

House BILL NO. 353

INTRODUCED BY ~~Wiseman Forbes Simpkins Tuss Franklin~~  
~~Support. Robert~~ ~~Rose~~ ~~Albuquerque~~ ~~Ortega~~ ~~W. Ryan~~  
~~Salvini~~ ~~Mesa~~ ~~Christiane~~

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE ENTIRE LICENSE TAX FOR SUPPORT  
OF THE AIRPORT LOAN PROGRAM IS TO BE REFUNDED ON JET FUEL SOLD TO THE FEDERAL DEFENSE  
FUEL SUPPLY CENTER; AMENDING SECTION 15-70-221, MCA; AND PROVIDING AN IMMEDIATE  
EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

*Handwritten signature: Henry Cresillo*

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

**Section 1.** Section 15-70-221, MCA, is amended to read:

**"15-70-221. (Temporary) Refund or credit authorized.** (1) A person who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors used off the public highways and streets, or for any commercial use other than propelling vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.

(2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

(c) The department may require a distributor to submit periodic reports listing accounts that are

1 delinquent for 90 days or more.

2 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
3 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
4 unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit  
5 or refund will be made upon completion of the information reports required under 15-70-209 and  
6 presentation to the department of proof of delivery outside Montana as it may by rule require.

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

10 (6) A Montana refinery or distributor who sells JP-4 or JP-8 jet fuel to the federal defense fuel  
11 supply center is entitled to a credit or refund of ~~2~~ 3 cents a gallon for each gallon that is sold to the supply  
12 center and on which the gasoline license tax has been paid. (Terminates on occurrence of contingency--sec.  
13 17, Ch. 642, L. 1993.)

14 **15-70-221. (Effective on occurrence of contingency) Refund or credit authorized.** (1) A person who  
15 purchases and uses any gasoline on which the Montana gasoline license tax has been paid for denaturing  
16 alcohol to be used in gasohol, for operating or propelling stationary gasoline engines or tractors used off  
17 the public highways and streets, or for any commercial use other than propelling vehicles upon any of the  
18 public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly  
19 on the gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in  
20 subsection (5) or (6), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the  
21 department of transportation by 67-1-301.

22 (2) A distributor who pays the gasoline license tax to this state erroneously is allowed a credit or  
23 refund of the amount of tax so paid.

24 (3) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of  
25 gasoline with a tax liability of \$200 or greater for which the distributor has not received consideration from  
26 or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor may  
27 not have declared the accounts of the purchaser worthless more than once during a 3-year period, and the  
28 distributor must have claimed those accounts as bad debts for federal income tax purposes.

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

1 collected amount and must be paid to the department.

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

4 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline  
5 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid  
6 unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit  
7 or refund will be made upon completion of the information reports required under 15-70-209 and  
8 presentation to the department of proof of delivery outside Montana as it may by rule require.

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

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

15

16 NEW SECTION. **Section 2. Effective date -- retroactive applicability.** [This act] is effective on  
17 passage and approval and applies retroactively, within the meaning of 1-2-109, to jet fuel sold to the  
18 federal defense fuel supply center after December 31, 1994.

19

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0353, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing that the entire license tax for support of the airport loan program is to be refunded on jet fuel sold to the federal defense fuel supply center.

ASSUMPTIONS:

1. The same number of gallons of jet fuel sold to the federal defense fuel supply center in FY94 would be sold to the federal defense fuel supply center in FY96 and FY97 (14,679,178 gallons).
2. The Aeronautics Division administrative account is currently projected to experience expenditures exceeding revenue by approximately \$50,000 per fiscal year in the 1997 biennium, unless reversions in budget authority are experienced. This account had a FYE94 cash balance of \$586,000, adequate to absorb the expenditures planned as part of the Executive Budget recommendations for the 1997 biennium.
3. If airway beacons are decommissioned, the Department of Transportation would be required to remove 17 airway beacons and perform site restoration for all leased private and public lands at a cost of approximately \$7,000 per site.
4. If state operation were discontinued, counties would assume operation of state-owned airports/radio aids serving their county.
5. If the search and rescue function of the Aeronautics Division were eliminated, the department would no longer register pilots and would therefore not collect a pilot registration fee.

FISCAL IMPACT:

Expenditures:

The aeronautics division administrative account could not sustain a major revenue reduction without replacement by other funding source(s) and/or reductions in program expenditures. If the revenue loss under HB353 were not replaced, the department would reduce program expenditures by eliminating the following functions: search and rescue; state-owned airports; non-directional radio beacons; visual airway beacons. FY96 reflects an increased expenditure of \$118,750 for decommissioning of airway beacons.

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
FTE	(2.00)	(2.00)
Personal Services	(69,122)	(69,122)
Operating Expenses	<u>40,872</u>	<u>(77,878)</u>
Total	(28,250)	(147,000)
 <u>Revenues:</u>		
Aviation Fuels Tax (02)	(\$147,000)	(\$147,000)
Pilot Registration (02)	<u>(22,000)</u>	<u>(22,000)</u>
Total	(\$169,000)	(\$169,000)
 <u>Net Impact: (reduction in fund balance)</u>		
Aero Div. Admin Account (02)	(\$140,750)	(\$22,000)

(continued)

*Dave Lewis 2-2-95*

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

WILLIAM WISEMAN, PRIMARY SPONSOR      DATE

Fiscal Note for HB0353, as introduced

**HB 353**

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

If counties assumed operation of state-owned airports and radio aids, county expenditures would increase by an estimated \$47,400 associated with operational and maintenance expenses. The affected airports would be:

1. Dell Airport located in Beaverhead County
2. Babb Airport located Glacier County
3. Browning Airport located in Glacier County
4. E. Poplar located on the U.S.-Canada border (Daniels County)
5. Lincoln Airport located in Lewis and Clark County
6. Lavina located in Golden Valley County
7. Ryegate located in Golden Valley County
8. Rock Creek located in Missoula County
9. Sweetgrass Airport located on the U.S.-Canada border (Toole County)
10. Tiber Dam located in Liberty County
11. Del Bonita Airport located on the U.S.-Canada border (Glacier County)
12. Canyon Ferry Airport located Broadwater County

The 27 Non-Directional Radio Beacons (NDBs), which serve as the radio facility for instrument approaches, would either be shutdown or transferred to the counties. The following eight (8) NDBs, which are Aeronautics-owned and operated, would be closed:

1. Choteau Airport located in Teton County
2. Conrad Airport located in Pondera County
3. Forsyth Airport located in Rosebud County
- \*\* 4. Glendive Airport located in Dawson County
- \*\* 5. Havre Airport located in Hill County
6. Shelby Airport located in Toole County
- \*\* 7. Sidney Airport located in Richland County
- \*\* 8. Wolf Point located in Roosevelt County

Airports identified by double asterisks (\*\*) are Essential Air Service Airports.

TECHNICAL NOTE:

The title of HB353 is inconsistent with the body of the bill. The title indicates the bill's intent to refund the license tax earmarked for the airport loan program. The body of the bill would refund the license tax earmarked for general administrative purposes of the state aeronautics program.