

House BILL NO. 476

INTRODUCED BY

Emer
BH Berubait *Ream Swanson* *Billings Hurdle*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE ESTABLISHMENT OF LOCAL OPTION MOTOR FUEL EXCISE TAXES; PROVIDING THAT THE TAXES ARE ADMINISTERED THROUGH A MOTOR FUEL TAX DISTRICT ESTABLISHED BY THE ELECTORATE OF THE DISTRICT; REQUIRING THAT THE ESTABLISHMENT OF THE DISTRICT BE APPROVED BY SEPARATE MAJORITIES OF THE ELECTORATE IN EACH MUNICIPALITY AND BY THE ELECTORATE IN UNINCORPORATED AREAS; REQUIRING THAT THE TAX REVENUE BE USED FOR STREET AND ROAD IMPROVEMENTS IN THE DISTRICT; PROVIDING THAT THE TAX BE COLLECTED BY THE MOTOR FUEL RETAILER; PROVIDING FOR THE COLLECTION OF DELINQUENT TAXES FROM A RETAILER; AND AMENDING SECTIONS 7-14-301, 7-14-302, 7-14-303, AND 7-14-304, MCA."

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

Section 1. Section 7-14-301, MCA, is amended to read:

"7-14-301. Local option motor fuel excise tax authorized. (1) A motor fuel excise tax may be imposed within a county local motor fuel tax district. A district may include one or more municipalities and contiguous unincorporated areas within the county where the municipality is located.

(2) A district may be formed:

(a) by the people of the county proposed district by initiative; or

(b) by joint action by the governing body of the municipalities within the district and, if the proposed district contains unincorporated areas, the board of county commissioners by adoption of a resolution and referral to the people.

(3) The establishment of a district must be approved by separate majorities of each municipality and by the electorate of unincorporated areas within the proposed district.

~~(2)~~(4) The motor fuel excise tax must be imposed in increments of 1 cent per gallon and may not exceed 2 cents per gallon. The tax must be imposed upon gasoline motor fuels sold to the ultimate consumer within the county district for use in motor vehicles operated upon public highways, streets, and roads. The motor fuel excise tax must be collected by the motor fuel retailer and paid to the district on a

1 monthly basis.

2 ~~(3) The initiative or referendum must specify that the tax is to be collected by the department of~~
3 ~~transportation.~~

4 ~~(4) The motor fuel excise tax may not be assessed sooner than 90 days from the date of passage~~
5 ~~of the initiative or referendum.~~

6 (5) Each ~~distributor shall~~ retail seller of motor fuels in the district shall render a monthly statement
7 to the ~~department of transportation~~ district of all retail sales of gasoline distributed motor fuels made during
8 the preceding calendar month, ~~in the county in which it is sold to the ultimate consumer and~~ The district
9 may require other information ~~that the department requires~~ in order to administer the motor fuel excise tax.

10 ~~(6) The information, recordkeeping, and examination of records provisions of Title 15, chapter 70,~~
11 ~~apply to this part.~~

12 ~~(7)(6)~~ The ~~department of transportation~~ district shall establish procedures to provide a refund to
13 a person who has paid the tax but who can substantiate that the motor fuel was purchased for a use other
14 than on public highways, streets, and roads.

15 ~~(8)(7)~~ (a) In this part, the terms "~~distributor~~", "gasoline", "motor vehicle", "person", and "use"
16 have the meanings ascribed to them in 15-70-201. The term "special fuel" has the meaning ascribed in
17 15-70-301.

18 (b) For the purposes of this part, "motor fuel" means gasoline and special fuel."

19

20 **Section 2.** Section 7-14-302, MCA, is amended to read:

21 **"7-14-302. Use of local motor fuel excise tax revenue.** (1) A county or municipality receiving
22 revenue from the tax authorized by 7-14-301 shall use the revenue derived only for the construction,
23 reconstruction, maintenance, and repair of public streets and roads within the district.

24 ~~(2) A county shall contract with the department for reimbursement of the actual costs of collection.~~
25 ~~One~~ Five percent of the motor fuel excise tax revenue collected in a ~~county~~ district is to be ~~reimbursed to~~
26 retained by the distributor motor fuel retailer for the cost of compliance with this part."

27

28 **Section 3.** Section 7-14-303, MCA, is amended to read:

29 **"7-14-303. Allocation of revenue and disposition of funds from county-imposed motor fuel excise**
30 **tax.** ~~(1)~~ Revenue derived from a motor fuel excise tax imposed ~~by a county~~ under 7-14-301 must be

1 apportioned among the county for use in the unincorporated areas of the district and municipalities ~~in the~~
2 ~~county:~~

3 ~~(a)(1)~~ in the proportion of motor vehicles registered in the ~~county~~ district outside of the
4 municipalities to those registered within the municipalities during the preceding year; or

5 ~~(b)(2)~~ as determined by an interlocal agreement.

6 ~~(2) All taxes, interest, and penalties collected by the department of transportation under this part~~
7 ~~shall be promptly transmitted to the state treasurer who shall deposit such funds in the state special~~
8 ~~revenue fund to the credit of the department of transportation account. Such funds shall be paid quarterly~~
9 ~~by the state treasurer directly to the county in which the tax was imposed."~~

10

11 **Section 4.** Section 7-14-304, MCA, is amended to read:

12 **"7-14-304. Lien for Collection of delinquent tax — interest and penalty — statute of limitations.** ~~(1)~~

13 ~~The lien provisions of 15-70-211 apply to all delinquent motor fuel excise taxes, penalties, and interest due~~
14 ~~from a distributor under this part. Such a lien has the same force and effect as a lien for delinquent gasoline~~
15 ~~license tax imposed under Title 15, chapter 70, part 2. Motor fuel taxes that have been collected by a~~
16 ~~retailer but not paid to the district must be collected by the county in which the retailer is located. The~~
17 ~~delinquent taxes are a lien upon all real property owned by the retailer in the county. The county shall~~
18 ~~collect the delinquent motor fuel taxes in the manner that delinquent personal property taxes are collected.~~
19 ~~The county may retain at least 5% of the amount it collects for reimbursement for its collection costs. The~~
20 ~~district and the county may, by agreement, agree on different percentages to be retained by the county~~
21 ~~based upon the amount of delinquency, the difficulty in its collection, and other factors.~~

22 ~~(2) Penalties and interest for any delinquent motor fuel excise tax are the same as provided for the~~
23 ~~gasoline license tax under Title 15, chapter 70, part 2.~~

24 ~~(3) Any action to recover a delinquent motor fuel excise tax must be initiated within 3 years from~~
25 ~~the due date of the return or the date of filing the return, whichever period expires later. Upon discovery~~
26 ~~of fraud, an action must be initiated within 3 years of the discovery."~~

27

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0476, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for the establishment of local option motor fuel excise taxes; providing that the taxes are administered through a motor fuel tax district established by the electorate of the district; requiring that the establishment of the district be approved by separate majorities of the electorate in each municipality and by the electorate in unincorporated areas; requiring that the tax revenue be used for street and road improvements in the districts; providing that the tax be collected by the motor fuel retailer; and providing for the collection of delinquent taxes from a retailer.

ASSUMPTIONS:

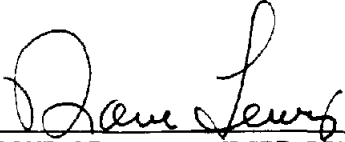
1. Currently there are no local option motor fuel taxes administered by the Department of Transportation (MDT).
2. This bill replaces MDT involvement by establishing local motor fuel tax districts.
3. There is no fiscal impact to MDT expenditures or state motor fuel revenues.

FISCAL IMPACT:

None to state agencies.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal provides for additional flexibility for the adoption of local option motor fuel taxes. This additional flexibility may make their approval by voters within the district more likely than under current law. However, the proposal's effect on local revenue and expenditures is not subject to reasonable estimate.

 2-12-97
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DAVID EWER, PRIMARY SPONSOR DATE

Fiscal Note for HB0476, as introduced

HB476