

HOUSE BILL NO. 645

INTRODUCED BY SCHYE, GILBERT, BRANDEWIE, KELLER

IN THE HOUSE

FEBRUARY 17, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
	FIRST READING.
FEBRUARY 18, 1993	ON MOTION, REREFERRED TO COMMITTEE ON TAXATION.
MARCH 13, 1993	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 15, 1993	PRINTING REPORT.
MARCH 17, 1993	SECOND READING, DO PASS.
MARCH 18, 1993	ENGROSSING REPORT.
MARCH 19, 1993	THIRD READING, PASSED. AYES, 83; NOES, 14.
MARCH 22, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 22, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 3, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 12, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
APRIL 13, 1993	SECOND READING, CONCURRED IN.
APRIL 14, 1993	THIRD READING, CONCURRED IN. AYES, 43; NOES, 6.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1993

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 22, 1993

SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 22, 1993

CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 24, 1993

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 645
2 INTRODUCED BY LeRoy D. Black
3 Keller
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF
5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE
6 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE
7 MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND
8 IMPROVEMENT PROGRAMS; PROVIDING NAVIGATIONAL AIDS, SAFETY
9 IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER
10 AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND
11 FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL
12 BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX
13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL
14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR
15 REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION
16 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE
17 PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS
18 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-225,
19 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING
20 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

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

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

24 "15-70-201. Definitions. As used in this part, unless
25 the context requires otherwise, the following definitions

1 apply:

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

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

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

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

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat-or, gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks, thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall--be--deemed is considered to be

1 "distributed", for the purpose of this part, at the time the
 2 gasoline is withdrawn from such the tanks, refinery, or
 3 terminal storage for sale or use in this state or for the
 4 transportation to destinations in this state other than by
 5 pipeline to another refinery or pipeline terminal in this
 6 state. When withdrawn from such the tanks, refinery, or
 7 terminal, such the gasoline may be distributed only by a
 8 person who is the holder of a valid distributor's license.

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

14 (6) "Distributor" means:

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

18 (b) any person who imports gasoline for sale, use, or
 19 distribution;

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

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

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

1 (f) any person in Montana who blends alcohol with
 2 gasoline.

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

7 (8) "Exporter" means any person who transports, other
 8 than in the fuel supply tank of a motor vehicle, gasoline
 9 received from a refinery or pipeline terminal in Montana to
 10 a destination outside Montana for sale, use, or consumption
 11 beyond the boundaries of this state.

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

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

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

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

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 3 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as-amended~~, and 20 cents for each gallon of all other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 2 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as--amended~~, and 20 cents for each gallon of all other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed ~~statement~~, ~~duly-signed~~, to the department of transportation of all gasoline distributed and received by him the distributor in this state during the preceding calendar month and containing any other information the department

may reasonably require in order to administer the gasoline license tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-204 less any refund credit issued under 15-70-226 and less 1% of the total tax that may be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by the distributor; however, no an allowance may not be deducted from the ~~1--cent~~ 3-cent tax on aviation gasoline fuel.

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

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of gasoline. ~~Nothing-in--this~~ This section may not be construed to prohibit:

(a) the delivery to a distributor or his the distributor's authorized representative of a certified copy of any return or report filed in connection with his the tax;

(b) the inspection by the attorney general or other legal representative of the state of the report or return of

a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or the proper officer or any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or his the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 5. Section 15-70-205, MCA, is amended to read:

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed

statement~~y~~^{duly signed} to the department of transportation of all gasoline distributed and received by him the distributor in this state during the preceding calendar month and containing any other information the department may reasonably require in order to administer the gasoline license tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-204 less any refund credit issued under 15-70-226 and less 1% of the total tax that may be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by the distributor; however, no an allowance may not be deducted from the ~~1-cent~~ 2-cent tax on aviation gasoline fuel.

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

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of gasoline. ~~Nothing in this~~ This section may not be construed to prohibit:

(a) the delivery to a distributor or his the distributor's authorized representative of a certified copy

of any return or report filed in connection with his the tax;

(b) the inspection by the attorney general or other legal representative of the state of the report or return of a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or the proper officer or any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or his the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 6. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and ~~use~~ uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall-be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. ~~Such The refund or-drawback-should-in no-instance may not~~ Except as provided in subsection (5) or (6), a refund shall-be is not exceed the tax paid or to be paid to the state, ~~and-no~~ and ~~Except as provided in subsection (5) or (6), a refund shall-be is not~~ is not allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 7. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person

who ~~shall-purchase~~ purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall--be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. ~~Such The refund or-drawback-should--in no-instance may not exceed the tax paid or to be paid to the state, and-no Except as provided in subsection (5) or (6), a refund shall--be is not allowed of-that-portion-of for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.~~

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

(b) If a credit has been granted under this subsection (3), any amount collected on the accounts that were declared

worthless must be reported to the department and the tax due on the collected amount must be paid to the department.

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

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

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 8. Section 15-70-225, MCA, is amended to read:

"15-70-225. Application for refund or credit -- filing -- correction by department. (1) The application for refund ~~shall--be~~ is a signed statement, on a form furnished by the

department of transportation. Except for a claim for a credit of taxes paid on unpaid accounts, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on which a refund is claimed, and the amount of the tax claimed for refund.

(2) A claim for a credit for taxes paid on accounts for which the distributor received---no did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim shall must be furnished as required by the department.

(2)(3) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery under 15-70-201 is not valid for refund purposes.

(3)(4) All applications for refunds shall must be filed with the department within 14 months after the date on which the gasoline or aviation fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by him the

distributor on unpaid accounts within 3 years after the date of payment.

(4)(5) Should if the department ~~find~~ finds that the statement contains errors which that are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read:

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

Section 10. Section 67-1-301, MCA, is amended to read:

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

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

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

(2) All such--moneys--~~shall~~ money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

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

(4) ~~(a) There--shall~~ The following amounts must be deposited in the state special revenue fund to the credit of the department from the proceeds of ~~1--cent the 3-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of gasoline--license tax imposed on aviation fuel by the laws of this state upon purchases of gasoline used for the operation of aircraft.~~ 15-70-204(1):

(i) Moneys in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon collected under 15-70-204(1) so--deposited shall--be--spent--by--the department for the sole purpose of carrying out its functions pertaining to aeronautics;

(ii) in the aeronautical loan account created in

[section 11] to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for loans to local governments and state agencies; and

(iii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.

(b) Money deposited in the account created in [section 11] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (b) must be deposited in the account created in [section 11].

(c) Money deposited in the separate account established in subsection (4)(a)(iii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting

services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the 1-cent-per-gallon-of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 11. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Money deposited in the account may be used only for providing loans specified in 67-1-301(4)(b).

Section 12. Section 67-1-301, MCA, is amended to read:

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

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

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

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

(2) All ~~such---moneys---shall~~ money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

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

(4) ~~(a) There---shall~~ The following amounts must be deposited in the state special revenue fund to the credit of the---department from the proceeds of 1-cent the 2-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of gasoline-license tax imposed on aviation fuel by the laws of this state upon purchases of gasoline used for the operation of aircraft- 15-70-204(1):

(i) Moneys in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon collected under 15-70-204(1) so-deposited shall-be-spent-by-the-department for the sole purpose of carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for grants to municipalities and

for other aeronautical purposes as provided in subsection (4)(b).

(b) Money deposited in the separate account established in subsection (4)(a)(ii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the one-cent-per-gallon of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 13. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Principal and interest payments deposited in the account may be used only for providing loans specified in [section 14].

NEW SECTION. Section 14. Aeronautical loans. Money deposited in the account created in [section 13] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall

establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the account created in [section 13].

Section 15. Section 67-1-303, MCA, is amended to read:

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

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

NEW SECTION. Section 16. Codification instruction. [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, part 3, apply to [sections 11, 13, and 14].

NEW SECTION. Section 17. Effective dates — contingent termination. (1) [Sections 1, 2, 4, 6, 8 through 11, 15, 16, and this section] are effective July 1, 1993.

(2) [Sections 3, 5, 7, and 12 through 14] are effective on the first day of the month 60 days after the balance in the aeronautical loan account, after deposits and less

LC 1236/01

1 refunds, reaches \$1 million.

2 . (3) [Sections 2, 4, 6, 10, and 11] terminate on the
3 first day of the month 60 days after the balance in the
4 aeronautical loan account, after deposits and less refunds,
5 reaches \$1 million.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0645, as introduced.

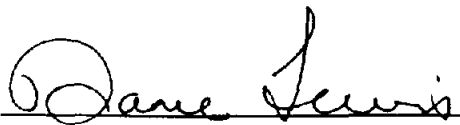
DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing the Board of Aeronautics to provide loans to local governments and state agencies for aeronautical purposes; allowing grants to be made to municipalities for airport development and improvement programs; providing navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways; increasing the tax on aviation fuel by 2 cents a gallon for loans and grants; providing the tax is reduced by 1 cent a gallon when deposits into the special aeronautical loan account reach \$1 million; providing for refunds and credits under certain conditions for aviation fuel taxes paid; creating accounts in which to deposit the proceeds of the aviation fuel tax; and providing effective dates and a contingent termination date.

ASSUMPTIONS:

1. Commercial airlines consume 51% of total aviation fuel; the military (JP-4) consumes 27% of total aviation fuel; and general aviation consumes 22% of total fuel based on a calendar year 1990 airline fuel survey by the Aeronautics Board.
2. The additional 2 cents tax will not be collected on military consumption of aviation fuel (27% of total aviation fuel consumed).
3. The 7¢ surtax is in effect for July and August of FY94.
4. The aviation taxes will be collected and processed as they are currently. A new class of refunds is created by the change to 15-70-221(5), MCA. There will be refunds to six airlines as well as credits for military suppliers to be processed and administered by the collections section, Accounting Services Bureau. This proposed bill workload is likely to require an additional 0.25 FTE.
5. The loans and grants provided by this bill will be administered by the Aeronautics Division.
6. New forms will need to be developed to accommodate the refunds provided by 15-70-221, MCA.
7. A new accounting entity and new responsibility centers will be needed to account for the receipts in accordance with 67-1-301(4), MCA.
8. Consumption of aviation fuel is not expected to change.
9. Additional spending authority will be required in the Aeronautics Division budget in the General Appropriations Act of 1993 for the loans and grants.

(continued)

 2-23-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

3/2/93
TED SCHYE, PRIMARY SPONSOR DATE

Fiscal Note for HB0645, as introduced

HB 645

FISCAL IMPACT:
General Operations (Pg 01)
Expenditures:

	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	190.08	190.33	0.25	190.08	190.33	0.25
Personal Services	\$ 6,164,720	\$ 6,168,788	\$ 4,068	\$ 6,184,495	\$ 6,188,569	\$ 4,074
Operating	4,912,089	4,912,139	50	4,650,929	4,650,929	0
Equipment	280,426	280,426	0	892,400	892,400	0
Debt Service	<u>12,641</u>	<u>12,641</u>	<u>0</u>	<u>12,641</u>	<u>12,641</u>	<u>0</u>
Total	\$11,369,876	\$ 11,373,994	\$ 4,118	\$11,740,465	\$ 11,744,539	\$ 4,074

Funding:

Highway State Special	\$ 8,546,828	\$ 8,550,946	\$ 4,118	\$ 8,904,517	\$ 8,908,591	\$ 4,074
Federal Special Revenue	<u>2,823,048</u>	<u>2,823,048</u>	<u>0</u>	<u>2,835,948</u>	<u>2,835,948</u>	<u>0</u>
Total	\$11,369,876	\$ 11,373,994	\$ 4,118	\$11,740,465	\$ 11,744,539	\$ 4,074

Revenues:

Aviation Fuel Tax (02)	\$ 382,239	\$ 548,193	\$ 165,954	\$ 377,831	\$ 544,093	\$ 166,262
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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:
Portions of tax revenues generated by this bill, as stated in 67-1-301, MCA, would provide amounts to be loaned or granted to municipalities or counties.

RE-REFERRED AND
APPROVED BY COMMITTEE
ON TAXATION

LC 1236/01

LC 1236/01

1 House BILL NO. 645
2 INTRODUCED BY Sen. Robert D. Lewis
3 Keller
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF
5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE
6 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE
7 MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND
8 IMPROVEMENT PROGRAMS; PROVIDING NAVIGATIONAL AIDS, SAFETY
9 IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER
10 AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND
11 FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL
12 BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX
13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL
14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR
15 REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION
16 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE
17 PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS
18 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-225,
19 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING
20 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

24 "15-70-201. Definitions. As used in this part, unless
25 the context requires otherwise, the following definitions

1 apply:

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

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

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

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

20 (5) (a) Gasoline refined, produced, manufactured, or
21 compounded in this state and placed in tanks thereat-or,
22 gasoline transferred from a refinery or pipeline terminal in
23 this state and placed in tanks, thereat or gasoline imported
24 into this state and placed in storage at refineries or
25 pipeline terminals ~~shall--be--deemed~~ is considered to be

"distributed", for the purpose of this part, at the time the gasoline is withdrawn from such the tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such the tanks, refinery, or terminal, such the gasoline may be distributed only by a person who is the holder of a valid distributor's license.

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

(5) "Distributor" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 3 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as-amended,~~ and 20 cents for each gallon of all other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 2 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as--amended,~~ and 20 cents for each gallon of all other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed ~~statement,~~duy-signed, to the department of transportation of all gasoline distributed and received by him the distributor in this state during the preceding calendar month and containing any other information the department

1 may reasonably require in order to administer the gasoline
 2 license tax law. The statement must be accompanied by a
 3 payment in an amount equal to the tax imposed by 15-70-204
 4 less any refund credit issued under 15-70-226 and less 1% of
 5 the total tax that may be deducted by the distributor as an
 6 allowance for evaporation and other loss of gasoline
 7 distributed by the distributor; however, no allowance may
 8 not be deducted from the ~~1-cent~~ 3-cent tax on aviation
 9 gasoline fuel.

10 (2) A distributor engaged in or carrying on his a
 11 business at more than one place or location in this state
 12 may include all places of business in one statement.

13 (3) The department or a deputy, assistant, agent,
 14 clerk, or other employee of the department may not publish
 15 or otherwise disseminate information contained in a
 16 statement required under this section in a form that allows
 17 identification of a distributor or a purchaser of gasoline.
 18 ~~Nothing-in--this~~ This section may not be construed to
 19 prohibit:

20 (a) the delivery to a distributor or his the
 21 distributor's authorized representative of a certified copy
 22 of any return or report filed in connection with his the
 23 tax;

24 (b) the inspection by the attorney general or other
 25 legal representative of the state of the report or return of

1 a distributor who brings an action to set aside or review
 2 the tax based on the report or return or against whom an
 3 action or proceeding has been instituted in accordance with
 4 the provisions of Title 15;

5 (c) the publication of statistics classified to prevent
 6 the identification of particular reports or returns and the
 7 items in the reports or returns;

8 (d) the inspection by the commissioner of internal
 9 revenue of the United States or the proper officer or any
 10 representative of either officer of the report or return of
 11 any distributor or the furnishing to the officer or
 12 authorized representative of an abstract of the report or
 13 return, but permission must be granted or information must
 14 be furnished to the officer or his the officer's
 15 representative only if the statutes of the United States or
 16 the other state grant substantially similar privileges to
 17 the proper officer of this state charged with the
 18 administration of this chapter or in compliance with
 19 15-70-121 and 15-70-122; or

20 (e) the compliance of the department with any order of
 21 a court of competent jurisdiction."

22 **Section 5.** Section 15-70-205, MCA, is amended to read:

23 "15-70-205. Distributor's statement and payment --
 24 confidentiality. (1) Each distributor shall, not later than
 25 the 25th day of each calendar month, render a true signed

1 statement, ~~duly signed,~~ to the department of transportation
 2 of all gasoline distributed and received by him the
 3 distributor in this state during the preceding calendar
 4 month and containing any other information the department
 5 may reasonably require in order to administer the gasoline
 6 license tax law. The statement must be accompanied by a
 7 payment in an amount equal to the tax imposed by 15-70-204
 8 less any refund credit issued under 15-70-226 and less 1% of
 9 the total tax that may be deducted by the distributor as an
 10 allowance for evaporation and other loss of gasoline
 11 distributed by the distributor; however, ~~no~~ an allowance may
 12 not be deducted from the ~~1-cent~~ 2-cent tax on aviation
 13 gasoline fuel.

14 (2) A distributor engaged in or carrying on his a
 15 business at more than one place or location in this state
 16 may include all places of business in one statement.

17 (3) The department or a deputy, assistant, agent,
 18 clerk, or other employee of the department may not publish
 19 or otherwise disseminate information contained in a
 20 statement required under this section in a form that allows
 21 identification of a distributor or a purchaser of gasoline.
 22 ~~Nothing in this~~ This section may not be construed to
 23 prohibit:

24 (a) the delivery to a distributor or his the
 25 distributor's authorized representative of a certified copy

1 of any return or report filed in connection with his the
 2 tax;

3 (b) the inspection by the attorney general or other
 4 legal representative of the state of the report or return of
 5 a distributor who brings an action to set aside or review
 6 the tax based on the report or return or against whom an
 7 action or proceeding has been instituted in accordance with
 8 the provisions of Title 15;

9 (c) the publication of statistics classified to prevent
 10 the identification of particular reports or returns and the
 11 items in the reports or returns;

12 (d) the inspection by the commissioner of internal
 13 revenue of the United States or the proper officer or any
 14 representative of either officer of the report or return of
 15 any distributor or the furnishing to the officer or
 16 authorized representative of an abstract of the report or
 17 return, but permission must be granted or information must
 18 be furnished to the officer or his the officer's
 19 representative only if the statutes of the United States or
 20 the other state grant substantially similar privileges to
 21 the proper officer of this state charged with the
 22 administration of this chapter or in compliance with
 23 15-70-121 and 15-70-122; or

24 (e) the compliance of the department with any order of
 25 a court of competent jurisdiction."

Section 6. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall-be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. Such ~~The~~ refund ~~or-drawback-should-in~~ no-instance may not exceed the tax paid or to be paid to the state, ~~and-no~~ Except as provided in subsection (5) or (6), a refund ~~shall-be~~ is not allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 7. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person

1 who ~~shall-purchase~~ purchases and use uses any gasoline on
 2 which the Montana gasoline license tax has been paid for
 3 denaturing alcohol to be used in gasohol or operating or
 4 propelling stationary gasoline engines, tractors used off
 5 the public highways and streets, or for any commercial use
 6 other than propelling vehicles upon any of the public
 7 highways or streets of this state ~~shall--be~~ is allowed a
 8 refund of the amount of tax paid directly or indirectly on
 9 the gasoline so-used. ~~Such The refund or-drawback-should--in~~
 10 ~~no-instance may not~~ exceed the tax paid or to be paid to the
 11 state, ~~and-no~~ Except as provided in subsection (5) or (6), a
 12 ~~refund shall--be~~ is not allowed ~~of-that-portion-of~~ for the
 13 tax per gallon upon aviation gasoline fuel allocated to the
 14 department of transportation by 67-1-301.

15 (2) Any distributor paying the gasoline license tax to
 16 this state erroneously ~~shall--be~~ is allowed a credit or
 17 refund of the amount of tax so paid.

18 (3) (a) A distributor is entitled to a credit for the
 19 tax paid to the department on those sales of gasoline for
 20 which the distributor has not received no consideration from
 21 or on behalf of the purchaser. The distributor shall have
 22 declared the accounts of the purchaser worthless and claimed
 23 those accounts as bad debts for federal income tax purposes.

24 (b) If a credit has been granted under this subsection
 25 (3), any amount collected on the accounts that were declared

1 worthless must be reported to the department and the tax due
 2 on the collected amount must be paid to the department.

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

6 (4) Any person who purchases and exports for sale, use,
 7 or consumption outside Montana any gasoline on which the
 8 Montana gasoline tax has been paid is entitled to a credit
 9 or refund of the amount of tax so paid upon completion of
 10 the information reports required under 15-70-209 and
 11 presentation to the department of ~~such~~ other proof of
 12 delivery outside Montana as it may by rule require.

13 (5) A scheduled passenger air carrier certified under
 14 14 CFR, part 121 or 135, may claim a refund of 1 cent on
 15 each gallon of aviation fuel purchased by the carrier on
 16 which the Montana gasoline license tax has been paid.

17 (6) A Montana refinery or distributor who sells JP-4 or
 18 JP-8 jet fuel to the federal defense fuel supply center is
 19 entitled to a credit or refund of 1 cent a gallon for each
 20 gallon that is sold to the supply center and on which the
 21 gasoline license tax has been paid."

22 **Section 8.** Section 15-70-225, MCA, is amended to read:

23 "15-70-225. Application for refund or credit -- filing
 24 -- correction by department. (1) The application for refund
 25 ~~shall--be~~ is a signed statement, on a form furnished by the

department of transportation. Except for a claim for a credit of taxes paid on unpaid accounts, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on which a refund is claimed, and the amount of the tax claimed for refund.

(2) A claim for a credit for taxes paid on accounts for which the distributor ~~received~~ did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim ~~shall~~ must be furnished as required by the department.

(2)(3) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery under 15-70-201 is not valid for refund purposes.

(3)(4) All applications for refunds ~~shall~~ must be filed with the department within 14 months after the date on which the gasoline or aviation fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by him the

distributor on unpaid accounts within 3 years after the date of payment.

(4)(5) ~~Should~~ If the department ~~find~~ finds that the statement contains errors ~~which~~ that are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read:

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

Section 10. Section 67-1-301, MCA, is amended to read:

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

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

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

(2) All such--moneys--shall money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

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

(4) (a) There--shall The following amounts must be deposited in-the-state-special-revenue-fund-to-the-credit-of the--department from the proceeds of 1---cent the 3-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of gasoline--license tax imposed on aviation fuel by the-laws-of this-state-upon-purchases-of-gasoline used-for-the-operation of-aircraft: 15-70-204(1):

(i) Moneys in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon collected under 15-70-204(1) so--deposited shall--be--spent--by--the-department for the sole purpose of carrying out its functions pertaining to aeronautics;

(ii) in the aeronautical loan account created in

[section 11] to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for loans to local governments and state agencies; and

(iii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways.

(b) Money deposited in the account created in [section 11] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this subsection (b) must be deposited in the account created in [section 11].

(c) Money deposited in the separate account established in subsection (4)(a)(iii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting

services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the 1-cent-per-gallon-of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 11. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Money deposited in the account may be used only for providing loans specified in 67-1-301(4)(b).

Section 12. Section 67-1-301, MCA, is amended to read:

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

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

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

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

(2) All ~~such---moneys--shall~~ money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

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

(4) ~~(a) There--shall~~ The following amounts must be deposited in the state special revenue fund to the credit of the--department from the proceeds of 1-cent the 2-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of gasoline-license tax imposed on aviation fuel by the laws of this state upon purchases of gasoline used for the operation of aircraft; 15-70-204(1):

(i) Moneys in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon collected under 15-70-204(1) so-deposited shall-be-spent-by-the-department for the sole purpose of carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for grants to municipalities and

for other aeronautical purposes as provided in subsection (4)(b).

(b) Money deposited in the separate account established in subsection (4)(a)(ii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No--part--of--the--1--cent--per-gallon-of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 13. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Principal and interest payments deposited in the account may be used only for providing loans specified in [section 14].

NEW SECTION. Section 14. Aeronautical loans. Money deposited in the account created in [section 13] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall

establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the account created in [section 13].

Section 15. Section 67-1-303, MCA, is amended to read:

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

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

NEW SECTION. Section 16. Codification instruction. [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, part 3, apply to [sections 11, 13, and 14].

NEW SECTION. Section 17. Effective dates -- contingent termination. (1) [Sections 1, 2, 4, 6, 8 through 11, 15, 16, and this section] are effective July 1, 1993.

(2) [Sections 3, 5, 7, and 12 through 14] are effective on the first day of the month 60 days after the balance in the aeronautical loan account, after deposits and less

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1 refunds, reaches \$1 million.

2 (3) [Sections 2, 4, 6, 10, and 11] terminate on the
3 first day of the month 60 days after the balance in the
4 aeronautical loan account, after deposits and less refunds,
5 reaches \$1 million.

-End-

1 House BILL NO. 645
 2 INTRODUCED BY Sen. Dick B. Davis
 3 Keller

4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF
 5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE
 6 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE
 7 MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND
 8 IMPROVEMENT PROGRAMS; PROVIDING NAVIGATIONAL AIDS, SAFETY
 9 IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER
 10 AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND
 11 FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL
 12 BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX
 13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL
 14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR
 15 REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION
 16 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE
 17 PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS
 18 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-225,
 19 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING
 20 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

24 "15-70-201. Definitions. As used in this part, unless
 25 the context requires otherwise, the following definitions

1 apply:

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

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

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

17 (4) "Bulk delivery" means placing gasoline in storage
 18 or containers. The term does not mean gasoline delivered

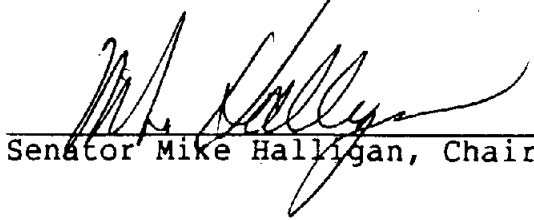
THERE ARE NO CHANGES IN THIS BILL
 AND WILL NOT BE REPRINTED. PLEASE
 REFER TO YELLOW COPY FOR COMPLETE TEXT.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 645 (third reading copy -- blue), respectfully report that House Bill No. 645 be amended as follows and as so amended be concurred in.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Page 12, line 15.

Following: "passenger"

Insert: "or cargo"

2. Page 12, line 16.

Following: "121"

Insert: ", "

Following: "or"

Insert: "a scheduled passenger air carrier certified under 14 CFR, part"

3. Page 14, line 13.

Following: "passenger"

Insert: "or cargo"

4. Page 14, line 14.

Following: "121"

Insert: ", "

Following: "or"

Insert: "a scheduled passenger air carrier certified under 14 CFR, part"

-END-

SENATE

M - Amd. Coord.
Jw Sec. of Senate

Weeding
Senator Carrying Bill

HB 645
741601SC.Sma

HOUSE BILL NO. 645

INTRODUCED BY SCHYE, GILBERT, BRANDEWIE, KELLER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND IMPROVEMENT PROGRAMS; PROVIDING NAVIGATIONAL AIDS, SAFETY IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-225, 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

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

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

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

apply:

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

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

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

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

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks ~~thereat-or,~~ gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks, ~~thereat~~ or gasoline imported into this state and placed in storage at refineries or pipeline terminals ~~shall--be--deemed~~ is considered to be

"distributed", for the purpose of this part, at the time the gasoline is withdrawn from such the tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such the tanks, refinery, or terminal, such the gasoline may be distributed only by a person who is the holder of a valid distributor's license.

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

(6) "Distributor" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 3 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as-amended~~, and 20 cents for each gallon of all other gasoline distributed by ~~him~~ the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 2 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as--amended~~, and 20 cents for each gallon of all other gasoline distributed by ~~him~~ the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed ~~statement~~~~-duly-signed~~ to the department of transportation of all gasoline distributed and received by ~~him~~ the distributor in this state during the preceding calendar month and containing any other information the department

1 may reasonably require in order to administer the gasoline
 2 license tax law. The statement must be accompanied by a
 3 payment in an amount equal to the tax imposed by 15-70-204
 4 less any refund credit issued under 15-70-226 and less 1% of
 5 the total tax that may be deducted by the distributor as an
 6 allowance for evaporation and other loss of gasoline
 7 distributed by the distributor; however, no allowance may
 8 not be deducted from the ~~1-cent~~ 3-cent tax on aviation
 9 gasoline fuel.

10 (2) A distributor engaged in or carrying on his a
 11 business at more than one place or location in this state
 12 may include all places of business in one statement.

13 (3) The department or a deputy, assistant, agent,
 14 clerk, or other employee of the department may not publish
 15 or otherwise disseminate information contained in a
 16 statement required under this section in a form that allows
 17 identification of a distributor or a purchaser of gasoline.
 18 ~~Nothing in this~~ This section may not be construed to
 19 prohibit:

20 (a) the delivery to a distributor or his the
 21 distributor's authorized representative of a certified copy
 22 of any return or report filed in connection with his the
 23 tax;

24 (b) the inspection by the attorney general or other
 25 legal representative of the state of the report or return of

1 a distributor who brings an action to set aside or review
 2 the tax based on the report or return or against whom an
 3 action or proceeding has been instituted in accordance with
 4 the provisions of Title 15;

5 (c) the publication of statistics classified to prevent
 6 the identification of particular reports or returns and the
 7 items in the reports or returns;

8 (d) the inspection by the commissioner of internal
 9 revenue of the United States or the proper officer or any
 10 representative of either officer of the report or return of
 11 any distributor or the furnishing to the officer or
 12 authorized representative of an abstract of the report or
 13 return, but permission must be granted or information must
 14 be furnished to the officer or his the officer's
 15 representative only if the statutes of the United States or
 16 the other state grant substantially similar privileges to
 17 the proper officer of this state charged with the
 18 administration of this chapter or in compliance with
 19 15-70-121 and 15-70-122; or

20 (e) the compliance of the department with any order of
 21 a court of competent jurisdiction."

22 **Section 5.** Section 15-70-205, MCA, is amended to read:

23 "15-70-205. Distributor's statement and payment --
 24 confidentiality. (1) Each distributor shall, not later than
 25 the 25th day of each calendar month, render a true signed

1 statement, ~~duily~~-signed, to the department of transportation
 2 of all gasoline distributed and received by him the
 3 distributor in this state during the preceding calendar
 4 month and containing any other information the department
 5 may reasonably require in order to administer the gasoline
 6 license tax law. The statement must be accompanied by a
 7 payment in an amount equal to the tax imposed by 15-70-204
 8 less any refund credit issued under 15-70-226 and less 1% of
 9 the total tax that may be deducted by the distributor as an
 10 allowance for evaporation and other loss of gasoline
 11 distributed by the distributor; however, no an allowance may
 12 not be deducted from the ~~1--cent~~ 2-cent tax on aviation
 13 gasoline fuel.

14 (2) A distributor engaged in or carrying on his a
 15 business at more than one place or location in this state
 16 may include all places of business in one statement.

17 (3) The department or a deputy, assistant, agent,
 18 clerk, or other employee of the department may not publish
 19 or otherwise disseminate information contained in a
 20 statement required under this section in a form that allows
 21 identification of a distributor or a purchaser of gasoline.
 22 ~~Nothing-in--this~~ This section may not be construed to
 23 prohibit:

24 (a) the delivery to a distributor or his the
 25 distributor's authorized representative of a certified copy

1 of any return or report filed in connection with his the
 2 tax;

3 (b) the inspection by the attorney general or other
 4 legal representative of the state of the report or return of
 5 a distributor who brings an action to set aside or review
 6 the tax based on the report or return or against whom an
 7 action or proceeding has been instituted in accordance with
 8 the provisions of Title 15;

9 (c) the publication of statistics classified to prevent
 10 the identification of particular reports or returns and the
 11 items in the reports or returns;

12 (d) the inspection by the commissioner of internal
 13 revenue of the United States or the proper officer or any
 14 representative of either officer of the report or return of
 15 any distributor or the furnishing to the officer or
 16 authorized representative of an abstract of the report or
 17 return, but permission must be granted or information must
 18 be furnished to the officer or his the officer's
 19 representative only if the statutes of the United States or
 20 the other state grant substantially similar privileges to
 21 the proper officer of this state charged with the
 22 administration of this chapter or in compliance with
 23 15-70-121 and 15-70-122; or

24 (e) the compliance of the department with any order of
 25 a court of competent jurisdiction."

Section 6. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall-be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. ~~Such The refund or-drawback-should-in no-instance may not~~ Except as provided in subsection (5) or (6), a refund ~~shall-be is not~~ is allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger OR CARGO air carrier certified under 14 CFR, part 121, or A SCHEDULED PASSENGER AIR CARRIER CERTIFIED UNDER 14 CFR, PART 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 7. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall-be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline ~~so-used. Such~~ The refund ~~or-drawback-should-in~~ no-instance may not exceed the tax paid or to be paid to the state, ~~and-no~~ Except as provided in subsection (5) or (6), a refund ~~shall-be~~ is not allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger OR CARGO air carrier certified under 14 CFR, part 121, or A SCHEDULED PASSENGER AIR CARRIER CERTIFIED UNDER 14 CFR, PART 135, may claim a refund of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 8. Section 15-70-225, MCA, is amended to read:

"15-70-225. Application for refund or credit -- filing -- correction by department. (1) The application for refund ~~shall--be~~ is a signed statement, on a form furnished by the department of transportation. Except for a claim for a credit of taxes paid on unpaid accounts, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on which a refund is claimed, and the amount of the tax claimed for refund.

(2) A claim for a credit for taxes paid on accounts for which the distributor ~~received---no~~ did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim ~~shall~~ must be furnished as required by the department.

~~(2)(3)~~ (3) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery under 15-70-201 is not valid for refund purposes.

~~(3)(4)~~ (4) All applications for refunds ~~shall~~ must be filed with the department within 14 months after the date on which

the gasoline or aviation fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by him the distributor on unpaid accounts within 3 years after the date of payment.

~~(4)(5)~~ (5) Should If the department ~~find~~ finds that the statement contains errors ~~which that~~ are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read:

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

Section 10. Section 67-1-301, MCA, is amended to read:

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

1 out the purposes of this title, ~~shall~~ must be paid out of
2 the following revenues revenue:

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

5 (b) all moneys money received from any branch or
6 department of the federal government or from other sources
7 for the purposes mentioned in this title or for the
8 furtherance of aeronautics generally in this state.

9 (2) All ~~such--moneys--shall~~ money collected under
10 subsection (1) must be deposited in the state treasury to
11 the credit of the department.

12 (3) When the airport loan program is terminated, any
13 balance of the bond proceeds that is not loaned must remain
14 in the state special revenue fund to be invested, and the
15 income must be used to retire the outstanding debt on the
16 remaining bond proceeds.

17 (4) ~~(a) There--shall~~ The following amounts must be
18 deposited in the state special revenue fund to the credit of
19 the--department from the proceeds of 1--cent the
20 3-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of
21 gasoline-license tax imposed on aviation fuel by the laws of
22 this state upon purchases of gasoline used for the operation
23 of aircraft: 15-70-204(1):

24 (i) Moneys in the state special revenue fund to the
25 credit of the department, an amount equal to the proceeds of

1 1 cent a gallon collected under 15-70-204(1) so--deposited
2 shall--be--spent--by--the department for the sole purpose of
3 carrying out its functions pertaining to aeronautics-;

4 (ii) in the aeronautical loan account created in
5 [section 11] to the credit of the department, an amount
6 equal to the proceeds of 1 cent a gallon for loans to local
7 governments and state agencies; and

8 (iii) in a separate account in the state special revenue
9 fund to the credit of the department, an amount equal to the
10 proceeds of 1 cent a gallon to provide grants to
11 municipalities for airport development or improvement
12 programs and to provide navigational aids, safety
13 improvements, weather reporting services, and other
14 aeronautical services for airports and landing fields and
15 for the state's airways.

16 (b) Money deposited in the account created in [section
17 11] may, with the approval of the board, be used only to
18 provide loans to local governments and state agencies for
19 aeronautical purposes, including airport improvement. The
20 board shall establish procedures, including the interest
21 rate charged, for providing loans. Proceeds of all
22 repayments of loans, including interest, made under this
23 subsection (b) must be deposited in the account created in
24 [section 11].

25 (c) Money deposited in the separate account established

in subsection (4)(a)(iii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the 1-cent-per-gallon of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 11. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Money deposited in the account may be used only for providing loans specified in 67-1-301(4)(b).

Section 12. Section 67-1-301, MCA, is amended to read:

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

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

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

(2) All ~~such---moneys--shall~~ money collected under subsection (1) must be deposited in the state treasury to the credit of the department.

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

(4) ~~(a) There--shall~~ The following amounts must be deposited in the state special revenue fund to the credit of the--department from the proceeds of 1-cent the 2-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of gasoline--license tax imposed on aviation fuel by the laws of this state upon purchases of gasoline used for the operation of aircraft; 15-70-204(1):

(i) Moneys in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon collected under 15-70-204(1) so-deposited shall-be-spent-by-the-department for the sole purpose of

carrying out its functions pertaining to aeronautics; and

(ii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for grants to municipalities and for other aeronautical purposes as provided in subsection (4)(b).

(b) Money deposited in the separate account established in subsection (4)(a)(ii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the 1-cent-per-gallon of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 13. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Principal and interest payments deposited in the account may be used only for providing loans specified in [section 14].

NEW SECTION. Section 14. Aeronautical loans. Money

deposited in the account created in [section 13] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the account created in [section 13].

Section 15. Section 67-1-303, MCA, is amended to read:

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

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

NEW SECTION. Section 16. Codification instruction. [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, part 3, apply to [sections 11, 13, and 14].

NEW SECTION. Section 17. Effective dates -- contingent termination. (1) [Sections 1, 2, 4, 6, 8 through 11, 15, 16,

1 and this section] are effective July 1, 1993.

2 (2) [Sections 3, 5, 7, and 12 through 14] are effective
3 on the first day of the month 60 days after the balance in
4 the aeronautical loan account, after deposits and less
5 refunds, reaches \$1 million.

6 (3) [Sections 2, 4, 6, 10, and 11] terminate on the
7 first day of the month 60 days after the balance in the
8 aeronautical loan account, after deposits and less refunds,
9 reaches \$1 million.

-End-

Conference Committee
on House Bill 645
Report No.1, April 20, 1993

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 645 met and considered :

1. Senate Taxation Committee amendments of April 2, 1993

and recommend that House Bill 645 (reference copy -- salmon) be amended as follows:

1. Adopt the Senate Taxation Committee amendments of April 2, 1993

Further, that this Conference Committee report be adopted.

For the House:

For the Senate:

Rep. T. Nelson, Chair

Sen. Weeding, Chair

Rep. Grimes

Sen. Eck

Rep. Schye

Sen. Gage

ADOPT

REJECT

C.C.R.#1
HB 645
871134CC.Hpf

Conference Committee
on House Bill 645
Report No.1, April 21, 1993

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 645 met and considered :

1. Senate Taxation Committee Amendments of April 2, 1993

and recommend that House Bill 645 (reference copy -- salmon) be amended as follows:

1. Reject the Senate Taxation Committee amendments of April 2, 1993

Further, that this Conference Committee report be adopted.

For the House:

For the Senate:

Rep. T. Nelson, Chair

Sen. Weeding, Chair

Rep. Grimes

Sen. Eck

Rep. Schye

Sen. Gage

CORRECTED
SECOND PRINTING

ADOPT

REJECT

C.C.R.#1
HB 645
881432CC.Hpf

1 HOUSE BILL NO. 645

2 INTRODUCED BY SCHYE, GILBERT, BRANDEWIE, KELLER

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF
5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE
6 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE
7 MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND
8 IMPROVEMENT PROGRAMS; PROVIDING NAVIGATIONAL AIDS, SAFETY
9 IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER
10 AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND
11 FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL
12 BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX
13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL
14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR
15 REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION
16 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE
17 PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS
18 15-70-201, 15-70-204, 15-70-205, 15-70-221, 15-70-225,
19 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING
20 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

24 "15-70-201. Definitions. As used in this part, unless
25 the context requires otherwise, the following definitions

1 apply:

2 (1) "Agricultural use" means use of gasoline by a
3 person whose major endeavor and primary source of earned
4 income is from the business of farming or ranching.5 (2) "Aviation dealer" means any person in this state
6 engaged in the business of selling aviation gasoline fuel,
7 either from a wholesale or retail outlet, on which the
8 license tax has been paid to a licensed distributor as
9 herein provided for in this section.10 (3) "Aviation gasoline fuel" means gasoline or any
11 other liquid fuel by whatsoever whatever name such the
12 liquid fuel may be known or sold, compounded for use in and
13 sold for use in aircraft, including but not limited to any
14 and all such gasoline or liquid fuel meeting or exceeding
15 the minimum specifications prescribed by the United States
16 for use by its military forces in aircraft.17 (4) "Bulk delivery" means placing gasoline in storage
18 or containers. The term does not mean gasoline delivered
19 into the supply tank of a motor vehicle.20 (5) (a) Gasoline refined, produced, manufactured, or
21 compounded in this state and placed in tanks thereat-or,
22 gasoline transferred from a refinery or pipeline terminal in
23 this state and placed in tanks, thereat or gasoline imported
24 into this state and placed in storage at refineries or
25 pipeline terminals shall--be--deemed is considered to be

"distributed", for the purpose of this part, at the time the gasoline is withdrawn from such the tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such the tanks, refinery, or terminal, such the gasoline may be distributed only by a person who is the holder of a valid distributor's license.

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

(6) "Distributor" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 3 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as-amended~~, and 20 cents for each gallon of all other gasoline distributed by ~~him~~ the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a license tax for the privilege of engaging in and carrying on business in this state in an amount equal to ~~1-cent~~ 2 cents for each gallon of aviation gasoline fuel, which ~~shall-be~~ is allocated to the department of transportation as provided by 67-1-301, ~~as--amended~~, and 20 cents for each gallon of all other gasoline distributed by ~~him~~ the distributor within the state and upon which the gasoline license tax has not been paid by any other distributor.

(2) Gasoline exported ~~shall~~ may not be included in the measure of the distributor's license tax.

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

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

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed ~~statement~~, ~~duly-signed~~, to the department of transportation of all gasoline distributed and received by ~~him~~ the distributor in this state during the preceding calendar month and containing any other information the department

may reasonably require in order to administer the gasoline license tax law. The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-204 less any refund credit issued under 15-70-226 and less 1% of the total tax that may be deducted by the distributor as an allowance for evaporation and other loss of gasoline distributed by the distributor; however, no an allowance may not be deducted from the ~~1-cent~~ 3-cent tax on aviation gasoline fuel.

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

(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may not publish or otherwise disseminate information contained in a statement required under this section in a form that allows identification of a distributor or a purchaser of gasoline. ~~Nothing-in--this~~ This section may not be construed to prohibit:

(a) the delivery to a distributor or his the distributor's authorized representative of a certified copy of any return or report filed in connection with his the tax;

(b) the inspection by the attorney general or other legal representative of the state of the report or return of

a distributor who brings an action to set aside or review the tax based on the report or return or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;

(c) the publication of statistics classified to prevent the identification of particular reports or returns and the items in the reports or returns;

(d) the inspection by the commissioner of internal revenue of the United States or the proper officer or any representative of either officer of the report or return of any distributor or the furnishing to the officer or authorized representative of an abstract of the report or return, but permission must be granted or information must be furnished to the officer or his the officer's representative only if the statutes of the United States or the other state grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter or in compliance with 15-70-121 and 15-70-122; or

(e) the compliance of the department with any order of a court of competent jurisdiction."

Section 5. Section 15-70-205, MCA, is amended to read:

"15-70-205. Distributor's statement and payment -- confidentiality. (1) Each distributor shall, not later than the 25th day of each calendar month, render a true signed

Section 6. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and ~~use~~ uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall-be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. ~~Such The refund or-drawback-should-in no-instance may not exceed the tax paid or to be paid to the state, and-no~~ Except as provided in subsection (5) or (6), a refund shall-be is not allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger OR---CARGO air carrier certified under 14 CFR, part 121, or A-SCHEDULED-PASSENGER AIR-CARRIER-CERTIFIED-UNDER-14-CFR, PART 135, may claim a refund of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 2 cents a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 7. Section 15-70-221, MCA, is amended to read:

"15-70-221. Refund or credit authorized. (1) Any person who ~~shall--purchase~~ purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state ~~shall--be~~ is allowed a refund of the amount of tax paid directly or indirectly on the gasoline so-used. ~~Such The refund or-drawback-should-in no-instance may not~~ Except as provided in subsection (5) or (6), a refund ~~shall--be~~ is not allowed ~~of-that-portion--of~~ for the tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301.

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

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline for which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes.

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

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

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

(5) A scheduled passenger OR---CARGO air carrier certified under 14 CFR, part 121, or A-SCHEDULED-PASSENGER AIR-CARRIER-CERTIFIED-UNDER-14-CFR, PART 135, may claim a refund of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has been paid.

(6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is entitled to a credit or refund of 1 cent a gallon for each gallon that is sold to the supply center and on which the gasoline license tax has been paid."

Section 8. Section 15-70-225, MCA, is amended to read:

"15-70-225. Application for refund or credit -- filing -- correction by department. (1) The application for refund ~~shall--be~~ is a signed statement, on a form furnished by the department of transportation. Except for a claim for a credit of taxes paid on unpaid accounts, the form must be accompanied by the original bulk delivery invoice or invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased or aviation fuel purchased by a certified scheduled passenger air carrier, the total amount of gasoline or aviation fuel on which a refund is claimed, and the amount of the tax claimed for refund.

(2) A claim for a credit for taxes paid on accounts for which the distributor ~~received--no~~ did not receive compensation must be accompanied by documents or copies of documents showing that the accounts were worthless and claimed as bad debts on the distributor's federal income tax return. Any further information pertaining to a claim ~~shall~~ must be furnished as required by the department.

~~(2)(3)~~ (3) A bulk delivery invoice issued by a dealer for a sale that does not qualify as a bulk delivery under 15-70-201 is not valid for refund purposes.

~~(3)(4)~~ (4) All applications for refunds ~~shall~~ must be filed with the department within 14 months after the date on which

the gasoline or aviation fuel was purchased as shown by invoices or after the date on which the tax was erroneously paid. A distributor may file a claim for refund of taxes erroneously paid or for a credit for taxes paid by him the distributor on unpaid accounts within 3 years after the date of payment.

~~(4)(5)~~ (5) Should If the department ~~find~~ finds that the statement contains errors ~~which that~~ are not fraudulently inserted, it may correct the statement and approve it as corrected or the department may require the claimant to file an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read:

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

Section 10. Section 67-1-301, MCA, is amended to read:

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

1 out the purposes of this title, ~~shall~~ must be paid out of
2 the following ~~revenues~~ revenue:

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

5 (b) all ~~moneys~~ money received from any branch or
6 department of the federal government or from other sources
7 for the purposes mentioned in this title or for the
8 furtherance of aeronautics generally in this state.

9 (2) All ~~such--moneys--shall~~ money collected under
10 subsection (1) ~~must~~ be deposited in the state treasury to
11 the credit of the department.

12 (3) When the airport loan program is terminated, any
13 balance of the bond proceeds that is not loaned must remain
14 in the state special revenue fund to be invested, and the
15 income must be used to retire the outstanding debt on the
16 remaining bond proceeds.

17 (4) ~~(a) There--shall~~ The following amounts must be
18 ~~deposited in-the-state-special-revenue-fund-to-the-credit-of~~
19 ~~the--department from~~ the proceeds of ~~1--cent the~~
20 ~~3-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of~~
21 ~~gasoline-license tax imposed on aviation fuel by the-laws-of~~
22 ~~this-state-upon-purchases-of-gasoline used-for-the-operation~~
23 ~~of-aircraft.~~ 15-70-204(1):

24 (i) Moneys in the state special revenue fund to the
25 credit of the department, an amount equal to the proceeds of

1 1 cent a gallon collected under 15-70-204(1) so--deposited
2 ~~shall--be--spent--by--the-department~~ for the sole purpose of
3 carrying out its functions pertaining to aeronautics;

4 (ii) in the aeronautical loan account created in
5 [section 11] to the credit of the department, an amount
6 equal to the proceeds of 1 cent a gallon for loans to local
7 governments and state agencies; and

8 (iii) in a separate account in the state special revenue
9 fund to the credit of the department, an amount equal to the
10 proceeds of 1 cent a gallon to provide grants to
11 municipalities for airport development or improvement
12 programs and to provide navigational aids, safety
13 improvements, weather reporting services, and other
14 aeronautical services for airports and landing fields and
15 for the state's airways.

16 (b) Money deposited in the account created in [section
17 11] may, with the approval of the board, be used only to
18 provide loans to local governments and state agencies for
19 aeronautical purposes, including airport improvement. The
20 board shall establish procedures, including the interest
21 rate charged, for providing loans. Proceeds of all
22 repayments of loans, including interest, made under this
23 subsection (b) must be deposited in the account created in
24 [section 11].

25 (c) Money deposited in the separate account established

1 in subsection (4)(a)(iii) may, with the approval of the
 2 board, be used only to provide grants to municipalities for
 3 airport development or improvement programs and to provide
 4 navigational aids, safety improvements, weather reporting
 5 services, and other aeronautical services for airports and
 6 landing fields and for the state's airways. The board shall
 7 establish procedures for the awarding of grants.

8 (5) ~~No part of the 1-cent-per-gallon-of~~ Except as
 9 provided in 15-70-221, the gasoline license tax imposed by
 10 the laws of this state on gasoline aviation fuel purchased
 11 and used for the operation of airplanes or aircraft may not
 12 be refunded."

13 NEW SECTION. Section 11. Special aeronautical loan
 14 account. There is a special aeronautical loan account in the
 15 state special revenue fund. Money deposited in the account
 16 may be used only for providing loans specified in
 17 67-1-301(4)(b).

18 **Section 12.** Section 67-1-301, MCA, is amended to read:

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

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

3 (b) all moneys money received from any branch or
 4 department of the federal government or from other sources
 5 for the purposes mentioned in this title or for the
 6 furtherance of aeronautics generally in this state.

7 (2) All ~~such---moneys---shall~~ money collected under
 8 subsection (1) must be deposited in the state treasury to
 9 the credit of the department.

10 (3) When the airport loan program is terminated, any
 11 balance of the bond proceeds that is not loaned must remain
 12 in the state special revenue fund to be invested, and the
 13 income must be used to retire the outstanding debt on the
 14 remaining bond proceeds.

15 (4) ~~(a) There---shall~~ The following amounts must be
 16 deposited in-the-state-special-revenue-fund-to-the-credit-of
 17 the---department from the proceeds of 1-cent the
 18 2-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of
 19 gasoline-license tax imposed on aviation fuel by the-laws-of
 20 this-state-upon-purchases-of-gasoline-used-for-the-operation
 21 of-aircraft- 15-70-204(1):

22 (i) Moneys in the state special revenue fund to the
 23 credit of the department, an amount equal to the proceeds of
 24 1 cent a gallon collected under 15-70-204(1) so-deposited
 25 shall-be-spent-by-the-department for the sole purpose of

carrying out its functions pertaining to aeronautics; and
 (ii) in a separate account in the state special revenue fund to the credit of the department, an amount equal to the proceeds of 1 cent a gallon for grants to municipalities and for other aeronautical purposes as provided in subsection (4)(b).

(b) Money deposited in the separate account established in subsection (4)(a)(ii) may, with the approval of the board, be used only to provide grants to municipalities for airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall establish procedures for the awarding of grants.

(5) ~~No part of the one-cent-per-gallon of~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state on gasoline aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded."

NEW SECTION. Section 13. Special aeronautical loan account. There is a special aeronautical loan account in the state special revenue fund. Principal and interest payments deposited in the account may be used only for providing loans specified in [section 14].

NEW SECTION. Section 14. Aeronautical loans. Money

deposited in the account created in [section 13] may, with the approval of the board, be used only to provide loans to local governments and state agencies for aeronautical purposes, including airport improvement. The board shall establish procedures, including the interest rate charged, for providing loans. Proceeds of all repayments of loans, including interest, made under this section must be deposited in the account created in [section 13].

Section 15. Section 67-1-303, MCA, is amended to read:

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

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

NEW SECTION. Section 16. Codification instruction. [Sections 11, 13, and 14] are intended to be codified as an integral part of Title 67, chapter 1, part 3, and the provisions of Title 67, chapter 1, part 3, apply to [sections 11, 13, and 14].

NEW SECTION. Section 17. Effective dates -- contingent termination. (1) [Sections 1, 2, 4, 6, 8 through 11, 15, 16,

1 and this section] are effective July 1, 1993.

2 (2) [Sections 3, 5, 7, and 12 through 14] are effective
3 on the first day of the month 60 days after the balance in
4 the aeronautical loan account, after deposits and less
5 refunds, reaches \$1 million.

6 (3) [Sections 2, 4, 6, 10, and 11] terminate on the
7 first day of the month 60 days after the balance in the
8 aeronautical loan account, after deposits and less refunds,
9 reaches \$1 million.

-End-