

HOUSE BILL 986

Introduced by Gilbert, et al.

3/12	Taxation
3/12	Referred to Taxation
3/13	First Reading
3/13	Fiscal Note Requested
3/18	Fiscal Note Received
3/19	Fiscal Note Printed
3/21	Hearing
3/28	Committee Report--Bill Passed as Amended
4/04	2nd Reading Passed as Amended
4/04	On Motion Rules Suspended to Place on 3rd Reading this Day
4/04	3rd Reading Passed
	Transmitted to Senate
4/05	First Reading
4/05	Referred to Taxation
	Died in Committee

1 HOUSE BILL NO. 986
 2 INTRODUCED BY William Schye Kennedy/H-17

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE BY 2 CENTS
 5 A GALLON THE TAX ON AVIATION FUEL; TO CREATE AN ACCOUNT IN
 6 WHICH TO DEPOSIT PROCEEDS OF THE AVIATION FUEL TAX AND FROM
 7 WHICH LOANS AND GRANTS MAY BE PROVIDED TO LOCAL GOVERNMENTS
 8 AND STATE AGENCIES FOR AERONAUTICAL AND NAVIGATIONAL AID
 9 PURPOSES; AMENDING SECTIONS 15-70-201, 15-70-204, 15-70-205,
 10 15-70-221, 15-70-231, 67-1-301, AND 67-1-303, MCA; AND
 11 PROVIDING AN EFFECTIVE DATE."

12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 **Section 1.** Section 15-70-201, MCA, is amended to read:
 15 "15-70-201. Definitions. As used in this part, unless
 16 the context requires otherwise, the following definitions
 17 apply:

18 (1) "Agricultural use" means use of gasoline by a
 19 person whose major endeavor and primary source of earned
 20 income is from the business of farming or ranching.

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

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

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

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

25 (b) Gasoline imported into this state, other than that



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 INTRODUCED BILL
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1 gasoline placed in storage at refineries or pipeline
2 terminals, shall be deemed to be "distributed" after it has
3 arrived in and is brought to rest in this state.

4 (6) "Distributor" means:

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

8 (b) any person who imports gasoline for sale, use, or
9 distribution;

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

13 (d) any exporter as defined in subsection (8);

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

16 (f) any person in Montana who blends alcohol with
17 gasoline.

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

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

1 beyond the boundaries of this state.

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

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

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

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

21 (13) "Use" includes and means the operation of motor
22 vehicles upon the public roads or highways of the state or
23 of any political subdivision thereof."

24 **Section 2.** Section 15-70-204, MCA, is amended to read:
25 "15-70-204. Gasoline license tax -- rate. (1) Every

1 distributor shall pay to the department of revenue a license
 2 tax for the privilege of engaging in and carrying on
 3 business in this state in an amount equal to ~~1-cent~~ 3 cents
 4 for each gallon of aviation gasoline fuel, which shall be
 5 allocated to the department of commerce as provided by
 6 67-1-301, ~~as amended~~, and 20 cents for each gallon of all
 7 other gasoline, other than aviation fuel, distributed by him
 8 within the state and upon which the gasoline license tax has
 9 not been paid by any other distributor.

10 (2) Gasoline or aviation fuel exported shall not be
 11 included in the measure of the distributor's license tax.

12 (3) Alcohol that is blended or is to be blended with
 13 gasoline to be sold as gasohol is subject to a tax per
 14 gallon equal to the license tax imposed on nonaviation
 15 gasoline distributors under subsection (1)."

16 **Section 3.** Section 15-70-205, MCA, is amended to read:

17 **"15-70-205. Distributor's statement and payment.** (1)
 18 Each distributor shall, not later than the 25th day of each
 19 calendar month, render a true statement, duly signed, to the
 20 department of revenue of all gasoline distributed and
 21 received by him in this state during the preceding calendar
 22 month and containing such other information as the
 23 department may reasonably require in order to administer the
 24 gasoline license tax law. The statement shall be accompanied
 25 by a payment in an amount equal to the tax imposed by

1 15-70-204 less any refund credit issued under 15-70-226 and
 2 less 1% of the total tax which shall be deducted by the
 3 distributor as an allowance for evaporation and other loss
 4 of gasoline distributed by such distributor; provided,
 5 however, that no such allowance shall be deducted from the ~~1~~
 6 cent 3-cent tax on aviation gasoline fuel.

7 (2) Any distributor engaged in or carrying on his
 8 business at more than one place or location in this state
 9 may include all such places of business in one statement."

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

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

24 (2) Any distributor paying the gasoline license tax to
 25 this state erroneously shall be allowed a credit or refund

1 of the amount of tax so paid.

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

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

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

15 (4) Any person who purchases and exports for sale, use,
16 or consumption outside Montana any gasoline on which the
17 Montana gasoline tax has been paid is entitled to a credit
18 or refund of the amount of tax so paid upon completion of
19 the information reports required under 15-70-209 and
20 presentation to the department of such other proof of
21 delivery outside Montana as it may by rule require."

22 **Section 5.** Section 15-70-231, MCA, is amended to read:

23 "15-70-231. Unlawful use of aviation gasoline fuel. It
24 shall be unlawful for any person to use aviation gasoline
25 fuel or to sell ~~such-gasoline~~ aviation fuel for use in any

1 motorized vehicle operated upon the public highways or
2 streets of this state. Violation of this section shall be a
3 misdemeanor subject to the penalties provided in 15-70-232."

4 **Section 6.** Section 67-1-301, MCA, is amended to read:

5 "67-1-301. **Money -- receipt and disbursement.** (1) All
6 costs and expenses of administering this title, including
7 the salaries of employees of the department engaged in
8 functions pertaining to aeronautics, the expenses of members
9 of the board, and all other disbursements necessary to carry
10 out the purposes of this title, shall be paid out of the
11 following revenues:

12 (a) all gifts and all legislative appropriations to the
13 department for aeronautics;

14 (b) all moneys received from any branch or department
15 of the federal government or from other sources for the
16 purposes mentioned in this title or for the furtherance of
17 aeronautics generally in this state.

18 (2) All such moneys shall be deposited in the state
19 treasury to the credit of the department.

20 (3) When the airport loan program is terminated, any
21 balance of the bond proceeds that is not loaned must remain
22 in the state special revenue fund to be invested, and the
23 income must be used to retire the outstanding debt on the
24 remaining bond proceeds.

25 (4) (a) There shall be deposited ~~in the state special~~

1 ~~revenue--fund--to--the--credit--of--the--department~~ from the
 2 ~~proceeds of 1-cent-per-gallon-out-of-the-amount--per--gallon~~
 3 ~~of the~~ gasoline license tax imposed by the laws of this
 4 state upon purchases of gasoline aviation fuel used for the
 5 operation of aircraft;

6 (i) Moneys in the state special revenue fund to the
 7 credit of the department an amount equal to the proceeds of
 8 2 cents a gallon so--deposited--shall--be--spent--by--the
 9 department for the sole purpose of carrying out its the
 10 functions of the department pertaining to aeronautics; and

11 (ii) in a separate account in the state special revenue
 12 fund to the credit of the department an amount equal to the
 13 proceeds of 1 cent a gallon.

14 (b) Money deposited in the separate account established
 15 in subsection (4)(a)(ii) may, with the approval of the
 16 board, be used only to provide loans and grants to local
 17 governments and state agencies for aeronautical and
 18 navigational aid purposes. Proceeds of all repayments of
 19 loans, including interest, made under this subsection (b)
 20 must be deposited in the account established in subsection
 21 (4)(a)(ii).

22 (5) ~~No--part--of--the 1-cent~~ The 3 cents per gallon of
 23 gasoline license tax imposed by the laws of this state on
 24 gasoline aviation fuel purchased and used for the operation
 25 of airplanes or aircraft may not be refunded."

1 **Section 7.** Section 67-1-303, MCA, is amended to read:

2 "67-1-303. Airline property tax -- state airports. (1)

3 Within 30 days of receipt, the county treasurer shall
 4 transmit to the state treasury 90% of the property tax
 5 collected on property of airline companies by reason of a
 6 state airport being located in the county.

7 (2) The state treasurer shall place the money in the
 8 state special revenue fund to the credit of the department
 9 of commerce for the purposes provided for in
 10 67-1-301(4)(a)(i)."

11 NEW SECTION. **Section 8.** **Effective date.** [This act] is
 12 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0986, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to increase by 2 cents a gallon the tax on aviation fuel; to create an account in which to deposit proceeds of the aviation fuel tax and from which loans and grants may be provided to local governments and state agencies for aeronautical and navigation aid purposes; and providing an effective date.

ASSUMPTIONS:


1. Collections, under current law, would be \$335,000 for each year of the biennium. (Based on FY90 collections.)
2. The proposal would be effective July 1, 1992.
3. There is a one month time lag in collections so the proposed rate of \$0.03 would be collected for 11 months in FY92.
4. Collections, under the proposal, would be \$949,167,000 in FY92 and \$1,005,000 in FY93.


FISCAL IMPACT:

	<u>FY '92</u>			<u>FY '93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Revenues:</u>						
Aviation Fuel Tax	335,000	949,167	614,167	335,000	1,005,000	670,000
<u>Fund Impact:</u>						
DOC Aeronautics	335,000	642,083	307,083	335,000	670,000	335,000
Loans and Grants	0	307,084	307,084	0	335,000	335,000
Total	335,000	949,167	614,167	335,000	1,005,000	670,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal will reduce local expenditures that are required to either match federal funding (90% federal, 10% state) or to locally fund airports ineligible for federal airport improvement grants by approximately \$307,100 in FY92 and \$335,000 each year thereafter.

 3-18-91
 ROD SUNDSTED, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

 3-19-91
 BOB GILBERT, PRIMARY SPONSOR DATE
 Fiscal Note for HB0986, as introduced **HB 986**

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 986

INTRODUCED BY GILBERT, SCHYE, KENNEDY, HARP

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE BY 2 CENTS A GALLON. THE TAX ON AVIATION FUEL; TO CREATE AN ACCOUNT IN WHICH TO DEPOSIT PROCEEDS OF THE AVIATION FUEL TAX AND FROM WHICH LOANS AND GRANTS MAY BE PROVIDED TO LOCAL GOVERNMENTS AND STATE AGENCIES FOR AERONAUTICAL AND NAVIGATIONAL AID PURPOSES; AMENDING SECTIONS 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

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

(1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source of earned income is from the business of farming or ranching.

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

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

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

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

(b) Gasoline imported into this state, other than that

1 gasoline placed in storage at refineries or pipeline
2 terminals, shall be deemed to be "distributed" after it has
3 arrived in and is brought to rest in this state.

4 (6) "Distributor" means:

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

8 (b) any person who imports gasoline for sale, use, or
9 distribution;

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

13 (d) any exporter as defined in subsection (8);

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

16 (f) any person in Montana who blends alcohol with
17 gasoline.

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

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

1 beyond the boundaries of this state.

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

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

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

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

21 (13) "Use" includes and means the operation of motor
22 vehicles upon the public roads or highways of the state or
23 of any political subdivision thereof."

24 **Section 2.** Section 15-70-204, MCA, is amended to read:
25 "15-70-204. Gasoline license tax -- rate. (1) Every

1 distributor shall pay to the department of revenue a license
 2 tax for the privilege of engaging in and carrying on
 3 business in this state in an amount equal to ~~1-cent~~ 3 cents
 4 for each gallon of aviation gasoline fuel, which shall be
 5 allocated to the department of commerce as provided by
 6 67-1-301, ~~as amended~~, and 20 cents for each gallon of all
 7 other gasoline, other than aviation fuel, distributed by him
 8 within the state and upon which the gasoline license tax has
 9 not been paid by any other distributor.

10 (2) Gasoline or aviation fuel exported OR SOLD TO THE
 11 FEDERAL DEFENSE FUEL SUPPLY CENTER shall not be included in
 12 the measure of the distributor's license tax.

13 (3) Alcohol that is blended or is to be blended with
 14 gasoline to be sold as gasohol is subject to a tax per
 15 gallon equal to the license tax imposed on nonaviation
 16 gasoline distributors under subsection (1)."

17 **Section 3.** Section 15-70-205, MCA, is amended to read:

18 **"15-70-205. Distributor's statement and payment.** (1)
 19 Each distributor shall, not later than the 25th day of each
 20 calendar month, render a true statement, duly signed, to the
 21 department of revenue of all gasoline distributed and
 22 received by him in this state during the preceding calendar
 23 month and containing such other information as the
 24 department may reasonably require in order to administer the
 25 gasoline license tax law. The statement shall be accompanied

1 by a payment in an amount equal to the tax imposed by
 2 15-70-204 less any refund credit issued under 15-70-226 and
 3 less 1% of the total tax which shall be deducted by the
 4 distributor as an allowance for evaporation and other loss
 5 of gasoline distributed by such distributor; provided,
 6 however, that no such allowance shall be deducted from the ~~1~~
 7 cent 3-cent tax on aviation gasoline fuel.

8 (2) Any distributor engaged in or carrying on his
 9 business at more than one place or location in this state
 10 may include all such places of business in one statement."

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

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

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

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

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

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

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

16 (4) Any person who purchases and exports for sale, use,
17 or consumption outside Montana any gasoline on which the
18 Montana gasoline tax has been paid is entitled to a credit
19 or refund of the amount of tax so paid upon completion of
20 the information reports required under 15-70-209 and
21 presentation to the department of such other proof of
22 delivery outside Montana as it may by rule require."

23 **Section 5.** Section 15-70-231, MCA, is amended to read:

24 "15-70-231. Unlawful use of aviation gasoline fuel. It
25 shall be unlawful for any person to use aviation gasoline

1 fuel or to sell such-gasoline aviation fuel for use in any
2 motorized vehicle operated upon the public highways or
3 streets of this state. Violation of this section shall be a
4 misdemeanor subject to the penalties provided in 15-70-232."

5 **Section 6.** Section 67-1-301, MCA, is amended to read:

6 "67-1-301. Money -- receipt and disbursement. (1) All
7 costs and expenses of administering this title, including
8 the salaries of employees of the department engaged in
9 functions pertaining to aeronautics, the expenses of members
10 of the board, and all other disbursements necessary to carry
11 out the purposes of this title, shall be paid out of the
12 following revenues:

13 (a) all gifts and all legislative appropriations to the
14 department for aeronautics;

15 (b) all moneys received from any branch or department
16 of the federal government or from other sources for the
17 purposes mentioned in this title or for the furtherance of
18 aeronautics generally in this state.

19 (2) All such moneys shall be deposited in the state
20 treasury to the credit of the department.

21 (3) When the airport loan program is terminated, any
22 balance of the bond proceeds that is not loaned must remain
23 in the state special revenue fund to be invested, and the
24 income must be used to retire the outstanding debt on the
25 remaining bond proceeds.

1 (4) ~~(a)~~ There shall be deposited ~~in the state special~~
 2 ~~revenue fund to the credit of the department~~ from the
 3 proceeds of ~~1 cent per gallon out of the amount per gallon~~
 4 of the gasoline license tax imposed by the laws of this
 5 state upon purchases of gasoline aviation fuel used for the
 6 operation of aircraft;

7 (i) Moneys in the state special revenue fund to the
 8 credit of the department an amount equal to the proceeds of
 9 2 cents a gallon so deposited shall be spent by the
 10 department for the sole purpose of carrying out its the
 11 functions of the department pertaining to aeronautics; and

12 (ii) in a separate account in the state special revenue
 13 fund to the credit of the department an amount equal to the
 14 proceeds of 1 cent a gallon.

15 (b) Money deposited in the separate account established
 16 in subsection (4)(a)(ii) may, with the approval of the
 17 board, be used only to provide loans and grants to local
 18 governments and state agencies for aeronautical and
 19 navigational aid purposes. Proceeds of all repayments of
 20 loans, including interest, made under this subsection (b)
 21 must be deposited in the account established in subsection
 22 (4)(a)(ii).

23 (5) ~~No part of the 1-cent~~ The 3 cents per gallon of
 24 gasoline license tax imposed by the laws of this state on
 25 gasoline aviation fuel purchased and used for the operation

1 of airplanes or aircraft may not be refunded."

2 **Section 7.** Section 67-1-303, MCA, is amended to read:

3 "67-1-303. Airline property tax -- state airports. (1)
 4 Within 30 days of receipt, the county treasurer shall
 5 transmit to the state treasury 90% of the property tax
 6 collected on property of airline companies by reason of a
 7 state airport being located in the county.

8 (2) The state treasurer shall place the money in the
 9 state special revenue fund to the credit of the department
 10 of commerce for the purposes provided for in
 11 67-1-301(4)(a)(i)."

12 NEW SECTION. **Section 8.** Effective date. [This act] is
 13 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 986

2 INTRODUCED BY GILBERT, SCHYE, KENNEDY, HARP

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4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE BY 2 CENTS
5 A GALLON THE TAX ON AVIATION FUEL FOR ALL PURCHASERS EXCEPT
6 AIRLINES; TO CREATE AN ACCOUNT IN WHICH TO DEPOSIT PROCEEDS
7 OF THE AVIATION FUEL TAX AND FROM WHICH LOANS AND GRANTS MAY
8 BE PROVIDED TO LOCAL GOVERNMENTS AND STATE AGENCIES FOR
9 AERONAUTICAL AND NAVIGATIONAL AID PURPOSES; AMENDING
10 SECTIONS 15-70-201, 15-70-204, 15-70-205, 15-70-221,
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20 person whose major endeavor and primary source of earned
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23 engaged in the business of selling aviation gasoline fuel,
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2 (3) "Aviation gasoline fuel" means gasoline or any
3 other liquid fuel by whatsoever name such liquid fuel may be
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5 aircraft, including but not limited to any and all such
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7 specifications prescribed by the United States for use by
8 its military forces in aircraft.9 (4) "Bulk delivery" means placing gasoline in storage
10 or containers. The term does not mean gasoline delivered
11 into the supply tank of a motor vehicle.12 (5) (a) Gasoline refined, produced, manufactured, or
13 compounded in this state and placed in tanks thereat or
14 gasoline transferred from a refinery or pipeline terminal in
15 this state and placed in tanks thereat or gasoline imported
16 into this state and placed in storage at refineries or
17 pipeline terminals shall be deemed to be "distributed", for
18 the purpose of this part, at the time the gasoline is
19 withdrawn from such tanks, refinery, or terminal storage for
20 sale or use in this state or for the transportation to
21 destinations in this state other than by pipeline to another
22 refinery or pipeline terminal in this state. When withdrawn
23 from such tanks, refinery, or terminal, such gasoline may be
24 distributed only by a person who is the holder of a valid
25 distributor's license.

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

5 (6) "Distributor" means:

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

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

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

14 (d) any exporter as defined in subsection (8);

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

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

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

23 (8) "Exporter" means any person who transports, other
24 than in the fuel supply tank of a motor vehicle, gasoline
25 received from a refinery or pipeline terminal in Montana to

1 a destination outside Montana for sale, use, or consumption
2 beyond the boundaries of this state.

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

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

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

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

22 (13) "Use" includes and means the operation of motor
23 vehicles upon the public roads or highways of the state or
24 of any political subdivision thereof."

25 **Section 2.** Section 15-70-204, MCA, is amended to read:

1 "15-70-204. Gasoline license tax -- rate. (1) Every
2 distributor shall pay to the department of revenue a license
3 tax for the privilege of engaging in and carrying on
4 business in this state in an amount equal to ~~1-cent~~ 3-cents:

5 (A) for each gallon of aviation gasoline fuel--which
6 ~~shall be allocated to the department of commerce as provided~~
7 ~~by 67-1-301, as amended;~~

8 (I) 1 CENT FOR EACH GALLON SOLD TO AN AIR CARRIER
9 CERTIFIED UNDER 49 U.S.C. 1371 OR 1388; AND

10 (II) 3 CENTS FOR EACH GALLON SOLD TO ALL OTHER
11 PURCHASERS; and

12 (B) 20 cents for each gallon of all other gasoline,
13 other than aviation fuel, distributed by him within the
14 state and upon which the gasoline license tax has not been
15 paid by any other distributor.

16 (2) Gasoline or aviation fuel exported OR SOLD TO THE
17 FEDERAL DEFENSE FUEL SUPPLY CENTER shall not be included in
18 the measure of the distributor's license tax.

19 (3) Alcohol that is blended or is to be blended with
20 gasoline to be sold as gasohol is subject to a tax per
21 gallon equal to the license tax imposed on nonaviation
22 gasoline distributors under subsection (1).

23 (4) THE TAX ON AVIATION FUEL IMPOSED BY SUBSECTION
24 (1)(A) MUST BE ALLOCATED TO THE DEPARTMENT OF COMMERCE AS
25 PROVIDED BY 67-1-301."

1 **Section 3.** Section 15-70-205, MCA, is amended to read:

2 "15-70-205. Distributor's statement and payment. (1)
3 Each distributor shall, not later than the 25th day of each
4 calendar month, render a true statement, duly signed, to the
5 department of revenue of all gasoline distributed and
6 received by him in this state during the preceding calendar
7 month and containing such other information as the
8 department may reasonably require in order to administer the
9 gasoline license tax law. The statement shall be accompanied
10 by a payment in an amount equal to the tax imposed by
11 15-70-204 less any refund credit issued under 15-70-226 and
12 less 1% of the total tax which shall be deducted by the
13 distributor as an allowance for evaporation and other loss
14 of gasoline distributed by such distributor; provided,
15 however, that no such allowance shall be deducted from the ~~1~~
16 ~~cent~~ 3-cent tax on aviation gasoline fuel.

17 (2) Any distributor engaged in or carrying on his
18 business at more than one place or location in this state
19 may include all such places of business in one statement."

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

21 "15-70-221. Refund or credit authorized. (1) Any person
22 who shall purchase and use any gasoline on which the Montana
23 gasoline license tax has been paid for denaturing alcohol to
24 be used in gasohol or operating or propelling stationary
25 gasoline engines, tractors used off the public highways and

1 streets, or for any commercial use other than propelling
 2 vehicles upon any of the public highways or streets of this
 3 state shall be allowed a refund of the amount of tax paid
 4 directly or indirectly on the gasoline so used. Such refund
 5 or drawback should in no instance exceed the tax paid or to
 6 be paid to the state and no refund shall be allowed of that
 7 portion of the tax per gallon upon aviation gasoline fuel
 8 allocated to the department of commerce by 67-1-301.

9 (2) Any distributor paying the gasoline license tax to
 10 this state erroneously shall be allowed a credit or refund
 11 of the amount of tax so paid.

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

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

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

25 (4) Any person who purchases and exports for sale, use,

1 or consumption outside Montana any gasoline on which the
 2 Montana gasoline tax has been paid is entitled to a credit
 3 or refund of the amount of tax so paid upon completion of
 4 the information reports required under 15-70-209 and
 5 presentation to the department of such other proof of
 6 delivery outside Montana as it may by rule require."

7 **Section 5.** Section 15-70-231, MCA, is amended to read:

8 "15-70-231. Unlawful use of aviation gasoline fuel. It
 9 shall be unlawful for any person to use aviation gasoline
 10 fuel or to sell such-gasoline aviation fuel for use in any
 11 motorized vehicle operated upon the public highways or
 12 streets of this state. Violation of this section shall be a
 13 misdemeanor subject to the penalties provided in 15-70-232."

14 **Section 6.** Section 67-1-301, MCA, is amended to read:

15 "67-1-301. **Money -- receipt and disbursement.** (1) All
 16 costs and expenses of administering this title, including
 17 the salaries of employees of the department engaged in
 18 functions pertaining to aeronautics, the expenses of members
 19 of the board, and all other disbursements necessary to carry
 20 out the purposes of this title, shall be paid out of the
 21 following revenues:

22 (a) all gifts and all legislative appropriations to the
 23 department for aeronautics;

24 (b) all moneys received from any branch or department
 25 of the federal government or from other sources for the

1 purposes mentioned in this title or for the furtherance of
2 aeronautics generally in this state.

3 (2) All such moneys shall be deposited in the state
4 treasury to the credit of the department.

5 (3) When the airport loan program is terminated, any
6 balance of the bond proceeds that is not loaned must remain
7 in the state special revenue fund to be invested, and the
8 income must be used to retire the outstanding debt on the
9 remaining bond proceeds.

10 (4) ~~(a) There shall be deposited in the state special~~
11 ~~revenue fund to the credit of the department from the~~
12 ~~proceeds of 1-cent-per-gallon-out-of-the-amount-per-gallon~~
13 ~~of the gasoline license tax imposed by the laws of this~~
14 ~~state upon purchases of gasoline aviation fuel used for the~~
15 ~~operation of aircraft;~~

16 (i) Moneys in the state special revenue fund to the
17 credit of the department an amount equal to the proceeds of
18 2 cents a gallon COLLECTED UNDER 15-70-204(1)(A)(II) so
19 deposited shall be spent by the department for the sole
20 purpose of carrying out its the functions of the department
21 pertaining to aeronautics; and

22 (ii) in a separate account in the state special revenue
23 fund to the credit of the department an amount equal to the
24 proceeds of 1 cent a gallon.

25 (b) Money deposited in the separate account established

1 in subsection (4)(a)(ii) may, with the approval of the
2 board, be used only to provide loans and grants to local
3 governments and state agencies for aeronautical and
4 navigational aid purposes. Proceeds of all repayments of
5 loans, including interest, made under this subsection (b)
6 must be deposited in the account established in subsection
7 (4)(a)(ii).

8 ~~(5) No part of the 1-cent~~ The 3-cents ~~per-gallon-of~~
9 gasoline license tax imposed by the laws of this state on
10 gasoline aviation fuel purchased and used for the operation
11 of airplanes or aircraft may not be refunded."

12 **Section 7.** Section 67-1-303, MCA, is amended to read:

13 "67-1-303. Airline property tax -- state airports. (1)
14 Within 30 days of receipt, the county treasurer shall
15 transmit to the state treasury 90% of the property tax
16 collected on property of airline companies by reason of a
17 state airport being located in the county.

18 (2) The state treasurer shall place the money in the
19 state special revenue fund to the credit of the department
20 of commerce for the purposes provided for in
21 67-1-301(4)(a)(i)."

22 **NEW SECTION. Section 8.** Effective date. [This act] is
23 effective July 1, 1991.

-End-