

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,
H. HAMMOND, NORMAN

IN THE HOUSE

February 12, 1983	Introduced and referred to Committee on Highways and Transportation.
February 17, 1983	Committee recommend bill do pass as amended. Report adopted.
February 18, 1983	Bill printed and placed on members' desks.
February 19, 1983	Second reading, do pass.
February 21, 1983	Considered correctly engrossed.
February 22, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on State Administration.
March 15, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 16, 1983	Second reading, pass consideration.
March 17, 1983	Second reading, concurred in as amended.
March 19, 1983	Third reading, concurred in. Ayes, 43; Noes, 7.

IN THE HOUSE

March 19, 1983

Returned to House with amendments.

March 31, 1983

Second reading, amendments not concurred in.

On motion, Conference Committee requested and appointed.

April 16, 1983

Conference Committee dissolved.

On motion, Free Conference Committee requested and appointed.

April 19, 1983

Free Conference Committee reported.

April 20, 1983

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted.

April 21, 1983

Free Conference Committee report adopted by Senate.

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *776*
 2 INTRODUCED BY *W. Ramsey*
 3 *Norman*

4 A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
 5 BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND
 6 RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE
 7 BOARD; REQUIRING THE BOARD TO APPROVE AIRCRAFT GRANTS AND
 8 LOANS; REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO
 9 INTRASTATE CARRIERS ONLY; AMENDING SECTIONS 2-8-103,
 10 2-15-1812, 67-3-421, 67-3-422, AND 67-3-424 THROUGH
 11 67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

14 NEW SECTION. Section 1. Reestablishment. The board of
 15 aeronautics, created pursuant to 2-15-1812, is reestablished
 16 with its existing statutory authority and rules for 6 years,
 17 pursuant to 2-8-122.

18 Section 2. Section 2-8-103, MCA, is amended to read:

19 "2-8-103. Agencies to terminate. (1) The following
 20 agencies shall terminate on July 1, 1979:

21 (a) board of abstracters, department of professional
 22 and occupational licensing, created by 2-15-1643;

23 (b) board of real estate, department of professional
 24 and occupational licensing, created by 2-15-1642;

25 (c) state board of warm air heating, ventilation, and

1 air conditioning, department of professional and
 2 occupational licensing, created by 2-15-1656;

3 (d) board of institutions, department of institutions,
 4 created by 2-15-2303.

5 (2) The following agencies shall terminate on July 1,
 6 1981:

7 (a) board of athletics, department of professional and
 8 occupational licensing, created by 2-15-1661;

9 (b) board of massage therapists, department of
 10 professional and occupational licensing, created by
 11 2-15-1627;

12 (c) board of osteopathic physicians, department of
 13 professional and occupational licensing, created by
 14 2-15-1607;

15 (d) board of podiatry examiners, department of
 16 professional and occupational licensing, created by
 17 2-15-1608½.

18 (3) The following units of state government shall
 19 terminate on July 1, 1983:

20 ~~(a) board of aeronautics, department of commerce,~~
 21 ~~created by 2-15-1812;~~

22 ~~(b) state board of hail insurance, department of~~
 23 ~~agriculture, created by 2-15-3003;~~

24 ~~(c) board of horseracing, department of commerce,~~
 25 ~~created by 2-15-1881;~~

1 †d†lc1 board of livestock, department of livestock,
2 created by 2-15-3102;
3 †e†ld1 board of milk control, department of commerce,
4 created by 2-15-1802;
5 †f†le1 board of oil and gas conservation, department
6 of natural resources and conservation, created by 2-15-3303;
7 †g†lf1 Montana outfitters' council, department of
8 fish, wildlife, and parks, created by 2-15-3403;
9 †h†lg1 public service commission, department of public
10 service regulation, created by 69-1-102;
11 †i†lh1 board of water and wastewater operators,
12 department of health and environmental sciences, created by
13 2-15-2105;
14 †j†li1 board of water well contractors, department of
15 commerce, created by 2-15-1862.
16 (4) The following agencies terminate on July 1, 1985:
17 (a) the board of public accountants, department of
18 commerce, created by 2-15-1866;
19 (b) the board of architects, department of commerce,
20 created by 2-15-1871;
21 (c) state banking board, department of commerce,
22 created by 2-15-1803;
23 (d) the state electrical board, department of
24 commerce, created by 2-15-1874;
25 (e) the board of professional engineers and land

1 surveyors, department of commerce, created by 2-15-1873;
2 (f) office of commissioner of insurance and the
3 insurance department, state auditor's office, created by
4 2-15-1902 and 2-15-1903;
5 (g) office of the securities commissioner, state
6 auditor's office, created by 2-15-1901;
7 (h) the board of landscape architects, department of
8 commerce, created by 2-15-1872;
9 (i) the board of county printing, department of
10 commerce, created by 2-15-1811;
11 (j) the board of plumbers, department of commerce,
12 created by 2-15-1875;
13 (k) board of physical therapy examiners, department of
14 commerce, created by 2-15-1858.
15 (5) The following agencies terminate on July 1, 1987:
16 (a) commission for human rights, department of labor
17 and industry, created by 2-15-1706;
18 (b) Montana state board of medical examiners,
19 department of commerce, created by 2-15-1841;
20 (c) board of dentistry, department of commerce,
21 created by 2-15-1842;
22 (d) board of pharmacists, department of commerce,
23 created by 2-15-1843;
24 (e) board of nursing, department of commerce, created
25 by 2-15-1844;

1 (f) board of nursing home administrators, department
 2 of commerce, created by 2-15-1845;
 3 (g) board of optometrists, department of commerce,
 4 created by 2-15-1846;
 5 (h) board of chiropractors, department of commerce,
 6 created by 2-15-1847;
 7 (i) board of radiologic technologists, department of
 8 commerce, created by 2-15-1848;
 9 (j) board of speech pathologists and audiologists,
 10 department of commerce, created by 2-15-1849;
 11 (k) board of hearing aid dispensers, department of
 12 commerce, created by 2-15-1850;
 13 (l) board of psychologists, department of commerce,
 14 created by 2-15-1851;
 15 (m) board of veterinarians, department of commerce,
 16 created by 2-15-1852;
 17 (n) board of morticians, department of commerce,
 18 created by 2-15-1853;
 19 (o) board of barbers, department of commerce, created
 20 by 2-15-1856;
 21 (p) board of cosmetologists, department of commerce,
 22 created by 2-15-1857;
 23 (q) board of sanitarians, department of commerce,
 24 created by 2-15-1861;
 25 (r) board of veterans' affairs, department of social

1 and rehabilitation services, created by 2-15-2202.
 2 ~~(6) The following agency terminates on July 1, 1989:~~
 3 ~~board of aeronautics, department of commerce, created by~~
 4 ~~2-15-1812."~~
 5 Section 3. Section 2-15-1812, MCA, is amended to read:
 6 "2-15-1812. Board of aeronautics -- qualification --
 7 allocation -- quasi-judicial. (1) There is a board of
 8 aeronautics.
 9 (2) The board consists of seven members. The members
 10 are:
 11 (a) one member of the Montana pilots' association;
 12 (b) one member of the Montana chamber of commerce
 13 representing aviation;
 14 (c) one member of the ~~montepat-league~~ Montana league
 15 of cities and towns representing airport operators;
 16 (d) one member of the Montana county commissioners
 17 association;
 18 (e) one person actively engaged in aviation education
 19 in this state;
 20 (f) one person representative of interstate commercial
 21 airline operators, who must at the time of appointment be an
 22 employee or official of an interstate commercial airline
 23 operator and a resident of this state;
 24 (g) one person who must at the time of appointment be
 25 an active fixed base operator in this state, or an official

1 of a fixed base operator in this state, of flying services
2 or flying schools.

3 (3) The board is allocated to the department for
4 administrative purposes only as prescribed in 2-15-121.

5 (4) The board is designated as a quasi-judicial board
6 for purposes of 2-15-124."

7 Section 4. Section 67-3-421, MCA, is amended to read:

8 "67-3-421. Regulatory powers of board of aeronautics.
9 The board may:

10 ~~(1) supervise and regulate every air carrier in those~~
11 ~~matters affecting ticketing, flight reservations, passenger~~
12 ~~baggage, advertising, passenger convenience and comfort, and~~
13 ~~transportation of freight;~~

14 ~~(2) after notice to all interested parties and the~~
15 ~~public and after hearings fix the rates, fares, charges,~~
16 ~~classifications, and rules of each carrier;~~

17 ~~(3) regulate the accounts of each carrier and require~~
18 ~~the filing of annual and other reports and of other data by~~
19 ~~the carrier;~~

20 (4) by general order or otherwise, adopt rules
21 applicable to all intrastate air carriers. The board, in the
22 exercise of the jurisdiction conferred upon it, may make
23 orders and adopt rules affecting intrastate air carriers,
24 notwithstanding the provisions of any ordinance or permit of
25 a town, city, city and county, or county, and in case of

1 conflict the order or rule of the board prevails."

2 Section 5. Section 67-3-422, MCA, is amended to read:

3 "67-3-422. Issuance of certificates of public
4 convenience and necessity. (1) No intrastate air carrier may
5 engage in an operation in this state without first obtaining
6 from the board a certificate of public convenience and
7 necessity authorizing the operation.

8 (2) An applicant shall submit his written verified
9 application to the board. The application shall be in a
10 form, contain the information, and be accompanied by proof
11 of service upon all intrastate air carriers with which the
12 proposed service is likely to compete and upon other
13 interested parties, as the board requires. Each application
14 shall be accompanied by a fee of \$150.

15 (3) In awarding certificates of public convenience and
16 necessity, the board shall consider the business experience
17 of the particular air carrier in the field of air
18 operations, the financial stability of the carrier, the
19 insurance coverage of the carrier, the type of aircraft
20 which the carrier would employ, proposed routes and minimum
21 schedules to be established, whether the carrier could
22 economically give adequate service to the communities
23 involved, the need for the service, and any other factors
24 which may affect the public interest.

25 (4) After notice to the interested parties and the

public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the partial exercise only of the privilege sought.

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity require."

Section 6. Section 67-3-424, MCA, is amended to read:

"67-3-424. Suspension -- amendment -- revocation. (1)

Upon a finding of an agency of the federal government that an intrastate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter, or amend a certificate."

Section 7. Section 67-3-425, MCA, is amended to read:

"67-3-425. Establishment of rates and discontinuance

Discontinuance of service. (1) ~~An air carrier may, upon prior written approval from the board, after notice to all interested parties and the public and after hearing, establish through rates and joint rates, charges, and classifications between all points served by it under~~

~~certificates or operative rights issued to or possessed by it.~~

(2) No intrastate air carrier may discontinue operations to a point without authority of the board, unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons the board may require, unless within the 30-day period the board, after hearing, finds that the operation is not unprofitable and orders its continuance."

Section 8. Section 67-3-426, MCA, is amended to read:

"67-3-426. Board may require insurance. The board may, upon its motion or upon application of an interested party and after hearing, require an intrastate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an intrastate air carrier for failure to comply with the insurance regulations established under this section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement, appeals, and judicial determinations. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 ~~67-3-422~~ through 67-3-429 are being violated, the board shall investigate the operations

1 and may, after a hearing, make its order requiring the
2 operator of the aircraft to stop an operation in violation
3 of this section. The department shall enforce compliance
4 with the order by means of powers vested in it by law.

5 (2) The district court has jurisdiction to enforce, by
6 proper decree, injunction, or order, the rates,
7 classifications, rules, and orders made by the board. The
8 proceeding shall be by equitable action in the name of the
9 state and shall be instituted by the attorney general or
10 county attorney when advised by the department that an
11 intrastate air carrier is violating or refusing to comply
12 with a rule, order, rate, or classification made by the
13 board and applicable to that intrastate air carrier. The
14 proceedings shall have precedence over all other business in
15 the district courts except criminal business.

16 (3) In an action the burden of proof rests upon the
17 defendant, who must show by clear and satisfactory evidence
18 that the rule, order, rate, or classification involved is
19 unreasonable and unjust. If the court decides that the rule,
20 order, rate, or classification is not unreasonable or unjust
21 and that in refusing compliance the intrastate air carrier
22 is failing to fulfill a duty, debt, or obligation, the court
23 shall decree a mandatory and permanent injunction compelling
24 compliance with the rule, order, rate, or classification by
25 the defendant and its officers, agents, servants, and

1 employees and may grant other relief which may be considered
2 just and proper. A violation of the decree makes the
3 defendant and officer, agent, servant, or employee of the
4 defendant who is in any manner instrumental in the violation
5 guilty of contempt, punishable by a fine not exceeding
6 \$1,000 for each offense or by imprisonment of that person
7 until he sufficiently purges himself. The decree remains in
8 effect until the rule, order, rate, or classification is
9 modified or vacated by the board.

10 (4) An intrastate air carrier may bring an action in
11 the district court of the county where the principal office
12 or place of business is situated or in a county where a
13 classification, rate, toll, charge, rule, or order of the
14 board applies, against the board as defendant to determine
15 whether the classification, rate, toll, charge, rule, or
16 order made or established by the board is just and
17 reasonable. In an action, hearing, or proceeding in any
18 court, the classification, rate, toll, charge, rule, and
19 order made and established by the board shall prima facie be
20 considered just, reasonable, and proper.

21 (5) Appeals taken to the supreme court from the
22 judgment of a district court under this section have
23 precedence over all other business, except criminal business
24 and original proceedings in that court, and shall be heard
25 and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing, trial, or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable."

Section 10. Section 67-3-428, MCA, is amended to read:

"67-3-429. Notice of regulation hearings. Notice as required by ~~67-3-421~~ ~~67-3-422~~ through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by ~~67-3-421 and 67-3-425(1)~~ ~~67-3-425~~, if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may, in its discretion, vacate the hearing and establish the rates, fares, charges, classifications, and rules of the ~~intrastate~~ air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section."

Section 11. Section 67-3-429, MCA, is amended to read:

"67-3-429. Exceptions. (1) No ~~intrastate~~ air carrier may operate aircraft except in accordance with ~~67-3-421~~ ~~67-3-422~~ through 67-3-429.

(2) Sections ~~67-3-421~~ ~~67-3-422~~ through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire, are commonly known as "taxi operators" or "charter operators", operate on an occasional or contract basis, and do not operate as common carriers between terminal points, including intermediate points, if any."

~~NEW SECTION.~~ Section 12. Airport grants and loans. Any airport grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

~~NEW SECTION.~~ Section 13. Codification instruction. Section 12 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12.

~~NEW SECTION.~~ Section 14. Effective date. This act is effective on passage and approval.

-End-

Approved by Committee
on Highways & Transportation

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE ~~AIRPORT AND~~ AIRCRAFT GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY;~~ AMENDING SECTIONS 2-8-103, AND 2-15-1812, 67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional

and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608;

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b) state board of hail insurance, department of agriculture, created by 2-15-3003;~~

1 {e}{b1} board of horseracing, department of commerce,
 2 created by 2-15-1881;
 3 {d}{c1} board of livestock, department of livestock,
 4 created by 2-15-3102;
 5 {e}{d1} board of milk control, department of commerce,
 6 created by 2-15-1802;
 7 {f}{e1} board of oil and gas conservation, department
 8 of natural resources and conservation, created by 2-15-3303;
 9 {g}{f1} Montana outfitters' council, department of
 10 fish, wildlife, and parks, created by 2-15-3403;
 11 {h}{g1} public service commission, department of public
 12 service regulation, created by 69-1-102;
 13 {i}{h1} board of water and wastewater operators,
 14 department of health and environmental sciences, created by
 15 2-15-2105;
 16 {j}{i1} board of water well contractors, department of
 17 commerce, created by 2-15-1862.
 18 (4) The following agencies terminate on July 1, 1985:
 19 (a) the board of public accountants, department of
 20 commerce, created by 2-15-1866;
 21 (b) the board of architects, department of commerce,
 22 created by 2-15-1871;
 23 (c) state banking board, department of commerce,
 24 created by 2-15-1803;
 25 (d) the state electrical board, department of

1 commerce, created by 2-15-1874;
 2 (e) the board of professional engineers and land
 3 surveyors, department of commerce, created by 2-15-1873;
 4 (f) office of commissioner of insurance and the
 5 insurance department, state auditor's office, created by
 6 2-15-1902 and 2-15-1903;
 7 (g) office of the securities commissioner, state
 8 auditor's office, created by 2-15-1901;
 9 (h) the board of landscape architects, department of
 10 commerce, created by 2-15-1872;
 11 (i) the board of county printing, department of
 12 commerce, created by 2-15-1811;
 13 (j) the board of plumbers, department of commerce,
 14 created by 2-15-1875;
 15 (k) board of physical therapy examiners, department of
 16 commerce, created by 2-15-1858.
 17 (5) The following agencies terminate on July 1, 1987:
 18 (a) commission for human rights, department of labor
 19 and industry, created by 2-15-1706;
 20 (b) Montana state board of medical examiners,
 21 department of commerce, created by 2-15-1841;
 22 (c) board of dentistry, department of commerce,
 23 created by 2-15-1842;
 24 (d) board of pharmacists, department of commerce,
 25 created by 2-15-1843;

1 (e) board of nursing, department of commerce, created
 2 by 2-15-1844;
 3 (f) board of nursing home administrators, department
 4 of commerce, created by 2-15-1845;
 5 (g) board of optometrists, department of commerce,
 6 created by 2-15-1846;
 7 (h) board of chiropractors, department of commerce,
 8 created by 2-15-1847;
 9 (i) board of radiologic technologists, department of
 10 commerce, created by 2-15-1848;
 11 (j) board of speech pathologists and audiologists,
 12 department of commerce, created by 2-15-1849;
 13 (k) board of hearing aid dispensers, department of
 14 commerce, created by 2-15-1850;
 15 (l) board of psychologists, department of commerce,
 16 created by 2-15-1851;
 17 (m) board of veterinarians, department of commerce,
 18 created by 2-15-1852;
 19 (n) board of morticians, department of commerce,
 20 created by 2-15-1853;
 21 (o) board of barbers, department of commerce, created
 22 by 2-15-1856;
 23 (p) board of cosmetologists, department of commerce,
 24 created by 2-15-1857;
 25 (q) board of sanitarians, department of commerce,

1 created by 2-15-1861;

2 (r) board of veterans' affairs, department of social
 3 and rehabilitation services, created by 2-15-2202.

4 ~~(6) The following agency terminates on July 1, 1989:~~
 5 ~~board of aeronautics, department of commerce, created by~~
 6 ~~2-15-1812."~~

7 Section 3. Section 2-15-1812, MCA, is amended to read:
 8 "2-15-1812. Board of aeronautics -- qualification --
 9 allocation -- quasi-judicial. (1) There is a board of
 10 aeronautics.

11 (2) The board consists of seven members. The members
 12 are:

13 (a) one member of the Montana pilots' association;

14 (b) one member of the Montana chamber of commerce
 15 representing ~~WHOSE PRINCIPAL BUSINESS IS~~ aviation;

16 (c) one member of ~~the municipal league Montana league~~
 17 ~~of cities and towns~~ representing ~~MONTANA~~ airport operators;

18 (d) one member of the Montana county commissioners
 19 association;

20 (e) one person actively engaged in aviation education
 21 in this state;

22 (f) one person representative of interstate commercial
 23 airline operators, who must at the time of appointment be an
 24 employee or official of an interstate commercial airline
 25 operator and a resident of this state;

1 (g) one person who must at the time of appointment be
2 an active fixed base operator in this state, or an official
3 of a fixed base operator in this state, of flying services
4 or flying schools.

5 (3) The board is allocated to the department for
6 administrative purposes only as prescribed in 2-15-121.

7 (4) The board is designated as a quasi-judicial board
8 for purposes of 2-15-124."

9 Section 4v--Section--67-3-421v--MEAv--is amended to read:

10 "67-3-421v--Regulatory powers of board of--aeronauticsv

11 The board may:

12 (1)--supervise--and--regulate--every--air--carrier--in--those
13 matters--affecting--ticketingv--flight--reservationsv--passenger
14 baggagev--advertisingv--passenger--convenience--and--comfortv--and
15 transportation--of--freightv

16 (2)--after--notice--to--all--interested--parties--and--the
17 public--and--after--hearingv--fix--the--ratesv--faresv--chargesv
18 classificationsv--and--rules--of--each--carrierv

19 (3)--regulate--the--accounts--of--each--carrier--and--require
20 the--filing--of--annual--and--other--reports--and--of--other--data--by
21 the--carrierstv

22 (4)--by--general--order--or--otherwisev--adopt--rules
23 applicable--to--all--intrastate air-carriersv--The boardv--in--the
24 exercise--of--the--jurisdiction--conferred--upon--itv--may--make
25 orders--and--adopt--rules--affecting intrastate air-carriersv

1 notwithstanding the provisions of any ordinance or permit of
2 a townv--cityv--city--and--countyv--or--countyv--and--in--case--of
3 conflict--the--order--or--rule--of--the--board--prevailsv"

4 Section 5v--Section--67-3-422v--MEAv--is amended to read:

5 "67-3-422v--Issuance--of--certificates--of--public
6 convenience--and--necessity--(1)--No intrastate air-carrier
7 may--engage--in--an--operation--in--this--state--without--first
8 obtaining--from--the--board--a--certificate--of--public--convenience
9 and--necessity--authorizing--the--operationv

10 (2)--An--applicant--shall--submit--his--written--verified
11 application--to--the--boardv--The--application--shall--be--in--a
12 formv--contain--the--informationv--and--be--accompanied--by--proof
13 of--service--upon--all intrastate air-carriers--with--which--the
14 proposed--service--is--likely--to--compete--and--upon--other
15 interested--partiesv--as--the--board--requiresv--Each--application
16 shall--be--accompanied--by--a--fee--of--\$150v

17 (3)--In--awarding--certificates--of--public--convenience--and
18 necessityv--the--board--shall--consider--the--business--experience
19 of--the--particular--air--carrier--in--the--field--of--air
20 operationsv--the--financial--stability--of--the--carrierv--the
21 insurance--coverage--of--the--carrierv--the--type--of--aircraft
22 which--the--carrier--would--employv--proposed--routes--and--minimum
23 schedules--to--be--establishedv--whether--the--carrier--could
24 economically--give--adequate--service--to--the--communities
25 involvedv--the--need--for--the--servicev--and--any--other--factors

which may affect the public interests

(4) After notice to the interested parties and the public and after hearing, the board may:

(a) issue the certificate requested;

(b) refuse to issue the certificate;

(c) issue the certificate for the parties to exercise only of the privilege sought;

(5) The board may attach terms and conditions to the exercise of the rights granted by the certificate as, in its judgment, the public convenience and necessity requires.

Section 67--Section 67-3-424v MCA is amended to read:

"67-3-424v--Suspension--amendment--revocation--(1)

Upon a finding of an agency of the federal government that an interstate air carrier is operating in violation of a federal safety law or regulation, the board may suspend and the department shall enforce the suspension of certificates of public convenience and necessity issued by the board.

(2) For any other good cause, the board may, upon notice to the holder of a certificate and opportunity to be heard, suspend, revoke, alter or amend a certificate."

Section 7--Section 67-3-425v MCA is amended to read:

"67-3-425v--Establishment of rates--discontinuance of service--(1) An air carrier may, upon prior written approval from the board after notice to all interested parties and the public and after hearing,

establish through rates and joint rates, charges, and classifications between all points served by it under certificates or operative rights issued to or possessed by it.

(2) No interstate air carrier may discontinue operations to a point without authority of the board unless the operations are unprofitable. Unprofitable operations may be discontinued upon 30 days' notice to the board and to other persons. The board may require, unless within the 30-day period the board after hearing finds that the operation is not unprofitable and orders its continuance.

Section 8--Section 67-3-426v MCA is amended to read:

"67-3-426v--Board may require insurance--The board may, upon its motion or upon application of an interested party and after hearing, require an interstate air carrier to procure and maintain insurance in amounts and upon terms as the board may determine. The board may suspend the certificate of an interstate air carrier for failure to comply with the insurance regulations established under this section."

Section 9--Section 67-3-427v MCA is amended to read:

"67-3-427v--Enforcement--appeals--and--judicial determinations--(1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or

1 when--the--board--believes--that--67-3-421 67-3-422 through
2 67-3-429-are-being-violated-the-board-shall-investigate-the
3 operations--and--may--after--a--hearing--make--its--order
4 requiring--the-operator-of-the-aircraft-to-stop-an-operation
5 in-violation-of-this-section-The-department--shall--enforce
6 compliance-with-the-order-by-means-of-powers-vested-in-it-by
7 law

8 {2}--The-district-court-has-jurisdiction-to-enforce-by
9 proper--decree--injunction--or--order--the--rates
10 classifications--rules--and-orders-made-by--the--boards--The
11 proceeding--shall--be-by-equitable-action-in-the-name-of-the
12 state-and-shall-be-instituted-by--the--attorney-general--or
13 county--attorney--when--advised--by--the--department--that--an
14 interstate air-carrier-is-violating-or--refusing--to-comply
15 with--a--rate--order--rate--or--classification-made-by-the
16 board-and-applicable-to-that interstate air-carrier--The
17 proceedings-shall-have-precedence-over-all-other-business-in
18 the-district-courts-except-against-business

19 {3}--in--an--action--the-burden-of-proof-rests-upon-the
20 defendant-who-must-show-by-clear-and-satisfactory-evidence
21 that--the--rate--order--rate--or--classification-involved-is
22 unreasonable-and-unjust-if-the-court-decides-that-the-rate
23 order--rate--or--classification-is-not-unreasonable-or-unjust
24 and-that-in-refusing-compliance-the interstate air-carrier
25 is-failing-to-fulfill-a-duty-debt-or-obligation-the-court

1 shall-declare-a-mandatory-and-permanent-injunction-compelling
2 compliance--with-the-rate-order--rate--or--classification-by
3 the--defendant--and--its--officers--agents--servants--and
4 employees-and-may-grant-other-relief-which-may-be-considered
5 just--and--proper--A--violation--of--the--decree--makes-the
6 defendant-and-officer-agent-servant--or--employee--of--the
7 defendant-who-is-in-any-manner-instrumental-in-the-violation
8 guilty--of--contempt--punishable--by--a--fine-not-exceeding
9 \$1,000-for-each-offense-or-by-imprisonment--of--that--person
10 until--he-sufficiently-purges-himself-The-decree-remains-in
11 effect-until--the--rate-order--rate--or--classification--is
12 modified-or-vacated-by-the-boards

13 {4}--An interstate air-carrier-may-bring-an-action-in
14 the-district-court-of-the-county-where-the-principal--office
15 or--place--of--business--is--situated-or-in-a-county-where-a
16 classification--rate--to--charge--rate--or--order--of--the
17 board--applies--against-the-board-as-defendant-to-determine
18 whether-the-classification--rate--to--charge--rate--or
19 order--made--or--established--by--the--board--is--just--and
20 reasonable-in-an-action--hearing--or--proceeding--in--any
21 court--the--classification--rate--to--charge--rate--and
22 order--made--and--established--by--the--board--shall--prima-facie-be
23 considered-just-reasonable-and-proper

24 {5}--Appeals--taken--to--the--supreme--court--from--the
25 judgment--of--a--district-court--under--this--section--have

precedence over all other business except criminal business and original proceedings in that court and shall be heard and determined as are appeals in civil actions.

(6) All costs and expenses incurred in the hearing trial or appeal of an action brought under this section shall be determined and assessed in a manner the court considers just and equitable.

Section 18. Section 67-3-428, MCA, is amended to read:

"67-3-428. Notice of regulation hearings. Notice as required by 67-3-421 ~~67-3-422~~ through 67-3-427 shall be given by publication once a week for 3 successive weeks in a newspaper of general circulation in the county in which the hearing is to be held and by personal service by mailing to all interested parties. However, in the case of the hearings required by 67-3-421 and 67-3-425(1) ~~67-3-425~~, if no written protest or written request that the hearing be held is received by the board within 5 days after the date of the last publication of the notice, the board may in its discretion vacate the hearing and establish the rates, fares, charges, classifications and rates of the ~~interstate~~ air carrier without hearing. The notice required by this section shall state that the board may vacate the hearing unless a written protest or request that the hearing be held is received by the board as required by this section."

Section 11. Section 67-3-429, MCA, is amended to read:

"67-3-429. Exceptions. (1) No ~~interstate~~ air carrier may operate aircraft except in accordance with 67-3-421 ~~67-3-422~~ through 67-3-429.

(2) Sections 67-3-421 ~~67-3-422~~ through 67-3-429 do not apply to:

(a) common carriers of passengers or freight by aircraft which operate within this state under a certificate of public convenience and necessity issued by the federal government; or

(b) aircraft operators who carry passengers for hire or commonly known as "taxi operators" or "charter operators" and operate on an occasional or contract basis and do not operate as common carriers between terminal points including intermediate points, if any."

NEW SECTION. Section 4. Airport AND AIRCRAFT grants and loans. Any airport AND AIRCRAFT grant or loan that the department may be authorized to issue may be issued only after review and approval of the grant or loan request by the board.

NEW SECTION. Section 5. Codification instruction. Section 12.4 is intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, apply to section 12.4.

NEW SECTION. Section 6. Effective date. This act is effective on passage and approval.

-End-

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE ~~AIRPORT AND~~ AIRCRAFT GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY~~; AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421 AND 67-3-422 AND 67-3-424 THROUGH 67-3-429~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

(a) board of abstracters, department of professional and occupational licensing, created by 2-15-1643;

(b) board of real estate, department of professional

and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

(b) board of massage therapists, department of professional and occupational licensing, created by 2-15-1627;

(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608~~1~~;

(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce, created by 2-15-1812;~~

~~(b) (a) state board of hail insurance, department of agriculture, created by 2-15-3003;~~

1 ~~(e)~~(b) board of horseracing, department of commerce,
2 created by 2-15-1881;
3 ~~(d)~~(c) board of livestock, department of livestock,
4 created by 2-15-3102;
5 ~~(e)~~(d) board of milk control, department of commerce,
6 created by 2-15-1802;
7 ~~(f)~~(e) board of oil and gas conservation, department
8 of natural resources and conservation, created by 2-15-3303;
9 ~~(g)~~(f) Montana outfitters' council, department of
10 fish, wildlife, and parks, created by 2-15-3403;
11 ~~(h)~~(g) public service commission, department of public
12 service regulation, created by 69-1-102;
13 ~~(i)~~(h) board of water and wastewater operators,
14 department of health and environmental sciences, created by
15 2-15-2105;
16 ~~(j)~~(i) board of water well contractors, department of
17 commerce, created by 2-15-1862.
18 (4) The following agencies terminate on July 1, 1985:
19 (a) the board of public accountants, department of
20 commerce, created by 2-15-1866;
21 (b) the board of architects, department of commerce,
22 created by 2-15-1871;
23 (c) state banking board, department of commerce,
24 created by 2-15-1803;
25 (d) the state electrical board, department of

1 commerce, created by 2-15-1874;
2 (e) the board of professional engineers and land
3 surveyors, department of commerce, created by 2-15-1873;
4 (f) office of commissioner of insurance and the
5 insurance department, state auditor's office, created by
6 2-15-1902 and 2-15-1903;
7 (g) office of the securities commissioner, state
8 auditor's office, created by 2-15-1901;
9 (h) the board of landscape architects, department of
10 commerce, created by 2-15-1872;
11 (i) the board of county printing, department of
12 commerce, created by 2-15-1811;
13 (j) the board of plumbers, department of commerce,
14 created by 2-15-1875;
15 (k) board of physical therapy examiners, department of
16 commerce, created by 2-15-1858.
17 (5) The following agencies terminate on July 1, 1987:
18 (a) commission for human rights, department of labor
19 and industry, created by 2-15-1706;
20 (b) Montana state board of medical examiners,
21 department of commerce, created by 2-15-1841;
22 (c) board of dentistry, department of commerce,
23 created by 2-15-1842;
24 (d) board of pharmacists, department of commerce,
25 created by 2-15-1843;

1 (e) board of nursing, department of commerce, created
 2 by 2-15-1844;
 3 (f) board of nursing home administrators, department
 4 of commerce, created by 2-15-1845;
 5 (g) board of optometrists, department of commerce,
 6 created by 2-15-1846;
 7 (h) board of chiropractors, department of commerce,
 8 created by 2-15-1847;
 9 (i) board of radiologic technologists, department of
 10 commerce, created by 2-15-1848;
 11 (j) board of speech pathologists and audiologists,
 12 department of commerce, created by 2-15-1849;
 13 (k) board of hearing aid dispensers, department of
 14 commerce, created by 2-15-1850;
 15 (l) board of psychologists, department of commerce,
 16 created by 2-15-1851;
 17 (m) board of veterinarians, department of commerce,
 18 created by 2-15-1852;
 19 (n) board of morticians, department of commerce,
 20 created by 2-15-1853;
 21 (o) board of barbers, department of commerce, created
 22 by 2-15-1856;
 23 (p) board of cosmetologists, department of commerce,
 24 created by 2-15-1857;
 25 (q) board of sanitarians, department of commerce,

1 created by 2-15-1861;
 2 (r) board of veterans' affairs, department of social
 3 and rehabilitation services, created by 2-15-2202.
 4 ~~(61) The following agency terminates on July 1, 1989:~~
 5 ~~board of aeronautics, department of commerce, created by~~
 6 ~~2-15-1812.~~
 7 Section 3. Section 2-15-1812, MCA, is amended to read:
 8 "2-15-1812. Board of aeronautics -- qualification --
 9 allocation -- quasi-judicial. (1) There is a board of
 10 aeronautics.
 11 (2) The board consists of seven members. The members
 12 are:
 13 (a) one member of the Montana pilots' association;
 14 (b) one member of the Montana chamber of commerce
 15 ~~representing WHOSE PRINCIPAL BUSINESS IS aviation;~~
 16 (c) one member of the municipal league ~~Montana league~~
 17 ~~of cities and towns representing MONTANA airport operators;~~
 18 (d) one member of the Montana county commissioners
 19 association;
 20 (e) one person actively engaged in aviation education
 21 in this state;
 22 (f) one person representative of interstate commercial
 23 airline operators, who must at the time of appointment be an
 24 employee or official of an interstate commercial airline
 25 operator and a resident of this state;

(g) one person who must at the time of appointment be an active ~~fixed~~ base operator in this state, or an official of a ~~fixed~~ base operator in this state, of flying services or flying schools.

(3) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124."

~~Section 4v--Section--67-3-421v--MCAv--is amended to read:~~

~~"67-3-421v--Regulatory powers of board of--aeronauticsv~~

~~The board may:~~

~~(1)--supervise--and--regulate--every--air--carrier--in--those matters--affecting--ticketingv--flight--reservationsv--passenger baggagev--advertisingv--passenger--convenience--and--comfortv--and transportation--of--freight;~~

~~(2)--after--notice--to--all--interested--parties--and--the public--and--after--hearingv--fix--the--ratesv--faresv--chargesv classificationsv--and--rates--of--each--carrier;~~

~~(3)--regulate--the--accounts--of--each--carrier--and--require the--filing--of--annual--and--other--reports--and--of--other--data--by the--carriers;~~

~~(4)--by--general--order--or--otherwisev--adopt--rules applicable--to--all--~~intrastate~~ air--carrierstv--The--boardv--in--the exercise--of--the--jurisdiction--conferred--upon--itv--may--make orders--and--adopt--rules--affecting ~~intrastate~~ air--carrierstv~~

~~notwithstanding--the--provisions--of--any--ordinance--or--permit--of a--townv--cityv--city--and--countyv--or--countyv--and--in--case--of conflict--the--order--or--rule--of--the--board--prevails."~~

~~Section 5v--Section--67-3-422v--MCAv--is amended to read:~~

~~"67-3-422v--Issuance--of--certificates--of--public convenience--and--necessityv--(1)--No ~~intrastate~~ air--carrier may--engage--in--an--operation--in--this--state--without--first obtaining--from--the--board--a--certificate--of--public--convenience and--necessity--authorizing--the--operationv~~

~~(2)--An--applicant--shall--submit--his--written--verified application--to--the--boardv--The--application--shall--be--in--a formv--contain--the--informationv--and--be--accompanied--by--proof of--service--upon--all ~~intrastate~~ air--carriers--with--which--the proposed--service--is--likely--to--compete--and--upon--other interested--partiesv--as--the--board--requiresv--Each--application shall--be--accompanied--by--a--fee--of--\$150v~~

~~(3)--In--awarding--certificates--of--public--convenience--and necessityv--the--board--shall--consider--the--business--experience of--the--particular--air--carrier--in--the--field--of--air operationsv--the--financial--stability--of--the--carrierv--the insurance--coverage--of--the--carrierv--the--type--of--aircraft which--the--carrier--would--employv--proposed--routes--and--minimum schedules--to--be--establishedv--whether--the--carrier--could economically--give--adequate--service--to--the--communities involvedv--the--need--for--the--servicev--and--any--other--factors~~

1 which may affect the public interest.

2 (4) After notice to the interested parties and the
3 public and after hearings, the board may:

4 (a) issue the certificate requested;

5 (b) refuse to issue the certificate;

6 (c) issue the certificate for the partial exercise
7 only of the privilege sought.

8 (5) The board may attach terms and conditions to the
9 exercise of the rights granted by the certificate as, in its
10 judgment, the public convenience and necessity require.

11 Section 67-3-424v MCA is amended to read:

12 "67-3-424v. Suspension --- amendment --- revocation --- (1)
13 Upon a finding of an agency of the federal government that
14 an interstate air carrier is operating in violation of a
15 federal safety law or regulation, the board may suspend and
16 the department shall enforce the suspension of certificates
17 of public convenience and necessity issued by the board.

18 (2) For any other good cause, the board may, upon
19 notice to the holder of a certificate and opportunity to be
20 heard, suspend, revoke, alter or amend a certificate."

21 Section 7v-Section 67-3-425v MCA is amended to read:

22 "67-3-425v. Establishment of rates --- discontinuance
23 Discontinuance of service --- (1) An air carrier may, upon
24 prior written approval from the board, after notice to all
25 interested parties and the public and after hearing,

1 establish through rates and joint rates, charges, and
2 classifications between all points served by it under
3 certificates or operative rights issued to or possessed by
4 it.

5 (2) No interstate air carrier may discontinue
6 operations to a point without authority of the board, unless
7 the operations are unprofitable. Unprofitable operations
8 may be discontinued upon 30 days' notice to the board and to
9 other persons. The board may require, unless within the
10 30-day period the board, after hearing, finds that the
11 operation is not unprofitable and orders its continuance.

12 Section 8v-Section 67-3-426v MCA is amended to read:

13 "67-3-426v. Board may require insurance --- The board
14 may, upon its motion or upon application of an interested
15 party and after hearing, require an interstate air carrier
16 to procure and maintain insurance in amounts and upon terms
17 as the board may determine. The board may suspend the
18 certificate of an interstate air carrier for failure to
19 comply with the insurance regulations established under this
20 section."

21 Section 9v-Section 67-3-427v MCA is amended to read:

22 "67-3-427v. Enforcement --- appeals --- and --- judicial
23 determinations --- (1) When a complaint has been filed with
24 the board alleging that an aircraft is being operated
25 without a certificate of public convenience and necessity or

1 when the board believes that ~~67-3-421~~ ~~67-3-422~~ through
 2 ~~67-3-429~~ are being violated, the board shall investigate the
 3 operations and may, after a hearing, make its order
 4 requiring the operator of the aircraft to stop an operation
 5 in violation of this section. The department shall enforce
 6 compliance with the order by means of powers vested in it by
 7 law.

8 (2) The district court has jurisdiction to enforce by
 9 proper decrees, injunctions or orders the rates,
 10 classifications, rules and orders made by the board. The
 11 proceeding shall be by equitable action in the name of the
 12 state and shall be instituted by the attorney general or
 13 county attorney when advised by the department that an
 14 interstate air carrier is violating or refusing to comply
 15 with a rule, order, rate or classification made by the
 16 board and applicable to that interstate air carrier. The
 17 proceedings shall have precedence over all other business in
 18 the district courts except criminal business.

19 (3) In an action the burden of proof rests upon the
 20 defendant who must show by clear and satisfactory evidence
 21 that the rule, order, rate or classification involved is
 22 unreasonable and unjust. If the court decides that the rule,
 23 order, rate or classification is not unreasonable or unjust
 24 and that in refusing compliance the interstate air carrier
 25 is failing to fulfill a duty, debt or obligation, the court

1 shall decree a mandatory and permanent injunction compelling
 2 compliance with the rule, order, rate or classification by
 3 the defendant and its officers, agents, servants and
 4 employees and may grant other relief which may be considered
 5 just and proper. A violation of the decree makes the
 6 defendant and officers, agents, servants or employees of the
 7 defendant who in any manner instrumental in the violation
 8 guilty of contempt, punishable by a fine not exceeding
 9 \$1,000 for each offense or by imprisonment of that person
 10 until he sufficiently purges himself. The decree remains in
 11 effect until the rule, order, rate or classification is
 12 modified or vacated by the board.

13 (4) An interstate air carrier may bring an action in
 14 the district court of the county where the principal office
 15 or place of business is situated or in a county where a
 16 classification, rate, toll, charge, rule or order of the
 17 board applies against the board as defendant to determine
 18 whether the classification, rate, toll, charge, rule or
 19 order made or established by the board is just and
 20 reasonable in an action, hearing or proceeding in any
 21 court. The classification, rate, toll, charge, rule and
 22 order made and established by the board shall prima facie be
 23 considered just, reasonable and proper.

24 (5) Appeals taken to the supreme court from the
 25 judgment of a district court under this section have

1 precedence over all other business except criminal business
2 and original proceedings in that court and shall be heard
3 and determined as are appeals in civil actions.

4 (6) All costs and expenses incurred in the hearing
5 trial or appeal of an action brought under this section
6 shall be determined and assessed in a manner the court
7 considers just and equitable.

8 Section 18. Section 67-3-428, MCA, is amended to read:

9 "67-3-428. Notice of regulation hearings. Notice as
10 required by 67-3-421, 67-3-422 through 67-3-427 shall be
11 given by publication once a week for 3 successive weeks in a
12 newspaper of general circulation in the county in which the
13 hearing is to be held and by personal service by mailing to
14 all interested parties. However, in the case of the hearings
15 required by 67-3-421 and 67-3-425(1), 67-3-425, if no written
16 protest or written request that the hearing be held is
17 received by the board within 5 days after the date of the
18 last publication of the notice, the board may, in its
19 discretion, vacate the hearing and establish the rates,
20 fares, charges, classifications, and rules of the interstate
21 air carrier without hearings. The notice required by this
22 section shall state that the board may vacate the hearing
23 unless a written protest or request that the hearing be held
24 is received by the board as required by this section."

25 Section 19. Section 67-3-429, MCA, is amended to read:

1 "67-3-429. Exceptions. (1) No interstate air carrier
2 may operate aircraft except in accordance with 67-3-421
3 67-3-422 through 67-3-429.

4 (2) Sections 67-3-421, 67-3-422 through 67-3-429 do not
5 apply to:

6 (a) common carriers of passengers or freight by
7 aircraft which operate within this state under a certificate
8 of public convenience and necessity issued by the federal
9 government; or

10 (b) aircraft operators who carry passengers for hire
11 are commonly known as "taxi operators" or "charter
12 operators" who operate on an occasional or contract basis, and
13 do not operate as common carriers between terminal points,
14 including intermediate points, if any."

15 NEW SECTION. Section 4. Airport AND AIRCRAFT grants
16 and loans. Any airport AND AIRCRAFT grant or loan that the
17 department may be authorized to issue may be issued only
18 after review and approval of the grant or loan request by
19 the board.

20 NEW SECTION. Section 5. Codification instruction.
21 Section 12.4 is intended to be codified as an integral part
22 of Title 67, chapter 1, part 3, and the provisions of Title
23 67, chapter 1, apply to section 12.4.

24 NEW SECTION. Section 6. Effective date. This act is
25 effective on passage and approval.

-End-

March 15, 1983

SENATE STANDING COMMITTEE REPORT
(State Administration)

That House Bill No. 776 be amended as follows:

1. Title, line 8.
Strike: "AND AIRCRAFT"
2. Page 6, line 15.
Strike: "WHOSE PRINCIPAL BUSINESS IS aviation"
3. Page 6, lines 20 and 21.
Following: "(e)"
Strike: remainder of lines 6 and 7 in their entirety.
Insert: "one representative of the Montana airport
management association;"
4. Page 14, line 15.
Strike: "AND AIRCRAFT"
5. Page 14, line 16.
Strike: "AND AIRCRAFT"

March 17, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 776 be amended as follows:

1. Page 6, lines 16 and 17.

Following: "(c)"

Strike: lines 16 and 17 in their entirety

Insert: "one representative of the Montana airport management
association;"

2. Page 6, lines 20 and 21.

Strike: Senate Standing Committee Amendment No. 3 (March 15, 1983)

March 17, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 776, Senate Standing Committee Report,
(State Administration) Amendment No. 3, be amended as follows:

1. Page 6, lines 20 and 21.

Following: "(e)"

Strike: remainder of lines 20 and 21 in their entirety

Insert: "one representative of the Montana Airport Management
Association;"

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE ~~AIRPORTS AND AIRCRAFT~~ GRANTS AND LOANS; ~~REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY~~; AMENDING SECTIONS 2-8-103, AND 2-15-1812, ~~67-3-421, 67-3-422, AND 67-3-424~~ THROUGH ~~67-3-429~~, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

~~NEW SECTION.~~ Section 1. Reestablishment. The board of aeronautics, created pursuant to 2-15-1812, is reestablished with its existing statutory authority and rules for 6 years, pursuant to 2-8-122.

Section 2. Section 2-8-103, MCA, is amended to read:

"2-8-103. Agencies to terminate. (1) The following agencies shall terminate on July 1, 1979:

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(b) board of real estate, department of professional

and occupational licensing, created by 2-15-1642;

(c) state board of warm air heating, ventilation, and air conditioning, department of professional and occupational licensing, created by 2-15-1656;

(d) board of institutions, department of institutions, created by 2-15-2303.

(2) The following agencies shall terminate on July 1, 1981:

(a) board of athletics, department of professional and occupational licensing, created by 2-15-1661;

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(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

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(3) The following units of state government shall terminate on July 1, 1983:

~~(a) board of aeronautics, department of commerce created by 2-15-1812;~~

~~(b)(1) state board of hail insurance, department of agriculture, created by 2-15-3003;~~

1 {e}{h} board of horseracing, department of commerce,
 2 created by 2-15-1881;
 3 {d}{l} board of livestock, department of livestock,
 4 created by 2-15-3102;
 5 {e}{d} board of milk control, department of commerce,
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 8 of natural resources and conservation, created by 2-15-3303;
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 15 2-15-2105;
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 17 commerce, created by 2-15-1862.
 18 (4) The following agencies terminate on July 1, 1985:
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 22 created by 2-15-1871;
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 24 created by 2-15-1803;
 25 (d) the state electrical board, department of

1 commerce, created by 2-15-1874;
 2 (e) the board of professional engineers and land
 3 surveyors, department of commerce, created by 2-15-1873;
 4 (f) office of commissioner of insurance and the
 5 insurance department, state auditor's office, created by
 6 2-15-1902 and 2-15-1903;
 7 (g) office of the securities commissioner, state
 8 auditor's office, created by 2-15-1901;
 9 (h) the board of landscape architects, department of
 10 commerce, created by 2-15-1872;
 11 (i) the board of county printing, department of
 12 commerce, created by 2-15-1811;
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 14 created by 2-15-1875;
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 16 commerce, created by 2-15-1858.
 17 (5) The following agencies terminate on July 1, 1987:
 18 (a) commission for human rights, department of labor
 19 and industry, created by 2-15-1706;
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 21 department of commerce, created by 2-15-1841;
 22 (c) board of dentistry, department of commerce,
 23 created by 2-15-1842;
 24 (d) board of pharmacists, department of commerce,
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 11 (j) board of speech pathologists and audiologists,
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 13 (k) board of hearing aid dispensers, department of
 14 commerce, created by 2-15-1850;
 15 (l) board of psychologists, department of commerce,
 16 created by 2-15-1851;
 17 (m) board of veterinarians, department of commerce,
 18 created by 2-15-1852;
 19 (n) board of morticians, department of commerce,
 20 created by 2-15-1853;
 21 (o) board of barbers, department of commerce, created
 22 by 2-15-1856;
 23 (p) board of cosmetologists, department of commerce,
 24 created by 2-15-1857;
 25 (q) board of sanitarians, department of commerce,

1 created by 2-15-1861;
 2 (r) board of veterans' affairs, department of social
 3 and rehabilitation services, created by 2-15-2202.
 4 ~~(61) The following agency terminates on July 1, 1989:~~
 5 ~~board of aeronautics, department of commerce, created by~~
 6 ~~2-15-1812.~~
 7 Section 3. Section 2-15-1812, MCA, is amended to read:
 8 "2-15-1812. Board of aeronautics -- qualification --
 9 allocation -- quasi-judicial. (1) There is a board of
 10 aeronautics.
 11 (2) The board consists of seven members. The members
 12 are:
 13 (a) one member of the Montana pilots' association;
 14 (b) one member of the Montana chamber of commerce
 15 ~~representing WHOSE-PRINCIPAL-BUSINESS-IS~~ aviation;
 16 (c) ~~one--member of--the--municipal--league Montana-league~~
 17 ~~of-cities-and-towns representing MONTANA airport--operators;~~
 18 ~~ONE REPRESENTATIVE OF THE MONTANA AIRPORT MANAGEMENT~~
 19 ~~ASSOCIATION;~~
 20 (d) one member of the Montana county commissioners
 21 association;
 22 (e) one person actively engaged in aviation education
 23 in this state;
 24 (f) one person representative of interstate commercial
 25 airline operators, who must at the time of appointment be an

1 employee or official of an interstate commercial airline
2 operator and a resident of this state;

3 (g) one person who must at the time of appointment be
4 an active fixed base operator in this state, or an official
5 of a fixed base operator in this state, of flying services
6 or flying schools.

7 (3) The board is allocated to the department for
8 administrative purposes only as prescribed in 2-15-121.

9 (4) The board is designated as a quasi-judicial board
10 for purposes of 2-15-124.*

11 Section 4--Section 67-3-421-M6A--is amended to--read*

12 "67-3-421--Regulatory--powers-of-board-of-aeronautics--
13 the-board-may--

14 (1)--supervise-and-regulate-every-air-carrier-in--those
15 matters--affecting-ticketing-flight-reservations-passenger
16 baggage-advertising-passenger-convenience-and-comfort--and
17 transportation-of-freight;

18 (2)--after-notice-to-all--interested-parties--and--the
19 public--and--after--hearing--fix-the-rates--fares--charges--
20 classifications--and-rates-of-each-carrier;

21 (3)--regulate-the-accounts-of-each-carrier-and--require
22 the--filing-of-annual--and-other-reports--and-of-other-data--by
23 the-carriers;

24 (4)--by--general--order--or--otherwise--adopt--rules
25 applicable-to-all--interstate air-carriers--the-board--in--the

1 exercise--of--the--jurisdiction--conferred-upon-it--may-make
2 orders--and--adopt-rules-affecting interstate air-carriers--
3 notwithstanding-the-provisions-of-any-ordinance-or-permit-of
4 a--town--city--city--and-county--or-county--and--in-case-of
5 conflict--the-order-or-rule-of-the-board-prevails--"

6 Section 5--Section 67-3-422-M6A--is amended to--read*

7 "67-3-422--Issuance---of---certificates---of---public
8 convenience-and-necessity--(1)--No interstate air-carrier
9 may--engage--in--an--operation--in--this-state-without-first
10 obtaining-from-the-board-a-certificate-of-public-convenience
11 and-necessity-authorizing-the-operations--

12 (2)--An-applicant-shall--submit--his--written--verified
13 application--to--the--board--the--application-shall-be-in-a
14 form--contain-the-information--and-be-accompanied-by--proof
15 of--service--upon-all interstate air-carriers-with-which-the
16 proposed--service--is--likely--to--compete--and--upon--other
17 interested--parties--as-the-board-requires--Each-application
18 shall-be-accompanied-by-a-fee-of-\$150--

19 (3)--In-awarding-certificates-of-public-convenience-and
20 necessity--the-board-shall-consider-the-business--experience
21 of--the--particular--air-carrier--in--the--field--of--air
22 operations--the-financial--stability--of--the--carrier--the
23 insurance-coverage--of--the--carrier--the-type-of-aircraft
24 which-the-carrier-would-employ--proposed-routes--and--minimum
25 schedules--to--be--established--whether--the--carrier-could

1 economically give adequate service to the communities
2 involved; the need for the service and any other factors
3 which may affect the public interests

4 (4) After notice to the interested parties and the
5 public and after hearing, the board may:

6 (a) issue the certificate requested;

7 (b) refuse to issue the certificate;

8 (c) issue the certificate for the partial exercise
9 only of the privilege sought;

10 (5) The board may attach terms and conditions to the
11 exercise of the rights granted by the certificate as in its
12 judgment the public convenience and necessity requires.

13 Section 68--Section 67-3-424--MCA is amended to read:

14 "67-3-424--Suspension--amendment--revocations--(1)

15 Upon a finding of an agency of the federal government that
16 an interstate air carrier is operating in violation of a
17 federal safety law or regulation, the board may suspend and
18 the department shall enforce the suspension of certificates
19 of public convenience and necessity issued by the board.

20 (2) For any other good cause, the board may, upon
21 notice to the holder of a certificate and opportunity to be
22 heard, suspend, revoke, alter, or amend a certificate.

23 Section 78--Section 67-3-425--MCA is amended to read:

24 "67-3-425--Establishment of rates--discontinuance

25 Discontinuance of service--(1) An air carrier may, upon

1 prior written approval from the board after notice to all
2 interested parties and the public and after hearing,
3 establish through rates and joint rates, charges, and
4 classifications between all points served by it under
5 certificates or operative rights issued to or possessed by
6 it.

7 (2) No interstate air carrier may discontinue
8 operations to a point without authority of the board unless
9 the operations are unprofitable. Unprofitable operations
10 may be discontinued upon 30 days' notice to the board and to
11 other persons the board may require unless within the
12 30-day period the board after hearing finds that the
13 operation is not unprofitable and orders its continuance.

14 Section 88--Section 67-3-426--MCA is amended to read:

15 "67-3-426--Board may require insurance--The board
16 may, upon its motion or upon application of an interested
17 party and after hearing, require an interstate air carrier
18 to procure and maintain insurance in amounts and upon terms
19 as the board may determine. The board may suspend the
20 certificate of an interstate air carrier for failure to
21 comply with the insurance regulations established under this
22 section."

23 Section 98--Section 67-3-427--MCA is amended to read:

24 "67-3-427--Enforcement--appeals--and--judicial
25 determinations--(1) When a complaint has been filed with

the--board--alleging--that--an--aircraft--is--being-operated
without-a-certificate-of-public-convenience-and-necessity-or
when-the--board--believes--that--67-3-421 ~~61-3-422~~ through
67-3-429-are-being-violated-the-board-shall-investigate-the
operations---and--may--after--a--hearing--make--its--order
requiring-the-operator-of-the-aircraft-to-stop-an-operation
in--violation--of--this--section-the-department-shall-enforce
compliance-with-the-order-by-means-of-powers-vested-in-it-by
laws

(2)--The-district-court-has-jurisdiction-to-enforce-by
proper---decree---injunction---or---order---the---rates
classifications---rules---and--orders-made-by-the-board-the
proceeding-shall-be-by-equitable-action-in-the-name-of--the
state--and--shall--be--instituted-by-the-attorney-general-or
county-attorney-when--advised--by--the--department--that--an
intrastate air--carrier--is-violating-or-refusing-to-comply
with-a-rate-order-rate-or--classification--made--by--the
board--and--applicable--to--that intrastate air-carrier-the
proceedings-shall-have-precedence-over-all-other-business-in
the-district-courts-except-criminal-business

(3)--In-an-action-the-burden-of-proof--rests-upon--the
defendant--who-must-show-by-clear-and-satisfactory-evidence
that-the-rate-order-rate-or--classification-involved--is
unreasonable-and-unjust-if-the-court-decides-that-the-rate
order-rate-or-classification-is-not-unreasonable-or-unjust

and--that--in-refusing-compliance-the intrastate air-carrier
is-failing-to-fulfill-a-duty-debt-or-obligation-the-court
shall-decree-a-mandatory-and-permanent-injunction-compelling
compliance-with-the-rate-order-rate-or-classification--by
the--defendant--and--its--officers--agents--servants--and
employees-and-may-grant-other-relief-which-may-be-considered
just-and--proper--A--violation--of--the--decree--makes--the
defendant--and--officer--agent--servant--or--employee-of-the
defendant-who-is-in-any-manner-instrumental-in-the-violation
guilty-of-contempt--punishable--by--a--fine--not--exceeding
\$1000--for--each--offense-or-by-imprisonment-of-that-person
until-he-sufficiently-purges-himself-The-decree-remains--in
effect--until--the--rate-order-rate-or-classification-is
modified-or-revoked-by-the-board

(4)--An intrastate air-carrier-may-bring-an-action--in
the--district-court-of-the-county-where-the-principal-office
or-place-of-business-is-situated-or--in--a--county--where--a
classification--rate--toll--charge--rate-or-order-of-the
board-applies-against-the-board-as-defendant--to--determine
whether--the--classification--rate--toll--charge--rate-or
order--made--or--established--by--the--board--is--just--and
reasonable--in--an--action--hearing--or--proceeding-in-any
court-the-classification-rate--toll--charge--rate--and
order-made-and-established-by-the-board-shall-*prima facie*-be
considered-just-reasonable-and-proper

1 (5)--Appeals--taken--to--the--supreme--court--from--the
2 judgment--of--a--district--court--under--this--section--have
3 precedence--over--all--other--business--except--criminal--business
4 and--original--proceedings--in--that--court--and--shall--be--heard
5 and--determined--as--are--appeals--in--civil--actions.

6 (6)--All--costs--and--expenses--incurred--in--the--hearings
7 trially--or--appeal--of--an--action--brought--under--this--section
8 shall--be--determined--and--assessed--in--a--manner--the--court
9 considers--just--and--equitable."

10 Section--18--Section--67-3-428--HCA--is--amended--to--read:

11 "67-3-428--Notice--of--regulation--hearings--Notice--as
12 required--by--67-3-421 ~~67-3-422~~ through--67-3-427--shall--be
13 given--by--publication--once--a--week--for--3--successive--weeks--in--a
14 newspaper--of--general--circulation--in--the--county--in--which--the
15 hearing--is--to--be--held--and--by--personal--service--by--mailing--to
16 all--interested--parties--However--in--the--case--of--the--hearings
17 required--by--67-3-421--and--67-3-425(1) ~~67-3-425~~--if--no--written
18 protest--or--written--request--that--the--hearing--be--held--is
19 received--by--the--board--within--5--days--after--the--date--of--the
20 first--publication--of--the--notice--the--board--may--in--its
21 discretion--vacate--the--hearing--and--establish--the--rates--
22 for--charges--classifications--and--rules--of--the--~~intrastate~~
23 air--carrier--without--hearings--The--notice--required--by--this
24 section--shall--state--that--the--board--may--vacate--the--hearing
25 unless--a--written--protest--or--request--that--the--hearing--be--held

1 is--received--by--the--board--as--required--by--this--section."

2 Section--11--Section--67-3-429--HCA--is--amended--to--read:

3 "67-3-429--Exceptions--(1)--No--~~intrastate~~ air--carrier
4 may--operate--aircraft--except--in--accordance--with--67-3-421
5 ~~67-3-422~~ through--67-3-429.

6 (2)--Sections--67-3-421 ~~67-3-422~~ through--67-3-429--do--not
7 apply--to:

8 (a)--common--carriers--of--passengers--or--freight--by
9 aircraft--which--operate--within--this--state--under--a--certificate
10 of--public--convenience--and--necessity--issued--by--the--federal
11 government--or

12 (b)--aircraft--operators--who--carry--passengers--for--hire--
13 are--commonly--known--as--"taxi--operators"--or--"charter
14 operators"--operate--on--an--occasional--or--contract--basis--and
15 do--not--operate--as--common--carriers--between--terminal--points--
16 including--intermediate--points--if--any."

17 NEW_SECTION. Section 4. Airport ~~AND--AIRCRAFT~~ grants
18 and loans. Any airport ~~AND--AIRCRAFT~~ grant or loan that the
19 department may be authorized to issue may be issued only
20 after review and approval of the grant or loan request by
21 the board.

22 NEW_SECTION. Section 5. Codification instruction.
23 Section 12 4 is intended to be codified as an integral part
24 of Title 67, chapter 1, part 3, and the provisions of Title
25 67, chapter 1, apply to section 12 4.

- 1 ~~YEN SECTION~~ Section 6. Effective date. This act is
- 2 effective on passage and approval.

-End-

April 18, 1983

19

FREE CONFERENCE COMMITTEE
HOUSE BILL 776
(Report No. 1)

MR. SPEAKER:

We, your Free Conference Committee on House Bill 776, met and considered:

House Bill 776, third reading copy (Blue); and
Senate State Administration Committee Amendments of
March 15, 1983; and
Senate Committee of the Whole Amendment of March 17, 1983

We respectfully recommend as follows:

That the House accede to all Senate amendments;
That House Bill 776 be further amended as specified in
Clerical Instructions 1 and 2; and
That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 6, line 11.

Following: "consists of"

Strike: "seven"

Insert: "nine"

2. Page 7, line 3.

Following: line 2

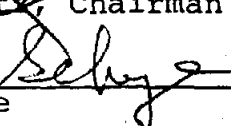
Insert: "(g) one member of the Montana league of cities and towns;

(h) one person representing the general public; and"

Renumber: subsequent subsection

FOR THE HOUSE:

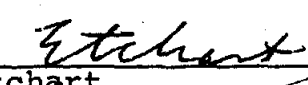

Shontz, Chairman


Schye


Ramirez

FOR THE SENATE:


Lee, Chairman


Etchart


Stimatz

HOUSE BILL NO. 776

INTRODUCED BY SHONTZ, RAMIREZ,

H. HAMMOND, NORMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE BOARD; REQUIRING THE BOARD TO APPROVE AIRPORTS AND AIRCRAFT GRANTS AND LOANS; REVISING THE AIR-CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY; AMENDING SECTIONS 2-8-103, AND 2-15-1812, 67-3-421, 67-3-422, AND 67-3-424 THROUGH 67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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(2) The following agencies shall terminate on July 1, 1981:

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(c) board of osteopathic physicians, department of professional and occupational licensing, created by 2-15-1607;

(d) board of podiatry examiners, department of professional and occupational licensing, created by 2-15-1608.

(3) The following units of state government shall terminate on July 1, 1983:

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(b) state board of hail insurance, department of agriculture, created by 2-15-3093;

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 2 created by 2-15-1881;
 3 (f)(c1) board of livestock, department of livestock,
 4 created by 2-15-3102;
 5 (e)(d1) board of milk control, department of commerce,
 6 created by 2-15-1802;
 7 (f)(a1) board of oil and gas conservation, department
 8 of natural resources and conservation, created by 2-15-3303;
 9 (g)(f1) Montana outfitters' council, department of
 10 fish, wildlife, and parks, created by 2-15-3403;
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 15 2-15-2105;
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 18 (4) The following agencies terminate on July 1, 1985:
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 21 (b) the board of architects, department of commerce,
 22 created by 2-15-1871;
 23 (c) state banking board, department of commerce,
 24 created by 2-15-1803;
 25 (d) the state electrical board, department of

1 commerce, created by 2-15-1874;
 2 (e) the board of professional engineers and land
 3 surveyors, department of commerce, created by 2-15-1873;
 4 (f) office of commissioner of insurance and the
 5 insurance department, state auditor's office, created by
 6 2-15-1902 and 2-15-1903;
 7 (g) office of the securities commissioner, state
 8 auditor's office, created by 2-15-1901;
 9 (h) the board of landscape architects, department of
 10 commerce, created by 2-15-1872;
 11 (i) the board of county printing, department of
 12 commerce, created by 2-15-1811;
 13 (j) the board of plumbers, department of commerce,
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 15 (k) board of physical therapy examiners, department of
 16 commerce, created by 2-15-1858.
 17 (5) The following agencies terminate on July 1, 1987:
 18 (a) commission for human rights, department of labor
 19 and industry, created by 2-15-1706;
 20 (b) Montana state board of medical examiners,
 21 department of commerce, created by 2-15-1841;
 22 (c) board of dentistry, department of commerce,
 23 created by 2-15-1842;
 24 (d) board of pharmacists, department of commerce,
 25 created by 2-15-1843;

1 (e) board of nursing, department of commerce, created
2 by 2-15-1844;

3 (f) board of nursing home administrators, department
4 of commerce, created by 2-15-1845;

5 (g) board of optometrists, department of commerce,
6 created by 2-15-1846;

7 (h) board of chiropractors, department of commerce,
8 created by 2-15-1847;

9 (i) board of radiologic technologists, department of
10 commerce, created by 2-15-1848;

11 (j) board of speech pathologists and audiologists,
12 department of commerce, created by 2-15-1849;

13 (k) board of hearing aid dispensers, department of
14 commerce, created by 2-15-1850;

15 (l) board of psychologists, department of commerce,
16 created by 2-15-1851;

17 (m) board of veterinarians, department of commerce,
18 created by 2-15-1852;

19 (n) board of morticians, department of commerce,
20 created by 2-15-1853;

21 (o) board of barbers, department of commerce, created
22 by 2-15-1856;

23 (p) board of cosmetologists, department of commerce,
24 created by 2-15-1857;

25 (q) board of sanitarians, department of commerce,

1 created by 2-15-1861;

2 (r) board of veterans' affairs, department of social
3 and rehabilitation services, created by 2-15-2202.

4 ~~(s) The following agency terminates on July 1, 1989:~~
5 ~~board of aeronautics, department of commerce, created by~~
6 ~~2-15-1812.~~

7 Section 3. Section 2-15-1812, MCA, is amended to read:
8 "2-15-1812. Board of aeronautics -- qualification --
9 allocation -- quasi-judicial. (1) There is a board of
10 aeronautics.

11 (2) The board consists of seven NINE members. The
12 members are:

13 (a) one member of the Montana pilots' association;

14 (b) one member of the Montana chamber of commerce
15 ~~representing WHOSE PRINCIPAL BUSINESS IS aviation;~~

16 (c) one ~~member of the municipal league Montana league~~
17 ~~of cities and towns representing MONTANA airport operators~~
18 ONE REPRESENTATIVE OF THE MONTANA AIRPORT MANAGEMENT
19 ASSOCIATION;

20 (d) one member of the Montana county commissioners
21 association;

22 (e) one person actively engaged in aviation education
23 in this state;

24 (f) one person representative of interstate commercial
25 airline operators, who must at the time of appointment be an

1 employee or official of an interstate commercial airline
2 operator and a resident of this state;

3 ~~(5) ONE MEMBER OF THE MONTANA LEAGUE OF CITIES AND~~
4 ~~IDWNSI~~

5 ~~(H) ONE PERSON REPRESENTING THE GENERAL PUBLIC; AND~~
6 ~~(y)(1) one person who must at the time of appointment~~
7 ~~be an active fixed base operator in this state, or an~~
8 ~~official of a fixed base operator in this state, of flying~~
9 ~~services or flying schools.~~

10 (3) The board is allocated to the department for
11 administrative purposes only as prescribed in 2-15-121.

12 (4) The board is designated as a quasi-judicial board
13 for purposes of 2-15-124."

14 ~~Section 4s--Section--67-3-421y--MCAY--is--amended--to--read:~~

15 ~~"67-3-421y--Regulatory powers of board of--aeronautics--~~
16 ~~the board may:~~

17 ~~(1)--supervise--and--regulate--every--air--carrier--in--those~~
18 ~~matters--affecting--ticketing--flight--reservations--passenger~~
19 ~~baggage--advertising--passenger--convenience--and--comfort--and~~
20 ~~transportation--of--freight;~~

21 ~~(2)--after--notice--to--all--interested--parties--and--the~~
22 ~~public--and--after--hearing--fix--the--rates--for--fare--charges--~~
23 ~~classifications--and--rules--of--each--carrier;~~

24 ~~(3)--regulate--the--accounts--of--each--carrier--and--require~~
25 ~~the--filing--of--annual--and--other--reports--and--of--other--data--by~~

1 the carrier;

2 ~~(4)--by--general--order--or--otherwise--adopt--rules~~
3 ~~applicable--to--all--intrastate--air--carriers--The--board--in--the~~
4 ~~exercise--of--the--jurisdiction--conferred--upon--it--may--make~~
5 ~~orders--and--adopt--rules--affecting--intrastate--air--carriers--~~
6 ~~notwithstanding--the--provisions--of--any--ordinance--or--permit--of~~
7 ~~a--town--city--city--and--county--or--county--and--in--case--of~~
8 ~~conflict--the--order--or--rule--of--the--board--prevails."~~

9 ~~Section 5s--Section--67-3-422y--MCAY--is--amended--to--read:~~

10 ~~"67-3-422y--Issuance--of--certificates--of--public~~
11 ~~convenience--and--necessity--(1) No intrastate air carrier~~
12 ~~may--engage--in--an--operation--in--this--state--without--first~~
13 ~~obtaining--from--the--board--a--certificate--of--public--convenience~~
14 ~~and--necessity--authorizing--the--operations~~

15 ~~(2)--An--applicant--shall--submit--his--written--verified~~
16 ~~application--to--the--board--The--application--shall--be--in--a~~
17 ~~form--contain--the--information--and--be--accompanied--by--proof~~
18 ~~of--service--upon--all--intrastate--air--carriers--with--which--the~~
19 ~~proposed--service--is--likely--to--compete--and--upon--other~~
20 ~~interested--parties--as--the--board--requires--Each--application~~
21 ~~shall--be--accompanied--by--a--fee--of--\$150.~~

22 ~~(3)--In--awarding--certificates--of--public--convenience--and~~
23 ~~necessity--the--board--shall--consider--the--business--experience~~
24 ~~of--the--particular--air--carrier--in--the--field--of--air~~
25 ~~operations--the--financial--stability--of--the--carrier--the~~

1 insurance coverage of the carrier, the type of aircraft
2 which the carrier would employ, proposed routes and minimum
3 schedules to be established, whether the carrier could
4 economically give adequate service to the communities
5 involved, the need for the service and any other factors
6 which may affect the public interest.

7 (4) After notice to the interested parties and the
8 public and after hearing, the board may:

9 (a) issue the certificate requested;

10 (b) refuse to issue the certificate;

11 (c) issue the certificate for the partial exercise
12 only of the privilege sought;

13 (5) The board may attach terms and conditions to the
14 exercise of the rights granted by the certificate as, in its
15 judgment, the public convenience and necessity requires.

16 Section 6. Section 67-3-424, MCA, is amended to read:

17 "67-3-424. Suspension, amendment, revocation. (1)
18 Upon a finding of an agency of the federal government that
19 an interstate air carrier is operating in violation of a
20 federal safety law or regulation, the board may suspend and
21 the department shall enforce the suspension of certificates
22 of public convenience and necessity issued by the board:

23 (2) For any other good cause, the board may, upon
24 notice to the holder of a certificate and opportunity to be
25 heard, suspend, revoke, alter, or amend a certificate."

1 Section 7. Section 67-3-425, MCA, is amended to read:
2 "67-3-425. Establishment of rates, discontinuance
3 Discontinuance of services. (1) An air carrier may, upon
4 prior written approval from the board, after notice to all
5 interested parties and the public and after hearing,
6 establish through rates and joint rates, charges, and
7 classifications between all points served by it under
8 certificates or operative rights issued to or possessed by
9 it.

10 (2) No interstate air carrier may discontinue
11 operations to a point without authority of the board, unless
12 the operations are unprofitable. Unprofitable operations
13 may be discontinued upon 30 days' notice to the board and to
14 other persons. The board may require, unless within the
15 30-day period the board, after hearing, finds that the
16 operation is not unprofitable and orders its continuance."

17 Section 8. Section 67-3-426, MCA, is amended to read:

18 "67-3-426. Board may require insurance. The board
19 may, upon its motion or upon application of an interested
20 party and after hearing, require an interstate air carrier
21 to procure and maintain insurance in amounts and upon terms
22 as the board may determine. The board may suspend the
23 certificate of an interstate air carrier for failure to
24 comply with the insurance regulations established under this
25 section."

Section 9. Section 67-3-427, MCA, is amended to read:

"67-3-427. Enforcement. (1) When a complaint has been filed with the board alleging that an aircraft is being operated without a certificate of public convenience and necessity or when the board believes that 67-3-421 67-3-422 through 67-3-429 are being violated, the board shall investigate the operations and may, after a hearing, make its order requiring the operator of the aircraft to stop an operation in violation of this section. The department shall enforce compliance with the order by means of powers vested in it by law.

(2) The district court has jurisdiction to enforce by proper decree, injunction, or order the rates, classifications, rules, and orders made by the board. The proceeding shall be by equitable action in the name of the state and shall be instituted by the attorney general or county attorney when advised by the department that an intrastate air carrier is violating or refusing to comply with a rule, order, rate, or classification made by the board and applicable to that intrastate air carrier. The proceedings shall have precedence over all other business in the district courts except criminal business.

(3) In an action the burden of proof rests upon the defendant who must show by clear and satisfactory evidence

that the rule, order, rate, or classification involved is unreasonable and unjust if the court decides that the rate, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the intrastate air carrier is failing to fulfill a duty, debt, or obligation, the court shall decree a mandatory and permanent injunction compelling compliance with the rule, order, rate, or classification by the defendant and its officers, agents, servants, and employees and may grant other relief which may be considered just and proper. A violation of the decree makes the defendant and officers, agents, servants, or employee of the defendant who is in any manner instrumental in the violation guilty of contempt, punishable by a fine not exceeding \$1,000 for each offense or by imprisonment of that person until he sufficiently purges himself. The decree remains in effect until the rule, order, rate, or classification is modified or vacated by the board.

(4) An intrastate air carrier may bring an action in the district court of the county where the principal office or place of business is situated or in a county where a classification, rate, toll, charge, rule, or order of the board applies against the board as defendant to determine whether the classification, rate, toll, charge, rule, or order made or established by the board is just and reasonable in an action, hearing, or proceeding in any

court--the--classification--rate--to--charge--rule--and
order--made--and--established--by--the--board--shall--prima--facie--be
considered--just--reasonable--and--proper.

(5)--Appeals--taken--to--the--supreme--court--from--the
judgment--of--a--district--court--under--this--section--have
precedence--over--all--other--business--except--criminal--business
and--original--proceedings--in--that--court--and--shall--be--heard
and--determined--as--are--appeals--in--civil--actions.

(6)--All--costs--and--expenses--incurred--in--the--hearings
trial--or--appeal--of--an--action--brought--under--this--section
shall--be--determined--and--assessed--in--a--manner--the--court
considers--just--and--equitable."

Section 10. Section 67-3-428, MCA, is amended to read:

67-3-428. --Notice of regulation hearings--Notice--as
required--by--67-3-421 67-3-422 through 67-3-427--shall--be
given--by--publication--once--a--week--for--3--successive--weeks--in--a
newspaper--of--general--circulation--in--the--county--in--which--the
hearing--is--to--be--held--and--by--personal--service--by--mailing--to
all--interested--parties--However--in--the--case--of--the--hearings
required--by--67-3-421 and 67-3-425 (1) 67-3-425, if no written
protest--or--written--request--that--the--hearing--be--held--is
received--by--the--board--within--5--days--after--the--date--of--the
last--publication--of--the--notice,--the--board--may--in--its
discretion,--vacate--the--hearing--and--establish--the--rates,
fees,--charges,--classifications--and--rules--of--the--intrastate

air--carrier--without--hearings--The--notice--required--by--this
section--shall--state--that--the--board--may--vacate--the--hearing
unless--a--written--protest--or--request--that--the--hearing--be--held
is--received--by--the--board--as--required--by--this--section."

Section 11. Section 67-3-429, MCA, is amended to read:

67-3-429. --Exceptions--(1) No intrastate air--carrier
may--operate--aircraft--except--in--accordance--with--67-3-421
67-3-422 through 67-3-429.

(2) Sections 67-3-421 67-3-422 through 67-3-429 do not
apply to:

(a) common carriers--of--passengers--or--freight--by
aircraft--which--operate--within--this--state--under--a--certificate
of--public--convenience--and--necessity--issued--by--the--federal
government; or

(b) aircraft operators who carry passengers for hire,
are--commonly--known--as--"taxi--operators"--or--"charter
operators"--operate--on--an--occasional--or--contract--basis--and
do--not--operate--as--common--carriers--between--terminal--points,
including--intermediate--points, if any."

NEW SECTION. Section 4. Airport ~~AND AIRCRAFT~~ grants
and loans. Any airport ~~AND AIRCRAFT~~ grant or loan that the
department may be authorized to issue may be issued only
after review and approval of the grant or loan request by
the board.

NEW SECTION. Section 5. Codification instruction.

1 Section 12.4 is intended to be codified as an integral part
2 of Title 67, chapter 1, part 3, and the provisions of Title
3 67, chapter 1, apply to section 12.4.
4 NEW SECTION. Section 6. Effective date. This act is
5 effective on passage and approval.

-End-