

SENATE BILL NO. 257

INTRODUCED BY RAPP-SVRCEK, ABRAMS, GRADY

IN THE SENATE

JANUARY 27, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FIRST READING.

FEBRUARY 14, 1989

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 15, 1989

PRINTING REPORT.

FEBRUARY 16, 1989

SECOND READING, DO PASS.

FEBRUARY 17, 1989

ENGROSSING REPORT.

FEBRUARY 18, 1989

THIRD READING, PASSED.
AYES, 42; NOES, 7.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 18, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON TAXATION.

FEBRUARY 20, 1989

FIRST READING.

MARCH 31, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 4, 1989

SECOND READING, CONCURRED IN.

APRIL 5, 1989

THIRD READING, CONCURRED IN.
AYES, 95; NOES, 2.

RETURNED TO SENATE.

APRIL 6, 1989

IN THE SENATE

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *257*
2 INTRODUCED BY *Rappaport Abraham Dwyer*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW A CREDIT ON
5 GASOLINE OR SPECIAL FUELS TAXES PAID BY A GASOLINE
6 DISTRIBUTOR OR SPECIAL FUEL DEALER ON UNPAID ACCOUNTS; AND
7 AMENDING SECTIONS 15-70-221, 15-70-225, AND 15-70-328, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 15-70-221, MCA, is amended to read:

11 "15-70-221. Refund or credit authorized. (1) Any
12 person who shall purchase and use any gasoline on which the
13 Montana gasoline license tax has been paid for denaturing
14 alcohol to be used in gasohol or operating or propelling
15 stationary gasoline engines, tractors used off the public
16 highways and streets, or for any commercial use other than
17 propelling vehicles upon any of the public highways or
18 streets of this state shall be allowed a refund of the
19 amount of tax paid directly or indirectly on the gasoline so
20 used. Such refund or drawback should in no instance exceed
21 the tax paid or to be paid to the state and no refund shall
22 be allowed of that portion of the tax per gallon upon
23 aviation gasoline allocated to the department of commerce by
24 67-1-301.

25 (2) Any distributor paying the gasoline license tax to

1 this state erroneously shall be allowed a credit or refund
2 of the amount of tax so paid.

3 (3) (a) A distributor is entitled to a credit for the
4 tax paid to the department on those sales of gasoline for
5 which the distributor has received no consideration from or
6 on behalf of the purchaser. The distributor shall have
7 declared the accounts of the purchaser worthless and claimed
8 those accounts as bad debts for federal income tax purposes.

9 (b) If a credit has been granted under this subsection
10 (3), any amount collected on the accounts that were declared
11 worthless must be reported to the department and the tax due
12 on the collected amount must be paid to the department.

13 (c) The department may require a distributor to submit
14 periodic reports listing accounts that are delinquent for 90
15 days or more."

16 **Section 2.** Section 15-70-225, MCA, is amended to read:

17 "15-70-225. Application for refund or credit -- filing
18 -- correction by department. (1) The application for refund
19 shall be a signed statement, on a form furnished by the
20 department of revenue⁷. Except for a claim for a credit of
21 taxes paid on unpaid accounts, the form must be accompanied
22 by the original bulk delivery invoice or invoices issued to
23 the claimant at the time of each purchase and delivery,
24 showing the total amount of gasoline purchased, the total
25 amount of gasoline on which a refund is claimed, and the

1 amount of the tax claimed for refund. A claim for a credit
 2 for taxes paid on accounts for which the distributor
 3 received no compensation must be accompanied by documents or
 4 copies of documents showing that the accounts were worthless
 5 and claimed as bad debts on the distributor's federal income
 6 tax return. Any Such further information pertaining to such
 7 a claim shall be furnished as required by the department.

8 (2) A bulk delivery invoice issued by a dealer for a
 9 sale that does not qualify as a bulk delivery under
 10 15-70-201 is not valid for refund purposes.

11 (3) All applications for refunds shall be filed with
 12 the department within 14 months after the date on which the
 13 gasoline was purchased as shown by invoices or after the
 14 date on which the tax was erroneously paid. A distributor
 15 may file a claim for refund of taxes erroneously paid or for
 16 a credit for taxes paid by him on unpaid accounts within 3
 17 years after the date of such-erroneous payment.

18 (4) Should the department find that the statement
 19 contains errors which are not fraudulently inserted, it may
 20 correct the statement and approve it as corrected or the
 21 department may require the claimant to file an amended
 22 statement."

23 **Section 3.** Section 15-70-328, MCA, is amended to read:

24 "15-70-328. Credits. (1) Any licensed special fuel
 25 user or licensed special fuel dealer who has paid a special

1 fuel tax either directly or to the vendor from whom it was
 2 purchased shall receive credit in the amount of any tax paid
 3 on special fuel exported for use outside of this state or
 4 for any use off the public roads and highways of this state
 5 or for any overpayment of special fuel taxes not due to the
 6 state. Special fuel carried from this state in the fuel tank
 7 of a motor vehicle is deemed to be exported from this state.

8 (2) Any licensed special fuel user who purchases a
 9 temporary special fuel permit and thereafter applies for a
 10 special fuel vehicle permit for the same vehicle in less
 11 than 11 days after the temporary permit is issued shall
 12 receive credit in the amount of the temporary permit fee.

13 (3) (a) A special fuel dealer who has paid a special
 14 fuel tax is entitled to a credit of the tax paid to the
 15 department on those sales of special fuels for which the
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 17 the purchaser. The dealer shall have declared the accounts
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 19 debts for federal income tax purposes.

20 (b) If a credit has been granted under this subsection
 21 (3), any amount collected on the accounts that were declared
 22 worthless must be reported to the department and the tax due
 23 on the collected amount must be paid to the department.

24 (c) The department may require a dealer to submit
 25 periodic reports listing accounts that are delinquent for 90

LC 0318/01

1 days or more."

2 NEW SECTION. **Section 4.** Extension of authority. Any
3 existing authority to make rules on the subject of the
4 provisions of [this act] is extended to the provisions of
5 [this act].

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB257, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to allow a credit on gasoline or special fuels taxes paid by a gasoline distributor or special fuel dealer on unpaid accounts.

ASSUMPTIONS:


1. Under this proposal, one additional FTE will be required; Grade 6.
2. There are no operating costs involved for the additional FTE.

FISCAL IMPACT:Revenue Impact:

The Department of Revenue does not have adequate information with which to estimate the amount of gasoline and diesel taxes that would be credited under this proposal. The credit would come out of the Department of Highways Special Revenue Fund.

Expenditure Impact:

(Highway Special Revenue Fund)	FY90			FY91		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Personal Services	\$ -0-	\$13,425	\$13,425	\$ -0-	\$14,563	\$14,563



2/3/89

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

PAUL RAPP-SVRCEK, PRIMARY SPONSOR

DATE

Fiscal Note for SB257, as introduced

SB 257

APPROVED BY COMMITTEE
ON TAXATION

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2 INTRODUCED BY *Rapp-Mink Abrams Dudley*
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14 alcohol to be used in gasohol or operating or propelling
15 stationary gasoline engines, tractors used off the public
16 highways and streets, or for any commercial use other than
17 propelling vehicles upon any of the public highways or
18 streets of this state shall be allowed a refund of the
19 amount of tax paid directly or indirectly on the gasoline so
20 used. Such refund or drawback should in no instance exceed
21 the tax paid or to be paid to the state and no refund shall
22 be allowed of that portion of the tax per gallon upon
23 aviation gasoline allocated to the department of commerce by
24 67-1-301.
25 (2) Any distributor paying the gasoline license tax to

1 this state erroneously shall be allowed a credit or refund
2 of the amount of tax so paid.
3 (3) (a) A distributor is entitled to a credit for the
4 tax paid to the department on those sales of gasoline for
5 which the distributor has received no consideration from or
6 on behalf of the purchaser. The distributor shall have
7 declared the accounts of the purchaser worthless and claimed
8 those accounts as bad debts for federal income tax purposes.
9 (b) If a credit has been granted under this subsection
10 (3), any amount collected on the accounts that were declared
11 worthless must be reported to the department and the tax due
12 on the collected amount must be paid to the department.
13 (c) The department may require a distributor to submit
14 periodic reports listing accounts that are delinquent for 90
15 days or more."
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17 "15-70-225. Application for refund or credit -- filing
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21 taxes paid on unpaid accounts, the form must be accompanied
22 by the original bulk delivery invoice or invoices issued to
23 the claimant at the time of each purchase and delivery,
24 showing the total amount of gasoline purchased, the total
25 amount of gasoline on which a refund is claimed, and the

amount of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor received no compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any Such further information pertaining to such a claim shall be furnished as required by the department.

(2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery under 15-70-201 is not valid for refund purposes.

(3) All applications for refunds shall be filed with the department within 14 months after the date on which the gasoline was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by him on unpaid accounts within 3 years after the date of such-erroneous payment.

(4) Should the department find that the statement contains errors which are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 3. Section 15-70-328, MCA, is amended to read:

"15-70-328. Credits. (1) Any licensed special fuel user or licensed special fuel dealer who has paid a special

fuel tax either directly or to the vendor from whom it was purchased shall receive credit in the amount of any tax paid on special fuel exported for use outside of this state or for any use off the public roads and highways of this state or for any overpayment of special fuel taxes not due to the state. Special fuel carried from this state in the fuel tank of a motor vehicle is deemed to be exported from this state.

(2) Any licensed special fuel user who purchases a temporary special fuel permit and thereafter applies for a special fuel vehicle permit for the same vehicle in less than 11 days after the temporary permit is issued shall receive credit in the amount of the temporary permit fee.

(3) (a) A special fuel dealer who has paid a special fuel tax is entitled to a credit of the tax paid to the department on those sales of special fuels for which the dealer has received no consideration from or on behalf of the purchaser. The dealer shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared worthless must be reported to the department and the tax due on the collected amount must be paid to the department.

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SB 0257/02

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