

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**JOINT SUBCOMMITTEE ON GENERAL GOVERNMENT & TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ED GRADY**, on February 15, 1995, at  
8:20 a.m.

**ROLL CALL**

**Members Present:**

Rep. Edward J. "Ed" Grady, Chairman (R)  
Rep. Gary Feland (R)  
Sen. Eve Franklin (D)  
Rep. Joe Quilici (D)

**Members Excused:** Sen. Thomas A. "Tom" Beck, Vice Chairman (R)

**Members Absent:** None

**Staff Present:** Skip Culver, Legislative Fiscal Analyst  
Dan Gengler, Office of Budget & Program Planning  
Rosa Fields, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: None  
Executive Action: Montana Department of Transportation  
(MDT)

*{Tape: 1; Side: A; Approx. Counter: 000; Comments: n/a.}*

**CHAIRMAN GRADY** said he wanted to review the proposal for general operations that they were discussing at the close of the last meeting on 2/14/95.

Note: **CHAIRMAN GRADY** had **SEN. BECK'S** proxy for all executive action at this meeting.

EXECUTIVE ACTION ON MONTANA  
DEPARTMENT OF TRANSPORTATION

Motion: SEN. EVE FRANKLIN MOVED TO RECONSIDER THE COMMITTEE'S ACTION ON THE GENERAL OPERATIONS NEW PROPOSAL ITEM #2.

Discussion:

REP. QUILICI said this had to do with the highway information system on page A-108.

Vote: The motion carried unanimously.

Motion/Vote: REP. QUILICI MOVED TO ACCEPT ITEM #2, HIGHWAY INFORMATION SYSTEM. The motion carried unanimously.

Mr. Culver said they were on page A-80, Motor Fuel Tax and Compliance Executive New Proposals. He explained that these are all highway special revenue funds.

Motion: REP. QUILICI MOVED TO ACCEPT THE EXECUTIVE BUDGET NEW PROPOSALS.

Discussion:

CHAIRMAN GRADY said in view of the previous day's testimony, there still could be a lot of federal funding out there that could be collected. He thought this might be something that could raise additional dollars.

REP. QUILICI said when they first looked at this item, they believed it could generate revenue and it makes people pay their fair share.

CHAIRMAN GRADY asked for additional clarification on this item. REP. QUILICI said Russ McDonald could answer questions. CHAIRMAN GRADY asked if there is currently a program in place. Mr. McDonald replied that they are implementing a program at this time, and have just started doing the pre-employment testing.

REP. QUILICI said what they're looked at is the 1.0 FTE for someone to oversee the drug testing program, and during testimony he said they would be contracting the drug testing out, but one person is needed within the department to do all the coordination. Mr. McDonald said he was correct and that they need someone to monitor the activities of the contractor in terms of recordkeeping and confidentiality. They aren't looking for a lawyer, but they need someone with legal expertise so they can recognize when legal issues need to be addressed, such as privacy; and questions about people who refuse testing, storage of medical information, and grievances. It's a specialized and technical field.

REP. FELAND asked if he hinted that they are going to hire a lawyer. Mr. McDonald said no, they were not.

Vote: The motion carried unanimously.

Mr. Gengler wished to stipulate which of the items for the new proposals just voted on are one-time only appropriations. Mr. Culver said the following are one-time onlys: rewiring of the complex, contract fuel audit, project financial management; to which Mr. Gengler added the partial one-time only--the motors system--that of the \$1,086,000, \$465,000 would be one-time only for development costs.

REP. QUILICI said of these amounts, \$465,000 is the one-time only figure. Mr. Culver said they didn't need to make another motion, but would note their legislative intent.

*{Tape: 1; Side: a; Approx. Counter: 231; Comments: n/a.}*

EXECUTIVE ACTION ON  
MDT - CONSTRUCTION PROGRAM

Mr. Culver described the revised present law adjustment figures on page A-84. He said the original figures were \$48 million of adjustments in 1996, but the revised figure is \$45 million in 1996. In 1997, the original figure was \$6.5 million and the revised figure is \$51.9 million. At the bottom of the handout, it shows the funding split between state special and federal special.

CHAIRMAN GRADY said he was talking to MDT and there are feelings that they might want to do something with this unanticipated revenue and they have something built into the increase of the RTF program which is mostly state funding. He said this money could be used for something else, and he'd rather not appropriate it until they proceed further into the process. He would like to put the full \$25 million aside. His intention was not to fund all of these at the present time, because it's early in the process and they need to talk more about the items before they get into it. He wondered how many of the present law adjustments have anything to do with the extra revenue. He was told none of them do, they are all federal aid programs. He clarified that the rest of it is all in new proposals.

REP. QUILICI asked the chairman what he wanted to do with the present law adjustments. CHAIRMAN GRADY said they had two items to address.

Motion: REP. QUILICI MOVED THE PRESENT LAW ADJUSTMENTS FOR FY 1996 AND 1997 AS REVISED.

Discussion:

REP. QUILICI said this is true economic development. Mr. Dye said the expanded state program is also true economic development.

Vote: The motion carried unanimously.

{Tape: 1; Side: A; Approx. Counter: 419; Comments: n/a.}

CHAIRMAN GRADY asked for an explanation of the budget new proposals for the construction program. Tom Barnard, MDT, said they need environmental engineers and he described what their duties are. CHAIRMAN GRADY asked how many FTE are currently in the program. Mr. Barnard said they currently have 4.0 FTE. He explained the increased workload of this division that requires additional staff. CHAIRMAN GRADY asked if the additional 5.0 FTE are going to be used for doing work already planned. Mr. Barnard said they would be used for the federal aid program, but not for the additional RTF.

REP. QUILICI asked Mr. Barnard why they would need more Environmental Impact Statements (EIS) rather than Environmental Assessments (EA), which is not as involved or extensive a study. Mr. Barnard said it's the public that demands they do that. If they feel there are impacts, they are required to do an EIS.

SEN. FRANKLIN clarified the public demand for EIS and asked in what form do the requests come to the department and at what frequency are they being accomplished for the projects. Mr. Barnard said he couldn't give her numbers, but the point is that the degree of environmental document they have to prepare is elevated to the higher level for each project. They have five major EIS's in the works right now. They used to do 2-3 EAs per year and maybe one EIS; now they're doing 10-15 EA's per year.

SEN. FRANKLIN asked when they complete an EIS or EA, ultimately are there more consequences for the department in terms of possible mitigation. Mr. Barnard said that was correct and they often have to identify in the EIS mitigating features. Mr. Barnard asked if the requested environmental engineers would be involved in the required mitigation or reclamation or would they be involved in the production of the EIS or EA. Mr. Barnard said they are involved in putting together both the documents and identifying the mitigation. SEN. FRANKLIN asked what kind of follow-up or implementation of mitigation procedures these engineers are involved in. Mr. Barnard replied that they are involved in mitigation features, and in some cases, they may be involved in the design.

CHAIRMAN GRADY asked what percentage of EIS's are done by consultants. Mr. Barnard responded that in the past a high percentage, about 50/50, were contracted out. The number has stayed about the same, but it changes depending on the projects

they're doing. **CHAIRMAN GRADY** asked if they ever have trouble finding private consultants to write EIS's. **Mr. Barnard** said no.

*{Tape: 1; Side: A; Approx. Counter: 705; Comments: n/a.}*

**REP. FELAND** asked if the 12.0 FTE working in the environmental section can do more than one job. **Mr. Barnard** answered that they currently do more than one job. He said they have to comply with the laws and he's not doing it because he likes to, they don't have any choice. **CHAIRMAN GRADY** said they already have people doing this work. **Mr. Barnard** said they have been preparing environmental documents, but a lot fewer and a lot less complicated.

**REP. QUILICI** clarified that they currently have 4.0 FTE doing this work, and they are having to produce more EIS's than EA's which take more time, but does the expanded highway program with more federal dollars also attribute to this need for more FTE. **Mr. Barnard** said that was correct.

**REP. FELAND** asked what would happen if the feds downsized, would they have to lay off these FTE. **Mr. Barnard** said if the federal program is cut, they will have to downsize their program and will try not to hire more people than they can use. They predicted a cut in the program six months ago, but instead of being cut, it went up. They have to be prepared for that.

*{Tape: 1; Side: A; Approx. Counter: 818; Comments: n/a.}*

**Mr. Dye** said he is sure that **Mr. Barnard** and the others from the department who have come before the committee would rather built and maintain roads than have to present a list of "associated environmental documents and environmental engineers." They would prefer to put the bulk of the \$16 million into real projects that people see, they don't have a choice. In order to build the project, they have to have the EIS or EA. He said in the two years he's been there, the department had done an assessment and then had to do an EIS. They can't just do the minimum EA's anymore, they are having to do EIS's as well.

**SEN. FRANKLIN** said she can understand the frustration with paperwork and documentation, but she, for one, is glad they are doing all the environmental assessments and statements, because hopefully if it's working the way it should, then there are some positive benefits. She said despite the frustration, it serves a function and people know more than they did fifty years ago, in terms of what the potential impacts may be to the environment.

**Mr. Barnard** said the number of FTE in the construction program has consistently gone down since 1980, but they have twice as many requirements to comply with. If they cut FTE, they'll have to send some federal money back. They can't get the job ready without them.

**Motion:** REP. QUILICI MOVED TO ACCEPT EXECUTIVE BUDGET NEW PROPOSALS AND REVIEW THE LIST ONE BY ONE AS THEY VOTE.

{Tape: 1; Side: B; Approx. Counter: 000; Comments: n/a.}

**CHAIRMAN GRADY** said there are no FTE for items #15, 16, 17, 18, 19 and 22 and doesn't want to add on the others at this time. **SEN. FRANKLIN** said these were for the following items: metric conversion, city park rest area program, misc. new equipment, global positioning system, pavement binder testing, and personal services reduction. **Mr. Culver** said items #15, 16, 17 and 18 would be one-time only appropriations as well. **Mr. Gengler** said in addition, the city park rest area and metric conversation would also be restricted, which means they could only use the funds for that particular purpose.

**Substitute Motion:** REP. FELAND MOVED THE EXECUTIVE BUDGET NEW PROPOSALS ACCORDING TO THE COMMENTS MADE ABOVE.

**Discussion:**

**SEN. FRANKLIN** supported these items, but said she was concerned that they haven't dealt with the "guts" of the program, and these are more the peripheral issues. She felt something was amiss about concentrating on these, and the only advantage to the budget is that they are one-time, restricted, but they haven't addressed the "heart and soul" of the construction program and she felt that basic safety and construction projects will be left untouched.

**CHAIRMAN GRADY** replied that they are still in the early stages of the process and they are adding a lot of FTE, due to the increased volume of federal funds. He said his intention is to set aside money that might be reverted somewhere else and some of these are major federal dollars, but can still be put someplace else. He thought they had quite a bit of flexibility with the funds they are dealing with and said that **SEN. FRANKLIN** probably wouldn't agree with him and hadn't from the start.

**Mr. Barnard** said that none of the requested FTE are for the expanded RTF program. In regard to the federal program, there is no place else the money can be spent. "You either use it on the highway system, according to their rules, or you send it back to them." Those are the only two choices they have. He said if they don't comply, they don't build roads with federal funds. He said they have been turning back federal aid since January 1.

**REP. QUILICI** said he hoped the people of Montana know it, and he's going to let them know what is happening to this money.

**Mr. Dye** said those actions ensure that they will not be able to take advantage of all the federal aid, as MDT currently is able. They will have to turn back federal aid.

**CHAIRMAN GRADY** said he wanted to be shown a summation of where this federal money comes from, how it comes, and what programs it can be used for. He said he heard during the hearing that they had some flexibility with that federal money and that it does not have to be used for specific purposes. **Mr. Dye** said what the federal government requires them to do is to prepare the EIS's, and they have to do much of that before they can start the right-of-way purchasing process. The bottom line is that the federal aid program is to conduct federal aid highway projects. If they don't do the EIS's or EA's, the project cannot proceed. He said the federal government doesn't say they have to fund the FTE, but they do say they need to do the work or they can't let the project. Whether they do it with FTE or consultants, it doesn't matter. The consultants cost them more than FTE, so they are requesting the FTE to get the work done. If they don't want to give them the FTE with the federal funds, then give them 60% more state money and they will contract it out. He wanted the record to show that the federal aid program will disappear if they don't do the required work.

*{Tape: 1; Side: B; Approx. Counter: 200; Comments: n/a.}*

**CHAIRMAN GRADY** said they might just do that. He said they have 4.0 environmental engineers now, and asked how many they have in project design. **Mr. Barnard** said they have five environmental engineers. In road design they have approximately 80 FTE. In the pavement management system they have three to-date, but this system is just coming on-line and is not operation--these 3.0 FTE would make it operational, and this is mandated by ISTEA.

**CHAIRMAN GRADY** asked about the 3.0 FTE currently on board, but it is not operational. **Mr. Barnard** said they are putting the system together. **CHAIRMAN GRADY** wondered if they need still another 3.0 FTE to make it operational. **Mr. Barnard** said they need at least six people to operate this program, and the additional 3.0 FTE, as they testified earlier, would accomplish two tasks: physical inventory of all the systems and condition surveys of the federal aid system of the pavements on site. The condition survey has not yet started.

**CHAIRMAN GRADY** said this is an additional task that the federal government is telling them they have to do. **Mr. Barnard** said they are mandated to have this program. **CHAIRMAN GRADY** said they do have a pavement management program with three people doing it, so they can't say they don't have it. **Mr. Barnard** replied that they do not have a operational pavement management system at the present time. They have only been putting the computer program together.

**Mr. Barnard** discussed the erosion control program as part of the clean water act, administered by the department of health. In order to get this program going, they've had to rob other programs, and have no one assigned specifically to it. They've never had to develop an erosion control plan before. He said

some of their environmental staff is designing erosion control plans and applying for permits, but should be designing roads instead. **CHAIRMAN GRADY** asked if consultants are doing any of this work. **Mr. Barnard** said they have had consultants prepare some of them, and they can pay them to do more if they want to pay the price.

**CHAIRMAN GRADY** asked about wetland mitigation, and said it wasn't a very popular item. **Mr. Barnard** said they have no choice but to comply with this. He reiterated previous testimony. They have no one specifically assigned to wetland mitigation, but right-of-way agents in Missoula are buying parcels for projects, and spend a lot of time trying to find land for wetland mitigation. Some of the environmental staff is trying to identify appropriation areas.

*{Tape: 1; Side: B; Approx. Counter: 442; Comments: n/a.}*

**Mr. Barnard** said they are requesting 1.0 FTE to perform the duties in the stormwater discharge program which is connected to the erosion control program. **CHAIRMAN GRADY** clarified that other employees have had to do the work of these programs. **Mr. Barnard** said they have had to absorb the work in other programs.

**CHAIRMAN GRADY** asked about the FTE requested for the environmental program and **Mr. Barnard** reiterated the increased workload to produce EIS's and EA's. **CHAIRMAN GRADY** wondered why they needed 10 FTE in this program. **Mr. Barnard** said to gather the data and put the documents together, identify the mitigation, etc.

**CHAIRMAN GRADY** asked if there is staff doing this presently. **Mr. Barnard** said they do have a group of biologists working on this currently. They have one person serving as research staff. He said they don't do research, but take care of the paperwork necessary to contract out the research work. **CHAIRMAN GRADY** asked who does the research work and **Mr. Barnard** replied that consultants at Montana State University do a lot of it.

**REP. FELAND** asked if they have to pay the university for this service and **Mr. Barnard** replied that they have an agreement with MSU and that they do provide their own research funds to provide the match for federal aid money.

**CHAIRMAN GRADY** asked about safety management. **Mr. Barnard** said this is a new program, mandated by ISTEA. He said they have had a safety program, called the hazard elimination program that has been in existence for many years. They had no management system, they identified high accident areas, and developed mitigation strategies to reduce the number of accidents. The safety management system goes far beyond identification of high accident locations, but looks at the roadway, driver and vehicle, and tries to identify ways to reduce accidents in all those areas.

*{Tape: 1; Side: B; Approx. Counter: 655; Comments: n/a.}*



**CHAIRMAN GRADY** asked about the seismologist requested. **Mr. Barnard** said this person would identify ways to make bridge designs more compatible with earthquakes and this is mandated by ISTEA. If they can identify ways to retrofit the bridges, such as in Helena, so they won't collapse in the event of an earthquake, they are better off.

**REP. FELAND** asked if this is a permanent program. **Mr. Barnard** said it would be many years before they can get to all the 5,000 bridges in the state.

**CHAIRMAN GRADY** said this program is mandated and asked if that means they have to do it or they won't get the federal money. **Mr. Barnard** said that is correct, but he said they would look "pretty ridiculous" if they didn't participate in this program. He didn't think it was an unreasonable mandate.

**CHAIRMAN GRADY** asked about wetland acquisition. **Mr. Barnard** said that comes under the clean water act discussed at length during the hearing and is related to wetland mitigation. He said they need someone to identify sites for establishing new wetlands. **CHAIRMAN GRADY** asked if the right-of-way people could include this as part of the overall project plan. **Mr. Barnard** said that is correct and has to be done. **CHAIRMAN GRADY** wondered why it has to be someone special. **Mr. Barnard** said they have a backlog and have done very little with the existing right-of-way staff. He said they can't take a "run-of-the-mill" right-of-way agent who is trained to appraise real estate and agricultural property to identify wetland areas, because it's a "pretty exact science." **CHAIRMAN GRADY** disagreed. **Mr. Barnard** said the appraisal is not the issue, they have to identify pieces of property that are not wetlands today but can be developed as such. "Every time we destroy an acre of wetland, we have to replace it with a new acre." Water, soil and plant life must be considered.

**REP. QUILICI** asked about the federal transportation enhancement program. **Mr. Barnard** said 10% of the STP money that comes under the federal aid program has been set aside for all the counties and cities over 1,000 population. They identify the projects and develop the plan for the local community.

*{Tape: 2; Side: A; Approx. Counter: 000; Comments: n/a.}*

**Mr. Gengler** described item #2 (Radio Equipment).

**REP. FELAND** asked why they need to buy two-way radios. **Mr. Blacker** said they are only purchasing six radios out of that money and the rest is for repeater stations where they do not have coverage within the state communication system. He described the condition of current facilities in the state.

*{Tape: 2; Side: A; Approx. Counter: 76; Comments: From the beginning of this side of the tape to counter #76 it appears to be a portion of the meeting that took place later. The tape may have accidentally been turned over twice.}*

**SEN. FRANKLIN** asked about the restrictions placed on funding, she wondered if that means if it's not all used, it reverts. **Mr. Culver** said that is correct and no one can authorize the money to be transferred into any other function. **SEN. FRANKLIN** asked if there was any way they could consider stipulating that they be rerouted for construction use. **Mr. Culver** said the funds may not be applicable for construction, but they could possibly introduce language that stipulated unused funds be used as such. **Mr. Barnard** said he had the information on federal requirements for use of funding. **SEN. FRANKLIN** asked **Mr. Barnard** to respond if any of the funding for items #15, 16, 17, 18 and 19 was not used, could it be applied to construction (in reference to **REP. FELAND'S** motion). **Mr. Culver** said currently, if they don't use it, the state share would sit in the special revenue fund and be available for appropriation in the next biennium. The federal money would probably be lost.

**CHAIRMAN GRADY** asked if the department could explain this further. **Mr. Gengler** clarified that they needed to make a distinction between use of budget authority for restricted funds, and to revenue. If a restriction is placed on budget authority, then it could not be used for any other purpose, but the unspent revenue would also be for construction purposes.

**SEN. FRANKLIN** said the funds would not be available for that biennium and **Mr. Gengler** concurred. She said her earlier suggestion may be beyond what they are able to do because they have to be so specific. **Mr. Culver** said if they removed the word "restricted" then MDT would have the ability to transfer those funds into the construction.

**REP. QUILICI** said item #6 requested 2.0 FTE, but the total funding is \$558,000, so it's not only the positions, but also land acquisition. He said if they don't do it, then they can't use the funds. **Mr. Barnard** said one way or the other, they have to do it. He described the federal funding provisions for construction projects.

*{Tape: 2; Side: A; Approx. Counter: 395; Comments: n/a.}*

**REP. QUILICI** asked if the committee could have a written copy of the list of federal projects that **Mr. Barnard** just described.

**SEN. FRANKLIN** said that with the kinds of growth they are seeing in certain parts of the state, if they don't have the necessary foresight in transportation planning, the state will be in a big mess. She didn't think the wetlands mitigation or stormwater drainage permits as peripheral, but are really critical.

**Mr. Barnard** wished to make a statement for the record and said it is extremely frustrating. He said in 1980 they had an \$83 million per year construction program. They had 1,226 FTE to manage that program. In 1994, they have a \$180 million per year program with 834 FTE. They have a bigger program to manage and

more requirements that ever, and he didn't think it was unreasonable to come to the legislature and ask for a few \$35,000 FTEs. He said they can turn the work over to consultants, but he was sure it would cost \$60-70,000 each.

**CHAIRMAN GRADY** mentioned Item #6 and asked if there is an acquisition cost, why isn't it listed under wetland acquisition. **Mr. Barnard** said he wouldn't mind moving it. He said the description shows what the money is for. **CHAIRMAN GRADY** asked for clarification. **REP. QUILICI** read "\$246,000 each year will be used to acquire wetlands to mitigate the impacts to the Montana wetlands." \$31,500 is requested for each FTE. The confusion maybe that the chairman is seeing under wetland acquisition just 1.0 FTE. **CHAIRMAN GRADY** thought the amount should be under acquisition or the amounts could be combined.

*{Tape: 2; Side: A; Approx. Counter: 567; Comments: n/a.}*

**Mr. Culver** said under wetland mitigation they have \$246,000 each year for land acquisition, but also have \$250,000 annually for contractor payments for wetland development. **CHAIRMAN GRADY** said he didn't have a problem approving the amount for wetland acquisition, but the FTE should be taken out.

Substitute Motion/Vote: **REP. FELAND** MOVED TO ACCEPT ITEM #6 DELETING 2.0 FTE FOR \$63,000, AND APPROVING ITEMS #10, 11, 15, 16, 17, 18, 19 AND 20. The motion carried 3-2 with **SEN. FRANKLIN** and **REP. QUILICI** voting no.

Motion: **REP. QUILICI** MOVED TO ACCEPT ITEM #20, INCREASE IN THE RTF PROGRAM.

Discussion:

**CHAIRMAN GRADY** asked how much they are currently spending on the program. **Mr. Barnard** said for the last two years, they've spent \$20 million annually. \$5 million is for primary routes MDT maintains, and \$15 million goes on secondary highways. **Mr. Barnard** said for the first two years, they would use the money for pavement preservation work. If it was approved long-term, they would be able to accelerate major construction projects statewide. For the first two years, though, it would be put toward pavement preservation.

Vote: The motion failed 3-2 with **SEN. FRANKLIN** and **REP. QUILICI** voting yes.

*{Tape: 2; Side: A; Approx. Counter: 879; Comments: The committee took a break.}*

*{Tape: 2; Side: B; Approx. Counter: 003; Comments: n/a.}*

**SEN. FRANKLIN** left the meeting and gave her proxy vote to **REP. QUILICI**.

**Motion/Vote:** REP. FELAND MOVED THAT ITEM #7, STORMWATER DISCHARGE PERMITS, BE APPROVED LESS THE FTE. The motion carried 3-2 with SEN. FRANKLIN and REP. QUILICI voting no.

**EXECUTIVE ACTION ON**  
**MDT - MAINTENANCE DIVISION**

**Motion:** REP. QUILICI MOVED THE PRESENT LAW ADJUSTMENTS FOR 1996 AND 1997.

**Discussion:**

CHAIRMAN GRADY said he had a letter from REP. BOB RANEY in reference to the weed control and didn't know quite how to handle this. He wanted them to be sure to restrict this spending for weed control only. Mr. Dye said if they decide to restrict, it should be done both ways, not down or up. The assumption is that they are spending the money on some other function, so if it's going to be restricted, they should restrict the amount. CHAIRMAN GRADY said he didn't want to do that because it could run higher. He didn't want to restrict it at all.

REP. QUILICI said they're doing a good job of it and he would accept the budget as proposed.

CHAIRMAN GRADY said the big issue is the FTE and asked for clarification on that. Mr. Blacker said the 14.5 FTE is nothing more than a return of FTE that at one time the maintenance division loaned the construction bureau. Along with the 72.95 FTE reduction, they felt they needed to return to present law FTE authorization and the 14.5 FTE takes them back to present law. Then from present law, they reduced their FTE size by 72.95. If they do not get the 14.5 FTE back, then they will have a total reduction of 87.0 FTE, and said he wasn't comfortable with that. CHAIRMAN GRADY said it would really reduce the maintenance in terms of plowing snow, etc. Mr. Blacker said that was correct and their intent is to continue with a level of service that they have been providing, at least for winter maintenance. Some summer maintenance activities will be reduced.

REP. QUILICI said he talked to the workers at the maintenance divisions in Butte and Billings and with all the cuts, they are getting despondent. He said they're good people and are working hard for the state and aren't aliens, "they work for this legislature." He said the cut of 72.95 is going to hurt as it is, and the other 14.5 will really cause trouble. Mr. Barnard said they discussed it a bit when he visited the department, and although they haven't seen a drastic increase in center lane miles of road, they have seen a substantial increase in actual area of paved road that they're required to take care of, under federal and state standards, for safety the roads are wider. It takes more work to clear these roads of snow. REP. FELAND asked if these 14.5 are working now. Mr. Barnard said they are

seasonal, but are on board at this time. They don't have the authorized budget to keep them on for summer maintenance.

**REP. QUILICI** commented on the management of employees who are seasonal or temporary. **CHAIRMAN GRADY** said he'd heard a lot of complaints about survey crews wasting time. **REP. QUILICI** said they were talking about maintenance. **Mr. Blacker** said the maintenance program came in voluntarily to regulate their needs, and he reminded the committee that the 14.5 FTE were present law that the division had. During early retirement, they took portions of FTE and loaned them to the construction bureau to keep construction on-line.

**CHAIRMAN GRADY** said the other item under present law was the fuel storage needs. He thought the consolidation of the fuel program was a good idea and would cost more if all the agencies were putting in their own fuel.

Vote: The motion carried unanimously.

{Tape: 2; Side: B; Approx. Counter: 333; Comments: n/a.}

#### New Proposals

**REP. FELAND** asked about the hazardous waste cleanup. **Mr. Blacker** explained that the handout he passed out the day before showed that \$2,250,000 worth of current need of repairs identified by MDT. He hesitated to say this is mandated, but if they do not comply with the EPA and Department of Health design, they will be subject to severe fines. The laws have been in effect for at least four years and these agencies have been cooperative in waiting for compliance with the hazardous waste cleanup program. He said the fines can amount to hundreds of thousands of dollars.

**REP. QUILICI** asked about the \$1 million figure for cleanup and that it can be applied to 1997 only. **Mr. Blacker** said it's \$1 million annually or a one-time appropriation for the 1997 biennium. He reiterated testimony given during the hearing on this issue. **REP. QUILICI** asked if they work with the fuel tank removal program. **Mr. Blacker** said they do, but it is a separate issue. The hazardous waste program, however, deals with the shallow injection wells and sumps, which are all illegal now.

Motion: **REP. QUILICI MOVED THAT ITEMS #1, #2 AND #3 OF THE EXECUTIVE BUDGET NEW PROPOSALS BE APPROVED.**

#### Discussion:

**CHAIRMAN GRADY** asked how this money could be reapplied if not all spent. **Mr. Blacker** said because it is special revenue funds, it depends upon the intent of the language approved by the committee. **Mr. Culver** said if it isn't restricted for this use then it just sits in the account and is available in the future. If it is unrestricted, and they give authority to transfer to

other budgets, then it can be done. **CHAIRMAN GRADY** thought it would be good to give the department the flexibility to use the funds. **SEN. FRANKLIN** said logistically at what point do they know they won't use the money and what requests are there for it and when could they get spending authority. **Mr. Culver** said the spending authority exists if they appropriate at \$1 million. If it was unrestricted, that authority could be moved to a different budget. The budget office would have to authorize the transfer.

**REP. QUILICI** asked if they had \$1 million for 1996 and 1997 and it was unrestricted, and it wasn't all needed for this program, and had a higher priority in another area, could it be applied to this other area. **Mr. Blacker** said they could. **CHAIRMAN GRADY** said that's what he wanted to do. He asked if the motion restricts the funds. **REP. QUILICI** said it restricts it for use in the hazardous waste cleanup only. **Mr. Gengler** said the executive recommended that it be restricted, but the subcommittee is free to not include that in the motion. **REP. QUILICI** said his motion should state that the funds not be restricted.

**REP. FELAND** said if they do that what would stop them from "running out and hiring a FTE and not doing the cleanup?" **Mr. Gengler** said the reason they recommend that they be restricted is that in this case the \$1 million is "a bit of a shot in the dark." They don't know how much will be spent, so the policy in this case is to restrict it, so if it's not used for the specific purpose, it wouldn't be used for anything else.

**REP. QUILICI** said they cannot hire an FTE because they don't have the authority to do so. **Mr. Gengler** said that would be subject to the budget office approving the request for an FTE, but it would not be part of the base budget in the next biennium.

**REP. FELAND** asked what kinds of hazardous waste projects they have to do. **Mr. Blacker** said what they have been doing has been going on for more than 45 years, when it was accepted practice. "No one was trying to deceive anybody or break any laws" when they polluted the environment. The majority of the cleanups are items that, by state and federal law, they have to rectify. He said anything that can be identified will fall within the parameters of the cleanup guidelines.

**CHAIRMAN GRADY** said he was reconsidering the flexibility that the department might have with this money and asked if they can use these funds to match federal aid. He asked how they could hire FTE that is not approved by the legislature. **Mr. Gengler** said it can be done if approved by the budget office. They don't always get approved, and when this occurs it's only temporary and doesn't increase their budget authority.

**REP. FELAND** said they didn't authorize any "environmental guys" in the construction bureau, and he wondered if they could take this money and hire FTE there. **CHAIRMAN GRADY** said no, they have to take care of the project for which it's intended. **Mr. Blacker**

said if they found they needed the additional FTE, they would come back with a request for such. They intend to take care of the hazardous material cleanup.

**Substitute Motion:** REP. QUILICI MOVED THAT ITEMS #1, #2 AND #3 OF THE EXECUTIVE BUDGET NEW PROPOSALS BE APPROVED AS UNRESTRICTED.

Mr. Gengler stated for the record that the executive budget was proposing that items #1 and #2 be one-time only.

*{Tape: 3; Side: A; Approx. Counter: 000; Comments: The final vote was not recorded on this tape.}*

**Vote:** The motion carried unanimously.

SEN. FRANKLIN mentioned her wish to put unrestricted language in the proposals for the construction budget. CHAIRMAN GRADY asked if she meant for all of them. SEN. FRANKLIN said yes. CHAIRMAN GRADY said he wasn't sure he could support it. REP. QUILICI asked if she wanted to move to reconsider.

**Motion/Vote:** SEN. FRANKLIN MOVED TO RECONSIDER FOR THE PURPOSES OF ADDING THE LANGUAGE THAT ALLOWS MORE FLEXIBILITY. The motion failed 3-2 with SEN. FRANKLIN and REP. QUILICI voting yes.

**EXECUTIVE ACTION ON**  
**MDT - MOTOR POOL DIVISION**

**Motion:** REP. QUILICI MOVED THE PRESENT LAW FOR FY 1996 AND 1997.

**Discussion:**

REP. FELAND asked if they were looking into the privatization issue for the motor pool. CHAIRMAN GRADY said when they have an overflow they contract with private contractors. Mr. Bruce Barrett, MDT, explained that they have worked with the legislative auditor and have an annual 10% turndown rate on all classes of motor pool vehicles, and in high use months it gets as high as 25%. Currently, when vehicles are not available for state employees, they are given an authorization form for reimbursement for mileage use of their own vehicle at a rate of .29 per mile, which is higher than rental cars. Now, when they need additional vehicles, they'll do phone quotes and get bids from Helena agencies. They are planning to enter into a one-year contract with Enterprise Rental Cars to cover overflow of motor pool. He said they are planning to meet with interested parties to explore solutions to the motor pool vehicle needs. Mr. Blacker said if they come up with a workable bid, they will invite a number of other companies to become involved.

REP. FELAND asked if they could stipulate that they have to privatize at a certain percentage, such as 25%, even if it costs

more. He said his reason for this is because motor pool can operate cheaper is because they don't have to buy licenses and are not paying taxes on gas, but they're "busting up the roads same as anybody else." **Mr. Barrett** said that everybody pays the gas tax. He said they don't get any refunds from it and everyone who pays the gas tax is on the same playing field.

**REP. QUILICI** said people who want to bid on this are not Montana corporations and they would be sending that money out of state.

**REP. FELAND** said they're hiring people "right downtown here."

**REP. QUILICI** said they're being hired at minimum wage. He asked **Mr. Blacker** to provide an explanation, to which he replied that there is a misconception that the motor pool is a panacea for the department and that is not the case. He said if the committee can find a cheaper way to run the operation, they're more than willing to go with the committee's direction. He said their responsibility is to the public and they do it as inexpensively as they can. **REP. FELAND** suggested they give them 10 or 15% leeway above the cost of operation.

*{Tape: 3; Side: A; Approx. Counter: 262; Comments: n/a.}*

**SEN. FRANKLIN** asked if **REP. FELAND** has made a motion. **REP. FELAND** said he wanted to put it in such a way that they're hands are tied. **CHAIRMAN GRADY** said they are talking about operation of the motor pool, but they have other issues such as the management of vehicles maintained by other agencies. He didn't know how his motion would be applied.

**Mr. Culver** said **REP. QUILICI** moved present law, and he suggested they consider that motion, then consider the new proposals, and then when that is done, the committee can recommend language to the effect that if a private vendor can offer the same service within a certain percentage the department shall privatize the motor pool.

**CHAIRMAN GRADY** said the department indicated their intention to research privatization, and before they go into the full Appropriation Committee meetings, they'll get more information to consider. **REP. QUILICI** said they still have to go with the budget as sent to them, so they can get it on their computers and get it in the big bill, so they "can get their show on the road."

**Vote:** The motion carried unanimously.

#### Executive New Proposals

**Mr. Gengler** said this proposal would be to take vehicles currently held by other agencies and bring them into the motor pool. It does not result in a net increase of state vehicles, but reduces the budgets of agencies such as the Department of Revenue, so they are no longer able to buy new vehicles and increases motor pool's budget so they can purchase new vehicles.



It would begin the consolidation of the various fleets throughout the state so they can be managed in a cost-effective manner.

**CHAIRMAN GRADY** commented on **REP. FELAND'S** motion and didn't think they had enough information to act on the privatization issue. He said if the state is going to be in the business, and the agencies have already reduced their budgets for the consolidation, he didn't think they had any choice. He doesn't have a problem with it since motor pool is in the business of managing the fleets.

**Motion/Vote:** **REP. QUILICI** MOVED THE EXECUTIVE BUDGET NEW PROPOSALS WITH CONTINUOUS SCRUTINY THROUGHOUT THE APPROPRIATIONS PROCESS. The motion carried 4-1 with **REP. FELAND** voting no.

EXECUTIVE ACTION ON  
MDT - EQUIPMENT

**Motion/Vote:** **REP. FELAND** MOVED THE PRESENT LAW FOR FY 1996 AND 1997. The motion carried unanimously.

**Motion/Vote:** **REP. QUILICI** MOVED THAT EXECUTIVE BUDGET NEW PROPOSALS BE APPROVED. The motion carried unanimously.

*{Tape: 3; Side: A; Approx. Counter: 450; Comments: n/a.}*

**Mr. Culver** explained that they don't have to do anything for the interfund transfer, but can just pass on it.

EXECUTIVE ACTION ON  
MDT - STORAGE AND INVENTORY PROGRAM

**Mr. Culver** said this is a double-budgeted issue and **Mr. Bill Salisbury, MDT**, was looking for ways to avoid double-budgeting and he informed him that they will no longer need this appropriation starting the next biennium. They can get a system on-line that would eliminated the need for a double appropriation.

**REP. QUILICI** began a motion to approve this program for the upcoming biennium but was informed that it was not necessary and they wish to leave it alone.

**Mr. Culver** said they just reduced by \$100 million the total of the state special revenue appropriation in HB2 by not appropriating those two programs.

*{Tape: 3; Side: A; Approx. Counter: 510; Comments: n/a.}*

**Mr. Marvin Dye** wanted to be sure they understood what they have not been appropriated at this point. The executive budget new proposals on page A-85, Item #3 was not approved which was a

mandated pavement management system. He said if it isn't operational by October 1996, they will lose part or all of their federal funds. Some of the other FTE that were not approved will make it difficult to respond to federal funding.

**CHAIRMAN GRADY** said the department does have a pavement management system because there are three people working there, and he asked the department if the federal government mandated the number of FTE and the answer was no. **Mr. Dye** said the way **Mr. Barnard** explained it is that by October 1996 they have to have a functioning pavement management system, and it will take 6.0 FTE to do that. If it's not operational, the federal government will sanction their funds. He seriously doubted whether the current 3.0 FTE can run this program. He said he must report back to the governor on the status of their budget, and he wanted to be sure to tell him exactly what they're capable of doing.

**SEN. FRANKLIN** said she was concerned that in 1993 when **SEN. HARP** had a bill to raise the gas tax that passed, that the public understood that the money will go to concrete projects, and what they've done with the budget is fund some peripheral issues that are important, but not really the guts of the program nor given the public what they expect would be maximizing their state dollars. She said that will be hard to explain.

**CHAIRMAN GRADY** asked **Mr. Culver** to figure out how many dollars they approved against what they didn't. **REP. QUILICI** said he already asked him for that information. **CHAIRMAN GRADY** said they didn't always give the FTE, but they gave the dollars.

**REP. QUILICI** said for the record he wished to restate his commitment to his original motion to accept the executive new proposals for the various reasons that were stated during all the hearings and for the reasons stated by **SEN. FRANKLIN**.

**Sandy Oitzinger, Montana Association of Counties**, said she is new to the appropriations process, but agreed with **SEN. FRANKLIN** and **Mr. Dye** with regard to the funding flow for construction projects, the CTEP projects has been underway for a year and they are hearing that the dollars aren't getting to the local governments as they should. She said it is complicated for the department. Local governments have started planning, so the requests for an FTE to manage the program is important so that federal funding isn't turned back.

**CHAIRMAN GRADY** asked **Mr. Gengler** to respond and he said that the department can really only tell what the impact would be on program operations. **Ms. Oitzinger** said the CTEP #13 funding specifically would be impacted. She described an incident in a local community where the funding has yet to arrive and the confusion that resulted. **CHAIRMAN GRADY** asked what those reasons were. **Ms. Oitzinger** didn't know all the reasons, but thought if there were only two people processing the grants, there would be

delays such as this. **Mr. Dye** said the reason is because of a people problem. They have estimated 600 projects and said that when MDT made the CTEP funds available to communities, they allocated these funds to areas with a population of 1,000. He said when the agreement was made with the Montana Association of Counties and the League of Cities and Towns, people in local governments are capable of doing what needs to be done. As they found out, there were some small communities that do not have the resources needed to handle a federal aid project. They found one person in the engineering department to start working with cities and counties on CTEP. But they were still falling behind, so they found another employee to work on this project.

*{Tape: 3; Side: B; Approx. Counter: 000; Comments: n/a.}*

**Mr. Dye** said they are doing their best with these two employees, but it's not working as it should.

**CHAIRMAN GRADY** said he wanted more information on this issue, but would allow reconsideration of these issues at a future meeting. He's basically ready to carry this budget to the full committee the way it is.

**Mr. Gengler** introduced three language items for MDT that still needed action taken. **EXHIBIT 1**

**Motion/Vote:** REP. QUILICI MOVED THE BILL LANGUAGE FOR MDT. The motion carried unanimously.

*{Tape: 3; Side: B; Approx. Counter: 85; Comments: Meeting adjourned.}*

ADJOURNMENT

Adjournment: 11:00 a.m.

  
ED GRADY, Chairman

  
PATTI BORNEMAN, Recording Secretary

EG/pb

## Proposed Bill Language for Department of Transportation

1. "The department may adjust appropriations and FTE in the construction and maintenance programs between fiscal years to reflect actual expenditures related to the construction work plan and maintenance activities."
2. "The department may adjust appropriations in the construction, stores, and transportation planning programs between state special and federal revenue fund types, provided that the total state special revenue authority for these programs is not increased by more than 10% of the appropriations established by the legislature. All transfers between fund types must be fully explained and justified on budget documents submitted to the office of budget and program planning, and all fund transfers of over \$1 million in any 30-day period must be communicated to the legislative finance committee in a written report."
3. "The department is authorized to obtain contributed capital from the highway special revenue account for the motor pool proprietary account for the purpose of managing the motor pool account fund balance in accordance with the federal government's interpretation of OMB Circular A-87. The department shall make such accounting entries in amounts minimally sufficient to avoid federal assessments."

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MARV DYE	MDT		
D. John Blacker	MDT		
Bill Salisbury	MDT	✓	

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