

SENATE BILL NO. 280

INTRODUCED BY W. MCNUTT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REINSTATING THE 1-CENT-A-GALLON AVIATION FUEL TAX
 5 THAT WAS DEPOSITED IN THE AERONAUTICAL LOAN ACCOUNT THAT TERMINATED JANUARY 1,
 6 2001, AFTER THE LOAN ACCOUNT REACHED A BALANCE OF \$1 MILLION; PROVIDING THAT THE
 7 PROCEEDS OF THE REINSTATED 1-CENT TAX BE DEPOSITED IN THE AIRPORT GRANT ACCOUNT FOR
 8 MUNICIPALITIES; AMENDING SECTIONS 15-70-204, 15-70-205, 15-70-221, 67-1-301, AND 67-1-303,
 9 MCA; REPEALING SECTION 67-1-305, MCA; AND PROVIDING AN EFFECTIVE DATE."

10

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

12

13 **Section 1.** Section 15-70-204, MCA, is amended to read:

13

14 ~~"15-70-204. (Temporary) Gasoline license tax -- rate. (1) Every distributor shall pay to the~~
 15 ~~department a license tax for the privilege of engaging in and carrying on business in this state in an amount~~
 16 ~~equal to:~~

16

17 ~~—— (a) 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply~~
 18 ~~center, which is allocated to the department as provided by 67-1-301; and~~

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19 ~~—— (b) 27 cents, beginning July 1, 1994, for each gallon of all other gasoline distributed by the~~
 20 ~~distributor within the state and upon which the gasoline license tax has not been paid by any other~~
 21 ~~distributor.~~

21

22 ~~—— (2) Gasoline exported may not be included in the measure of the distributor's license tax unless~~
 23 ~~the distributor is not licensed and is not paying the tax to the state the fuel is destined for.~~

23

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

25

26 ~~(Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)~~

26

27 **15-70-204. (Effective on occurrence of contingency) Gasoline license tax -- rate. (1) Every Each**
 28 **distributor shall pay to the department a license tax for the privilege of engaging in and carrying on**
 29 **business in this state in an amount equal to:**

29

30 (a) ~~3~~ 4 cents for each gallon of aviation fuel, other than fuel sold to the federal defense fuel supply

1 center, which is allocated to the department as provided by 67-1-301; and

2 (b) 27 cents for each gallon of all other gasoline distributed by the distributor within the state and
3 upon which the gasoline license tax has not been paid by any other distributor.

4 (2) Gasoline exported may not be included in the measure of the distributor's license tax unless
5 the distributor is not licensed and is not paying the tax to the state the fuel is destined for.

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

8

9 **Section 2.** Section 15-70-205, MCA, is amended to read:

10 ~~"15-70-205. (Temporary) Distributor's statement and payment -- confidentiality. (1) Each~~
11 ~~distributor shall, not later than the 25th day of each calendar month, except as provided in 15-70-113(3),~~
12 ~~render a true signed statement to the department of all gasoline distributed and received by the distributor~~
13 ~~in this state during the preceding calendar month and containing any other information that the department~~
14 ~~may reasonably require in order to administer the gasoline license tax law. The statement must be~~
15 ~~accompanied by a payment in an amount equal to the tax imposed by 15-70-204 less any refund credit~~
16 ~~issued under 15-70-226 and less 1% of the total tax that may be deducted by the distributor as an~~
17 ~~allowance for collecting the tax. An allowance may not be deducted from the 4-cent tax on aviation fuel.~~
18 ~~———(2) A distributor engaged in or carrying on a business at more than one place or location in this~~
19 ~~state may include all places of business in one statement.~~
20 ~~———(3) The department or a deputy, assistant, agent, clerk, or other employee of the department may~~
21 ~~not publish or otherwise disseminate information contained in a statement required under this section in~~
22 ~~a form that allows identification of a distributor or a purchaser of gasoline. This section does not prohibit:~~
23 ~~———(a) the delivery to a distributor or the distributor's authorized representative of a certified copy of~~
24 ~~any return or report filed in connection with the tax;~~
25 ~~———(b) the inspection by the attorney general or other legal representative of the state of the report~~
26 ~~or return of a distributor who brings an action to set aside or review the tax based on the report or return~~
27 ~~or against whom an action or proceeding has been instituted in accordance with the provisions of Title 15;~~
28 ~~———(c) the publication of statistics classified to prevent the identification of particular reports or~~
29 ~~returns and the items in the reports or returns;~~
30 ~~———(d) the inspection by the commissioner of internal revenue of the United States or the proper~~

1 ~~officer or any representative of either officer of the report or return of any distributor or the furnishing to~~
 2 ~~the officer or authorized representative of an abstract of the report or return, but permission must be~~
 3 ~~granted or information must be furnished to the officer or the officer's representative if the statutes of the~~
 4 ~~United States or the other state grant substantially similar privileges to the proper officer of this state~~
 5 ~~charged with the administration of this chapter or must be in compliance with 15-70-121 and 15-70-122;~~
 6 ~~or~~

7 ~~—— (e) the compliance of the department with any order of a court of competent jurisdiction.~~
 8 ~~(Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)~~

9 **15-70-205. ~~(Effective on occurrence of contingency)~~ Distributor's statement and payment --**
 10 **confidentiality.** (1) Each distributor shall, not later than the 25th day of each calendar month, except as
 11 provided in 15-70-113(3), render a true signed statement to the department of all gasoline distributed and
 12 received by the distributor in this state during the preceding calendar month and containing any other
 13 information that the department may reasonably require in order to administer the gasoline license tax law.
 14 The statement must be accompanied by a payment in an amount equal to the tax imposed by 15-70-204
 15 less any refund credit issued under 15-70-226 and less 1% of the total tax that may be deducted by the
 16 distributor as an allowance for collecting the tax. An allowance may not be deducted from the ~~3-cent~~
 17 4-cent tax on aviation fuel.

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

20 (3) The department or a deputy, assistant, agent, clerk, or other employee of the department may
 21 not publish or otherwise disseminate information contained in a statement required under this section in
 22 a form that allows identification of a distributor or a purchaser of gasoline. This section does not prohibit:

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

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

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

30 (d) the inspection by the commissioner of internal revenue of the United States or the proper

1 officer or any representative of either officer of the report or return of any distributor or the furnishing to
2 the officer or authorized representative of an abstract of the report or return, but permission must be
3 granted or information must be furnished to the officer or the officer's representative if the statutes of the
4 United States or the other state grant substantially similar privileges to the proper officer of this state
5 charged with the administration of this chapter or must be in compliance with 15-70-121 and 15-70-122;
6 or

7 (e) the compliance of the department with any order of a court of competent jurisdiction."
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9 **Section 3.** Section 15-70-221, MCA, is amended to read:

10 ~~"15-70-221. (Temporary) Refund or credit authorized. (1) A person who purchases and uses any~~
11 ~~gasoline on which the Montana gasoline license tax has been paid for denaturing alcohol to be used in~~
12 ~~gasohol, for operating stationary gasoline engines used off the public highways and streets, or for any~~
13 ~~commercial use other than operating vehicles upon any of the public highways or streets of this state is~~
14 ~~allowed a refund of the amount of tax paid directly or indirectly on the gasoline. The refund may not~~
15 ~~exceed the tax paid or to be paid to the state. Except as provided in subsection (5), a refund is not allowed~~
16 ~~for the tax per gallon upon aviation fuel allocated to the department of transportation by 67-1-301.~~

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

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

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

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

30 ~~———(4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline~~

1 ~~on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid~~
 2 ~~unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit~~
 3 ~~or refund must be made upon completion of the information reports required under 15-70-209 and~~
 4 ~~presentation to the department of proof of delivery outside Montana as it may by rule require.~~

5 ~~—— (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund~~
 6 ~~of 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline license~~
 7 ~~tax has been paid. (Terminates on occurrence of contingency--sec. 17, Ch. 642, L. 1993.)~~

8 **15-70-221. (Effective on occurrence of contingency) Refund or credit authorized.** (1) A person
 9 who purchases and uses any gasoline on which the Montana gasoline license tax has been paid for
 10 denaturing alcohol to be used in gasohol, for operating stationary gasoline engines used off the public
 11 highways and streets, or for any commercial use other than operating vehicles upon any of the public
 12 highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the
 13 gasoline. The refund may not exceed the tax paid or to be paid to the state. Except as provided in
 14 subsection (5), a refund is not allowed for the tax per gallon upon aviation fuel allocated to the department
 15 of transportation by 67-1-301.

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

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

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

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

29 (4) A person who purchases and exports for sale, use, or consumption outside Montana gasoline
 30 on which the Montana gasoline tax has been paid is entitled to a credit or refund of the amount of tax paid

1 unless the person is not licensed and is not paying the tax to the state the fuel is destined for. The credit
 2 or refund must be made upon completion of the information reports required under 15-70-209 and
 3 presentation to the department of proof of delivery outside Montana as it may by rule require.

4 (5) A scheduled passenger air carrier certified under 14 CFR, part 121 or 135, may claim a refund
 5 of ~~4-cent~~ 2 cents on each gallon of aviation fuel purchased by the carrier on which the Montana gasoline
 6 license tax has been paid."

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8 **Section 4.** Section 67-1-301, MCA, is amended to read:

9 ~~"67-1-301. (Temporary) Money -- receipt and disbursement. (1) All costs and expenses of~~
 10 ~~administering this title, including the salaries of employees of the department engaged in functions~~
 11 ~~pertaining to aeronautics, the expenses of members of the board, and all other disbursements necessary~~
 12 ~~to carry out the purposes of this title, must be paid out of the following revenue:~~

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

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

16 ~~—— (2) All money collected under subsection (1) must be deposited in the state treasury to the credit~~
 17 ~~of the department.~~

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

21 ~~—— (4) (a) The following amounts must be deposited from the proceeds of the 4-cent-a-gallon tax~~
 22 ~~imposed on aviation fuel by 15-70-204(1):~~

23 ~~—— (i) in the state special revenue fund to the credit of the department, an amount equal to the~~
 24 ~~proceeds of 2 cents a gallon collected under 15-70-204(1) for the sole purpose of carrying out its~~
 25 ~~functions pertaining to aeronautics;~~

26 ~~—— (ii) in the aeronautical loan account created in 67-1-305 to the credit of the department, an amount~~
 27 ~~equal to the proceeds of 1 cent a gallon for loans to local governments and state agencies; and~~

28 ~~—— (iii) in a separate account in the state special revenue fund to the credit of the department:~~

29 ~~—— (A) an amount equal to the proceeds of 1 cent a gallon to provide grants to municipalities for~~
 30 ~~airport development or improvement programs and to provide navigational aids, safety improvements,~~

1 ~~weather reporting services, and other aeronautical services for airports and landing fields and for the~~
 2 ~~state's airways; and~~

3 ~~—— (B) 25% of the amount collected from scheduled passenger air carriers certified under 14 CFR,~~
 4 ~~part 121 or 135.~~

5 ~~—— (b) Money deposited in the account created in 67-1-305 may, with the approval of the board, be~~
 6 ~~used only to provide loans to local governments and state agencies for aeronautical purposes, including~~
 7 ~~airport improvement. The board shall establish procedures, including the interest rate charged, for providing~~
 8 ~~loans. Proceeds of all repayments of loans, including interest, made under this subsection (4)(b) must be~~
 9 ~~deposited in the account created in 67-1-305.~~

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

15 ~~—— (5) Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state~~
 16 ~~on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.~~

17 ~~—— (6) Of the amount of aviation fuel tax collected from the scheduled passenger air carriers certified~~
 18 ~~under 14 CFR, part 121 or 135, 25% must be deposited in the separate account provided for in 67-1-305~~
 19 ~~to be used only for pavement preservation on airports served by these air carriers. (Terminates on~~
 20 ~~occurrence of contingency--sec. 17, Ch. 642, L. 1993.)~~

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

- 25 (a) all gifts and all legislative appropriations to the department for aeronautics;
 26 (b) all money received from any branch or department of the federal government or from other
 27 sources for the purposes mentioned in this title or for the furtherance of aeronautics generally in this state.

28 (2) All money collected under subsection (1) must be deposited in the state treasury to the credit
 29 of the department.

30 ~~(3) When the airport loan program is terminated, any balance of the bond proceeds that is not~~

1 loaned must remain in the state special revenue fund to be invested, and the income must be used to retire
 2 the outstanding debt on the remaining bond proceeds.

3 ~~(4)(3)~~ (a) The following amounts must be deposited from the proceeds of the ~~3-cent-a-gallon~~
 4 4-cent-a-gallon tax imposed on aviation fuel by 15-70-204(1):

5 (i) in the state special revenue fund to the credit of the department, an amount equal to the
 6 proceeds of 2 cents a gallon collected under 15-70-204(1) for the sole purpose of carrying out its
 7 functions pertaining to aeronautics; and

8 (ii) in a separate account in the state special revenue fund to the credit of the department:

9 (A) an amount equal to the proceeds of ~~1-cent~~ 2 cents a gallon ~~for to provide~~ grants to
 10 municipalities for airport development or improvement programs and to provide navigational aids, safety
 11 improvements, weather reporting services, and for other aeronautical purposes as provided in subsection
 12 ~~(4)(b)~~ services for airports and landing fields and for the state's airways; and

13 (B) 25% of the amount collected from scheduled passenger air carriers certified under 14 CFR,
 14 part 121 or 135.

15 (b) Money deposited in the account created in 67-1-306 may, with the approval of the board, be
 16 used only to provide loans to local governments and state agencies for aeronautical purposes, including
 17 airport improvement. The board shall establish procedures, including the interest rate charged, for providing
 18 loans. Proceeds of all repayments of loans, including interest, made under this subsection (3)(b) must be
 19 deposited in the account created in 67-1-306.

20 ~~(b)(c)~~ (3)(a)(ii) Money deposited in the separate account established in subsection ~~(4)(a)(ii)~~ (3)(a)(ii) may,
 21 with the approval of the board, be used only to provide grants to municipalities for airport development
 22 or improvement programs and to provide navigational aids, safety improvements, weather reporting
 23 services, and other aeronautical services for airports and landing fields and for the state's airways. The
 24 board shall establish procedures for the awarding of grants.

25 ~~(5)(4)~~ Except as provided in 15-70-221, the gasoline license tax imposed by the laws of this state
 26 on aviation fuel purchased and used for the operation of airplanes or aircraft may not be refunded.

27 ~~(6)(5)~~ Of the amount of aviation fuel tax collected from the scheduled passenger air carriers
 28 certified under 14 CFR, part 121 or 135, 25% must be deposited in the separate account provided for in
 29 ~~67-1-305~~ subsection (3)(a)(ii) to be used only for pavement preservation grants, with the approval of the
 30 board, on airports served by these air carriers."

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

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

(2) The state treasurer shall place the money in the state special revenue fund to the credit of the department of transportation for the purposes provided for in ~~67-1-301(4)(a)(i)~~ 67-1-301(3)(a)(i)."

NEW SECTION. **Section 6. Repealer.** Section 67-1-305, MCA, is repealed.

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2001.

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