

SENATE BILL NO. 164

INTRODUCED BY HARP, STANG, WEEDING, J. RICE
BY REQUEST OF THE GOVERNOR

IN THE SENATE

JANUARY 22, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON HIGHWAYS & TRANSPORTATION.

 FIRST READING.

FEBRUARY 2, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 4, 1991 PRINTING REPORT.

 SECOND READING, DO PASS.

FEBRUARY 5, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
 AYES, 45; NOES, 4.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 5, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON HIGHWAYS & TRANSPORTATION.

FEBRUARY 6, 1991 FIRST READING.

MARCH 21, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

APRIL 5, 1991 SECOND READING, CONCURRED IN.

APRIL 6, 1991 THIRD READING, CONCURRED IN.
 AYES, 82; NOES, 13.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 9, 1991 RECEIVED FROM HOUSE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

APRIL 10, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. 164
 2 INTRODUCED BY *HARP* *Alang* *Wieding* *J Rice*
 3 BY REQUEST OF THE GOVERNOR

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DEPARTMENT
 6 OF TRANSPORTATION; TO ABOLISH THE DEPARTMENT OF HIGHWAYS AND
 7 TRANSFER ITS FUNCTIONS AND CERTAIN FUNCTIONS OF THE
 8 DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE TO THE
 9 DEPARTMENT OF TRANSPORTATION; TO GENERALLY REVISE THE LAWS
 10 TO CONFORM TO THE ABOLISHMENT OF THE DEPARTMENT OF HIGHWAYS
 11 AND TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF
 12 TRANSPORTATION; AMENDING SECTIONS 2-15-104, 2-15-1812,
 13 2-15-2501, 2-15-2502, 15-1-701, AND 60-3-201, MCA; AND
 14 PROVIDING AN EFFECTIVE DATE."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. **Section 1.** Purpose. (1) The legislature
 18 intends, through the creation of a department of
 19 transportation within the executive branch of state
 20 government, to:

- 21 (a) provide the means to plan for the present and
- 22 future transportation needs of the citizens of Montana;
- 23 (b) to assure that transportation remains a viable
- 24 element in the private sector of the economy; and
- 25 (c) to provide energy-efficient and ecologically

1 compatible transportation services with optimum efficiency,
 2 effectiveness, and economy.

3 (2) It is the policy of the state of Montana that
 4 adequate, safe, and efficient transportation facilities and
 5 services of all modes are essential to the economic growth
 6 of the state and the well-being of its people and that the
 7 planning and development of those facilities and services be
 8 coordinated by a department of transportation that has
 9 overall responsibility for balanced transportation policy
 10 and planning.

11 **Section 2.** Section 2-15-104, MCA, is amended to read:

12 "2-15-104. Structure of executive branch. (1) In
 13 accordance with the constitution, all executive and
 14 administrative offices, boards, commissions, agencies, and
 15 instrumentalities of the executive branch of state
 16 government and their respective functions are allocated by
 17 this chapter among and within the following departments or
 18 entities:

- 19 (a) department of administration;
- 20 (b) department of military affairs;
- 21 (c) department of revenue;
- 22 (d) state board of education;
- 23 (e) department of labor and industry;
- 24 (f) department of commerce;
- 25 (g) department of justice;

1 (h) department of health and environmental sciences;
 2 (i) department of social and rehabilitation services;
 3 (j) department of institutions;
 4 (k) department of highways transportation;
 5 (l) department of public service regulation;
 6 (m) department of agriculture;
 7 (n) department of livestock;
 8 (o) department of state lands;
 9 (p) department of natural resources and conservation;
 10 (q) department of fish, wildlife, and parks;
 11 (r) department of family services.

12 (2) For its internal structure, each department shall
 13 adhere to the following standard terms:

14 (a) The principal unit of a department is a division.
 15 Each division ~~shall-be~~ is headed by an administrator.

16 (b) The principal unit of a division is a bureau. Each
 17 bureau ~~shall-be~~ is headed by a chief.

18 (c) The principal unit of a bureau is a section. Each
 19 section ~~shall-be~~ is headed by a supervisor."

20 NEW SECTION. Section 3. Department of highways
 21 abolished -- functions transferred to department of
 22 transportation. The department of highways is abolished, and
 23 its functions are transferred to the department of
 24 transportation. Unless inconsistent with [sections 1 through
 25 14], any reference in the Montana Code Annotated, including

1 acts passed by the 52nd legislature, to the "department of
 2 highways", "department" (of highways), or "director" (of
 3 highways) is changed to the "department of transportation",
 4 "department" (of transportation), or "director" (of
 5 transportation).

6 **Section 4.** Section 2-15-2501, MCA, is amended to read:

7 "2-15-2501. Department of highways transportation --
 8 head. There is a department of highways transportation. The
 9 department head is a the director of highways transportation
 10 appointed by the governor in accordance with 2-15-111. The
 11 department may have as many divisions as are necessary, but
 12 it must have divisions of:

- 13 (1) highways;
 14 (2) aeronautics;
 15 (3) administration; and
 16 (4) public transportation."

17 **Section 5.** Section 2-15-2502, MCA, is amended to read:

18 "2-15-2502. Highway commission. (1) The highway
 19 commission consists of five members. One member shall must
 20 be a bona-fide resident of and appointed from each of these
 21 districts, each composed of the counties named:

22 (a) District 1. Lincoln, Flathead, Sanders, Lake,
 23 Mineral, Missoula, Ravalli, Granite, Powell;

24 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,
 25 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

1 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
2 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

3 (d) District 4. Carter, Powder River, Fallon, Custer,
4 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
5 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

6 (e) District 5. Golden Valley, Stillwater, Carbon, Big
7 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
8 Petroleum, Treasure, Wheatland, Sweet Grass.

9 (2) ~~No two~~ Two members may not be residents of the same
10 district at the time of appointment or thereafter during
11 their respective terms of office ~~be residents of the same~~
12 ~~district~~.

13 (3) Not more than three members may at the time of
14 appointment or ~~thereafter~~ during their respective terms be
15 members of the same political party.

16 (4) ~~No~~ An elective state official or state officer
17 during the term of office to which he was elected or
18 appointed ~~and no~~ or a state employee may not be a member of
19 the commission.

20 (5) ~~No~~ A resolution, motion, or other decision of the
21 commission may not be adopted or passed without the
22 favorable vote of at least three members.

23 (6) The commission is allocated to the department of
24 transportation for administrative purposes only as
25 prescribed in 2-15-121.

1 (7) The commission is designated as a quasi-judicial
2 board for purposes of 2-15-124; however, the provision of
3 2-15-124(1) that at least one member of a quasi-judicial
4 board be an attorney does not apply to the commission.

5 (8) The administrator of the highway division shall act
6 as liaison between the highway commission and the department
7 of transportation."

8 NEW SECTION. Section 6. Transportation functions of
9 department of commerce transferred. (1) The following
10 functions of the department of commerce are transferred to
11 the department of transportation:

12 (a) developing, encouraging, regulating, and licensing
13 aeronautics in Title 67;

14 (b) allocating funds for public transportation under
15 7-14-102; and

16 (c) rail planning activities in Title 60, chapter 11.

17 (2) Unless inconsistent with [sections 1 through 14],
18 any reference to the department of commerce in 7-14-102;
19 Title 60, chapter 11; and Title 67 is changed to department
20 of transportation.

21 **Section 7.** Section 2-15-1812, MCA, is amended to read:

22 "2-15-1812. Board of aeronautics -- qualification --
23 allocation -- quasi-judicial. (1) There is a board of
24 aeronautics.

25 (2) The board consists of nine members. The members

1 are:

- 2 (a) one member of the Montana pilots' association;
- 3 (b) one member of the Montana chamber of commerce;
- 4 (c) one representative of the Montana airport
5 management association;
- 6 (d) one member of the Montana county commissioners
7 association;
- 8 (e) one person actively engaged in aviation education
9 in this state;
- 10 (f) one person representative of interstate commercial
11 airline operators, who must at the time of appointment be an
12 employee or official of an interstate commercial airline
13 operator and a resident of this state;
- 14 (g) one member of the Montana league of cities and
15 towns;
- 16 (h) one person representing the general public; and
- 17 (i) one person who must at the time of appointment be
18 an active fixed base operator in this state, or an official
19 of a fixed base operator in this state, of flying services
20 or flying schools.
- 21 (3) The board is allocated to the department of
22 transportation for administrative purposes only as
23 prescribed in 2-15-121.
- 24 (4) The board is designated as a quasi-judicial board
25 for purposes of 2-15-124.

1 (5) The administrator of the aeronautics division shall
2 act as liaison between the board and the department of
3 transportation."

4 NEW SECTION. Section 8. Department of revenue -- motor
5 fuels tax functions transferred. Unless inconsistent with
6 [sections 1 through 14], any reference to the department of
7 revenue in Title 15, chapter 70, is changed to the
8 department of transportation.

9 NEW SECTION. Section 9. Department of transportation
10 to issue warrants for distraint. The department of
11 transportation is authorized to issue warrants for distraint
12 as provided in Title 15, chapter 1, part 7, to collect motor
13 fuels taxes and to enforce the provisions of this part.

14 **Section 10.** Section 60-3-201, MCA, is amended to read:

15 "60-3-201. Distribution and use of proceeds of gasoline
16 dealers' license tax. (1) All money received in payment of
17 license taxes under the Distributor's Gasoline License Tax
18 Act, except those amounts paid out of the department of
19 revenue's transportation's suspense account for gasoline tax
20 refund, shall must be used and expended as provided in this
21 section. So much The portion of that money on hand at any
22 time as that may be needed to pay highway bonds and interest
23 thereon on highway bonds when due and to accumulate and
24 maintain a reserve therefor for payment of highway bonds and
25 interest, as provided in laws and in resolutions of the

1 state board of examiners authorizing such the bonds, shall
 2 must be deposited in the highway bond account in the debt
 3 service fund established by 17-2-102. Subject to that
 4 provision, 9/10 of 1% of all money shall must be deposited
 5 in the state park account, 1/2 of 1% of all money shall must
 6 be deposited in a snowmobile account in the state special
 7 revenue fund, and 1/25 of 1% of all money shall must be
 8 deposited in the aeronautics revenue fund of the department
 9 of commerce transportation under the provisions of 67-1-301.
 10 The remainder of the money shall must be used by the
 11 department of highways transportation on the federal-aid
 12 highways in this state selected and designated under Title
 13 23, U.S.C., and on highways leading from each county seat in
 14 the state to the federal highway system of federal-aid roads
 15 where the county seat is not on the system and on the other
 16 roads which that have been or may be authorized by the laws
 17 of Montana and for collection of the license taxes and the
 18 enforcement of the Montana highway code under Article VIII,
 19 section 6, of the constitution of this state.

20 (2) The department shall, in expending this money,
 21 carry forward construction from year to year, using the
 22 money expended through the matching up of federal-aid
 23 allotments to Montana upon the federal highway system in the
 24 various parts of the state in accordance with 60-3-204
 25 through 60-3-206. Nothing in this title conflicts with Title

1 23, U.S.C., and the rules by which it is administered.

2 (3) The department may enter into cooperative
 3 agreements with the national park service and the federal
 4 highway administration for the purpose of maintaining
 5 national park approach roads in Montana.

6 (4) Money credited to the state park account in the
 7 state special revenue fund shall must be used only for the
 8 creation, improvement, and maintenance of state parks where
 9 motorboating is allowed, except for the payment of refunds
 10 under 15-70-221 through 15-70-226. The legislature finds
 11 that of all the fuel sold in the state for consumption in
 12 internal combustion engines, not less than 9/10 of 1% is
 13 used for propelling boats on waterways of this state.

14 (5) Money credited to the snowmobile account may be
 15 used only to develop and maintain facilities open to the
 16 general public at no admission cost and to promote
 17 snowmobile safety. ~~For the 2 years following July 17, 1977,~~
 18 ~~15% of the amount deposited in the snowmobile account each~~
 19 ~~year shall be used to promote snowmobile safety. Thereafter,~~
 20 ~~10% Ten percent~~ of the amount deposited in the snowmobile
 21 account shall must be used to promote snowmobile safety. The
 22 legislature finds that of all fuels sold in this state for
 23 consumption in internal combustion engines, not less than
 24 1/2 of 1% is used for propelling snowmobiles on public lands
 25 of this state.

1 (6) Money credited to the aeronautics account of the
2 department of ~~commerce--shall~~ transportation must be used
3 only to develop, improve, and maintain facilities open to
4 the public at no admission cost and to promote aviation
5 safety. The legislature finds that of all the fuel sold in
6 this state for consumption in internal combustion engines,
7 not less than 1/25 of 1% is used for propelling aircraft in
8 this state."

9 **Section 11.** Section 15-1-701, MCA, is amended to read:

10 "15-1-701. **Warrant for distraint.** (1) A warrant for
11 distraint is an order, under the official seal of the
12 department of revenue or of the department of
13 transportation, directed to a sheriff of ~~any a~~ county of
14 Montana or to ~~any an~~ agent authorized by law to collect a
15 tax. The order commands the recipient to levy upon and sell
16 the real and personal property of a delinquent taxpayer.

17 (2) Upon filing the warrant as provided in 15-1-704,
18 there is a lien against all real and personal property of
19 the delinquent taxpayer located in the county where the
20 warrant is filed. The resulting lien is treated in the same
21 manner as a properly docketed judgment lien, and the
22 department may collect delinquent taxes and enforce the tax
23 lien in the same manner as a judgment is enforced.

24 (3) A warrant may be issued for the amount of unpaid
25 tax plus penalty, if any, and accumulated interest. The lien

1 is for the amount indicated on the warrant plus accrued
2 interest from the date of the warrant."

3 NEW SECTION. **Section 12.** Transfer of rulemaking
4 authority. Any existing authority of the department of
5 highways, the department of commerce, or the department of
6 revenue to make rules on the various functions transferred
7 by the provisions of [sections 1 through 14] is extended to
8 the provisions of [sections 1 through 14].

9 NEW SECTION. **Section 13.** Application of transfer
10 provisions. The provisions of 2-15-131 through 2-15-137
11 govern:

12 (1) the merger into the department of transportation
13 the functions of the department of highways and those
14 functions of the departments of commerce and revenue
15 specified in [sections 1 through 14]; and

16 (2) the transfer of the various functions contained in
17 [sections 1 through 14].

18 NEW SECTION. **Section 14.** Governor to implement. The
19 governor shall implement the provisions of [sections 1
20 through 14] by executive order.

21 NEW SECTION. **Section 15.** Coordination instruction. The
22 code commissioner is instructed to revise any bill passed by
23 the 52nd legislature by changing to the department of
24 transportation any reference to:

25 (1) the department of highways;

1 (2) the department of revenue in Title 15, chapter 70,
2 or in regard to administration of the motor fuels tax laws;
3 or

4 (3) the department of commerce in regard to aeronautics
5 in Title 67, allocating funds for public transportation in
6 7-14-102, or rail planning activities in Title 60, chapter
7 11.

8 NEW SECTION. Section 16. Severability. If a part of
9 [this act] is invalid, all valid parts that are severable
10 from the invalid part remain in effect. If a part of [this
11 act] is invalid in one or more of its applications, the part
12 remains in effect in all valid applications that are
13 severable from the invalid applications.

14 NEW SECTION. Section 17. Codification instruction. (1)
15 [Section 1] is intended to be codified as an integral part
16 of Title 2, chapter 15, part 25, and the provisions of Title
17 2, chapter 15, part 25, apply to [section 1].

18 (2) [Section 9] is intended to be codified as an
19 integral part of Title 15, chapter 70, part 2, and the
20 provisions of Title 15, chapter 70, part 2, apply to
21 [section 9].

22 (3) Section 2-15-1812 is intended to be renumbered and
23 codified as an integral part of Title 2, chapter 15, part
24 25.

25 NEW SECTION. Section 18. Effective date. [This act] is

1 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0164, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to create a Department of Transportation; to abolish the Department of Highways and transfer its functions and certain functions of the Department of Commerce and the Department of Revenue to the Department of Transportation; to generally revise the laws to conform to the abolishment of the Department of Highways and transfer of functions to the Department of Transportation; and providing an effective date.

ASSUMPTIONS:

Department of Commerce:

1. Administrative overhead expenses for the Aeronautics Division and the Transportation Division will be appropriated as recommended in the executive budget to defray the cost of computer systems transfer and moving expenses.
2. Administrative overhead expenses are discontinued in FY93 for an annual savings of approximately \$87,800.
3. The Aeronautics Division will reduce 1.00 FTE and the Transportation Division will reduce 1.50 FTE as a result of management efficiencies achieved through reorganization.

Department of Revenue:

4. The department would need 3.00 FTE auditors to comply with new federal requirements if it retained the Motor Fuel Tax Division (MFTD). As a result of the consolidation of this function in DOT, the workload will be shared in the new DOT and only 1.00 FTE auditor will be necessary.
5. The department will reduce 1.00 FTE for administrative functions which will not be necessary after reorganization.
6. The FY92 executive budget recommendation of \$11,452 for building rent will be used for moving costs of approximately \$6,600 and for a portion of the \$74,600 cost to transfer the computer system. The appropriation for building rent will be discontinued in FY93 for a savings of approximately \$11,452 per year.
7. The reorganization will result in a \$85,988 reduction in administrative overhead funds to the DOR Directors Office. The Director's Office provided approximately \$37,000 per year in services to MFTD. The executive budget recommends the difference of \$48,300 be funded with general fund and federal revenue.
8. The transfer of MFTD from the Department of Revenue to the Department of Transportation will result in net savings of \$105,087 in FY92 and \$116,508 in FY93 and future years.

Department of Highways:


9. The Department of Highways budget modification for a 1.00 FTE computer programmer for the new department and \$75,000 for one-time FY92 reorganization expenses will be approved.

Department of Transportation:


10. Net savings of \$71,459 in FY92 and \$233,609 in FY93 includes personnel reductions of 4.50 FTE each year of the 1993 biennium.
11. Current law is represented by the executive budget recommendations for the affected programs in the Department of Revenue, Department of Commerce and Department of Highways.

FISCAL IMPACT:

see next page


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

1-28-91
DATE


JOHN G. HARP, PRIMARY SPONSOR

4/28/91
DATE

Fiscal Note for SB0164, as introduced.

SB 164

FISCAL IMPACT:Aeronautics Division:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	11.99	0.00	(11.99)	11.99	0.00	(11.99)
Personal Services	378,294	0	(378,294)	379,307	0	(379,307)
Operating Costs	370,179	0	(370,179)	354,576	0	(354,576)
Equipment	22,000	0	(22,000)	18,000	0	(18,000)
Local Assistance	253,000	0	(253,000)	253,000	0	(253,000)
Transfers	10,000	0	(10,000)	10,000	0	(10,000)
Total	1,033,473	0	(1,033,473)	1,014,883	0	(1,014,883)
<u>Funding:</u>						
State Special	876,344	0	(876,344)	875,078	0	(875,078)
Federal Special	75,000	0	(75,000)	75,000	0	(75,000)
Proprietary Fund	82,129	0	(82,129)	64,805	0	(64,805)
Total	1,033,473	0	(1,033,473)	1,014,883	0	(1,014,883)

Transportation Div.:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	14.50	0.00	(14.50)	14.50	0.00	(14.50)
Personal Services	504,275	0	(504,275)	503,474	0	(503,474)
Operating Costs	388,268	0	(388,268)	206,806	0	(206,806)
Equipment	354	0	(354)	500	0	(500)
Local Assistance	3,004,684	0	(3,004,684)	704,684	0	(704,684)
Total	3,897,581	0	(3,897,581)	1,415,464	0	1,415,464
<u>Funding:</u>						
General Fund	640,823	0	(640,823)	460,728	0	(460,728)
State Special	1,871,250	0	(1,871,250)	883,486	0	(883,486)
Federal Special	1,385,508	0	(1,385,508)	704,684	0	(704,684)
Total	3,897,581	0	(3,897,581)	1,415,464	0	(1,415,464)

(continued on page 3)

SB 164

Motor Tax Division:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	26.00	0.00	(26.00)	26.00	0	(26.00)
Personal Services	608,768	0	(608,768)	608,339	0	(608,339)
Operating Costs	<u>140,023</u>	<u>0</u>	<u>(140,023)</u>	<u>137,175</u>	<u>0</u>	<u>(137,175)</u>
Total	748,791	0	(748,791)	745,514	0	(745,514)
<u>Funding:</u>						
State Special	748,791	0	(748,791)	745,514	0	(745,514)

Dept. of Transportation:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	1933.83	1981.82	47.99	1933.83	1981.82	47.99
Personal Services	60,598,371	61,972,749	1,374,378	60,566,053	61,940,946	1,374,893
Operating Costs	220,355,789	221,329,259	973,470	188,428,236	189,038,911	610,675
Equipment	6,704,024	6,726,378	22,354	6,361,430	6,379,930	18,500
Capital Outlay	3,175,900	3,175,900	0	3,075,900	3,075,900	0
Local Assistance	14,380,000	17,637,684	3,257,684	14,380,000	15,337,684	957,684
Transfers	33,059,457	33,069,457	10,000	26,065,615	26,075,615	10,000
Debt Service	<u>49,269</u>	<u>49,269</u>	<u>0</u>	<u>49,269</u>	<u>49,269</u>	<u>0</u>
Total	338,322,810	343,960,696	5,637,886	298,926,503	301,898,255	2,971,752
<u>Funding:</u>						
General Fund	0	589,706	589,706	0	361,979	361,979
State Special	192,077,121	195,582,664	3,505,543	166,566,450	168,152,932	1,586,482
Federal Special	131,889,221	133,349,719	1,460,508	118,157,513	119,115,999	958,486
Proprietary Fund	<u>14,356,478</u>	<u>14,438,607</u>	<u>82,129</u>	<u>14,202,540</u>	<u>14,267,345</u>	<u>64,805</u>
Total	338,322,810	343,960,696	5,637,886	298,926,503	301,898,255	2,971,752

Net Impact:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
FTE	1986.32	1981.82	(4.50)	1986.32	1981.82	(4.50)
Personal Services	62,089,708	61,972,749	(116,959)	62,057,173	61,940,946	(116,227)
Operating Costs	<u>221,254,259</u>	<u>221,329,259</u>	<u>75,000</u>	<u>189,126,793</u>	<u>189,038,911</u>	<u>(87,882)</u>
Total			(41,959)			(204,109)
<u>Funding:</u>						
General Fund	640,823	589,706	(51,117)	460,728	361,979	(98,749)
State Special	<u>195,573,506</u>	<u>195,582,664</u>	<u>9,158</u>	<u>168,258,292</u>	<u>168,152,932</u>	<u>(105,360)</u>
Total			(41,959)			(204,109)

SB 164

APPROVED BY COMMITTEE
ON HIGHWAYS & TRANSPORTATION

SENATE BILL NO. 164

INTRODUCED BY HARP, STANG, WEEDING, J. RICE

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DEPARTMENT OF TRANSPORTATION; TO ABOLISH THE DEPARTMENT OF HIGHWAYS AND TRANSFER ITS FUNCTIONS AND CERTAIN FUNCTIONS OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF TRANSPORTATION; TO GENERALLY REVISE THE LAWS TO CONFORM TO THE ABOLISHMENT OF THE DEPARTMENT OF HIGHWAYS AND TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 2-15-104, 2-15-1812, 2-15-2501, 2-15-2502, 15-1-701, AND 60-3-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Purpose.** (1) The legislature intends, through the creation of a department of transportation within the executive branch of state government, to:

- (a) provide the means to plan for the present and future transportation needs of the citizens of Montana;
- (b) to assure that transportation remains a viable element in the private sector of the economy; and
- (c) to provide energy-efficient and ecologically

compatible transportation services with optimum efficiency, effectiveness, and economy.

(2) It is the policy of the state of Montana that adequate, safe, and efficient transportation facilities and services of all modes are essential to the economic growth of the state and the well-being of its people and that the planning and development of those facilities and services be coordinated by a department of transportation that has overall responsibility for balanced transportation policy and planning.

Section 2. Section 2-15-104, MCA, is amended to read:

"2-15-104. Structure of executive branch. (1) In accordance with the constitution, all executive and administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state government and their respective functions are allocated by this chapter among and within the following departments or entities:

- (a) department of administration;
- (b) department of military affairs;
- (c) department of revenue;
- (d) state board of education;
- (e) department of labor and industry;
- (f) department of commerce;
- (g) department of justice;

SECOND READING

1 (h) department of health and environmental sciences;
 2 (i) department of social and rehabilitation services;
 3 (j) department of institutions;
 4 (k) department of highways transportation;
 5 (l) department of public service regulation;
 6 (m) department of agriculture;
 7 (n) department of livestock;
 8 (o) department of state lands;
 9 (p) department of natural resources and conservation;
 10 (q) department of fish, wildlife, and parks;
 11 (r) department of family services.

12 (2) For its internal structure, each department shall
 13 adhere to the following standard terms:

14 (a) The principal unit of a department is a division.
 15 Each division ~~shall-be~~ is headed by an administrator.

16 (b) The principal unit of a division is a bureau. Each
 17 bureau ~~shall-be~~ is headed by a chief.

18 (c) The principal unit of a bureau is a section. Each
 19 section ~~shall-be~~ is headed by a supervisor."

20 NEW SECTION. Section 3. Department of highways
 21 abolished -- functions transferred to department of
 22 transportation. The department of highways is abolished, and
 23 its functions are transferred to the department of
 24 transportation. Unless inconsistent with {sections 1 through
 25 14}, any reference in the Montana Code Annotated, including

1 acts passed by the 52nd legislature, to the "department of
 2 highways", "department" (of highways), or "director" (of
 3 highways) is changed to the "department of transportation",
 4 "department" (of transportation), or "director" (of
 5 transportation).

6 **Section 4.** Section 2-15-2501, MCA, is amended to read:

7 "2-15-2501. Department of highways transportation --
 8 head. There is a department of highways transportation. The
 9 department head is a the director of highways transportation
 10 appointed by the governor in accordance with 2-15-111. The
 11 department may have as many divisions as are necessary, but
 12 it must have divisions of:

- 13 (1) highways;
 14 (2) aeronautics;
 15 (3) administration; and
 16 (4) public-transportation RAIL AND TRANSIT."

17 **Section 5.** Section 2-15-2502, MCA, is amended to read:

18 "2-15-2502. Highway commission. (1) The highway
 19 commission consists of five members. One member ~~shall~~ must
 20 be a bona-fide resident of and appointed from each of these
 21 districts, each composed of the counties named:
 22 (a) District 1. Lincoln, Flathead, Sanders, Lake,
 23 Mineral, Missoula, Ravalli, Granite, Powell;
 24 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,
 25 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

1 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
2 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

3 (d) District 4. Carter, Powder River, Fallon, Custer,
4 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
5 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

6 (e) District 5. Golden Valley, Stillwater, Carbon, Big
7 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
8 Petroleum, Treasure, Wheatland, Sweet Grass.

9 (2) ~~No two~~ Two members may not be residents of the same
10 district at the time of appointment or thereafter during
11 their respective terms of office ~~be residents--of--the--same~~
12 district.

13 (3) Not more than three members may at the time of
14 appointment or ~~thereafter~~ during their respective terms be
15 members of the same political party.

16 (4) ~~No~~ An elective state official or state officer
17 during the term of office to which he was elected or
18 appointed ~~and no~~ or a state employee may not be a member of
19 the commission.

20 (5) ~~No~~ A resolution, motion, or other decision of the
21 commission may not be adopted or passed without the
22 favorable vote of at least three members.

23 (6) The commission is allocated to the department of
24 transportation for administrative purposes only as
25 prescribed in 2-15-121.

1 (7) The commission is designated as a quasi-judicial
2 board for purposes of 2-15-124; however, the provision of
3 2-15-124(1) that at least one member of a quasi-judicial
4 board be an attorney does not apply to the commission.

5 (8) The administrator of the highway division shall act
6 as liaison between the highway commission and the department
7 of transportation."

8 NEW SECTION. Section 6. Transportation functions of
9 department of commerce transferred. (1) The following
10 functions of the department of commerce are transferred to
11 the department of transportation:

12 (a) developing, encouraging, regulating, and licensing
13 aeronautics in Title 67;

14 (b) allocating funds for public transportation under
15 7-14-102; and

16 (C) TRANSLOADING FACILITIES UNDER 7-14-120;

17 ~~(D)~~ (D) rail planning activities in Title 60, chapter
18 11; AND

19 (E) STATE REPRESENTATION ACTIVITIES UNDER 60-21-101.

20 (2) Unless inconsistent with [sections 1 through 14],
21 any reference to the department of commerce in 7-14-102,
22 7-14-120; Title 60, ~~chapter~~ CHAPTERS 11 AND 21; and Title 67
23 is changed to department of transportation.

24 **Section 7.** Section 2-15-1812, MCA, is amended to read:

25 "2-15-1812. Board of aeronautics -- qualification --

1 allocation -- quasi-judicial. (1) There is a board of
 2 aeronautics.

3 (2) The board consists of nine members. The members
 4 are:

5 (a) one member of the Montana pilots' association;
 6 (b) one member of the Montana chamber of commerce;
 7 (c) one representative of the Montana airport
 8 management association;
 9 (d) one member of the Montana county commissioners
 10 association;
 11 (e) one person actively engaged in aviation education
 12 in this state;
 13 (f) one person representative of interstate commercial
 14 airline operators, who must at the time of appointment be an
 15 employee or official of an interstate commercial airline
 16 operator and a resident of this state;
 17 (g) one member of the Montana league of cities and
 18 towns;
 19 (h) one person representing the general public; and
 20 (i) one person who must at the time of appointment be
 21 an active fixed base operator in this state, or an official
 22 of a fixed base operator in this state, of flying services
 23 or flying schools.

24 (3) The board is allocated to the department of
 25 transportation for administrative purposes only as

1 prescribed in 2-15-121.

2 (4) The board is designated as a quasi-judicial board
 3 for purposes of 2-15-124.

4 (5) The administrator of the aeronautics division shall
 5 act as liaison between the board and the department of
 6 transportation."

7 NEW SECTION. Section 8. Department of revenue -- motor
 8 fuels tax functions transferred. Unless inconsistent with
 9 [sections 1 through 14], any reference to the department of
 10 revenue in Title 15, chapter 70, is changed to the
 11 department of transportation.

12 NEW SECTION. Section 9. Department of transportation
 13 to issue warrants for distraint. The department of
 14 transportation is authorized to issue warrants for distraint
 15 as provided in Title 15, chapter 1, part 7, to collect motor
 16 fuels taxes and to enforce the provisions of this part.

17 Section 10. Section 60-3-201, MCA, is amended to read:
 18 "60-3-201. Distribution and use of proceeds of gasoline
 19 dealers' license tax. (1) All money received in payment of
 20 license taxes under the Distributor's Gasoline License Tax
 21 Act, except those amounts paid out of the department of
 22 revenue's transportation's suspense account for gasoline tax
 23 refund, ~~shall~~ must be used and expended as provided in this
 24 section. ~~So much~~ The portion of that money on hand at any
 25 time as that may be needed to pay highway bonds and interest

1 thereon on highway bonds when due and to accumulate and
 2 maintain a reserve therefor for payment of highway bonds and
 3 interest, as provided in laws and in resolutions of the
 4 state board of examiners authorizing such the bonds, shalt
 5 must be deposited in the highway bond account in the debt
 6 service fund established by 17-2-102. Subject to that
 7 provision, 9/10 of 1% of all money shalt must be deposited
 8 in the state park account, 1/2 of 1% of all money shalt must
 9 be deposited in a snowmobile account in the state special
 10 revenue fund, and 1/25 of 1% of all money shalt must be
 11 deposited in the aeronautics revenue fund of the department
 12 of commerce transportation under the provisions of 67-1-301.
 13 The remainder of the money shalt must be used by the
 14 department of highways transportation on the federal-aid
 15 highways in this state selected and designated under Title
 16 23, U.S.C., and on highways leading from each county seat in
 17 the state to the federal highway system of federal-aid roads
 18 where the county seat is not on the system and on the other
 19 roads which that have been or may be authorized by the laws
 20 of Montana and for collection of the license taxes and the
 21 enforcement of the Montana highway code under Article VIII,
 22 section 6, of the constitution of this state.

23 (2) The department shall, in expending this money,
 24 carry forward construction from year to year, using the
 25 money expended through the matching up of federal-aid

1 allotments to Montana upon the federal highway system in the
 2 various parts of the state in accordance with 60-3-204
 3 through 60-3-206. Nothing in this title conflicts with Title
 4 23, U.S.C., and the rules by which it is administered.

5 (3) The department may enter into cooperative
 6 agreements with the national park service and the federal
 7 highway administration for the purpose of maintaining
 8 national park approach roads in Montana.

9 (4) Money credited to the state park account in the
 10 state special revenue fund shalt must be used only for the
 11 creation, improvement, and maintenance of state parks where
 12 motorboating is allowed, except for the payment of refunds
 13 under 15-70-221 through 15-70-226. The legislature finds
 14 that of all the fuel sold in the state for consumption in
 15 internal combustion engines, not less than 9/10 of 1% is
 16 used for propelling boats on waterways of this state.

17 (5) Money credited to the snowmobile account may be
 18 used only to develop and maintain facilities open to the
 19 general public at no admission cost and to promote
 20 snowmobile safety. ~~For the 2 years following July 1, 1977~~
 21 ~~15% of the amount deposited in the snowmobile account each~~
 22 ~~year shall be used to promote snowmobile safety. Thereafter~~
 23 ~~10%~~ Ten percent of the amount deposited in the snowmobile
 24 account shalt must be used to promote snowmobile safety. The
 25 legislature finds that of all fuels sold in this state for

1 consumption in internal combustion engines, not less than
2 1/2 of 1% is used for propelling snowmobiles on public lands
3 of this state.

4 (6) Money credited to the aeronautics account of the
5 department of ~~commerce--shall~~ transportation must be used
6 only to develop, improve, and maintain facilities open to
7 the public at no admission cost and to promote aviation
8 safety. The legislature finds that of all the fuel sold in
9 this state for consumption in internal combustion engines,
10 not less than 1/25 of 1% is used for propelling aircraft in
11 this state."

12 **Section 11.** Section 15-1-701, MCA, is amended to read:

13 "15-1-701. Warrant for distraint. (1) A warrant for
14 distraint is an order, under the official seal of the
15 department of revenue or of the department of
16 transportation, directed to a sheriff of any a county of
17 Montana or to any an agent authorized by law to collect a
18 tax. The order commands the recipient to levy upon and sell
19 the real and personal property of a delinquent taxpayer.

20 (2) Upon filing the warrant as provided in 15-1-704,
21 there is a lien against all real and personal property of
22 the delinquent taxpayer located in the county where the
23 warrant is filed. The resulting lien is treated in the same
24 manner as a properly docketed judgment lien, and the
25 department may collect delinquent taxes and enforce the tax

1 lien in the same manner as a judgment is enforced.

2 (3) A warrant may be issued for the amount of unpaid
3 tax plus penalty, if any, and accumulated interest. The lien
4 is for the amount indicated on the warrant plus accrued
5 interest from the date of the warrant."

6 **NEW SECTION. Section 12.** Transfer of rulemaking
7 authority. Any existing authority of the department of
8 highways, the department of commerce, or the department of
9 revenue to make rules on the various functions transferred
10 by the provisions of [sections 1 through 14] is extended to
11 the provisions of [sections 1 through 14].

12 **NEW SECTION. Section 13.** Application of transfer
13 provisions. The provisions of 2-15-131 through 2-15-137
14 govern:

15 (1) the merger into the department of transportation
16 the functions of the department of highways and those
17 functions of the departments of commerce and revenue
18 specified in [sections 1 through 14]; and

19 (2) the transfer of the various functions contained in
20 [sections 1 through 14].

21 **NEW SECTION. Section 14.** Governor to implement. The
22 governor shall implement the provisions of [sections 1
23 through 14] by executive order.

24 **NEW SECTION. Section 15.** Coordination instruction. The
25 code commissioner is instructed to revise any bill passed by

1 the 52nd legislature by changing to the department of
2 transportation any reference to:

- 3 (1) the department of highways;
4 (2) the department of revenue in Title 15, chapter 70,
5 or in regard to administration of the motor fuels tax laws;
6 or
7 (3) the department of commerce in regard to aeronautics
8 in Title 67, allocating funds for public transportation in
9 7-14-102, or rail planning activities in Title 60, chapter
10 11.

11 NEW SECTION. Section 16. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 17. Codification instruction. (1)
18 [Section 1] is intended to be codified as an integral part
19 of Title 2, chapter 15, part 25, and the provisions of Title
20 2, chapter 15, part 25, apply to [section 1].

21 (2) [Section 9] is intended to be codified as an
22 integral part of Title 15, chapter 70, part 2, and the
23 provisions of Title 15, chapter 70, part 2, apply to
24 [section 9].

25 (3) Section 2-15-1812 is intended to be renumbered and

1 codified as an integral part of Title 2, chapter 15, part
2 25.

3 NEW SECTION. Section 18. Effective date. [This act] is
4 effective July 1, 1991.

-End-

SENATE BILL NO. 164

INTRODUCED BY HARP, STANG, WEEDING, J. RICE

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DEPARTMENT OF TRANSPORTATION; TO ABOLISH THE DEPARTMENT OF HIGHWAYS AND TRANSFER ITS FUNCTIONS AND CERTAIN FUNCTIONS OF THE DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE TO THE DEPARTMENT OF TRANSPORTATION; TO GENERALLY REVISE THE LAWS TO CONFORM TO THE ABOLISHMENT OF THE DEPARTMENT OF HIGHWAYS AND TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF TRANSPORTATION; AMENDING SECTIONS 2-15-104, 2-15-1812, 2-15-2501, 2-15-2502, 15-1-701, AND 60-3-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose. (1) The legislature intends, through the creation of a department of transportation within the executive branch of state government, to:

- (a) provide the means to plan for the present and future transportation needs of the citizens of Montana;
(b) to assure that transportation remains a viable element in the private sector of the economy; and
(c) to provide energy-efficient and ecologically

compatible transportation services with optimum efficiency, effectiveness, and economy.

(2) It is the policy of the state of Montana that adequate, safe, and efficient transportation facilities and services of all modes are essential to the economic growth of the state and the well-being of its people and that the planning and development of those facilities and services be coordinated by a department of transportation that has overall responsibility for balanced transportation policy and planning.

Section 2. Section 2-15-104, MCA, is amended to read:

"2-15-104. Structure of executive branch. (1) In accordance with the constitution, all executive and administrative offices, boards, commissions, agencies, and instrumentalities of the executive branch of state government and their respective functions are allocated by this chapter among and within the following departments or entities:

- (a) department of administration;
(b) department of military affairs;
(c) department of revenue;
(d) state board of education;
(e) department of labor and industry;
(f) department of commerce;
(g) department of justice;

THIRD READING



- 1 (h) department of health and environmental sciences;
 2 (i) department of social and rehabilitation services;
 3 (j) department of institutions;
 4 (k) department of highways transportation;
 5 (l) department of public service regulation;
 6 (m) department of agriculture;
 7 (n) department of livestock;
 8 (o) department of state lands;
 9 (p) department of natural resources and conservation;
 10 (q) department of fish, wildlife, and parks;
 11 (r) department of family services.

12 (2) For its internal structure, each department shall
 13 adhere to the following standard terms:

14 (a) The principal unit of a department is a division.
 15 Each division ~~shall be~~ is headed by an administrator.

16 (b) The principal unit of a division is a bureau. Each
 17 bureau ~~shall be~~ is headed by a chief.

18 (c) The principal unit of a bureau is a section. Each
 19 section ~~shall be~~ is headed by a supervisor."

20 NEW SECTION. Section 3. Department of highways
 21 abolished -- functions transferred to department of
 22 transportation. The department of highways is abolished, and
 23 its functions are transferred to the department of
 24 transportation. Unless inconsistent with [sections 1 through
 25 14], any reference in the Montana Code Annotated, including

1 acts passed by the 52nd legislature, to the "department of
 2 highways", "department" (of highways), or "director" (of
 3 highways) is changed to the "department of transportation",
 4 "department" (of transportation), or "director" (of
 5 transportation).

6 **Section 4.** Section 2-15-2501, MCA, is amended to read:
 7 "2-15-2501. Department of highways transportation --
 8 head. There is a department of highways transportation. The
 9 department head is a the director of highways transportation
 10 appointed by the governor in accordance with 2-15-111. The
 11 department may have as many divisions as are necessary, but
 12 it must have divisions of:

- 13 (1) highways;
 14 (2) aeronautics;
 15 (3) administration; and
 16 (4) public-transportation RAIL AND TRANSIT."

17 **Section 5.** Section 2-15-2502, MCA, is amended to read:
 18 "2-15-2502. Highway commission. (1) The highway
 19 commission consists of five members. One member ~~shall~~ must
 20 be a bona-fide resident of and appointed from each of these
 21 districts, each composed of the counties named:

- 22 (a) District 1. Lincoln, Flathead, Sanders, Lake,
 23 Mineral, Missoula, Ravalli, Granite, Powell;
 24 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,
 25 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;

1 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
2 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;

3 (d) District 4. Carter, Powder River, Fallon, Custer,
4 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
5 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;

6 (e) District 5. Golden Valley, Stillwater, Carbon, Big
7 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
8 Petroleum, Treasure, Wheatland, Sweet Grass.

9 (2) ~~No two~~ Two members may not be residents of the same
10 district at the time of appointment or thereafter during
11 their respective terms of office ~~be residents--of--the--same~~
12 district.

13 (3) Not more than three members may at the time of
14 appointment or ~~thereafter~~ during their respective terms be
15 members of the same political party.

16 (4) ~~No~~ An elective state official or state officer
17 during the term of office to which he was elected or
18 appointed ~~and no~~ or a state employee may not be a member of
19 the commission.

20 (5) ~~No~~ A resolution, motion, or other decision of the
21 commission may not be adopted or passed without the
22 favorable vote of at least three members.

23 (6) The commission is allocated to the department of
24 transportation for administrative purposes only as
25 prescribed in 2-15-121.

1 (7) The commission is designated as a quasi-judicial
2 board for purposes of 2-15-124; however, the provision of
3 2-15-124(1) that at least one member of a quasi-judicial
4 board be an attorney does not apply to the commission.

5 (8) The administrator of the highway division shall act
6 as liaison between the highway commission and the department
7 of transportation."

8 NEW SECTION. Section 6. Transportation functions of
9 department of commerce transferred. (1) The following
10 functions of the department of commerce are transferred to
11 the department of transportation:

12 (a) developing, encouraging, regulating, and licensing
13 aeronautics in Title 67;

14 (b) allocating funds for public transportation under
15 7-14-102; and

16 (C) TRANSLOADING FACILITIES UNDER 7-14-120;

17 ~~(c)~~(D) rail planning activities in Title 60, chapter
18 11; AND

19 (E) STATE REPRESENTATION ACTIVITIES UNDER 60-21-101.

20 (2) Unless inconsistent with [sections 1 through 14],
21 any reference to the department of commerce in 7-14-102,
22 7-14-120; Title 60, ~~chapter~~ CHAPTERS 11 AND 21; and Title 67
23 is changed to department of transportation.

24 **Section 7.** Section 2-15-1812, MCA, is amended to read:

25 "2-15-1812. Board of aeronautics -- qualification --

1 allocation -- quasi-judicial. (1) There is a board of
 2 aeronautics.

3 (2) The board consists of nine members. The members
 4 are:

5 (a) one member of the Montana pilots' association;
 6 (b) one member of the Montana chamber of commerce;
 7 (c) one representative of the Montana airport
 8 management association;
 9 (d) one member of the Montana county commissioners
 10 association;
 11 (e) one person actively engaged in aviation education
 12 in this state;
 13 (f) one person representative of interstate commercial
 14 airline operators, who must at the time of appointment be an
 15 employee or official of an interstate commercial airline
 16 operator and a resident of this state;
 17 (g) one member of the Montana league of cities and
 18 towns;
 19 (h) one person representing the general public; and
 20 (i) one person who must at the time of appointment be
 21 an active fixed base operator in this state, or an official
 22 of a fixed base operator in this state, of flying services
 23 or flying schools.

24 (3) The board is allocated to the department of
 25 transportation for administrative purposes only as

1 prescribed in 2-15-121.

2 (4) The board is designated as a quasi-judicial board
 3 for purposes of 2-15-124.

4 (5) The administrator of the aeronautics division shall
 5 act as liaison between the board and the department of
 6 transportation."

7 NEW SECTION. Section 8. Department of revenue -- motor
 8 fuels tax functions transferred. Unless inconsistent with
 9 [sections 1 through 14], any reference to the department of
 10 revenue in Title 15, chapter 70, is changed to the
 11 department of transportation.

12 NEW SECTION. Section 9. Department of transportation
 13 to issue warrants for distraint. The department of
 14 transportation is authorized to issue warrants for distraint
 15 as provided in Title 15, chapter 1, part 7, to collect motor
 16 fuels taxes and to enforce the provisions of this part.

17 **Section 10.** Section 60-3-201, MCA, is amended to read:
 18 "60-3-201. Distribution and use of proceeds of gasoline
 19 dealers' license tax. (1) All money received in payment of
 20 license taxes under the Distributor's Gasoline License Tax
 21 Act, except those amounts paid out of the department of
 22 revenue's transportation's suspense account for gasoline tax
 23 refund, ~~shall~~ must be used and expended as provided in this
 24 section. ~~So much~~ The portion of that money on hand at any
 25 time ~~as that~~ may be needed to pay highway bonds and interest

1 thereon on highway bonds when due and to accumulate and
 2 maintain a reserve therefor For payment of highway bonds and
 3 interest, as provided in laws and in resolutions of the
 4 state board of examiners authorizing such the bonds, shall
 5 must be deposited in the highway bond account in the debt
 6 service fund established by 17-2-102. Subject to that
 7 provision, 9/10 of 1% of all money shall must be deposited
 8 in the state park account, 1/2 of 1% of all money shall must
 9 be deposited in a snowmobile account in the state special
 10 revenue fund, and 1/25 of 1% of all money shall must be
 11 deposited in the aeronautics revenue fund of the department
 12 of commerce transportation under the provisions of 67-1-301.
 13 The remainder of the money shall must be used by the
 14 department of highways transportation on the federal-aid
 15 highways in this state selected and designated under Title
 16 23, U.S.C., and on highways leading from each county seat in
 17 the state to the federal highway system of federal-aid roads
 18 where the county seat is not on the system and on the other
 19 roads which that have been or may be authorized by the laws
 20 of Montana and for collection of the license taxes and the
 21 enforcement of the Montana highway code under Article VIII,
 22 section 6, of the constitution of this state.

23 (2) The department shall, in expending this money,
 24 carry forward construction from year to year, using the
 25 money expended through the matching up of federal-aid

1 allotments to Montana upon the federal highway system in the
 2 various parts of the state in accordance with 60-3-204
 3 through 60-3-206. Nothing in this title conflicts with Title
 4 23, U.S.C., and the rules by which it is administered.

5 (3) The department may enter into cooperative
 6 agreements with the national park service and the federal
 7 highway administration for the purpose of maintaining
 8 national park approach roads in Montana.

9 (4) Money credited to the state park account in the
 10 state special revenue fund shall must be used only for the
 11 creation, improvement, and maintenance of state parks where
 12 motorboating is allowed, except for the payment of refunds
 13 under 15-70-221 through 15-70-226. The legislature finds
 14 that of all the fuel sold in the state for consumption in
 15 internal combustion engines, not less than 9/10 of 1% is
 16 used for propelling boats on waterways of this state.

17 (5) Money credited to the snowmobile account may be
 18 used only to develop and maintain facilities open to the
 19 general public at no admission cost and to promote
 20 snowmobile safety. ~~For the 2 years following July 17, 1977,~~
 21 ~~15% of the amount deposited in the snowmobile account each~~
 22 ~~year shall be used to promote snowmobile safety. Thereafter,~~
 23 ~~10% Ten percent~~ of the amount deposited in the snowmobile
 24 account shall must be used to promote snowmobile safety. The
 25 legislature finds that of all fuels sold in this state for

1 consumption in internal combustion engines, not less than
2 1/2 of 1% is used for propelling snowmobiles on public lands
3 of this state.

4 (6) Money credited to the aeronautics account of the
5 department of ~~commerce--shall~~ transportation must be used
6 only to develop, improve, and maintain facilities open to
7 the public at no admission cost and to promote aviation
8 safety. The legislature finds that of all the fuel sold in
9 this state for consumption in internal combustion engines,
10 not less than 1/25 of 1% is used for propelling aircraft in
11 this state."

12 **Section 11.** Section 15-1-701, MCA, is amended to read:

13 "15-1-701. Warrant for distraint. (1) A warrant for
14 distraint is an order, under the official seal of the
15 department of revenue or of the department of
16 transportation, directed to a sheriff of ~~any a~~ county of
17 Montana or to ~~any an~~ agent authorized by law to collect a
18 tax. The order commands the recipient to levy upon and sell
19 the real and personal property of a delinquent taxpayer.

20 (2) Upon filing the warrant as provided in 15-1-704,
21 there is a lien against all real and personal property of
22 the delinquent taxpayer located in the county where the
23 warrant is filed. The resulting lien is treated in the same
24 manner as a properly docketed judgment lien, and the
25 department may collect delinquent taxes and enforce the tax

1 lien in the same manner as a judgment is enforced.

2 (3) A warrant may be issued for the amount of unpaid
3 tax plus penalty, if any, and accumulated interest. The lien
4 is for the amount indicated on the warrant plus accrued
5 interest from the date of the warrant."

6 NEW SECTION. Section 12. Transfer of rulemaking
7 authority. Any existing authority of the department of
8 highways, the department of commerce, or the department of
9 revenue to make rules on the various functions transferred
10 by the provisions of [sections 1 through 14] is extended to
11 the provisions of [sections 1 through 14].

12 NEW SECTION. Section 13. Application of transfer
13 provisions. The provisions of 2-15-131 through 2-15-137
14 govern:

15 (1) the merger into the department of transportation
16 the functions of the department of highways and those
17 functions of the departments of commerce and revenue
18 specified in [sections 1 through 14]; and

19 (2) the transfer of the various functions contained in
20 [sections 1 through 14].

21 NEW SECTION. Section 14. Governor to implement. The
22 governor shall implement the provisions of [sections 1
23 through 14] by executive order.

24 NEW SECTION. Section 15. Coordination instruction. The
25 code commissioner is instructed to revise any bill passed by

1 the 52nd legislature by changing to the department of
2 transportation any reference to:

- 3 (1) the department of highways;
4 (2) the department of revenue in Title 15, chapter 70,
5 or in regard to administration of the motor fuels tax laws;
6 or
7 (3) the department of commerce in regard to aeronautics
8 in Title 67, allocating funds for public transportation in
9 7-14-102, or rail planning activities in Title 60, chapter
10 11.

11 NEW SECTION. Section 16. Severability. If a part of
12 [this act] is invalid, all valid parts that are severable
13 from the invalid part remain in effect. If a part of [this
14 act] is invalid in one or more of its applications, the part
15 remains in effect in all valid applications that are
16 severable from the invalid applications.

17 NEW SECTION. Section 17. Codification instruction. (1)
18 [Section 1] is intended to be codified as an integral part
19 of Title 2, chapter 15, part 25, and the provisions of Title
20 2, chapter 15, part 25, apply to [section 1].

21 (2) [Section 9] is intended to be codified as an
22 integral part of Title 15, chapter 70, part 2, and the
23 provisions of Title 15, chapter 70, part 2, apply to
24 [section 9].

25 (3) Section 2-15-1812 is intended to be renumbered and

1 codified as an integral part of Title 2, chapter 15, part
2 25.

3 NEW SECTION. Section 18. Effective date. [This act] is
4 effective July 1, 1991.

-End-

HOUSE STANDING COMMITTEE REPORT

March 21, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 164 (third reading copy -- blue) be concurred in as amended .

Signed: 
Barry Stang, Chairman

Carried by: Rep. Stang

And, that such amendments read:

1. Page 4, line 15.
Strike: "and"

2. Page 4, line 16.
Following: "TRANSIT"
Insert: "; and"

3. Page 4, line 17.
Following: line 16
Insert: "(5) motor carrier services"

HOUSE
SB 164

1 SENATE BILL NO. 164

2 INTRODUCED BY HARP, STANG, WEEDING, J. RICE

3 BY REQUEST OF THE GOVERNOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE A DEPARTMENT
6 OF TRANSPORTATION; TO ABOLISH THE DEPARTMENT OF HIGHWAYS AND
7 TRANSFER ITS FUNCTIONS AND CERTAIN FUNCTIONS OF THE
8 DEPARTMENT OF COMMERCE AND THE DEPARTMENT OF REVENUE TO THE
9 DEPARTMENT OF TRANSPORTATION; TO GENERALLY REVISE THE LAWS
10 TO CONFORM TO THE ABOLISHMENT OF THE DEPARTMENT OF HIGHWAYS
11 AND TRANSFER OF FUNCTIONS TO THE DEPARTMENT OF
12 TRANSPORTATION; AMENDING SECTIONS 2-15-104, 2-15-1812,
13 2-15-2501, 2-15-2502, 15-1-701, AND 60-3-201, MCA; AND
14 PROVIDING AN EFFECTIVE DATE."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 NEW SECTION. **Section 1. Purpose.** (1) The legislature
18 intends, through the creation of a department of
19 transportation within the executive branch of state
20 government, to:

21 (a) provide the means to plan for the present and
22 future transportation needs of the citizens of Montana;

23 (b) to assure that transportation remains a viable
24 element in the private sector of the economy; and

25 (c) to provide energy-efficient and ecologically

1 compatible transportation services with optimum efficiency,
2 effectiveness, and economy.

3 (2) It is the policy of the state of Montana that
4 adequate, safe, and efficient transportation facilities and
5 services of all modes are essential to the economic growth
6 of the state and the well-being of its people and that the
7 planning and development of those facilities and services be
8 coordinated by a department of transportation that has
9 overall responsibility for balanced transportation policy
10 and planning.

11 **Section 2.** Section 2-15-104, MCA, is amended to read:

12 "2-15-104. Structure of executive branch. (1) In
13 accordance with the constitution, all executive and
14 administrative offices, boards, commissions, agencies, and
15 instrumentalities of the executive branch of state
16 government and their respective functions are allocated by
17 this chapter among and within the following departments or
18 entities:

- 19 (a) department of administration;
20 (b) department of military affairs;
21 (c) department of revenue;
22 (d) state board of education;
23 (e) department of labor and industry;
24 (f) department of commerce;
25 (g) department of justice;

1 (h) department of health and environmental sciences;
 2 (i) department of social and rehabilitation services;
 3 (j) department of institutions;
 4 (k) department of highways transportation;
 5 (l) department of public service regulation;
 6 (m) department of agriculture;
 7 (n) department of livestock;
 8 (o) department of state lands;
 9 (p) department of natural resources and conservation;
 10 (q) department of fish, wildlife, and parks;
 11 (r) department of family services.

12 (2) For its internal structure, each department shall
 13 adhere to the following standard terms:

14 (a) The principal unit of a department is a division.
 15 Each division ~~shall be~~ is headed by an administrator.

16 (b) The principal unit of a division is a bureau. Each
 17 bureau ~~shall be~~ is headed by a chief.

18 (c) The principal unit of a bureau is a section. Each
 19 section ~~shall be~~ is headed by a supervisor."

20 NEW SECTION. Section 3. Department of highways
 21 abolished -- functions transferred to department of
 22 transportation. The department of highways is abolished, and
 23 its functions are transferred to the department of
 24 transportation. Unless inconsistent with [sections 1 through
 25 14], any reference in the Montana Code Annotated, including

1 acts passed by the 52nd legislature, to the "department of
 2 highways", "department" (of highways), or "director" (of
 3 highways) is changed to the "department of transportation",
 4 "department" (of transportation), or "director" (of
 5 transportation).

6 **Section 4.** Section 2-15-2501, MCA, is amended to read:
 7 "2-15-2501. Department of highways transportation --
 8 head. There is a department of highways transportation. The
 9 department head is a the director of highways transportation
 10 appointed by the governor in accordance with 2-15-111. The
 11 department may have as many divisions as are necessary, but
 12 it must have divisions of:

- 13 (1) highways;
 14 (2) aeronautics;
 15 (3) administration; and
 16 (4) public-transportation RAIL AND TRANSIT; AND
 17 (5) MOTOR CARRIER SERVICES."

18 **Section 5.** Section 2-15-2502, MCA, is amended to read:
 19 "2-15-2502. Highway commission. (1) The highway
 20 commission consists of five members. One member shall must
 21 be a bona-fide resident of and appointed from each of these
 22 districts, each composed of the counties named:
 23 (a) District 1. Lincoln, Flathead, Sanders, Lake,
 24 Mineral, Missoula, Ravalli, Granite, Powell;
 25 (b) District 2. Deer Lodge, Silver Bow, Beaverhead,

1 Madison, Gallatin, Meagher, Broadwater, Jefferson, Park;
 2 (c) District 3. Glacier, Toole, Liberty, Hill, Blaine,
 3 Pondera, Teton, Chouteau, Cascade, Lewis and Clark;
 4 (d) District 4. Carter, Powder River, Fallon, Custer,
 5 Rosebud, Garfield, Phillips, Valley, McCone, Prairie,
 6 Dawson, Wibaux, Richland, Roosevelt, Daniels, Sheridan;
 7 (e) District 5. Golden Valley, Stillwater, Carbon, Big
 8 Horn, Yellowstone, Musselshell, Judith Basin, Fergus,
 9 Petroleum, Treasure, Wheatland, Sweet Grass.
 10 (2) ~~No two~~ Two members may not be residents of the same
 11 district at the time of appointment or thereafter during
 12 their respective terms of office ~~be residents--of--the--same~~
 13 district.
 14 (3) Not more than three members may at the time of
 15 appointment or thereafter during their respective terms be
 16 members of the same political party.
 17 (4) ~~No~~ An elective state official or state officer
 18 during the term of office to which he was elected or
 19 appointed ~~and no~~ or a state employee may not be a member of
 20 the commission.
 21 (5) ~~No~~ A resolution, motion, or other decision of the
 22 commission may not be adopted or passed without the
 23 favorable vote of at least three members.
 24 (6) The commission is allocated to the department of
 25 transportation for administrative purposes only as

1 prescribed in 2-15-121.
 2 (7) The commission is designated as a quasi-judicial
 3 board for purposes of 2-15-124; however, the provision of
 4 2-15-124(1) that at least one member of a quasi-judicial
 5 board be an attorney does not apply to the commission.
 6 (8) The administrator of the highway division shall act
 7 as liaison between the highway commission and the department
 8 of transportation."
 9 NEW SECTION. Section 6. Transportation functions of
 10 department of commerce transferred. (1) The following
 11 functions of the department of commerce are transferred to
 12 the department of transportation:
 13 (a) developing, encouraging, regulating, and licensing
 14 aeronautics in Title 67;
 15 (b) allocating funds for public transportation under
 16 7-14-102; and
 17 (C) TRANSLOADING FACILITIES UNDER 7-14-120;
 18 ~~(d)~~ (D) rail planning activities in Title 60, chapter
 19 11; AND
 20 (E) STATE REPRESENTATION ACTIVITIES UNDER 60-21-101.
 21 (2) Unless inconsistent with [sections 1 through 14],
 22 any reference to the department of commerce in 7-14-102,
 23 7-14-120; Title 60, chapter CHAPTERS 11 AND 21; and Title 67
 24 is changed to department of transportation.
 25 **Section 7.** Section 2-15-1812, MCA, is amended to read:

1 *2-15-1812. Board of aeronautics -- qualification --
2 allocation -- quasi-judicial. (1) There is a board of
3 aeronautics.

4 (2) The board consists of nine members. The members
5 are:

6 (a) one member of the Montana pilots' association;

7 (b) one member of the Montana chamber of commerce;

8 (c) one representative of the Montana airport
9 management association;

10 (d) one member of the Montana county commissioners
11 association;

12 (e) one person actively engaged in aviation education
13 in this state;

14 (f) one person representative of interstate commercial
15 airline operators, who must at the time of appointment be an
16 employee or official of an interstate commercial airline
17 operator and a resident of this state;

18 (g) one member of the Montana league of cities and
19 towns;

20 (h) one person representing the general public; and

21 (i) one person who must at the time of appointment be
22 an active fixed base operator in this state, or an official
23 of a fixed base operator in this state, of flying services
24 or flying schools.

25 (3) The board is allocated to the department of

1 transportation for administrative purposes only as
2 prescribed in 2-15-121.

3 (4) The board is designated as a quasi-judicial board
4 for purposes of 2-15-124.

5 (5) The administrator of the aeronautics division shall
6 act as liaison between the board and the department of
7 transportation."

8 **NEW SECTION. Section 8.** Department of revenue -- motor
9 fuels tax functions transferred. Unless inconsistent with
10 [sections 1 through 14], any reference to the department of
11 revenue in Title 15, chapter 70, is changed to the
12 department of transportation.

13 **NEW SECTION. Section 9.** Department of transportation
14 to issue warrants for distraint. The department of
15 transportation is authorized to issue warrants for distraint
16 as provided in Title 15, chapter 1, part 7, to collect motor
17 fuels taxes and to enforce the provisions of this part.

18 **Section 10.** Section 60-3-201, MCA, is amended to read:

19 *60-3-201. Distribution and use of proceeds of gasoline
20 dealers' license tax. (1) All money received in payment of
21 license taxes under the Distributor's Gasoline License Tax
22 Act, except those amounts paid out of the department of
23 revenue's transportation's suspense account for gasoline tax
24 refund, shall must be used and expended as provided in this
25 section. ~~So much~~ The portion of that money on hand at any

1 time as that may be needed to pay highway bonds and interest
 2 thereon on highway bonds when due and to accumulate and
 3 maintain a reserve therefor for payment of highway bonds and
 4 interest, as provided in laws and in resolutions of the
 5 state board of examiners authorizing such the bonds, shall
 6 must be deposited in the highway bond account in the debt
 7 service fund established by 17-2-102. Subject to that
 8 provision, 9/10 of 1% of all money shall must be deposited
 9 in the state park account, 1/2 of 1% of all money shall must
 10 be deposited in a snowmobile account in the state special
 11 revenue fund, and 1/25 of 1% of all money shall must be
 12 deposited in the aeronautics revenue fund of the department
 13 of commerce transportation under the provisions of 67-1-301.
 14 The remainder of the money shall must be used by the
 15 department of highways transportation on the federal-aid
 16 highways in this state selected and designated under Title
 17 23, U.S.C., and on highways leading from each county seat in
 18 the state to the federal highway system of federal-aid roads
 19 where the county seat is not on the system and on the other
 20 roads which that have been or may be authorized by the laws
 21 of Montana and for collection of the license taxes and the
 22 enforcement of the Montana highway code under Article VIII,
 23 section 6, of the constitution of this state.

24 (2) The department shall, in expending this money,
 25 carry forward construction from year to year, using the

1 money expended through the matching up of federal-aid
 2 allotments to Montana upon the federal highway system in the
 3 various parts of the state in accordance with 60-3-204
 4 through 60-3-206. Nothing in this title conflicts with Title
 5 23, U.S.C., and the rules by which it is administered.

6 (3) The department may enter into cooperative
 7 agreements with the national park service and the federal
 8 highway administration for the purpose of maintaining
 9 national park approach roads in Montana.

10 (4) Money credited to the state park account in the
 11 state special revenue fund shall must be used only for the
 12 creation, improvement, and maintenance of state parks where
 13 motorboating is allowed, except for the payment of refunds
 14 under 15-70-221 through 15-70-226. The legislature finds
 15 that of all the fuel sold in the state for consumption in
 16 internal combustion engines, not less than 9/10 of 1% is
 17 used for propelling boats on waterways of this state.

18 (5) Money credited to the snowmobile account may be
 19 used only to develop and maintain facilities open to the
 20 general public at no admission cost and to promote
 21 snowmobile safety. ~~For the 2 years following July 17, 1977,~~
 22 ~~15% of the amount deposited in the snowmobile account each~~
 23 ~~year shall be used to promote snowmobile safety. Thereafter,~~
 24 ~~10% Ten percent~~ of the amount deposited in the snowmobile
 25 account shall must be used to promote snowmobile safety. The

1 legislature finds that of all fuels sold in this state for
2 consumption in internal combustion engines, not less than
3 1/2 of 1% is used for propelling snowmobiles on public lands
4 of this state.

5 (6) Money credited to the aeronautics account of the
6 department of ~~commerce--shall~~ transportation must be used
7 only to develop, improve, and maintain facilities open to
8 the public at no admission cost and to promote aviation
9 safety. The legislature finds that of all the fuel sold in
10 this state for consumption in internal combustion engines,
11 not less than 1/25 of 1% is used for propelling aircraft in
12 this state."

13 **Section 11.** Section 15-1-701, MCA, is amended to read:

14 "15-1-701. **Warrant for distraint.** (1) A warrant for
15 distraint is an order, under the official seal of the
16 department of revenue or of the department of
17 transportation, directed to a sheriff of any a county of
18 Montana or to any an agent authorized by law to collect a
19 tax. The order commands the recipient to levy upon and sell
20 the real and personal property of a delinquent taxpayer.

21 (2) Upon filing the warrant as provided in 15-1-704,
22 there is a lien against all real and personal property of
23 the delinquent taxpayer located in the county where the
24 warrant is filed. The resulting lien is treated in the same
25 manner as a properly docketed judgment lien, and the

1 department may collect delinquent taxes and enforce the tax
2 lien in the same manner as a judgment is enforced.

3 (3) A warrant may be issued for the amount of unpaid
4 tax plus penalty, if any, and accumulated interest. The lien
5 is for the amount indicated on the warrant plus accrued
6 interest from the date of the warrant."

7 NEW SECTION. **Section 12.** Transfer of rulemaking
8 authority. Any existing authority of the department of
9 highways, the department of commerce, or the department of
10 revenue to make rules on the various functions transferred
11 by the provisions of [sections 1 through 14] is extended to
12 the provisions of [sections 1 through 14].

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24 through 14] by executive order.

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17 severable from the invalid applications.

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19 [Section 1] is intended to be codified as an integral part
20 of Title 2, chapter 15, part 25, and the provisions of Title
21 2, chapter 15, part 25, apply to [section 1].

22 (2) [Section 9] is intended to be codified as an
23 integral part of Title 15, chapter 70, part 2, and the
24 provisions of Title 15, chapter 70, part 2, apply to
25 [section 9].

1 (3) Section 2-15-1812 is intended to be renumbered and
2 codified as an integral part of Title 2, chapter 15, part
3 25.

4 NEW SECTION. Section 18. Effective date. [This act] is
5 effective July 1, 1991.

-End-