#### 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 S	enate
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.

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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 AIRCRAFT GRANTS AND LOANS; REVISING THE AIR CARRIER LAWS TO LIMIT APPLICATION TO INTRASTATE CARRIERS ONLY; AMENDING SECTIONS 2-8-103+ 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:

YEW\_SECTIONs 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:

"Z-8-103. Agencies to terminate. (1) The following 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 o
- 16 professional and occupational licensing, created by
- 17 2-15-1608+
- 18 (3) The following unit: of state government shall
- 19 terminate on July 1, 1983:
- 20 toy--board--of--seronauticsy--department--of--commercey
- 21 created-by-2-15-1812+
- 27 tbt(a) state board of hail insurance, department of
- 23 agriculture, created by 2-15-3003;
- 24 (e)(h) board of horseracing, department of commerce.
- 25 created by 2-15-1881;

1	444157	board of livestock,	department	of	livestock,
2	created by 2	-15-3102;			

- ffi(a) board of oil and gas conservation, department
   of natural resources and conservation, created by 2-15-3303;
- 7 fgf[f] Montana outfitters\* council. department of 8 fish wildlife, and parks, created by 2-15-3403;
- 9 this public service commission, department of public service regulation, created by 69-1-102;
- 11 title board of water and wastewater operators.

  12 department of health and environmental sciences, created by
  13 2-15-2105;
- 14 tjf(i) 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 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 boards department of 24 commerces created by 2-15-1874;
- 25 (a) the board of professional engineers and land

- 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;
- g (i) the board of county printing, department of 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 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;

	(f)	board	of	nu	rsing	home	administrators,	department
01	f commer	ce. cre	ated	by	2-15-	-1845	i	

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

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- 5 (h) board of chiropractors, department of commerce, 6 created by 2-15-1847;
- 7 (i) board of radiologic technologists, department of commerce, created by 2-15-1848;
  - (j) board of speech pathologists and audiologists, department of commerce, created by 2-15-1849;
- 11 (k) board of hearing aid dispensers, department of 12 commerce, created by 2-15-1850;
- (1) 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;
  - (n) board of morticians, department of commerce, 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 commerces 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 muntetpal-league Montana\_league
- 15 of cities and towns representing airport operators;
- 16 (d) one member of the <u>Montana</u> 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

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of a <u>fixed</u> 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  $2-15-124 \cdot ^{n}$

Section 4. Section 67-3-421, MCA, is amended to read:
#67-3-421. Regulatory powers of board of aeronautics.
The board mayes

f2)--supervise--ond-regulate-every-air-corrier-in-those
matters-affecting-ticketing-flight-reservationsy--passenger
baggage--advertising--passenger-convenience-and-comforty-and
transportation-of-freight;

f2+-after--notice--to--all--interested-parties-and-the
public-and-after-hearingy-fix--the--ratesy--faresy--chargesy
elassifications--and-rules-of-each-carriers

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

applicable to all <u>intrastate</u> air carriers. The board, in the exercise of the jurisdiction conferred upon it, may make orders and adopt rules affecting <u>intrastate</u> air carriers, notwithstanding the provisions of any ordinance or permit of a town, city, city and county, or county, and in case of

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

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

\*67-3-422. Issuance of certificates of public convenience and necessity. (1) No intrastate air carrier may angage in an operation in this state without first obtaining from the board a certificate of public convenience and necessity authorizing the operation.

- (2) An applicant shall submit his written verified application to the board. The application shall be in a form, contain the information, and be accompanied by proof of service upon all <u>intrastate</u> air carriers with which the proposed service is likely to compete and upon other interested parties, as the board requires. Each application shall be accompanied by a fee of \$150.
- (3) In awarding certificates of public convenience and necessity: the board shall consider the business experience of the particular air carrier in the field of air operations, the financial stability of the carrier, the insurance coverage of the carrier, the type of aircraft which the carrier would employ, proposed routes and minimum schedules to be established, whether the carrier could economically give adequate service to the communities involved, the need for the service, and any other factors which may affect the public interest.
  - (4) After notice to the interested parties and the

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1 public and after hearing, the board may:

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- (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 <u>intrastate</u> 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-retes------discontinuance

  Discontinuance of service. tip--An-air-carrier-may-upon
  prior-written-approval-from-the-boardy-after-notice--te--all
  interested---parties--and--the--public--and--after--hearingy
  establish--through--retes--and--joint--ratesy--chargesy--and
  classifications--between--all--points--served--by--it--under

3 tet 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 7 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." 10 Section 8. Section 67-3-426, MCA, is amended to read: 11 \*67-3-426. Board may require insurance. The board may: 12 upon its motion or upon application of an interested party 13 and after hearing, require an intrastate air carrier to procure and maintain insurance in amounts and upon terms as 14

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

18 section. 19 Section 9. Section 67-3-427, MCA, is amended to read: 20 #67-3-427. Enforcement. appeals. and judicial determinations. (1) When a complaint has been filed with the 21 22 board alleging that an aircraft is being operated without a 23 certificate of public convenience and necessity or when the 24 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.

- 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 rule, order, rate, or classification is not unreasonable or unjust and that in refusing compliance the <u>intrastate</u> air corrier 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 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 \$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, toll, 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.

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(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.

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- Section 10. Section 67-3-428. MCA. is amended to read: #67-3-429. Notice of regulation hearings. Notice as required by 67-9-421 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 retesy foresy-chargesy-classificationsy-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 <u>intrastate</u> air carrier

  may operate aircraft except in accordance with 67-3-421

  67-3-422 through 67-3-429.

- 1 (2) Sections 67-3-421 67-3-422 through 67-3-429 do not apply to:
- 3 (a) common carriers of passengers or freight by
  4 aircraft which operate within this state under a certificate
  5 of public convenience and necessity issued by the federal
  6 government; or
- 7 (b) aircraft operators who carry passengers for hire,
  8 are commonly known as "tax! operators" or "charter
  9 operators", operate on an occasional or contract basis, and
  10 do not operate as common carriers between terminal points,
  11 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.
  - NEM\_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.
- 20 <u>MEM\_SECTION</u>. Section 14. Effective date. This act is 21 effective on passage and approval.

-End-

### Approved by Committee on Highways & Transportation

1	HOUSE BILL NO. 776
2	INTRODUCED BY SHONTZ, RAMIREZ,
3	H. HAMMOND, NORMAN
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5	A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6	BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND
7	RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE
8	BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT
9	GRANTS AND LOAMS; REVISING-THE-AIRGARRIERLAWST8LIMIT
0	APPLICATIONTOINTRASTATE-CARRIERS-ONLY; AMENDING SECTIONS
1	2-8-103+ AND 2-15-1812+ 67-3-421+67-3-422+AND67-3-424
.2	THROUGH67-3-429 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
.3	DATE."
4	
5	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
.6	NEW_SECTION. Section 1. Reestablishment. The board of
.7	aeronautics, created pursuant to 2-15-1812, is reestablished
.8	with its existing statutory authority and rules for 6 years,
9	pursuant to 2-8-122-
0	Section 2. Section 2-8-103, MCA, is amended to read:
1	<pre>"2-8-103. Agencies to terminate. (1) The following</pre>
2	agencies shall terminate on July 1, 1979:
:3	(a) board of abstracters, department of professional
4	and occupational licensing, created by 2-15-1643;
:5	(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,
reated by 2-15-2303.
(2) The following agencies shall terminate on July 1.
1981:
(a) board of athletics, department of professional and
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(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:
tajboardofaeronauticsydepartmentofcommercey
reated-by-2-15-1012;
tbf[a] state board of hall insurance, department of

agriculture. created by 2-15-3003;

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ı	and occupational licensing, created by 2-15-1642;
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3	air conditioning, department of professional and
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15	professional and occupational licensing, created by
16	2-15-1607;
17	(d) board of podiatry examiners, department of
18	professional and occupational licensing, created by

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l	4c+TPT	board of	horseracing,	department	of	commerce,
2	created by 2	-15-1881;				

- 5 (e)(d) board of milk control, department of commerce,
  6 created by 2-15-1802;
- 7 (ff)(e) board of oil and gas conservation, department 8 of natural resources and conservation, created by 2-15-3303;
- 9 tgf(f) Montana outfitters' council, department of
  10 fish, wildlife, and parks, created by 2-15-3403;
- 11 thyigh public service commission, department of public
  12 service regulation, created by 69-1-102;
- 13 t+f(h) board of water and wastewater operators,
  14 department of health and environmental sciences, created by
  15 2-15-2105:
- 16 †### board of water well contractors, department of
  17 commerce, created by 2-15-1862.
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- 23 (c) state banking board, department of commerce, 24 created by 2-15-1803;
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- 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 (q) office of the securities commissioner, state
- 8 auditor's office, created by 2-15-1901;
- 9 (h) the board of landscape architects, department of commerce, created by 2-15-1872;
- 11 (i) the board of county printing, department of 12 commerce, created by 2-15-1811;
- (j) the board of plumbers, department of commerce,
  14 created by 2-15-1875;
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- 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, 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 2-15-1	844;					

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

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- (g) board of optometrists, department of commerce, created by 2+15+1846;
- 7 (h) board of chiropractors, department of commerce, 8 created by 2-15-1847;
  - (i) board of radiologic technologists, department of commerce, created by 2-15-1848;
- (j) board of speech pathologists and audiologists,
  department of commerce, created by 2-15-1849;
  - (k) board of hearing aid dispensers, department of commerce, created by 2-15-1850;
  - (1) board of psychologists, department of commerce, created by 2-15-1851;
  - (m) board of veterinarians, department of commerce, created by 2-15-1852;
- 19 (n) board of morticians, department of commerce,
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- 2 (r) board of veterans\* affairs, department of social
  3 and rehabilitation services, created by 2-15-2202.
- 4 161\_The\_following\_agency\_terminates\_on\_July\_le\_1989:
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- 7 Section 3. Section 2-15-1812, MCA, is amended to read:
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- 11 (2) The board consists of seven members. The members
  12 are:
- (a) one member of the Montana pilots association;
- 14 (b) one member of the Montana chamber of commerce
  15 representing WHOSE\_PRINCIPAL\_RUSINESS\_IS\_aviation;
- 16 (c) one member of-the-municipal-league <u>Hontona:league</u>

  17 <u>of:cities:and-towns representing HONIANA airport operators</u>;
- 18 (d) one member of the <u>Montana</u> county commissioners
  19 association:
- (e) one person actively engaged in aviation educationin 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;

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(g) one person who must at the time of appointment be
an active <u>fixed</u> base operator in this state, or an official
of a <u>Fixed</u> 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-4wSection67-3-421w-MEAv-is-amended-to-read*
#67-3-421Regulatory-powers-of-board-ofaeronautics:
The-board-may+x
fl}superviseand-regulate-every-sir-carrier-in-those
matters-affecting-ticketings-flight-reservationsspassenger
baggagey-advertisingy-passenger-convenience-and-comforty-and
transportation-of-freight;
{2}afternoticetoallinterested-parties-and-the
public-and-after-hearings-fixtheratesyfaresychargesy
classificationsy-and-rules-of-each-carrier;
f3}regulatethe-accounts-of-aseh-carrier-and-require
the-filing-of-annual-and-other-reports-and-of-other-databy
the-corriers;
f4}bygeneralorderorstherwiseadoptrules
applicable-to-all- <u>intrastate</u> oir-carriers-The-boardy-in-the

exercise-of-the-jurisdiction-conferred--upon--ity--may--make

orders--and--adopt--rules-affecting intrastate air-corriers,

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conflict-the-order-or-rule-of-the-board-prevails=#
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          Section-5---Section--67-3-422--M6Ay-is-amended-to-read:
          #67-3-422v--Issuance---of---certificates---of----public
     convenience--end--necessityw---fil-No introstate air-corrier
6
     may-engage-in-an--operation--in--this--state--without--first
7
     obtaining-from-the-board-a-certificate-of-public-convenience
8
     and-necessity-authorizing-the-operations
9
          t2}--An--applicant--shall--submit--his-written-verified
10
     application-to-the-boards-The--application--shall--be--in--a
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     formy--contain--the-informationy-and-be-accompanied-by-proof
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     of-service-upon-sit intrastate dir-carriers-with--which--the
13
      proposed--service--is--likely--to--compete--and--upon--other
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      interested-partiesy-as-the-board-requiresy-Each-rapplication
15
      shall-be-accompanied-by-a-fee-of-$150*
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          t3)--In-ewarding-certificates-of-public-convenience-and
17
     necessityy--the-board-shall-consider-the-business-experience
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      of--the--particular--air--carrier--in--the--field---of---air
19
      operations--the--financial--stability--of--the-carriery-the
20
      insurance-coverage-of-the--carriery--the--type--of--aircraft
21
      which--the-corrier-would-employs-proposed-routes-and-minimum
22
      schedules-to-be-establishedy--whether--the-carrier--could
23
      economically---give--adequate--service--to--the--communities
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      involvedy-the-need-for-the-servicey-and--any--ather--factors
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notwithstanding-the-provisions-of-any-ordinance-or-permit-of

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1	which-may-affect-the-public-interests
2	f4)Afternoticetotheinterested-parties-and-the
3	public-and-after-hearingthe-boord-may+
4	to;issue-the-cortificate-requested;
5	tb)refuse-to-issue-the-certificate;
6	<pre>fc)issue-the-certificateforthepartiolexercise</pre>
7	only-of-the-privilege-soughts
8	t5tTheboordmay-attach-terms-and-conditions-to-the
9	exercise-of-the-rights-granted-by-the-certificate-asy-in-its
10	judgmenty-the-public-convenience-and-necessity-requires*
11	5ection-6Section-67-3-424-HEAy-is-amended-toreads
12	#67-3-424Suspensionamendmentrevocation(1)
13	Uponafinding-of-an-agency-of-the-faderal-government-that
14	an-intrastate atr-carrier-is-operatinginviolationofa
15	federatsafety-taw-or-regulationy-the-board-may-suspend-and
16	the-department-sholl-enforce-the-suspension-ofcertificates
17	of-public-convenience-and-necessity-issued-by-the-boardw
18	f2)foranyothergoodcauseythe-board-mayy-upon
19	Notice-to-the-holder-of-a-certificate-and-apportunity-tobe
20	heardy-suspendy-revokey-altery-or-amend-a-certificates#
21	Section-7Section67-3-425-M6Ay-is-omended-to-read+
22	#67-3-425Establishment-ofratesdiscontinuonce
23	Bizcantinuance ofservices(1)An-air-carrier-mayy-upon
24	prior-written-approval-from-the-boardy-after-noticetoall
25	interestedpartiesandthepublicandafterhearings

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establish--through--rates--and--joint--ratesy--ehargesy--and
ctassifications --between--alt--points--served--by--it--under
certificates-or-operative-rights-issued-to-or--possessed--by
itv
    (2)--No introstate sir---carrier---may--discontinue
operations-to-a-point-without-authority-of-the-boardy-unless
the-operations-are--unprofitable----Unprofitable--operations
may-be-discontinued-upon-38-days*-notice-to-the-board-and-to
other-persons-the-board-may--requirey--unless-within-the
38-day-period-the--boardy--after--hearingy--finds--thet--the
operation--is--not-unprofitable-and-orders-its-continuances
    *67-3-426---Board--may--require--insurance----The-board
mayy-upon-its-motion-or-upon-application--of--en--interested
porty--and--after-hearingy-require-an intrastate air-corrier
to-procure-and-maintain-insurance-in-amounts-and-upon--terms
as--the--board--may--determinev--The--board--may-suspend-the
certificate-of-an intrastate air--carrier--for--failure--to
comply-with-the-insurance-regulations-established-under-this
sections*
    Section-9v--Section--67-3-427v-MCAv-is-amended-to-reads
    #67-3-427*--Enforcementy---appealsy----and-----judicial
determinations----fij--When--a-complaint-has-been-filed-with
the-board--altering--that--an--aircraft--is--being--aperated
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without-a-certificate-of-public-convenience-and-necessity-or

when-the-board-believes-that-67-3-421 <u>67-3-222</u> through 67-3-429-are-being-violatedy-the-board-shall-investigate-the operations--and-mayy--after--a--hearingy--make--its---arder requiring--the-aperator-af-the-aircraft-to-stop-an-operation in-violation-of-this-sections-Tha-department--shall-enforce compliance-with-the-order-by-means-of-powers-vested-in-it-by laws

t21-The-district-court-has-jurisdiction-te-enforcey-by
proper----decreey---injunctiony---or---ordery---the---ratesy
classificationsy-rulesy-and-orders-made-by--the--boardy--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
integrates air-corrier-is-violating-or--refusing--to--comply
with--a--ruley--ordery--ratey--or-classification-made-by--the
board-and-applicable-to-that integrates air--corrier---The
proceedings-shall-have-precedence-over-all-other-business-in
the-district-courts-except-or-minal-business-

(3)--in-an-action-the-burden-af-proof-resta-upon-the defendanty-who-must-show-by-cleor-and-satisfactory--evidence that--the--ruley--ordery-ratey-or-alassification-involved-is unreasonable-and-unjust--if-the-court-decides-that-the-ruley ordery-ratey-or-classification-is-not-unreasonable-ar-unjust and-that-in-refusing-compliance-the intrastate air--corrier is-failing-to-fulfill-a-dutyy-dobty-or-obligationy-the-court

shall-decree-a-mandatory-and-permanent-injunction-compelling compliance-with-the-ruley-ordery-ratey-or-elassification-by the-defendant-and--its--officersy-agentsy--servantsy--and amployees-and-may-grant-other-relief-which-may-be-considered just--and-propery--A-violation-of--the-decree-makes-the defendant-and-officery-agenty-servanty-or--employees-of--the defendant-who-is-in-any-manner-instrumental-in-the-violation guilty--of--contempty--punishable--by--a--fine-not-exceeding \$2.000-for-each-offense-or-by-imprisonment--uf--that--person until--he-sufficiently-purges-himselfy-The-decree-remains-in effect-until-the-ruley-ordery--ratey--or--classification--is modified-or-vacated-by-the-boardy

the-district-court-of-the-county-where-the-principal--office or--place--of--business--is--situated-or-in-a-county-where-a classificationy-ratey-tolly-chargey-ruley-or--order--of--the board--appliesy--against-the-board-as-defendant-to-determine whether-the-classificationy-ratey--tolly--chargey--ruley--or order---made--or--established--by--the--board--is--just--and reasonablew-in-an-actiony--hearingy--or--proceeding--in--any courty--the--classificationy--ratey--tolly-chargey-ruley-and order-made-and-established-by-the-board-shall-primo-facie-be considered-justy-reasonabley-and-propery

t5}--Appents--taken--to--the--supreme--court--from--the

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precedence-over-all-other-businessy-except-criminal-business
and-original-proceedings-in-that-courty-and-shall-beheard
and-determined-as-are-appeals-in-civil-actions+

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tot--Att--costs--and--expenses-incurred-in-the-hearingy trial-or-appeal-of-an-action--brought--under--this--section shall--he--determined--and--assessed--in--a-manner-the-court \*\*\*fdefixps-bns-febi-erations

Section-10y--Section-67-3-420y-MEAy-is-omended-to-read+ #67-3-428x--Notice-of-regulation-hearingsy---Notice--as qiven-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-partiess-Howevery-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--heid--is received--by--the--board-within-5-days-after-the-date-of-the łast-pubłication-of--the--noticey--the--board--mayy--in--its discretiony--vacate--the--hearing--and--establish-the-ratasy forest-chargesy-classificationsy-and-rules-of-the intrastate sir-carrier-without-hearing--The--notice--required--by--this section--shall--state--that-the-boord-may-vacate-the-hearing unless-o-written-protest-or-request-that-the-hearing-be-held is-received-by-the-board-as-required-by-this-sections=

Section-its--Section-67-3-429y-MCAy-is-amended-to-reads

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1	#67-3-429Exceptions(it-No intimites mircorrier
2	mayoperateaircraftexceptinaccordance-with-67-3-42%
3	<u>67-3-422</u> through-67-3-429.
4	{2}Sections-67-3-421 67-2-422 through-67-3-429-do-not

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

tb;--aircraft-operators-who-carry-passengers-for--hirer are---commonly---known---as---taxi--operators---or---charter operators y-operate-on-an-occosional-or-contract-basis,--and do--not--operate-as-common-corriers-between-terminal-pointsy including-intermediate-pointsy-if-anyw#

15 NEW\_SECTION: Section 4. Airport AND\_AIRCRAFT grants and loans. Any mirport 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 brard.

NEW\_SECTION: Section 5. Codification instruction. Section #2 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.

24 MEN\_SECTION. Section 6. Effective date. This act is 25 effective on passage and approval.

-End-

HB 776

1	MANAGE STEF MAN LID
2	INTRODUCED BY SHONTZ. RAMIREZ.
3	He HAMMOND, NORMAN
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6	BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND
7	RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE
8	BOARD; REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT
9	GRANTS AND LOANS; REVISING-THE-AIR-GARRIERLAWSTOLIMIT
10	APPLICATIONTOINTRASTATE-GARRIERS-ONLY AMENDING SECTIONS
11	2-8-103+ AND 2-15-1812+ 67-3-421+67-3-422+AND67-3-424
12	**************************************
13	DATE."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	<u>MEM_SECTION</u> . Section 1. Reestablishment. The board of
17	aeronautics, created pursuant to 2-15-1812, is reestablished
18	with its existing statutory authority and rules for 6 years,
19	pursuant to 2-8-122.
20	Section 2. Section 2-8-103, MCA, is amended to read:
21	<pre>#2-8-103. Agencies to terminate. (1) The following</pre>
22	agencies shall terminate on July 1, 1979:
23	(a) board of abstracters, department of professional
24	and occupational licensing, created by 2-15-1643;
25	(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†a
(3) The following units of state government shall
terminate on July 1, 1983:
ta}boardofaeroneuticsydeportmentofcommorcey
created-by-2-15-1012;
tbj[a] state board of hall insurance, department of

agriculture, created by 2-15-3003;

1	tettp) i	board of	horseracing.	department	of	COMMETCE
2	created by 2-1	15-1881;				

- 5 to to tall board of milk control, department of commerce, 6 created by 2-15-1802;
- 7 **(F)LE1** board of oil and gas conservation, department 8 of natural resources and conservation, created by 2-15-3303;
- 9 tgt[] Montana outfitters council, department of 10 fish, wildlife, and parks, created by 2-15-3403;
- thit() public service commission, department of public service regulation, created by 69-1-102;
- 13 tiff(b) board of water and wastewater operators,
  14 department of health and environmental sciences, created by
  15 2-15-2105:
- 16 titll board of water well contractors, department of 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

- 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 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;

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
.0	commerce, created by 2-15-1848;
1	(j) board of speech pathologists and audiologists,
2	department of commerce: created by 2-15-1849;
.3	(k) board of hearing aid dispensers, department of
4	commerce, created by 2-15-1850;
15	(1) board of psychologists, department of commerce,
6	created by 2-15-1851;
.7	(#) board of veterinarians, department of commerce,
8	created by 2-15-1852;
9 .	(n) board of morticians, department of commerce,
0	created by 2-15-1853;
1	(o) board of barbers, department of commerce, created
2	by 2-15-1856;
3	(p) board of cosmetologists, department of commerce,
4	created by 2-15-1857;

(e) board of nursing, department of commerce, created

I	created by 2-15-1861;
2	(r) board of veterans' affairs, department of social
3	and rehabilitation services, created by 2-15-2202.
4	tol_The_following_agency_terminates_op_duly_1=_1989:
5	board_of_seronauticsdepartment_of_commercecreated_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 Hontana chamber of commerce
15	cepresenting HUDSE_PRINCIPAL_BUSINESS_IS aviation;
16	(c) one member of-the-municipal-league Montane-league
17	of-citics-and-towns representing MONTANA airport operators;
18	(d) one member of the <u>Montana</u> 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:

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(q) board of sanitarians, department of commerce,

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1	(g) one person who must at the time of appointment be
2	an active <u>fixed</u> base operator in this state, or an official
3	of a <u>fixed</u> 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-fuSection67-3-42ly-MCAy-is-amonded-to-read+
10	#67-3-421Regulatory-powers-of-boord-ofboranautics
11	The-board-mayer
12	ti;superviseand-regulate-every-air-carrier-in-those
13	motters-affecting-ticketingy-flight-reservationsypassenger
14	baggagey-advertisingy-passenger-convenience-and-comforty-and
15	transportation-of-freight;
16	t2)afternoticetoallinterested-porties-and-the
17	public-and-after-hearings-fixtheratesyfaresychargesy
18	classificationsy-and-rates-of-each-carriers
19	<del>  13}regulatethe-accounts-of-each-carrier-and-require</del>
20	the-filing-of-annual-and-other-reports-and-of-other-detaby
21	the-corriers;
22	t+}bygeneralorderor-etherwisevadoptrules
23	applicable-to-all- <u>introstate</u> <u>mir-carriers-The-boardin-the</u>
24	exercise-of-the-juriadiction-conferred-superitymaymake
25	ordersandadoptrules-affecting introstate air-carriers,

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notwithstanding-the-provisions-of-any-ordinance-or-permit-of
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      a-towny-cityy-city-and-countyy-or-countyy--and--in--case--of
      confiict-the-order-or-rule-of-the-board-prevails**
 3
           Section-5v--Section--67-3-422v-NCAv-is-amended-to-read:
           #67-3-422---Issuance---af---certificates---af----public
      convenience--end--necessity----tl}-No intrestate sir-carrier
 7
      mny-engage-in-an--operation--in--this--state--without--first
      obtaining-from-the-board-a-certificate-of-public-convenience
 9
      and-necessity-authorizing-the-operation.
10
           t27--An--applicant--shall--submit--his-written-verified
11
      application-to-the-boards-Fra--application--shall--be--in--a
12
      formy--contain--the-informationy-and-bo-accompanied-by-proof
13
      of-service-upon-att intrastate air-carriers-with--which--the
14
      proposed--service--is--ikely--to--compete--end--upon--other
15
      interested-partiesy-as-the-board-requires--Each--application
16
      shall-be-accompanied-by-a-fee-of-9150;
17
          13)--In-awarding-certificates-of-public-convenience-and
18
      necessityy--the-board-shall-consider-the-business-experience
19
      of--the--particular--air--carrier--in--the--field---air
20
      operationsy--the--financial--stability--of--the-carriery-the
21
      insurance-coverage-of-the--carriery--the--type--of--aircraft
22
      which--the-corrier-would-captoyy-proposed-routes-and-minimum
23
      schedules-to--be--establishedy--whether--the--carrier--could
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      economically---give--edequate--service--te--the--communities
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      involvedy-the-need-for-the-servicey-and--any--other---factors
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1	which-may-affect-the-public-interest.
. 2	{4}Afternoticetotheinterested-portics-and-the
3	public-end-after-hearings-the-board-mays
4	tatissue-the-certificate-requested:
5	tb}refuse-to-issue-the-certificate;
6	te}issue-the-certificateforthepartielexercise
7	only-of-the-privilege-soughts
8	<del>{5}Theboardmay-attach-terms-and-</del> conditions-to-the
9	exercise-of-the-rights-granted-by-the-certificate-asy-in-its
10	judgmenty-the-public-convenience-and-necessity-requires*
11	Section-6*Section-67-3-424y-MEAy-is-emended-toread*
12	#67-3-424Suspensionamendmentrevocation(1)
13	Uponafinding-of-an-agency-of-the-federal-government-that
14	an-intrastate atr-carrier-is-operatinginviolationofa
15	federalsafety-law-or-regulation;-the-board-may-suspend-and
16	the-department-shall-enforce-the-suspension-ofcertificates
17	of-public-convenience-and-necessity-issued-by-the-boardw
18	(2)Foronyothergoodcauseythe-board-mayy-upon
19	notice-to-the-holder-of-a-certificate-and-opportunity-tobe
20	heardr-suspendy-revokey-altery-or-amend-a-certificate**
21	Section-7vSection67-3-425y-MGAy-is-omended-to-read*
22	#67-3-425wEstablishment-ofratesdiscontinuance
23	Biacontinuence ofservice
24	prior-written-approval-from-the-boardy-after-noticetoall
25	interestedpartiesandthepublicandafterhearingy

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establish--through--rates--and--joint--ratesy--chargesy--and
classifications--between--all--points--served--by--it--under
certificates-or-operative-rights-issued-to-or--possessed--by
+t+
    t21--No intrastate afr---earrier---may--discontinue
operations-to-a-point-without-authority-of-the-boardy-unless
may-be-discontinued-upon-38-days*-notice-to-the-board-end-to
other--persons--the--board--may--requirey--unleas-within-the
38-day-period-the--boardy--after--hearingy--finds--thet--the
operation--is--mot-unprofitable-and-orders-its-continuances=
    fection-8---Section-67-3-426--MCAy-is-amended-to--read:
    #67-3-426---Board--may--require--insurance----Fhe-board
mayy-upon-its-motion-or-upon-application--of--an--interested
porty--and--after-hearingy-require-an intrastate sir-carrier
to-procure-and-maintain-insurance-in-amounts-and-upon--terms
as--the--board--may--determinex--The--board--may-suspend-the
certificate-of-an intrastate air--carrier--for--failure--to
comply-with-the-insurance-regulations-established-under-this
sections*
    Section-9v--Section--67-3-427v-MCAv-is-amended-to-reade
    #67-3-427v--Enforcementy----appealsy----and----judicial
the-board--alleging--that--an--aircraft--is--being--aperated
```

without-a-certificate-of-sublic-convenience-and-necessity-or

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when—the—board—believes—that—67-3-621 <u>67-3-622</u> through 67-3-429-are-being-violatedy-the-board-shall-investigate—the operations—and—mayy—after—a—hadringy—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—magns—of-powers—vested—in-it—by laws

t21--The-district-court-has-jurisdiction-to-enforcey-by
proper----decreey---injunctiony---or---ordery---the---ratesy
classificationsy-rulesy-and-orders-made-by--the--boarde--The
proceeding--shall--be-by-equitable-oction-in-the-name-of-the
state-and-shall-be-instituted-by--the--attorney--general--or
county--attorney--when--advised--by--the--department-that-an
intraziate air-corrier-is-violating-or--refusing--to--comply
with--a--ruley--ordery--rotey--or-elessification-made-by-the
board-and-applicable-to-that intrastate air--earriery--The
proceedings-shall-have-precedence-over-all-other-business-in
the-district-courts-except-criminal-business-

t3)--in--en--ection--the-burden-of-proof-rests-upen-the defendanty-who-must-show-by-clear-and-satisfactory--evidence that--the--rutey--ordery-ratey-or-classification-involved-is unreasonable-and-unjusts--if-the-court-decides-that-the-ruley ordery-ratey-or-classification-is-not-unreasonable-or-unjust and-that-in-refusing-complicates-the intrastate str--corrier is-failing-to-fulfill-s-dutyy-debty-or-obligationy-the-court

shall-decree-m-mandatory-and-permanent-injunction-compelling compliance-with-the-ruley-ordery-ratey-or-classification-by the--defendant-and--its--officersy-agentsy--servantsy--and employees-and-may-grant-other-relief-which-may-be-considered just--and--propery--A--violation--of--the--decree--makes-the defendant-and-officery-agenty-servanty-or--employee--of--the defendant-who-is-in-any-manner-instrumental-in-the-violation guilty--of--contempty--punishable--by--a--fine-not-exceeding sty000-for-each-offense-or-by-imprisonment--of--that--person until--he-sufficiently-purges-himselfy-The-decree-ramnins-in effect-until-the-ruley-ordery--ratey--or--classification--is modified-or-vacated-by-the-boards

the-district-court-of-the-county-where-the-principal--office or--place--of--business--is--situated-or-in-a-county-where-a classificationy-ratey-tolly-chargey-ruley-or--order--of--the board--appliesy--against-the-board-as-defendant-to-determine whether-the-classificationy-ratey--tolly--chargey--ruley--or order---made--or--established--by--the--board--is--just--and reasonabley-in-on-actiony--hearingy--or--proceeding--in--any courty--the--classificationy--ratey--tolly--chargey-ruley-and order-made-ond-established--by-the--board-shall-prima-facio-be considered-justy-reasonabley-and-propery

t57-Appeals--taken--te--the--supreme--court--frem--the
judgment--of--o--district--court--under--this--section--have

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precedence-over-stt-other-businessy-except-criminal-business
and-original-proceedings-in-that-courty-and-shallbeheard
and-determined-as-are-appears-in-civit-actions.

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toj--All--costs--and--expenses-incurred-in-the-hearingtrial--or-appeal-of-an-action--brought--under--this--section shall--be--determined--and--assessed--in--a-manner-the-court considers-just-and-equitable-

5ection-18--5ection-67-3-428--M6Ay-is-omended-to-read+ #67-3-428v--Notice-of-requiation-hearingsv---Notice--as required--by--67-3-421 67-3-422 through--67-3-427-shall-be aiven-by-aubiteation-once-a-week-for-3-successive-weeks-in-a newspaper-of-ganeral-ctroutation-in-the-county-in-which--the hearing--is-to-be-held-and-by-parsonal-service-by-mailing-to all-interested-parties-Howevery-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1) 63:3:425y-if-no-written protest-or-written-request--that--the--hearing--be--heid--is received--by--the--board-within-5-days-after-the-date-of-the legt-sublication-of--the--noticey--the--board--mayy--in--its discretiony--vacate--the--hearing--and--establish-the-ratesy faresy-chargesy-classificationsy-and-rules-of-the intrastate str-carrier-without-hearings-The--notice--required--by--this section--shall--state--that-the-board-may-yecate-the-haaring unless-a-written-protest-or-request-that-the-hearing-be-held is-received-by-the-board-as-required-by-this-section=

ceived-by-the-board-as-required-by-this-section=" Section-11s--Section-67-3-429v-NEAv-is-smanded-to-read\*

1	*67-3-429+Exceptions+(1)-No intrastate sirearrier
2	mmyoperatesircraftexceptinsecordance-with-67-3-421
3	67:3:122 through-67-3-429+

tat--common--carriers--of--passengers--or--freight---by
atronative-which-operate-within-this-state-under-a-cartificate
of--public--convenience--and-necessity-issued-by-the-federal

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 ±2 ± 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 ±2 ±.

24 <u>YEW\_SECTION</u> Section 6. Effective date. This act is 25 effective on passage and approval.

-End-

## 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"

4. Page 14, line 15. Strike: "AND AIRCRAFT"

5. Page 14, line 16.

Strike: "AND AIRCRAFT"

#### 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;"

HB 0776/03

1	HOUSE BILL NO. 110
2	INTRODUCED BY SHONTZ, RAMIREZ,
3	H. HAMMOND, NORMAN
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6	BOARD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND
7	RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE
8	BOARD: REQUIRING THE BOARD TO APPROVE AIRPORT AND AIRCRAFT
9	GRANTS AND LOANS; REVISING-THE-AIRCARRIERLANSTOLIMIT
10	APPLICATIONTOINTRASTATE-CARRIERS-BNLY: AMENDING SECTIONS
11	2-8-103 <b>AND</b> 2-15-1812, 67-3-42167-3-422AND67-3-424
12	THROUGH67-3-429 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
15	OATE."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	YEW_SECTION. Section 1. Reestablishment. The board of
17	aeronautics, created pursuant to 2-15-1812, is reestablished
16	with its existing statutory authority and rules for 6 years,
19	pursuant to 2-8-122.
20	Section 2. Section 2-8-103. MCA, is amended to read:
21	*2-8-103. Agencies to terminate. (1) The following
22	agencies shall terminate on July 1, 1979:
23	(a) board of abstracters, department of professional
24	and occupational licensing, created by 2-15-1643;
25	(b) board of real estate, department of professional

1	and occupational licensing, created by 2-15-1642;
2	(c) state board of warm air heating, ventilation, and
3	air conditioning, department of professional and
4	occupational licensing, created by 2-15-1656;
5	(d) board of institutions, department of institutions,
6	created by 2-15-2303.
7	(2) The following agencies shall terminate on July $1_{f +}$
8	1981:
9	(a) board of athletics, department of professional and
10	occupational licensing, created by 2-15-1661;
11	(b) board of massage therapists, department of
12	professional and occupational licensing, created by
13	2-15-1627;
14	(c) board of osteopathic physicians, department of
15	professional and occupational licensing, created by
16	2-15-1607;
17	(d) board of podiatry examiners, department of
18	professional and occupational licensing, created by
19	2-15-1603†±
20	(3) The following units of state government shall
21	terminate on July 1, 1983:
22	fajboardofseronauticsydepartmentofeommercey
23	created-by-2-15-1812;
24	(b)(a) state board of hall insurance, department of
25	agriculture, created by 2-15-3003;

- tet(b) board of horseracing, department of commerce, 1 created by 2-15-1881; 2 td+1cl board of livestock, department of livestock, 3
- tetidl board of milk control, department of commerce, 5 created by 2-15-1862;
- tfile) board of oil and gas conservation, department 7 8 of natural resources and conservation, created by 2-15-3303;
- 9 tgf(f) Montana outfitters\* council, department of fish, wildlife, and parks, created by 2-15-3403; 10
- 11 thium public service commission, department of public 12 service regulation, created by 69-1-102;
- 13 tit(h) board of water and wastewater operators, 14 department of health and environmental sciences, created by 15 2-15-2105;
- 16 titli 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;

created by 2-15-3102;

- (b) the board of architects, department of commerce, 21 22 created by 2-15-1871;
- (c) state banking board, department of commerce, 23 created by 2-15-1803; 24
- (d) the state electrical department of 25 board,

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

created by 2-15-1842;

21

1	(e)	board	of	nursing,	department	of	commerce,	created
2	by 2-15-1	844:						

- 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 (n) 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;
- (j) board of speech pathologists and audiologists,
  department of commerce, created by 2-15-1849;
- 13 (k) board of hearing aid dispensers, department of14 commerce, created by 2-15-1850;
- (1) 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.
- 4 161 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 WHBSE-PRINCIPAL-BUSINESS-IS aviation;
- 16 (c) one--member of-the-municipal-league Mantana-league
- 17 of:cities:and:towns sagresenting MONIANA oirport::operators;
- 18 ONE REPRESENTATIVE OF THE MONTANA AIRPORT MANAGEMENT
- 19 ASSOCIATION:
- 20 (d) one member of the <u>dontage</u> county commissioners
- 21 association:
- (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 <u>fixed</u> 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
D	for purposes of 2~15+124.*
1	Section-4Section-67-3-421-H6Ais-amended-toread+
.2	#67-3-421Regulatorypowers-of-board-of-scranautics-
3	<del>The-board-mayfy</del>
4	(E)supervise-and-regulate-every-air-carrier-inthose
5	mattersaffecting-ticketing-flight-reservationsy-passenger
6	beggagev-advertisingv-passenger-convenience-and-comforev-and
7	transportation-of-freight;
8	+2+after-notice-to-a <del>llinterestedpartiesandthe</del>
9	publicandafterhearingyfix-the-retesy-faresy-chargesy
0	classificationsy-and-rules-of-each-carrier;
£	t3}regulate-the-accounts-of-each-corrier-andrequire
2	thefiling-of-annual-and-ather-reports-and-of-other-data-by
3	the-carriers;
4	14}bygeneralorderorotherwiseradoptrules
-5	annitonate-to-sil-introstate off-coffiers-The-boardy-in-the

-	character of city January and
2	orders-and-adopt-rules-affecting intrastate airearriers
3	notwithstanding-the-provisions-of-any-ordinance-or-permit-o
4	atownycityyeityand-countyy-of-countyy-and-in-case-o
5	conflict-the-order-or-rule-of-the-board-prevoils=
6	Seetion-5eSection-67-3-422y-MEAy-is-amended-tofead
7	#67-3-422
8	convenience-and-necessity(1)-No intrattate aircarrie
9	mayengageinanoperationinthis-state-without-firs
10	obtaining-from-the-board-a-certificate-of-public-convenienc
11	and-necessity-authorizing-the-operation.
12	{2}kn-appłicant-shailsubmithismrittanverifie
13	application-to-the-boardThe-application-shall-be-in-
14	formy-contain-the-informationy-and-be-accompaniedbyproo
15	ofserviceupon-uli <u>intrastate</u> uir-carriers-with-which-th
16	proposedserviceislikelytocompeteanduponother
17	interested-partiesy-as-the-board-requiresy-Each-application
18	shall-be-accompanied-by-a-fee-of-\$150*
19	t3}In-awarding-certificates-of-public-convenience-and
20	necessityy-the-board-shall-consider-the-businessexperience
21	oftheparticularaircarrierinthefieldofai
22	operationsy-the-financialstabilityofthecarrierythe
23	insurancecoverageofthecarriertha-type-of-afroraf
24	which-the-carrier-would-employs-proposed-routes-andminimus
25	schedulestobeestoblishedvwhetherthecarrier-could

1	economicallygiveadequateservicetothacommunities
2	involvedytheneedfor-the-servicey-and-any-other-factors
3	which-may-affect-the-public-interests
4	(4)after-notice-to-theinterestedportiesandthe
5	public-and-after-hearingy-the-board-mays
6	ta}issue-the-eartificate-requested:
7	to;refuse-to-issue-the-certificate;
8	te;issuethecertificateforthe-partial-exerctse
9	only-of-the-privilege-sought:
10	(5)The-board-may-attach-terms-and-conditionstothe
11	exercise-of-the-rights-granted-by-ths-certificate-usy-in-its
12	judgmenty-the-public-convenience-and-necessity-require."
13	Section-6=Section67-3-424y-MCAy-is-amended-to-read+
14	#67-3-424wSuspensionamendmentrevocationw{:}
15	Upon-a-finding-af-an-agency-of-the-federalgovernmentthat
16	anintraztate airearrieris-operating-in-violation-of-a
17	federal-safety-law-or-regulations-the-board-way-suspendand
16	thedepartment-shall-enforce-the-suspension-of-certificates
17	of-public-convenience-and-necessity-issued-by-the-board-
20	(2)For-any-other-goodcousevtheboordmayvupon
21	noticeto-the-holder-of-a-certificate-and-apportunity-to-be
22	heardy-suspendy-revokey-attery-or-amend-a-certificatev=
23	Section-TrSection-67-3-425y-MEAy-is-amended-toreads
24	#67-3-425aEstablishmentoffatesdiscontinuance
25	Biacontinuance of-servicev(1)-AnGircaffiermayvupon

ī	priorwrittenapprovat-tram-the-boardy-after-motiee-to-af
2	interestedpartiesandthepublicandafterhearing
3	estabłishthroughratesandjointratesychargesyan
4	classificationsbetweenallpointsservedbyitunde
5	certificatesoroperative-rights-issued-to-or-possessed-b
6	itu
7	(2)No intrestate dircarriermaydiscontinu
8	operations-to-a-point-without-authority-of-the-boardy-unles
9	thesperationsareunprofitable
10	may-be-discontinued-upon-30-days*-motice-to-the-board-and-t
11	other-persons-theboordmayrequireyunlesswithinth
12	38-dayperiodtheboordyafterhearingyfinds-that-th
13	operation-is-not-unprofitable-and-ordersitscontinuance*
14	Section-8:Section67-3-426y-MGAy-is-amended-to-read
15	#67-3-426wBoard-mayrequireinsuranceTheboar
16	mayyuponitsmotion-or-upon-application-of-an-intereste
17	party-and-after-hearingy-require-on <u>intrastate</u> airearrie
18	toproture-and-maintain-insurance-in-amounts-and-upon-term
19	as-the-boardmaydetermineTheboardmaysuspendth
20	certificateofon <u>introstate</u> oircarrier-for-failure-to
21	comply-with-the-insurance-regulations-established-under-thi
22	3ect†onv <sup>™</sup>
23	Section-9:Section-67-3-427y-46Ay-is-amended-toread
24	#67-3-427*Enforcement*appeals*andjudicial
25	The contract of the contract o

the-board-affeging-that-an-afreraft-is-being-operated without-a-certificate-of-public-convenience-and-necessity-or when-the-board-believes-that-67-3-421 <u>61:3:421</u> through 67-3-429-are-being-violetedy-the-board-shall-investigate-the operations--and-mayy-after-a-hearingy-make-its-order requiring-the-operator-of-the-aircraft-to-stop-an-operation in-violation-of-this-section-ihe-deportment-shall-enforce compliance-with-the-order-by-means-of-powers-vested-in-it-by lows

t2}--The-district-court-has-jurisdiction-to-enforcey-by
proper---decreey---injunctiony---or---ordery---the----ratesy
classificationsy--rulesy--and--orders-made-by-the-boardy-fhe
proceeding-shall-be-by-equitable-action-in-the-name--of--the
state--and--shall--be--instituted-by-the-attorney-general-or
county-attorney-when--odvised--by--the--department--thot--an
initiating oir--carrier--is-violating-or-refusing-to-comply
with-a-ruley-ordery-ratey--or--classification--made--by--the
board--and--applicable--to--that intrastata air-carriery-like
proceedings-shall-have-pracedence-over-all-other-business-in
the-district-courts-except-or-iminal-business-

(3)--In-an-action-the-burden-of-proof--rests-upon--the
defendanty--who-must-show-by-elear-and-satisfactory-evidence
that-the-ruley-ordery-ratey-or--classification--involved--is
unrestonable-and-unjust\*-If-the-court-decides-that-the-ruley
ordery-ratey-or-classification--is-not-unrestonable-or-unjust

and-that-in-refusing-compliance-the introduct air-corrier is-failing-to-fulfill-a-duty-debty-or-obligationy-the-court shall-decree-a-mandatory-end-permanent-injunction-compelling compliance-with-the-ruley-ordery-rotey-or-classification-by the-defendant-and-its-officersy-ogentsy-servantsy-and amployees-and-may-grant-other-relief-which-may-be-considered just-and-propery-A-violation-of-the-decree-makes-the defendant-and-afficery-agenty-servanty-or-employee-of-the defendant-who-is-in-any-manner-instrumental-in-the-violation guilty-of-contempty-punishable-by-a-fine-not-exceeding \$17888-for-each-offense-or-by-imprisonment-of-that-person until-he-sufficiently-purges-himselfs-Tha-decree-remains--in affect-until-the-ruley-ordery-ratey-or-classification-is modified-or-vacated-by-the-boards

(++-An intrastate disconfidence any-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 classificationy-retev-tolly-chargey-ruley-or-order-of-the board-appliesy-against-the-board-as-defendant-to-determine whether-the-classificationy-ratey-tolly-chargey-ruley-or order-made-or-established-by-the-board-is-just---and reasonabley-in-an-actiony-hearingy-or-proceeding-in-any courty-the-classificationy-ratey-tolly-chargey-ruley-and order-made-and-established-by-the-board-shall-prima-facie-be considered-justy-reasonabley-and-propers

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†5 <del>}Appealstakentothesupremecourtfromthe</del>
judgmentofadistrictcourtunderthissectionhave
precedence-over-all-other-businessy-except-oriminal-business
andoriginalproceedings-in-that-courty-and-shall-be-heard
and-determined-as-are-appeals-in-civil-actions*

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trial-costs-and-expenses-incurred-in-the-hearings
trial-correspondent-of-an-action-brought-under-this-section
shall-be-determined-and-assessed-in-a-manner-the-court
considers-just-and-equitables=

Feetion-10x--Section-67-3-428y-MEAy-is-amended-to-reads #67-3-428#--Notice--of--regulation-hearings#--Notice-as required-by-67-3-421 61-3-422 through--67-3-427--shaff--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-Howevery-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1) <u>67-3-425</u>y-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 łest--publication--of--the--noticey--the--boord--mayy-in-its discretiony-vacate-the-chearing-cand-catablish-cthe-catesy foresy-chargesy-classificationsy-and-rules-of-the introstate eir--carrier--without--hearing---The-notice-required-by-this section-shall-state-that-the-board-may--vacate--the--hearing unless-a-written-protest-ar-request-that-the-hearing-be-held

1	is-received-by-the-board-as-required-by-this-section.=
ż	Section-livSection-67-3-425y-MCAy-is-amended-to-read
3	#67-3-429vExceptionsv(1)-No intrastate sir-carrie
4	may-operate-aireraftexceptinaccordancewith67-3-42
5	62:2:422 through-67-3-429w
6	<del>12}Sections-67-3-421 <u>67-3-422</u> throu</del> gh-67-3-429-do-no
7	appty-to:
8	ta)commoncorriersofpassengersorfreightb
9	atrcraft-which-operate-within-this-state-under-a-certificate
10	of-public-convenience-and-necessity-issuedbythafadera
11	government;-or
12	(b)aircraftoperators-who-carry-passengers-for-hire
13	erecommonfyknownes#texfoperators#or#chafte
14	operators"yoperate-on-on-occasional-or-contract-basisy-and
15	do-not-operate-as-common-carriers-betweenterminalpoints
16	including-intermediate-pointsy-if-anyw"
17	<u>NEW_SECTION.</u> Section 4. Airport <u>ANB==AIRGRAFF</u> grants

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the board.

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and loans. Any airport AND-AIRCRAFF 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

Section ±2 4 is intended to be codified as an integral part

of Title 67, chapter 1, part 3, and the provisions of Title

NEW\_SECTION. Section 5. Codification

67, chapter 1, apply to section 12 4.

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instruction.

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

-End-

#### 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

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

Renumber: subsequent subsection

FOR THE HOUSE:	FOR THE SENATE:
	/2/bu
Shont Chairman	Lee, Chairman
Selys	Etchart
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Ramirez	Stimatz /

48th Legislature HB 0776/04

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1	HOUSE BILL NO. 776
2	INTRODUCED BY SHONTZ, RAMIREZ,
3	H. HAMMOND, NORMAN
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE
6	804RD OF AERONAUTICS UNDER EXISTING STATUTORY AUTHORITY AND
7	RULES AND CHANGING THE QUALIFICATIONS FOR MEMBERSHIP ON THE
a	BOARD: REQUIRING THE BOARD TO APPROVE AIRPORT AND ATRERAFT
9	GRANTS AND LOAMS; REVISING-THE-AIRCARRIERLAWSTOLIMIT
10	APPERSATION-TO-TINTRASTATE-CARRIERS-ONLY; AMENDING SECTIONS
11	2-8-103# AND 2-15-1812, 67-3-421#67-3-422#ANB67-3-424
12	THROUGH67-3-429, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
13	DATE."
14	
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
16	NEW SECTION. Section 1. Reestablishment. The board of
17	aeronautics, created pursuant to 2-15-1812, is reestablished
13	with its existing statutory authority and rules for 6 years,
19	pursuant to 2-8-122.
20	Section 2. Section 2-8-103, MCA, is amended to read:
21	#2-8-103. Agencies to terminate. (1) The following
22	agencies shall terminate on July 1, 1979:
23	(a) board of abstracters, department of professional
24	and occupational licensing, created by 2-15-1643;
25	(a) board of real estate, department of professional

and occupational licensing, created by 2-15-1642; 2 (c) state board of warm air heating, ventilation, and conditioning, department of professional and occupational licensing, created by 2-15-1656; 5 (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; 10 11 (b) board of massage therapists, department of 12 professional and occupational licensing, created 5 y 13 2-15-1627; 14 (c) board of osteopathic physicians, department of 15 professional and occupational licensing, created 16 2-15-1607; 17 (d) board of podiatry examiners, department of 18 professional and occupational licensing, created by 2-15-1608+4 19 20 (3) The following units of state government shall 21 terminate on July 1, 1983: fal--board--of--scronauticsy--department--of--commercey 22 23 crested-by-2-15-18121 24 (b)(a) state board of hail insurance, department of

agriculture, created by 2-15-3003;

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1	<del>(c)</del> (p)	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 te)(d) board of milk control, department of commerce,
  6 created by 2-15-1802;
- 7 (ff)(e) board of oil and gas conservation, department 8 of natural resources and conservation, created by 2-15-3303;
- 9 (9)(f) Montana outfitters' council, department of 10 fish, wildlife, and parks, created by 2-15-3403;
- thical public service commission, department of public service regulation, created by 69-1-102;
- 13 tijth 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 commerce, created by 2-15-1862.
  - (4) The following agencies terminate on July 1, 1985:
- 19 (a) the board of public accountants, department of 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

-3-

- 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;
- (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;
- (k) board of physical therapy examiners, department of
- ló commerce, created by 2-15-1858.
- 17 (5) The following agencies terminate on July 1, 1987:
- (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 $optometrists_{m{ au}}$ department of commerce,
5	created by 2-15-1846;
7	(h) board of chiropractors, department of commerce,
R	created by 2-15-1847;
9	(i) board of radiologic technologists, department of
.0	commerce, created by 2-15-1848;
1	(j) board of speech pathologists and audiologists,
. 2	department of commerce, created by 2-15-1849;
3	(k) board of hearing aid dispensers, department of
.4	commerce, created by 2-15-1850;
5	(1) board of psychologists, department of commerce,
. 5	created by 2-15-1851;
.7	(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	(a) 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:

(r) board of veterans' affairs, department of social
and rehabilitation services, created by 2-15-2202.
(6) The following agency terminates on July 1. 1989:
board of aeronautics, department of commerce, created by
2=15=1812.*
Section 3. Section 2-15-1812, MCA, is amended to read:
"2-15-1812. Board of aeronautics qualification
allocation quasi-judicial. (1) There is a board of
aeronautics.
(2) The board consists of seven NINE members. The
members are:
(a) one member of the Montana pilots association;
(b) one member of the Montana chamber of commerce
representing WHOSE-PRINCIPAL-BUSINESS-IS eviction;
(C) onemember of-the-municipal-league <u>Hontana-league</u>
of-sities-and-towns representing MGNTAba sirportoperators+
ONE REPRESENTATIVE DE THE MONTANA AIRPORT MANAGEMENT
ASSOCIATION:
(d) one member of the <u>Montana</u> county commissioners
association;
(e) one person actively engaged in aviation education
in this state:
(f) one person representative of interstate commercial

1 created by 2-15-1861;

(q) board of sanitarians, department of commerce,

1	employee or official of an interstate commercial airline
2	operator and a resident of this state;
3	(S) ONE MEMBER OF THE MONTANA LEAGUE OF CITIES AND
4	IQUNS:
5	(H) ONE PERSON REPRESENTING THE GENERAL PUBLIC: AND
6	(9)(I) one person who must at the time of appointment
7	be an active <u>fixed</u> base operator in this state, or an
8	official of a fixed base operator in this state, of flying
9	services or flying schools.
0	(3) The board is allocated to the department for
1	administrative purposes only as prescribed in 2-15-121.
2	(4) The board is designated as a quasi-judicial board
3	for purposes of 2-15-124.
4	Section-4:Section-67-3-421y-MCky-is-amended-to-read+
5	#67-3-421Regulatory-powers-of-board-ofeeronautics+
6	The board-mayer
7	
	film-superviseond-regulate-every-air-corrier-in-those
8	matters-affecting-ticketingy-flight-reservationsypassenger
9	baggagey-advertisingy-passenger-convenience-and-comforty-and
0	transportation-of-freight:
1	(2)afternoticetoailinterested-parties-and-the
2	public-and-after-hearingy-fixtheratesyforesychargesy
3	elassificationsy-and-rules-of-each-carrier;
4	t³jregulatethe-accounts-of-each-carrier-and-require
5	*he-filing-of-enuml-end-other-renorts-ond-of-other-reta

2	(4)bygeneralorderotherwiseyodoptrules
3	applicable-to-all- <u>intrastate</u> sir-carriers=-The-boardy-in-the
4	exercise-of-the-jurisdiction-conferreduponitymaymake
5	ordersandadoptrules-affecting intrastate air-corriers
5	notwithstanding-the-provisions-of-ony-ordinance-or-permit-of
7	a-towny-cityy-city-and-countyy-or-countyyandineaseof
8	conflict-the-order-or-rule-of-the-board-prevails.
9	Seetfon-5y5ectfon67-3-422y-#64y-fs-amended-to-reads
10	#67-3-422vIssuanceofcertificatesofpublic
11	convenienceandnecessitys(1)-No intrastate bir-corrier
12	may-engoge-in-anoperationinthisstatewithoutfirst
13	abtaining-from-the-board-a-cortificate-of-public-convenience
14	and-mesessity-authorizing-the-operation*
15	<del>{Z}Anapplicantshallsubmithis-written-verifie</del>
16	application-to-the-boardy-The-applicationshallbeine
17	formycontainthe-informationy-and-be-accompanied-by-proof
18	of-service-upon-all <u>intrastate</u> eir-carriers-withwhichthe
19	proposedserviceislikelytocompeteanduponother
20	interested-partiesy-as-the-board-requires,-Eachapplication
21	shall-be-secomponied-by-s-fee-of-\$150*
22	(3)In-exarding-certificates-of-public-convenience-and
23	necessitythe-board-shall-consider-the-business-experience
24	oftheparticularsircarrierinthefieldofair

operationsy--the--financial--stability--of--the-corriery-the

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insurance-coverage-of-thecarrierythetypeofdirect
whichthe-earsier-would-employs-proposed-routes-ond-minimum
schedules-to-beestablishedywhetherthecarriereould
economicallygiveadequateservicetothecommunities
involvedy-the-need-for-the-servicey-andanyotherfactors
which-moy-affect-the-public-interests
<del>                                      </del>
public-and-after-hearingy-the-board-may+
(a)ssue-the-certificate-requested;
(b)refuse-to-issue-the-certificate;
tc
only-of-the-privilege-soughts
†ó†ĭhebeard <del>may</del> -attach-terms-ond-cond÷t÷ons-to-the
exercise-of-the-rights-granted-by-the-certificate-asy-in-its
judamenta-the-public-convenience-and-necessity-requirer*
Section-6Section-67-3-424MGAis-smended-toresd:
#67-3-424vSuspensionamendmentrevocationv(1)
dponafinding-of-an-agency-of-the-federol-government-that
am- <u>intrastate</u> air-emrrier-is-operatinginviolationofa
feseralsafety-law-or-regulationy-the-board-may-suspend-and
the-department-shall-enforce-the-suspension-ofcertificates
of-public-convenience-and-necessity-issued-by-the-boords
f <del>/}foranyothergoodcouserthe-</del> bo <del>ord-may</del> y-upon
notice-to-the-holder-of-a-certificate-and-opportunity-tobe
hrendy-suspendy-revokey-eltery-or-emend-e-certificatew

1	Section-7Section67-3-425y-MCAy-is-amended-to-read
2	#67-3-425*Establishment-ofratesdiscontinuane
3	Bilcontinuance ofservices(l)kn-sir-carrier-mayy-upo
4	prior-written-approval-from-the-boards-after-noticetoal-
5	interestedpartiesandthepublicandafterhearing
6	establishthroughfatesandjointratesychargesyan
7	elasaifications-betweenallpointsservedbyitunde
8	certificates-or-operative-rights-issued-to-orpossessedp
9	÷t•
10	f2}No <u>intrestate</u> oircarriermaydiscontinu
11	operations-to-a-point-without-authority-of-the-boardy-unles
12	the-operations-areumprofitable
13	may-be-discontinued-upan-30-days*-notice-to-the-board-and-t
14	otherpersonstheboardmayrequireyunless-within-th
15	30-day-period-theboardyafterhearingyfindsthatth
16	operationisnot-unprofitable-and-orders-its-continuance*
17	5ection-8 <sub>8</sub> Section-6 <del>7-3-426y-MCAy-is-ame</del> nded-toread
18	#67-3-426 <sub>w</sub> BoardmayrequireinsurancewThe-boor
19	mayv-upon-its-motion-or-upon-applicationofanintereste
20	partyandafter-hearingy-require-an <u>intrastate</u> air-carrie
21	to-procure-and-maintain-insurance-in-amounts-and-uponterm
22	astheboardmaydetermineTheboardmay-suspend-th
23	eerkificate-of-an <u>introstate</u> aircarrierforfoiluret
24	comply-with-the-insurance-regulations-established-under-thi

sections

Section-9Section67-3-427y-MCAy-is-amended-to-read+
*67-3-427:Enforcementsappeals:andjudicial
determinations:tijWhena-complaint-hos-been-filed-with
the-boardallegingthatanaircraftisbeingoperated
without-o-certificate-of-public-convenience-and-necessity-or
whentheboard-bclievesthat67-3-421 67-3-422 through
67-3-429-are-being-violatedy-the-boord-shall-invostigote-the
operationsandmay:afterahearing:makeitsorder
requiringthe-operator-of-the-aircraft-to-stop-an-operation
in-violation-of-this-sectionThe-departmentshallenforce
compliance-with-the-order-by-means-of-powers-vested-in-it-by
tow,

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proper----degraey---injunctiony---ar---ordery---the---ratesy
elossificationsy-rulesy-and-orders-made-by--the---boardy--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--rulay--ordery--ratey--or--classification-made-by-the
board-and-applicable-to-that intrastate air--carrier---The
proceedings-shall-hove-proceedence-over-oll-other-business--in
the-district-courts-except-criminal-business-

f3;--in--an--action--the-burdan-of-proof-rests-upon-the
defendanty-who-must-show-by-clear-and-satisfactory--evidence

1 that--the--ruley--ordery-ratey-or-classification-involved-is 2 unreasonable-and-unjusty-if-the-court-decides-that-the-ruley 3 ordery-ratey-or-classification-is-not-unreasonable-or-ungust and-that-in-refusing-compliance-the <u>intrastate</u> air--correr is-failing-to-fulfill-a-duty-depty-or-obliqutiony-the-court shall-decree-a-mandatory-and-permanent-injunction-compelling 7 compliance--with-the-ruley-ordery-rotey-or-clossification-by 8 the--defendant--and--its--officersy--ogentsy--servantsy--ond employees-and-may-grant-other-relief-which-may-be-considered just--and--proper---A--violation--of--the--decree--makes-the 10 11 defendant-and-officery-agenty-servanty-or--employee--of--the 12 defendant-who-is-in-any-manner-instrumental-in-the-violation 13 quilty--of--contempty--punishable--by--a--fine-not-exceeding 14 #1,900-for-each-offense-or-by-imprisonment--of--that--person 15 until--he-sufficiently-purges-himselfw-The-decree-remains-in 16 effect-until-the-ruley-ordery--ratey--or--classification--is 17 modified-or-vacated-by-the-boardw

(+)--An intrastate air-carrier-may-bring-an-action-in the-district-court-of-the-county-where-the-principal--office ar--place--of--business--is--situated-or-in-a-county-where-a classificationy-ratey-tolly-chargey-ruley-or--order--of--the board-appliesy--against-the-board-as-defendant-to-determine whether-the-classificationy-ratey--tolly--chargey--ruley--or-order--made--or--established--by--the--board--is--just--and reasonables-in-an-actiony--hearingy--or--proceeding--in--any

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courtytheclassificationyrateytolly-chargey-ruley-and
order-mode-and-established-by-the-board-shall-prima-facie-be
considered-justy-reasonabley-and-propers
(5)Appealstakentothesupremecourtfromthe
judqmentefadistrictcourtunderthissectionhave
precedence-over-all-other-businessy-except-criminal-business
and-original-proceedings-in-that-courty-and-shallbeheard
end-determined-as-are-appeals-in-civil-actions.
<del>(6)Allcostsundexpenses-incurred-in-the-hearing</del>
trialy-or-appeal-of-an-action-broughtunderthissection
shallbedeterminedandassessedina-manner-the-court
considers-just-and-equitables
Section-10Section-67-3-428y-MEAy-to-amended-to-reads
Seetion-luSeetion-67-3-428MEAy-is-amended-to-reads #67-3-428Notice-of-regulation-hearingsNoticeas
#67-3-429vNotice-of-regulation-hearingsvNotice-was
#67-3-428*Notice-of-regulation-hearings*Noticeas requiredby67-3-421 67-3-422 through67-3-427-shall-be
#67-3-428 vNotice-of-regulation-hearingsvNotice-was requiredby67-3-421 67-3-422 through67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-a
#67-3-428*Notice-of-regulation-hearings*Noticeas requiredby67-3-421 67-3-422 through67-3-427-shall-be given-oy-publication-once-a-week-for-3-successive-weeks-in-a newspaper-of-general-circulation-in-the-county-in-whichthe
#67-3-428*Notice-of-regulation-hearing**Notice-mas requiredby67-3-421 67-3-422 through67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-b newspaper-of-general-circulation-in-the-county-in-whichthe hearingis-ta-be-held-and-by-personal-service-by-mailing-to
#67-3-428*Notice-of-regulation-hearings*Noticeas requiredby-67-3-421 67-3-422 through67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-b newspaper-of-general-circulation-in-the-county-in-whichthe hearingis-to-be-held-and-by-personal-service-by-mailing-to all-interested-partiesHowevery-in-the-case-of-the-hearings
#67-3-428*Notice-of-regulation-hearings*Notice-mas requiredby67-3-421 67-3-422 through67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-b newspaper-of-general-circulation-in-the-county-in-whichthe hearingis-to-be-held-and-by-personal-service-by-mailing-to all-interested-partics*-Howevery-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1) 67-3-425v-if-no-written
#67-3-428*Notice-of-regulation-hearings*Noticeas requiredby-67-3-421 67-3-422 through67-3-427-shall-be given-by-publication-once-a-week-for-3-successive-weeks-in-a newspaper-of-general-circulation-in-the-county-in-whichthe hearingis-to-be-held-and-by-personal-service-by-mailing-to all-interested-partiesHowevery-in-the-case-of-the-hearings required-by-67-3-421-and-67-3-425(1) 67-3-425y-if-no-written protest-or-written-requestthatthehearingbeheldis

1	air-carrier-without-hearing:-Thenoticerequiredbythi
2	sectionshallstatethat-the-board-may-vacate-the-hearing
3	unless-a-written-protest-or-request-that-the-hearing-be-held
4	is-received-by-the-board-as-required-by-this-section=
5	Section-11:Section-67-3-429y-MCAy-is-amended-to-read
6	#67-3-429:Exceptions:(1)-No introdicts oirearries
7	may <del>operateaireraftexceptinaccordance-with-67-3-4</del> 2
8	<u>67-3-42</u> 2 through-67-3-429=
9	f2}Sections-67-3-42} <u>67-3-42</u> 2 through-67-3-429-do-no
10	apply-tot
11	ta}commoncerriersefpassengersorfreightb
12	aircraft-which-operate-within-this-state-under-a-certificate
13	ofpublicconvenienceand-necessity-issued-by-the-federa
14	government)-or
15	(b)aircraft-operators-who-carry-passengers-forhire
16	arecommoniyknownas#taxioperator:#or#charte
17	operatora#y-operate-on-on-occoatonal-or-contract-basisyand
18	donotoperate-as-common-carriers-between-terminal-points
19	including-intermediate-pointsy-if-any+*
20	NEW SECTION. Section 4. Airport ANDAIRCRAFT grants
21	and loans. Any airport <u>AND-AIRERAFI</u> grant or loan that the
22	department may be authorized to issue may be issued only
23	after review and approval of the grant or loan request by
24	the soard.

NEW SECTION. Section 5. Codification

instruction.

foresy-chargesy-classificationsy-and-rules-of-the intrastate

- Section 12 4 is intended to be codified as an integral part
- of Title 67, chapter 1, part 3, and the provisions of Title
- 3 67, chapter 1, apply to section ±2 4.
- 4 NEW SECTION. Section 6. Effective date. This act is
- effective on passage and approval.

-End-