

HOUSE BILL NO. 548

1/29 Introduced  
1/29 Referred to Taxation  
1/30 Fiscal Note Requested  
2/05 Fiscal Note Received  
2/08 Hearing  
Died in Committee

HOUSE BILL NO. 548

INTRODUCED BY *Larry Swank* *Frank* *Marko Yellowtail*

*C. S. Smith* *Jan* *B. Peterson* *Mace*

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXTEND THE TAX INCENTIVE FOR THE PRODUCTION OF ALCOHOL AS A COMPONENT OF

GASOHOL; TO CLARIFY THAT ALCOHOL PRODUCED FOR GASOHOL FROM

WOOD OR WOOD PRODUCTS IS ELIGIBLE FOR THE TAX INCENTIVE;

EXTENDING THE TAX INCENTIVE TO ALCOHOL PRODUCED FOR USE IN

GASOHOL WHETHER USED IN THE STATE OR EXPORTED; REVISING THE

TIME PERIOD FOR WHICH THE TAX INCENTIVE IS AVAILABLE;

LIMITING THE TAX INCENTIVE AVAILABLE TO ALCOHOL PRODUCTION

TO 3 MILLION GALLONS ANNUALLY PER ALCOHOL DISTRIBUTOR;

AMENDING SECTIONS 15-70-201, 15-70-503, AND 15-70-522, MCA;

AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-70-201, MCA, is amended to read:

"15-70-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source of earned income is from the business of farming or ranching.

(2) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline, either

from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as herein provided for.

(3) "Aviation gasoline" means gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(4) "Bulk delivery" means placing gasoline in storage or containers. The term does not mean gasoline delivered into the supply tank of a motor vehicle.

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall be deemed to be "distributed", for the purpose of this part, at the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery, or terminal, such gasoline may be



1 distributed only by a person who is the holder of a valid  
2 distributor's license.

3 (b) Gasoline imported into this state, other than that  
4 gasoline placed in storage at refineries or pipeline  
5 terminals, shall be deemed to be "distributed" after it has  
6 arrived in and is brought to rest in this state.

7 (6) "Distributor" means:

8 (a) any person who engages in the business in this  
9 state of producing, refining, manufacturing, or compounding  
10 gasoline for sale, use, or distribution;

11 (b) any person who imports gasoline for sale, use, or  
12 distribution;

13 (c) any person who engages in the wholesale  
14 distribution of gasoline in this state and chooses to become  
15 licensed to assume the Montana state gasoline tax liability;

16 (d) any dealer licensed as of January 1, 1969, except  
17 a dealer at an established airport.

18 (7) "Gasohol" means all products commonly or  
19 commercially known or sold as gasohol, produced ~~and sold~~ in  
20 Montana for the purpose of effectively and efficiently  
21 operating internal combustion engines, consisting of not  
22 less than 10% anhydrous ethanol produced in Montana from  
23 Montana agricultural products, including wood or wood  
24 products.

25 (8) "Gasoline" includes all products commonly or

1 commercially known or sold as gasolines, including  
2 casinghead gasoline, natural gasoline, aviation gasoline,  
3 and all flammable liquids composed of a mixture of selected  
4 hydrocarbons expressly manufactured and blended for the  
5 purpose of effectively and efficiently operating internal  
6 combustion engines. Gasoline does not include special fuels  
7 as defined in 15-70-301(6).

8 (9) "Import" shall include and mean to receive into  
9 any person's possession or custody first after its arrival  
10 and coming to rest at destination within the state of any  
11 gasoline shipped or transported into this state from point  
12 of origin without this state other than in the fuel supply  
13 tank of a motor vehicle.

14 (10) "Motor vehicle" means all vehicles operated or  
15 propelled upon the public highways or streets of this state  
16 in whole or in part by the combustion of gasoline.

17 (11) "Person" means any person, firm, association,  
18 joint-stock company, syndicate, or corporation.

19 (12) "Use" shall include and mean the operation of  
20 motor vehicles upon the public roads or highways of the  
21 state or of any political subdivision thereof."

22 Section 2. Section 15-70-503, MCA, is amended to read:  
23 "15-70-503. Definitions. As used in this part, the  
24 definitions in 15-70-201 and the following definitions  
25 apply:

1 (1) "Alcohol distributor" means any person who, for  
2 the purpose of making gasohol:

3 (a) engages in the business of producing alcohol for  
4 sale, use, or distribution ~~in this state~~; or

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

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

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

11 Section 3. Section 15-70-522, MCA, is amended to read:

12 "15-70-522. Tax incentive for production of alcohol.

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

19 ~~{2}--Except as provided in subsection {3}, the tax~~  
20 ~~incentive on each gallon of alcohol distilled in accordance~~  
21 ~~with subsection {1} is:~~

22 ~~{a}--beginning July 1, 1983, 70 cents per gallon;~~

23 ~~{b}--beginning April 1, 1985, 50 cents per gallon;~~

24 ~~{c}--beginning April 1, 1986, 30 cents per gallon; and~~

25 ~~{d}--beginning April 1, 1989, and thereafter, there is~~

1 ~~no tax incentive;~~

2 ~~{3}--The incentive schedule provided for in subsection~~  
3 ~~{2} shall be modified in response to market conditions as~~  
4 ~~follows:~~

5 ~~{a}--If for any 2 consecutive calendar quarters ending~~  
6 ~~on or before September 30, 1984, the gallons of gasohol sold~~  
7 ~~comprise 8% or more but less than 11% of the total gallons~~  
8 ~~of nonaviation gasoline and gasohol sold, the tax incentive~~  
9 ~~for alcohol shall be 50 cents per gallon, effective~~  
10 ~~beginning the second calendar quarter after the 2~~  
11 ~~consecutive calendar quarters during which the gallons of~~  
12 ~~gasohol sold comprised 8% or more but less than 11% of the~~  
13 ~~total gallons of nonaviation gasoline and gasohol sold;~~

14 ~~{b}--If for any 2 consecutive calendar quarters ending~~  
15 ~~on or before September 30, 1986, the gallons of gasohol sold~~  
16 ~~comprise 11% or more but less than 18% of the total gallons~~  
17 ~~of nonaviation gasoline and gasohol sold, the tax incentive~~  
18 ~~for alcohol shall be 30 cents per gallon effective beginning~~  
19 ~~the second calendar quarter after the 2 consecutive calendar~~  
20 ~~quarters during which the gallons of gasohol sold comprised~~  
21 ~~11% or more but less than 18% of the total gallons of~~  
22 ~~nonaviation gasoline and gasohol sold;~~

23 ~~{c}--If for any 2 consecutive calendar quarters ending~~  
24 ~~on or before September 30, 1988, the gallons of gasohol sold~~  
25 ~~comprise 18% or more of the total gallons of nonaviation~~

1 ~~gasoline and gasohol sold, the tax incentive for alcohol~~  
 2 ~~shall be eliminated effective beginning the second calendar~~  
 3 ~~quarter after the 2 consecutive quarters during which the~~  
 4 ~~gallons of gasohol sold comprised 18% or more of the total~~  
 5 ~~gallons of nonaviation gasoline and gasohol sold.~~

6 ~~(d) Each quarter, the department shall compute the~~  
 7 ~~share of the total nonaviation gasoline and gasohol market~~  
 8 ~~that is represented by gasohol, according to the information~~  
 9 ~~contained in gasoline distributors' returns.~~

10 (2) Except as provided in subsection (4), for any  
 11 alcohol distributor who, on or before [the effective date of  
 12 this act] was distilling alcohol to be blended with gasoline  
 13 for sale as gasohol, provided such distillation occurred in  
 14 Montana from Montana agricultural products, including wood  
 15 and wood products, the tax incentive is:

16 (a) for the period beginning on [the effective date of  
 17 this act] and ending [2 years from the effective date of  
 18 this act], 70 cents per gallon of alcohol;

19 (b) for the period beginning [2 years from the  
 20 effective date of this act] and ending [4 years from the  
 21 effective date of this act], 50 cents per gallon of alcohol;

22 (c) for the period beginning [4 years from the  
 23 effective date of this act] and ending [6 years from the  
 24 effective date of this act], 30 cents per gallon of alcohol;

25 (d) beginning [6 years from the effective date of this

1 act] and thereafter, inapplicable.

2 (3) Except as provided in subsections (4) and (5), for  
 3 any alcohol distributor who, after [the effective date of  
 4 this act], begins distillation of alcohol to be blended with  
 5 gasoline for sale as gasohol, provided such distillation  
 6 occurs in Montana from Montana agricultural products,  
 7 including wood and wood products, the tax incentive is:

8 (a) for the period beginning on the first day of  
 9 production and ending 2 years from the first day of  
 10 production, 70 cents per gallon of alcohol;

11 (b) for the period beginning 2 years from the first  
 12 day of production and ending 4 years from the first day of  
 13 production, 50 cents per gallon of alcohol;

14 (c) for the period beginning 4 years from the first  
 15 day of production and ending 6 years from the first day of  
 16 production, 30 cents per gallon of alcohol;

17 (d) beginning 6 years from the first day of  
 18 production, and thereafter, inapplicable.

19 (4) The tax incentive provided in this section is  
 20 applicable only to the first 3 million gallons of alcohol  
 21 produced annually by each distillation operation.

22 (5) Regardless of the first day of production, there  
 23 is no tax incentive on alcohol produced for blending with  
 24 gasoline for sale as gasohol after December 31, 1999."

25 NEW SECTION. Section 4. Extension of authority. Any

1 existing authority of the department of revenue or the  
2 department of highways to make rules on the subject of the  
3 provisions of this act is extended to the provisions of this  
4 act.

5 NEW SECTION. Section 5. Effective date. This act is  
6 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN 280-85

Form BD-15

In compliance with a written request received January 30, 19 85, there is hereby submitted a Fiscal Note for H.B. 548 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:

An act to extend the tax incentive for the production of alcohol as a component of gasohol; to clarify that alcohol produced for gasohol from wood or wood products is eligible for the tax incentive; extending the tax incentive to alcohol produced for use in gasohol whether used in the state or exported; revising the time period for which the tax incentive is available; limiting the tax incentive available to alcohol production to 3 million gallons annually per alcohol distributor; and providing an effective date.

ASSUMPTIONS:

1. 15 cents per gallon of gasohol is collected on every gallon sold in-state (Gasoline License Tax).
2. Based on data from A.E. Montana and Alcotech, the two plants have an annual productive capacity of 2,800,000 gallons of ethanol.
3. In FY 1987, the PLM gasohol plant near Hardin is scheduled to produce 3 million gallons of ethanol that will qualify for the incentive.
4. All production will be sold in-state.
5. No ethyl alcohol is produced from wood or wood products in Montana.
6. Annual production is prorated over 12 months.

FISCAL IMPACT:

	<u>Under</u> <u>Current Law</u>	<u>FY 86</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>	<u>Under</u> <u>Current Law</u>	<u>FY 87</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>
Effect on Expenditures by Category:						
Alcohol Production						
Incentive Payments	\$840,000	\$1,540,000	\$700,000	\$870,000	\$3,190,000	\$2,320,000

*David L. Hunter*  
\_\_\_\_\_  
BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 5, 1985

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Department of Highways Special Revenue Fund money is allocated to Montana counties and Montana cities and towns each year for road construction, repair, and maintenance. It is assumed that any decrease in the fund would have an impact on county or other local revenue and expenditures.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Effect on future expenditures will depend on future alcohol production and markets.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

This proposal doesn't specify that alcohol qualifying for the incentive payment must actually be blended, i.e., used for gasohol. Lines 21 to 24 on page 3 of the draft bill state that ethanol produced from wood or wood products can be blended with gasoline to produce gasohol. The majority of all alcohol produced from wood is methanol.