A REPORT
TO THE
MONTANA
LEGISLATURE

FINANCIAL-COMPLIANCE AUDIT

Montana Department of Transportation

For the Two Fiscal Years Ended June 30, 2007

NOVEMBER 2007

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DIVISION

07-17

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November 2007

The Legislative Audit Committee
of the Montana State Legislature:

This is our financial-compliance audit report on the Montana Department of Transportation for fiscal years 2005-06 and 2006-07. Included in this report are fourteen recommendations concerning compliance with state and federal requirements regarding excess annual leave and exempt compensatory time, program income, timely federal reimbursements, diversion of highway revenue, distributions, Equipment Internal Service Fund, infrastructure asset transactions, tribal motor fuels administration account, railroad rights-of-way and loans, Scenic-Historic Byways Advisory Council, and farewell signs. There is also a disclosure issue regarding union pension discrepancies in this report. The department's written response to audit recommendations is included in the back of the report.

We thank the director and department personnel for their cooperation and assistance throughout the audit.

Respectfully submitted,

/s/ Scott A. Seacat

Scott A. Seacat
Legislative Auditor

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Appointed and Administrative Officials

			Term Expires
Montana Transportation Commission	Vacant, Chair		2009
	Nancy Espy, Vice Chair	Broadus	2011
	Rick Griffith	Butte	2009
	S. Kevin Howlett	Arlee	2011
	Diane Seymour-Winterburn	Helena	2009
Montana Aeronautics Board	Tricia McKenna, Chair	Belgrade	2009
	Ted Schye, Vice Chair	Fort Peck	2009
	Roger Lincoln, Secretary	Gilford	2009
	Robert Buckles	Bozeman	2011
	A. Christopher Edwards	Billings	2011
	Bill Hunt Jr.	Shelby	2009
	Fred Lark	Lewistown	2011
	Fred Leistiko	Kalispell	2009
	Charles J. Manning	Kalispell	2011

Montana Department of Transportation

Administrative Officials

Jim Lynch, Director and Highway Traffic Safety Program Administrator
Jim Currie, Deputy Director
Vickie Murphy, Internal Audit Manager
Jennifer Jensen, Administrator, Human Resources
Tim Reardon, Chief Counsel, Legal Services
Monte Brown, Administrator, Administration Division until April 2007
Larry Flynn, Administrator, Administration Division effective April 2007
Debbie Alke, Administrator, Aeronautics Division
Loran Frazier, Administrator, Highways Engineering Division
Mike Bousliman, Administrator, Information Services Division
John Blacker, Administrator, Maintenance Division
Dennis Sheehy, Administrator, Motor Carrier Services Division
Sandy Straehl, Administrator, Rail, Transit & Planning Division

District Administrators

Dwane Kailey - Missoula
Jeff Ebert - Butte
Mick Johnson - Great Falls
Bruce Barrett - Billings
Ray Mengel - Glendive

Public Information Officer

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Report Summary

Montana Department of Transportation

This report documents the results of our financial-compliance audit of the Montana Department of Transportation (department) for the two fiscal years ended June 30, 2007. We issued an unqualified opinion on the financial schedules presented in this report. This means the reader may rely on the presented financial information and the supporting information on the state's accounting system.

This report contains fourteen recommendations directed to the department. The recommendations concern compliance with state and federal requirements regarding excess annual leave and exempt compensatory time, program income, timely federal reimbursements, diversion of highway revenue, distributions, Equipment Internal Service Fund, infrastructure asset transactions, tribal motor fuels administration account, railroad rights-of-way and loans, Scenic-Historic Byways Advisory Council, and farewell signs. There is a disclosure issue regarding union pension discrepancies. Of the twelve recommendations from the prior audit, we found the department fully implemented nine recommendations, partially implemented two recommendations, and did not implement one recommendation.

The listing below serves as a means of summarizing the recommendations contained in the report, the department's response thereto, and a reference to the supporting comments.

Recommendation #1

We recommend the department establish procedures to ensure all excess annual leave is used by employees or forfeited in accordance with state law. 6

Department response: Partially Concur B-4

Recommendation #2

We recommend the department establish procedures to ensure all excess exempt compensatory time is used by employees or forfeited in accordance with state policy. 7

Department response: Partially Concur B-4

Recommendation #3

We recommend the department establish procedures to demonstrate compliance with federal program income requirements...8

Department response: Partially Concur B-4

Recommendation #4

We recommend the department:

A. Work with the Department of Administration to negotiate Cash Management Improvement Act agreements that will minimize the use of state funds to finance federal program costs prior to the receipt of federal funds and maximize investment earnings.

B. Establish procedures and management controls to ensure cash drawdowns for contractor payments and payroll disbursements are made in accordance with the Cash Management Improvement Act agreements and, therefore, applicable federal cash management requirements. 10

Department response: Concur B-5

Recommendation #5

We recommend the department:

A. Repay the $300,000 advance from the restricted highway revenue account to the aeronautics administration account.

B. Record advances only after obtaining Department of Administration approval, as required by state law. 11

Department response: Partially Concur B-5

Recommendation #6

We recommend the department:

A. Deposit proceeds from disposal of department personal property in the General Fund or the highway account of the State Special Revenue Fund in accordance with state law.

B. Move the $40,001 in proceeds from the 2006 airplane sale to the General Fund or the highway account of the State Special Revenue Fund in accordance with state law. .. 12

Department response: Partially Concur B-6

Recommendation #7

We recommend the department:

A. Distribute aviation fuel tax revenue and refunds in accordance with state law.

B. Move balances in the pavement preservation account to the grant account.

C. If necessary, seek clarification of state law regarding the disposition of aviation fuel tax revenues for scheduled passenger air carriers. 14

Department response: Partially Concur B-6

Recommendation #8

We recommend the department record the fund transfers required in the state special revenue nonrestricted account and the senior citizens and persons with disabilities transportation services account in accordance with state law. 15

Department response: Concur B-6

Recommendation #9

We recommend the department revise its rate-setting methodology to establish fees commensurate with costs in the Equipment Internal Service Fund, in accordance with state law and federal requirements. 16

Department response: Partially Concur B-7

Chapter I — Introduction

Introduction

We performed a financial-compliance audit of the Montana Department of Transportation (department) for the two fiscal years ended June 30, 2007. The objectives of the audit were to:

1. Determine if the department complied with selected state and federal laws and regulations during the audit period.
2. Obtain an understanding of the department's control systems to the extent necessary to support our audit of the department's financial schedules and, if appropriate, make recommendations for improvements in management and internal controls of the department.
3. Determine the implementation status of prior audit recommendations.
4. Determine if the department's financial schedules present fairly the results of operations for each of the fiscal years ended June 30, 2006, and 2007, and if the department's Schedule of Expenditures of Federal Awards for each of these fiscal years was fairly presented in relation to the financial schedules.

Auditing standards require us to communicate, in writing, control deficiencies we identified as a result of audit objective #2 above and considered to be significant or material. A significant deficiency affects management's ability to accurately process transactions. A material weakness is one or more significant deficiencies that adversely affect management's ability to fairly present its financial schedules.

Table 1 below summarizes the significant deficiencies and material weaknesses we identified during this audit.

Table 1
Summary of Control Deficiencies

Subject	Significant Deficiency	Material Weakness	Page
Infrastructure Asset Transactions	Yes	Yes	17

As required by section 17-8-101(6), MCA, we performed procedures to evaluate whether fees and charges for services were commensurate with costs incurred in the department's two Internal Service Funds. We found the charges and fund equity were reasonable and commensurate with costs for the Motor Pool Internal Service Fund, but not for the Equipment Internal Service Fund, as discussed beginning on page 15.

This report contains fourteen recommendations to the department. In accordance with section 5-13-307, MCA, we analyzed the costs to implement the recommendations in this report and believe the costs are not significant, except as discussed on page 19. Issues deemed not to have a significant effect on department operations are not included in the report, but have been discussed with management.

Background

The Montana Department of Transportation is responsible for administering the multimodal transportation network in Montana. The department plans, designs, builds, and maintains the statewide network of highways. It is responsible for collecting and distributing highway user fees and fuel taxes. The department enforces state and federal laws for commercial motor carriers and registers interstate fleet vehicles. The department also facilitates the operation and the infrastructure of airports and airways in Montana, registers aircraft and pilots, and maintains several state-owned airports. The department represents Montana interests in railroad planning issues and supports local entities in overall transportation planning and transit assistance.

The department is under the direction of the director, who is appointed by the Governor and confirmed by the Senate. The director or his designee acts as liaison between the Transportation Commission (commission) and the department. The commission is comprised of five members appointed by the Governor and confirmed by the Senate for four-year terms. The commission determines construction priorities, selects construction projects, awards construction contracts, and allocates funding to state, local, and national highway system projects. It also classifies highways as federal aid, primary, and off-system in the state maintenance system.

The department was budgeted 2,368.85 full-time equivalent (FTE) positions during fiscal year 2006-07. The department's primary sources of funding are federal funds and state motor fuel taxes. Department activities are organized under the Director's Office and seven divisions as described below:

Director's Office (50.50 FTE) - provides overall direction and management to the department. Included under the Director's Office are Legal Services, Internal Audit, Public Information, and Human Resources.

Administration (70.32 FTE) - provides administrative support services including accounting, budgeting, financial planning, and purchasing. The Administration Division administers motor fuel tax laws and collects motor fuel taxes.

Aeronautics (10.29 FTE) - facilitates the maintenance of airports, registers aircraft and pilots, and coordinates and supervises aerial search and rescue operations. The Aeronautics Board decides whether to approve airport grant and loan requests, and advises the division on matters pertaining to aeronautics.

Highways and Engineering (1,105.52 FTE) - is responsible for highway construction project planning and development from the time a project is included in the long-range work plan through the actual construction of the project. This includes project design, right-of-way acquisitions, issuing contract bid requests, addressing environmental concerns, awarding contracts, and administering construction contracts. Personnel in five districts (Billings, Butte, Glendive, Great Falls, and Missoula) and in Helena supervise and monitor work done by private contractors.

Information Services (61.95 FTE) - provides department-wide information technology services including network operations, application development, user support, records management, and printing.

Maintenance (888.17 FTE) - is responsible for maintaining the state's highway systems and its related facilities, equipment and motor pool vehicles, and road condition information and reports.

Motor Carrier Services (123.00 FTE) - enforces state and federal commercial motor carrier laws including laws on vehicle size and weight, insurance, licensing, fuel, and vehicle and driver safety; registers interstate fleet vehicles; issues commercial vehicle licenses and oversize/overweight permits; collects and distributes fees and taxes; and operates a statewide weigh station and mobile enforcement program. It inspects commercial vehicles for compliance with state and federal safety, registration, fuel, insurance, and size/weight laws and conducts commercial motor carrier safety compliance reviews and safety audits.

Rail, Transit and Planning (59.10 FTE) - provides technical and monetary assistance to local communities and transit authorities for planning, organizing, operating, and funding public transportation systems and highway traffic safety programs.

Prior Audit Recommendations

The prior audit report for the two fiscal years ended June 30, 2005, contained twelve recommendations to the department. The department implemented nine recommendations, partially implemented two recommendations, and did not implement one recommendation. The recommendation not implemented concerns recording infrastructure assets, as discussed in this report beginning on page 17. The recommendations partially implemented concern timely federal reimbursement and statutory housekeeping related to driver

training programs, drivers' license reinstatement fees, and aircraft registration fees. Timely federal reimbursement is discussed in this report beginning on page 9. Legislation was passed in the 2007 legislative session that addressed the issues concerning driver training programs and aircraft registration fees. However, the department's proposal for legislation regarding drivers' license reinstatement fees was not approved by the Office of Budget and Program Planning. As a result, the issues we previously reported regarding drivers' license reinstatement fees still need to be addressed.

Chapter II — Findings and Recommendations

Excess Annual Leave

The department allows employees to accumulate more annual leave (vacation time) than state law permits, resulting in $191,885 of liabilities and $12,123 of payments in excess of those allowed by law.

Section 2-18-617(1), MCA, limits the amount of annual leave an employee can accumulate and carry forward to the next calendar year to twice the amount an employee earns in a calendar year. Annual leave accumulated above this amount at the end of a calendar year is considered excess and must be used by the employee within the first 90 days of the next calendar year, unless an employee's written request for such leave is denied by the employing agency. If the employing agency denies the request, the excess annual leave is not forfeited if used before the end of that calendar year. State law clearly makes it the employing agency's responsibility to provide reasonable opportunity for an employee to use, rather than forfeit, excess annual leave.

Each year, the department notifies employees when they have accumulated more than twice their annual leave. In the notification, employees are asked to submit a plan to use their excess leave hours prior to March 31 of that year, or if the March 31 deadline is not feasible, to submit an alternative proposal to use their excess leave by December 31. Although employees have submitted plans, the department has historically not forfeited employees' excess annual leave and has allowed it to be carried forward and used indefinitely.

Not forfeiting the excess annual leave hours in accordance with state law increases the department's liability for compensated absences. This liability, which is calculated based on each employee's leave hours and pay rate, increases when the pay rate increases. Based on an excess leave spreadsheet prepared by the department, 13 of the department's employees had accumulated a total of 4,009 hours of annual leave balances from prior years, ranging from .06 hours to 1,181.62 hours, which should have been forfeited at December 31, 2006, and had not been forfeited as of April 13, 2007. The value of the excess leave balances that should have been forfeited at December 31, 2006, was $191,885, at April 13, 2007.

Because the department does not require employees to forfeit leave in accordance with state law, it has paid employees for excess annual leave, either as it was taken or at termination. In 2006, 27 employees were paid for 672 hours of excess annual leave taken after March 31, 2006, that should have been forfeited at that date. Because the leave was taken before the end of 2006, it was not included in the $191,885 discussed in the previous paragraph. Of the seven employees with excess leave who terminated employment with

the department between July 1, 2005, and June 22, 2007, five were paid a total of $12,123 for 365 hours of excess annual leave that should have been previously forfeited.

To be an allowable cost under a federal award, federal regulations require expenditures to be allowed under state law or regulations. Paying employees for excess annual leave that should have been forfeited is contrary to state law. The portion of these payments recovered from the federal government through indirect cost or payroll additive charges to federal programs is not an allowable cost. We believe it is likely such questioned costs are greater than $10,000 since this practice has occurred for a number of years.

Department administrators indicated the department's practice of not requiring forfeiture of excess annual leave balances was established by the Director's Office in a prior administration and the department is working to develop a plan to resolve these excess balances. They noted that it is difficult for certain management level employees to take off as much annual leave as they earn, particularly when they are working overtime and earning exempt compensatory time. They said employees usually take off any exempt compensatory time balance they have before they take annual leave because, in accordance with state policy, employees are not paid for their exempt compensatory time balance when they terminate employment.

Recommendation #1

We recommend the department establish procedures to ensure all excess annual leave is used by employees or forfeited in accordance with state law.

Excess Exempt Compensatory Time

The department allows employees to accumulate more exempt compensatory time than state policy permits, resulting in $40,990 of liabilities and $32,800 of payments in excess of those allowed.

State personnel policy in the Administrative Rules of Montana limits the amount of exempt compensatory time an employee can accumulate and carry forward to the next calendar year to 120 hours. Exempt compensatory time accumulated above this amount at the end of a calendar year is considered excess and must be used by the employee within the first 90 days of the next calendar year, unless an employee's written request for such leave is denied and an extension is granted by the employing agency. The length of the extension is up to the discretion of the department head or designee, but is not to exceed

December 31 each year. Any excess exempt compensatory time not taken by December 31 is to be forfeited.

Based on a department-prepared spreadsheet of excess exempt compensatory time and central payroll records, 23 department employees had excess exempt compensatory time at the end of 2006. Three of these employees had 856 hours of excess exempt compensatory time valued at $40,990 that should have been forfeited by December 31, 2006, the maximum extension period.

Because the department does not require employees to forfeit exempt compensatory time in accordance with state policy, employees have used and been paid for exempt compensatory time used that should have been forfeited. For example, one employee took over 1,023 hours of excess exempt compensatory time, valued at approximately $32,800, in fiscal year 2005-2006 prior to her termination in June 2006, that should have been forfeited in prior fiscal years.

To be an allowable cost under a federal award, federal regulations require expenditures not be prohibited under state law or regulations. Paying employees for excess exempt compensatory time that should have been forfeited is contrary to state policy. The portion of these payments recovered from the federal government through indirect cost or payroll additive charges to federal programs is not an allowable cost. We believe it is likely such questioned costs are greater than $10,000 since this practice has occurred for a number of years.

Department administrators indicated the department's practice of not requiring forfeiture of excess exempt compensatory time balances was established by the Director's Office in a prior administration and the department is working to develop a plan to resolve these excess balances. They said the example we found of excess exempt compensatory time use prior to termination was part of a settlement negotiated with the employee and approved by management that allowed the employee to reach 30 years of service prior to retiring. We reviewed the settlement agreement and found it was signed after the employee's excess exempt compensatory time should have been forfeited.

Recommendation #2

We recommend the department establish procedures to ensure all excess exempt compensatory time is used by employees or forfeited in accordance with state policy.

Program Income

The department cannot show that it uses the federal share of program income from rent, lease, and sale of excess property acquired in federally participating projects of approximately $500,000 per year in accordance with federal requirements.

Federal regulations specific to the Highway Planning and Construction program permit the department to use the federal share of net income from the sale, use, or lease of real property previously acquired with federal funds only if the income is used for projects eligible under Title 23 of the United States Code. Unless otherwise authorized by the federal awarding agency, general federal regulations require the federal share of program income be deducted from the federal share of program costs. The federal share of the program income is calculated as the same ratio as the federal share of the cost in acquiring the asset that is generating the income.

Department personnel estimated the department received approximately $1,100,000 in revenues during fiscal years 2005-06 and 2006-07 from the rent, lease, and sale of property acquired for construction projects. They deposited the entire amount of program income in the restricted highway revenue account in the State Special Revenue Fund. The federal share of this income and the expenditures it funded were not tracked separately in the accounting records. Department personnel said it was not practical to estimate the federal share of this revenue, but we believe it could be nearly $1,000,000 for the audit period.

The department has no policy or procedure to ensure the federal share of program income was expended for allowable purposes. Therefore, we question the costs paid with the federal share of program income, as well as any federal funds it may have matched. Department personnel indicated they started depositing the federal share of program income in the restricted highway revenue account of the State Special Revenue Fund when federal regulations changed in 2002. Depositing the federal share of program income in the federal program's account in the Federal Special Revenue Fund would help ensure it was used for allowable purposes.

Recommendation #3

We recommend the department establish procedures to demonstrate compliance with federal program income requirements.

Cash Management

The department uses its restricted highway revenue account to pay bills, then seeks federal reimbursement to replenish the state's cash used to fund the federal share of payments. The restricted highway revenue account also lends money to other accounts. We found the following ways the department could improve its management of restricted highway revenue account cash.

Timely Federal Reimbursements

During the audit period, the department did not seek timely reimbursement for the federal share of costs, resulting in lost investment earnings to the restricted highway revenue account of about $230,000 in fiscal year 2006-07.

To minimize the time between the drawdown of funds from the federal government and the disbursement of funds, the department should comply with the requirements of the state's Cash Management Improvement Act (CMIA) agreement, which is negotiated annually by the Department of Administration and the U.S. Department of the Treasury for the department's Highway Planning and Construction program. The department should work with the Department of Administration to ensure the CMIA agreement negotiated will result in a draw and reimbursement pattern that minimizes the time between the drawdown of funds from the federal government and the disbursement of funds, based on the department's current payment patterns.

We tested ten drawdowns from the period between July 1, 2005, and May 1, 2007, for compliance with the timing requirements of the CMIA agreement. Five of the drawdowns tested were not in compliance with the CMIA agreement requirements because the department did not seek timely reimbursement. Based on inquiry of department personnel and review of the department's spreadsheets for tracking payments and drawdowns, we found it was the department's usual practice to request federal reimbursement for all disbursements on Wednesday for deposit on Thursday. This process was in compliance with the CMIA agreement requirements when contractor payment warrants were written on Monday, or Friday when Monday was a holiday, but not when the payments were made on other days as occurred in 12 out of 53 instances reviewed. This process also did not comply with the CMIA agreement requirements for payroll disbursements since payroll disbursements were settled on Wednesdays, at least a day before reimbursement was received.

The department's payment patterns have changed, but the CMIA agreement does not reflect those changes, especially for payments made by electronic funds transfer instead of warrant. When the electronic funds transfer payments are made, they are settled the following day, rather than the third day, which was assumed when the CMIA agreement

was made. Also, the department does not currently have the ability to seek reimbursement for different types of payments separately, as the information for billing does not come from the accounting system that shows the payment type, but from the department's cost accounting system. Due to this constraint, the department must request reimbursement for all payment types at the same time.

Because the department does not bill for the federal share of costs in a timely manner, the department temporarily funds the costs with money in its restricted highway revenue account that it otherwise could have invested. Based on a spreadsheet prepared by department personnel showing the timing of disbursements and receipts for the Highway Planning and Construction program, the department lost investment earnings of approximately $230,000 in fiscal year 2006-07.

Recommendation #4

We recommend the department:

A. *Work with the Department of Administration to negotiate Cash Management Improvement Act agreements that will minimize the use of state funds to finance federal program costs prior to the receipt of federal funds and maximize investment earnings.*

B. *Establish procedures and management controls to ensure cash drawdowns for contractor payments and payroll disbursements are made in accordance with the Cash Management Improvement Act agreements and, therefore, applicable federal cash management requirements.*

Unconstitutional Diversion of Highway Revenue

The department advanced $300,000 from its restricted highway revenue account to its aeronautics administration account to fund the purchase of an airplane, contrary to highway revenue non-diversion requirements in the state constitution.

Article VIII, Section 6 of the Montana Constitution limits use of restricted highway revenue for payment of obligations incurred for construction, reconstruction, repair, operation, and maintenance of public highways, streets, roads, and bridges; payment of county, city, and town obligations on streets, roads, and bridges; enforcement of highway safety; driver education; tourist promotion; and administrative collection costs. The advance from the restricted highway revenue account to fund the purchase of an airplane used by Aeronautics Division for search and rescue, training, and annual safety inspections is an unconstitutional diversion of restricted highway revenue. Lending restricted highway revenue account money to the aeronautics administration account makes the funds

unavailable for constitutionally required purposes and reduces the amount available for investment.

On February 23, 2006, department personnel moved cash between accounts by recording a receivable in the restricted highway revenue account and a payable in the aeronautics administration account, without first obtaining the Department of Administration's approval for an advance, as required by state law. After a Department of Administration employee asked questions about one of the accounts used to record the advance, the department applied for a twenty-year advance, bearing four percent interest, from the restricted highway revenue account to the aeronautics administration account. The Department of Administration subsequently approved the advance on April 28, 2006.

Although the advance agreement signed by the department and approved by the Department of Administration contained a twenty-year repayment schedule with an annual interest payment, department personnel stated there will be no interest payments after June 30, 2007. They said the department sought a budget increase during the 2007 legislature to pay interest on the loan. Because the legislature denied this request, department personnel believe it would be contrary to legislative intent to pay the interest. It would be contrary to the advance agreement to not pay interest.

To resolve the compliance issues related to the $300,000 advance from the restricted highways revenue account to the aeronautics administration account, the department should repay the advance and seek other financing for the loan.

Recommendation #5

We recommend the department:

A. *Repay the $300,000 advance from the restricted highway revenue account to the aeronautics administration account.*

B. *Record advances only after obtaining Department of Administration approval, as required by state law.*

Non-Compliance with Distribution Requirements

The department did not distribute cash receipts from disposal of an airplane, aviation fuel tax revenue and related refunds, and certain transfers, in accordance with state law during fiscal years 2005-06 and 2006-07, as discussed below.

Airplane Disposal Proceeds

The department did not allocate $40,001 in proceeds from the fiscal year 2005-06 sale of an airplane in accordance with state law.

Section 18-6-101(2), MCA, requires all money received from the sale of personal property owned by the state be credited to the General Fund, unless otherwise provided by law. Section 18-6-103, MCA, provides that all proceeds received from the sale of personal property of the Department of Transportation be deposited in the highway account of the State Special Revenue Fund or in the appropriate Enterprise or Internal Service Fund.

The $40,001 proceeds from the disposal of an airplane owned by the Aeronautics Division were deposited in the aeronautics administration account in the State Special Revenue Fund, rather than the highway account in the State Special Revenue Fund or the General Fund. Department personnel told us the aviation fuel taxes now deposited in the aeronautics administration account were used to fund the airplane that was sold, so they thought the proceeds should be allocated back there.

We believe the department had no legal basis to deposit the proceeds in the aeronautics administration account. The department should determine whether the proceeds from the airplane disposal belong in the General Fund or the highway account in the State Special Revenue Fund and move the proceeds to the proper account.

Recommendation #6

We recommend the department:

A. Deposit proceeds from disposal of department personal property in the General Fund or the highway account of the State Special Revenue Fund in accordance with state law.

B. Move the $40,001 in proceeds from the 2006 airplane sale to the General Fund or the highway account of the State Special Revenue Fund in accordance with state law.

Aviation Fuel Tax Revenue

The department does not distribute aviation fuel tax revenue collected from scheduled passenger air carriers (SPACs) certified under 14 CFR, part 121 or 135, and related refunds, in accordance with state law.

Section 67-1-301(3)(a), MCA, requires the proceeds of the four cent per gallon aviation fuel tax be deposited in the State Special Revenue Fund as follows:

- i) two cents per gallon for carrying out the department's functions pertaining to aeronautics (administration account) and,
- ii) in a separate account (grant account),
  - A) two cents per gallon for providing grants to municipalities for airport development or improvement programs and,
  - B) 25 percent of the tax collected from SPACs (one cent per gallon).

Section 67-1-301(5), MCA, specifies that 25 percent of the tax collected from SPACs (one cent per gallon) and deposited in the grant account provided for in section 67-1-301(3)(a)(ii), MCA, be used only for pavement preservation grants on airports served by these air carriers.

Section 15-70-221(5), MCA, authorizes SPACs to claim a refund of two cents on each gallon of aviation fuel purchased by the SPACs on which the Montana gasoline license tax has been paid. This law does not specify how to allocate the refund to SPACs, but section 15-1-501(4), MCA, requires all refunds of taxes be attributed to the funds in which the taxes are currently being recorded.

The department initially deposits two cents per gallon of tax to each the administration account and the grant account, applies the full amount of the two cent per gallon refunds to SPACs to the grant account, then moves one-fourth of the remaining two cents per gallon (one-half cent per gallon) from the administration account to a separate pavement preservation account that is not authorized in state law. The following table compares the actual disposition of aviation fuel tax revenues collected from SPACs, net of refunds, to the disposition required by state law.

Table 2
Comparison of Required and Actual Distribution of Aviation Fuel Taxes (Net of Refunds) Collected from Scheduled Passenger Air Carriers

Fund	Required Distribution	Actual Distribution	Over (Under) Distribution
Administration Account	1.0 cent	1.5 cents	.5 cent
Grant Account			
Airport Development/Improvement	.5 cent	0 cent	(.5 cent)
Pavement Preservation	.5 cent	0 cent	(.5 cent)
Pavement Preservation Account	0 cent	.5 cent	.5 cent
Total	**2.0 cents**	**2.0 cents**	**0 cents**

Source: Compiled by the Legislative Audit Division.

The one-half cent per gallon over and under distributions represented $87,590 and $68,733 in fiscal years 2005-06 and 2006-07, respectively. As a result of these distribution errors, the Aeronautics Division had more money for general operations in its administrative account and had less money available for grants to airports in its grant account than it should have had.

Department personnel said they distribute the aviation fuel taxes collected from SPACs and subsequent refunds in accordance with legislative intent. They said the refunds are taken from the grant fund because the airports served by SPACs do not typically benefit from airport development and improvement grants. Department personnel noted that although airports served by SPACs are not prohibited or precluded from receiving airport development or improvement grants and have applied for such grants, they have not received such grants because they get lower priority under grant rules.

Recommendation #7

We recommend the department:

A. Distribute aviation fuel tax revenue and refunds in accordance with state law.

B. Move balances in the pavement preservation account to the grant account.

C. If necessary, seek clarification of state law regarding the disposition of aviation fuel tax revenues for scheduled passenger air carriers.

Fund Transfers

The department made fund transfers under section 15-1-122, MCA, that were not in full compliance with the requirements of law.

Section 15-1-122(2), MCA, requires a transfer of $3,050,205 in fiscal year 2005-06 and transfers that increase by 1.5 percent in each succeeding fiscal year from the state's General Fund to the department's State Special Revenue Fund nonrestricted account. During fiscal years 2005-06 and 2006-07, the department transferred the amounts to the department's restricted highway revenue account. Department personnel were not sure why these transfers were made to the wrong account.

Section 15-1-122(3)(e), MCA, requires the department to transfer .59 percent of the motor vehicle revenue deposited in the state's General Fund in fiscal year 2005-06 and .30 percent of that revenue in each succeeding fiscal year from the state's General Fund to the senior citizens and persons with disabilities transportation services account provided for in section 7-14-112, MCA. The department transferred $665,925 and $339,048 of the motor vehicle revenue in fiscal years 2005-06 and 2006-07 respectively, to the department's restricted highway revenue account instead. Department personnel said they had requested a separate senior citizens and persons with disabilities transportation services account from the Department of Administration, which had been denied.

Recommendation #8

We recommend the department record the fund transfers required in the state special revenue nonrestricted account and the senior citizens and persons with disabilities transportation services account in accordance with state law.

Equipment Internal Service Fund

The department's Equipment Internal Service Fund revenues were not commensurate with costs for fiscal year 2006-07 and the fund equity, excluding contributed capital, was approximately $20.2 million at June 30, 2007.

State law requires fees and charges for services deposited in the internal service fund type be commensurate with costs. Federal regulations allow a working capital reserve as part of fund equity of up to 60 days cash expenses for normal operating purposes. To be an allowable federal cost, charges must be reasonable and conform to state and federal regulations. When these requirements are met, fund equity stays consistently low.

Revenues, excluding contributed capital, exceeded expenses in this fund by $391,872, or 1.75 percent, and $1,656,770, or 4.49 percent, in fiscal years 2005-06 and 2006-07, respectively. Based on information department personnel obtained from the department's project accounting system, Equipment Internal Service Fund charges to federally participating projects were $2,100,345 and $1,419,719 in fiscal years 2005-06 and 2006-07, respectively. The estimated federal share of these charges is $3,153,000, or 6.62 percent of total revenues.

Similar errors occurred in prior years because the Equipment Internal Service Fund had accumulated fund equity, excluding $41.8 million in estimated capital contributions, of approximately $20.2 million at June 30, 2007. This level of equity is the result of consistently charging fees in excess of costs. Because these charges exceeded those allowed under state and federal regulation, we question the allowability of the charges. The federal share of accumulated overcharges, or total questioned costs, is estimated to be 6.62 percent of fund equity less contributed capital and the allowable 60-day working capital reserve; or approximately $1,084,000.

Department personnel told us they exclude nonoperating revenue and expenses from the rate calculation, including the calculation of the loss or gain from each fiscal year to carry forward into the rate calculation for the second subsequent fiscal year. For example, they calculated a $1,625,831 loss for fiscal year 2004-05 to carry forward into the fiscal year 2006-07 rate, instead of the $1,633,698 gain that occurred, because they excluded expense accounts with negative balances totaling over $3,259,000 that they classified as nonoperating. Similarly, they calculated a $900,000 loss for fiscal year 2005-06 to carry forward into the fiscal year 2007-08 rate, instead of the $391,872 gain, because they excluded an expense account with a negative balance of over $1,350,000 that they classified as nonoperating. For fees to be commensurate with costs, all revenues and costs, whether operating or nonoperating, must be considered.

Recommendation #9

We recommend the department revise its rate-setting methodology to establish fees commensurate with costs in the Equipment Internal Service Fund, in accordance with state law and federal requirements.

Infrastructure Asset Transactions

Department personnel did not estimate infrastructure asset values and record infrastructure asset transactions in accordance with state law and accounting policy.

During the audit period, the department was required by state law and accounting policy to record completed construction on highways as infrastructure assets on the state's accounting system. Transactions were also necessary to record land purchased for right of way, excess right of way land sold, depreciation expense, construction work in progress for highway construction that is not complete, and to remove the value of old highways that were reconstructed during the fiscal year. The transactions were necessary to facilitate the Department of Administration's preparation of the state of Montana's Basic Financial Statements in accordance with Governmental Accounting Standard Board Statement No. 34.

We noted several issues related to the process the department used to record infrastructure assets on the state's accounting system during the past two audits, and recommended the department establish controls to ensure the accuracy of the transactions recorded for infrastructure assets. During this audit we also identified issues related to recording infrastructure assets, including the following errors.

- Each year the department records the estimated cost of projects that are 96 percent or less complete at June 30 as Construction Work in Progress and removes the prior year amount from the accounting records. At June 30, 2007, the department estimated the cost of such projects as the amount expended in fiscal year 2006-07, instead of the amount expended over the life of those projects. Based on the department's subsequently revised estimate, Construction Work in Progress was understated by $93,440,341 at June 30, 2007.
- Each year the department estimates the cost of projects that are over 96 percent complete that have not been previously capitalized and records this increase in costs as Infrastructure. At June 30, 2007, the department estimated the cost of such projects as the amount expended in fiscal year 2006-07, instead of the amount expended over the life of these projects. At June 30, 2007, the department included costs for projects that were 96 percent or less complete in its Infrastructure, as well as its Construction Work in Progress estimates. Based on the department's subsequently revised estimate, Infrastructure was understated by $42,074,135 at June 30, 2007.
- Each year the department estimates the cost of Infrastructure that was replaced by new construction and writes that Infrastructure and the related Accumulated Depreciation off the accounting records. At June 30, 2006, the department miscalculated the amount of Accumulated Depreciation and Infrastructure to write off, resulting in a $426,778 overstatement of Infrastructure, $10,412,580

understatement of Accumulated Depreciation, and a $10,839,358 understatement of Loss Expense.

- The asset management module of the state's accounting system creates automatic entries to the general ledger that need to be corrected before year-end closing so expenditures are properly classified. The department did not correct one fiscal year 2005-06 transaction for $121,626,425, resulting in an understatement of Infrastructure Offset expenditures and an overstatement of Loss Expenses of $121,626,425 for fiscal year 2005-06.

We noted during this and the past audits that most infrastructure transactions are recorded during the busy fiscal year-end period within a limited timeframe. Also, the department has not fully documented the process to use to update the value of land, construction work in progress, infrastructure, and other related accounts. This can cause confusion and inconsistencies in approach when there is turnover. Due to turnover in accountants, three different people have recorded these transactions in the past four years.

The department did have two people review the year-end transactions for fiscal year 2006-07 related to infrastructure and the support for valuation estimates to prevent errors such as those noted in the past. In addition, department personnel said they analyzed whether the results were consistent with the past and their knowledge of the department. However, those reviews were ineffective and did not identify material errors.

Recommendation #10
We recommend the department establish controls to ensure the accuracy of infrastructure asset balances and related activity on the state's accounting system.

Tribal Motor Fuels Administration Account

The department's allocation of personal services costs to the tribal motor fuels administration account is not supported.

Section 15-70-235, MCA, limits use of the tribal motor fuels administration account to expenditures for the purposes of administering the motor fuels tax and providing refunds under a tribal agreement. The department charges the salary of an administrative assistant in the Fuel Tax Management and Analysis Bureau to the tribal motor fuels administration account. This employee performs general administrative duties, as well as tasks that specifically pertain to administration of tribal motor fuels taxes. The salaries of other

employees who perform work to administer motor fuels taxes under tribal agreements are not charged to the tribal motor fuels administration account.

Department personnel told us the decision to allocate costs in this manner was made so many years ago that they cannot find the analysis done to support that decision. Because the department cannot support its basis for allocating salaries to the tribal motor fuels administration account, it cannot demonstrate that administrative expenses deducted by the state pertain to collection of revenue under tribal agreements.

Recommendation #11

We recommend the department charge costs of administering the motor fuels tax under tribal agreements to the tribal motor fuel administration account in accordance with state law.

Railroad Rights-of-way and Loans

The department is not in compliance with state law regarding railroad rights-of-way and loans.

Section 60-11-111(3), MCA, (a) requires the department to identify railroad rights-of-way in this state that may be abandoned and research the feasibility of the state acquiring those rights-of-way; (b) provides the department the authority to negotiate for and acquire easements to such rights-of-way; and (c) requires the department to establish procedures, including the use of federal funds received for rail freight assistance programs under former 49 U.S.C. 1654, for providing loans under section 60-11-120, MCA.

The department does not research the feasibility of acquiring railroad rights-of-way or negotiate and acquire easements to railroad rights-of-way unless such acquisition is specifically needed for a highway project. According to department personnel, the department lacks the funding, estimated to be $500,000 per year, to do this. As a result, the state may be losing the opportunity to purchase such rights-of-way or easements to keep the corridor intact for potential local transportation service or future use as transportation corridors.

The department has a railroad and intermodal transportation facility loan program to which railroad companies may apply, but does not have any written procedures for applying for and receiving these loans. While interested parties could call the department and inquire about the application without written procedures, a lack of written procedures increases the risk that inconsistent information would be communicated to potential

applicants, particularly about program restrictions. Department personnel told us they have not developed written procedures for the program because of the low level of interest they have received in the funding. They believe the eligible applicants are aware of the program but the number of restrictions on the loan program makes it an unattractive source of funds.

Recommendation #12

We recommend the department comply with state law concerning its duties to research the feasibility of acquiring abandoned railroad rights-of-way and easements and establish procedures for providing railroad and intermodal transportation facility loans.

Scenic-Historic Byways Advisory Council

The Transportation Commission has not appointed a Scenic-Historic Byways Advisory Council, as required by state law.

Section 60-2-601, MCA, created a scenic-historic byways program and requires the Transportation Commission to appoint an advisory council for this program. The duties of the advisory council are to assist the department and the commission in designing the program, review applications for nominating roads to the program, and recommend to the commission roads that should be included in or deleted from the program. The commission initially appointed a council, but because of concerns with the legislation has not currently appointed one.

Department personnel told us the original legislation for the program provided that any landowner could prevent the designation of a road adjacent to their property for any reason, even if the segment met all other designation criteria. They said tracking adjacent land ownership changes would require significant staff resources. They also told us that, because of the segmentation issues this created, the Federal Highway Administration expressed concerns the program could be used to circumvent federal law. Department personnel said advocates of the program attempted to address these problems in HB 517 of the 2007 session, but the legislation did not pass.

Recommendation #13

We recommend the department comply with state law concerning the Scenic-Historic Byways Advisory Council.

Farewell Signs

The department has not designed, erected, and maintained farewell signs within Montana at the nearest practical location to the border of the state, as required by state law.

Section 60-2-218, MCA, requires the department to "... design, erect, and maintain welcome and farewell signs within Montana at the nearest practical location to the border of the state where each federal-aid interstate highway, except interstate 90 at the Montana-Idaho border in Mineral County, and each federal-aid primary highway enters or leaves Montana …." This law further required that the department complete the construction and erection of welcome and farewell signs on the interstate highways and one primary highway before July 1, 1991, and on the remainder of the primary highways at the earliest possible date.

The department has designed, erected, and maintained the welcome signs required by this law, but none of the approximately 25 farewell signs required by the law. Current department officials do not know why the farewell signs were not designed and erected in 1991, but said it may have been that personnel were not aware of the requirement due to a change in Maintenance Division administrators that occurred around that time.

Recommendation #14

We recommend the department design, erect, and maintain farewell signs at Montana border locations as required by law.

Chapter III — Disclosure Issue

Union Pension Discrepancies

Many of the department's union employees are required to and others may opt to contribute to their union's pension plan. During fiscal year 2005-06, the department was notified by a former employee's attorney that the former employee had made contributions to a union pension, but the union had no record of receiving the contributions. When they investigated the matter, human resources personnel requested accounting personnel to determine if the right pensions were being paid for all hours for all employees.

Payroll personnel performed a review back to January 1, 1999. They identified net errors of approximately $75,000 in union pension contributions, involving more than 50 employees, where contributions were made to the wrong union, amounts were withheld from employees but not remitted to the unions, or amounts were remitted to unions without being withheld from employees. They found these discrepancies stemmed from differences in union designation between the department's payroll system and the state's payroll system, which had not been previously reconciled, and provided the information to the department's human resource personnel and legal counsel.

Because the differences primarily affected five different craft unions, the human resource director said she met with the Crafts Council President to determine how the issue could be resolved. The department hopes the craft unions will be able to correct many of the errors by moving the net amount of errors amongst the various craft union pensions. The department has also implemented reconciliation procedures to make sure these types of errors do not occur again, or get detected and corrected more quickly.

Because the department has taken appropriate steps to rectify the situation and prevent further errors, we make no recommendation at this time.

Independent Auditor’s Report & Department Financial Schedules

LEGISLATIVE AUDIT DIVISION

Scott A. Seacat, Legislative Auditor
Tori Hunthausen,
Chief Deputy Legislative Auditor

Deputy Legislative Auditors:
James Gillett
Angie Grove

Independent Auditor's Report

The Legislative Audit Committee
of the Montana State Legislature:

We have audited the accompanying Schedule of Changes in Fund Balances & Property Held in Trust, Schedule of Total Revenues & Transfers-In, and Schedule of Total Expenditures & Transfers-Out of the Department of Transportation for each of the two fiscal years ended June 30, 2007, and June 30, 2006. The information contained in these financial schedules is the responsibility of the department's management. Our responsibility is to express an opinion on these financial schedules based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial schedules are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial schedules. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial schedule presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in note 1, the financial schedules are presented on a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The schedules are not intended to be a complete presentation and disclosure of the department's assets, liabilities, and cash flows.

In our opinion, the financial schedules referred to above present fairly, in all material respects, the results of operations and changes in fund balances of the Department of Transportation for each of the fiscal years ended June 30, 2007, and 2006, in conformity with the basis of accounting described in note 1.

Respectfully submitted,

/s/ James Gillett

James Gillett, CPA
Deputy Legislative Auditor

October 15, 2007

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DEPARTMENT OF TRANSPORTATION
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Private Purpose Trust Fund	Permanent Fund
FUND BALANCE: July 1, 2006	$ 15,075	$ 147,810,748	$ 0	$ 0	$ 2,443,112	$ 60,515,307	$ 0	$ 284,359	$ 958
PROPERTY HELD IN TRUST: July 1, 2006							$ (73,815)		
ADDITIONS									
Budgeted Revenues & Transfers-In	124,514	280,510,079	315,503,100		190,002	31,235,323			13,450
Nonbudgeted Revenues & Transfers-In	318,526	11,434,671		11,877,169	72	21,450		15,001	
Prior Year Revenues & Transfers-In Adjustments	(36,194)	(580,892)				(4,636)			
Direct Entries to Fund Balance	743,799	(36,638,736)				(246,595)			(12,347)
Additions to Property Held in Trust							998,472		
Total Additions	1,150,645	254,725,122	315,503,100	11,877,169	190,074	31,005,542	998,472	15,001	1,103
REDUCTIONS									
Budgeted Expenditures & Transfers-Out	1,330,000	291,194,906	284,664,693		194,672	29,933,176			
Nonbudgeted Expenditures & Transfers-Out		10,271,157	30,838,407	11,877,169	124,529	(1,523,790)		12,274	51
Prior Year Expenditures & Transfers-Out Adjustments		836,153				(86,928)			
Reductions in Property Held in Trust							798,820		
Total Reductions	1,330,000	302,302,216	315,503,100	11,877,169	319,201	28,322,458	798,820	12,274	51
FUND BALANCE: June 30, 2007	$ (164,280)	$ 100,233,654	$ 0	$ 0	$ 2,313,985	$ 63,198,391	$ 0	$ 287,086	$ 2,010
PROPERTY HELD IN TRUST: June 30, 2007							$ 125,837		

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF TRANSPORTATION
SCHEDULE OF CHANGES IN FUND BALANCES & PROPERTY HELD IN TRUST
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Agency Fund	Private Purpose Trust Fund	Permanent Fund
FUND BALANCE: July 1, 2005	$ (248,313)	$ 193,402,582	$ 0	$ 214,087	$ 2,525,826	$ 60,672,552	$ 0	$ 280,553	$ 721
PROPERTY HELD IN TRUST: July 1, 2005							0		
ADDITIONS									
Budgeted Revenues & Transfers-In	1,592,155	274,426,708	289,558,092		158,708	26,518,381			12,895
NonBudgeted Revenues & Transfers-In	321,927	10,789,894		11,662,577	17	51,492		11,860	
Prior Year Revenues & Transfers-In Adjustments	(17,507)	6,471,535	(14,208)			(50,833)			340
Direct Entries to Fund Balance	(1,633,187)	(30,936,897)				558,325			(12,998)
Additions to Property Held in Trust							41,067		
Total Additions	263,388	260,751,240	289,543,884	11,662,577	158,725	27,077,365	41,067	11,860	237
REDUCTIONS									
Budgeted Expenditures & Transfers-Out		295,178,362	258,406,000		118,181	29,921,932			
NonBudgeted Expenditures & Transfers-Out		9,714,019	31,152,092	11,876,664	122,813	(2,723,410)		8,054	
Prior Year Expenditures & Transfers-Out Adjustments		1,450,693	(14,208)		445	36,088			
Reductions in Property Held in Trust							114,882		
Total Reductions		306,343,074	289,543,884	11,876,664	241,439	27,234,610	114,882	8,054	
FUND BALANCE: June 30, 2006	$ 15,075	$ 147,810,748	$ 0	$ 0	$ 2,443,112	$ 60,515,307	$ 0	$ 284,359	$ 958
PROPERTY HELD IN TRUST: June 30, 2006							$ (73,815)		

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DEPARTMENT OF TRANSPORTATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Private Purpose Trust Fund	Permanent Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS									
Licenses and Permits	$ 76,978	$ 29,692,072							$ 29,769,050
Taxes	11,340	210,642,478			$ 72	$ 825		$ 13,450	210,668,165
Charges for Services		3,827,433			27,685	28,572,135			32,427,253
Investment Earnings		3,397,908					$ 15,001		3,412,909
Fines, Forfeits and Settlements		274,626							274,626
Sale of Documents, Merchandise and Property		405,317				27,450			432,767
Rentals, Leases and Royalties	2	245,899			103,273				349,174
Miscellaneous		270,639			29,718	144,520			444,877
Grants, Contracts, Donations and Abandonments		382,088							382,088
Other Financing Sources	318,526	11,339,733		$ 11,877,169	29,326	1,330,000			24,894,754
Federal			$ 315,503,100						315,503,100
Federal Indirect Cost Recoveries		30,885,665							30,885,665
Capital Contributions						1,177,207			1,177,207
Total Revenues & Transfers-In	406,846	291,363,858	315,503,100	11,877,169	190,074	31,252,137	15,001	13,450	650,621,635
Less: Nonbudgeted Revenues & Transfers-In	318,526	11,434,671		11,877,169	72	21,450	15,001		23,666,889
Prior Year Revenues & Transfers-In Adjustments	(36,194)	(580,892)				(4,636)			(621,722)
Actual Budgeted Revenues & Transfers-In	124,514	280,510,079	315,503,100	0	190,002	31,235,323	0	13,450	627,576,468
Estimated Revenues & Transfers-In	1,623,941	295,711,563	345,911,822		136,700	27,919,632		1,100	671,304,758
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (1,499,427)	$ (15,201,484)	$ (30,408,722)	$ 0	$ 53,302	$ 3,315,691	$ 0	$ 12,350	$ (43,728,290)
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS									
Licenses and Permits	$ (1,171,815)	$ 3,182,745							$ 2,010,930
Taxes	(2,521)	15,372,561						$ 12,350	15,382,390
Charges for Services		1,429,695			$ 19,184	$ 3,046,502			4,495,381
Investment Earnings		3,189,084							3,189,084
Fines, Forfeits and Settlements		51,626							51,626
Sale of Documents, Merchandise and Property		(232,583)				(28,538)			(261,121)
Rentals, Leases and Royalties	(8)	74,130			14,273				88,395
Miscellaneous		(136,613)	$ (14,000)		10,718	120,520			(19,375)
Grants, Contracts, Donations and Abandonments		123,988							123,988
Other Financing Sources	(325,083)	(30,000,000)			9,326				(30,315,757)
Federal			(30,394,722)		(199)				(30,394,921)
Federal Indirect Cost Recoveries		(8,256,117)							(8,256,117)
Capital Contributions						177,207			177,207
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (1,499,427)	$ (15,201,484)	$ (30,408,722)	$ 0	$ 53,302	$ 3,315,691	$ 0	$ 12,350	$ (43,728,290)

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF TRANSPORTATION
SCHEDULE OF TOTAL REVENUES & TRANSFERS-IN
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	General Fund	State Special Revenue Fund	Federal Special Revenue Fund	Debt Service Fund	Enterprise Fund	Internal Service Fund	Private Purpose Trust Fund	Permanent Fund	Total
TOTAL REVENUES & TRANSFERS-IN BY CLASS									
Licenses and Permits	$ 1,562,223	$ 28,122,968							$ 29,685,191
Taxes	12,425	211,991,095			$ 17	$ 659		$ 13,235	212,017,431
Charges for Services		1,664,303			13,490	26,289,063			27,966,856
Investment Earnings		4,509,156					$ 11,860		4,521,016
Fines, Forfeits and Settlements		140,954							140,954
Sale of Documents, Merchandise and Property		516,480				58,702			575,182
Rentals, Leases and Royalties		185,585			107,611				293,196
Miscellaneous		1,132,212			27,324	170,616			1,330,152
Grants, Contracts, Donations and Abandonments		241,301							241,301
Other Financing Sources	321,927	12,031,991		$ 11,662,577	10,283				24,026,778
Federal			$ 289,543,884						289,543,884
Federal Indirect Cost Recoveries		31,152,092							31,152,092
Total Revenues & Transfers-In	1,896,575	291,688,137	289,543,884	11,662,577	158,725	26,519,040	11,860	13,235	621,494,033
Less: Nonbudgeted Revenues & Transfers-In	321,927	10,789,894		11,662,577	17	51,492	11,860		22,837,767
Prior Year Revenues & Transfers-In Adjustments	(17,507)	6,471,535	(14,208)			(50,833)		340	6,389,327
Actual Budgeted Revenues & Transfers-In	1,592,155	274,426,708	289,558,092	0	158,708	26,518,381	0	12,895	592,266,939
Estimated Revenues & Transfers-In	1,672,906	337,134,164	307,719,357		136,500	24,589,631		101,000	671,353,558
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (80,751)	$ (62,707,456)	$ (18,161,265)	$ 0	$ 22,208	$ 1,928,750	$ 0	$ (88,105)	$ (79,086,619)
BUDGETED REVENUES & TRANSFERS-IN OVER (UNDER) ESTIMATED BY CLASS									
Licenses and Permits	$ 250,213	$ (7,188,797)							$ (6,938,584)
Taxes	(1,357)	8,481,624						$ (88,105)	8,392,162
Charges for Services		(760,237)			$ 4,990	$ 1,763,432			1,008,185
Investment Earnings		4,160,647							4,160,647
Fines, Forfeits and Settlements		(56,901)							(56,901)
Sale of Documents, Merchandise and Property		(101,420)				18,702			(82,718)
Rentals, Leases and Royalties		13,915			18,611				32,526
Miscellaneous		745,102			8,324	146,616			900,042
Grants, Contracts, Donations and Abandonments		(11,699)							(11,699)
Other Financing Sources	(329,607)	(60,000,000)			(9,717)				(60,339,324)
Federal			$ (18,161,265)						(18,161,265)
Federal Indirect Cost Recoveries		(7,989,690)		$			$		(7,989,690)
Budgeted Revenues & Transfers-In Over (Under) Estimated	$ (80,751)	$ (62,707,456)	$ (18,161,265)	$ 0	$ 22,208	$ 1,928,750	$ 0	$ (88,105)	$ (79,086,619)

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF TRANSPORTATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	Aeronautics Program	Construction Program	Equipment Program	General Operations Program	Maintenance Program	Motor Carrier Services Division	State Motor Pool	Transportation Planning Division	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT									
Personal Services									
Salaries	$ 517,984	$ 48,853,912	$ 4,781,969	$ 8,608,688	$ 29,419,021	$ 4,672,163	$ 225,190	$ 2,852,346	$ 99,931,273
Other Compensation	2,700	2,300							5,000
Employee Benefits	155,542	14,170,931	1,922,650	2,295,517	11,575,969	1,622,067	93,668	847,753	32,684,097
Personal Services-Other	8,799		48,661				4,594		62,054
Total	685,025	63,027,143	6,753,280	10,904,205	40,994,990	6,294,230	323,452	3,700,099	132,682,424
Operating Expenses									
Other Services	1,689,820	296,976,118	645,755	7,172,181	12,831,689	301,406	404,837	2,002,936	322,024,742
Supplies & Materials	58,531	1,684,317	6,366,060	1,458,105	1,756,970	173,846	1,650,830	190,117	13,338,776
Communications	21,251	552,923	8,851	804,185	460,780	71,815	2,533	83,809	2,006,147
Travel	30,432	1,590,063	39,682	226,836	282,699	182,908	1,023	128,108	2,481,751
Rent	14,956	4,184,057	12,916	276,781	20,292,283	297,797	64,800	150,421	25,294,011
Utilities	46,647	70,969	99,067		3,264,368	93,268	16,942	1,354	3,592,615
Repair & Maintenance	90,978	1,893,410	3,324,417	908,807	16,029,893	52,970	243,891	13,930	22,558,296
Other Expenses	181,898	28,927,418	5,881,933	2,112,839	967,287	482,045	2,093,862	1,601,229	42,248,511
Goods Purchased For Resale	11,730								11,730
Total	2,146,243	335,879,275	16,378,681	12,959,734	55,885,969	1,656,055	4,478,718	4,171,904	433,556,579
Equipment & Intangible Assets									
Equipment	49,502	1,832,323		323,100	933,864	43,236		5,075	3,187,100
Intangible Assets		433,500		5,062				18,687	457,249
Total	49,502	2,265,823		328,162	933,864	43,236		23,762	3,644,349
Capital Outlay									
Land & Interest In Land		16,423,914			47,897				16,471,811
Buildings		4,627							4,627
Other Improvements		1,595,100							1,595,100
Total		18,023,641			47,897				18,071,538
Local Assistance									
From Other Income Sources		551,390		3,773,079					4,324,469
Total		551,390		3,773,079					4,324,469
Grants									
From State Sources	367,624	653,040		17,272,173				2,812,473	21,105,310
From Federal Sources		3,671,030						7,653,439	11,324,469
From Other Sources								421,983	421,983
Total	367,624	4,324,070		17,272,173				10,887,895	32,851,762
Transfers									
Accounting Entity Transfers	347,852			8,095,311			1,330,000		9,773,163
Mandatory Transfers		11,877,169			608,450				12,485,619
Total	347,852	11,877,169		8,095,311	608,450		1,330,000		22,258,782
Debt Service									
Bonds	12,000	11,877,169							11,889,169
Loans							6,368		6,368
Installment Purchases							381,029		381,029
Total	12,000	11,877,169					387,397		12,276,566
Total Expenditures & Transfers-Out	$ 3,608,246	$ 447,825,680	$ 23,131,961	$ 53,332,664	$ 98,471,170	$ 7,993,521	$ 6,519,567	$ 18,783,660	$ 659,666,469
EXPENDITURES & TRANSFERS-OUT BY FUND									
General Fund							$ 1,330,000		$ 1,330,000
State Special Revenue Fund	$ 2,574,209	$ 148,217,758		$ 51,213,955	$ 92,209,356	$ 6,287,164		$ 1,799,774	302,302,216
Federal Special Revenue Fund	714,836	287,730,753		2,118,658	6,260,884	1,706,357		16,971,612	315,503,100
Debt Service Fund		11,877,169							11,877,169
Enterprise Fund	319,201								319,201
Internal Service Fund			$ 23,131,961		930		5,189,567		28,322,458
Private Purpose Trust Fund								12,274	12,274
Permanent Fund				51					51
Total Expenditures & Transfers-Out	3,608,246	447,825,680	23,131,961	53,332,664	98,471,170	7,993,521	6,519,567	18,783,660	659,666,469
Less: Nonbudgeted Expenditures & Transfers-Out	400,478	40,174,503	(653,214)	10,157,427	637,625	174,735	(871,506)	1,579,748	51,599,796
Prior Year Expenditures & Transfers-Out Adjustments	821,837	(60)	38,641		(537)	14,914	(125,569)		749,226
Actual Budgeted Expenditures & Transfers-Out	2,385,931	407,651,237	23,746,534	43,175,237	97,834,082	7,803,872	7,516,642	17,203,912	607,317,447
Budget Authority	3,544,771	614,432,440	24,086,965	87,232,704	102,942,050	9,582,786	7,553,184	22,101,526	871,476,426
Unspent Budget Authority	$ 1,158,840	$ 206,781,203	$ 340,431	$ 44,057,467	$ 5,107,968	$ 1,778,914	$ 36,542	$ 4,897,614	$ 264,158,979
UNSPENT BUDGET AUTHORITY BY FUND									
State Special Revenue Fund	$ 377,058	$ 119,220,249		$ 21,104,813	$ 2,203,770	$ 567,126		$ 3,720,112	$ 147,193,128
Federal Special Revenue Fund	621,546	87,560,954		22,952,654	2,904,198	1,211,788		1,177,502	116,428,642
Enterprise Fund	160,236								160,236
Internal Service Fund			$ 340,431				$ 36,542		376,973
Unspent Budget Authority	$ 1,158,840	$ 206,781,203	$ 340,431	$ 44,057,467	$ 5,107,968	$ 1,778,914	$ 36,542	$ 4,897,614	$ 264,158,979

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

DEPARTMENT OF TRANSPORTATION
SCHEDULE OF TOTAL EXPENDITURES & TRANSFERS-OUT
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	Aeronautics Program	Construction Program	Equipment Program	General Operations Program	Maintenance Program	Motor Carrier Services Division	State Motor Pool	Transportation Planning Division	Total
PROGRAM (ORG) EXPENDITURES & TRANSFERS-OUT									
Personal Services									
Salaries	$ 418,376	$ 44,969,209	$ 4,595,611	$ 7,397,103	$ 28,940,777	$ 3,713,552	$ 216,651	$ 2,352,520	$ 92,603,799
Other Compensation	2,950	3,963				502			7,415
Employee Benefits	129,931	12,782,481	1,826,570	1,905,550	10,999,235	1,289,715	86,897	706,327	29,726,706
Personal Services-Other	(835)		27,331				2,171		28,667
Total	550,422	57,755,653	6,449,512	9,302,653	39,940,012	5,003,769	305,719	3,058,847	122,366,587
Operating Expenses									
Other Services	1,681,975	288,763,010	652,314	7,351,877	21,008,237	469,368	378,062	1,220,415	321,525,258
Supplies & Materials	60,906	1,860,307	7,056,839	1,178,435	1,644,872	154,447	1,503,932	155,049	13,614,787
Communications	21,171	586,149	8,396	891,852	408,730	63,930	2,328	76,862	2,059,418
Travel	29,404	1,589,663	33,885	195,827	267,689	180,496	271	137,888	2,435,123
Rent	15,942	3,650,428	11,127	350,149	18,705,588	267,053	64,884	153,536	23,218,707
Utilities	57,869	73,412	120,385		3,174,558	89,717	18,049	1,341	3,535,331
Repair & Maintenance	56,383	2,190,378	3,424,329	798,189	17,354,434	53,287	208,702	52,937	24,138,639
Other Expenses	183,018	29,695,479	4,764,755	2,668,943	1,249,256	407,481	1,883,275	852,487	41,704,694
Goods Purchased For Resale	14,069								14,069
Total	2,120,737	328,408,826	16,072,030	13,435,272	63,813,364	1,685,779	4,059,503	2,650,515	432,246,026
Equipment & Intangible Assets									
Equipment	312,800	597,134		394,152	639,026			18,085	1,961,197
Intangible Assets		430,500							430,500
Total	312,800	1,027,634		394,152	639,026			18,085	2,391,697
Capital Outlay									
Land & Interest In Land		12,457,023			4,200				12,461,223
Buildings		26,180							26,180
Other Improvements		1,811,038			157				1,811,195
Total		14,294,241			4,357				14,298,598
Local Assistance									
From Other Income Sources		382,400		3,754,230					4,136,630
Total		382,400		3,754,230					4,136,630
Grants									
From State Sources	474,510	287,100		16,741,000				1,562,890	19,065,500
From Federal Sources		4,737,166						2,910,505	7,647,671
From Other Sources								283,780	283,780
Total	474,510	5,024,266		16,741,000				4,757,175	26,996,951
Transfers									
Accounting Entity Transfers	332,210			7,261,987					7,594,197
Mandatory Transfers		11,662,576							11,662,576
Total	332,210	11,662,576		7,261,987					19,256,773
Debt Service									
Bonds		13,199,229		250	7,409				13,206,888
Loans							27,786		27,786
Installment Purchases							319,789		319,789
Total		13,199,229		250	7,409		347,575		13,554,463
Total Expenditures & Transfers-Out	$ 3,790,679	$ 431,754,825	$ 22,521,542	$ 50,889,544	$ 104,404,168	$ 6,689,548	$ 4,712,797	$ 10,484,622	$ 635,247,725
EXPENDITURES & TRANSFERS-OUT BY FUND									
State Special Revenue Fund	$ 1,361,994	$ 151,645,881		$ 49,820,126	$ 96,037,134	$ 5,213,976		$ 2,263,963	$ 306,343,074
Federal Special Revenue Fund	2,187,246	268,232,280		1,069,418	8,366,763	1,475,572		8,212,605	289,543,884
Debt Service Fund		11,876,664							11,876,664
Enterprise Fund	241,439								241,439
Internal Service Fund			$ 22,521,542		271		$ 4,712,797		27,234,610
Private Purpose Trust Fund								8,054	8,054
Total Expenditures & Transfers-Out	3,790,679	431,754,825	22,521,542	50,889,544	104,404,168	6,689,548	4,712,797	10,484,622	635,247,725
Less: Nonbudgeted Expenditures & Transfers-Out	355,199	41,039,845	(1,308,784)	9,596,825	907,226	168,983	(1,414,898)	805,835	50,150,231
Prior Year Expenditures & Transfers-Out Adjustments	451,888	1,053,473	35,298	53,987	(70,077)	2,346	790	(54,686)	1,473,019
Actual Budgeted Expenditures & Transfers-Out	2,983,592	389,661,507	23,795,028	41,238,732	103,567,019	6,518,219	6,126,905	9,733,473	583,624,475
Budget Authority	5,662,970	548,952,304	24,195,268	92,616,761	106,517,722	7,761,408	6,152,053	16,107,621	807,966,107
Unspent Budget Authority	$ 2,679,378	$ 159,290,797	$ 400,240	$ 51,378,029	$ 2,950,703	$ 1,243,189	$ 25,148	$ 6,374,148	$ 224,341,632
UNSPENT BUDGET AUTHORITY BY FUND									
State Special Revenue Fund	$ 1,908,456	$ 117,958,679		$ 23,316,970	$ 2,033,732	$ 699,778		$ 2,393,948	$ 148,311,563
Federal Special Revenue Fund	752,063	41,332,118		28,061,059	916,971	543,411		3,980,200	75,585,822
Enterprise Fund	18,859								18,859
Internal Service Fund			$ 400,240				$ 25,148		425,388
Unspent Budget Authority	$ 2,679,378	$ 159,290,797	$ 400,240	$ 51,378,029	$ 2,950,703	$ 1,243,189	$ 25,148	$ 6,374,148	$ 224,341,632

This schedule is prepared from the Statewide Accounting, Budgeting, and Human Resources System (SABHRS) without adjustment.
Additional information is provided in the notes to the financial schedules beginning on page A-11.

Montana Department of Transportation
Notes to the Financial Schedules
For the Two Fiscal Years Ended June 30, 2007

1. Summary of Significant Accounting Policies

Basis of Accounting

The department uses the modified accrual basis of accounting, as defined by state accounting policy, for its Governmental Fund category (General, State Special Revenue, Federal Special Revenue, Debt Service, and Permanent). In applying the modified accrual basis, the department records:

- Revenues when it receives cash or when receipts are realizable, measurable, earned, and available to pay current period liabilities.
- Expenditures for valid obligations when the department incurs the related liability and it is measurable, with the exception of the cost of employees' annual and sick leave. State accounting policy requires the department to record the cost of employees' annual and sick leave when used or paid.

The department uses accrual basis accounting for its Proprietary (Enterprise and Internal Service) and Fiduciary (Private-Purpose Trust and Agency) Fund categories. Under the accrual basis, as defined by state accounting policy, the department records revenues in the accounting period when realizable, measurable, and earned, and records expenses in the period incurred when measurable.

Expenditures and expenses may include: entire budgeted service contracts even though the department receives the services in a subsequent fiscal year; goods ordered with a purchase order before fiscal year-end, but not received as of fiscal year-end; and equipment ordered with a purchase order before fiscal year-end.

Basis of Presentation

The financial schedule format is in accordance with the policy of the Legislative Audit Committee. The financial schedules are prepared from the transactions posted to the state's accounting system without adjustment.

The department uses the following funds:

Governmental Fund Category

- **General Fund** – to account for all financial resources except those required to be accounted for in another fund.

- **State Special Revenue Fund** – to account for proceeds of specific revenue sources (other than private-purpose trusts or major capital projects) that are legally restricted to expenditures for specific state program purposes. The State Special Revenue Fund includes the restricted highway revenue, nonrestricted highway, petroleum storage tank, Series 2005 Grant Anticipation Note Proceeds, motorboat fuel tax, and Aeronautics Division accounts.
- **Federal Special Revenue Fund** – to account for activities funded from federal revenue sources. Federal Special Revenue Funds include activity such as federal highway planning and construction, highway traffic safety, Aeronautics Division, and transportation administration grants.
- **Debt Service Fund** – to account for accumulated resources for the payment of general long-term debt principal and interest. The department uses this fund to account for the Series 2005 Grant Anticipation Notes.
- **Permanent Fund** – to account for financial resources that are permanently restricted to the extent that only earnings, and not principal, may be used for purposes that support the department's programs. The department uses this fund for the Noxious Weed Management Program.

Proprietary Fund Category

- **Enterprise Fund** – to account for operations (a) financed and operated in a manner similar to private business enterprises, where the Legislature intends that the department finance or recover costs primarily through user charges; (b) where the Legislature has decided that periodic determination of revenues earned, expenses incurred or net income is appropriate; (c) where the activity is financed solely by a pledge of the net revenues from fees and charges of the activity; or (d) when laws or regulations require that the activities' cost of providing services, including capital costs, be recovered with fees and charges rather than with taxes or similar revenues. Enterprise Funds include the financial activity of the West Yellowstone airport.
- **Internal Service Fund** – to account for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursement basis. The Internal Service Fund includes the State Motor Pool and the Highway Equipment funds.

Fiduciary Fund Category

- **Private-Purpose Trust Fund** – to account for activity of any trust arrangement not properly reported in a pension fund or an investment trust fund where the principal and income benefit individuals, private organizations, or other governments. The Private-Purpose Trust Fund includes the Woodville Hill Abandonment and Moore-Sipple Connector funds.
- **Agency Fund** – to account for resources held by the state in a custodial capacity. Agency funds may be used on a limited basis for internal (to the State) clearing account activity but these must have a zero balance at fiscal year-end. Agency

Fund activity, beginning in fiscal year 2005-06, includes department union pension activity.

2. General Fund Balance

The negative fund balance in the General Fund at June 30, 2007, does not indicate overspent appropriation authority. The department has authority to pay obligations from the statewide General Fund within its appropriation limits. The department expends cash or other assets from the statewide fund when it pays General Fund obligations. The department's outstanding liabilities exceeded the assets it had placed in the fund, resulting in a negative ending General Fund balance for the fiscal year ended June 30, 2007. The department's total assets placed in the fund exceeded outstanding liabilities, resulting in a positive ending General Fund balance for the fiscal year ended June 30, 2006. These balances reflect the results of the activity of the department and not the fund balance of the statewide General Fund.

3. Direct Entries to Fund Balance

The majority of the direct entries to fund balance in the State Special Revenue Fund are entries generated by SABHRS to reflect the flow of resources within the restricted highway revenue account and petroleum storage tank account shared between the department, the Department of Justice, and the Department of Environmental Quality.

4. Activity Between and Within Funds at the Department

During the normal course of operations, the department has transactions within funds and between funds to finance operations, provide services, and service debt. The following describes the activity for the two fiscal years ending June 30, 2007.

Equipment Program

The Equipment Program, which is part of the Internal Service Fund, maintains a fleet of equipment and vehicles for use within the department. Costs are recovered through user fees charged to other programs within the department. Charges for Services revenues are recorded in the Internal Service Fund for the rent of the equipment and the user program records Rent expense. The major programs using equipment are the Maintenance Program, the Construction Program, and the Motor Carrier Services Program. Charges for Services revenue for the Equipment Program was approximately $22.7 million in fiscal year 2005-06 and $24.6 million in fiscal year 2006-07.

Transfers

During fiscal years 2005-06 and 2006-07, approximately $7.3 million and $8.0 million, respectively, were transferred from the General Operations Program in the State Special

Revenue Fund nonrestricted highway account to the State Special Revenue Fund restricted highway revenue account to facilitate accounting.

During fiscal years 2005-06 and 2006-07, approximately $11.7 million and $11.9 million, respectively, were transferred from the Construction Program in the State Special Revenue restricted highway revenue account and the Federal Special Revenue Fund highway trust account to the Debt Service Fund US 93 bond account for the bond payments.

5. Highway Construction Commitments

At June 30, 2006, and June 30, 2007, the department had contractual commitments of approximately $207.4 million and $168.7 million, respectively, for construction of various highway projects. Funding for these highway projects is to be provided from federal Highway Planning and Construction grants and matching State Special Revenue Funds.

Montana
Department of
Transportation

Department Response

Montana Department of Transportation
serving you with pride
Jim Lynch, Director
Brian Schweitzer, Governor
2701 Prospect Avenue
PO Box 201001
Helena MT 59620-1001

November 5, 2007

RECEIVED
NOV 0 6 2007
LEGISLATIVE AUDIT DIV.

Scott Seacat, Legislative Auditor
Legislative Audit Division
State Capitol Room 160
Helena, MT 59620-1705

Subject: Financial Compliance Audit for Fiscal Years 2005-2006 and 2006-2007

Dear Scott,

The Montana Department of Transportation (MDT) is providing you a detailed response to the audit performed by your office for the two fiscal years ending June 30, 2007. We appreciated your staff's effort, cooperation, and professionalism during this audit.

MDT is committed to complying with state and federal laws, implementing and maintaining effective accounting controls, and presenting an accurate and fair financial plan.

Sincerely,

Jim Lynch

Jim Lynch
Director

attachments

copies: Larry Flynn, Administration Division Administrator
Victoria Murphy, Internal Audit Unit Manager
Jody Brandt, Accounting Controls Bureau Chief

Montana Department of Transportation

serving you with pride

LAD Audit Recommendations and Agency Responses

Recommendation #1
We recommend the department establish procedures to ensure all excess annual leave is used by employees or forfeited in accordance with state law.

Response

Partially Concur
The department will establish procedures to mitigate excess annual leave balances but will explore what options are legally available to ensure that employer/employee contractual relationships are not breached before forfeiting excess leave balances.

Recommendation #2
We recommend the department establish procedures to ensure all excess exempt compensatory time is used by employees or forfeited in accordance with state policy.

Response

Partially Concur
The department will establish procedures to mitigate excess exempt compensatory time but will explore what options are legally available to ensure that employer/employee contractual relationships are not breached before forfeiting excess exempt compensatory time.

Recommendation #3
We recommend the department establish procedures to demonstrate compliance with federal program income requirements.

Response

Partially Concur
The department met with the Federal Highway Administration cognizant and the auditors to resolve the issue raised by the auditors. According to the Federal Highway Administration cognizant, the department is complying with federal regulations regarding rental/sale proceeds.

23 CFR 710.403 (e) states "The Federal share of net income from the sale or lease of excess real property shall be used by the STD for activities eligible for funding under title 23 of the United States Code. Where project income derived from the sale or lease of excess property is used for subsequent title 23 projects, use of the income does not create a Federal-aid project".

When the federal regulations changed, the department started depositing the proceeds from the sale or lease of real property into the Highways Special Revenue Fund. The department does not track the proceeds by project, since the federal regulations no longer require detailed tracking.

In fiscal year 2007, the Pavement Preservation program expenditures were $7.5 million and the State Funded Construction program expenditures were $6.6 million. Although these activities could be eligible for federal participation they were funded from the state highway revenues. These expenditures far exceed the proceeds from the sale or lease of real property received in fiscal year 2007. The department believes it is using the proceeds for the State Transportation program in accordance with federal regulations. However, the department will establish procedures to more clearly demonstrate the proceeds from the sale or lease of real property are used for the above programs.

Recommendation #4

We recommend the department:

A. Work with the Department of Administration to negotiate Cash Management Improvement Act agreements that will minimize the use of state funds to finance federal program costs prior to the receipt of federal funds and maximize investment earnings.
B. Establish procedures and management controls to ensure cash draws for contractor payments and payroll disbursements are made in accordance with the Cash Management Improvement Act agreements and, therefore, applicable federal cash management requirements

Response

Concur

The department worked with the Department of Administration to adjust the draw pattern for the fiscal year 2008 Cash Management Improvement Act (CMIA) agreement. The revised CMIA requires the department bill the federal government on Tuesday and receive the funds on Wednesday each week. This minimizes the use of state funds for federal program costs, but does not totally eliminate the timing difference.

Recommendation #5

We recommend the department:

A. Repay the $300,000 advance from the highway restricted account to the aeronautics administration account.
B. Record advances only after obtaining Department of Administration approval, as required by state law

Response

Partially Concur

The department provided the Long Range Planning Document (LRPD) to the 2005 Legislative General Government Subcommittee during the department's 2007 Biennium Budget hearings. Included in the LRPD was a line item showing the aircraft loan for $290,000 out of the Highways Special Revenue Fund. The subcommittee approved the department's budget. The department does not believe this is a diversion of the highway revenue funds since this is merely a loan to the Aeronautics program and the Highways Special Revenue Fund will receive repayment of the loan.

The department will seek prior approval for advances from the Department of Administration in accordance with state law. The department has amended the advance agreement with the Department of Administration to exclude interest

payments, since the authority to pay the interest was not approved by the 2007 Legislature.

Recommendation #6

We recommend the department:

A. Deposit proceeds from disposal of department personal property in the General Fund or the highway account of the State Special Revenue Fund in accordance with state law.
B. Move the $40,001 in proceeds from the 2006 airplane sale to the General Fund or the highway account of the State Special Revenue Fund in accordance with state law.

Response

Partially Concur

When the Montana Department of Transportation was formed, section 18-6-103, MCA, was not amended to include Aeronautics program. However, the Highways Special Revenue Fund and Aeronautics State Special Revenue Fund were clearly created to keep fuel taxes/expenses separate between the two entities. The department will seek legislation to clarify state law so that proceeds from the sale of aeronautics property can be deposited into the aeronautics fund.

In fiscal year 2008, the department moved the proceeds from the 2006 airplane sale to the Highways Special Revenue Fund.

Recommendation #7

We recommend the department:

A. Distribute aviation fuel tax and refunds in accordance with state law.
B. Move balances in the pavement preservation account to the grant account.
C. If necessary, seek clarification of state law regarding the disposition of aviation fuel tax revenues for scheduled passenger air carriers.

Response

Partially Concur

The department believes the tax is currently being distributed according to legislative intent. Copies of the committee minutes and other documentation demonstrating legislative intent were provided to the auditors. The intent for allocating refunds from the scheduled passenger carrying airlines was presented and understood to be from the 2 cent tax deposited into the grant fund. Airports serviced by these airlines do not apply for funds from this grant account. Section 15-1-501(4), MCA, was not taken into consideration when the legislation was enacted and the department will seek legislation in the next session for clarification.

Recommendation #8

We recommend the department record the fund transfers required in the state special revenue nonrestricted account and the senior citizens and persons with disabilities transportation services account in accordance with state law.

Response

Concur

As of July 1, 2007, the department is depositing the transfer from the General Fund under Section 15-1-122(2), MCA, in the state special revenue nonrestricted fund. Additionally, in fiscal year 2008, the department requested and received a

new fund from the Department of Administration to track the senior citizens and persons with disabilities transportation services revenue and expenditures separately.

Recommendation #9

We recommend the department revise its rate-setting methodology to establish fees commensurate with costs in the Equipment Internal Service Fund, in accordance with state law and federal regulations.

Response

Partially Concur

The department develops the rates in accordance with management memo 2-86-7, which is the state's policy on working capital. For the 2007 biennium, the legislature approved a 60 day working capital for the Highway Equipment Internal Service Fund. The required working capital for fiscal year 2006 and 2007 was approximately $2.8 million. The actual working capital was ($1.6) million and $92,000 in fiscal year 2006 and 2007, respectively. The fund balance at June 30, 2007 contains approximately $62 million of equipment used to maintain the state's highway system.

In fiscal year 2006, the department moved the accountability for the Equipment Internal Service Fund inventory from the Highways Special Revenue Fund to the Highway Equipment Internal Service Fund. This resulted in a one-time adjustment of approximately $1.3 million. The department did not include this amount when calculating the fiscal year 2008 rates since it would have resulted in an artificially low rate, which would adversely affect the funds working capital balance.

The department will work with the Department of Administration to ensure the rate setting methodology is in compliance with state and federal regulations.

Recommendation #10

We recommend the department establish controls to ensure the accuracy of infrastructure assets balances and related activity on the state's accounting system.

Response

Concur

The department has documented detailed procedures for properly capitalizing infrastructure assets on the state's accounting system at fiscal year-end. The department is currently working with the Department of Administration to resolve all outstanding infrastructure issues.

Recommendation #11

We recommend the department charge costs of administering the motor fuels tax under tribal agreements to the tribal motor fuel administration account in accordance with state law.

Response

Concur

As part of the 2011 Biennium Budget request, the department will request the administrative assistant position be moved from the statutory appropriation to the state appropriation bill (HB 2). The department will start tracking cost specific to

administering the motor fuels and providing refunds under a tribal agreement. These costs will be directly charged to the Tribal Motor Fuels Administration Account.

Recommendation #12
We recommend the department comply with state law, concerning its duties to research the feasibility of acquiring abandoned railroad right-of-way, and easements and establish procedures for providing railroad and intermodal transportation facility loans.

Response
Concur
The department will add a component to all future updates of the Montana Rail Plan that identifies railroad rights-of-way that may be abandoned and researches the feasibility of the state acquiring those rights-of-way. The department will establish procedures for providing loans under Section 60-11-120, MCA.

Recommendation #13
We recommend the department comply with state law concerning the Scenic-Historic Byways Advisory Council.

Response
Concur
The department will ask the Montana Transportation Commission to appoint a Scenic-Historic Byways Advisory Council to participate in the development of a Scenic-Historic Byways Program within the limits of the adopted Scenic-Historic Byways Administrative Rules and federal law.

Recommendation #14
We recommend the department design, erect, and maintain farewell signs at Montana boarder locations as required by law.

Response
Concur
The department will design and erect farewell signs as required by state law.