

HOUSE BILL NO. 573

Introduced: 01/29/83

Referred to Committee on Taxaiton: 01/29/83

Hearing: 2/9/83

Report: 03/12/83, Do Pass

2nd Reading: 03/15/83, Do Pass

3rd Reading: 03/17/83, Do Pass

Transmitted to Senate: 3/17/83

Referred to Committee on Taxation: 03/18/83

Hearing: 4/13/83

Report: 04/15/83, Be Not Concurred In. Report Adopted.

Bill Killed

1 *House* BILL NO. *573*
 2 INTRODUCED BY *Sen. Ross* *Sen. Miller*
 3 *Sen. Smith*

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "AVIATION
 5 FUEL"; INCREASING BY 1 CENT A GALLON THE AVIATION FUEL
 6 LICENSE TAX AND CREATING A REVOLVING FUND IN WHICH TO
 7 DEPOSIT ALL OF THE REVENUE FROM THE ADDITIONAL 1-CENT TAX
 8 FROM WHICH LOANS, GRANTS, AND NAVIGATIONAL AIDS MAY BE
 9 PROVIDED TO LOCAL AND STATE GOVERNMENT AGENCIES FOR
 10 AERONAUTICAL PURPOSES; PROVIDING FOR A GRADUATED SCALE OF
 11 REBATES; PROVIDING FOR ALLOCATION OF A PORTION OF THE
 12 REVOLVING FUND TO AIRPORTS SERVING SCHEDULED AIRLINES;
 13 REQUIRING THE STATE BOARD OF AERONAUTICS TO APPROVE LOANS
 14 AND GRANTS; AMENDING SECTIONS 15-70-201, 15-70-202,
 15 15-70-204 THROUGH 15-70-209, 15-70-221, 15-70-231, AND
 16 67-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

20 "15-70-201. Definitions. As used in this part, unless
 21 the context requires otherwise, the following definitions
 22 apply:

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

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

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

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

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

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

(6) "Distributor" means:

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

(b) any person who imports gasoline or aviation fuel for sale, use, or distribution;

(c) any dealer licensed as of January 1, 1969, except a dealer at an established airport.

(7) "Gasohol" means all products commonly or commercially known or sold as gasohol, produced and sold in Montana for the purpose of effectively and efficiently operating internal combustion engines, consisting of not less than 10% anhydrous ethanol produced in Montana from Montana agricultural products.

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

(9) "Import" shall include and mean to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of any aviation fuel or gasoline shipped or transported into this state from point of origin without this state other than in the fuel supply tank of a motor vehicle.

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

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

(12) "Use" shall include and mean the operation of motor vehicles upon the public roads or highways of the state or of any political subdivision thereof."

Section 2. Section 15-70-202, MCA, is amended to read:

"15-70-202. License and security of aviation fuel and gasoline distributors. (1) All aviation fuel and gasoline

1 distributors, prior to the commencement of doing business,
2 shall file an application for a license with the department
3 of revenue on forms prescribed and furnished by the
4 department setting forth the information as may be requested
5 by the department. Each distributor shall at the same time
6 file security with the department in an amount to be
7 determined by the department. However, the required amount
8 of security may not exceed twice the estimated amount of
9 aviation fuel and gasoline taxes the distributor will pay to
10 this state each month. Upon approval of the application, the
11 department shall issue to the distributor a nonassignable
12 license which shall continue in force until surrendered or
13 canceled.

14 (2) "Security" means:

15 (a) a bond executed by a distributor as principal with
16 a corporate surety qualified under the laws of Montana,
17 payable to the state of Montana, and conditioned upon
18 faithful performance of all requirements of this part,
19 including the payment of all taxes and penalties; or

20 (b) a deposit made by the distributor with the
21 department, under such conditions as the department may
22 prescribe, of certificates of deposit or irrevocable letters
23 of credit issued by a bank and insured by the federal
24 deposit insurance corporation."

25 Section 3. Section 15-70-204, MCA, is amended to read:

1 "15-70-204. Gasoline Aviation fuel and gasoline
2 license tax -- rate. (1) Every distributor shall pay to the
3 department of revenue a license tax for the privilege of
4 engaging in and carrying on business in this state in an
5 amount equal to ~~1-cent~~ 2 cents for each gallon of aviation
6 gasoline fuel, which shall be allocated to the department of
7 commerce as provided by 67-1-301, as amended, and 6 cents
8 for each gallon of all other gasoline distributed by him
9 within the state and upon which the aviation fuel and
10 gasoline license tax has not been paid by any other
11 distributor.

12 (2) ~~Gasoline~~ Aviation fuel and gasoline exported or
13 sold for export out of the state shall not be included in
14 the measure of the distributor's license tax.

15 (3) Gasohol shall be subject to gasoline license taxes
16 in accordance with the following schedule:

17 (a) beginning April 1, 1979, gasohol shall be taxed at
18 the rate of 2 cents per gallon;

19 (b) beginning April 1, 1985, gasohol shall be taxed at
20 the rate of 4 cents per gallon;

21 (c) beginning April 1, 1987, gasohol shall be taxed at
22 the rate of 6 cents per gallon.

23 (4) If at any time the gasoline license tax is lower
24 than the current applicable tax on gasohol, the lower tax
25 rate shall be adopted for gasohol."

Section 4. Section 15-70-205, MCA, is amended to read:

"15-70-205. Distributor's statement and payment. (1)

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

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

Section 5. Section 15-70-206, MCA, is amended to read:

"15-70-206. Recordkeeping requirements. Each distributor or any other person dealing in, transporting, receiving, or storing aviation fuel or gasoline shall keep for a period not to exceed 3 years such records, receipts,

and invoices and any other pertinent papers and information as the department of revenue may require."

Section 6. Section 15-70-207, MCA, is amended to read:

"15-70-207. Invoice of distributors and aviation dealers. Each distributor and aviation dealer in this state shall at the time of delivery, except where authorized by the department of revenue, issue to the purchaser an invoice in which shall be stated the number of gallons of aviation fuel and gasoline covered by such invoice and such other information as the department may require."

Section 7. Section 15-70-208, MCA, is amended to read:

"15-70-208. Examination of records. (1) The department of revenue or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any aviation fuel or gasoline distributor or any person dealing in, transporting, or storing aviation fuel or gasoline as defined in this part and to investigate the character of the disposition which any person makes of such aviation fuel or gasoline in order to ascertain and determine whether all license taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished to the department for review or such dealer must bear the reasonable cost of examination by an agent authorized or designated by the

1 department at the place where such books or records are
2 kept. However, the taxpayer is not liable for such costs for
3 a period exceeding 1 week or for such longer period as he
4 may consent to in writing unless the result of such
5 examination is the payment of a tax deficiency.

6 (2) The records, receipts, and invoices and any other
7 pertinent papers supporting sales of every distributor or
8 any person dealing in, transporting, or storing aviation
9 fuel or gasoline must be open and subject to inspection by
10 the department or any of its employees or assistants during
11 business hours in order to ascertain the amount of license
12 tax due."

13 Section 8. Section 15-70-209, MCA, is amended to read:

14 "15-70-209. Information reports. (1) Any person
15 receiving aviation fuel or gasoline, including every common
16 carrier, private carrier, and contract carrier of property
17 who shall haul, receive, transport, or ship any aviation
18 fuel or gasoline from any other state or foreign country
19 into this state or from this state to any other state or
20 foreign country or from any refinery or pipeline terminal in
21 this state to another point within this state, shall submit
22 to the department of revenue, upon its request and within
23 the time specified, a statement showing the number of
24 gallons of aviation fuel and gasoline contained in each
25 shipment in interstate commerce and the movement of such

1 products from any refinery or pipeline terminal located
2 within this state to another point within this state during
3 the preceding calendar month, the names and addresses of the
4 consignor and the consignee, and the date of delivery to the
5 consignee.

6 (2) In case of any person, except licensed
7 distributors, who refuses or fails to file a statement as
8 herein provided for, there is hereby imposed a penalty of
9 \$25 for each failure or refusal; provided, however, that if
10 any person shall establish to the satisfaction of the
11 department that his failure to file a statement as
12 prescribed by the department was due to reasonable cause,
13 the department shall waive the penalty."

14 Section 9. Section 15-70-221, MCA, is amended to read:

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

1 gallon upon aviation gasoline fuel allocated to the
2 department of commerce by 67-1-301.

3 (2) Any distributor paying the gasoline license tax to
4 this state erroneously shall be allowed a credit or refund
5 of the amount of tax so paid."

6 Section 10. Section 15-70-231, MCA, is amended to
7 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 fuel for use in any motorized
11 vehicle operated upon the public highways or streets of this
12 state. Violation of this section shall be a misdemeanor
13 subject to the penalties provided in 15-70-232."

14 Section 11. 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
23 the 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) There shall be deposited in the earmarked revenue
6 fund to the credit of the department the proceeds of 1 cent
7 per gallon out of the amount per gallon of gasoline aviation
8 fuel license tax imposed by the laws of this state upon
9 purchases of gasoline aviation fuel used for the operation
10 of aircraft. Moneys so deposited shall be spent by the
11 department for the sole purpose of carrying out its
12 functions pertaining to aeronautics.

13 ~~(4) No part of the 1 cent per gallon of gasoline~~
14 ~~license tax imposed by the laws of this state on gasoline~~
15 ~~purchased and used for the operation of airplanes or~~
16 ~~aircraft may be refunded.~~

17 (4) There shall be deposited in a revolving fund to
18 the credit of the department, to be used to provide loans,
19 grants, and navigational aids to local and state government
20 agencies for aeronautical purposes and to make rebates
21 authorized in subsection (5) but not for administrative
22 purposes, the proceeds of:

23 (a) 1 cent per gallon of the aviation fuel license tax
24 imposed by 15-70-204; and

25 (b) all loan repayments, including interest.

1 (5) Each company or person, upon application
2 postmarked no later than August 1 and under rules adopted by
3 the department, must be allowed a rebate from the revolving
4 fund established under subsection (4) on aviation fuel
5 purchased in this state during the year ended on the
6 immediately preceding June 30, in the following amount:

7 (a) 1/2 cent per gallon on purchases of more than 1
8 million gallons up to and including 5 million gallons;

9 (b) 3/4 cent per gallon on purchases of more than 5
10 million gallons up to and including 10 million gallons; and

11 (c) 1 cent per gallon on purchases in excess of 10
12 million gallons.

13 (6) An amount equal to the portion of the revenue from
14 the aviation fuel license tax, after application of
15 subsections (4) and (5), contributed collectively by the
16 scheduled airlines to the revolving fund established under
17 subsection (4) must be allocated from the revolving fund to
18 the airports served by the scheduled airlines.

19 (7) The board shall approve or disapprove loans and
20 grants under subsection (4)."

21 NEW SECTION. Section 12. Effective date. This act is
22 effective July 1, 1983.

-End-

STATE OF MONTANA

REQUEST NO. 303-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 1, 19 83, there is hereby submitted a Fiscal Note for House Bill 573 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 573 increases by 1¢ per gallon the tax on aviation fuel and creates a revolving trust account to deposit 100% of the 1¢ tax increase out of which loans, grants, and navigational aids may be provided to local and state governments for aeronautical purposes. The legislation provides for a rebate system in the amount of 1/2¢ per gallon of fuel purchased in excess of 1 million gallons up to 5 million gallons; 3/4¢ per gallon of fuel purchased in excess of 5 million gallons up to 10 million gallons and 1¢ per gallon of fuel purchased in excess of 10 million gallons.

ASSUMPTIONS:

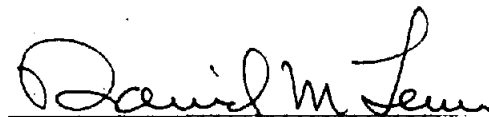
- (1) Aviation activities in the state will remain at about the same level.
- (2) Inasmuch as fuel taxes are collected at the refinery level, it is difficult to document the users.
- (3) No additional costs are anticipated to administer the increased fuel tax. Existing personnel can easily administer the anticipated rebates to four or five companies.

FISCAL IMPACT:

	<u>FY 84</u>	<u>FY 85</u>	<u>TOTAL BIENNIUM</u>
Revenue Impact:			
Under Current Law	\$325,000	\$325,000	\$ 650,000
Under Proposed Law	<u>553,894</u>	<u>553,894</u>	<u>1,107,788</u>
Increase in Tax Collections	<u>\$228,894</u>	<u>\$228,894</u>	<u>\$ 457,788</u>

These revenues will pass through in local assistance and grants.

Continued



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-8-83

LOCAL IMPACT:

Increased aviation fuel tax would be used to assist local governments in funding of the sponsor's 10% share of 90% federal airport grant program. The federal allocation for FY 83 is \$4,338,337 and for FY 84 is \$5,737,005. Montana stands to lose a portion of this money if the local governments cannot come up with the sponsor's share. The aeronautics loan program provides 5% interest loans for a period of ten years, thus allowing the local communities to borrow the money and pay it back through the allowable permissive two-mill levy, thus eliminating the time-consuming controversy of getting bond issues passed by the voters. It is important to note that loans and grants proposed in House Bill 573 are not limited to the 10% share of the federal airport improvement program. Items not eligible in the federal program, such as maintenance, would be eligible in House Bill 573. There are 41 Montana airports not eligible under the federal program.

Approved by committee
on Taxation

1 *House* BILL NO. *573*
2 INTRODUCED BY *Salva Boush* *By Atty Gen E Smith*
3 *Shady Lane Miller*
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5 FUEL"; INCREASING BY 1 CENT A GALLON THE AVIATION FUEL
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21 this state and placed in storage at refineries or pipeline
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23 purpose of this part, at the time the gasoline or aviation
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7 pertinent papers supporting sales of every distributor or
8 any person dealing in, transporting, or storing aviation
9 fuel or gasoline must be open and subject to inspection by
10 the department or any of its employees or assistants during
11 business hours in order to ascertain the amount of license
12 tax due."

13 Section 8. Section 15-70-209, MCA, is amended to read:

14 "15-70-209. Information reports. (1) Any person
15 receiving aviation fuel or gasoline, including every common
16 carrier, private carrier, and contract carrier of property
17 who shall haul, receive, transport, or ship any aviation
18 fuel or gasoline from any other state or foreign country
19 into this state or from this state to any other state or
20 foreign country or from any refinery or pipeline terminal in
21 this state to another point within this state, shall submit
22 to the department of revenue, upon its request and within
23 the time specified, a statement showing the number of
24 gallons of aviation fuel and gasoline contained in each
25 shipment in interstate commerce and the movement of such

1 products from any refinery or pipeline terminal located
2 within this state to another point within this state during
3 the preceding calendar month, the names and addresses of the
4 consignor and the consignee, and the date of delivery to the
5 consignee.

6 (2) In case of any person, except licensed
7 distributors, who refuses or fails to file a statement as
8 herein provided for, there is hereby imposed a penalty of
9 \$25 for each failure or refusal; provided, however, that if
10 any person shall establish to the satisfaction of the
11 department that his failure to file a statement as
12 prescribed by the department was due to reasonable cause,
13 the department shall waive the penalty."

14 Section 9. Section 15-70-221, MCA, is amended to read:

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

gallon upon aviation gasoline fuel allocated to the department of commerce by 67-1-301.

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

Section 10. Section 15-70-231, MCA, is amended to read:

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

Section 11. Section 67-1-301, MCA, is amended to read:

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

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

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

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

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

(3) There shall be deposited in the earmarked revenue fund to the credit of the department the proceeds of 1 cent per gallon out of the amount per gallon of gasoline aviation fuel license tax imposed by the laws of this state upon purchases of gasoline aviation fuel used for the operation of aircraft. Moneys so deposited shall be spent by the department for the sole purpose of carrying out its functions pertaining to aeronautics.

~~(4) No part of the 1 cent per gallon of gasoline license tax imposed by the laws of this state on gasoline purchased and used for the operation of airplanes or aircraft may be refunded.~~

~~(4) There shall be deposited in a revolving fund to the credit of the department, to be used to provide loans, grants, and navigational aids to local and state government agencies for aeronautical purposes and to make rebates authorized in subsection (5) but not for administrative purposes, the proceeds of:~~

~~(a) 1 cent per gallon of the aviation fuel license tax imposed by 15-70-204; and~~

~~(b) all loan repayments, including interest.~~

1 ~~(5) Each company or person, upon application~~
2 ~~postmarked no later than August 1 and under rules adopted by~~
3 ~~the department, must be allowed a rebate, from the revolving~~
4 ~~fund established under subsection (4) on aviation fuel~~
5 ~~purchased in this state during the year ended on the~~
6 ~~immediately preceding June 30, in the following amount:~~

7 ~~(a) 1/2 cent per gallon on purchases of more than 1~~
8 ~~million gallons up to and including 5 million gallons;~~

9 ~~(b) 3/4 cent per gallon on purchases of more than 5~~
10 ~~million gallons up to and including 10 million gallons; and~~

11 ~~(c) 1 cent per gallon on purchases in excess of 10~~
12 ~~million gallons.~~

13 ~~(6) An amount equal to the portion of the revenue from~~
14 ~~the aviation fuel license tax, after application of~~
15 ~~subsections (4) and (5), contributed collectively by the~~
16 ~~scheduled airlines to the revolving fund established under~~
17 ~~subsection (4) must be allocated from the revolving fund to~~
18 ~~the airports served by the scheduled airlines.~~

19 ~~(7) The board shall approve or disapprove loans and~~
20 ~~grants under subsection (4)."~~

21 ~~NEW SECTION. Section 12. Effective date. This act is~~
22 ~~effective July 1, 1983.~~

-End-

1 *House* BILL NO. *573*
 2 INTRODUCED BY *John Roush D. J. Kelly Sen. E. Smith*
 3 *Edley David Miller*

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "AVIATION
 5 FUEL"; INCREASING BY 1 CENT A GALLON THE AVIATION FUEL
 6 LICENSE TAX AND CREATING A REVOLVING FUND IN WHICH TO
 7 DEPOSIT ALL OF THE REVENUE FROM THE ADDITIONAL 1-CENT TAX
 8 FROM WHICH LOANS, GRANTS, AND NAVIGATIONAL AIDS MAY BE
 9 PROVIDED TO LOCAL AND STATE GOVERNMENT AGENCIES FOR
 10 AERONAUTICAL PURPOSES; PROVIDING FOR A GRADUATED SCALE OF
 11 REBATES; PROVIDING FOR ALLOCATION OF A PORTION OF THE
 12 REVOLVING FUND TO AIRPORTS SERVING SCHEDULED AIRLINES;
 13 REQUIRING THE STATE BOARD OF AERONAUTICS TO APPROVE LOANS
 14 AND GRANTS; AMENDING SECTIONS 15-70-201, 15-70-202,
 15 15-70-204 THROUGH 15-70-209, 15-70-221, 15-70-231, AND
 16 67-1-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

20 "15-70-201. Definitions. As used in this part, unless
 21 the context requires otherwise, the following definitions
 22 apply:

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

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

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

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

16 (5) (a) Gasoline or aviation fuel refined, produced,
 17 manufactured, or compounded in this state and placed in
 18 tanks thereat or gasoline or aviation fuel transferred from
 19 a refinery or pipeline terminal in this state and placed in
 20 tanks thereat or gasoline or aviation fuel imported into
 21 this state and placed in storage at refineries or pipeline
 22 terminals shall be deemed to be "distributed", for the
 23 purpose of this part, at the time the gasoline or aviation
 24 fuel is withdrawn from such tanks, refinery, or terminal
 25 storage for sale or use in this state or for the

1 transportation to destinations in this state other than by
2 pipeline to another refinery or pipeline terminal in this
3 state. When withdrawn from such tanks, refinery, or
4 terminal, such gasoline or aviation fuel may be distributed
5 only by a person who is the holder of a valid distributor's
6 license.

7 (b) Gasoline or aviation fuel imported into this
8 state, other than that gasoline or aviation fuel placed in
9 storage at refineries or pipeline terminals, shall be deemed
10 to be "distributed" after it has arrived in and is brought
11 to rest in this state.

12 (6) "Distributor" means:

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

16 (b) any person who imports gasoline or aviation fuel
17 for sale, use, or distribution;

18 (c) any dealer licensed as of January 1, 1969, except
19 a dealer at an established airport.

20 (7) "Gasohol" means all products commonly or
21 commercially known or sold as gasohol, produced and sold in
22 Montana for the purpose of effectively and efficiently
23 operating internal combustion engines, consisting of not
24 less than 10% anhydrous ethanol produced in Montana from
25 Montana agricultural products.

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

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

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

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

20 (12) "Use" shall include and mean the operation of
21 motor vehicles upon the public roads or highways of the
22 state or of any political subdivision thereof."

23 Section 2. Section 15-70-202, MCA, is amended to read:

24 "15-70-202. License and security of aviation fuel and
25 gasoline distributors. (1) All aviation fuel and gasoline

1 distributors, prior to the commencement of doing business,
 2 shall file an application for a license with the department
 3 of revenue on forms prescribed and furnished by the
 4 department setting forth the information as may be requested
 5 by the department. Each distributor shall at the same time
 6 file security with the department in an amount to be
 7 determined by the department. However, the required amount
 8 of security may not exceed twice the estimated amount of
 9 aviation fuel and gasoline taxes the distributor will pay to
 10 this state each month. Upon approval of the application, the
 11 department shall issue to the distributor a nonassignable
 12 license which shall continue in force until surrendered or
 13 canceled.

14 (2) "Security" means:

15 (a) a bond executed by a distributor as principal with
 16 a corporate surety qualified under the laws of Montana,
 17 payable to the state of Montana, and conditioned upon
 18 faithful performance of all requirements of this part,
 19 including the payment of all taxes and penalties; or

20 (b) a deposit made by the distributor with the
 21 department, under such conditions as the department may
 22 prescribe, of certificates of deposit or irrevocable letters
 23 of credit issued by a bank and insured by the federal
 24 deposit insurance corporation."

25 Section 3. Section 15-70-204, MCA, is amended to read:

1 "15-70-204. Gasoline Aviation fuel and gasoline
 2 license tax — rate. (1) Every distributor shall pay to the
 3 department of revenue a license tax for the privilege of
 4 engaging in and carrying on business in this state in an
 5 amount equal to ~~1-cent~~ 2 cents for each gallon of aviation
 6 gasoline fuel, which shall be allocated to the department of
 7 commerce as provided by 67-1-301, as amended, and 8 cents
 8 for each gallon of all other gasoline distributed by him
 9 within the state and upon which the aviation fuel and
 10 gasoline license tax has not been paid by any other
 11 distributor.

12 (2) Gasoline Aviation fuel and gasoline exported or
 13 sold for export out of the state shall not be included in
 14 the measure of the distributor's license tax.

15 (3) Gasohol shall be subject to gasoline license taxes
 16 in accordance with the following schedule:

17 (a) beginning April 1, 1979, gasohol shall be taxed at
 18 the rate of 2 cents per gallon;

19 (b) beginning April 1, 1985, gasohol shall be taxed at
 20 the rate of 4 cents per gallon;

21 (c) beginning April 1, 1987, gasohol shall be taxed at
 22 the rate of 6 cents per gallon.

23 (4) If at any time the gasoline license tax is lower
 24 than the current applicable tax on gasohol, the lower tax
 25 rate shall be adopted for gasohol."

Section 4. Section 15-70-205, MCA, is amended to read:

"15-70-205. Distributor's statement and payment. (1)

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

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

Section 5. Section 15-70-206, MCA, is amended to read:

"15-70-206. Recordkeeping requirements. Each distributor or any other person dealing in, transporting, receiving, or storing aviation fuel or gasoline shall keep for a period not to exceed 3 years such records, receipts,

and invoices and any other pertinent papers and information as the department of revenue may require."

Section 6. Section 15-70-207, MCA, is amended to read:

"15-70-207. Invoice of distributors and aviation dealers. Each distributor and aviation dealer in this state shall at the time of delivery, except where authorized by the department of revenue, issue to the purchaser an invoice in which shall be stated the number of gallons of aviation fuel and gasoline covered by such invoice and such other information as the department may require."

Section 7. Section 15-70-208, MCA, is amended to read:

"15-70-208. Examination of records. (1) The department of revenue or its authorized representative is hereby empowered to examine the books, papers, records, and equipment of any aviation fuel or gasoline distributor or any person dealing in, transporting, or storing aviation fuel or gasoline as defined in this part and to investigate the character of the disposition which any person makes of such aviation fuel or gasoline in order to ascertain and determine whether all license taxes due hereunder are being properly reported and paid. If such books, papers, records, and equipment are not maintained in this state at the time of demand, they must be furnished to the department for review or such dealer must bear the reasonable cost of examination by an agent authorized or designated by the

department at the place where such books or records are kept. However, the taxpayer is not liable for such costs for a period exceeding 1 week or for such longer period as he may consent to in writing unless the result of such examination is the payment of a tax deficiency.

(2) The records, receipts, and invoices and any other pertinent papers supporting sales of every distributor or any person dealing in, transporting, or storing aviation fuel or gasoline must be open and subject to inspection by the department or any of its employees or assistants during business hours in order to ascertain the amount of license tax due."

Section 8. Section 15-70-209, MCA, is amended to read:

"15-70-209. Information reports. (1) Any person receiving aviation fuel or gasoline, including every common carrier, private carrier, and contract carrier of property who shall haul, receive, transport, or ship any aviation fuel or gasoline from any other state or foreign country into this state or from this state to any other state or foreign country or from any refinery or pipeline terminal in this state to another point within this state, shall submit to the department of revenue, upon its request and within the time specified, a statement showing the number of gallons of aviation fuel and gasoline contained in each shipment in interstate commerce and the movement of such

products from any refinery or pipeline terminal located within this state to another point within this state during the preceding calendar month, the names and addresses of the consignor and the consignee, and the date of delivery to the consignee.

(2) In case of any person, except licensed distributors, who refuses or fails to file a statement as herein provided for, there is hereby imposed a penalty of \$25 for each failure or refusal; provided, however, that if any person shall establish to the satisfaction of the department that his failure to file a statement as prescribed by the department was due to reasonable cause, the department shall waive the penalty."

Section 9. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund authorized. (1) Any person who shall purchase and use any gasoline on which the Montana gasoline license tax has been paid for operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state shall be allowed a refund of the amount of tax paid directly or indirectly on the gasoline so used. Such refund or drawback should in no instance exceed the tax paid or to be paid to the state and no refund shall be allowed of that portion of the tax per

1 gallon upon aviation ~~gasoline fuel~~ allocated to the
2 department of commerce by 67-1-301.

3 (2) Any distributor paying the gasoline license tax to
4 this state erroneously shall be allowed a credit or refund
5 of the amount of tax so paid."

6 Section 10. Section 15-70-231, MCA, is amended to
7 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 fuel~~ for use in any motorized
11 vehicle operated upon the public highways or streets of this
12 state. Violation of this section shall be a misdemeanor
13 subject to the penalties provided in 15-70-232."

14 Section 11. 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
23 the 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) There shall be deposited in the earmarked revenue
6 fund to the credit of the department the proceeds of 1 cent
7 per gallon out of the amount per gallon of ~~gasoline aviation~~
8 ~~fuel~~ license tax imposed by the laws of this state upon
9 purchases of ~~gasoline aviation fuel~~ used for the operation
10 of aircraft. Moneys so deposited shall be spent by the
11 department for the sole purpose of carrying out its
12 functions pertaining to aeronautics.

13 ~~(4) No part of the 1 cent per gallon of gasoline~~
14 ~~license tax imposed by the laws of this state on gasoline~~
15 ~~purchased and used for the operation of airplanes or~~
16 ~~aircraft may be refunded.~~

17 (4) There shall be deposited in a revolving fund to
18 the credit of the department, to be used to provide loans,
19 grants, and navigational aids to local and state government
20 agencies for aeronautical purposes and to make rebates
21 authorized in subsection (5) but not for administrative
22 purposes, the proceeds of:

23 (a) 1 cent per gallon of the aviation fuel license tax
24 imposed by 15-70-204; and

25 (b) all loan repayments, including interest.

1 (5) Each company or person, upon application
2 postmarked no later than August 1 and under rules adopted by
3 the department, must be allowed a rebate, from the revolving
4 fund established under subsection (4) on aviation fuel
5 purchased in this state during the year ended on the
6 immediately preceding June 30, in the following amount:

7 (a) 1/2 cent per gallon on purchases of more than 1
8 million gallons up to and including 5 million gallons;

9 (b) 3/4 cent per gallon on purchases of more than 5
10 million gallons up to and including 10 million gallons; and

11 (c) 1 cent per gallon on purchases in excess of 10
12 million gallons.

13 (6) An amount equal to the portion of the revenue from
14 the aviation fuel license tax, after application of
15 subsections (4) and (5), contributed collectively by the
16 scheduled airlines to the revolving fund established under
17 subsection (4) must be allocated from the revolving fund to
18 the airports served by the scheduled airlines.

19 (7) The board shall approve or disapprove loans and
20 grants under subsection (4)."

21 NEW SECTION. Section 12. Effective date. This act is
22 effective July 1, 1983.

-End-