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.

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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.

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LC 1236/01

INTRODUCED BY Selgo Di Plant Onlevie Killer

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF 4 5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE AGENCIES FOR AERONAUTICAL PURPOSES: ALLOWING GRANTS TO BE 6 7 NADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND 8 IMPROVEMENT PROGRAMS: PROVIDING NAVIGATIONAL AIDS. SAFETY WEATHER REPORTING 9 IMPROVEMENTS. SERVICES, AND OTHER AFRONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND 10 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 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL 13 ABRONAUTICAL LOAN ACCOUNT REACH \$1 NILLION; PROVIDING FOR 14 REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION 15 16 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE PROCEEDS OF THE AVIATION FUEL TAX; AMENDING SECTIONS 17 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."

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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



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 <u>fuel</u>, 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 <u>fuel</u>" means gasoline or any 11 other liquid fuel by whatsoever <u>whatever</u> name such <u>the</u> 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

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1 "distributed", for the purpose of this part, at the time the 2 gasoline is withdrawn from such the tanks, refinery, or terminal storage for sale or use in this state or for the 3 4 transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this 5 state. When withdrawn from such the tanks, refinery, or 6 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:

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

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

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

3 (7) "Export" means to transport out of Nontana, 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 Nontana.

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.

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

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 <u>a</u> point 24 of origin without <u>outside of</u> this state other than in the 25 fuel supply tank of a motor vehicle.

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(11) "Notor 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.

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

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

9 Section 2. Section 15-70-204, MCA, is amended to read: 10 "15-70-204. Gasoline license tax --- rate. (1) Every 11 distributor shall pay to the department of transportation a 12 license tax for the privilege of engaging in and carrying on 13 business in this state in an amount equal to 1-cent 3 cents 14 for each gallon of aviation gaseline fuel, which shall-be is 15 allocated to the department of transportation as provided by 16 67-1-301, as-amended, and 20 cents for each gallon of all other gasoline distributed by him the distributor within the 17 18 state and upon which the gasoline license tax has not been 19 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: 1 2 *15-70-204. Gasoline license tax -- rate. (1) Every 3 distributor shall pay to the department of transportation a 4 license tax for the privilege of engaging in and carrying on 5 business in this state in an amount equal to 1-cent 2 cents 6 for each gallon of aviation gesoline fuel, which shall-be is 7 allocated to the department of transportation as provided by 67-1-301, as--amended, and 20 cents for each gallon of all R 9 other gasoline distributed by him the distributor within the 10 state and upon which the gasoline license tax has not been 11 paid by any other distributor.

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

14 (3) Alcohol that is blended or is to be blended with 15 gasoline to be sold as gasohol is subject to a tax per 16 gallon equal to the license tax imposed on nonaviation 17 gasoline distributors under subsection (1)."

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

19 "15-70-205. Distributor's statement and payment --20 confidentiality. (1) Each distributor shall, not later than
21 the 25th day of each calendar month, render a true signed
22 statementy-duly-signedy to the department of transportation
23 of all gasoline distributed and received by him the
24 distributor in this state during the preceding calendar
25 month and containing any other information the department

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1 may reasonably require in order to administer the gasoline license tax law. The statement must be accompanied by a 2 payment in an amount equal to the tax imposed by 15-70-204 3 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 an allowance may not be deducted from the 1-cent 3-cent tax on aviation 8 9 gasoline fuel.

10 (2) A distributor engaged in or carrying on his <u>a</u>
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;

(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;

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;

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

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

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 authorised representative of a certified copy

of any return or report filed in connection with his the
 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 representative of either officer of the report or return of 14 any distributor or the furnishing to the officer or 15 16 authorized representative of an abstract of the report or 17 return, but permission must be granted or information must 18 furnished to the officer or his the officer's he 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 of25 a court of competent jurisdiction."

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1 Section 6. Section 15-70-221, NCA, is amended to read: "15-70-221. Refund or credit authorized. (1) Any person 2 who shall--purchase purchases and use uses any gasoline on 3 4 which the Nontana casoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or 5 propelling stationary gasoline engines, tractors used off 6 the public highways and streets, or for any commercial use 7 other than propelling vehicles upon any of the public 8 highways or streets of this state shall-be is allowed a 9 10 refund of the amount of tax paid directly or indirectly on the gasoline so-used. Such The refund or-drawback-should-in 11 no-instance may not exceed the tax paid or to be paid to the 12 13 state. and-no Except as provided in subsection (5) or (6), a refund shall-be is not allowed of-that-portion--of for the 14 15 tax per gallon upon aviation gaseline fuel allocated to the 16 department of transportation by 67-1-301.

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

20 (3) (a) A distributor is entitled to a credit for the 21 tax paid to the department on those sales of gasoline for 22 which the distributor has <u>not</u> received no consideration from 23 or on behalf of the purchaser. The distributor shall have 24 declared the accounts of the purchaser worthless and claimed 25 those accounts as bad debts for federal income tax purposes. LC 1236/01

(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.

5 (c) The department may require a distributor to submit 6 periodic reports listing accounts that are delinquent for 90 7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the 10 Montana gasoline tax has been paid is entitled to a credit 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require.

15 (5) A scheduled passenger air carrier certified under
14 CPR, part 121 or 135, may claim a refund of 2 cents on
17 each gallon of aviation fuel purchased by the carrier on
18 which the Montana gasoline license tax has been paid.
19 (6) A Montana refinery or distributor who sells JP-4 or
20 JP-8 jet fuel to the federal defense fuel supply center is

21 entitled to a credit or refund of 2 cents a gallon for each

22 gallon that is sold to the supply center and on which the

- 23 gasoline license tax has been paid."
- 24 Section 7. Section 15-70-221, MCA, is amended to read:

25 "15-70-221. Refund or credit authorized. (1) Any person

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

(3) (a) A distributor is entitled to a credit for the 18 19 tax paid to the department on those sales of gasoline for 20 which the distributor has not received no consideration from or on behalf of the purchaser. The distributor shall have 21 declared the accounts of the purchaser worthless and claimed 22 23 those accounts as bad debts for federal income tax purposes. (b) If a credit has been granted under this subsection 24 (3), any amount collected on the accounts that were declared 25

worthless must be reported to the department and the tax due
 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 Nontana 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
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."
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 1 credit of taxes paid on unpaid accounts, the form must be 2 3 accompanied by the original bulk delivery invoice or 4 invoices issued to the claimant at the time of each purchase 5 and delivery, showing the total amount of gasoline purchased aviation fuel purchased by a certified scheduled 6 or passenger air carrier, the total amount of gasoline or 7 aviation fuel on which a refund is claimed, and the amount 8 of the tax claimed for refund. 9

10 (2) A claim for a credit for taxes paid on accounts for 11 which the distributor received---no <u>did not receive</u> 12 compensation must be accompanied by documents or copies of 13 documents showing that the accounts were worthless and 14 claimed as bad debts on the distributor's federal income tax 15 return. Any further information pertaining to a claim shall 16 must be furnished as required by the department.

17 (27)(3) A bulk delivery invoice issued by a dealer for a 18 sale that does not qualify as a bulk delivery under 19 15-70-201 is not valid for refund purposes.

20 (3)(4) All applications for refunds shall must be filed 21 with the department within 14 months after the date on which 22 the gasoline or aviation fuel was purchased as shown by 23 invoices or after the date on which the tax was erroneously 24 paid. A distributor may file a claim for refund of taxes 25 erroneously paid or for a credit for taxes paid by him the <u>distributor</u> on unpaid accounts within 3 years after the date
 of payment.

3 <u>t47(5)</u> Should If the department find finds that the 4 statement contains errors which that are not fraudulently 5 inserted, it may correct the statement and approve it as 6 corrected or the department may require the claimant to file 7 an amended statement."

Section 9. Section 15-70-231, NCA, is amended to read: 8 *15-70-231. Unlawful use of aviation gaseline fuel. It 9 shall-be is unlawful for any person to use aviation gaseline 10 fuel or to sell such-gasoline aviation fuel for use in any 11 motorised vehicle operated upon the public highways or 12 streets of this state. Violation of this section shall-be is 13 a misdemeanor subject to the penalties provided in 14 15 15-70-232."

Section 10. Section 67-1-301, MCA, is amended to read: 16 =67-1-301. Money -- receipt and disburgement. (1) All 17 costs and expenses of administering this title, including 18 the salaries of employees of the department engaged in 19 functions pertaining to aeronautics, the expenses of members 20 of the board, and all other disbursements necessary to carry 21 out the purposes of this title, shall must be paid out of 22 the following revenues revenue: 23

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

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1 (b) all moneys money received from any branch or 2 department of the federal government or from other sources 3 for the purposes mentioned in this title or for the 4 furtherance of aeronautics generally in this state.

5 (2) All such--moneys--shall money collected under 6 <u>subsection (1) must</u> be deposited in the state treasury to 7 the credit of the department.

8 (3) When the airport loan program is terminated, any 9 balance of the bond proceeds that is not loaned must remain 10 in the state special revenue fund to be invested, and the 11 income must be used to retire the outstanding debt on the 12 remaining bond proceeds.

13 (4) (a) There-shall The following amounts must be 14 deposited in-the-state-special-revenue-fund-to-the-credit-of 15 the--department from the proceeds of i---cent the 16 <u>3-cent-per-gallon per-galion-out-of-the-amount-per-galion-of</u> 17 gaseline-license tax imposed on aviation fuel by the-laws-of 18 this-state-upon-purchases-of-gaseline used-for-the-operation 19 of-aircraft 15-70-204(1):

20 (i) Moneys in the state special revenue fund to the 21 credit of the department, an amount equal to the proceeds of 22 l cent a gallon collected under 15-70-204(1) so--deposited 23 shall--be--spent--by--the-department for the sole purpose of 24 carrying out its functions pertaining to aeronautics;

25 (ii) in the aeronautical loan account created in

1	[section 11] to the credit of the department, an amount
2	equal to the proceeds of 1 cent a gallon for loans to local
3	governments and state agencies; and
4	(iii) in a separate account in the state special revenue
5	fund to the credit of the department, an amount equal to the
6	proceeds of 1 cent a gallon to provide grants to
7	municipalities for airport development or improvement
8	programs and to provide 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.
12	(b) Noney deposited in the account created in [section
13	11) may, with the approval of the board, be used only to
14	provide loans to local governments and state agencies for
15	aeronautical purposes, including airport improvement. The
16	board shall establish procedures, including the interest
17	rate charged, for providing loans. Proceeds of all
18	repayments of loans, including interest, made under this
19	subsection (b) must be deposited in the account created in
20	[section 11].
21	(c) Noney deposited in the separate account established
22	in subsection (4)(a)(iii) may, with the approval of the
23	board, be used only to provide grants to municipalities for
24	airport development or improvement programs and to provide
25	navigational aids, safety improvements, weather reporting

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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.

4 (5) No-part-of-the-1--cent--per--gallon--of Except as 5 provided in 15-70-221, the gasoline license tax imposed by 6 the laws of this state on gasoline aviation fuel purchased 7 and used for the operation of airplanes or aircraft may not 8 be refunded."

9 <u>NEW SECTION.</u> 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: 14 15 "67-1-301. Money -- receipt and disburgement. (1) All 16 costs and expenses of administering this title, including 17 the salaries of employees of the department engaged in 18 functions pertaining to aeronautics, the expenses of members 19 of the board, and all other disbursements necessary to carry 20 out the purposes of this title, shall must be paid out of 21 the following revenues revenue:

(a) all gifts and all legislative appropriations to thedepartment 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.

3 (2) All such---moneys--shall money collected under
4 <u>subsection (1) must</u> be deposited in the state treasury to
5 the credit of the department.

6 (3) When the airport loan program is terminated, any 7 balance of the bond proceeds that is not loaned must remain 8 in the state special revenue fund to be invested, and the 9 income must be used to retire the outstanding debt on the 10 remaining bond proceeds.

11 (4) (a) There--shall The following amounts must be 12 deposited in-the-state-special-revenue-fund-to-the-credit-of 13 the---department from the proceeds of 1--cent the 14 <u>2-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of</u> 15 gesoline-license tax imposed on aviation fuel by the-laws-of 16 this-state-upon-purchases-of-gasoline-used-for-the-operation 17 of-aircraft, 15-70-204(1):

(i) Moneys in the state special revenue fund to the 18 credit of the department, an amount equal to the proceeds of 19 1 cent a gallon collected under 15-70-204(1) so-deposited 20 21 shall-be-spent-by-the-department for the sole purpose of 22 carrying out its functions pertaining to aeronautics; and 23 (ii) in a separate account in the state special revenue 24 fund to the credit of the department, an amount equal to the 25 proceeds of 1 cent a gallon for grants to municipalities and

1 for other aeronautical purposes as provided in subsection 2 (4)(b). (b) Money deposited in the separate account established 3 in subsection (4)(a)(ii) may, with the approval of the 4 5 board, be used only to provide grants to municipalities for airport development or improvement programs and to provide 6 7 navigational aids, safety improvements, weather reporting 8 services, and other aeronautical services for airports and 9 landing fields and for the state's airways. The board shall 10 establish procedures for the awarding of grants.

11 (5) No--part--of--the-l-cent--per-galion-of Except as 12 provided in 15-70-221, the gasoline license tax imposed by 13 the laws of this state on gasoline aviation fuel purchased 14 and used for the operation of airplanes or aircraft may not 15 be refunded."

16 <u>NEW SECTION.</u> Section 13. Special aeronautical loan 17 account. There is a special aeronautical loan account in the 18 state special revenue fund. Principal and interest payments 19 deposited in the account may be used only for providing 20 loans specified in [section 14].

21 <u>NEW SECTION.</u> Section 14. Aeronautical loans. Noney 22 deposited in the account created in [section 13] may, with 23 the approval of the board, be used only to provide loans to 24 local governments and state agencies for aeronautical 25 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].

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

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

11 (2) The state treasurer shall place the money in the 12 state special revenue fund to the credit of the department 13 of transportation for the purposes provided for in 14 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.

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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 Approproiations Act of 1993 for the loans and grants.

(continued)

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

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Fiscal Note for <u>HB0645, as introduced</u> HB 645 Fiscal Note Request, <u>HB0645, as introduced</u> Form BD-15 page 2 (continued)

FISCAL IMPACT:

General Operations (Pg 01)

Expenditures:	FY '94			FY '95		
	<u>Current Law</u>	Proposed Law	Difference	Current Law	Proposed Law	<u>Difference</u>
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	12,641	12,641	0	12,641	12,641	0
Total	\$11,369,876	\$ 11,373,994	\$ 4,118	\$11,740,465	\$ 11,744,539	\$ 4,074
<u>Funding:</u>						
Highway State Special	\$ 8,546,828	\$ 8,550,946	\$ 4,118	\$ 8,904,517	\$ 8,908,591	\$ 4,074
Federal Special Revenue	2,823,048	2,823,048	0	2,835,948	2,835,948	0
Total	\$11,369,876	\$ 11,373,994	\$ 4,118	\$11,740,465	\$ 11,744,539	\$ 4,074
<u>Revenues:</u>						
Aviation Fuel Tax (02)	\$ 382,239	\$ 548,193	\$ 165,954	\$ 377,831	\$ 544,093	\$ 166,262

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.

53rd Legislature

RE-REFERRED AND LC 1236/01 APPROVED BY COMMITTEE ON TAXATION

BILL NO. 645 1 INTRODUCED BY 2 Y. U. 2

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF 4 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 IMPROVEMENT PROGRAMS: PROVIDING NAVIGATIONAL AIDS. SAFETY 8 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 BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX 12 13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL 14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION 15 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 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE." 20

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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



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 <u>fuel</u>, 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 <u>fuel</u>" means gasoline or any 11 other liquid fuel by whatsoever <u>whatever</u> 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

-2- HB 645 SECOND READING

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

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:

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

18 (b) any person who imports gasoline for sale, use, or19 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);

(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.

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.

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

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 <u>a</u> point 24 of origin without <u>outside of</u> this state other than in the 25 fuel supply tank of a motor vehicle.

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(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.

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

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

Section 2. Section 15-70-204, MCA, is amended to read: 9 10 *15-70-204. Gasoline license tax -- rate. (1) Every 11 distributor shall pay to the department of transportation a 12 license tax for the privilege of engaging in and carrying on 13 business in this state in an amount equal to 1-cent 3 cents 14 for each gallon of aviation gasoline fuel, which shall-be is 15 allocated to the department of transportation as provided by 16 67-1-301, as-amended, and 20 cents for each gallon of all 17 other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been 18 19 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: 1 2 *15-70-204. Gasoline license tax -- rate. (1) Every 3 distributor shall pay to the department of transportation a 4 license tax for the privilege of engaging in and carrying on 5 business in this state in an amount equal to 1-cent 2 cents 6 for each gallon of aviation gasoline fuel, which shall-be is 7 allocated to the department of transportation as provided by 8 67-1-301, as--amended, and 20 cents for each gallon of all 9 other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been 10 11 paid by any other distributor.

12 (2) Gasoline exported shall may not be included in the
13 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)."

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

19 "15-70-205. Distributor's statement and payment --20 confidentiality. (1) Each distributor shall, not later than
21 the 25th day of each calendar month, render a true <u>signed</u>
22 statement₇-duły-signed₇ to the department of transportation
23 of all gasoline distributed and received by <u>him the</u>
24 <u>distributor</u> in this state during the preceding calendar
25 month and containing any other information the department

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may reasonably require in order to administer the gasoline 1 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 distributed by the distributor; however, no an allowance may 7 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 <u>a</u>
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 <u>distributor's</u> authorized representative of a certified copy
22 of any return or report filed in connection with his the
23 tax;

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

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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;

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

20 (e) the compliance of the department with any order of21 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

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

14 (2) A distributor engaged in or carrying on his <u>a</u>
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 <u>distributor's</u> 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 furnished to the officer or his the officer's 18 be 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 administration of this chapter or in compliance with 22 23 15-70-121 and 15-70-122; or

24 (e) the compliance of the department with any order of25 a court of competent jurisdiction."

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1 Section 6. Section 15-70-221, MCA, is amended to read: 2 "15-70-221. Refund or credit authorized. (1) Any person 3 who shall--purchase purchases and use uses any gasoline on which the Montana gasoline license tax has been paid for 4 denaturing alcohol to be used in gasohol or operating or 5 6 propelling stationary gasoline engines, tractors used off 7 the public highways and streets, or for any commercial use 8 other than propelling vehicles upon any of the public 9 highways or streets of this state shall-be is allowed a 10 refund of the amount of tax paid directly or indirectly on the gasoline so-used. Such The refund or-drawback-should-in 11 12 no-instance may not exceed the tax paid or to be paid to the 13 state. and-no Except as provided in subsection (5) or (6), a 14 refund shall-be is not allowed of-that-portion--of for the 15 tax per gallon upon aviation gasoline fuel allocated to the 16 department of transportation by 67-1-301.

17 (2) Any distributor paying the gasoline license tax to
18 this state erroneously shall--be is allowed a credit or
19 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.

1 (b) If a credit has been granted under this subsection 2 (3), any amount collected on the accounts that were declared 3 worthless must be reported to the department and the tax due 4 on the collected amount must be paid to the department.

5 (c) The department may require a distributor to submit 6 periodic reports listing accounts that are delinquent for 90 7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the 10 Montana gasoline tax has been paid is entitled to a credit 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require.

15 (5) A scheduled passenger air carrier certified under
16 14 CFR, part 121 or 135, may claim a refund of 2 cents on
17 each gallon of aviation fuel purchased by the carrier on

- 18 which the Montana gasoline license tax has been paid.
- 19 (6) A Montana refinery or distributor who sells JP-4 or
- 20 JP-8 jet fuel to the federal defense fuel supply center is
- 21 entitled to a credit or refund of 2 cents a gallon for each
- 22 gallon that is sold to the supply center and on which the
- 23 gasoline license tax has been paid."
- 24 Section 7. Section 15-70-221, MCA, is amended to read:
- 25 "15-70-221. Refund or credit authorized. (1) Any person

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who shall-purchase purchases and use uses any gasoline on 1 2 which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or 3 propelling stationary gasoline engines, tractors used off 4 5 the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public 6 highways or streets of this state shall-be is allowed a 7 refund of the amount of tax paid directly or indirectly on 8 the casoline so-used. Such The refund or-drawback-should--in 9 10 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 11 refund shall--be is not allowed of-that-portion-of for the 12 tax per gallon upon aviation gasoline fuel allocated to the 13 department of transportation by 67-1-301. 14

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.

(3) (a) A distributor is entitled to a credit for the 18 tax paid to the department on those sales of gasoline for 19 which the distributor has not received no consideration from 20 or on behalf of the purchaser. The distributor shall have 21 22 declared the accounts of the purchaser worthless and claimed those accounts as bad debts for federal income tax purposes. 23 24 (b) If a credit has been granted under this subsection 25 (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.

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 CPR, 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."

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
shail--be is a signed statement, on a form furnished by the

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department of transportation. Except for a claim for a 1 credit of taxes paid on unpaid accounts, the form must be 2 3 accompanied by the original bulk delivery invoice or 4 invoices issued to the claimant at the time of each purchase 5 and delivery, showing the total amount of gasoline purchased or aviation fuel purchased by a certified scheduled 6 passenger air carrier, the total amount of gasoline or 7 8 aviation fuel on which a refund is claimed, and the amount 9 of the tax claimed for refund.

10 (2) A claim for a credit for taxes paid on accounts for 11 which the distributor received---no <u>did not</u> receive 12 compensation must be accompanied by documents or copies of 13 documents showing that the accounts were worthless and 14 claimed as bad debts on the distributor's federal income tax 15 return. Any further information pertaining to a claim shall 16 must be furnished as required by the department.

17 (2)(3) A bulk delivery invoice issued by a dealer for a
18 sale that does not qualify as a bulk delivery under
19 15-70-201 is not valid for refund purposes.

20 (3)(4) All applications for refunds shall must be filed 21 with the department within 14 months after the date on which 22 the gasoline or aviation fuel was purchased as shown by 23 invoices or after the date on which the tax was erroneously 24 paid. A distributor may file a claim for refund of taxes 25 erroneously paid or for a credit for taxes paid by him the LC 1236/01

<u>distributor</u> on unpaid accounts within 3 years after the date
 of payment.

3 (4)(5) Should If the department find finds that the 4 statement contains errors which that are not fraudulently 5 inserted, it may correct the statement and approve it as 6 corrected or the department may require the claimant to file 7 an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read: 8 •15-70-231. Unlawful use of aviation gasoline fuel. It 9 shall-be is unlawful for any person to use aviation gasoline 10 fuel or to sell such-gesoline aviation fuel for use in any 11 motorized vehicle operated upon the public highways or 12 streets of this state. Violation of this section shall-be is 13 a misdemeanor subject to the penalties provided in 14 15-70-232." 15

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

17 "67-1-301. Money -- receipt and disbursement. (1) All 18 costs and expenses of administering this title, including 19 the salaries of employees of the department engaged in 20 functions pertaining to aeronautics, the expenses of members 21 of the board, and all other disbursements necessary to carry 22 out the purposes of this title, shall must be paid out of 23 the following revenues revenue:

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

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1 (b) all moneys money received from any branch or 2 department of the federal government or from other sources 3 for the purposes mentioned in this title or for the 4 furtherance of aeronautics generally in this state.

5 (2) All such-moneys-shall money collected under 6 <u>subsection (1) must</u> be deposited in the state treasury to 7 the credit of the department.

8 (3) When the airport loan program is terminated, any 9 balance of the bond proceeds that is not loaned must remain 10 in the state special revenue fund to be invested, and the 11 income must be used to retire the outstanding debt on the 12 remaining bond proceeds.

13 (4) (a) There--shall The following amounts must be 14 deposited in-the-state-special-revenue-fund-to-the-credit-of 15 the--department from the proceeds of 1---cent the 16 <u>3-cent-per-gallon per-gallon-out-of-the-amount-per-gallon-of</u> 17 gaseline-license tax imposed <u>on aviation fuel</u> by the-laws-of 18 this-state-upon-purchases-of-gasoline used-for-the-operation 19 of-aircraft 15-70-204(1):

20 (i) Moneys in the state special revenue fund to the 21 credit of the department, an amount equal to the proceeds of 22 l cent a gallon collected under 15-70-204(1) so--deposited 23 shall--be--spent--by--the-department for the sole purpose of 24 carrying out its functions pertaining to aeronautics:

25 (ii) in the aeronautical loan account created in

1	[section 11] to the credit of the department, an amount
2	equal to the proceeds of 1 cent a gallon for loans to local
3	governments and state agencies; and
4	(iii) in a separate account in the state special revenue
5	fund to the credit of the department, an amount equal to the
6	proceeds of 1 cent a gallon to provide grants to
7	municipalities for airport development or improvement
8	programs and to provide 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.
12	(b) Money deposited in the account created in [section
13	11] may, with the approval of the board, be used only to
14	provide loans to local governments and state agencies for
15	aeronautical purposes, including airport improvement, The
16	board shall establish procedures, including the interest
17	rate charged, for providing loans. Proceeds of all
18	repayments of loans, including interest, made under this
19	subsection (b) must be deposited in the account created in
20	[section 11].
21	(c) Money deposited in the separate account established
22	in subsection (4)(a)(iii) may, with the approval of the
23	board, be used only to provide grants to municipalities for
24	airport development or improvement programs and to provide
25	navigational aids, safety improvements, weather reporting

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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.

4 (5) No-part-of-the-1--cent--per--galion--of Except as 5 provided in 15-70-221, the gasoline license tax imposed by 6 the laws of this state on gasoline aviation fuel purchased 7 and used for the operation of airplanes or aircraft may not 8 be refunded."

<u>NEW SECTION.</u> 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: 14 15 *67-1-301. Money -- receipt and disbursement. (1) All costs and expenses of administering this title, including 16 the salaries of employees of the department engaged in 17 functions pertaining to aeronautics, the expenses of members 18 19 of the board, and all other disbursements necessary to carry out the purposes of this title, shall must be paid out of 20 21 the following revenues revenue:

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

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

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

3 (2) All such---moneys--shall money collected under
4 <u>subsection (1) must</u> be deposited in the state treasury to
5 the credit of the department.

6 (3) When the airport loan program is terminated, any 7 balance of the bond proceeds that is not loaned must remain 8 in the state special revenue fund to be invested, and the 9 income must be used to retire the outstanding debt on the 10 remaining bond proceeds.

11 (4) (a) There-shall The following amounts must be 12 deposited in-the-state-special-revenue-fund-to-the-credit-of 13 the---department from the proceeds of 1--cent the 14 <u>2-cent-per-gallon</u> per-gallon-out-of-the-amount-per-gallon-of 15 gasoline-license tax imposed on aviation fuel by the-laws-of 16 this-state-upon-purchases-of-gasoline-used-for-the-operation 17 of-sircraft 15-70-204(1):

18 (i) Moneys in the state special revenue fund to the 19 credit of the department, an amount equal to the proceeds of 20 1 cent a gallon collected under 15-70-204(1) so-deposited 21 shall-be-spent-by-the-department for the sole purpose of 22 carrying out its functions pertaining to aeronautics; and 23 (ii) in a separate account in the state special revenue 24 fund to the credit of the department, an amount equal to the 25 proceeds of 1 cent a gallon for grants to municipalities and

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for other aeronautical purposes as provided in subsection 1 2 (4)(b). 3 (b) Money deposited in the separate account established 4 in subsection (4)(a)(ii) may, with the approval of the 5 board, be used only to provide grants to municipalities for airport development or improvement programs and to provide 6 7 navigational aids, safety improvements, weather reporting 8 services, and other aeronautical services for airports and landing fields and for the state's airways. The board shall 9 10 establish procedures for the awarding of grants.

11 (5) No--part--of--the--l--cent--per-galion-of Except as 12 provided in 15-70-221, the gasoline license tax imposed by 13 the laws of this state on gasoline aviation fuel purchased 14 and used for the operation of airplanes or aircraft may not 15 be refunded."

16 <u>NEW SECTION.</u> Section 13. Special aeronautical loan 17 account. There is a special aeronautical loan account in the 18 state special revenue fund. Principal and interest payments 19 deposited in the account may be used only for providing 20 loans specified in [section 14].

21 <u>NEW SECTION.</u> Section 14. Aeronautical loans. Money 22 deposited in the account created in [section 13] may, with 23 the approval of the board, be used only to provide loans to 24 local governments and state agencies for aeronautical 25 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].

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

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

11 (2) The state treasurer shall place the money in the 12 state special revenue fund to the credit of the department 13 of transportation for the purposes provided for in 14 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].

20 <u>NEW SECTION.</u> Section 17. Effective dates -- contingent
21 termination. (1) [Sections 1, 2, 4, 6, 8 through 11, 15, 16,
22 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.

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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-

House BILL NO. 645 1 2 INTRODUCED BY Yiller) 3

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE BOARD OF 4 5 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE 6 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE 7 MADE 70 NUNICIPALITIES FOR AIRPORT DEVELOPMENT AND . INPROVEMENT PROGRAMS: PROVIDING NAVIGATIONAL AIDS, SAFETY 9 INPROVEMENTS. 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 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR 14 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 15-70-201, 15-70-204, 15-70-205, 15-70-221, 18 15-70-225, 15-70-231, 67-1-301, AND 67-1-303, MCA; AND PROVIDING 19 20 EFFECTIVE DATES AND A CONTINGENT TERMINATION DATE."

21

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

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 <u>fuel</u>, 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 <u>fuel</u>" means gasoline or any 11 other liquid fuel by whatsoever <u>whatever</u> name such <u>the</u> 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.

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THIRD READING

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

Signed: Mike Halligan, Chair Senator

That such amendments read:

amended be concurred in.

1. Page 12, line 15.
Following: "passenger"
Insert: "or cargo"

3. Page 14, line 13. Following: "<u>passenger</u>" Insert: "or cargo"

-END-

 $\frac{M}{W}$ Amd. Coord. $\frac{M}{W}$ Sec. of Senate Weeding Senator Carrying Bill SENATE HB 645 741601SC.Sma HB 0645/02

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

21

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

gana Legislative Council

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 <u>fuel</u>, 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 <u>fuel</u>" 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

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HB 645 REFERENCE BILL AS AMENDED

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

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.

(6) "Distributor" means:

14

(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;

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);

(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.

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 internal combustion engines. Gasoline does not include 18 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 <u>a</u> point 24 of origin without <u>outside of</u> this state other than in the 25 fuel supply tank of a motor vehicle.

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(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.

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

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

Section 2. Section 15-70-204, MCA, is amended to read: 9 *15-70-204. Gasoline license tax -- rate. (1) Every 10 distributor shall pay to the department of transportation a 11 license tax for the privilege of engaging in and carrying on 12 business in this state in an amount equal to 1-cent 3 cents 13 for each gallon of aviation gasoline fuel, which shall-be is 14 allocated to the department of transportation as provided by 15 67-1-301, as-amended; and 20 cents for each gallon of all 16 other gasoline distributed by him the distributor within the 17 state and upon which the gasoline license tax has not been 18 paid by any other distributor. 19

(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).*

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HB 645

1 Section 3. Section 15-70-204, MCA, is amended to read: 2 "15-70-204. Gasoline license tax -- rate. (1) Every distributor shall pay to the department of transportation a 3 4 license tax for the privilege of engaging in and carrying on business in this state in an amount equal to 1-cent 2 cents 5 6 for each gallon of aviation gasoline fuel, which shall-be is 7 allocated to the department of transportation as provided by 67-1-301, as--amended, and 20 cents for each gallon of all 8 9 other gasoline distributed by him the distributor within the state and upon which the gasoline license tax has not been 10 11 paid by any other distributor.

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

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

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

19 "15-70-205. Distributor's statement and payment -20 confidentiality. (1) Each distributor shall, not later than
21 the 25th day of each calendar month, render a true signed
22 statementy-duly-signedy to the department of transportation
23 of all gasoline distributed and received by him the
24 distributor in this state during the preceding calendar
25 month and containing any other information the department

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

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 <u>distributor's</u> 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 other25 legal representative of the state of the report or return of

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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:

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;

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

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statementy-duly-signed, to the department of transportation 1 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 allowance for evaporation and other loss of gasoline 10 11 distributed by the distributor; however, no an allowance may 12 not be deducted from the 1-cent 2-cent tax on aviation 13 qasoline 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 <u>distributor's</u> authorized representative of a certified copy

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

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

24 (e) the compliance of the department with any order of25 a court of competent jurisdiction."

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1 Section 6. Section 15-70-221, MCA, is amended to read; *15-70-221. Refund or credit authorized. (1) Any person 2 who shall--purchase purchases and use uses any gasoline on 3 4 which the Montana gasoline license tax has been paid for 5 denaturing alcohol to be used in gasohol or operating or б propelling stationary gasoline engines, tractors used off the public highways and streets, or for any commercial use 7 other than propelling vehicles upon any of the public 8 9 highways or streets of this state shall-be is allowed a 10 refund of the amount of tax paid directly or indirectly on 11 the gasoline so-used. Such The refund or-drawback-should-in 12 no-instance may not exceed the tax paid or to be paid to the 13 state. and-no Except as provided in subsection (5) or (6), a 14 refund shall-be is not allowed of-that-portion--of for the 15 tax per gallon upon aviation gasoline fuel allocated to the department of transportation by 67-1-301. 16

17 (2) Any distributor paying the gasoline license tax to
18 this state erroneously shall--be is allowed a credit or
19 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 <u>not</u> 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.

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(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

6 periodic reports listing accounts that are delinguent for 90
7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the 10 Montana gasoline tax has been paid is entitled to a credit 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require.

15 (5) A scheduled passenger OR CARGO air carrier 16 certified under 14 CFR, part 121, or A SCHEDULED PASSENGER 17 AIR CARRIER CERTIFIED UNDER 14 CFR, PART 135, may claim a 18 refund of 2 cents on each gallon of aviation fuel purchased 19 by the carrier on which the Montana gasoline license tax has 20 been paid. 21 (6) A Montana refinery or distributor who sells JP-4 or 22 JP-8 jet fuel to the federal defense fuel supply center is 23 entitled to a credit or refund of 2 cents a gallon for each 24 gallon that is sold to the supply center and on which the

25 gasoline license tax has been paid."

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-12-
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         Section 7. Section 15-70-221, MCA, is amended to read:
 2
         "15-70-221. Refund or credit authorized. (1) Any person
 3
     who shall--purchase purchases and use uses any gasoline on
      which the Montana gasoline license tax has been paid for
 4
      denaturing alcohol to be used in gasohol or operating or
 5
      propelling stationary gasoline engines, tractors used off
 6
      the public highways and streets, or for any commercial use
 7
 8
      other than propelling vehicles upon any of the public
      highways or streets of this state shall-be is allowed a
 9
10
      refund of the amount of tax paid directly or indirectly on
11
      the gasoline so-used. Such The refund or-drawback-should-in
12
      no-instance may not exceed the tax paid or to be paid to the
13
      state. and-no Except as provided in subsection (5) or (6), a
14
      refund shall-be is not allowed of-that-portion--of for the
15
      tax per gallon upon aviation gasoline fuel allocated to the
16
      department of transportation by 67-1-301.
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17 (2) Any distributor paying the gasoline license tax to
18 this state erroneously shall--be is allowed a credit or
19 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 <u>not</u> 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.

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1 (b) If a credit has been granted under this subsection 2 (3), any amount collected on the accounts that were declared 3 worthless must be reported to the department and the tax due 4 on the collected amount must be paid to the department.

5 (c) The department may require a distributor to submit 6 periodic reports listing accounts that are delinquent for 90 7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the Montana gasoline tax has been paid is entitled to a credit 10 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require. (5) A scheduled passenger OR CARGO air carrier 15 16 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.

21 (6) A Montana refinery or distributor who sells JP-4 or 22 JP-8 jet fuel to the federal defense fuel supply center is 23 entitled to a credit or refund of 1 cent a gallon for each 24 gallon that is sold to the supply center and on which the

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25 gasoline license tax has been paid."

Section 8. Section 15-70-225, MCA, is amended to read: ٦. *15-70-225. Application for refund or credit -- filing 2 3 -- correction by department. (1) The application for refund shall--be is a signed statement, on a form furnished by the 4 department of transportation. Except for a claim for a 5 6 credit of taxes paid on unpaid accounts, the form must be 7 accompanied by the original bulk delivery invoice or 8 invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased 9 ог aviation fuel purchased by a certified scheduled 10 11 passenger air carrier, the total amount of gasoline or aviation fuel on which a refund is claimed, and the amount 12 13 of the tax claimed for refund.

14 (2) A claim for a credit for taxes paid on accounts for 15 which the distributor received---no <u>did</u> not receive 16 compensation must be accompanied by documents or copies of 17 documents showing that the accounts were worthless and 18 claimed as bad debts on the distributor's federal income tax 19 return. Any further information pertaining to a claim shall 20 must be furnished as required by the department.

21 (2)(3) A bulk delivery invoice issued by a dealer for a 22 sale that does not qualify as a bulk delivery under 23 15-70-201 is not valid for refund purposes.

24 (3)(4) All applications for refunds shall must be filed 25 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.

7 (4)(5) Should If the department find finds that the
B statement contains errors which that are not fraudulently
9 inserted, it may correct the statement and approve it as
10 corrected or the department may require the claimant to file
11 an amended statement."

Section 9. Section 15-70-231, MCA, is amended to read: 12 *15-70-231. Unlawful use of aviation gasoline fuel. It 13 shall-be is unlawful for any person to use aviation gasoline 14 fuel or to sell such-gasoline aviation fuel for use in any 15 motorized vehicle operated upon the public highways or 16 streets of this state. Violation of this section shall-be is 17 a misdemeanor subject to the penalties provided 18 in 15-70-232." 19

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

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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 <u>3-cent-per-gallon</u> 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: <u>15-70-204(1)</u>:

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

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1	<u>l cent a gallon collected under 15-70-204(1)</u> sodeposited
2	shallbespentbythe-department for the sole purpose of
3	carrying out its functions pertaining to aeronautics $\frac{1}{2}$
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

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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.

8 (5) No-part-of-the-1--cent--per--galion--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 <u>NEW SECTION.</u> 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).

Section 12. Section 67-1-301, MCA, is amended to read: 18 "67-1-301. Money -- receipt and disbursement. (1) All 19 20 costs and expenses of administering this title, including the salaries of employees of the department engaged in 21 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:

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(a) all gifts and all legislative appropriations to the
 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

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1	carrying out its functions pertaining to aeronautics ; and
2	(ii) in a separate account in the state special revenue
3	fund to the credit of the department, an amount equal to the
4	proceeds of 1 cent a gallon for grants to municipalities and
5	for other aeronautical purposes as provided in subsection
6	(4)(b).
7	(b) Money deposited in the separate account established
8	in subsection (4)(a)(ii) may, with the approval of the
9	board, be used only to provide grants to municipalities for
10	airport development or improvement programs and to provide
11	navigational aids, safety improvements, weather reporting
12	services, and other aeronautical services for airports and
13	landing fields and for the state's airways. The board shall
14	establish procedures for the awarding of grants.
15	(5) Nopartofthet-centper-gatton-of Except as

15 (5) No-part-or-the-r-cent-per-garien-or <u>Except as</u> 16 provided in 15-70-221, the gasoline license tax imposed by 17 the laws of this state on gasoline aviation fuel purchased 18 and used for the operation of airplanes or aircraft may not 19 be refunded."

20 <u>NEW SECTION.</u> Section 13. Special aeronautical loan 21 account. There is a special aeronautical loan account in the 22 state special revenue fund. Principal and interest payments 23 deposited in the account may be used only for providing 24 loans specified in [section 14].

25 NEW SECTION. Section 14. Aeronautical loans. Money

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1 deposited in the account created in [section 13] may, with 2 the approval of the board, be used only to provide loans to 3 local governments and state agencies for aeronautical purposes, including airport improvement. The board shall 4 establish procedures, including the interest rate charged, 5 6 for providing loans. Proceeds of all repayments of loans, 7 including interest, made under this section must be 8 deposited in the account created in [section 13].

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

10 "67-1-303. Airline property tax -- state airports. (1)
11 Within 30 days of receipt, the county treasurer shall
12 transmit to the state treasury 90% of the property tax
13 collected on property of airline companies by reason of a
14 state airport being located in the county.

15 (2) The state treasurer shall place the money in the
16 state special revenue fund to the credit of the department
17 of transportation for the purposes provided for in
18 67-1-301(4)(a)(i)."

19 <u>NEW SECTION.</u> Section 16. Codification instruction.
20 [Sections 11, 13, and 14] are intended to be codified as an
21 integral part of Title 67, chapter 1, part 3, and the
22 provisions of Title 67, chapter 1, part 3, apply to
23 [sections 11, 13, and 14].

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

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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-

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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:

Sen.

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:

Weeding

Rep Chair Nelson Re

Sen.

Rep.

Sen. Gage

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

ADOPT

REJECT

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. Т. elson. Ch Sen. Weeding. Sen. ÊC Re Sen. Gage Rep

CORRECTED SECOND PRINTING

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

ADOPT

REJECT

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 AERONAUTICS TO PROVIDE LOANS TO LOCAL GOVERNMENTS AND STATE 5 AGENCIES FOR AERONAUTICAL PURPOSES; ALLOWING GRANTS TO BE 6 MADE TO MUNICIPALITIES FOR AIRPORT DEVELOPMENT AND 7 IMPROVEMENT PROGRAMS: PROVIDING NAVIGATIONAL AIDS. SAFETY В 9 IMPROVEMENTS, WEATHER REPORTING SERVICES, AND OTHER AERONAUTICAL SERVICES FOR AIRPORTS AND LANDING FIELDS AND 10 11 FOR THE STATE'S AIRWAYS; INCREASING THE TAX ON AVIATION FUEL BY 2 CENTS A GALLON FOR LOANS AND GRANTS; PROVIDING THE TAX 12 13 IS REDUCED BY 1 CENT A GALLON WHEN DEPOSITS INTO THE SPECIAL 14 AERONAUTICAL LOAN ACCOUNT REACH \$1 MILLION; PROVIDING FOR REFUNDS AND CREDITS UNDER CERTAIN CONDITIONS FOR AVIATION 15 FUEL TAXES PAID; CREATING ACCOUNTS IN WHICH TO DEPOSIT THE 16 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 <u>fuel</u>, 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 <u>fuel</u>" means gasoline or any 11 other liquid fuel by whatsoever <u>whatever</u> 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_r
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

Montana Legislative Courter

HB 645 REFERENCE BILL: Includes Conference Committee report Dated <u>4-21-93</u> 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:

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

18 (b) any person who imports gasoline for sale, use, or19 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;

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 commercially known or sold as gasolines, 13 including casinghead gasoline, natural gasoline, aviation gasoline 14 15 fuel, and all flammable liquids composed of a mixture of 16 selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating 17 internal combustion engines. Gasoline does not include 18 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 <u>a</u> point 24 of origin without <u>outside of</u> this state other than in the 25 fuel supply tank of a motor vehicle.

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(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.

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

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

9 Section 2. Section 15-70-204. MCA, is amended to read: *15-70-204. Gasoline license tax -- rate. (1) Every 10 distributor shall pay to the department of transportation a 11 license tax for the privilege of engaging in and carrying on 12 business in this state in an amount equal to 1-cent 3 cents 13 for each gallon of aviation gasoline fuel, which shall-be is 14 allocated to the department of transportation as provided by 15 67-1-301, as-amended, and 20 cents for each gallon of all 16 other gasoline distributed by him the distributor within the 17 state and upon which the gasoline license tax has not been 18 paid by any other distributor. 19

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

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

1 Section 3. Section 15-70-204, MCA, is amended to read: 2 "15-70-204. Gasoline license tax -- rate. (1) Every 3 distributor shall pay to the department of transportation a 4 license tax for the privilege of engaging in and carrying on 5 business in this state in an amount equal to $\frac{1}{2}$ cents 6 for each gallon of aviation gasoline fuel, which shall-be is allocated to the department of transportation as provided by 7 67-1-301, as--amended, and 20 cents for each gallon of all 8 9 other gasoline distributed by him the distributor within the 10 state and upon which the gasoline license tax has not been 11 paid by any other distributor.

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

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

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

19 "15-70-205. Distributor's statement and payment --20 confidentiality. (1) Each distributor shall, not later than
21 the 25th day of each calendar month, render a true <u>signed</u>
22 statement₇-duly-signed₇ to the department of transportation
23 of all gasoline distributed and received by <u>him the</u>
24 <u>distributor</u> in this state during the preceding calendar
25 month and containing any other information the department

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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 less any refund credit issued under 15-70-226 and less 1% of 4 the total tax that may be deducted by the distributor as an 5 6 allowance for evaporation and other loss of gasoline 7 distributed by the distributor; however, no an 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;

(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;

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;

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

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

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1 Section 6. Section 15-70-221, MCA, is amended to read: *15-70-221, Refund or credit authorized. (1) Any person 2 з who shall--purchase purchases and use uses any qasoline on 4 which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol or operating or 5 6 propelling stationary gasoline engines, tractors used off 7 the public highways and streets, or for any commercial use 8 other than propelling vehicles upon any of the public 9 highways or streets of this state shall-be is allowed a 10 refund of the amount of tax paid directly or indirectly on 11 the gasoline so-used. Such The refund or-drawback-should-in 12 no-instance may not exceed the tax paid or to be paid to the 13 state. and-no Except as provided in subsection (5) or (6), a 14 refund shall-be is not allowed of-that-portion--of for the 15 tax per gallon upon aviation gasoline fuel allocated to the 16 department of transportation by 67-1-301.

17 (2) Any distributor paying the gasoline license tax to
18 this state erroneously shall--be is allowed a credit or
19 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 <u>not</u> 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.

1 (b) If a credit has been granted under this subsection 2 (3), any amount collected on the accounts that were declared 3 worthless must be reported to the department and the tax due 4 on the collected amount must be paid to the department.

5 (c) The department may require a distributor to submit 6 periodic reports listing accounts that are delinquent for 90 7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the 10 Montana gasoline tax has been paid is entitled to a credit 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require.

(5) A scheduled passenger OR---CARGO 15 air carrier certified under 14 CPR, part 1217 or A-SCHEDULED-PASSENGER 16 17 AIR-CARRIER-CERTIFIED-UNDER-14-CFR7-PART 135, may claim a 18 refund of 2 cents on each gallon of aviation fuel purchased 19 by the carrier on which the Montana gasoline license tax has 20 been paid. 21 (6) A Montana refinery or distributor who sells JP-4 or 22 JP-8 jet fuel to the federal defense fuel supply center is 23 entitled to a credit or refund of 2 cents a gallon for each 24 gallon that is sold to the supply center and on which the

25 gasoline license tax has been paid."

1 Section 7. Section 15-70-221, MCA, is amended to read: 2 *15-70-221. Refund or credit authorized. (1) Any person 3 who shall--purchase purchases and uses any gasoline on which the Montana gasoline license tax has been paid for 4 5 denaturing alcohol to be used in gasohol or operating or 6 propelling stationary gasoline engines, tractors used off 7 the public highways and streets, or for any commercial use 8 other than propelling vehicles upon any of the public highways or streets of this state shall-be is allowed a 9 10 refund of the amount of tax paid directly or indirectly on 11 the gasoline so-used. Such The refund or-drawback-should-in 12 no-instance may not exceed the tax paid or to be paid to the 13 state. and-no Except as provided in subsection (5) or (6), a 14 refund shall-be is not allowed of-that-portion--of for the 15 tax per gallon upon aviation gasoline fuel allocated to the 16 department of transportation by 67-1-301.

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

20 (3) (a) A distributor is entitled to a credit for the 21 tax paid to the department on those sales of gasoline for 22 which the distributor has <u>not</u> received no consideration from 23 or on behalf of the purchaser. The distributor shall have 24 declared the accounts of the purchaser worthless and claimed 25 those accounts as bad debts for federal income tax purposes. 1 (b) If a credit has been granted under this subsection 2 (3), any amount collected on the accounts that were declared 3 worthless must be reported to the department and the tax due 4 on the collected amount must be paid to the department.

5 (c) The department may require a distributor to submit 6 periodic reports listing accounts that are delinquent for 90 7 days or more.

8 (4) Any person who purchases and exports for sale, use, 9 or consumption outside Montana any gasoline on which the 10 Montana gasoline tax has been paid is entitled to a credit 11 or refund of the amount of tax so paid upon completion of 12 the information reports required under 15-70-209 and 13 presentation to the department of such other proof of 14 delivery outside Montana as it may by rule require.

(5) A scheduled passenger OR---CARGO 15 air carrier 16 certified under 14 CFR, part 1217 or A-SCHEDUBED-PASSENGER 17 AIR-CARRIER-CERTIPIED-UNDER-14-CFR7-PART 135, may claim a 18 refund of 1 cent on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license tax has 19 20 been paid. 21 (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel supply center is 22 entitled to a credit or refund of 1 cent a gallon for each 23 24 gallon that is sold to the supply center and on which the 25 gasoline license tax has been paid."

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1 Section 8. Section 15-70-225, MCA, is amended to read: 2 "15-70-225. Application for refund or credit -- filing -- correction by department. (1) The application for refund 3 shall--be is a signed statement, on a form furnished by the 4 5 department of transportation. Except for a claim for a credit of taxes paid on unpaid accounts, the form must be 6 accompanied by the original bulk delivery invoice or 7 8 invoices issued to the claimant at the time of each purchase and delivery, showing the total amount of gasoline purchased 9 10 or aviation fuel purchased by a certified scheduled 11 passenger air carrier, the total amount of gasoline or 12 aviation fuel on which a refund is claimed, and the amount 13 of the tax claimed for refund.

14 (2) A claim for a credit for taxes paid on accounts for 15 which the distributor received---no <u>did not</u> receive 16 compensation must be accompanied by documents or copies of 17 documents showing that the accounts were worthless and 18 claimed as bad debts on the distributor's federal income tax 19 return. Any further information pertaining to a claim shall 20 <u>must</u> be furnished as required by the department.

21 (2)(3) A bulk delivery invoice issued by a dealer for a 22 sale that does not qualify as a bulk delivery under 23 15-70-201 is not valid for refund purposes.

24 (3)(4) All applications for refunds shall must be filed
25 with the department within 14 months after the date on which

1 the gasoline <u>or aviation fuel</u> was purchased as shown by 2 invoices or after the date on which the tax was erroneously 3 paid. A distributor may file a claim for refund of taxes 4 erroneously paid or for a credit for taxes paid by him <u>the</u> 5 <u>distributor</u> on unpaid accounts within 3 years after the date 6 of payment.

7 (4)(5) Should If the department find finds that the 8 statement contains errors which that are not fraudulently 9 inserted, it may correct the statement and approve it as 10 corrected or the department may require the claimant to file 11 an amended statement."

12 Section 9. Section 15-70-231, MCA, is amended to read: "15-70-231. Unlawful use of aviation gesoline fuel. It 13 14 shall-be is unlawful for any person to use aviation gasoline fuel or to sell such-gasoline aviation fuel for use in any 15 16 motorized vehicle operated upon the public highways or 17 streets of this state. Violation of this section shall-be is 18 a misdemeanor subject to the penalties provided in 15-70-232." 19

20 Section 10. Section 67-1-301, MCA, is amended to read: 21 "67-1-301. Money -- receipt and disbursement. (1) All 22 costs and expenses of administering this title, including 23 the salaries of employees of the department engaged in 24 functions pertaining to aeronautics, the expenses of members 25 of the board, and all other disbursements necessary to carry

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out the purposes of this title, shall must be paid out of
 the following 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 <u>3-cent-per-gallon</u> per-galion-out-of-the-amount-per-galion-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	<u>1 cent a gallon collected under 15-70-204(1)</u> sodeposited
2	shallbespentbythe-department for the sole purpose of
3	carrying out its functions pertaining to aeronautics τ :
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

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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.

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 <u>NEW SECTION.</u> 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).

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

(a) all gifts and all legislative appropriations to the
 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 <u>1 cent a gallon collected under 15-70-204(1)</u> so-deposited

25 shall-be-spent-by-the-department for the sole purpose of

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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).

7 (b) Money deposited in the separate account established 8 in subsection (4)(a)(i1) may, with the approval of the 9 board, be used only to provide grants to municipalities for 10 airport development or improvement programs and to provide navigational aids, safety improvements, weather reporting 11 12 services, and other aeronautical services for airports and 13 landing fields and for the state's airways. The board shall 14 establish procedures for the awarding of grants.

15 (5) No--part--of--the--i--cent--per-galion-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."

20 <u>NEW SECTION.</u> Section 13. Special aeronautical loan 21 account. There is a special aeronautical loan account in the 22 state special revenue fund. Principal and interest payments 23 deposited in the account may be used only for providing 24 loans specified in (section 14).

25 NEW SECTION, Section 14. Aeronautical loans. Money

deposited in the account created in [section 13] may, with 1 2 the approval of the board, be used only to provide loans to З local governments and state agencies for aeronautical purposes, including airport improvement. The board shall 4 establish procedures, including the interest rate charged, 5 6 for providing loans. Proceeds of all repayments of loans, 7 including interest, made under this section must be deposited in the account created in [section 13]. 8

9 Section 15. Section 67-1-303, MCA, is amended to read:
10 "67-1-303. Airline property tax -- state airports. ())
11 Within 30 days of receipt, the county treasurer shall
12 transmit to the state treasury 90% of the property tax
13 collected on property of airline companies by reason of a
14 state airport being located in the county.

15 (2) The state treasurer shall place the money in the 16 state special revenue fund to the credit of the department 17 of transportation for the purposes provided for in 18 67-1-301(4)(a)(i)."

<u>NEW SECTION.</u> 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].

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

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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-

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