

SENATE BILL NO. 400

INTRODUCED BY YELLOWTAIL, HOWE, CRIPPEN, RAPP-SVRCEK, HOLLIDAY,  
HANSON, ANDERSON, LANE, BENGTON, HIRSCH, LYBECK, MANNING,  
GALT, TOWE, H. HAMMOND, MAZUREK, BOYLAN, SHAW, HALLIGAN, E. SMITH,  
B. WILLIAMS, WEEDING

BY REQUEST OF THE DEPARTMENT OF REVENUE

IN THE SENATE

February 13, 1985	Introduced and referred to Committee on Taxation.  Fiscal Note requested.
February 19, 1985	Fiscal Note returned.
March 8, 1985	Committee recommend bill do pass as amended. Report adopted.
March 9, 1985	Bill printed and placed on members' desks.
March 11, 1985	Second reading, do pass.
March 12, 1985	Considered correctly engrossed.
March 13, 1985	Third reading, passed. Ayes, 48; Noes, 2.  Transmitted to House.

IN THE HOUSE

March 14, 1985	Introduced and referred to Committee on Taxation.
March 30, 1985	Committee recommend bill be concurrent in as amended. Report adopted.
April 2, 1985	New Fiscal Note requested.

April 3, 1985 New Fiscal Note returned.  
Second reading, concurred in.

April 5, 1985 Third reading, concurred in.  
Returned to Senate with amendments.

IN THE SENATE

April 13, 1985 On motion, rules suspended to accept. Motion adopted.

April 15, 1985 Received from House.

April 17, 1985 Second reading, amendments concurred in.

April 18, 1985 Third reading, amendments concurred in.  
Ayes, 49; Noes, 0.  
Sent to enrolling.

April 19, 1985 Correctly enrolled.  
Signed by President.  
Signed by Speaker.  
Delivered to Governor.

April 23, 1985 Returned from Governor with recommended amendments.  
Second reading, Governor's amendments concurred in.  
Third reading, Governor's amendments concurred in.  
Transmitted to House.

IN THE HOUSE

April 23, 1985

Received from Senate.

April 24, 1985

Second reading, Governor's amendments concurred in.

Third reading, Governor's amendments concurred in.

Returned to Senate.

IN THE SENATE

April 24, 1985

Received from House.

April 25, 1985

Sent to enrolling.

Reported correctly enrolled.

1 *SENATE* BILL NO. *400*  
 2 INTRODUCED BY *Yellowtail, Howell, Egan, Reynolds, Hoeslin*  
 3 *M. Hanson* BY REQUEST OF THE DEPARTMENT OF REVENUE *LAKE*  
 4 *Anderson* *Bengtson, Heisch, Lybeck, Richard E. Manning, Jeffery, H. Smith*  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TAX  
 6 INCENTIVE FOR THE PRODUCTION OF ALCOHOL BY REQUIRING THAT  
 7 MONTANA-PRODUCED ALCOHOL BE BLENDED WITH GASOLINE TO PRODUCE  
 8 GASOHOL; EXTENDING THE ALCOHOL TAX INCENTIVE TO  
 9 MONTANA-PRODUCED ALCOHOL EXPORTED AND BLENDED WITH GASOLINE;  
 10 DEFINING THE TERM "EXPORT"; LIMITING THE TOTAL POTENTIAL  
 11 EXPENDITURE FOR ALCOHOL PRODUCTION TAX INCENTIVE PAYMENTS;  
 12 AMENDING SECTIONS 15-70-201, 15-70-503, 15-70-522, AND  
 13 15-70-523, MCA; AND PROVIDING EFFECTIVE DATES."  
 14  
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 16 Section 1. Section 15-70-201, MCA, is amended to read:  
 17 "15-70-201. Definitions. As used in this part, unless  
 18 the context requires otherwise, the following definitions  
 19 apply:  
 20 (1) "Agricultural use" means use of gasoline by a  
 21 person whose major endeavor and primary source of earned  
 22 income is from the business of farming or ranching.  
 23 (2) "Aviation dealer" means any person in this state  
 24 engaged in the business of selling aviation gasoline, either  
 25 from a wholesale or retail outlet, on which the license tax

1 has been paid to a licensed distributor as herein provided  
 2 for.  
 3 (3) "Aviation gasoline" means gasoline or any other  
 4 liquid fuel by whatsoever name such liquid fuel may be known  
 5 or sold, compounded for use in and sold for use in aircraft,  
 6 including but not limited to any and all such gasoline or  
 7 liquid fuel meeting or exceeding the minimum specifications  
 8 prescribed by the United States for use by its military  
 9 forces in aircraft.  
 10 (4) "Bulk delivery" means placing gasoline in storage  
 11 or containers. The term does not mean gasoline delivered  
 12 into the supply tank of a motor vehicle.  
 13 (5) (a) Gasoline refined, produced, manufactured, or  
 14 compounded in this state and placed in tanks thereat or  
 15 gasoline transferred from a refinery or pipeline terminal in  
 16 this state and placed in tanks thereat or gasoline imported  
 17 into this state and placed in storage at refineries or  
 18 pipeline terminals shall be deemed to be "distributed", for  
 19 the purpose of this part, at the time the gasoline is  
 20 withdrawn from such tanks, refinery, or terminal storage for  
 21 sale or use in this state or for the transportation to  
 22 destinations in this state other than by pipeline to another  
 23 refinery or pipeline terminal in this state. When withdrawn  
 24 from such tanks, refinery, or terminal, such gasoline may be  
 25 distributed only by a person who is the holder of a valid

1 distributor's license.

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

6 (6) "Distributor" means:

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

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

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

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

17 (e) any person in Montana who blends alcohol with  
18 gasoline.

19 (7) "Export" means export as defined in 15-70-503.

20 ~~(7)~~(8) "Gasohol" means all products commonly or  
21 commercially known or sold as gasohol, ~~produced-and-sold-in~~  
22 ~~Montana~~ used for the purpose of effectively and efficiently  
23 operating internal combustion engines, consisting of not  
24 less than 10% anhydrous ethanol produced in Montana from  
25 Montana agricultural products.

1 ~~(8)~~(9) "Gasoline" includes all products commonly or  
2 commercially known or sold as gasolines, including  
3 casinghead gasoline, natural gasoline, aviation gasoline,  
4 and all flammable liquids composed of a mixture of selected  
5 hydrocarbons expressly manufactured and blended for the  
6 purpose of effectively and efficiently operating internal  
7 combustion engines. Gasoline does not include special fuels  
8 as defined in 15-70-301(6).

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

15 ~~(10)~~(11) "Motor vehicle" means all vehicles operated or  
16 propelled upon the public highways or streets of this state  
17 in whole or in part by the combustion of gasoline.

18 ~~(11)~~(12) "Person" means any person, firm, association,  
19 joint-stock company, syndicate, or corporation.

20 ~~(12)~~(13) "Use" shall include and mean the operation of  
21 motor vehicles upon the public roads or highways of the  
22 state or of any political subdivision thereof."

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

1 nonaviation gasoline and gasohol sold in Montana.

2 (b) If for any 2 consecutive calendar quarters ending  
3 on or before September 30, 1986, the gallons of gasohol sold  
4 or that have received the benefit of the tax incentive  
5 during those quarters comprise 11% or more but less than 18%  
6 of the total gallons of nonaviation gasoline and gasohol  
7 sold in Montana, the tax incentive for alcohol shall be 30  
8 cents per gallon effective beginning the second calendar  
9 quarter after the 2 consecutive calendar quarters during  
10 which the gallons of gasohol sold or that have received the  
11 benefit of the tax incentive during those quarters comprised  
12 11% or more but less than 18% of the total gallons of  
13 nonaviation gasoline and gasohol sold in Montana.

14 (c) If for any 2 consecutive calendar quarters ending  
15 on or before September 30, 1988, the gallons of gasohol sold  
16 or that have received the benefit of the tax incentive  
17 during those quarters comprise 18% or more of the total  
18 gallons of nonaviation gasoline and gasohol sold in Montana,  
19 the tax incentive for alcohol shall be eliminated effective  
20 beginning the second calendar quarter after the 2  
21 consecutive quarters during which the gallons of gasohol  
22 sold or that have received the benefit of the tax incentive  
23 during those quarters comprised 18% or more of the total  
24 gallons of nonaviation gasoline and gasohol sold in Montana.

25 (d) Each quarter, the department shall compute the

1 share of the total nonaviation gasoline and gasohol market  
2 that is represented by gasohol, according to the information  
3 contained in gasoline distributors' returns and the  
4 applications for payment of the alcohol production tax  
5 incentive. Alcohol that is exported from Montana and  
6 eligible for the tax incentive must be included in the  
7 computations.

8 (4) Regardless of the alcohol tax incentive provided  
9 in subsection (2) or (3), the total payments made for the  
10 incentive under this part may not exceed \$2,500,000 in any  
11 consecutive 12-month period beginning April 1, 1985."

12 Section 4. Section 15-70-523, MCA, is amended to read:

13 "15-70-523. Application for payment of tax incentive.

14 (1) The claimant shall apply for payment of tax incentive by  
15 signed statement, on a form furnished by the department.  
16 The form must be accompanied by:

17 (a) the original production records and invoices  
18 issued to the gasohol dealer at the time of sale and  
19 delivery, showing total gallons of alcohol sold; and

20 (b) a certificate of blending issued by the alcohol  
21 purchaser showing the total gallons of alcohol sold and the  
22 date of blending.

23 (2) Application for the payment of the tax incentives  
24 must be filed with the department not later than the 25th  
25 day of the calendar month following the month for which the

1 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) "Export" means to transport out of Montana from  
10 any point of origin within Montana by any means other than  
11 in the fuel supply tank of a motor vehicle.

12 ~~(3)(4)~~ "Gasohol dealer" means any person who blends  
13 alcohol with gasoline to produce gasohol for sale, use, or  
14 distribution in this state."

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

16 "15-70-522. Tax incentive for production of alcohol.

17 (1) ~~There~~ (a) Provided the alcohol was produced in Montana  
18 from Montana agricultural products, there is a tax incentive  
19 payable to alcohol distributors for distilling alcohol to-be  
20 that:

21 (i) was blended with gasoline for sale as gasohol  
22 provided--the--alcohol--is--distilled--in--Montana--from--Montana  
23 agricultural-products in Montana; or

24 (ii) was exported from Montana and has been blended  
25 with gasoline for sale as gasohol.

1 (b) Payment shall be made by the department of revenue  
2 out of the amount collected under 15-70-204.

3 (2) Except as provided in ~~subsection~~ subsections (3)  
4 and (4), the tax incentive on each gallon of alcohol  
5 distilled in accordance with subsection (1) is:

6 (a) beginning July 1, 1983, 70 cents per gallon;

7 (b) beginning April 1, 1985, 50 cents per gallon;

8 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;

9 and

10 (d) beginning April 1, 1989, and thereafter, there is  
11 no tax incentive.

12 (3) The incentive schedule provided for in subsection  
13 (2) shall be modified in response to market conditions as  
14 follows:

15 (a) If for any 2 consecutive calendar quarters ending  
16 on or before September 30, 1984, the gallons of gasohol sold  
17 or that have received the benefit of the tax incentive  
18 during those quarters comprise 8% or more but less than 11%  
19 of the total gallons of nonaviation gasoline and gasohol  
20 sold in Montana, the tax incentive for alcohol shall be 50  
21 cents per gallon, effective beginning the second calendar  
22 quarter after the 2 consecutive calendar quarters during  
23 which the gallons of gasohol sold or that have received the  
24 benefit of the tax incentive during those quarters comprised  
25 8% or more but less than 11% of the total gallons of

1 claim is being made.

2 ~~{3}--The payment of the tax incentives shall be reduced~~  
3 ~~by the amount of tax provided for in 15-78-204{3} that is~~  
4 ~~due on alcohol to be blended for gasohol."~~

5 NEW SECTION. Section 5. Extension of authority. Any  
6 existing authority of the department of revenue or the  
7 department of highways to make rules on the subject of the  
8 provisions of this act is extended to the provisions of this  
9 act.

10 NEW SECTION. Section 6. Effective dates. Sections 1  
11 through 4 of this act are effective July 1, 1985. Section 5  
12 and this section are effective on passage and approval, but  
13 no rules adopted under section 5 may be made effective  
14 before July 1, 1985.

-End-



## STATE OF MONTANA

## FISCAL NOTE

REQUEST NO. FNN 426-85Form BD-15

In compliance with a written request received February 13, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 400 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 limiting the tax incentive for the production of alcohol by requiring that Montana-produced alcohol be blended with gasoline to produce gasohol; extending the alcohol tax incentive to Montana-produced alcohol exported and blended with gasoline; defining the term "export"; limiting the total potential expenditure for alcohol production tax incentive payments; and providing effective dates.

ASSUMPTIONS:

- 15 cents per gallon of gasohol is collected on every gallon sold in-state under the current law (Gasoline License Tax).
- Based on data from A. E. Montana and Alcotech 2,800,000 gallons of ethanol will be produced in Montana in FY1986.
- In FY 1987, PLM will produce 3 million gallons of qualifying ethanol, upping the state total to 5.8 million gallons.
- The gasohol sales limits specified in Section 3, Subsection 3 of the proposed bill will not be met in FY1986 or FY1987.

FISCAL IMPACT:

	Under Current Law	<u>FY 1986</u> Under Proposed Law	Estimated Increase	Under Current Law	<u>FY 1987</u> Under Proposed Law	Estimated Increase
Alcohol Production Incentive Payments	840,000	1,400,000	560,000	870,000	2,500,000	1,630,000
TOTAL EXPENDITURES	840,000	1,400,000	560,000	870,000	2,500,000	1,630,000
NET EFFECT	(840,000)	(1,400,000)	(560,000)	(870,000)	(2,500,000)	(1,630,000)

David L. Hunter

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Feb 19, 1985

Request No. FNN 426-85  
Form BD-15 Page 2

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The future impact of this proposal on alcohol production incentive expenditures will depend on the number of gallons of ethanol produced each year that qualify for the incentive but may not exceed the \$2.5M cap in any year.

STATE OF MONTANA  
FISCAL NOTE

Amended  
REQUEST NO. FNN426-85  
Form BD-15

In compliance with a written request received April 2, 19 85, there is hereby submitted a Fiscal Note for S.B. 400 Amended pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION

An act limiting the tax incentive for the production of alcohol by requiring that Montana-produced alcohol be blended with gasoline to produce gasohol; extending the alcohol tax incentive to Montana-produced alcohol exported and blended with gasoline; defining the term "export"; limiting and apportioning the total potential expenditure for alcohol production tax incentive payments; and providing effective dates.

ASSUMPTIONS

1. 15 cents per gallon of gasohol is collected on every gallon sold in-state under the current law (Gasoline License Tax).
2. Based on data from A. E. Montana and Alcotech 2,800,000 gallons of ethanol will be produced in Montana in FY1986; each of the two plants will produce 1,400,000 gallons.
3. Gasohol sales limits specified in Section 3, Subsection 3 of the proposed bill will not be met in FY1986 or FY1987.
4. In FY1987, PLM will produce 3 million gallons of ethanol, upping the state total to 5.8 million gallons.
5. All alcohol production in Montana in FY1986 and FY1987 will be blended with gasoline to produce gasohol.

	<u>Under</u> <u>Current Law</u>	<u>FY86</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>	<u>Under</u> <u>Current Law</u>	<u>FY87</u> <u>Under</u> <u>Proposed Law</u>	<u>Estimated</u> <u>Increase</u>
Alcohol Production Incentive Payments	840,000	1,400,000	560,000	870,000	2,500,000	1,630,000
TOTAL EXPENDITURES	840,000	1,400,000	560,000	870,000	2,500,000	1,630,000
NET EFFECT	(840,000)	(1,400,000)	(560,000)	(870,000)	(2,500,000)	(1,630,000)

  
\_\_\_\_\_

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: April 3, 1985  
AMENDED FISCAL NOTE, SB 400

Request No. 426-85 Amended  
Form BD-15 Page 2

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION

This proposal's future impact on incentive payments will depend on the number of gallons of ethanol produced each year that qualify for the incentive. The total of incentive payments for any one year period may not exceed \$2.5 million.

APPROVED BY COMMITTEE  
ON TAXATION

AS AMENDED

SENATE BILL NO. 400

INTRODUCED BY YELLOWTAIL, HOWE, CRIPPEN, RAPP-SVRCEK,  
HOLLIDAY, HANSON, ANDERSON, LANE, BENGTSON, HIRSCH,  
LYBECK, MANNING, GALT, TOWE, H. HAMMOND, MAZUREK,  
BOYLAN, SHAW, HALLIGAN, E. SMITH, B. WILLIAMS, WEEDING  
BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TAX  
INCENTIVE FOR THE PRODUCTION OF ALCOHOL BY REQUIRING THAT  
MONTANA-PRODUCED ALCOHOL BE BLENDED WITH GASOLINE TO PRODUCE  
GASOHOL; EXTENDING THE ALCOHOL TAX INCENTIVE TO  
MONTANA-PRODUCED ALCOHOL EXPORTED AND BLENDED WITH GASOLINE;  
DEFINING THE TERM "EXPORT"; LIMITING AND APPORTIONING THE  
TOTAL POTENTIAL EXPENDITURE FOR ALCOHOL PRODUCTION TAX  
INCENTIVE PAYMENTS; AMENDING SECTIONS 15-70-201, 15-70-503,  
15-70-522, AND 15-70-523, MCA; AND PROVIDING EFFECTIVE  
DATES."

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

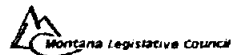
income is from the business of farming or ranching.

(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



1 destinations in this state other than by pipeline to another  
2 refinery or pipeline terminal in this state. When withdrawn  
3 from such tanks, refinery, or terminal, such gasoline may be  
4 distributed only by a person who is the holder of a valid  
5 distributor's license.

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

10 (6) "Distributor" means:

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

14 (b) any person who imports gasoline for sale, use, or  
15 distribution;

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

19 (d) any dealer licensed as of January 1, 1969, except  
20 a dealer at an established airport;

21 (e) any person in Montana who blends alcohol with  
22 gasoline.

23 (7) "Export" means export as defined in 15-70-503.

24 (8) "Gasohol" means all products commonly or  
25 commercially known or sold as gasohol, ~~produced-and-sold--in~~

1 Montana used for the purpose of effectively and efficiently  
2 operating internal combustion engines, consisting of not  
3 less than 10% anhydrous ethanol produced in Montana from  
4 Montana agricultural products.

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

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

19 (11) "Motor vehicle" means all vehicles operated or  
20 propelled upon the public highways or streets of this state  
21 in whole or in part by the combustion of gasoline.

22 (12) "Person" means any person, firm, association,  
23 joint-stock company, syndicate, or corporation.

24 (13) "Use" shall include and mean the operation of  
25 motor vehicles upon the public roads or highways of the

1 state or of any political subdivision thereof."

2 Section 2. Section 15-70-503, MCA, is amended to read:

3 "15-70-503. Definitions. As used in this part, the  
4 definitions in 15-70-201 and the following definitions  
5 apply:

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

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

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

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

13 (3) "Export" means to transport out of Montana from  
14 any point of origin within Montana by any means other than  
15 in the fuel supply tank of a motor vehicle.

16 ~~(3)(4)~~ (4) "Gasohol dealer" means any person who blends  
17 alcohol with gasoline to produce gasohol for sale, use, or  
18 distribution in this state."

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

20 "15-70-522. Tax incentive for production of alcohol.

21 (1) ~~There~~ (a) Provided the alcohol was produced in Montana  
22 from Montana agricultural products, there is a tax incentive  
23 payable to alcohol distributors for distilling alcohol to be  
24 that:

25 (i) was blended with gasoline for sale as gasohol;

1 ~~provided the alcohol is distilled in Montana from Montana~~  
2 ~~agricultural products in Montana; or~~

3 (ii) was exported from Montana and has been blended  
4 with gasoline for sale as gasohol.

5 (b) Payment shall be made by the department of revenue  
6 out of the amount collected under 15-70-204.

7 (2) Except as provided in ~~subsection~~ subsections (3)  
8 ~~and (4)~~ THROUGH (5), the tax incentive on each gallon of  
9 alcohol distilled in accordance with subsection (1) is:

10 (a) beginning July 1, 1983, 70 cents per gallon;

11 (b) beginning April 1, 1985, 50 cents per gallon;

12 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;

13 and

14 (d) beginning April 1, 1989, and thereafter, there is  
15 no tax incentive.

16 (3) The incentive schedule provided for in subsection  
17 (2) shall be modified in response to market conditions as  
18 follows:

19 (a) If for any 2 consecutive calendar quarters ending  
20 on or before September 30, 1984, the gallons of gasohol sold  
21 or that have received the benefit of the tax incentive  
22 during those quarters comprise 8% or more but less than 11%  
23 of the total gallons of nonaviation gasoline and gasohol  
24 sold in Montana, the tax incentive for alcohol shall be 50  
25 cents per gallon, effective beginning the second calendar

1 quarter after the 2 consecutive calendar quarters during  
 2 which the gallons of gasohol sold or that have received the  
 3 benefit of the tax incentive during those quarters comprised  
 4 8% or more but less than 11% of the total gallons of  
 5 nonaviation gasoline and gasohol sold in Montana.

6 (b) If for any 2 consecutive calendar quarters ending  
 7 on or before September 30, 1986, the gallons of gasohol sold  
 8 or that have received the benefit of the tax incentive  
 9 during those quarters comprise 11% or more but less than 18%  
 10 of the total gallons of nonaviation gasoline and gasohol  
 11 sold in Montana, the tax incentive for alcohol shall be 30  
 12 cents per gallon effective beginning the second calendar  
 13 quarter after the 2 consecutive calendar quarters during  
 14 which the gallons of gasohol sold or that have received the  
 15 benefit of the tax incentive during those quarters comprised  
 16 11% or more but less than 18% of the total gallons of  
 17 nonaviation gasoline and gasohol sold in Montana.

18 (c) If for any 2 consecutive calendar quarters ending  
 19 on or before September 30, 1988, the gallons of gasohol sold  
 20 or that have received the benefit of the tax incentive  
 21 during those quarters comprise 18% or more of the total  
 22 gallons of nonaviation gasoline and gasohol sold in Montana,  
 23 the tax incentive for alcohol shall be eliminated effective  
 24 beginning the second calendar quarter after the 2  
 25 consecutive quarters during which the gallons of gasohol

1 sold or that have received the benefit of the tax incentive  
 2 during those quarters comprised 18% or more of the total  
 3 gallons of nonaviation gasoline and gasohol sold in Montana.

4 (d) Each quarter, the department shall compute the  
 5 share of the total nonaviation gasoline and gasohol market  
 6 that is represented by gasohol, according to the information  
 7 contained in gasoline distributors' returns and the  
 8 applications for payment of the alcohol production tax  
 9 incentive. Alcohol that is exported from Montana and  
 10 eligible for the tax incentive must be included in the  
 11 computations.

12 (4) Regardless of the alcohol tax incentive provided  
 13 in subsection (2) or (3), the total payments made for the  
 14 incentive under this part may not exceed \$2,500,000 in any  
 15 consecutive 12-month period beginning April 1, 1985.

16 (5) NO ALCOHOL DISTRIBUTOR MAY RECEIVE TAX INCENTIVE  
 17 PAYMENTS UNDER SUBSECTION (2) THAT EXCEED \$1,300,000 IN ANY  
 18 CONSECUTIVE 12-MONTH PERIOD BEGINNING APRIL 1, 1985, EXCEPT  
 19 AS FOLLOWS. IF TOTAL TAX INCENTIVE PAYMENTS TO ALL ELIGIBLE  
 20 ALCOHOL DISTRIBUTORS IN ANY CONSECUTIVE 12-MONTH PERIOD  
 21 BEGINNING APRIL 1, 1985, DO NOT REACH THE PERCENTAGE OF  
 22 PRODUCTION MAXIMUMS IN SUBSECTION (3) OR THE MAXIMUM DOLLAR  
 23 AMOUNT IN SUBSECTION (4), AN ALCOHOL DISTRIBUTOR WHO HAS  
 24 RECEIVED THE MAXIMUM PAYMENT OF \$1,300,000 AS HEREIN  
 25 PROVIDED MAY RECEIVE ADDITIONAL TAX INCENTIVE PAYMENTS



1 SUBJECT TO THE PERCENTAGE OF PRODUCTION MAXIMUMS IN  
 2 SUBSECTION (3) OR THE MAXIMUM DOLLAR AMOUNT IN SUBSECTION  
 3 (4)."

4 Section 4. Section 15-70-523, MCA, is amended to read:  
 5 "15-70-523. Application for payment of tax incentive.  
 6 (1) The claimant shall apply for payment of tax incentive by  
 7 signed statement, on a form furnished by the department.  
 8 The form must be accompanied by:

9 (a) the original production records and invoices  
 10 issued to the gasohol dealer at the time of sale and  
 11 delivery, showing total gallons of alcohol sold; and

12 (b) a certificate of blending issued by the alcohol  
 13 purchaser showing the total gallons of alcohol sold and the  
 14 date of blending.

15 (2) Application for the payment of the tax incentives  
 16 must be filed with the department not later than the 25th  
 17 day of the calendar month following the month for which the  
 18 claim is being made.

19 ~~(3) --The payment of the tax incentives shall be reduced~~  
 20 ~~by the amount of tax provided for in 15-70-204(3) that is~~  
 21 ~~due on alcohol to be blended for gasohol."~~

22 NEW SECTION. Section 5. Extension of authority. Any  
 23 existing authority of the department of revenue or the  
 24 department of highways to make rules on the subject of the  
 25 provisions of this act is extended to the provisions of this

1 act.

2 NEW SECTION. Section 6. Effective dates. Sections 1  
 3 through 4 of this act are effective July 1, 1985. Section 5  
 4 and this section are effective on passage and approval, but  
 5 no rules adopted under section 5 may be made effective  
 6 before July 1, 1985.

-End-

## SENATE BILL NO. 400

INTRODUCED BY YELLOWTAIL, HOWE, CRIPPEN, RAPP-SVRCEK,  
 HOLLIDAY, HANSON, ANDERSON, LANE, BENGTSON, HIRSCH,  
 LYBECK, MANNING, GALT, TOWE, H. HAMMOND, MAZUREK,  
 BOYLAN, SHAW, HALLIGAN, E. SMITH, B. WILLIAMS, WEEDING  
 BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TAX  
 INCENTIVE FOR THE PRODUCTION OF ALCOHOL BY REQUIRING THAT  
 MONTANA-PRODUCED ALCOHOL BE BLENDED WITH GASOLINE TO PRODUCE  
 GASOHOL; EXTENDING THE ALCOHOL TAX INCENTIVE TO  
 MONTANA-PRODUCED ALCOHOL EXPORTED AND BLENDED WITH GASOLINE;  
 DEFINING THE TERM "EXPORT"; LIMITING AND APPORTIONING THE  
 TOTAL POTENTIAL EXPENDITURE FOR ALCOHOL PRODUCTION TAX  
 INCENTIVE PAYMENTS; AMENDING SECTIONS 15-70-201, 15-70-503,  
 15-70-522, AND 15-70-523, MCA; AND PROVIDING EFFECTIVE  
 DATES."

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

1 destinations in this state other than by pipeline to another  
 2 refinery or pipeline terminal in this state. When withdrawn  
 3 from such tanks, refinery, or terminal, such gasoline may be  
 4 distributed only by a person who is the holder of a valid  
 5 distributor's license.

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

10 (6) "Distributor" means:

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

14 (b) any person who imports gasoline for sale, use, or  
 15 distribution;

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

19 (d) any dealer licensed as of January 1, 1969, except  
 20 a dealer at an established airport;

21 (e) any person in Montana who blends alcohol with  
 22 gasoline.

23 (7) "Export" means export as defined in 15-70-503.

24 (7)(8) "Gasohol" means all products commonly or  
 25 commercially known or sold as gasohol, produced-and-sold--in

1 Montana used for the purpose of effectively and efficiently  
 2 operating internal combustion engines, consisting of not  
 3 less than 10% anhydrous ethanol produced in Montana from  
 4 Montana agricultural products.

5 (8)(9) "Gasoline" includes all products commonly or  
 6 commercially known or sold as gasolines, including  
 7 casinghead gasoline, natural gasoline, aviation gasoline,  
 8 and all flammable liquids composed of a mixture of selected  
 9 hydrocarbons expressly manufactured and blended for the  
 10 purpose of effectively and efficiently operating internal  
 11 combustion engines. Gasoline does not include special fuels  
 12 as defined in 15-70-301(6).

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

19 (10)(11) "Motor vehicle" means all vehicles operated or  
 20 propelled upon the public highways or streets of this state  
 21 in whole or in part by the combustion of gasoline.

22 (11)(12) "Person" means any person, firm, association,  
 23 joint-stock company, syndicate, or corporation.

24 (12)(13) "Use" shall include and mean the operation of  
 25 motor vehicles upon the public roads or highways of the

1 state or of any political subdivision thereof."

2 Section 2. Section 15-70-503, MCA, is amended to read:

3 "15-70-503. Definitions. As used in this part, the  
4 definitions in 15-70-201 and the following definitions  
5 apply:

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

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

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

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

13 (3) "Export" means to transport out of Montana from  
14 any point of origin within Montana by any means other than  
15 in the fuel supply tank of a motor vehicle.

16 ~~(3)(4)~~ (4) "Gasohol dealer" means any person who blends  
17 alcohol with gasoline to produce gasohol for sale, use, or  
18 distribution in this state."

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

20 "15-70-522. Tax incentive for production of alcohol.

21 (1) ~~Where~~ (a) Provided the alcohol was produced in Montana  
22 from Montana agricultural products, there is a tax incentive  
23 payable to alcohol distributors for distilling alcohol to-be  
24 that:

25 (i) was blended with gasoline for sale as gasohol

1 ~~provided the alcohol is distilled in Montana from Montana~~  
2 ~~agricultural products in Montana; or~~

3 (ii) was exported from Montana and has been blended  
4 with gasoline for sale as gasohol.

5 (b) Payment shall be made by the department of revenue  
6 out of the amount collected under 15-70-204.

7 (2) Except as provided in ~~subsection~~ subsections (3)  
8 ~~and (4)~~ THROUGH (5), the tax incentive on each gallon of  
9 alcohol distilled in accordance with subsection (1) is:

10 (a) beginning July 1, 1983, 70 cents per gallon;

11 (b) beginning April 1, 1985, 50 cents per gallon;

12 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;

13 and

14 (d) beginning April 1, 1989, and thereafter, there is  
15 no tax incentive.

16 (3) The incentive schedule provided for in subsection  
17 (2) shall be modified in response to market conditions as  
18 follows:

19 (a) If for any 2 consecutive calendar quarters ending  
20 on or before September 30, 1984, the gallons of gasohol sold  
21 or that have received the benefit of the tax incentive  
22 during those quarters comprise 8% or more but less than 11%  
23 of the total gallons of nonaviation gasoline and gasohol  
24 sold in Montana, the tax incentive for alcohol shall be 50  
25 cents per gallon, effective beginning the second calendar

1 quarter after the 2 consecutive calendar quarters during  
 2 which the gallons of gasohol sold or that have received the  
 3 benefit of the tax incentive during those quarters comprised  
 4 8% or more but less than 11% of the total gallons of  
 5 nonaviation gasoline and gasohol sold in Montana.

6 (b) If for any 2 consecutive calendar quarters ending  
 7 on or before September 30, 1986, the gallons of gasohol sold  
 8 or that have received the benefit of the tax incentive  
 9 during those quarters comprise 11% or more but less than 18%  
 10 of the total gallons of nonaviation gasoline and gasohol  
 11 sold in Montana, the tax incentive for alcohol shall be 30  
 12 cents per gallon effective beginning the second calendar  
 13 quarter after the 2 consecutive calendar quarters during  
 14 which the gallons of gasohol sold or that have received the  
 15 benefit of the tax incentive during those quarters comprised  
 16 11% or more but less than 18% of the total gallons of  
 17 nonaviation gasoline and gasohol sold in Montana.

18 (c) If for any 2 consecutive calendar quarters ending  
 19 on or before September 30, 1988, the gallons of gasohol sold  
 20 or that have received the benefit of the tax incentive  
 21 during those quarters comprise 18% or more of the total  
 22 gallons of nonaviation gasoline and gasohol sold in Montana,  
 23 the tax incentive for alcohol shall be eliminated effective  
 24 beginning the second calendar quarter after the 2  
 25 consecutive quarters during which the gallons of gasohol

1 sold or that have received the benefit of the tax incentive  
 2 during those quarters comprised 18% or more of the total  
 3 gallons of nonaviation gasoline and gasohol sold in Montana.

4 (d) Each quarter, the department shall compute the  
 5 share of the total nonaviation gasoline and gasohol market  
 6 that is represented by gasohol, according to the information  
 7 contained in gasoline distributors' returns and the  
 8 applications for payment of the alcohol production tax  
 9 incentive. Alcohol that is exported from Montana and  
 10 eligible for the tax incentive must be included in the  
 11 computations.

12 (4) Regardless of the alcohol tax incentive provided  
 13 in subsection (2) or (3), the total payments made for the  
 14 incentive under this part may not exceed \$2,500,000 in any  
 15 consecutive 12-month period beginning April 1, 1985.

16 (5) NO ALCOHOL DISTRIBUTOR MAY RECEIVE TAX INCENTIVE  
 17 PAYMENTS UNDER SUBSECTION (2) THAT EXCEED \$1,300,000 IN ANY  
 18 CONSECUTIVE 12-MONTH PERIOD BEGINNING APRIL 1, 1985, EXCEPT  
 19 AS FOLLOWS. IF TOTAL TAX INCENTIVE PAYMENTS TO ALL ELIGIBLE  
 20 ALCOHOL DISTRIBUTORS IN ANY CONSECUTIVE 12-MONTH PERIOD  
 21 BEGINNING APRIL 1, 1985, DO NOT REACH THE PERCENTAGE OF  
 22 PRODUCTION MAXIMUMS IN SUBSECTION (3) OR THE MAXIMUM DOLLAR  
 23 AMOUNT IN SUBSECTION (4), AN ALCOHOL DISTRIBUTOR WHO HAS  
 24 RECEIVED THE MAXIMUM PAYMENT OF \$1,300,000 AS HEREIN  
 25 PROVIDED MAY RECEIVE ADDITIONAL TAX INCENTIVE PAYMENTS

1 SUBJECT TO THE PERCENTAGE OF PRODUCTION MAXIMUMS IN  
 2 SUBSECTION (3) OR THE MAXIMUM DOLLAR AMOUNT IN SUBSECTION  
 3 (4)."

4 Section 4. Section 15-70-523, MCA, is amended to read:

5 "15-70-523. Application for payment of tax incentive.

6 (1) The claimant shall apply for payment of tax incentive by  
 7 signed statement, on a form furnished by the department.

8 The form must be accompanied by:

9 (a) the original production records and invoices  
 10 issued to the gasohol dealer at the time of sale and  
 11 delivery, showing total gallons of alcohol sold; and

12 (b) a certificate of blending issued by the alcohol  
 13 purchaser showing the total gallons of alcohol sold and the  
 14 date of blending.

15 (2) Application for the payment of the tax incentives  
 16 must be filed with the department not later than the 25th  
 17 day of the calendar month following the month for which the  
 18 claim is being made.

19 ~~(3) The payment of the tax incentives shall be reduced~~  
 20 ~~by the amount of tax provided for in 15-70-204(3) that is~~  
 21 ~~due on alcohol to be blended for gasohol."~~

22 NEW SECTION. Section 5. Extension of authority. Any  
 23 existing authority of the department of revenue or the  
 24 department of highways to make rules on the subject of the  
 25 provisions of this act is extended to the provisions of this

1 act.

2 NEW SECTION. Section 6. Effective dates. Sections 1  
 3 through 4 of this act are effective July 1, 1985. Section 5  
 4 and this section are effective on passage and approval, but  
 5 no rules adopted under section 5 may be made effective  
 6 before July 1, 1985.

-End-

# STANDING COMMITTEE REPORT

## HOUSE

..... March 29, ..... 19 85.....

MR. .... SPEAKER:.....

We, your committee on ..... TAXATION.....

having had under consideration ..... SENATE..... Bill No 400.....

third reading copy ( blue )  
color

EXTENDING THE ALCOHOL TAX INCENTIVE TO EXPORTS; LIMITING INCENTIVE  
PAYMENTS;

Respectfully report as follows: That ..... SENATE..... Bill No. 400.....

be amended as follows:

1. Page 8, line 17.  
Following: "EXCEED"  
Strike: "\$1,300,000"  
Insert: "\$1,000,000"
2. Page 8, line 24.  
Following: "PAYMENT OF"  
Strike: "\$1,300,000"  
Insert: "\$1,000,000"
3. Page 9, line 13.  
Following: "alcohol"  
Strike: "sold"  
Insert: "blended"

AND AS AMENDED  
BE CONCURRED IN

DO PASS

*AS*  
*in 3/30*

*Gerry Devlin*  
.....  
GERRY DEVLIN,

Chairman.

## 1 SENATE BILL NO. 400

2 INTRODUCED BY YELLOWTAIL, HOWE, CRIPPEN, RAPP-SVRCEK,  
 3 HOLLIDAY, HANSON, ANDERSON, LANE, BENGTSON, HIRSCH,  
 4 LYBECK, MANNING, GALT, TOWE, H. HAMMOND, MAZUREK,  
 5 BOYLAN, SHAW, HALLIGAN, E. SMITH, B. WILLIAMS, WEEDING  
 6 BY REQUEST OF THE DEPARTMENT OF REVENUE

7

8 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TAX  
 9 INCENTIVE FOR THE PRODUCTION OF ALCOHOL BY REQUIRING THAT  
 10 MONTANA-PRODUCED ALCOHOL BE BLENDED WITH GASOLINE TO PRODUCE  
 11 GASOHOL; EXTENDING THE ALCOHOL TAX INCENTIVE TO  
 12 MONTANA-PRODUCED ALCOHOL EXPORTED AND BLENDED WITH GASOLINE;  
 13 DEFINING THE TERM "EXPORT"; LIMITING AND APPORTIONING THE  
 14 TOTAL POTENTIAL EXPENDITURE FOR ALCOHOL PRODUCTION TAX  
 15 INCENTIVE PAYMENTS; AMENDING SECTIONS 15-70-201, 15-70-503,  
 16 15-70-522, AND 15-70-523, MCA; AND PROVIDING EFFECTIVE  
 17 DATES."

18

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

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

21 "15-70-201. Definitions. As used in this part, unless  
 22 the context requires otherwise, the following definitions  
 23 apply:

24 (1) "Agricultural use" means use of gasoline by a  
 25 person whose major endeavor and primary source of earned

1 income is from the business of farming or ranching.

2 (2) "Aviation dealer" means any person in this state  
 3 engaged in the business of selling aviation gasoline, either  
 4 from a wholesale or retail outlet, on which the license tax  
 5 has been paid to a licensed distributor as herein provided  
 6 for.

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

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

17 (5) (a) Gasoline refined, produced, manufactured, or  
 18 compounded in this state and placed in tanks thereat or  
 19 gasoline transferred from a refinery or pipeline terminal in  
 20 this state and placed in tanks thereat or gasoline imported  
 21 into this state and placed in storage at refineries or  
 22 pipeline terminals shall be deemed to be "distributed", for  
 23 the purpose of this part, at the time the gasoline is  
 24 withdrawn from such tanks, refinery, or terminal storage for  
 25 sale or use in this state or for the transportation to



1 destinations in this state other than by pipeline to another  
 2 refinery or pipeline terminal in this state. When withdrawn  
 3 from such tanks, refinery, or terminal, such gasoline may be  
 4 distributed only by a person who is the holder of a valid  
 5 distributor's license.

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

10 (6) "Distributor" means:

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

14 (b) any person who imports gasoline for sale, use, or  
 15 distribution;

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

19 (d) any dealer licensed as of January 1, 1969, except  
 20 a dealer at an established airport;

21 (e) any person in Montana who blends alcohol with  
 22 gasoline.

23 (7) "Export" means export as defined in 15-70-503.

24 ~~(7)(B) "Gasohol" means all products commonly or~~  
 25 ~~commercially known or sold as gasohol, produced and sold in~~

1 Montana used for the purpose of effectively and efficiently  
 2 operating internal combustion engines, consisting of not  
 3 less than 10% anhydrous ethanol produced in Montana from  
 4 Montana agricultural products.

5 ~~(8)(9)~~ "Gasoline" includes all products commonly or  
 6 commercially known or sold as gasolines, including  
 7 casinghead gasoline, natural gasoline, aviation gasoline,  
 8 and all flammable liquids composed of a mixture of selected  
 9 hydrocarbons expressly manufactured and blended for the  
 10 purpose of effectively and efficiently operating internal  
 11 combustion engines. Gasoline does not include special fuels  
 12 as defined in 15-70-301(6).

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

19 ~~(10)(11)~~ "Motor vehicle" means all vehicles operated or  
 20 propelled upon the public highways or streets of this state  
 21 in whole or in part by the combustion of gasoline.

22 ~~(11)(12)~~ "Person" means any person, firm, association,  
 23 joint-stock company, syndicate, or corporation.

24 ~~(12)(13)~~ "Use" shall include and mean the operation of  
 25 motor vehicles upon the public roads or highways of the

1 state or of any political subdivision thereof."

2 Section 2. Section 15-70-503, MCA, is amended to read:

3 "15-70-503. Definitions. As used in this part, the  
4 definitions in 15-70-201 and the following definitions  
5 apply:

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

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

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

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

13 (3) "Export" means to transport out of Montana from  
14 any point of origin within Montana by any means other than  
15 in the fuel supply tank of a motor vehicle.

16 (3)(4) "Gasohol dealer" means any person who blends  
17 alcohol with gasoline to produce gasohol for sale, use, or  
18 distribution in this state."

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

20 "15-70-522. Tax incentive for production of alcohol.

21 (1) ~~Where~~ (a) Provided the alcohol was produced in Montana  
22 from Montana agricultural products, there is a tax incentive  
23 payable to alcohol distributors for distilling alcohol to be  
24 that:

25 (i) was blended with gasoline for sale as gasohol

1 ~~provided the alcohol is distilled in Montana from Montana~~  
2 ~~agricultural products in Montana; or~~

3 (ii) was exported from Montana and has been blended  
4 with gasoline for sale as gasohol.

5 (b) Payment shall be made by the department of revenue  
6 out of the amount collected under 15-70-204.

7 (2) Except as provided in ~~subsection~~ subsections (3)  
8 ~~and--(4)~~ THROUGH (5), the tax incentive on each gallon of  
9 alcohol distilled in accordance with subsection (1) is:

10 (a) beginning July 1, 1983, 70 cents per gallon;

11 (b) beginning April 1, 1985, 50 cents per gallon;

12 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;

13 and

14 (d) beginning April 1, 1989, and thereafter, there is  
15 no tax incentive.

16 (3) The incentive schedule provided for in subsection  
17 (2) shall be modified in response to market conditions as  
18 follows:

19 (a) If for any 2 consecutive calendar quarters ending  
20 on or before September 30, 1984, the gallons of gasohol sold  
21 or that have received the benefit of the tax incentive  
22 during those quarters comprise 8% or more but less than 11%  
23 of the total gallons of nonaviation gasoline and gasohol  
24 sold in Montana, the tax incentive for alcohol shall be 50  
25 cents per gallon, effective beginning the second calendar

1 quarter after the 2 consecutive calendar quarters during  
 2 which the gallons of gasohol sold or that have received the  
 3 benefit of the tax incentive during those quarters comprised  
 4 8% or more but less than 11% of the total gallons of  
 5 nonaviation gasoline and gasohol sold in Montana.

6 (b) If for any 2 consecutive calendar quarters ending  
 7 on or before September 30, 1986, the gallons of gasohol sold  
 8 or that have received the benefit of the tax incentive  
 9 during those quarters comprise 11% or more but less than 18%  
 10 of the total gallons of nonaviation gasoline and gasohol  
 11 sold in Montana, the tax incentive for alcohol shall be 30  
 12 cents per gallon effective beginning the second calendar  
 13 quarter after the 2 consecutive calendar quarters during  
 14 which the gallons of gasohol sold or that have received the  
 15 benefit of the tax incentive during those quarters comprised  
 16 11% or more but less than 18% of the total gallons of  
 17 nonaviation gasoline and gasohol sold in Montana.

18 (c) If for any 2 consecutive calendar quarters ending  
 19 on or before September 30, 1988, the gallons of gasohol sold  
 20 or that have received the benefit of the tax incentive  
 21 during those quarters comprise 18% or more of the total  
 22 gallons of nonaviation gasoline and gasohol sold in Montana,  
 23 the tax incentive for alcohol shall be eliminated effective  
 24 beginning the second calendar quarter after the 2  
 25 consecutive quarters during which the gallons of gasohol

1 sold or that have received the benefit of the tax incentive  
 2 during those quarters comprised 18% or more of the total  
 3 gallons of nonaviation gasoline and gasohol sold in Montana.

4 (d) Each quarter, the department shall compute the  
 5 share of the total nonaviation gasoline and gasohol market  
 6 that is represented by gasohol, according to the information  
 7 contained in gasoline distributors' returns and the  
 8 applications for payment of the alcohol production tax  
 9 incentive. Alcohol that is exported from Montana and  
 10 eligible for the tax incentive must be included in the  
 11 computations.

12 (4) Regardless of the alcohol tax incentive provided  
 13 in subsection (2) or (3), the total payments made for the  
 14 incentive under this part may not exceed \$2,500,000 in any  
 15 consecutive 12-month period beginning April 1, 1985.

16 (5) NO ALCOHOL DISTRIBUTOR MAY RECEIVE TAX INCENTIVE  
 17 PAYMENTS UNDER SUBSECTION (2) THAT EXCEED \$1,000,000  
 18 \$1,000,000 in any consecutive 12-month period beginning  
 19 April 1, 1985, except as follows. If total tax incentive  
 20 payments to all eligible alcohol distributors in any  
 21 consecutive 12-month period beginning April 1, 1985, do not  
 22 reach the percentage of production maximums in subsection  
 23 (3) or the maximum dollar amount in subsection (4), an  
 24 alcohol distributor who has received the maximum payment of  
 25 \$1,000,000 as herein provided may receive

1. additional tax incentive payments subject to the percentage  
 2. of production maximums in subsection (3) or the maximum  
 3. dollar amount in subsection (4)."

4. Section 4. Section 15-70-523, MCA, is amended to read:

5. "15-70-523. Application for payment of tax incentive.

6. (1) The claimant shall apply for payment of tax incentive by  
 7. signed statement, on a form furnished by the department,

8. The form must be accompanied by:

9. (a) the original production records and invoices  
 10. issued to the gasohol dealer at the time of sale and  
 11. delivery, showing total gallons of alcohol sold; and

12. (b) a certificate of blending issued by the alcohol  
 13. purchaser showing the total gallons of alcohol sold BLENDED  
 14. and the date of blending.

15. (2) Application for the payment of the tax incentives  
 16. must be filed with the department not later than the 25th  
 17. day of the calendar month following the month for which the  
 18. claim is being made.

19. ~~(3)--The payment of the tax incentives shall be reduced~~  
 20. ~~by the amount of tax provided for in 15-70-204(3) that is~~  
 21. ~~due on alcohol to be blended for gasohol."~~

22. NEW SECTION. Section 5. Extension of authority. Any  
 23. existing authority of the department of revenue or the  
 24. department of highways to make rules on the subject of the  
 25. provisions of this act is extended to the provisions of this

1. act.

2. NEW SECTION. Section 6. Effective dates. Sections 1  
 3. through 4 of this act are effective July 1, 1985. Section 5  
 4. and this section are effective on passage and approval, but  
 5. no rules adopted under section 5 may be made effective  
 6. before July 1, 1985.

-End-

GOVERNOR'S PROPOSED AMENDMENTS  
TO SENATE BILL NO. 400  
REFERENCE COPY  
APRIL 23, 1985

1. Page 4, line 4.  
Following: "products"  
Insert: ", including Montana wood or wood products"
  
2. Page 5, line 22.  
Following: " products, "  
Insert: "including Montana wood or wood products,"

-END-

## 1 SENATE BILL NO. 400

2 INTRODUCED BY YELLOWTAIL, HOWE, CRIPPEN, RAPP-SVRCEK,

3 HOLLIDAY, HANSON, ANDERSON, LANE, BENGTSON, HIRSCH,

4 LYBECK, MANNING, GALT, TOWE, H. HAMMOND, MAZUREK,

5 BOYLAN, SHAW, HALLIGAN, E. SMITH, B. WILLIAMS, WEEDING

6 BY REQUEST OF THE DEPARTMENT OF REVENUE

7

8 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE TAX  
9 INCENTIVE FOR THE PRODUCTION OF ALCOHOL BY REQUIRING THAT  
10 MONTANA-PRODUCED ALCOHOL BE BLENDED WITH GASOLINE TO PRODUCE  
11 GASOHOL; EXTENDING THE ALCOHOL TAX INCENTIVE TO  
12 MONTANA-PRODUCED ALCOHOL EXPORTED AND BLENDED WITH GASOLINE;  
13 DEFINING THE TERM "EXPORT"; LIMITING AND APPORTIONING THE  
14 TOTAL POTENTIAL EXPENDITURE FOR ALCOHOL PRODUCTION TAX  
15 INCENTIVE PAYMENTS; AMENDING SECTIONS 15-70-201, 15-70-503,  
16 15-70-522, AND 15-70-523, MCA; AND PROVIDING EFFECTIVE  
17 DATES."

18

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

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

21 "15-70-201. Definitions. As used in this part, unless  
22 the context requires otherwise, the following definitions  
23 apply:

24 (1) "Agricultural use" means use of gasoline by a  
25 person whose major endeavor and primary source of earned

1 income is from the business of farming or ranching.

2 (2) "Aviation dealer" means any person in this state  
3 engaged in the business of selling aviation gasoline, either  
4 from a wholesale or retail outlet, on which the license tax  
5 has been paid to a licensed distributor as herein provided  
6 for.

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

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

17 (5) (a) Gasoline refined, produced, manufactured, or  
18 compounded in this state and placed in tanks thereat or  
19 gasoline transferred from a refinery or pipeline terminal in  
20 this state and placed in tanks thereat or gasoline imported  
21 into this state and placed in storage at refineries or  
22 pipeline terminals shall be deemed to be "distributed", for  
23 the purpose of this part, at the time the gasoline is  
24 withdrawn from such tanks, refinery, or terminal storage for  
25 sale or use in this state or for the transportation to

1 destinations in this state other than by pipeline to another  
2 refinery or pipeline termina' in this state. When withdrawn  
3 from such tanks, refinery, or terminal, such gasoline may be  
4 distributed only by a person who is the holder of a valid  
5 distributor's license.

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

10 (6) "Distributor" means:

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

14 (b) any person who imports gasoline for sale, use, or  
15 distribution;

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

19 (d) any dealer licensed as of January 1, 1969, except  
20 a dealer at an established airport-;

21 (e) any person in Montana who blends alcohol with  
22 gasoline.

23 (7) "Export" means export as defined in 15-70-503.

24 {7}{8} "Gasohol" means all products commonly or  
25 commercially known or sold as gasohol, ~~produced-and-sold--in~~

1 Montana used for the purpose of effectively and efficiently  
2 operating internal combustion engines, consisting of not  
3 less than 10% anhydrous ethanol produced in Montana from  
4 Montana agricultural products, INCLUDING MONTANA WOOD OR  
5 WOOD PRODUCTS.

6 {8}{9} "Gasoline" includes all products commonly or  
7 commercially known or sold as gasolines, including  
8 casinghead gasoline, natural gasoline, aviation gasoline,  
9 and all flammable liquids composed of a mixture of selected  
10 hydrocarbons expressly manufactured and blended for the  
11 purpose of effectively and efficiently operating internal  
12 combustion engines. Gasoline does not include special fuels  
13 as defined in 15-70-301(6).

14 {9}{10} "Import" shall include and mean to receive into  
15 any person's possession or custody first after its arrival  
16 and coming to rest at destination within the state of any  
17 gasoline shipped or transported into this state from point  
18 of origin without this state other than in the fuel supply  
19 tank of a motor vehicle.

20 {10}{11} "Motor vehicle" means all vehicles operated or  
21 propelled upon the public highways or streets of this state  
22 in whole or in part by the combustion of gasoline.

23 {11}{12} "Person" means any person, firm, association,  
24 joint-stock company, syndicate, or corporation.

25 {12}{13} "Use" shall include and mean the operation of

1 motor vehicles upon the public roads or highways of the  
2 state or of any political subdivision thereof."

3 Section 2. Section 15-70-503, MCA, is amended to read:

4 "15-70-503. Definitions. As used in this part, the  
5 definitions in 15-70-201 and the following definitions  
6 apply:

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

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

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

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

14 (3) "Export" means to transport out of Montana from  
15 any point of origin within Montana by any means other than  
16 in the fuel supply tank of a motor vehicle.

17 ~~(3)(4)~~ "Gasohol dealer" means any person who blends  
18 alcohol with gasoline to produce gasohol for sale, use, or  
19 distribution in this state."

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

21 "15-70-522. Tax incentive for production of alcohol.

22 (1) ~~There~~ (a) Provided the alcohol was produced in Montana  
23 from Montana agricultural products, INCLUDING MONTANA WOOD  
24 OR WOOD PRODUCTS, there is a tax incentive payable to  
25 alcohol distributors for distilling alcohol ~~to be that:~~

1 (i) was blended with gasoline for sale as gasohol,  
2 ~~provided the alcohol is distilled in Montana from Montana~~  
3 ~~agricultural products in Montana; or~~

4 (ii) was exported from Montana and has been blended  
5 with gasoline for sale as gasohol.

6 (b) Payment shall be made by the department of revenue  
7 out of the amount collected under 15-70-204.

8 (2) Except as provided in subsection subsections (3)  
9 ~~and (4)~~ THROUGH (5), the tax incentive on each gallon of  
10 alcohol distilled in accordance with subsection (1) is:

11 (a) beginning July 1, 1983, 70 cents per gallon;

12 (b) beginning April 1, 1985, 50 cents per gallon;

13 (c) beginning April 1, ~~1986~~ 1987, 30 cents per gallon;

14 and

15 (d) beginning April 1, 1989, and thereafter, there is  
16 no tax incentive.

17 (3) The incentive schedule provided for in subsection  
18 (2) shall be modified in response to market conditions as  
19 follows:

20 (a) If for any 2 consecutive calendar quarters ending  
21 on or before September 30, 1984, the gallons of gasohol sold  
22 or that have received the benefit of the tax incentive  
23 during those quarters comprise 8% or more but less than 11%  
24 of the total gallons of nonaviation gasoline and gasohol  
25 sold in Montana, the tax incentive for alcohol shall be 50



1 cents per gallon, effective beginning the second calendar  
 2 quarter after the 2 consecutive calendar quarters during  
 3 which the gallons of gasohol sold or that have received the  
 4 benefit of the tax incentive during those quarters comprised  
 5 8% or more but less than 11% of the total gallons of  
 6 nonaviation gasoline and gasohol sold in Montana.

7 (b) If for any 2 consecutive calendar quarters ending  
 8 on or before September 30, 1986, the gallons of gasohol sold  
 9 or that have received the benefit of the tax incentive  
 10 during those quarters comprise 11% or more but less than 18%  
 11 of the total gallons of nonaviation gasoline and gasohol  
 12 sold in Montana, the tax incentive for alcohol shall be 30  
 13 cents per gallon effective beginning the second calendar  
 14 quarter after the 2 consecutive calendar quarters during  
 15 which the gallons of gasohol sold or that have received the  
 16 benefit of the tax incentive during those quarters comprised  
 17 11% or more but less than 18% of the total gallons of  
 18 nonaviation gasoline and gasohol sold in Montana.

19 (c) If for any 2 consecutive calendar quarters ending  
 20 on or before September 30, 1988, the gallons of gasohol sold  
 21 or that have received the benefit of the tax incentive  
 22 during those quarters comprise 18% or more of the total  
 23 gallons of nonaviation gasoline and gasohol sold in Montana,  
 24 the tax incentive for alcohol shall be eliminated effective  
 25 beginning the second calendar quarter after the 2

1 consecutive quarters during which the gallons of gasohol  
 2 sold or that have received the benefit of the tax incentive  
 3 during those quarters comprised 18% or more of the total  
 4 gallons of nonaviation gasoline and gasohol sold in Montana.

5 (d) Each quarter, the department shall compute the  
 6 share of the total nonaviation gasoline and gasohol market  
 7 that is represented by gasohol, according to the information  
 8 contained in gasoline distributors' returns and the  
 9 applications for payment of the alcohol production tax  
 10 incentive. Alcohol that is exported from Montana and  
 11 eligible for the tax incentive must be included in the  
 12 computations.

13 (4) Regardless of the alcohol tax incentive provided  
 14 in subsection (2) or (3), the total payments made for the  
 15 incentive under this part may not exceed \$2,500,000 in any  
 16 consecutive 12-month period beginning April 1, 1985.

17 (5) NO ALCOHOL DISTRIBUTOR MAY RECEIVE TAX INCENTIVE  
 18 PAYMENTS UNDER SUBSECTION (2) THAT EXCEED \$1,000,000  
 19 \$1,000,000 in any consecutive 12-month period beginning  
 20 April 1, 1985, except as follows. If total tax incentive  
 21 payments to all eligible alcohol distributors in any  
 22 consecutive 12-month period beginning April 1, 1985, do not  
 23 reach the percentage of production maximums in subsection  
 24 (3) or the maximum dollar amount in subsection (4), an  
 25 alcohol distributor who has received the maximum payment of

1 ~~\$1,300,000~~ \$1,000,000 as herein provided may receive  
2 additional tax incentive payments subject to the percentage  
3 of production maximums in subsection (3) or the maximum  
4 dollar amount in subsection (4)."

5 Section 4. Section 15-70-523, MCA, is amended to read:

6 "15-70-523. Application for payment of tax incentive.

7 (1) The claimant shall apply for payment of tax incentive by  
8 signed statement, on a form furnished by the department.

9 The form must be accompanied by:

10 (a) the original production records and invoices  
11 issued to the gasohol dealer at the time of sale and  
12 delivery, showing total gallons of alcohol sold; and

13 (b) a certificate of blending issued by the alcohol  
14 purchaser showing the total gallons of alcohol sold BLENDED  
15 and the date of blending.

16 (2) Application for the payment of the tax incentives  
17 must be filed with the department not later than the 25th  
18 day of the calendar month following the month for which the  
19 claim is being made.

20 ~~{3}--The payment of the tax incentives shall be reduced~~  
21 ~~by the amount of tax provided for in 15-70-204(3) that is~~  
22 ~~due on alcohol to be blended for gasohol."~~

23 NEW SECTION. Section 5. Extension of authority. Any  
24 existing authority of the department of revenue or the  
25 department of highways to make rules on the subject of the

1 provisions of this act is extended to the provisions of this  
2 act.

3 NEW SECTION. Section 6. Effective dates. Sections 1  
4 through 4 of this act are effective July 1, 1985. Section 5  
5 and this section are effective on passage and approval, but  
6 no rules adopted under section 5 may be made effective  
7 before July 1, 1985.

-End-