

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on April 1, 1993, at  
9:00 a.m.

**ROLL CALL**

**Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** Sen. Fred Van Valkenburg (D)

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Bonnie Stark, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: HB 436, HB 539, HB 627, HB 641  
Executive Action: SB 308, HB 167, HB 181, HB 193,  
HB 393, HB 539, HB 516, HB 627, HB 641

**HEARING ON HB 627**

**Opening Statement by Sponsor:**

Representative Tom Nelson, House District No. 95, said he is concerned that HB 627 may create more problems with titles, deeds, etc., than it solves, so he asked that it be tabled. He intends to work on the bill over the interim to try to make it into an effective bill.

EXECUTION ACTION ON HB 627MOTION/VOTE:

Senator Stang moved that HB 627 BE TABLED. The motion passed unanimously on oral vote.

HEARING ON HB 539Opening Statement by Sponsor:

Representative Dave Brown, House District 72, presented HB 539, which is an act to impose the collection of special fuel taxes at the distributor level rather than the retail level. Presently, Montana does not have full accountability of diesel fuel. HB 539 will eliminate the licensing and reporting requirements for users who operate vehicles under 26,000 GVW and who are not purchasing diesel fuel tax. Rep. Brown said some published industry news articles state that, across the U.S., 25% to 40% of the diesel tax that should be paid was not being paid because of an inability of the states to track the fuel. HB 539 will accomplish two things: (1) It creates a tracking system, and moves it to the distributor level so the Department of Transportation (DOT) can follow where the fuel goes and who should be paying the tax, and (2) It eliminates some of the DOT's paperwork for vehicles under 26,000 GVW. Rep. Brown presented Exhibits No. 1, 2, 3, and 4 to these minutes.

Proponents' Testimony:

Bill Salisbury, Administrator of the Administrative Division of the DOT, presented his written testimony, Exhibit No. 5 to these minutes. Mr. Salisbury said HB 539 is a fairly complicated bill, and Exhibit No. 1 identifies the changes by section. Exhibit No. 2 shows the impact on the major groups that use diesel fuel. Exhibit No. 3 consists of charts to explain how fuel moves in the state of Montana under the current system and under the proposal in HB 539. Mr. Salisbury said HB 539 is an accountability bill which will help with some fuel tax evasion, it will simplify record keeping, and it is also a business protection for the honest businessman so they will not have to compete against people who are underselling diesel fuels, and it is also a consumer protection. Mr. Salisbury said HB 539 creates a system that parallels the gasoline taxing process in Montana, although in this bill, some exemptions are provided.

Tom Harris, Internal Revenue Agent specializing in excise tax, spoke on behalf of HB 539. Mr. Harris said in 1988, the point of taxation was moved from retailer/user to the wholesaler/distributor. In so doing, the number of contacts dropped from 5,600 to less than 300. The administrative cost savings, alone, were dramatic. HB 539 will force all wholesale distributors, who are going to sell or buy tax-free, to become

registered with the DOT. Presently, the number of contacts between the wholesaler and their accounts are around 9,500; under HB 539, that figure would drop below 2,000. Recently, a joint compliance agreement was signed between the Department of Revenue (DOR) and DOT allowing each department to utilize information the other department has gathered, which will result in dramatic dollar savings to both departments.

Ronna Alexander, representing the Montana Petroleum Marketers Association (MPMA), wholesalers and distributors of petroleum products in Montana, and the industry affected by HB 539, said the MPMA does support the DOT's efforts to bring special fuels taxation in line with gasoline taxes and Federal regulations.

Ben Havdahl, representing the Montana Motor Carriers Association (MMCA), spoke on behalf of the trucking companies who have bulk storage for diesel fuel. Mr. Havdahl said MMCA supports HB 539 and thinks it is an improvement in the law. One concern of the MMCA is the ability to continue to purchase bulk fuel and put it into storage tanks. Under the present system, those taxes are paid by trucking companies to the state on a quarterly basis by filing quarterly returns as they consume and use the fuel. The MMCA was concerned about trucks coming through Montana who do not have a fuel permit, but HB 539 has been adjusted so temporary fuel permits remain in effect to cover the trucks in question.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Towe questioned Mr. Salisbury regarding the current system and what changes HB 539 will create. Mr. Salisbury said, under the current system, the consumer tells the DOT how much diesel fuel he consumes on the highway and pays the tax directly to the DOT. HB 539 will provide a series of changes so that everybody will pay their taxes up front, except for those exemptions listed in the bill for governmental units, or bulk purchases over 200 gallons. When anybody, such as a farmer, buys bulk diesel from either a refinery or a distributor, he will get an exemption certificate stating that the fuel will be used for off-highway use.

Senator Gage asked about the effective date, and Mr. Salisbury said the date of January 1, 1994, is used because the DOT could not be ready for an effective date of July 1, 1993. In reply to Senator Gage's questions about the \$100 reissuance fee,

on Page 13, Lines 17-19, Mr. Salisbury said there is no charge for the initial permit; this \$100 re-issuance fee is in the event of a revocation. This is done to encourage people to continue to file and keep their accounts up to date so the DOT will not have to go through a re-licensing process.

Senator Towe and Senator Eck questioned the agricultural use definition. Mr. Salisbury said the 50% use is similar to the requirement by the DOR for income tax purposes; if a person, or corporation, has agriculture as its major endeavor, it will receive the agricultural exemption. Cindy Anders, Administrative Officer for the DOT, said if anyone purchases bulk fuel in quantities of 200 gallons or more, they have the option to buy it tax exempt. She said the questions Senator Towe had asked would refer to the refund process. If someone purchases under 200 gallons, and they pay the tax, they could come to the DOT for a refund. However, if they do not qualify for agricultural use, they would have to keep a dispersal record on that fuel under 200 gallons. If they do qualify as an agricultural user, they could submit invoices and get 60% of the tax refunded.

**Closing by Sponsor:**

Rep. Brown said the net effect of HB 539 will be \$3 million to \$6 million new dollars in the highway account that are presently missing because of evasion of fuel taxes, and this means \$300,000 to \$500,000 in interest payments to the General Fund. Passage of this bill will also eliminate a considerable amount of administrative paperwork.

**EXECUTIVE ACTION ON HB 539**

**MOTION/VOTE:**

Senator Eck moved HB 539 BE CONCURRED IN. The motion CARRIED on oral vote with Senator Stang voting "NO". Senator Eck will carry the bill on the Senate floor. (Please refer to Minutes of April 2, 1993, for further action on HB 539.)

**HEARING ON HB 641**

**Opening Statement by Sponsor:**

Representative Mike Foster, representing House District 32, presented HB 641. Rep. Foster said HB 641 is a committee bill which codifies current accounting practices and establishes the requirement that cash received for taxes be distributed the same as the tax revenue with which it is associated according to generally accepted accounting principles. Rep. Foster said this bill will not change the distribution of any taxes and has no fiscal impact on either fund balance or cash balance; it allows the state to properly apply generally accepted accounting

principles consistently to all tax revenue and the associated cash receipts and collections. As a result, all tax revenue received or accrued of a particular fiscal year can be allocated to the proper fund on a consistent basis.

**Proponents' Testimony:**

Connie Griffith, Administrator of the Accounting and Management Tort Division for the Department of Administration (DOA), presented her written testimony, Exhibit No. 6 to these minutes. Ms. Griffith said both the DOA and the DOR, with consensus from the Legislative Auditor's office, asked the committee to sponsor HB 641. The purpose of the bill is to make sure that cash received from taxes is allocated to funds in the same manner that the revenue associated with those collections is allocated. Presently, a problem occurs when revenue is accrued and the distribution or allocation of taxes is changed between the time the revenue is accrued and the time the cash is actually collected. HB 641 will clarify all of the tax laws so they are handled in a consistent basis.

Mick Robinson, Director of the Department of Revenue, spoke in favor of HB 641. Mr. Robinson said this situation arose as a result of an audit of the DOR, and the Department is caught between what is generally accepted accounting principles and some statutory language that indicates the DOR must distribute based on the collection. When there is a change in fiscal years, DOR has accrued tax revenue at the end of the year and then a cash collection received some time later is caught between two different bases of accounting. HB 641 will clear that up and address an audit finding impacting the DOR.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Gage asked Director Robinson if HB 641 would have any affect on the '91-'93 biennium. Mr. Robinson replied that he didn't expect any impact on either fund balance or cash balance as a result of the effective date of this bill.

Senator Towe asked Director Robinson if there is a problem with accrual, and when the revenue is not received, it is considered accrued on July 1 and included in the previous biennium, when it is going to be received within the next 60 days. Mr. Robinson said that is correct. Presently, as of June 30, the DOR would make an accrual entry which would recognize the revenue in a certain fund, and when the cash is collected in the

next fiscal year, the statute indicates that if the allocation formula has changed, it must be distributed in a different allocation. HB 641 will assure that the statutory language indicates that the cash collection should be allocated in the same manner as the revenue accrual.

**Closing by Sponsor:**

Rep. Foster did not offer any more remarks in closing.

**EXECUTIVE ACTION ON HB 641**

**MOTION/VOTE:**

Senator Towe moved HB 641 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (731539SC.Sma) Senator Towe will carry the bill on the Senate floor.

**HEARING ON HB 436**

**Opening Statement by Sponsor:**

Representative Tom Nelson, House District No. 95, presented HB 436, which is a bill having three actions: (1) It clarifies the definition of air and water pollution equipment for property tax purposes; (2) It provides requirements for rules governing the verification of the equipment; and (3) It specifies the roles of the Department of Revenue (DOR) and the Department of Health and Environmental Sciences (DHES) in classifying and valuing this equipment, because to do the job right, they have to work in concert. Rep. Nelson said an example where this bill would be needed would be a refinery that added equipment to cut down water pollution or air pollution, or where equipment is being added to an existing refinery or to a refinery being retrofitted with equipment, or in a business that is using waste products from a refinery and some of that equipment put into the new business plant is used to cut down pollution.

Rep. Nelson said a refinery is in a property class that is taxed at 9%. Equipment that is put into this plant for water and air pollution reduction is given a special tax status, and is taxed at 3%. This is a tax incentive to attract industry interested in reducing environmental air and water pollution. HB 436 further clarifies rules defining water and air pollution control equipment and establishes a procedure to apportion the value of multi-purpose equipment, which would be a fitting or piece of equipment that is designed to reduce the pollution but is also used in a manufacturing process. In this instance, a tax reduction would be apportioned because there could be a by-product sold as a result of the manufacturing process, so part of the property would be taxed at 9%, and part at 3%.

Rep. Nelson said the definition of air and water pollution equipment included "under construction" because it sometimes takes a couple of years to put a plant together and, even though the plant may not be in operation, taxes are assessed. He said the reason HB 436 is being so specific in its definitions, is because this tax break has been on the books for a number of years, but it has been exceedingly difficult for the Department of Revenue to go into the field and determine which equipment should be taxed at 9% and which should be taxed as 3%.

**Proponents' Testimony:**

Mike Mathew, Yellowstone County Commissioner, spoke in favor of HB 436. As the statute now reads, this classification category is determined by the DOR and the DHES, and from a rule-making and administrative point of view, there is no guidance or outline for application by industries. Mr. Mathew said that last year, a sulfur recovery operation went into business next to one of the local refineries in Yellowstone County. When construction was completed, that company filed for, and was given, a Class 5 designation of 3% tax on the entire facility. Commissioner Mathew said that plant does reduce sulfur emissions, but they also take sulfur recovery and sell sulfur products as a for-profit business. That plant needed to have some administrative rules to determine what part of their business is commercial enterprise and which is actual air pollution reduction. Mr. Mathew said the Yellowstone County Assessor and Treasurer feel HB 436 will improve the tax policy, and delaying that improvement a year doesn't make any sense. Mr. Mathew likes HB 436, but he asked to have the effective date changed to October 1, 1993.

Ted Doney spoke in favor of HB 436 as a representative of Rosebud Energy Corporation (REC), Billings Generation, Inc. (BGI), and ASARCO. Mr. Doney said REC is the general partner in the Colstrip Energy Limited Partnership Power Plant Project which is located approximately 7 miles North of Colstrip. Billings Generation is going to build a generation power plant in conjunction with the Exxon Refinery. That project will result in a net reduction in air emissions in Billings. ASARCO operates the E. Helena smelter and, in conjunction with air pollution control equipment, produces sulfuric acid which is sold on the commercial market. These three companies have a vital interest in HB 436. Mr. Doney said these three companies concur with Rep. Nelson's statement that there is a need for rules to clarify how the process works because there are no guidelines in existing law as to what does or does not qualify. Mr. Doney said the bill, as introduced, appeared to eliminate the opportunity to use the classified property classification if any of the equipment was used to produce a by-product. Mr. Doney said his companies could support HB 436 as it is now amended.

Rex Manuel, representing CENEX Petroleum Division, spoke in favor of HB 436, as it is presented. CENEX has spent \$80 million in a project, still under construction, to clean up emissions

from their Laurel refinery. They request that the December 31, 1994, effective date remain because they want to complete construction prior to additional taxes being applied.

John Augustine, an employee and lobbyist for Conoco, said Conoco will support HB 436 as it is now written.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Halligan asked if the Committee could re-insert the language on Page 6, lines 20 - 24, if the effective date is left at December 31, 1994. Jeff Martin, Legislative Council Staff, said that language doesn't need to be re-inserted because HB 436 would go into effect on October 1, 1993, anyway, and the DOR and DHES would have that period of time to make rules, but if they go back to the former effective date of December 31, 1993, the committee would want to re-insert the stricken language. Thus, it is assumed the rule-making process would start October 1, 1993, and work toward the effective date of December 31, 1994. Mr. Manuel said CENEX would have no objection if rule-making began on October 1, 1993, as long as the effective date is December 31, 1994.

Senator Harp asked how a company is classified during the time the pollution control equipment is under construction, under the current law. Mr. Doney said there is a need for clarification, but the net effect is to allow the departments to adopt rules to apportion the property classifications during construction and after construction is completed. He also said BGI would not have a by-product, other than steam that is supplied to Exxon, and sulfuric acid is a by-product that is marketed by ASARCO. Mr. Doney said the way HB 436 is worded, the DHES would adopt rules on how to split the property for taxable evaluations. The DOR would establish the values, but the DHES determines what is and isn't pollution-control equipment.

Senator Harp asked about the word "substantial" on Page 3, Line 20. Mr. Doney said without the word "substantial" inserted, the law could be interpreted that only one violation in a year for a power break-down could cause a company to be out of compliance and wouldn't qualify for Class 5. This will allow flexibility for adopting rules to allow for those situations.

Senator Towe asked if the Federal EPA serves notice that the state implementation plan is out of compliance because of the projected failure to comply with the Federal Clean Air Standards,

does that mean that everybody in Billings loses their 3% air pollution equipment status? Jeff Chaffee, Air Quality Bureau of the DHES, responded that the way the DHES rules work, and the Federal Clean Air Act works, an adverse call on the state implementation plan is done because there would be monitor or model violations. Mr. Chaffee sees the wording in HB 436 more as referring to compliance with emission standards set on various industries. The DHES would look at compliance with emissions limits and how much percent of the time there would be violations on the standards. Mr. Doney said he was comfortable with this answer.

Senator Towe asked about the language on Page 3, Lines 1 - 15. Mr. Augustine said he understood that to mean that switching a type of fuel would not cause a loss of exemptions. Mr. Doney interprets this language as meaning that if they were to use more limestone in their processing, which is used to take sulfur out of the fuel, this would not allow them to take further advantage of the tax break. But, if they put on a new piece of equipment to control air pollution, that would qualify.

On further questioning, Mr. Mathew said Yellowstone County Commissioners were not pleased with the classification designation on the local sulfur recovery operation, which is totally classified as air pollution equipment with the exception of their administrative office, even though there is a by-product for-profit operation included. After the passage of HB 436 and rule-making is in place, Mr. Mathew believes there will be means to determine the product recovery and commercial benefit versus whether the equipment is in place primarily as air pollution control.

Senator Gage questioned certification and re-certification. Mr. Chaffee said there is no cost for certification; however, once a business is no longer in substantial compliance, they would go through a re-certification process.

Senator Gage asked Mr. Manuel, if it is determined during construction that their property would be classified as Class 5 at 3% tax, but without HB 436, they wouldn't receive that tax break, would that make a difference regarding the effective date of the bill. Mr. Manuel said CENEX wouldn't resist so much.

Senator Towe asked Rep. Nelson if the fiscal note on HB 436 is covered by HB 2. Rep. Nelson said as far as he knows, it will be covered.

Mr. Manuel, responding to Senator Towe's questions, said he understands there is an agreement on the classification while the pollution equipment is under construction, and CENEX wanted it extended because they didn't want any changes in classification while it is still under construction. Harry Peterson, Property Tax Division, DOR, said to his knowledge, there is no agreement with CENEX as far as the classification of their new project.

Mr. Peterson said it is valued as Class 8 at 9% tax while under construction, under the current statute. Mr. Manuel will check to see if it is in his company's best interests to move the effective date forward.

**Closing by Sponsor:**

Rep. Nelson offered no further remarks in closing.

**EXECUTIVE ACTION ON SB 308**

**MOTION/VOTE:**

Senator Stang moved SB 308 BE TABLED. The motion CARRIED UNANIMOUSLY on oral vote.

**EXECUTIVE ACTION ON HB 167**

**MOTION/VOTE:**

Senator Harp moved HB 167 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (731529SC.Sma) Senator Halligan to carry the bill on the Senate floor. (Please refer to Minutes of April 2, 1993, for further action on HB 167.)

**EXECUTIVE ACTION ON HB 181**

**DISCUSSION:**

Senator Stang questioned the \$1,000 penalty on HB 181. Senator Halligan explained out-of-state interests transport bees into Montana and our state has no control over the quality of these bees, or the diseases they carry.

Senator Grosfield asked if the penalty would be paid into the General Fund. Senator Halligan said this is correct, and the industry supported the strong penalties. The General Fund money for the program was eliminated, and these fees replace the General Fund monies.

Senator Gage pointed out that this bill would allow authority to levy administrative penalties that should be earmarked to the General Fund instead of the Department's Special Revenue Account.

**MOTION/VOTE:**

Senator Stang moved HB 181 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (731535SC.Sma) Senator Crippen will carry the bill on the Senate floor. (Please refer to Minutes of April 2, 1993, for further action on HB 181.)

EXECUTIVE ACTION ON HB 193DISCUSSION:

Senator Halligan said that during the hearing on HB 193, Rep. Carley Tuss said that the House was very concerned that the money in HB 193 go into the General Fund. She said the industry didn't like that idea, she didn't support that idea, and she wanted the funds to go back into the earmarked account. Senator Halligan said the Agricultural Committee felt the money should go into the Agriculture Account and not to the General Fund.

Senator Stang asked if Section 12, pertaining to the produce dealers license, was referring to produce grown only in Montana or produce grown anywhere and sold in Montana. After discussion, it was determined to mean produce grown in Montana and sold in Montana.

Senator Grosfield questioned the repealer sections in HB 193, and what happens to the penalties. He said he sees a problem if the Department of Agriculture would be imposing the penalties and then receive the money from the penalties. This will be check on and reported back to this Committee.

Senator Gage asked how HB 193 applies to the person selling produce at a Farmers Market where they did not have to be licensed and where there were no restrictions, and what if they exceed \$15,000 in sales. This will be checked out also.

No further execution action was taken at this time on HB 193.

EXECUTIVE ACTION ON HB 393DISCUSSION:

Senator Grosfield said HB 393 is by request of the Department of State Lands, and was put together in cooperation with the loggers and Wood Products Association.

MOTION/VOTE:

Senator Towe moved that HB 393 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. (731535SC.Sma) Senator Swift will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 516DISCUSSION:

Senator Halligan said HB 516 is a milk industry bill. The funding, which works out to and additional 1.6 cents per gallon of milk, will be deposited into the General Fund.

Ted Doney, representing the Montana Dairymen's Association, said that currently milk inspections are funded by the General Fund, and carried out by the Department of Livestock. HB 516 is trying to replace the General Fund with earmarked fees that the users want.

Cort Mortensen, Executive Secretary, Board of Livestock, said his Board presently administers the milk inspection program. To his knowledge, the Federal government does not have a milk inspection program; however, states have to meet FDA inspection requirements and the FDA does review the program to see that the states are following the mandates of the public health ordinance. There is a dairy representative on the Board of Livestock, and there are four sanitarians who carry out milk inspections throughout the state.

**MOTION:**

Senator Gage moved to amend HB 516 on Page 3, Line 17, after "shall", to insert "not".

**DISCUSSION:**

Senator Towe asked Mr. Mortensen the affect of this amendment. Mr. Mortensen said the fee is paid by the producer when he delivers the milk, and with this amendment, the producer would have to pay this additional amount from his pocket. He said there is a provision in HB 516 to fund a dairy extension specialist at MSU.

**VOTE:**

The motion FAILED 6-2 on roll call vote (#1).

**MOTION:**

Senator Stang moved to amend HB 516 to eliminate the money that will go to the Montana State University Cooperative Extension Service.

**DISCUSSION:**

Senator Stang said it appears HB 516 is trying to start a new program at a time when the state can't afford it. Section 1 in HB 516 is where this position is actually created.

Senator Halligan said this amendment would also have the affect of decreasing the assessment.

Senator Towe asked if the request for an extension specialist is a carry-over of an existing program that was funded somewhere else and is now being funded here, or is this a new program and, if so, were there people who came in to support this new program at the hearing. Ted Doney responded that there

formerly was a dairy extension program at MSU and it was eliminated about 8-10 years ago. MSU is now the only land grant college in the nation that does not have a dairy extension program. HB 516 is proposing to restore the dairy extension program to MSU.

Senator Stang said he does not see why the consumers of the state should pay an increased tax on their milk to fund the dairy extension program at MSU. If they want this program, they should fund it themselves.

**SUBSTITUTE MOTION/VOTE:**

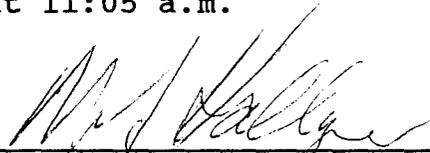
Senator Towe moved a substitute motion to re-instate Senator Gage's motion to amend HB 516 on Page 3, Line 17, after "shall", to insert "not". (hb051601.ajm) The substitute motion CARRIED 5-4 on roll call vote (#2).

**MOTION/VOTE:**

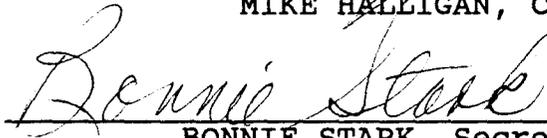
Senator Towe moved HB 516 BE CONCURRED IN AS AMENDED. The motion CARRIED on oral vote with Senator Stang voting "NO". Senator Devlin will carry the bill on the Senate floor. (Please refer to Minutes of April 2, 1993, for further action on HB 516.)

**ADJOURNMENT**

**Adjournment:** The meeting adjourned at 11:05 a.m.



MIKE HALLIGAN, Chair



BONNIE STARK, Secretary

MH/bjs



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 641 (third reading copy -- blue), respectfully report that House Bill No. 641 be concurred in.

Signed: 

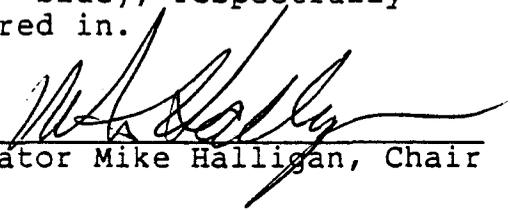
Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 167 (third reading copy -- blue), respectfully report that House Bill No. 167 be concurred in.

Signed: 

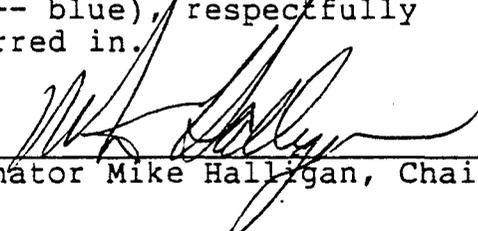
Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 181 (third reading copy -- blue), respectfully report that House Bill No. 181 be concurred in.

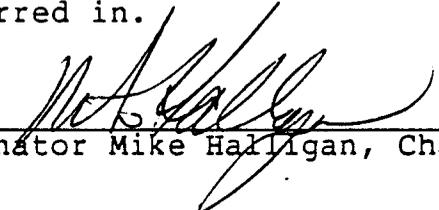
Signed:   
Senator Mike Halligan, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 1, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 393 (third reading copy -- blue), respectfully report that House Bill No. 393 be concurred in.

Signed: 

Senator Mike Halligan, Chair





**15-70-301 Section 1 (Definitions)**

These additions and deletions to the definition section provide the mechanism to tax diesel fuel in the same manner the State taxes gasoline.

**"Agricultural Use"** this definition is for the refund provision under section 38, which allows for 60% as an estimation for agricultural use.

**"Bulk delivery"** this definition is for the distributor's exempt sales under section 26 and the refund provision under sections 38 and 40.

**"Distributed", "distributor", "export", "exporter", "import", and "importer"** these terms need to be defined for the mechanism to tax diesel at the distributor level.

The following sections were changed to delete the information pertaining to the special fuel dealer, since the dealer is not responsible to pay the state the tax.

- section 2, section 3, section 4, section 5, section 6, section 7, section 11, section 13, section 14, section 15, section 16, section 17, section 18, section 19, section 20, section 21, section 22, section 23.
- repealing 15-70-316 and 15-70-322

The following sections were added to allow for the mechanism to tax diesel fuel at the distributor level. These sections were patterned after the "basic gasoline license tax".

- Section 24 through section 42

**15-70-302 Section 2 and Section 9**

Changing the reference from "Checking Station Office" to "Motor Carrier Services Division" is a housekeeping measure that ensures compliance with the creation of the Montana Department of Transportation effective July 1, 1991.

**15-70-302 Section 2, part (3)**

Deletes part three. The State exempts all vehicles under 26,001 regardless of use as long as all fuel is purchased tax paid. If fuel is purchased ex-tax, as provided in section 26, users operating vehicles under 26,000 pounds are required in section 6 to purchase a permit depending on the weight of the vehicle.

**15-70-302 Section 2, part (5)**

Deletes b, c, and d. These parts are redundant since one of the IRP requirements states a carrier must be also an IFTA user.

**15-70-302 Section 2, part (6)**

Deleted predominantly for agricultural use since all vehicles under 26,001 pounds gross vehicle weights are exempt from licensing and reporting except if purchasing ex-tax fuel, as provided in section 26.

**15-70-304 Section 4, part (1)**

Deleted the part waiving the bond requirements of a contractor if the contractor posts a performance bond. Performance bonds currently are not written to include fuel taxes.

**15-70-305 Section 5, part (3)**

This provision was added to require users, who surrender a license or who have their license revoked by the state, to pay \$100.00 reissue fee. The fee helps defray the cost of licensing and gives an incentive to the user to keep their account current to avoid revocation.

**15-70-309 Section 8**

This section is amended to provide a permit fee for vehicles under 26,001 pounds gross vehicle weight that receive ex-tax fuel.

**15-70-311 Section 9**

Since all vehicles under 26,001 pounds gross vehicle weight are exempt the trip permit is necessary for vehicles over 26,000 pounds gross vehicle weight that are traveling without a special fuel user's vehicle permit.

**15-70-312 Section 10**

To clarify not only vehicles hauling produce but all vehicles hauling commodities.

**15-70-315 Section 11**

This provides the tracking system for non-taxed diesel fuel.

**15-70-329 Section 19**

This was added to allow a statute of limitation for payment of credit. Senate Bill 126 also address this.

**Repeal**

**Section 15-70-316 Cardtrol statement on pumps.**

This notice is not necessary for the pumps since all fuel is taxable unless qualifies under section 26.

**Section 15-70-322 Reference to the tax on diesel at the pumps.**

The special fuel dealer is not required to pay the tax.

**Remains without change**

**Section 15-70-308 Temporary Cash Compliance Bond.**

This is needed for vehicles over 26,001 gross vehicle weight traveling without a special fuel user's vehicle permit.

**Section 15-70-313 Department to Furnish Forms.**

This allows the department to design forms for the temporary permits.

**Section 15-70-314 Penalty for operation without temporary permit - compliance bond - policy continue.**

This is necessary for temporary permits.

**Reserved**

- 15-70-310
- 15-70-317 through 15-70-320

CA:D:AC:19.mb

Presently Montana does not have full accountability of diesel fuel within the state. The purpose of this bill is to obtain full accountability of diesel fuel and eliminate the licensing and reporting requirements for users who operate vehicles under 26,001 pounds gross vehicle weight and not purchasing diesel fuel ex-tax. The following is a list of diesel users and how the proposed diesel bill will affect them:

SENATE TAXATION

EXHIBIT NO. 2

DATE 4-1-93

BILL NO. HB 539

■ AGRICULTURAL

CURRENT STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:

Currently the agricultural user can purchase any amount of bulk diesel fuel without paying tax. Agricultural users fueling on-highway vehicles out of bulk storage must keep a complete dispersal record on all diesel fuel withdrawn from bulk storage. The users report the usage to the department quarterly.

Agricultural users who own only cars or pickups under 10,000 pounds gross vehicle weight and elect to fuel the vehicles out of tax-free bulk diesel may opt to purchase a special authorization permit each year for \$120 per vehicle. The permit releases the user from keeping a complete dispersal record of all the diesel fuel withdrawn from storage.

Agricultural users operating vehicles both under and over 10,000 pounds gross vehicle weight can purchase a permit for vehicles under 10,000 pounds, but must keep a complete dispersal record of the fuel for vehicles over 10,000 pounds.

The agricultural user only fueling off-highway vehicles from bulk diesel storage is not required to keep a dispersal record or report the diesel usage to the department.

■ AGRICULTURAL

**PROPOSED STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:**

The agricultural user can purchase bulk diesel fuel in quantities of 200 gallons or more and not pay the tax. Agricultural users who fuel on-highway vehicles from bulk diesel storage must keep a complete dispersal record on all diesel fuel withdrawn from storage. Users report the usage to the department quarterly.

Agricultural users who own vehicles under 26,001 pounds gross vehicle weight and fueling out of ex-tax diesel bulk must purchase a special authorization permit which eliminates the record keeping for those vehicles.

Agricultural users who operate vehicles both under and over 26,000 pounds gross vehicle weight and fueling out of ex-tax diesel bulk must purchase a permit for the vehicles under 26,001 pounds, keep track of the vehicle's mileage and maintain a complete dispersal record of all fuel used in vehicles over 26,000 pounds. Users must report usage to the department quarterly.

The agricultural user only fueling off-highway vehicles from bulk diesel storage is not required to keep a dispersal record or report the diesel usage to the department.

All bulk diesel fuel purchases less than 200 gallons must be purchased tax-paid. The tax may be eligible for refund if the fuel was used off-highway.

■ MOTOR CARRIERS (TRUCKING)

**CURRENT STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:**

Currently the trucking industry can purchase bulk quantities of diesel fuel without paying the tax. Carriers who fuel on-highway vehicles from bulk storage must keep a complete dispersal record on all diesel fuel withdrawn from storage. Carriers report the usage to the department quarterly.

Carriers who purchase tax-paid diesel fuel through retail outlets also must report all diesel fuel purchased and miles traveled to the department quarterly.

■ MOTOR CARRIERS (TRUCKING)

**PROPOSED STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:** The trucking industry can purchase bulk diesel fuel in quantities of 200 gallons or more and not pay the tax. Carriers who fuel on-highway vehicles from bulk diesel

storage must keep a complete dispersal record on all diesel fuel withdrawn from storage on vehicles over 26,000 pounds gross vehicle weight. Carriers report the usage to the department quarterly. Carriers who own vehicles under 26,001 pounds gross vehicle weight must purchase a special authorization permit which would eliminate the record keeping to the department.

Carriers who operate vehicles both under and over 26,000 pounds gross vehicle weight must purchase a permit for the vehicles under 26,001 pounds, keep track of the vehicle's mileage, and maintain a complete dispersal record of all fuel used in vehicles over 26,000 pounds. Carriers report usage to the department quarterly.

If trucking companies only purchase tax-paid diesel fuel through retail outlets, the carrier still must report all fuel purchased and miles traveled to the department quarterly but could qualify for annual filing on vehicles over 26,000 pounds. This is required under the IFTA agreement and for refunds.

Carriers must pay tax on any bulk diesel purchases in quantities less than 200 gallons. The tax may be eligible for refund if the fuel is used off-highway or out-of-state.

**■ CONTRACTORS, LOGGERS, MINERS, RAILROAD****CURRENT STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:**

Currently contractors, loggers, miners and railroad can purchase any amount of bulk diesel fuel without paying the tax. These users must keep a complete dispersal record on all diesel fuel withdrawn from storage and report all usage to the department quarterly.

If these industries only fuel off-highway vehicles from bulk diesel storage, they are not required to keep a dispersal record or report the usage to the department. However, contractors, who fuel any vehicle in conjunction with a highway project, must report all fuel consumed to the department. All fuel affiliated with highway projects is taxable.

**■ CONTRACTORS, LOGGERS, MINERS, RAILROAD****PROPOSED STATUTE REQUIREMENTS FOR ON-HIGHWAY VEHICLES:**

Contractors, loggers, miners and railroad can purchase bulk diesel fuel in quantities of 200 gallons or more and not pay the tax.

The industries who fuel on-highway vehicles from bulk diesel storage must keep a complete dispersal record on all diesel fuel withdrawn from storage. Industries report the usage to the department quarterly.

The industries that own vehicles under 26,001 pounds gross vehicle weight must purchase a special authorization permit which eliminates the record keeping.

The industries that operate vehicles both under and over 26,000 pounds gross vehicle weight must purchase a permit for the vehicles under 26,001 pounds, keep track of the vehicle's mileage, and report all fuel used in vehicles over 26,000 pounds. Industries report usage to the department quarterly.

If industries purchase bulk diesel fuel in quantities less than 200 gallons, they must pay the tax. Users may file for a refund of the tax if the fuel was used off-highway.

If industries only fuel off-highway vehicles from bulk diesel storage, they are not required to keep a dispersal record or report the usage to the department. The only exception is for contractors who consume bulk diesel fuel in conjunction with a highway project. All diesel fuel consumed on highway projects is taxable.

■ SPECIAL FUEL DEALER

CURRENT STATUTE REQUIREMENT FOR DEALERS:

Currently special fuel dealers must keep inventory records

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4-1-93  
HB-539

on all fuel received. The dealer files a monthly report which indicates the amount of tax due through retail sales of diesel.

■ SPECIAL FUEL DEALER

PROPOSED STATUTE REQUIREMENTS FOR DEALERS: Special fuel dealers will not be required to report retail sales and remit payment to the department. The special fuel dealer will pay the tax to the supplier of diesel fuel at the time of delivery.

■ PETROLEUM INDUSTRY

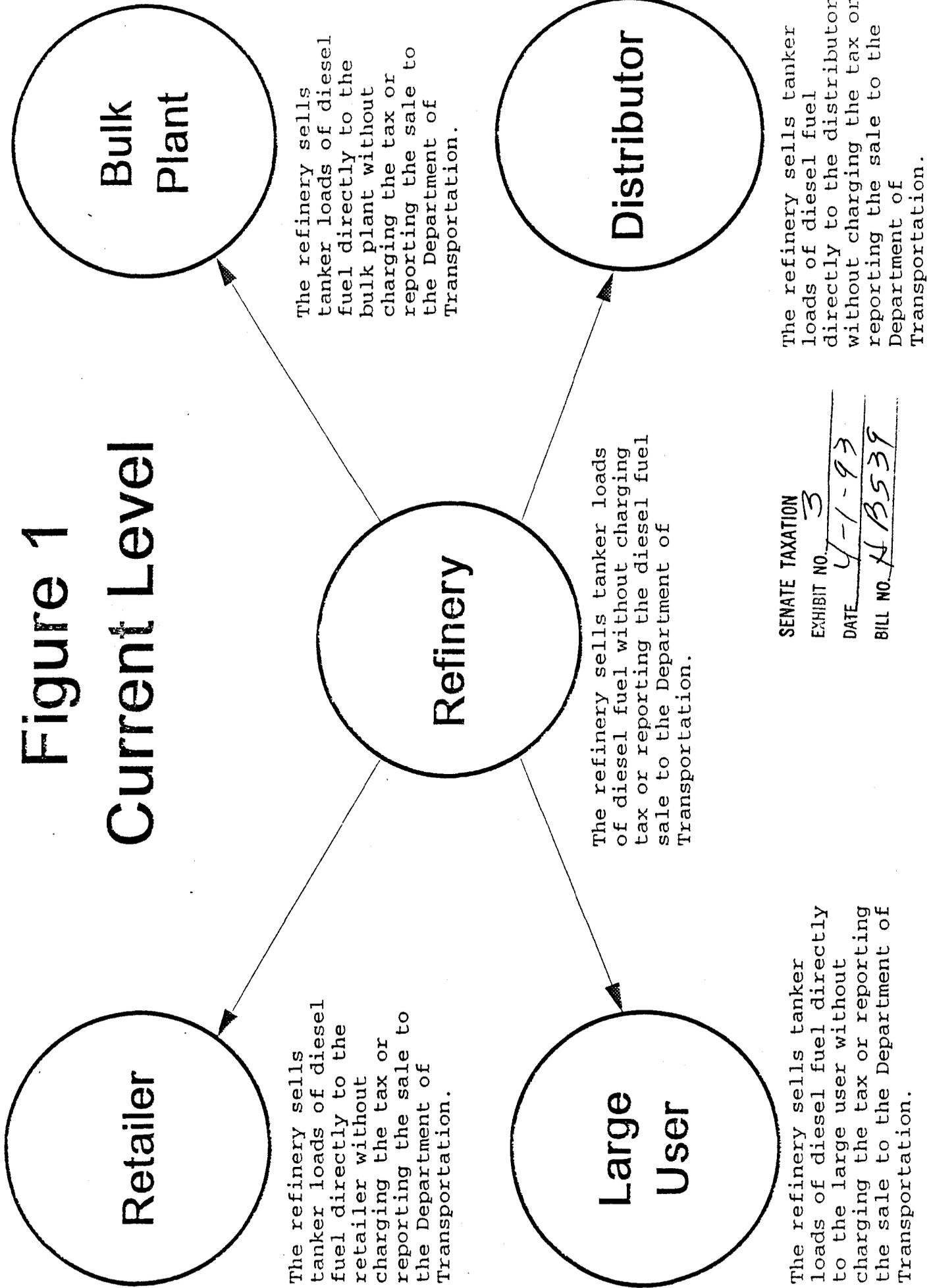
CURRENT STATUTE REQUIREMENTS FOR THE DISTRIBUTOR: Currently diesel distributors are not required to keep track of or report diesel sales to the department.

■ PETROLEUM INDUSTRY

PROPOSED STATUTE REQUIREMENTS FOR THE DISTRIBUTOR: Diesel distributors must keep track of and report all diesel sales off the terminal to the department.

# Figure 1

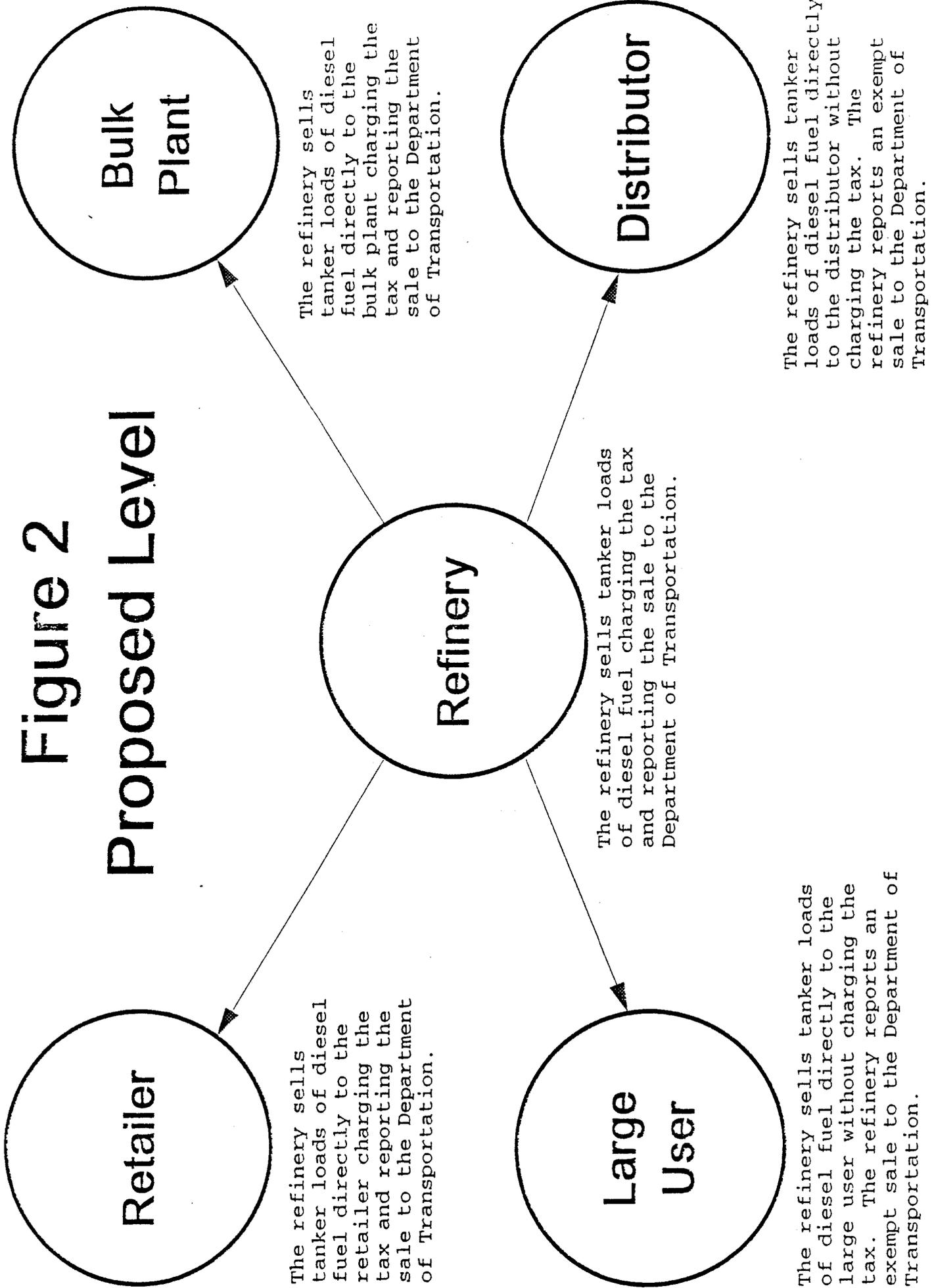
## Current Level



SENATE TAXATION

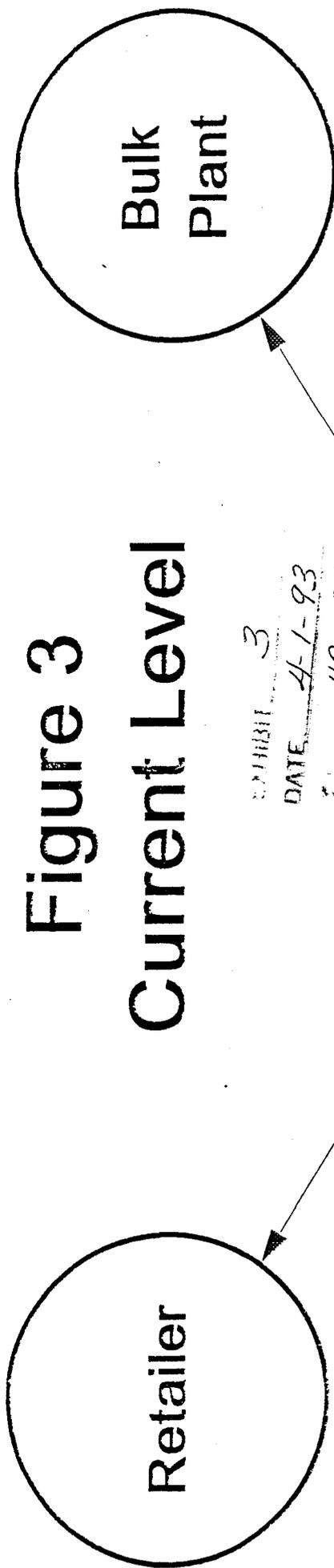
EXHIBIT NO. 3  
DATE 4-1-93  
BILL NO. AB539

# Figure 2 Proposed Level

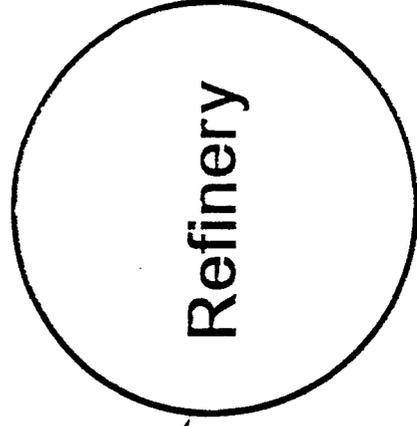


# Figure 3 Current Level

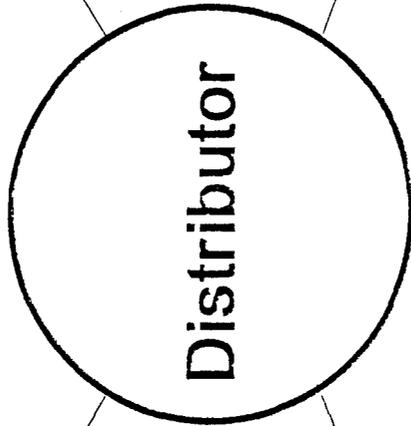
EXHIBIT 3  
DATE 4-1-93  
#B-539



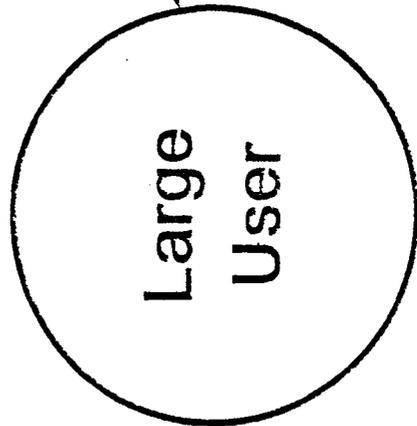
The distributor sells tanker loads of diesel fuel directly to the retailer without charging the tax or reporting the sale to the Department of Transportation.



The distributor sells tanker loads of diesel fuel directly to the refinery without charging the tax or reporting the sale to the Department of Transportation.

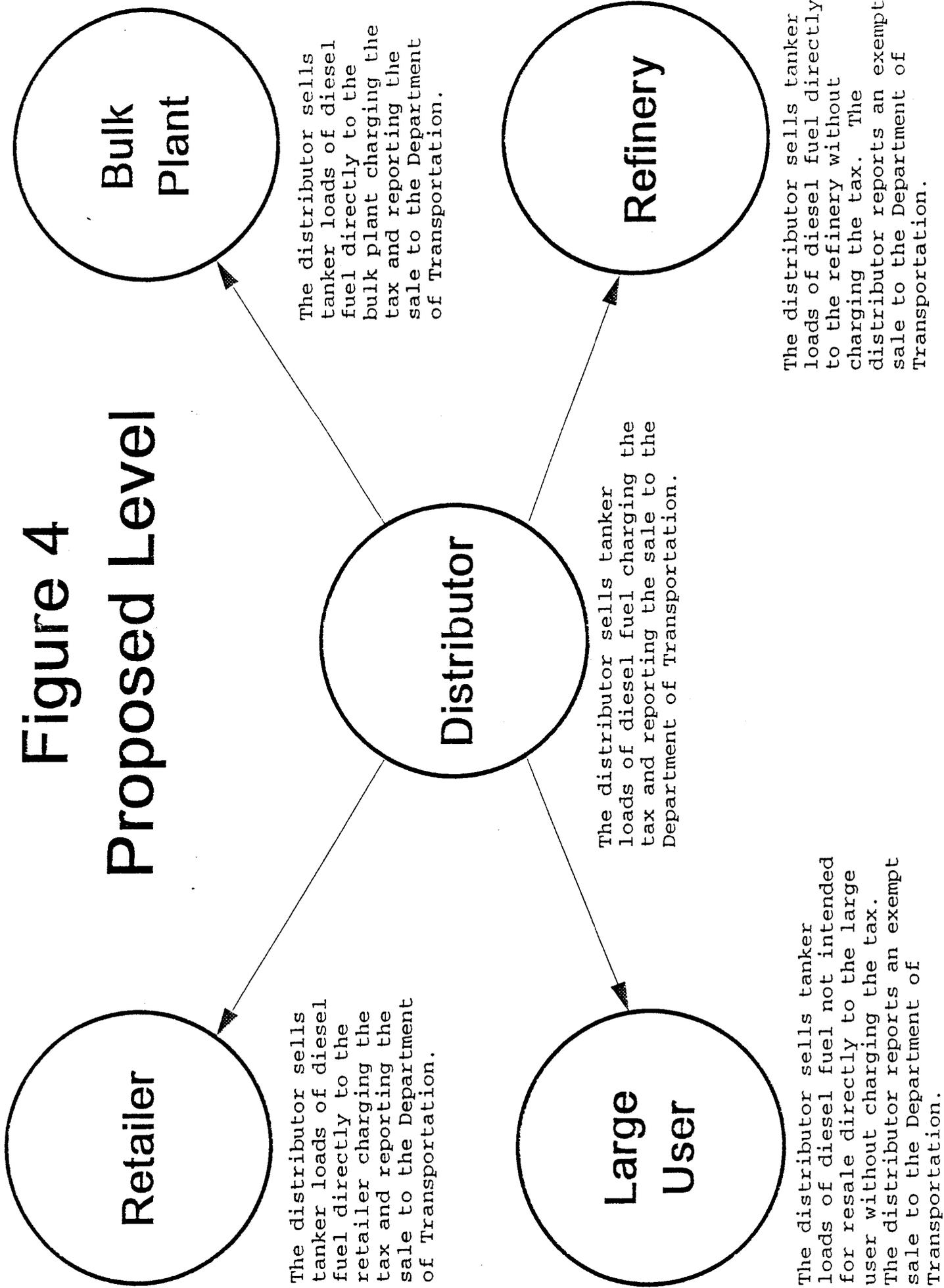


The distributor sells tanker loads of diesel fuel without charging tax or reporting the diesel fuel sale to the Department of Transportation.



The distributor sells tanker loads of diesel fuel directly to the large user without charging the tax or reporting the sale to the Department of Transportation.

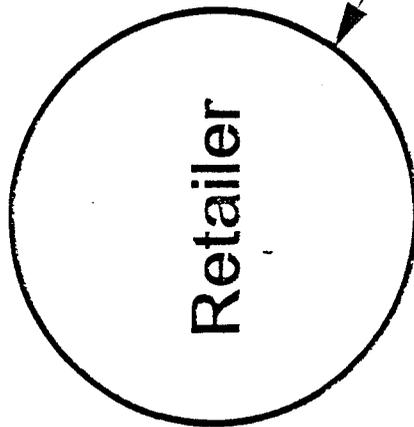
# Figure 4 Proposed Level



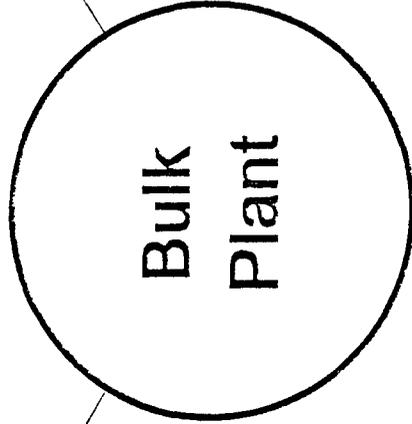
# Figure 5

## Current Level

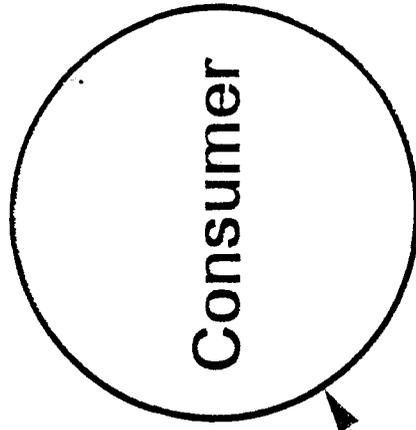
EXHIBIT 3  
DATE 4-1-93  
BY HB-539



The bulk plant sells bulk loads of diesel fuel directly to the retailer without charging the tax or reporting the sale to the Department of Transportation.



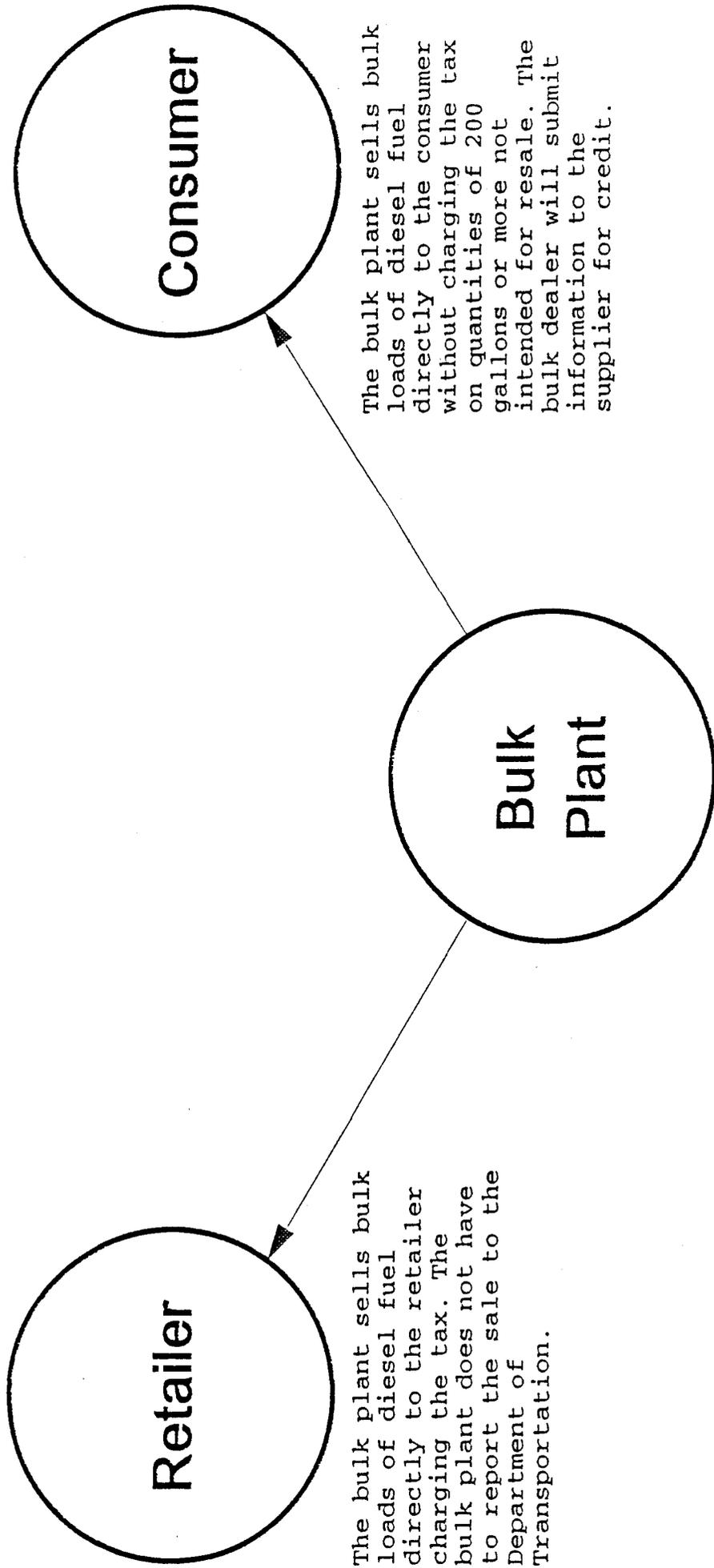
The bulk plant can purchase diesel fuel without the tax, sell the diesel to consumers without the tax and not report the purchase of the sale to the Department of Transportation.



The bulk plant sells bulk loads of diesel fuel directly to the consumer without charging the tax or reporting the sale to the Department of Transportation.

# Figure 6

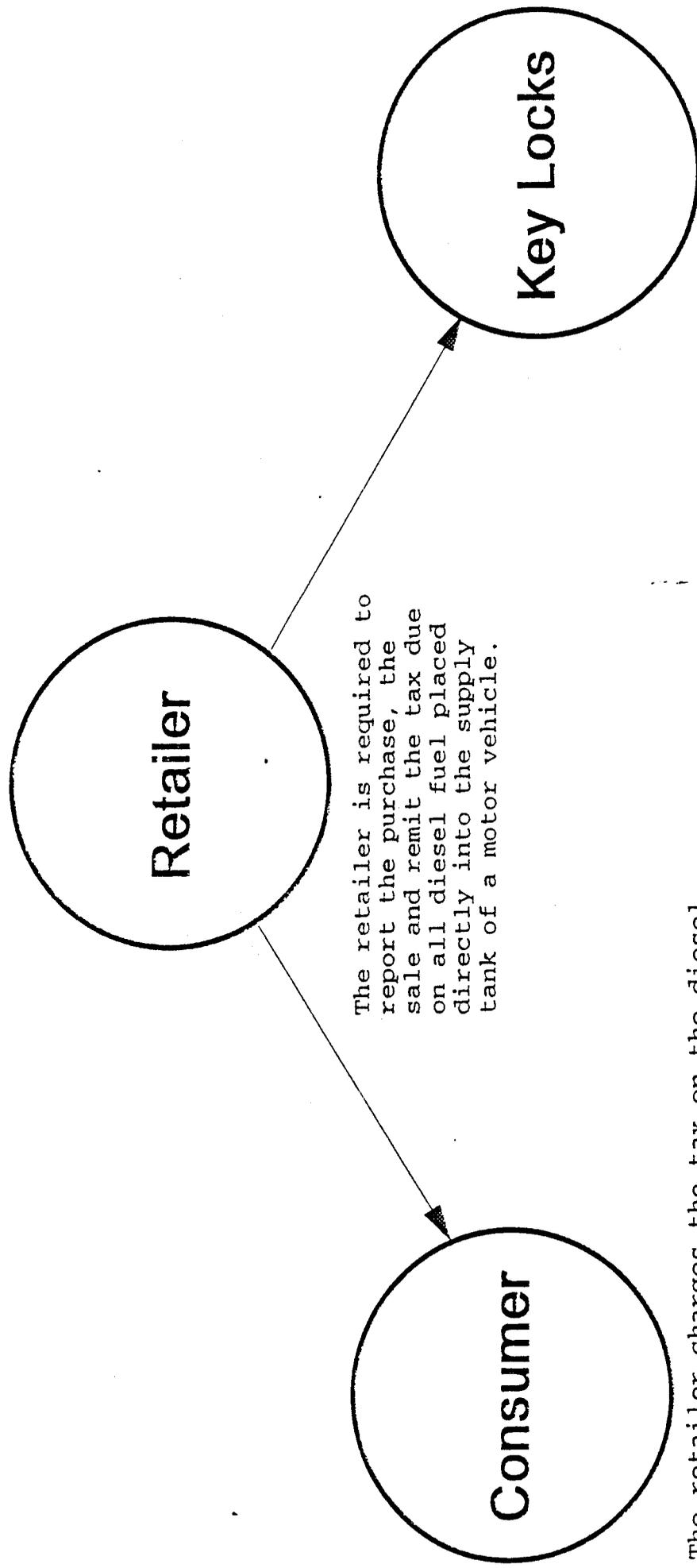
## Proposed Level



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# Figure 7

## Current Level



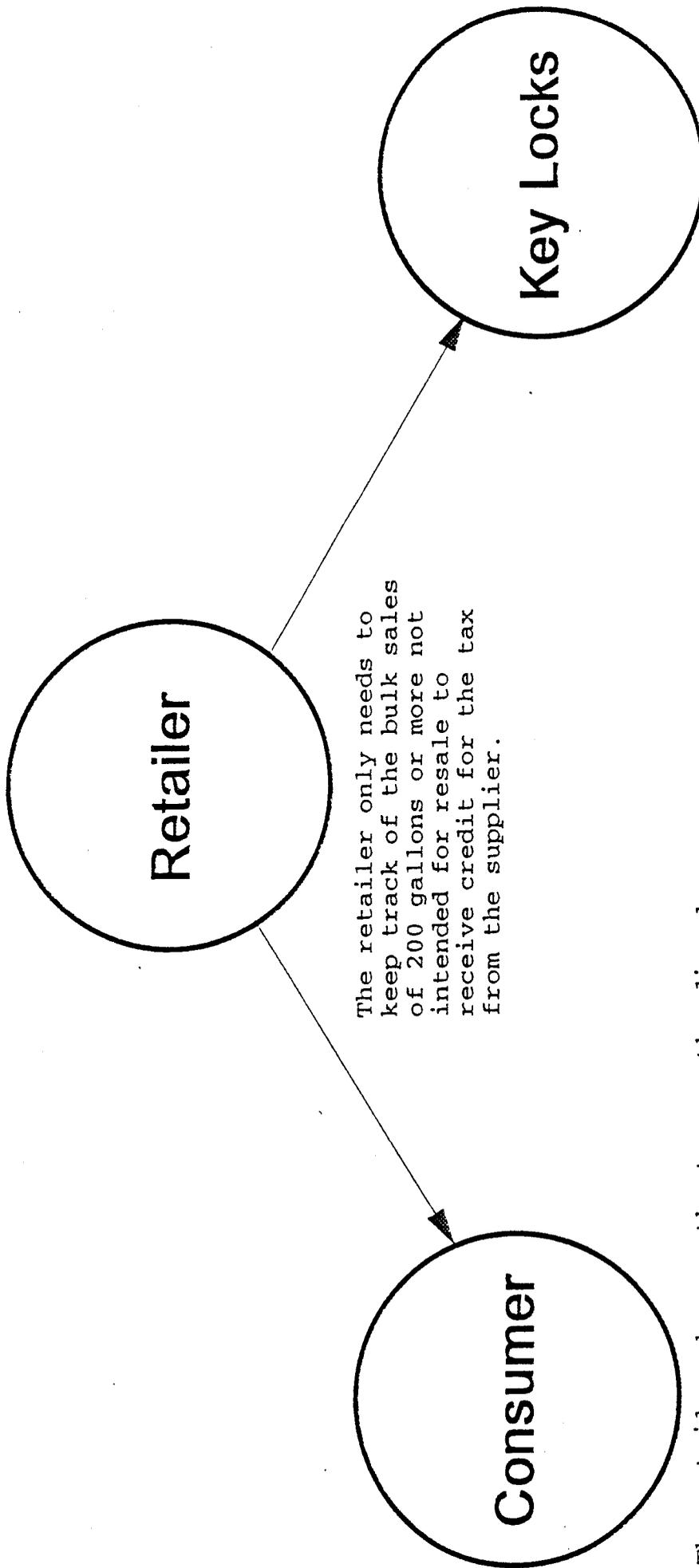
The retailer is required to report the purchase, the sale and remit the tax due on all diesel fuel placed directly into the supply tank of a motor vehicle.

The retailer charges the tax on the diesel fuel placed directly into the supply tank of a motor vehicle. If the retailer places diesel fuel into bulk, the tax is not charged. The retailer reports the sale and the user is required to keep track of all fuel placed into highway vehicles and reports the usage to the Department of Transportation.

The keylocks are treated in the same manner as consumer; however, the operator of the keylock requires the consumer to obtain two keys, one for highway use and one for off-highway use. The operator of the keylocks charges the tax on highway sales only. The user of the keylock reports the usage of the highway key to the Department of Transportation.

# Figure 8

## Proposed Level



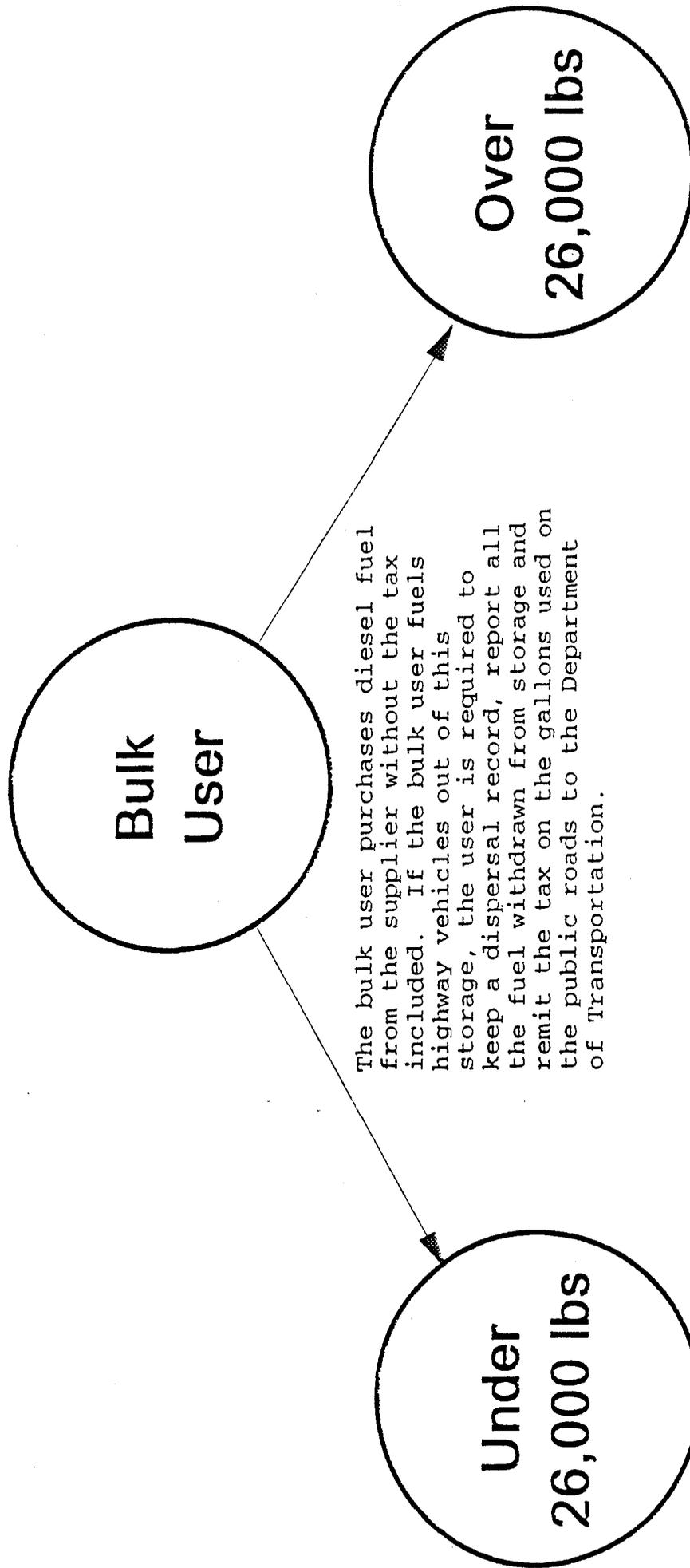
The retailer only needs to keep track of the bulk sales of 200 gallons or more not intended for resale to receive credit for the tax from the supplier.

The retailer charges the tax on the diesel fuel placed directly into the supply tank of a motor vehicle and bulk tanks less than 200 gallons. If the retailer places diesel fuel into bulk tanks over 200 gallons not intended for resale, the sale is exempt from the tax and the retailer will submit information to the supplier for credit.

The keylock user is allowed to accumulate a monthly sale of diesel fuel. If the monthly sales are over 200 gallons then the keylock operator is not required to charge the tax. The keylock operator will submit information to the supplier for credit.

# Figure 9

## Current Level



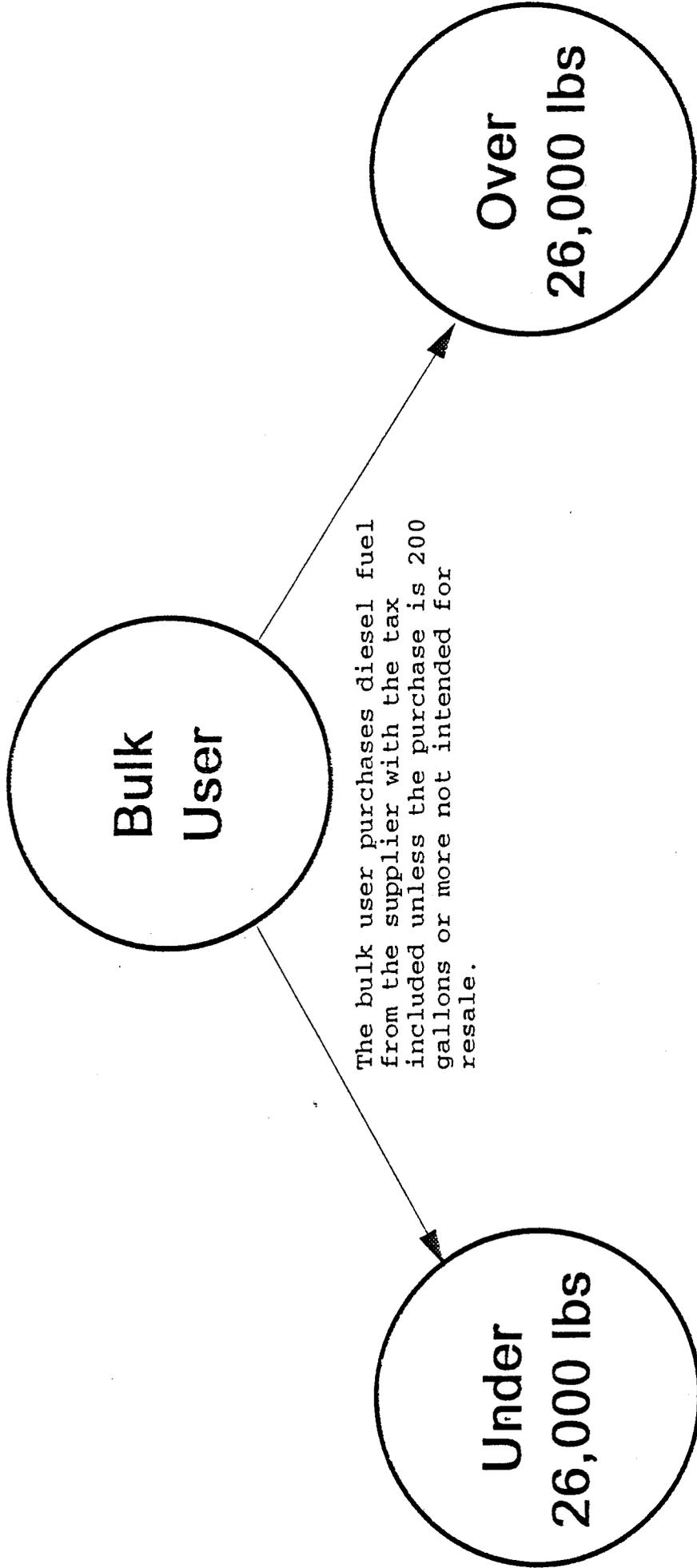
The bulk user is required to keep a dispersal record, report all the fuel withdrawn from storage and remit the tax on the gallons used in vehicles under 26,000 lbs on the public roads to the Department of Transportation.

The bulk user purchases diesel fuel from the supplier without the tax included. If the bulk user fuels highway vehicles out of this storage, the user is required to keep a dispersal record, report all the fuel withdrawn from storage and remit the tax on the gallons used on the public roads to the Department of Transportation.

The bulk user is required to keep a dispersal record, report all the fuel withdrawn from storage and remit the tax on the gallons used in vehicles over 26,000 lbs on the public roads to the Department of Transportation.

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# Figure 10 Proposed Level



The bulk user purchases diesel fuel from the supplier with the tax included unless the purchase is 200 gallons or more not intended for resale.

The bulk user fuels highway vehicles out of exempt storage, the user is required to purchase a permit for the vehicles under 26,000 pounds. The user is not required to keep a dispersal record or report the usage to the Department of Transportation.

The bulk user is required to keep a dispersal record, report all the fuel withdrawn from storage and remit the tax on the gallons used in vehicles over 26,000 lbs on the public roads to the Department of Transportation.

# Ending diesel fuel excise tax evasion:

**D**iesel fuel excise taxes are being evaded. The current structure for collection is just too attractive to organized crime rings and to "run of the mill" tax cheats. Every year that we do not address this problem, the federal highway trust fund is cheated out of hundreds of millions of dollars. The Federal Highway Administration testified before a congressional committee last year that approximately 15% to 20% of all taxable diesel fuel sold escapes taxation. This is simply unacceptable.

The current system for collecting diesel fuel excise taxes is the same system Congress abandoned for collecting gasoline taxes because it permitted too much evasion. It should therefore come as no surprise to anyone in the petroleum industry that vast amounts of cheating moved out of gasoline and into diesel fuel.

The volume of diesel gallons sold and the number of different firms within the distribution chain make it difficult to follow the product from the refiners through the multiple wholesalers to the ultimate retailer. In addition, petroleum industry characteristics that encourage cheating—namely the fact it is a cash industry that is highly price-sensitive—will never change. Sales volumes increase dramatically in this industry by selling product just a few cents below competition.

Diesel fuel excise tax evasion cheats honest marketers out of hard-earned market share. It is virtually impossible to compete with tax cheaters who are able to undercut prices and earn exorbitant margins.

For example, the combined taxes on diesel fuel in California are approximately 45¢ per gallon. Diesel fuel currently retails in the state for about \$1.10 per gallon. That gives tax cheaters a 40% price advantage. Even if the cheater only sells allegedly tax-paid fuel for 5¢ per gallon below market, he still earns 40¢ per gallon—a margin honest marketers could only dream about.

Is this a national problem? You bet it is. The tax division of the U.S. Justice Department that investigates criminal tax evasion will tell you that diesel fuel tax evasion schemes have been investigated and prosecuted in every region of the country. Furthermore, there is no question in my mind that a national problem exists when evasion of any type robs the U.S. Treasury of literally hundreds of millions of dollars.

Last Congress, I introduced legislation to move the

point of tax collection upstream to the point of first distribution. Doing so will reduce opportunities for creating "daisy chains" to conceal fraudulent transactions. This same change was effected for gasoline in 1987 with impressive results.

The second part of my proposal would have deterred evasion by dyeing tax-exempt fuel. This idea is not original—motor fuels are dyed in 19 countries worldwide for tax compliance purposes. In Canada, Quebec began dyeing diesel fuel in 1972. Collection increased approximately 100% in just two years.

The dyeing scheme was not a novel creation. It was designed to complement EPA regulations. Under the Clean Air Act, as of this October, high-sulphur diesel must be dyed and used only for off-road purposes. Both the Clean Air Act and my proposal would provide that dyed fuel must remain off-road because it is either high in sulphur or tax-exempt.

The unique aspect of diesel fuel is that the same product is sold on both a taxable and a tax-exempt basis. Tightening the collection scheme therefore mandates more than simply moving the collection point upstream. The dyeing scheme included in my legislation is a sound method for preserving direct tax-exempt diesel purchases.

Too much revenue is being lost to diesel fuel tax evasion. In addition,

it is an absolute affront, particularly in recessionary times, to accept that federally mandated taxes are being ignored. It is only a matter of time (and necessity) before this problem is addressed.

I have tried to legislate a balanced solution—to improve the collection method by decreasing the universe of taxpayers while preserving the taxpayer's ability to purchase on either a taxable or tax-exempt basis. Perhaps it is time to require that all diesel be taxed and that exempt users then file for a refund. Then the problems associated with dyeing would be eliminated and the collection method would be similar to that of gasoline.

At present, President Clinton is putting together an economic stimulus package. As the search for revenue continues, the subject of energy taxes resurfaces continually. It makes sense to enforce the taxes we already have on the books before we start increasing new taxes. To that end, I intend to continue searching for a reasonable method to put back into the Treasury and the Highway Trust Fund the receipts that are due.



Cong. Robert T. Matsui (D-CA)

SENATE TAXATION

EXHIBIT NO. 4

DATE 4-1-93

BILL NO. NB539

SENATE TAXATION

EXHIBIT NO. .5

DATE 4-1-93

BILL NO. HB539

Date: April 1, 1993

House Bill 539

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR  
ADMINISTRATION DIVISION  
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT TO IMPOSE THE COLLECTION OF SPECIAL FUEL TAXATION AT THE DISTRIBUTOR LEVEL RATHER THAN THE RETAIL LEVEL."

Elevates the point of taxation on special fuel from the retail level to the distributor level effective January 1, 1994, to provide a tracking system to determine diesel fuel movement and usage within the State, substantially decrease the potential for tax evasion and fraud and to accelerate the tax collection process.

The Montana Department of Transportation appears before this committee to offer our support for House Bill 539.

The current method of retail level taxation allows anyone to purchase bulk deliveries of diesel fuel tax-free. The purchaser simply can claim the bulk purchase for off-highway use and then use the same fuel in on-highway vehicles.

If the tax is collected at the distributor level, retailers will be required to sell most diesel fuel with the tax included. The only entities who could purchase exempted fuel from retailers would be the following:

- United States government, State of Montana, any other state, county, incorporated city, town, and school district of this state;
- users who buy fuel in bulk delivery quantities of 200 gallons or more not intended for resale;
- for export, unless the distributor is not licensed and is not paying the tax to the state where the fuel is destined.

All other users who purchase diesel fuel for off-highway use will be required to prove off-highway use before they're eligible for a tax refund. This is the same process required in gasoline refund. Proving eligibility for refunds will increase accountability for the state and decrease the opportunity for tax evasion and fraud.

Ideally, the Department of Transportation wants to manage diesel fuel taxation just as gasoline taxation -- which does not allow exemptions. Raising special fuel taxation to the distributor level would provide an avenue for tracking diesel fuel movement and usage within the state.

Finally, collecting the tax as it is distributed, rather than as it is used, would enhance the Department of Transportation's cash flow and the associated interest earnings to the General Fund.

The Montana Department of Transportation urges this committee to give this proposal a do-pass recommendation.

TESTIMONY ON HB 641  
BY THE  
DEPARTMENT OF ADMINISTRATION  
April 1, 1993

**TITLE:** "An act clarifying that tax revenue must be distributed according to the statute governing allocation of the tax that was in effect for the period the tax revenue was recorded for accounting purposes; specifying that tax revenue must be recorded as prescribed by the Department of Administration in accordance with generally accepted accounting principles; amending sections 15-1-501, 15-23-716, 15-25-122, 15-31-702, 15-35-108, 15-36-112, 15-36-126, 15-37-117, 15-38-106, 15-38-136, 15-51-103, 15-53-114, 15-59-108, 15-59-208, 15-60-210, 15-65-121, 15-65-136, 15-70-101, 15-71-104, 16-1-306, 16-1-401, 16-1-404, 16-1-408, 16-1-410, 16-1-411, 16-1-421, 16-1-422, 16-1-423, 16-11-119, 16-11-206, 23-5-610, 23-5-646, and 39-71-2504, MCA; repealing Section 15-1-502, MCA; and providing an immediate effective date and a retroactive applicability date."

**PURPOSE:** The purpose of this legislation is to ensure that the actual cash received from tax collections is allocated to the various state funds in the same manner as the tax revenue associated with those collections. This bill codifies current accounting practice and allows the State to continue to properly apply generally accepted accounting principles consistently to all tax revenue and the associated cash receipts and collections. As a result, all tax revenue received or accrued for a particular fiscal year can be allocated to the proper funds on a consistent basis.

**EFFECT OF IMPLEMENTATION:** Section 1 of HB 641 establishes the requirement that cash received for taxes be distributed the same as the tax revenue with which it is associated as directed by the department of administration according to generally accepted accounting principles. All other changes in this and other sections of this bill are incorporated to make reference to this requirement in the sections of the MCA referring to specific taxes. This bill does not change the distribution of any taxes and has no fiscal impact on either fund balance or cash balance.

**BACKGROUND:** When a tax is recorded as revenue in the Statewide Budgeting and Accounting System (SBAS) as required by generally accepted accounting principles, the revenue is distributed to the various funds (i.e. General Fund, State Special Revenue Fund, Capitol Projects Fund) per the allocation in effect in statute for the period of time the revenue is recorded. Tax revenue due at fiscal year end (June 30) but not collectible up to 60 days after June 30 is accrued; the revenue is allocated to the various state funds as required by statute in effect for the fiscal year ending that June 30; and a corresponding tax receivable is established for the same amount. If assessments for additional taxes are made as a result of audit findings and legal action, the tax revenue is accrued and allocated to the various funds as required by statute in effect at the time the additional tax is recorded as revenue; a corresponding tax receivable amount is recorded for the portion of the assessment not paid in cash at that time. Generally accepted accounting principles require that the actual cash collected by the State must be distributed to the various funds on the same basis as the accrued tax revenue with which the cash receipts are associated.

Testimony on HB 641  
Department of Administration  
April 1, 1993

From time to time the legislature changes how these tax revenues are allocated to the various funds. This is not a problem unless the allocation schedules change in the time period between the accrual of the tax as revenue and the receipt of the actual cash collection. When this occurs, the tax revenue cannot be accrued and distributed to the various funds using the allocation in effect when the tax collections are received since the revenue is accrued for a period of time prior to the effective date of the change in allocation. However, because most tax laws refer to distribution of taxes "collected" or tax "receipts" and not "tax revenue", the Department of Revenue or other department administering a tax could distribute the cash according to the allocation in effect at the time it is received. As a result, if a change in distribution is effective in the time between when the revenue is accrued and the cash is received by the State, the revenue and cash receipts could be accounted for on two different bases and the department would not properly offset the associated taxes receivable as required by generally accepted accounting principles.

DATE 4-1-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 436, 539, 627, 641

Name	Representing	Bill No.	Check One	
			Support	Oppose
Dave Brown	SPONSOR - HD #72	539	X	
Bill Salisbury	MD Transp.	539	X	
GEO. BENNETT	MONT. BKBS ASSN	HB 627		X
THOMAS L LARRIS	DOT - DOT REUSE	HB 539	X	
Ronna Alexander	MT Petroleum Marketers	HB 539	X	
WILLIAM F. GOWEN	MONTANA LAND TITLE ASSN	HB 627		X
Mike Mathew	Yellowstone Co.	HB 436	X	
Ben Hurdell	MT Motor Carriers	HB 539	X	
Connie H. Huffelt	Dept of Admin	HB 641		
Paul Manuel	CENEX	HB 436		✓
MIKE HICOME	Contractors	HB 436		X
Carl Schweizer	Mont Cont Assoc	HB 539	X	
Don Allen	MT Land Producers Assn	HB 436		✓
Ted Doney	Rosebud Energy Corp.; ASARCO; Billing, Location, Inc.	HB 436		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

Amendments to House Bill No. 516  
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin  
April 1, 1993

1. Page 1, line 24.

Strike: "(6)"

Insert: "(8)"

2. Page 3, line 17.

Strike: "shall"

Insert: "may not"