax for nonaviation gasoline effective beginning the
 8 second calendar quarter after the 2 consecutive calendar
 9 quarters during which the gallons of gasoline sold comprised
 10 11% or more but less than 18% of the total gallons of
 11 nonaviation gasoline and gasoline sold;
 12 (3) if for any 2 consecutive calendar quarters ending
 13 on or before September 30, 1984, the gallons of gasoline sold
 14 comprise 18% or more of the total gallons of nonaviation
 15 gasoline and gasoline sold, the rate of tax for gasoline shall
 16 be the same rate as the tax for nonaviation gasoline
 17 effective beginning the second calendar quarter after the 2
 18 consecutive quarters during which the gallons of gasoline
 19 sold comprised 18% or more of the total gallons of
 20 nonaviation gasoline and gasoline sold;
 21 (4) Each quarter, the department shall compute the
 22 share of the total nonaviation gasoline and gasoline market
 23 that is represented by gasoline according to the information
 24 contained in gasoline distributors' returns and requests for
 25 refunds from gasoline dealers for the use of gasoline to

1 ~~produce-gasohol~~"

2 ~~SECTION 13. SECTION 15-70-221, MCA, IS AMENDED TO~~

3 ~~READ:~~

4 "15-70-221. Refund authorized. (1) Any person who
5 shall purchase and use any gasoline on which the Montana
6 gasoline license tax has been paid for ~~denaturing alcohol to~~
7 ~~be used in gasohol~~ or operating or propelling stationary
8 gasoline engines, tractors used off the public highways and
9 streets, or for any commercial use other than propelling
10 vehicles upon any of the public highways or streets of this
11 state shall be allowed a refund of the amount of tax paid
12 directly or indirectly on the gasoline so used. Such refund
13 or drawback should in no instance exceed the tax paid or to
14 be paid to the state and no refund shall be allowed of that
15 portion of the tax per gallon upon aviation gasoline
16 allocated to the department of commerce by 67-1-301.

17 (2) Any distributor paying the gasoline license tax to
18 this state erroneously shall be allowed a credit or refund
19 of the amount of tax so paid."

20 ~~NEW SECTION. Section 14. Repealer. Section 3, Chapter~~
21 ~~576, Laws of 1979, is repealed.~~

22 ~~NEW SECTION. Section 15. Codification Instruction.~~
23 ~~Sections 1 through 11 are intended to be codified as an~~
24 ~~integral part of Title 15, chapter 70, and the provisions of~~
25 ~~Title 15, chapter 70, part 1, apply to sections 1 through 11~~

1 11.

2 ~~NEW SECTION. Section 16. Effective date. This act is~~
3 ~~effective July 1, 1983.~~

-End-