

## 1 HOUSE BILL NO. 86

2 INTRODUCED BY HIBBARD

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE GASOLINE AND SPECIAL FUEL TAX  
6 LAWS; PROVIDING FOR A REFUNDABLE CREDIT AGAINST A TAXPAYER'S PERSONAL OR CORPORATE  
7 INCOME TAX; ELIMINATING THE NEED FOR SPECIAL STORAGE FACILITIES FOR GASOLINE; SIMPLIFYING  
8 THE APPLICATION FOR A REFUND OF THE GASOLINE OR SPECIAL FUEL LICENSE TAX; ELIMINATING  
9 THE LICENSE FOR SELLING GASOLINE OR SPECIAL FUEL ON WHICH A REFUND MAY BE OBTAINED;  
10 AMENDING SECTIONS 15-70-201, 15-70-221, 15-70-222, 15-70-223, 15-70-225, 15-70-226, 15-70-301,  
11 15-70-356, 15-70-361, 15-70-362, 15-70-364, 15-70-365, AND 75-11-314, MCA; REPEALING SECTIONS  
12 15-70-203 AND 15-70-342, MCA; AND PROVIDING AN APPLICABILITY DATE."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
15

16 **NEW SECTION. Section 1. Credit for fuel tax refund.** There is a refundable credit against the taxes  
17 otherwise due under 15-30-103 allowable to a person for the tax paid on gasoline or special fuel that is  
18 used off the public highways and streets for agricultural use. The credit cannot exceed the tax paid on the  
19 gallons of gasoline or special fuel calculated using the standard deduction amount. The credit must be  
20 computed in accordance with the provisions of Title 15, chapter 70.

21  
22 **NEW SECTION. Section 2. Credit for fuel tax refund.** There is a refundable credit against the taxes  
23 otherwise due under 15-31-101 allowable to a person for the tax paid on gasoline or special fuel that is  
24 used off the public highways and streets for agricultural use. The credit cannot exceed the tax paid on the  
25 gallons of gasoline or special fuel calculated using the standard deduction amount. The credit must be  
26 computed in accordance with the provisions of Title 15, chapter 70.

27  
28 **Section 3.** Section 15-70-201, MCA, is amended to read:

29 "15-70-201. **Definitions.** As used in this part, unless the context requires otherwise, the following  
30 definitions apply:

1           (1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source  
 2 of ~~earned gross~~ income is from ~~the business of~~ farming or ranching through a sole proprietorship, a  
 3 partnership, a limited liability company, a limited liability partnership, or a corporation. A primary source  
 4 of income means that at least 66 2/3% of a person's gross income is derived from agricultural use. The  
 5 ratio is determined by dividing gross income by the person's total federal gross income, excluding losses.

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

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

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

15           (5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks,  
 16 gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks, or gasoline  
 17 imported into this state and placed in storage at refineries or pipeline terminals is considered to be  
 18 "distributed", for the purpose of this part, at the time that the gasoline is withdrawn from the tanks,  
 19 refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state  
 20 other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from the tanks,  
 21 refinery, or terminal, the gasoline may be distributed only by a person who is the holder of a valid  
 22 distributor's license.

23           (b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or  
 24 pipeline terminals, is considered to be "distributed" after it has arrived in and is brought to rest in this state.

25           (6) "Distributor" means:

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

28           (b) ~~any a~~ person who imports gasoline for sale, use, or distribution;

29           (c) ~~any a~~ person who engages in the wholesale distribution of gasoline in this state and chooses  
 30 to become licensed to assume the Montana state gasoline tax liability;

- 1           (d) ~~any an~~ exporter ~~as defined in subsection (8)~~;
- 2           (e) ~~any a~~ dealer licensed as of January 1, 1969, except a dealer at an established airport;
- 3           (f) ~~any a~~ person in Montana who blends alcohol with gasoline.
- 4           (7) "Export" means to transport out of Montana, by any means other than in the fuel supply tank  
5 of a motor vehicle, gasoline received from a refinery or pipeline terminal within Montana.
- 6           (8) "Exporter" means any person who transports, other than in the fuel supply tank of a motor  
7 vehicle, gasoline received from a refinery or pipeline terminal in Montana to a destination outside Montana  
8 for sale, use, or consumption beyond the boundaries of this state.
- 9           (9) (a) "Gasoline" includes:
- 10           (i) all products commonly or commercially known or sold as gasolines, including casinghead  
11 gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected  
12 hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating  
13 internal combustion engines; and
- 14           (ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the  
15 additive's classifications or uses.
- 16           (b) Gasoline does not include special fuels as defined in 15-70-301.
- 17           (10) "Import" means to receive into any person's possession or custody first after its arrival and  
18 coming to rest at a destination within the state of any gasoline shipped or transported into this state from  
19 a point of origin outside of this state other than in the fuel supply tank of a motor vehicle.
- 20           (11) "Importer" means a person who transports or arranges for the transportation of gasoline into  
21 Montana for sale, use, or distribution in this state.
- 22           (12) "Motor vehicle" means all vehicles operated or propelled upon the public highways or streets  
23 of this state in whole or in part by the combustion of gasoline.
- 24           (13) "Person" means any person, firm, association, joint-stock company, syndicate, or corporation.
- 25           (14) "Use" means the operation of motor vehicles upon the public roads or highways of the state  
26 or of any political subdivision of the state."

27

28

**Section 4.** Section 15-70-221, MCA, is amended to read:

29

**"15-70-221. (Temporary) Refund or credit authorized.** (1) A person who purchases and uses any

30

gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in

1    gasohol, for operating or propelling stationary gasoline engines or tractors used off the public highways and  
2    streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets  
3    of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund  
4    may not exceed the tax paid or to be paid to the state or the allowable agricultural standard deduction  
5    refund of the tax paid on the gallons of gasoline used, whichever is less. An agricultural standard deduction  
6    refund is allowed only against taxes imposed under Title 15, chapter 30 or 31. Except as provided in  
7    subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the  
8    department ~~of transportation~~ by 67-1-301.

9           (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
10   refund of the amount of tax paid.

11           (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
12   gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
13   or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may  
14   not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the  
15   distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

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

21           (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
22   on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
23   unless the person is not licensed and is not paying the tax to the state that the fuel is destined for. The  
24   credit or refund ~~will~~ must be made upon completion of the information reports required under 15-70-209  
25   and presentation to the department of proof of delivery outside Montana as it may by rule require.

26           (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund  
27   of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
28   tax has been paid.

29           (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel  
30   supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply

1 center and on which the gasoline license tax has been paid. (Terminates on occurrence of contingency--sec.  
2 17, Ch. 642, L. 1993.)

3 **15-70-221. (Effective on occurrence of contingency) Refund or credit authorized.** (1) A person  
4 who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for  
5 denaturing alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors  
6 used off the public highways and streets, or for any commercial use other than propelling vehicles upon  
7 any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly  
8 or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state or the  
9 allowable agricultural standard deduction refund of the tax paid on the gallons of gasoline used, whichever  
10 is less. An agricultural standard deduction refund is allowed only against taxes imposed under Title 15,  
11 chapter 30 or 31. Except as provided in subsection (5) or (6), a refund is not allowed for the tax per gallon  
12 upon aviation fuel allocated to the department ~~of transportation~~ by 67-1-301.

13 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
14 refund of the amount of tax ~~ee~~ paid.

15 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
16 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
17 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may  
18 not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the  
19 distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

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

25 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
26 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
27 unless the person is not licensed and is not paying the tax to the state that the fuel is destined for. The  
28 credit or refund ~~will~~ must be made upon completion of the information reports required under 15-70-209  
29 and presentation to the department of proof of delivery outside Montana as it may by rule require.

30 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund

1 of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
2 tax has been paid.

3 (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel  
4 supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply  
5 center and on which the gasoline license tax has been paid."

6

7 **Section 5.** Section 15-70-222, MCA, is amended to read:

8 "**15-70-222. Required records.** (1) Gasoline purchased and delivered into bulk storage for use in  
9 motor vehicles on public roads and for nonhighway use must be fully accounted for by detailed withdrawal  
10 records to accurately show the manner in which the gasoline was used. Gasoline on hand, determined by  
11 actual measurement, must be deducted from a claim and must be reported as an opening inventory on the  
12 next claim.

13 ~~(2) Special storage facilities used for certain periods must be identified and explained. If special  
14 storage is used entirely for off highway purposes and is not used in licensed vehicles, no records will be  
15 required other than purchase invoices showing the delivery into special storage.~~

16 ~~(3)(2)~~ Service stations, bulk dealers, and marinas ~~must~~ shall prepare a separate and complete  
17 invoice for each withdrawal of gasoline for their own use upon which a refund is to be claimed.

18 ~~(4)(3)~~ When no highway use of gasoline is deducted from the claim, the applicant shall substantiate  
19 purchases of gasoline and miles traveled for licensed motor vehicles upon request of the department of  
20 ~~transportation or the department of revenue.~~

21 ~~(5)(4)~~ Any person who operates a licensed motor vehicle on and off the public roads for commercial  
22 purposes may claim a refund of the state license tax on the gasoline used to operate the vehicle on roads  
23 or property in private ownership if the person has maintained the following records:

24 (a) the total number of miles traveled on and off public roads by each licensed vehicle;

25 (b) the total gallons of gasoline used in each vehicle;

26 (c) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels  
27 purchased at service stations or received from other sources.

28 ~~(6)(5)~~ An exporter or any other person who transports gasoline out of Montana for sale, use, or  
29 consumption outside of Montana shall maintain detailed and contemporaneous records of withdrawal,  
30 transportation, ownership, and delivery of the gasoline to destinations outside of Montana as required by

1 the department ~~of transportation.~~"

2  
3 **Section 6.** Section 15-70-223, MCA, is amended to read:

4 "**15-70-223. Estimate Standard deduction allowed for agricultural use** ~~— seller's signed statement~~  
5 ~~acceptable on keylock or cardrol purchases.~~ (1) An applicant whose use qualifies as agricultural use may  
6 apply for a refund of 60% of the applicable tax on the gallons of gasoline as indicated by bulk delivery  
7 invoices or by evidence of keylock or cardrol purchases as an estimate of off-roadway use. To ensure that  
8 the applicant's use qualifies as agricultural use, the department ~~of transportation~~ may request from the  
9 department of revenue information on the ratio of the applicant's gross farm income to total gross income,  
10 ~~provided that if~~ the department ~~of transportation~~ gives notice to the applicant.

11 (2) For purposes of ~~application verification~~ for requesting a refund under subsection (1), the  
12 department shall accept, as evidence of keylock or cardrol purchases, a statement of the sale of gasoline  
13 with applicable tax that identifies the seller and the purchaser ~~and that is signed by a licensed distributor~~  
14 ~~or a person licensed under 15-70-203 from whom the gasoline was purchased.~~

15 (3) If any invoice or evidence is either lost or destroyed, the purchaser may support ~~his~~ the  
16 purchaser's claim for refund by submitting an affidavit relating the circumstances of ~~such~~ the loss or  
17 destruction and by producing ~~such~~ other evidence as may be required by the department ~~of transportation~~.

18 ~~(4) An applicant whose use does not qualify as agricultural use may not estimate and must~~  
19 ~~maintain records as required by 15-70-222."~~

20  
21 **Section 7.** Section 15-70-225, MCA, is amended to read:

22 "**15-70-225. Application for refund or credit -- filing -- correction by department.** (1) The  
23 application for a refund of the gasoline license tax is a signed statement, on a form furnished by the  
24 department ~~of transportation~~. The application for an agricultural standard deduction refund of the gasoline  
25 license tax is a signed statement on a form furnished by the department of revenue. Except for a claim for  
26 a credit ~~of~~ for taxes paid on unpaid accounts or for an agricultural standard deduction refund, the form ~~must~~  
27 may be accompanied verified by the original bulk delivery invoice or invoices issued to the claimant at the  
28 time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel  
29 purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on  
30 which a refund is claimed, and the amount of the tax claimed for refund.

1 (2) A claim for a credit for taxes paid on accounts for which the distributor did not receive  
 2 compensation must be accompanied by documents or copies of documents showing that the accounts were  
 3 worthless and claimed as bad debts on the distributor's federal income tax return. Any further information  
 4 pertaining to a claim must be furnished as required by the department.

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

7 (4) All applications for refunds must be filed with the department within 14 months after the date  
 8 on which the gasoline or aviation fuel was purchased as shown by invoices or after the date on which the  
 9 tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit  
 10 for taxes paid by the distributor on unpaid accounts within 3 years after the date of payment.

11 (5) If the department finds that the statement contains errors that are not fraudulently inserted,  
 12 it may correct the statement and approve it as corrected or the department may require the claimant to file  
 13 an amended statement.

14 (6) An application for the agricultural standard deduction refund of the gasoline license tax must  
 15 be filed with the department of revenue on the tax return under Title 15, chapter 30 or 31. The department  
 16 of revenue may require records to verify the requested refund."  
 17

18 **Section 8.** Section 15-70-226, MCA, is amended to read:

19 "15-70-226. **Approval or rejection of claim.** (1) ~~The~~ Except for the agricultural standard deduction  
 20 refund, the department has 120 working days after receiving the claim to approve or reject it. If approved,  
 21 the department of ~~transportation~~ shall issue a credit in lieu of refund for the amount of the claim if the  
 22 claimant is a distributor. For all other persons, a warrant must be drawn upon the state treasurer for the  
 23 amount of the claim.

24 (2) If the department or the department of revenue determines that any claim has been fraudulently  
 25 presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the  
 26 claim or affidavit is willfully false and made for the purpose of misleading, ~~the~~ either department shall reject  
 27 the claim in full. If a claim is rejected, ~~the~~ either department may suspend the claimant's right to a refund  
 28 for a period not to exceed 1 year."  
 29

30 **Section 9.** Section 15-70-301, MCA, is amended to read:

1           **"15-70-301. Definitions.** As used in this part, the following definitions apply:

2           (1) "Agricultural use" means use of special fuel by a person whose major endeavor is the business  
3 of farming or ranching and whose primary source of ~~earned~~ gross income is from ~~the business of~~ farming  
4 or ranching through a sole proprietorship, a partnership, a limited liability company, a limited liability  
5 partnership, or a corporation. A primary source of income means that at least 66 2/3% of a person's gross  
6 income is derived from agricultural use. The ratio is determined by dividing gross income by the person's  
7 total federal gross income, excluding losses.

8           (2) "Bond" means:

9           (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the  
10 laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all  
11 requirements of this part, including the payment of all taxes, penalties, and other obligations of the special  
12 fuel user arising out of this part; or

13           (b) a deposit with the department by the special fuel user, under terms and conditions that the  
14 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and  
15 insured by the federal deposit insurance corporation.

16           (3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The  
17 term does not mean special fuel delivered into the supply tank of a motor vehicle.

18           (4) "Cardrol" or "keylock" means any unique device intended to allow access to a special fuel  
19 dealer's unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user  
20 of the unique device.

21           (5) "Department" means the department of transportation.

22           (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a  
23 storage tank, a refinery, or a terminal storage in this state for sale or use in this state or for the  
24 transportation other than by pipeline to another refinery in this state or a pipeline terminal in this state of  
25 the following:

26           (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage  
27 tanks in this state;

28           (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at  
29 the refinery or terminal; or

30           (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

1 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be  
2 distributed only by a person who is the holder of a valid distributor's license.

3 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery  
4 or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

5 (7) "Distributor" means:

6 (a) a person who engages in the business in this state of producing, refining, manufacturing, or  
7 compounding special fuel for sale, use, or distribution;

8 (b) an importer who imports special fuel for sale, use, or distribution;

9 (c) a person who engages in the wholesale distribution of special fuel in this state and chooses to  
10 become licensed to assume the Montana state special fuel tax liability; and

11 (d) an exporter.

12 (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank  
13 of a motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

14 (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor  
15 vehicle, special fuel received from a refinery or pipeline terminal in Montana to a destination outside  
16 Montana for sale, use, or consumption outside Montana.

17 (10) "Import" means to first receive special fuel into possession or custody after its arrival and  
18 coming to rest at a destination within the state or to first receive any special fuel shipped or transported  
19 into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

20 (11) "Importer" means a person who transports or arranges for the transportation of special fuel  
21 into Montana for sale, use, or distribution.

22 (12) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of  
23 this state and that are operated in whole or in part by the combustion of special fuel.

24 (13) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership,  
25 or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment,  
26 or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and,  
27 as applied to joint-stock companies and corporations, the officers.

28 (14) "Public roads and highways of this state" means all streets, roads, highways, and related  
29 structures:

30 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any

1 political subdivision of the state;

2 (b) dedicated to public use;

3 (c) acquired by eminent domain; or

4 (d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any  
5 political subdivision of the state.

6 (15) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel  
7 or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except  
8 liquid petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and  
9 highways within the state of Montana. The term special fuel includes all other types of additives when the  
10 additive is mixed or blended into special fuel, regardless of the additive's classifications or uses.

11 (16) "Special fuel dealer" means:

12 (a) any person in the business of handling special fuel who delivers any part of the fuel into the  
13 fuel supply tank or tanks of a motor vehicle not then owned or controlled by the person;

14 (b) any person who sells special fuel at a location unattended by the dealer through an unattended  
15 pump by use of a cardrol, keylock, or similar device; or

16 (c) any person who provides any facility, with or without attended services, from which more than  
17 one special fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then  
18 controlled by the dealer.

19 (17) "Special fuel user" means any person other than the U.S. government, a state, ~~or~~ a county,  
20 an incorporated city or town, or a school district of this state who consumes in this state special fuel for  
21 the operation of motor vehicles owned or controlled by the person upon the highways of this state.

22 (18) "Use", when the term relates to a special fuel user, means the consumption by a special fuel  
23 user of special fuels in the operation of a motor vehicle on the highways of this state."  
24

25 **Section 10.** Section 15-70-356, MCA, is amended to read:

26 **"15-70-356. Refund or credit authorized.** (1) A person who purchases and uses any special fuel  
27 on which the Montana special fuel license tax has been paid for operating stationary special fuel engines,  
28 tractors used off the public highways and streets, or for any commercial use other than operating vehicles  
29 upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid  
30 directly or indirectly on the special fuel so used. The refund may not exceed the tax paid or to be paid to

1 the state or the allowable agricultural standard deduction refund of the tax paid on the gallons of special  
2 fuel used, whichever is less. An agricultural standard deduction refund is allowed only against the taxes  
3 imposed under Title 15, chapter 30 or 31.

4 (2) (a) The United States government, the state of Montana, any other state, or any county,  
5 incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special  
6 fuel regardless of the use of the special fuel.

7 (b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic  
8 school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

9 (ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been  
10 accredited pursuant to 20-7-102.

11 (3) A distributor who pays the special fuel license tax to this state erroneously is allowed a credit  
12 or refund of the amount of tax paid.

13 (4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
14 special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration  
15 from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The  
16 distributor ~~shall~~ may not have declared the accounts of the purchaser worthless ~~not~~ more than once during  
17 a 3-year period and must have claimed those accounts as bad debts for federal income tax purposes.

18 (b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts  
19 declared worthless must be reported to the department and the tax due must be prorated on the collected  
20 amount and must be paid to the department.

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

23 (5) A person who purchases and exports for sale, use, or consumption outside Montana any special  
24 fuel on which the Montana special fuel tax has been paid is entitled to a credit or refund of the amount of  
25 tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined.  
26 Upon completion of the reports required under 15-70-351, the department shall authorize the credit or  
27 refund."

28  
29 **Section 11.** Section 15-70-361, MCA, is amended to read:

30 **"15-70-361. Required records.** (1) Except as provided in subsection (5), special fuel purchased

1 and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must be fully  
2 accounted for by detailed withdrawal records to accurately show the manner in which it was used. Special  
3 fuel on hand, determined by actual measurement, must be deducted from a claim and must be reported as  
4 an opening inventory on the next claim.

5 (2) Service stations, bulk dealers, and marinas shall prepare a separate and complete invoice for  
6 each withdrawal of special fuel for which a refund is to be claimed.

7 (3) When a highway use of special fuel is not deducted from the claim, the applicant shall  
8 substantiate purchases of special fuel and miles traveled for licensed motor vehicles upon request of the  
9 department ~~of transportation~~ or the department of revenue.

10 (4) Any person who operates a licensed motor vehicle on and off the public roads for commercial  
11 purposes may claim refund of the state license tax on the special fuel used to operate the vehicle on roads  
12 or property in private ownership if the person has maintained the following records:

13 (a) the total number of miles traveled on and off public roads by each licensed vehicle;

14 (b) the total number of gallons of special fuel used in each vehicle; and

15 (c) purchase invoices supporting all special fuel handled through bulk storage.

16 (5) The United States government, the state of Montana, any other state, or any county,  
17 incorporated city, town, or school district of this state is not required to keep dispersal records in order to  
18 claim a refund of special fuel taxes.

19 (6) An exporter or any other person who transports special fuel out of Montana for sale, use, or  
20 consumption outside Montana shall maintain detailed and current records of withdrawal, transportation,  
21 ownership, and delivery of the special fuel to destinations outside Montana as required by the department."  
22

23 **Section 12.** Section 15-70-362, MCA, is amended to read:

24 **"15-70-362. Estimate Standard deduction allowed for agricultural use ~~—seller's signed statement~~**  
25 **~~acceptable on keylock or cardrol purchases.~~** (1) An applicant whose use qualifies as agricultural use may  
26 apply for a refund of 60% of the applicable tax on the gallons of special fuel as indicated by bulk delivery  
27 invoices or by evidence of keylock or cardrol purchases as an estimate of off-roadway use.

28 (2) If any invoice or evidence is either lost or destroyed, the purchaser may support the purchaser's  
29 claim for refund by submitting an affidavit relating the circumstances of the loss or destruction and by  
30 producing other evidence as may be required by the department ~~of transportation~~.

1           ~~(3) An applicant whose use does not qualify as agricultural use may not estimate and shall maintain~~  
2 ~~records as required by 15-70-361.~~

3  
4           **Section 13.** Section 15-70-364, MCA, is amended to read:

5           **"15-70-364. Application for refund or credit -- filing -- correction by department.** (1) The  
6 application for a refund of the special fuel license tax ~~must be~~ is a signed statement on a form furnished  
7 by the department. The application for an agricultural standard deduction refund of the special fuel license  
8 tax is a signed statement on a form furnished by the department of revenue. Except for a claim for a credit  
9 for taxes paid on unpaid accounts, an agricultural standard deduction refund, or taxes paid by the United  
10 States government, the state of Montana, any other state, or any county, incorporated city, town, or school  
11 district of this state, the form ~~must~~ may be ~~accompanied~~ verified by the original bulk delivery invoice or  
12 invoices issued to the claimant at the time of each purchase and delivery and must show the total amount  
13 of special fuel purchased, the total amount of special fuel on which a refund is claimed, and the amount  
14 of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor did  
15 not receive compensation must be accompanied by documents or copies of documents showing that the  
16 accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any  
17 further information pertaining to a claim must be furnished as required by the department.

18           (2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as  
19 defined in 15-70-301, is not valid for refund purposes.

20           (3) All applications for refunds must be filed with the department within 14 months after the date  
21 on which the special fuel was purchased as shown by invoices or after the date on which the tax was  
22 erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes  
23 paid by the distributor on unpaid accounts within 3 years after the date of payment.

24           (4) If the department finds that the statement contains errors that are not fraudulently inserted,  
25 it may correct the statement and approve it as corrected or the department may require the claimant to file  
26 an amended statement.

27           (5) An application for the agricultural standard deduction refund of the special fuel license tax must  
28 be filed with the department of revenue on the tax return under Title 15, chapter 30 or 31. The department  
29 of revenue may require records to verify the requested refund."

1           **Section 14.** Section 15-70-365, MCA, is amended to read:

2           "**15-70-365. Approval or rejection of claim.** (1) ~~The~~ Except for the agricultural standard deduction  
3 refund, the department of transportation has 120 working days after receiving the claim to approve or reject  
4 it. If approved, the department shall issue a credit in lieu of refund for the amount of the claim if the  
5 claimant is a distributor; Refunds for all other persons, ~~a warrant~~ must be paid by a warrant drawn upon  
6 the state treasurer for the amount of the claim.

7           (2) If the department or the department of revenue determines that any claim has been fraudulently  
8 presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the  
9 claim or affidavit is willfully false and made for the purpose of misleading, ~~the~~ either department shall reject  
10 the claim in full. If a claim is rejected, ~~the~~ either department may suspend the claimant's right to a refund  
11 for a period not to exceed 1 year."

12

13           **Section 15.** Section 75-11-314, MCA, is amended to read:

14           "**75-11-314. Petroleum storage tank cleanup fee -- collection -- penalties -- warrant for distraint**  
15 **-- statute of limitations.** (1) Except as provided in subsection (4), each distributor shall pay to the  
16 department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation  
17 gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee  
18 has not been paid by any other distributor. The fee must equal:

19           (a) ~~1 cent for each gallon of gasoline distributed from July 1, 1989, through June 30, 1991;~~

20           ~~(b)~~ 0.75 cent for each gallon of gasoline distributed ~~after July 1, 1991;~~

21           ~~(c)~~ (b) 0.75 cent for each gallon of aviation gasoline distributed ~~after July 1, 1993;~~

22           ~~(d)~~ (c) 0.75 cent for each gallon of special fuel distributed ~~after July 1, 1993;~~ and

23           ~~(e)~~ (d) 0.75 cent for each gallon of heating oil distributed ~~after July 1, 1993.~~

24           (2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the  
25 state must be included in the measure of a distributor's fee.

26           (3) Alcohol that is blended with gasoline to be sold as gasohol is subject to the fee provided in  
27 subsection (1).

28           (4) A fee may not be imposed or collected beginning on the first day of the first month in the first  
29 calendar quarter after the unobligated balance in the fund equals or exceeds \$8 million. Whenever the  
30 unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than

1 \$4 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee  
2 is reinstated beginning on the first day of the first month that begins no less than 30 days after the date  
3 of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance  
4 again equals or exceeds \$8 million.

5 (5) The department of transportation shall collect the fee in the same manner as the basic gasoline  
6 license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202,  
7 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee. The  
8 provisions of ~~15-70-203~~, 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not  
9 apply to the fee."

10  
11 **NEW SECTION. Section 16. Repealer.** Sections 15-70-203 and 15-70-342, MCA, are repealed.

12  
13 **NEW SECTION. Section 17. Codification instruction.** [Sections 1 and 2] are intended to be  
14 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to  
15 [sections 1 and 2].

16  
17 **NEW SECTION. Section 18. Applicability.** [This act] applies to refunds of tax paid on gasoline and  
18 special fuel purchased after December 31, 1997.

19 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0086, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising the gasoline and special fuel tax laws and providing a refundable credit against a taxpayer's personal or corporate income tax.

ASSUMPTIONS:

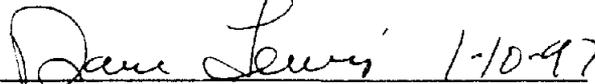
Department of Transportation (MDT):

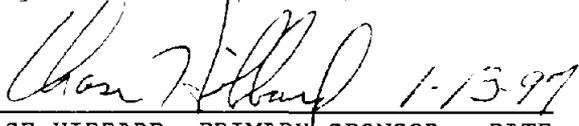
1. Only the agricultural option for fuel tax refunds will be transferred to the Department of Revenue. In order to qualify for the agricultural option, at least 66 2/3 percent of gross income must be derived from agricultural activity. The other refund options will remain with the Department of Transportation.
2. The fuel tax refund will be treated as a refundable tax credit. The credit may, at the taxpayers option, be used to reduce the current year tax liability, generate a refund, be applied to future estimated taxes, or used in carry back/carry forward calculations for business losses.
3. The applicability date in the bill is for fuel purchased after December 31, 1997. Therefore, the fiscal impact will begin to occur during the last six months of fiscal year 1998. Accordingly, the MDT estimates a reduction of 0.15 FTE grade 8 in fiscal year 1998 and 0.30 FTE grade 8 in fiscal year 1999 due to the transfer of agricultural refund claim processing duties.
4. The MDT estimates reductions in operating expenses of \$12,300 in fiscal year 1998 and \$24,600 in fiscal year 1999 for contracted services, postage and printing, and internal service charges paid to the Department of Administration.
5. The MDT will reimburse the Department of Revenue for system development and administrative costs to be incurred as a result of the bill. These expenses are estimated to be \$6,100 in fiscal year 1998 and \$52,493 in fiscal year 1999 and are shown as increased operating expenses for the department.
6. The MDT estimates that 30 percent of the individuals or entities receiving fuel tax refunds under the agricultural option do not meet the criteria to be eligible for the refunds. The estimate is based upon department review of approximately 5,000 of 8,400 total requests for refund. It is assumed that the estimated 30 percent ineligible refund claims will be identified and prevented under this bill because the gross income limit can be automatically calculated from the income tax return and the MDT will reimburse the Department of Revenue for staff resources assigned to the review of fuel tax refund forms. Based upon the total refunds for fiscal year 1996, MDT estimates the retention (savings) of \$1,345,254 in the highways special revenue account that would otherwise be refunded to ineligible claimants. Some of those who do not qualify for the agricultural option may be eligible under another refund option for fuel taxes. The refund impact of potential eligibility for other refund options cannot be reasonably estimated.
7. Responsibility for field audits of fuel tax refunds under the agricultural option will remain with the MDT.
8. The refundable credit will be deducted from the accounting entities where the fuel tax monies were deposited and not the general fund.

Department of Revenue (DOR):

9. The DOR will perform desk reviews of agricultural fuel tax credits and refunds.
10. Requests for the refundable agricultural fuel tax credit will be filed once a year as part of the income tax return.
11. The MDT and DOR will enter into a memorandum of understanding whereby the MDT agrees to reimburse the DOR on an ongoing basis for administrative, desk review, and processing expenses associated with the refundable fuel tax credit or to establish DOR as a subagency.
12. The estimated expenses for the DOR include 0.50 FTE revenue specialist, grade 10, and 0.20 FTE data entry, grade 7, in fiscal 1999, plus operating, system programming, and hardware and equipment expenses in fiscal 1998 and fiscal 1999 to add a new line to the state tax return, data entry costs, forms costs, and associated desk review costs.

(continued)

  
DAVE LEWIS, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

  
CHASE HIBBARD, PRIMARY SPONSOR DATE

Fiscal Note for HB0086, as introduced

4886

FISCAL IMPACT:

	<u>FY98</u> <u>Difference</u>	<u>FY99</u> <u>Difference</u>
<u>Department of Transportation:</u>		
<u>Expenditures:</u>		
FTE	(0.15)	(0.30)
Personal Services	(2,350)	(4,700)
Operating Expenses	<u>(6,200)</u>	<u>27,893</u>
Total	(8,550)	23,193
<u>Funding:</u>		
Highways special revenue (02)	(8,550)	23,193
<u>Revenues:</u>		
Decrease fuel tax refunds (02)	0	1,345,254
<u>Net Impact:</u>		
Highways special revenue (02)	8,550	1,322,061
<u>Department of Revenue:</u>		
<u>Expenditures:</u>		
FTE	0.00	0.70
Personal Services	0	13,908
Operating Expenses	6,100	26,197
Equipment	<u>0</u>	<u>12,388</u>
Total	6,100	52,493
<u>Funding:</u>		
Highways special revenue (02)	6,100	52,493

TECHNICAL NOTES:

The bill, as introduced, states that the income eligibility ratio is determined by dividing gross income by the person's total federal gross income, excluding losses. Page 2, line 5, may need the word "agriculture" inserted in front of "gross income" to determine if the person receives 66 2/3 percent of gross income from agriculture and is eligible for the tax credit.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

A permanent increase in the amount of fuel tax revenues retained by MDT in the highways special revenue account may occur due to reductions in the amount of refunds granted to persons or corporations not eligible to receive them.

## 1 HOUSE BILL NO. 86

2 INTRODUCED BY HIBBARD, COLE

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION  
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE GASOLINE AND SPECIAL FUEL TAX  
6 LAWS; PROVIDING FOR A REFUNDABLE CREDIT AGAINST A TAXPAYER'S PERSONAL OR CORPORATE  
7 INCOME TAX; ELIMINATING THE NEED FOR SPECIAL STORAGE FACILITIES FOR GASOLINE; SIMPLIFYING  
8 THE APPLICATION FOR A REFUND OF THE GASOLINE OR SPECIAL FUEL LICENSE TAX; ELIMINATING  
9 THE LICENSE FOR SELLING GASOLINE OR SPECIAL FUEL ON WHICH A REFUND MAY BE OBTAINED;  
10 AMENDING SECTIONS 15-70-201, 15-70-221, 15-70-222, 15-70-223, 15-70-225, 15-70-226, 15-70-301,  
11 15-70-356, 15-70-361, 15-70-362, 15-70-364, 15-70-365, AND 75-11-314, MCA; REPEALING SECTIONS  
12 15-70-203 AND 15-70-342, MCA; AND PROVIDING AN APPLICABILITY DATE."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
15

16 NEW SECTION. Section 1. Credit for fuel tax refund. There is a refundable credit against the taxes  
17 otherwise due under 15-30-103 allowable to a person for the tax paid on gasoline or special fuel that is  
18 used off the public highways and streets for agricultural use. The credit cannot exceed the tax paid on the  
19 gallons of gasoline or special fuel calculated using the standard deduction amount. The credit must be  
20 computed in accordance with the provisions of Title 15, chapter 70. THE DEPARTMENT SHALL  
21 PERIODICALLY TRANSFER FROM THE HIGHWAY REVENUE ACCOUNT IN THE STATE SPECIAL REVENUE  
22 FUND TO THE GENERAL FUND AN AMOUNT EQUAL TO THE ALLOWABLE CREDIT PROVIDED FOR IN  
23 THIS SECTION, AS DETERMINED BY THE DEPARTMENT OF REVENUE.  
24

25 NEW SECTION. Section 2. Credit for fuel tax refund. There is a refundable credit against the taxes  
26 otherwise due under 15-31-101 allowable to a person for the tax paid on gasoline or special fuel that is  
27 used off the public highways and streets for agricultural use. The credit cannot exceed the tax paid on the  
28 gallons of gasoline or special fuel calculated using the standard deduction amount. The credit must be  
29 computed in accordance with the provisions of Title 15, chapter 70. THE DEPARTMENT SHALL  
30 PERIODICALLY TRANSFER FROM THE HIGHWAY REVENUE ACCOUNT IN THE STATE SPECIAL REVENUE

1 FUND TO THE GENERAL FUND AN AMOUNT EQUAL TO THE ALLOWABLE CREDIT PROVIDED FOR IN  
2 THIS SECTION, AS DETERMINED BY THE DEPARTMENT OF REVENUE.

3

4 **Section 3.** Section 15-70-201, MCA, is amended to read:

5 **"15-70-201. Definitions.** As used in this part, unless the context requires otherwise, the following  
6 definitions apply:

7 (1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source  
8 of earned gross income is from ~~the business of~~ farming or ranching through a sole proprietorship, a  
9 partnership, a limited liability company, a limited liability partnership, or a corporation. A primary source  
10 of income means that at least 66 2/3% of a person's gross income is derived from agricultural use. The  
11 ratio is determined by dividing gross AGRICULTURAL income by the person's total federal gross income,  
12 excluding losses.

13 (2) "Aviation dealer" means any person in this state engaged in the business of selling aviation fuel,  
14 either from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as  
15 provided in this section.

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

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

22 (5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks,  
23 gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks, or gasoline  
24 imported into this state and placed in storage at refineries or pipeline terminals is considered to be  
25 "distributed", for the purpose of this part, at the time that the gasoline is withdrawn from the tanks,  
26 refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state  
27 other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from the tanks,  
28 refinery, or terminal, the gasoline may be distributed only by a person who is the holder of a valid  
29 distributor's license.

30 (b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or

- 1 pipeline terminals, is considered to be "distributed" after it has arrived in and is brought to rest in this state.
- 2 (6) "Distributor" means:
- 3 (a) ~~any~~ a person who engages in the business in this state of producing, refining, manufacturing,
- 4 or compounding gasoline for sale, use, or distribution;
- 5 (b) ~~any~~ a person who imports gasoline for sale, use, or distribution;
- 6 (c) ~~any~~ a person who engages in the wholesale distribution of gasoline in this state and chooses
- 7 to become licensed to assume the Montana state gasoline tax liability;
- 8 (d) ~~any an~~ an exporter ~~as defined in subsection (8)~~;
- 9 (e) ~~any~~ a dealer licensed as of January 1, 1969, except a dealer at an established airport;
- 10 (f) ~~any~~ a person in Montana who blends alcohol with gasoline.
- 11 (7) "Export" means to transport out of Montana, by any means other than in the fuel supply tank
- 12 of a motor vehicle, gasoline received from a refinery or pipeline terminal within Montana.
- 13 (8) "Exporter" means any person who transports, other than in the fuel supply tank of a motor
- 14 vehicle, gasoline received from a refinery or pipeline terminal in Montana to a destination outside Montana
- 15 for sale, use, or consumption beyond the boundaries of this state.
- 16 (9) (a) "Gasoline" includes:
- 17 (i) all products commonly or commercially known or sold as gasolines, including casinghead
- 18 gasoline, natural gasoline, aviation fuel, and all flammable liquids composed of a mixture of selected
- 19 hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating
- 20 internal combustion engines; and
- 21 (ii) any other type of additive when the additive is mixed or blended into gasoline, regardless of the
- 22 additive's classifications or uses.
- 23 (b) Gasoline does not include special fuels as defined in 15-70-301.
- 24 (10) "Import" means to receive into any person's possession or custody first after its arrival and
- 25 coming to rest at a destination within the state of any gasoline shipped or transported into this state from
- 26 a point of origin outside of this state other than in the fuel supply tank of a motor vehicle.
- 27 (11) "Importer" means a person who transports or arranges for the transportation of gasoline into
- 28 Montana for sale, use, or distribution in this state.
- 29 (12) "Motor vehicle" means all vehicles operated or propelled upon the public highways or streets
- 30 of this state in whole or in part by the combustion of gasoline.

1 (13) "Person" means any person, firm, association, joint-stock company, syndicate, or corporation.

2 (14) "Use" means the operation of motor vehicles upon the public roads or highways of the state  
3 or of any political subdivision of the state."  
4

5 **Section 4.** Section 15-70-221, MCA, is amended to read:

6 **"15-70-221. (Temporary) Refund or credit authorized.** (1) A person who purchases and uses any  
7 gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in  
8 gasohol, for operating or propelling stationary gasoline engines or tractors used off the public highways and  
9 streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets  
10 of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund  
11 may not exceed the tax paid or to be paid to the state or the allowable agricultural standard deduction  
12 refund of the tax paid on the gallons of gasoline used, whichever is less. An agricultural standard deduction  
13 refund is allowed only against taxes imposed under Title 15, chapter 30 or 31. Except as provided in  
14 subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the  
15 department of ~~transportation~~ by 67-1-301.

16 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
17 refund of the amount of tax paid.

18 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
19 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
20 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may  
21 not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the  
22 distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

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

28 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
29 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
30 unless the person is not licensed and is not paying the tax to the state that the fuel is destined for. The

1 credit or refund ~~will~~ must be made upon completion of the information reports required under 15-70-209  
2 and presentation to the department of proof of delivery outside Montana as it may by rule require.

3 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund  
4 of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
5 tax has been paid.

6 (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel  
7 supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply  
8 center and on which the gasoline license tax has been paid. (Terminates on occurrence of contingency--sec.  
9 17, Ch. 642, L. 1993.)

10 **15-70-221. (Effective on occurrence of contingency) Refund or credit authorized.** (1) A person  
11 who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for  
12 denaturing alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors  
13 used off the public highways and streets, or for any commercial use other than propelling vehicles upon  
14 any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly  
15 or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state or the  
16 allowable agricultural standard deduction refund of the tax paid on the gallons of gasoline used, whichever  
17 is less. An agricultural standard deduction refund is allowed only against taxes imposed under Title 15,  
18 chapter 30 or 31. Except as provided in subsection (5) or (6), a refund is not allowed for the tax per gallon  
19 upon aviation fuel allocated to the department ~~of transportation~~ by 67-1-301.

20 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
21 refund of the amount of tax ~~so~~ paid.

22 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
23 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
24 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may  
25 not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the  
26 distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

30 (c) The department may require a distributor to submit periodic reports listing accounts that are

1 delinquent for 90 days or more.

2 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
3 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
4 unless the person is not licensed and is not paying the tax to the state that the fuel is destined for. The  
5 credit or refund ~~will~~ must be made upon completion of the information reports required under 15-70-209  
6 and presentation to the department of proof of delivery outside Montana as it may by rule require.

7 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund  
8 of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license  
9 tax has been paid.

10 (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel  
11 supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply  
12 center and on which the gasoline license tax has been paid."

13

14 **Section 5.** Section 15-70-222, MCA, is amended to read:

15 "15-70-222. **Required records.** (1) Gasoline purchased and delivered into bulk storage for use in  
16 motor vehicles on public roads and for nonhighway use must be fully accounted for by detailed withdrawal  
17 records to accurately show the manner in which the gasoline was used. Gasoline on hand, determined by  
18 actual measurement, must be deducted from a claim and must be reported as an opening inventory on the  
19 next claim.

20 ~~(2) Special storage facilities used for certain periods must be identified and explained. If special~~  
21 ~~storage is used entirely for off highway purposes and is not used in licensed vehicles, no records will be~~  
22 ~~required other than purchase invoices showing the delivery into special storage.~~

23 ~~(3)(2)~~ Service stations, bulk dealers, and marinas ~~must~~ shall prepare a separate and complete  
24 invoice for each withdrawal of gasoline for their own use upon which a refund is to be claimed.

25 ~~(4)(3)~~ When no highway use of gasoline is deducted from the claim, the applicant shall substantiate  
26 purchases of gasoline and miles traveled for licensed motor vehicles upon request of the department of  
27 ~~transportation~~ or the department of revenue.

28 ~~(5)(4)~~ Any person who operates a licensed motor vehicle on and off the public roads for commercial  
29 purposes may claim a refund of the state license tax on the gasoline used to operate the vehicle on roads  
30 or property in private ownership if the person has maintained the following records:

- 1 (a) the total number of miles traveled on and off public roads by each licensed vehicle;
- 2 (b) the total gallons of gasoline used in each vehicle;
- 3 (c) purchase invoices supporting all gasoline handled through bulk storage, as well as all fuels
- 4 purchased at service stations or received from other sources.

5 ~~(6)(5)~~ An exporter or any other person who transports gasoline out of Montana for sale, use, or

6 consumption outside of Montana shall maintain detailed and contemporaneous records of withdrawal,

7 transportation, ownership, and delivery of the gasoline to destinations outside of Montana as required by

8 the department ~~of transportation.~~"

9

10 **Section 6.** Section 15-70-223, MCA, is amended to read:

11 "**15-70-223. Estimate Standard deduction allowed for agricultural use** ~~—seller's signed statement~~

12 ~~acceptable on keylock or cardrol purchases.~~ (1) An applicant whose use qualifies as agricultural use may

13 apply for a refund of 60% of the applicable tax on the gallons of gasoline as indicated by bulk delivery

14 invoices or by evidence of keylock or cardrol purchases as an estimate of off-roadway use. To ensure that

15 the applicant's use qualifies as agricultural use, the department ~~of transportation~~ may request from the

16 department of revenue information on the ratio of the applicant's gross ~~farm~~ AGRICULTURAL income to

17 total gross income, ~~provided that if~~ the department ~~of transportation~~ gives notice to the applicant.

18 (2) For purposes of ~~application~~ verification for requesting a refund under subsection (1), the

19 department shall accept, as evidence of keylock or cardrol purchases, a statement of the sale of gasoline

20 with applicable tax that identifies the seller and the purchaser ~~and that is signed by a licensed distributor~~

21 ~~or a person licensed under 15-70-203 from whom the gasoline was purchased.~~

22 (3) If any invoice or evidence is either lost or destroyed, the purchaser may support ~~his~~ the

23 purchaser's claim for refund by submitting an affidavit relating the circumstances of ~~such~~ the loss or

24 destruction and by producing ~~such~~ other evidence as may be required by the department ~~of transportation.~~

25 ~~(4) An applicant whose use does not qualify as agricultural use may not estimate and must~~

26 ~~maintain records as required by 15-70-222."~~

27

28 **Section 7.** Section 15-70-225, MCA, is amended to read:

29 "**15-70-225. Application for refund or credit -- filing -- correction by department.** (1) The

30 application for a refund of the gasoline license tax is a signed statement, on a form furnished by the

1 department of transportation. The application for an agricultural standard deduction refund of the gasoline  
 2 license tax is a signed statement on a form furnished by the department of revenue. Except for a claim for  
 3 a credit ~~of~~ for taxes paid on unpaid accounts or for an agricultural standard deduction refund, the form ~~must~~  
 4 may be accompanied verified by the original bulk delivery invoice or invoices issued to the claimant at the  
 5 time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel  
 6 purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on  
 7 which a refund is claimed, and the amount of the tax claimed for refund.

8 (2) A claim for a credit for taxes paid on accounts for which the distributor did not receive  
 9 compensation must be accompanied by documents or copies of documents showing that the accounts were  
 10 worthless and claimed as bad debts on the distributor's federal income tax return. Any further information  
 11 pertaining to a claim must be furnished as required by the department.

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

14 (4) ~~All~~ EXCEPT FOR THE AGRICULTURAL STANDARD DEDUCTION REFUND, ALL applications for  
 15 refunds must be filed with the department within 14 months after the date on which the gasoline or  
 16 aviation fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid.  
 17 A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by the  
 18 distributor on unpaid accounts within 3 years after the date of payment.

19 (5) If the department finds that the statement contains errors that are not fraudulently inserted,  
 20 it may correct the statement and approve it as corrected or the department may require the claimant to file  
 21 an amended statement.

22 (6) An application for the agricultural standard deduction refund of the gasoline license tax must  
 23 be filed with the department of revenue on the tax return under Title 15, chapter 30 or 31. The department  
 24 of revenue may require records to verify the requested refund."

25

26 **Section 8.** Section 15-70-226, MCA, is amended to read:

27 "15-70-226. **Approval or rejection of claim.** (1) ~~The~~ Except for the agricultural standard deduction  
 28 refund, the department has 120 working days after receiving the claim to approve or reject it. If approved,  
 29 the department of transportation shall issue a credit in lieu of refund for the amount of the claim if the  
 30 claimant is a distributor. For all other persons, a warrant must be drawn upon the state treasurer for the

1 amount of the claim.

2 (2) If the department or the department of revenue determines that any claim has been fraudulently  
3 presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the  
4 claim or affidavit is willfully false and made for the purpose of misleading, ~~the~~ either department shall reject  
5 the claim in full. If a claim is rejected, ~~the~~ either department may suspend the claimant's right to a refund  
6 for a period not to exceed 1 year."

7

8 **Section 9.** Section 15-70-301, MCA, is amended to read:

9 **"15-70-301. Definitions.** As used in this part, the following definitions apply:

10 (1) "Agricultural use" means use of special fuel by a person whose major endeavor is the business  
11 of farming or ranching and whose primary source of earned gross income is from ~~the business of~~ farming  
12 or ranching through a sole proprietorship, a partnership, a limited liability company, a limited liability  
13 partnership, or a corporation. A primary source of income means that at least 66 2/3% of a person's gross  
14 income is derived from agricultural use. The ratio is determined by dividing gross AGRICULTURAL income  
15 by the person's total federal gross income, excluding losses.

16 (2) "Bond" means:

17 (a) a bond executed by a special fuel user as principal with a corporate surety qualified under the  
18 laws of Montana, payable to the state of Montana, and conditioned upon faithful performance of all  
19 requirements of this part, including the payment of all taxes, penalties, and other obligations of the special  
20 fuel user arising out of this part; or

21 (b) a deposit with the department by the special fuel user, under terms and conditions that the  
22 department may prescribe, of certificates of deposit or irrevocable letters of credit issued by a bank and  
23 insured by the federal deposit insurance corporation.

24 (3) "Bulk delivery" means placing special fuel not intended for resale in storage or containers. The  
25 term does not mean special fuel delivered into the supply tank of a motor vehicle.

26 (4) "Cardtrol" or "keylock" means any unique device intended to allow access to a special fuel  
27 dealer's unattended pump or dispensing unit for the purpose of delivery of special fuel to an authorized user  
28 of the unique device.

29 (5) "Department" means the department of transportation.

30 (6) (a) "Distributed" means, at the time that special fuel is withdrawn, the withdrawal from a

1 storage tank, a refinery, or a terminal storage in this state for sale or use in this state or for the  
2 transportation other than by pipeline to another refinery in this state or a pipeline terminal in this state of  
3 the following:

4 (i) special fuel refined, produced, manufactured, or compounded in this state and placed in storage  
5 tanks in this state;

6 (ii) special fuel transferred from a refinery or pipeline terminal in this state and placed in tanks at  
7 the refinery or terminal; or

8 (iii) special fuel imported into this state and placed in storage at a refinery or pipeline terminal.

9 (b) When withdrawn from the storage tanks, refinery, or terminal, the special fuel may be  
10 distributed only by a person who is the holder of a valid distributor's license.

11 (c) Special fuel imported into this state, other than that special fuel placed in storage at a refinery  
12 or pipeline terminal, is considered to be distributed after it has arrived in and is brought to rest in this state.

13 (7) "Distributor" means:

14 (a) a person who engages in the business in this state of producing, refining, manufacturing, or  
15 compounding special fuel for sale, use, or distribution;

16 (b) an importer who imports special fuel for sale, use, or distribution;

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

19 (d) an exporter.

20 (8) "Export" means to transport out of Montana, by any means other than in the fuel supply tank  
21 of a motor vehicle, special fuel received from a refinery or pipeline terminal within Montana.

22 (9) "Exporter" means a person who transports, other than in the fuel supply tank of a motor  
23 vehicle, special fuel received from a refinery or pipeline terminal in Montana to a destination outside  
24 Montana for sale, use, or consumption outside Montana.

25 (10) "Import" means to first receive special fuel into possession or custody after its arrival and  
26 coming to rest at a destination within the state or to first receive any special fuel shipped or transported  
27 into this state from a point of origin outside this state other than in the fuel supply tank of a motor vehicle.

28 (11) "Importer" means a person who transports or arranges for the transportation of special fuel  
29 into Montana for sale, use, or distribution.

30 (12) "Motor vehicle" means all vehicles that are operated upon the public highways or streets of

1 this state and that are operated in whole or in part by the combustion of special fuel.

2 (13) "Person" includes any person, firm, association, joint-stock company, syndicate, partnership,  
3 or corporation. Whenever the term is used in any clause prescribing and imposing a fine or imprisonment,  
4 or both, as applied to a firm, association, syndicate, or partnership, it includes the partners or members and,  
5 as applied to joint-stock companies and corporations, the officers.

6 (14) "Public roads and highways of this state" means all streets, roads, highways, and related  
7 structures:

8 (a) built and maintained with appropriated funds of the United States, the state of Montana, or any  
9 political subdivision of the state;

10 (b) dedicated to public use;

11 (c) acquired by eminent domain; or

12 (d) acquired by adverse use by the public, jurisdiction having been assumed by the state or any  
13 political subdivision of the state.

14 (15) "Special fuel" means those combustible gases and liquids commonly referred to as diesel fuel  
15 or any other volatile liquid of less than 46 degrees A.P.I. (American petroleum institute) gravity test, except  
16 liquid petroleum gas, when actually sold for use in motor vehicles operating upon the public roads and  
17 highways within the state of Montana. The term special fuel includes all other types of additives when the  
18 additive is mixed or blended into special fuel, regardless of the additive's classifications or uses.

19 (16) "Special fuel dealer" means:

20 (a) any person in the business of handling special fuel who delivers any part of the fuel into the  
21 fuel supply tank or tanks of a motor vehicle not then owned or controlled by the person;

22 (b) any person who sells special fuel at a location unattended by the dealer through an unattended  
23 pump by use of a cardtrol, keylock, or similar device; or

24 (c) any person who provides any facility, with or without attended services, from which more than  
25 one special fuel user obtains special fuel for use in the fuel supply tank of a motor vehicle not then  
26 controlled by the dealer.

27 (17) "Special fuel user" means any person other than the U.S. government, a state, ~~or~~ a county,  
28 an incorporated city or town, or a school district of this state who consumes in this state special fuel for  
29 the operation of motor vehicles owned or controlled by the person upon the highways of this state.

30 (18) "Use", when the term relates to a special fuel user, means the consumption by a special fuel

1 user of special fuels in the operation of a motor vehicle on the highways of this state."

2

3 **Section 10.** Section 15-70-356, MCA, is amended to read:

4 **"15-70-356. Refund or credit authorized.** (1) A person who purchases and uses any special fuel  
5 on which the Montana special fuel license tax has been paid for operating stationary special fuel engines,  
6 tractors used off the public highways and streets, or for any commercial use other than operating vehicles  
7 upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid  
8 directly or indirectly on the special fuel so used. The refund may not exceed the tax paid or to be paid to  
9 the state or the allowable agricultural standard deduction refund of the tax paid on the gallons of special  
10 fuel used, whichever is less. An agricultural standard deduction refund is allowed only against the taxes  
11 imposed under Title 15, chapter 30 or 31.

12 (2) (a) The United States government, the state of Montana, any other state, or any county,  
13 incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special  
14 fuel regardless of the use of the special fuel.

15 (b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic  
16 school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

17 (ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been  
18 accredited pursuant to 20-7-102.

19 (3) A distributor who pays the special fuel license tax to this state erroneously is allowed a credit  
20 or refund of the amount of tax paid.

21 (4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
22 special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration  
23 from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The  
24 distributor ~~shall~~ may not have declared the accounts of the purchaser worthless ~~not~~ more than once during  
25 a 3-year period and must have claimed those accounts as bad debts for federal income tax purposes.

26 (b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts  
27 declared worthless must be reported to the department and the tax due must be prorated on the collected  
28 amount and must be paid to the department.

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

1 (5) A person who purchases and exports for sale, use, or consumption outside Montana any special  
2 fuel on which the Montana special fuel tax has been paid is entitled to a credit or refund of the amount of  
3 tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined.  
4 Upon completion of the reports required under 15-70-351, the department shall authorize the credit or  
5 refund."

6  
7 **Section 11.** Section 15-70-361, MCA, is amended to read:

8 **"15-70-361. Required records.** (1) Except as provided in subsection (5), special fuel purchased  
9 and delivered into bulk storage for use in motor vehicles on public roads and nonhighway use must be fully  
10 accounted for by detailed withdrawal records to accurately show the manner in which it was used. Special  
11 fuel on hand, determined by actual measurement, must be deducted from a claim and must be reported as  
12 an opening inventory on the next claim.

13 (2) Service stations, bulk dealers, and marinas shall prepare a separate and complete invoice for  
14 each withdrawal of special fuel for which a refund is to be claimed.

15 (3) When a highway use of special fuel is not deducted from the claim, the applicant shall  
16 substantiate purchases of special fuel and miles traveled for licensed motor vehicles upon request of the  
17 department ~~of transportation~~ or the department of revenue.

18 (4) Any person who operates a licensed motor vehicle on and off the public roads for commercial  
19 purposes may claim refund of the state license tax on the special fuel used to operate the vehicle on roads  
20 or property in private ownership if the person has maintained the following records:

21 (a) the total number of miles traveled on and off public roads by each licensed vehicle;

22 (b) the total number of gallons of special fuel used in each vehicle; and

23 (c) purchase invoices supporting all special fuel handled through bulk storage, AS WELL AS ALL  
24 FUELS PURCHASED AT SERVICE STATIONS OR RECEIVED FROM OTHER SOURCES.

25 (5) The United States government, the state of Montana, any other state, or any county,  
26 incorporated city, town, or school district of this state is not required to keep dispersal records in order to  
27 claim a refund of special fuel taxes.

28 (6) An exporter or any other person who transports special fuel out of Montana for sale, use, or  
29 consumption outside Montana shall maintain detailed and current records of withdrawal, transportation,  
30 ownership, and delivery of the special fuel to destinations outside Montana as required by the department."

1           **Section 12.** Section 15-70-362, MCA, is amended to read:

2           "**15-70-362. Estimate Standard deduction allowed for agricultural use —~~seller's signed statement~~**  
 3 ~~acceptable on keylock or cardrol purchases.~~ (1) An applicant whose use qualifies as agricultural use may  
 4 apply for a refund of 60% of the applicable tax on the gallons of special fuel as indicated by bulk delivery  
 5 invoices or by evidence of keylock or cardrol purchases as an estimate of off-roadway use. TO ENSURE  
 6 THAT THE APPLICANT'S USE QUALIFIES AS AGRICULTURAL USE, THE DEPARTMENT MAY REQUEST  
 7 FROM THE DEPARTMENT OF REVENUE INFORMATION ON THE RATIO OF THE APPLICANT'S GROSS  
 8 AGRICULTURAL INCOME TO TOTAL GROSS INCOME, IF THE DEPARTMENT GIVES NOTICE TO THE  
 9 APPLICANT.

10           (2) If any invoice or evidence is either lost or destroyed, the purchaser may support the purchaser's  
 11 claim for refund by submitting an affidavit relating the circumstances of the loss or destruction and by  
 12 producing other evidence as may be required by the department ~~of transportation.~~

13           ~~(3) An applicant whose use does not qualify as agricultural use may not estimate and shall maintain~~  
 14 ~~records as required by 15-70-361."~~

15

16           **Section 13.** Section 15-70-364, MCA, is amended to read:

17           "**15-70-364. Application for refund or credit -- filing -- correction by department.** (1) The  
 18 application for a refund of the special fuel license tax ~~must be~~ is a signed statement on a form furnished  
 19 by the department. The application for an agricultural standard deduction refund of the special fuel license  
 20 tax is a signed statement on a form furnished by the department of revenue. Except for a claim for a credit  
 21 for taxes paid on unpaid accounts, an agricultural standard deduction refund, or taxes paid by the United  
 22 States government, the state of Montana, any other state, or any county, incorporated city, town, or school  
 23 district of this state, the form ~~must~~ may be ~~accompanied~~ verified by the original bulk delivery invoice or  
 24 invoices issued to the claimant at the time of each purchase and delivery and must show the total amount  
 25 of special fuel purchased, the total amount of special fuel on which a refund is claimed, and the amount  
 26 of the tax claimed for refund. A claim for a credit for taxes paid on accounts for which the distributor did  
 27 not receive compensation must be accompanied by documents or copies of documents showing that the  
 28 accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any  
 29 further information pertaining to a claim must be furnished as required by the department.

30           (2) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery, as

1 defined in 15-70-301, is not valid for refund purposes.

2 (3) All applications for refunds must be filed with the department within 14 months after the date  
3 on which the special fuel was purchased as shown by invoices or after the date on which the tax was  
4 erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes  
5 paid by the distributor on unpaid accounts within 3 years after the date of payment.

6 (4) If the department finds that the statement contains errors that are not fraudulently inserted,  
7 it may correct the statement and approve it as corrected or the department may require the claimant to file  
8 an amended statement.

9 (5) An application for the agricultural standard deduction refund of the special fuel license tax must  
10 be filed with the department of revenue on the tax return under Title 15, chapter 30 or 31. The department  
11 of revenue may require records to verify the requested refund."  
12

13 **Section 14.** Section 15-70-365, MCA, is amended to read:

14 **"15-70-365. Approval or rejection of claim.** (1) The Except for the agricultural standard deduction  
15 refund, the department of transportation has 120 working days after receiving the claim to approve or reject  
16 it. If approved, the department shall issue a credit in lieu of refund for the amount of the claim if the  
17 claimant is a distributor. Refunds for all other persons, a warrant must be paid by a warrant drawn upon  
18 the state treasurer for the amount of the claim.

19 (2) If the department or the department of revenue determines that any claim has been fraudulently  
20 presented or is supported by invoice or invoices fraudulently made or altered or that any statement in the  
21 claim or affidavit is willfully false and made for the purpose of misleading, ~~the~~ either department shall reject  
22 the claim in full. If a claim is rejected, ~~the~~ either department may suspend the claimant's right to a refund  
23 for a period not to exceed 1 year."  
24

25 **Section 15.** Section 75-11-314, MCA, is amended to read:

26 **"75-11-314. Petroleum storage tank cleanup fee -- collection -- penalties -- warrant for distraint**  
27 **-- statute of limitations.** (1) Except as provided in subsection (4), each distributor shall pay to the  
28 department of transportation a petroleum storage tank cleanup fee for each gallon of gasoline, aviation  
29 gasoline, special fuel, or heating oil distributed by the distributor within the state and upon which the fee  
30 has not been paid by any other distributor. The fee must equal:

- 1 (a) ~~1 cent for each gallon of gasoline distributed from July 1, 1989, through June 30, 1991;~~  
 2 ~~(b) 0.75 cent for each gallon of gasoline distributed after July 1, 1991;~~  
 3 ~~(c) 0.75 cent for each gallon of aviation gasoline distributed after July 1, 1993;~~  
 4 ~~(d) 0.75 cent for each gallon of special fuel distributed after July 1, 1993; and~~  
 5 ~~(e) 0.75 cent for each gallon of heating oil distributed after July 1, 1993.~~

6 (2) Gasoline, aviation gasoline, special fuel, and heating oil exported or sold for export out of the  
 7 state must be included in the measure of a distributor's fee.

8 (3) Alcohol that is blended with gasoline to be sold as gasohol is subject to the fee provided in  
 9 subsection (1).

10 (4) A fee may not be imposed or collected beginning on the first day of the first month in the first  
 11 calendar quarter after the unobligated balance in the fund equals or exceeds \$8 million. Whenever the  
 12 unobligated fund balance, less claims anticipated for board approval within the next 90 days, is less than  
 13 \$4 million, the department of transportation shall, within 30 days, notify distributors by mail that the fee  
 14 is reinstated beginning on the first day of the first month that begins no less than 30 days after the date  
 15 of the notice. Once reinstated, the fee must be imposed and collected until the unobligated fund balance  
 16 again equals or exceeds \$8 million.

17 (5) The department of transportation shall collect the fee in the same manner as the basic gasoline  
 18 license tax under Title 15, chapter 70, part 2. The provisions of 15-70-103, 15-70-111, 15-70-202,  
 19 15-70-205, 15-70-206, 15-70-208 through 15-70-212, 15-70-221(2), and 15-70-232 apply to the fee. The  
 20 provisions of ~~15-70-203~~, 15-70-204, 15-70-207, 15-70-221(1), and 15-70-222 through 15-70-224 do not  
 21 apply to the fee."

22

23 **NEW SECTION. Section 16. Repealer.** Sections 15-70-203 and 15-70-342, MCA, are repealed.

24

25 **NEW SECTION. Section 17. Codification instruction.** [Sections 1 and 2] are intended to be  
 26 codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to  
 27 [sections 1 and 2].

28

29 **NEW SECTION. Section 18. Applicability.** [This act] applies to refunds of tax paid on gasoline and  
 30 special fuel purchased after December 31, 1997.

-END-

1 HOUSE BILL NO. 86

2 INTRODUCED BY HIBBARD, COLE

3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE GASOLINE AND SPECIAL FUEL TAX  
6 LAWS; PROVIDING FOR A REFUNDABLE CREDIT AGAINST A TAXPAYER'S PERSONAL OR CORPORATE  
7 INCOME TAX; ELIMINATING THE NEED FOR SPECIAL STORAGE FACILITIES FOR GASOLINE; SIMPLIFYING  
8 THE APPLICATION FOR A REFUND OF THE GASOLINE OR SPECIAL FUEL LICENSE TAX; ELIMINATING  
9 THE LICENSE FOR SELLING GASOLINE OR SPECIAL FUEL ON WHICH A REFUND MAY BE OBTAINED;  
10 AMENDING SECTIONS 15-70-201, 15-70-221, 15-70-222, 15-70-223, 15-70-225, 15-70-226, 15-70-301,  
11 15-70-356, 15-70-361, 15-70-362, 15-70-364, 15-70-365, AND 75-11-314, MCA; REPEALING SECTIONS  
12 15-70-203 AND 15-70-342, MCA; AND PROVIDING AN APPLICABILITY DATE."

13

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE  
REPRINTED. PLEASE REFER TO SECOND READING COPY  
(YELLOW) FOR COMPLETE TEXT.**

1 HOUSE BILL NO. 86  
 2 INTRODUCED BY HIBBARD, COLE  
 3 BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION  
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE GASOLINE AND SPECIAL FUEL TAX  
 6 LAWS; PROVIDING FOR A REFUNDABLE CREDIT AGAINST A TAXPAYER'S PERSONAL OR CORPORATE  
 7 INCOME TAX; ELIMINATING THE NEED FOR SPECIAL STORAGE FACILITIES FOR GASOLINE; SIMPLIFYING  
 8 THE APPLICATION FOR A REFUND OF THE GASOLINE OR SPECIAL FUEL LICENSE TAX; ELIMINATING  
 9 THE LICENSE FOR SELLING GASOLINE OR SPECIAL FUEL ON WHICH A REFUND MAY BE OBTAINED;  
 10 AMENDING SECTIONS 15-70-201, 15-70-221, 15-70-222, 15-70-223, 15-70-225, 15-70-226, 15-70-301,  
 11 15-70-356, 15-70-361, 15-70-362, 15-70-364, 15-70-365, AND 75-11-314, MCA; REPEALING SECTIONS  
 12 15-70-203 AND 15-70-342, MCA; AND PROVIDING AN APPLICABILITY DATE."

13  
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE REPRINTED. PLEASE REFER TO SECOND READING COPY (YELLOW) FOR COMPLETE TEXT.**