

## Summary of redraft proposal to replace H.918 (taxation of aircraft fuel)

### Need for bill:

Federal statutes (49 U.S.C. § 47133(c) and 49 U.S.C. § 47107(b)(3)) require state and local revenues from aviation fuels be restricted to airport uses; state aviation fuel tax revenues may be used in a State Aviation Program or for noise mitigation. If the State does not comply with these restrictions, the State risks losing eligibility for FAA's Airport Improvement Program [\$19M annual average in recent years, including BTV].

### Background:

- In early 2017, the FAA requested that VTTrans certify its compliance with these restrictions. On December 21, 2017 the FAA requested additional documentation regarding the enactment of legislation assuring that the State's use of aviation fuel tax revenues was consistent with the restrictions. In consultation with the Tax Department, VTTrans determined that the State was not fully in compliance because of collection and distribution of Local Option Sales Taxes (LOT) on jet fuel. In addition, the set aside of a portion of the motor fuel tax on aviation gasoline (av gas) for the DUI Enforcement Special Fund and Agency of Natural Resources (76% to the Fish and Wildlife Fund and 24% to the Department of Forests, Parks and Recreation) is inconsistent with 49 U.S.C. § 47133 and § 47107.
- Two main categories of aircraft fuel are distributed in Vermont: **jet fuel** and **aviation gasoline**.
  - ❖ **Jet fuel** currently is taxed under the sales and use tax chapter of law (32 V.S.A. ch. 233), resulting in the application of LOT to jet fuel in communities that have adopted the one percent sales tax LOT, which includes the city of South Burlington.
  - ❖ **Aviation gasoline** is currently taxed under the general motor fuel tax chapter of law, 23 V.S.A. ch. 28.

### Summary of proposed legislation:

- Jet fuel remains subject to sales & Use tax and paid to Tax Dept. – no change
- Av gas remains subject to gas tax and paid to DMV – no change
- Av gas gallons will need to be separately identified as such by filers/distributors
- The gas tax allocations to F&W/FPR and DUI fund no longer apply to av gas
- The entire proceeds from gas taxes and assessments on av gas (and jet fuel) are deposited into the TFund (and TIB Fund) and used for aviation purposes.
- Local Options (Sales) tax no longer applies to jet fuel.
- The one cent/gallon underground storage fee still applies to av gas – no change

## Section by section explanation of aircraft fuel tax proposal (redraft)

### Sec. X1:

- § 3101 moves the location of the definition of motor vehicle (no change) and clarifies that gasoline or motor fuel includes aviation gasoline
- § 3105 requires distributors (and dealers) to maintain separate records for aviation gasoline gallons. This allows DMV to identify the revenues that are restricted to aviation uses.
- § 3106 requires that revenues from aviation gasoline be used only for aviation purposes and that gasoline tax allocations to F&W/FPR no longer apply to aviation gasoline. (estimated annual impact to F&W/FPR = \$1,103 based on CY2017 data)
- § 3108 requires distributors to report separately gallons of aviation gasoline sold and used. This allows DMV to identify the revenues that are restricted to aviation uses.

### Sec. X2:

- Gasoline tax allocations to DUI Enforcement Fund no longer apply to aviation gasoline (estimated annual impact to fund = \$1,118 based on CY2017 data)

### Sec. X3:

- Amends Title 5 to clarify eligible uses of tax revenues from aviation gasoline and jet fuel

### Sec. X4:

- Local Options (Sales) tax can no longer apply to jet fuel. (Estimated \$120,000 annual impact based on FY15-FY17 average. ~\$84,000 impact to South Burlington (70%) and \$36,000 impact to PILOT (30%))

### Sec. X5:

- Effective date of 01/01/2019 for Secs. X1-X3 will allow DMV sufficient time to adjust processes and complete outreach. Tax Dept. has recommended an effective date of July 1, 2018 for elimination of LOT on jet fuel, with associated returns to be filed by July 25, 2018.