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## Memorandum

To: Mr. Jeff Martin, Legislative Services Division  
Revenue and Transportation Interim Committee

From: Timothy W. Reardon, Chief Legal Counsel

Date: August 24, 2006

Subject: MDT Proposed Legislation for 2007

The Department of Transportation's preliminary legislative package, as of September 8, 2006, is outlined in this memo. The Department hopes to have bill drafts completed in the near future. The final decisions on whether to pursue each bill has not been made. Several proposals reflect recommendations from the Legislative Auditor's prior reviews of the agency.

The proposals are in no particular order of priority:

The Department will propose legislation to remove conflicts and to implement changes in the Highway Traffic Safety program.

The first bill would clarify the role of MDT and the Office of Public Instruction relative to the development of driver training programs, driver education schools and certification and also to clarify MDT's responsibility to maintain the training facility in Lewistown.

The second Safety bill would expand the use of county DUI driving prevention programs to include programs to prevent driving under the influence of drugs as well as alcohol.

The Department will offer three bills regarding the Aeronautics Division. Two bills stem from the audit recommendations:

The first bill would eliminate the provisions in 67-3 Part 4. This part of Chapter 3 has been superseded by Federal Laws and Regulations administered by the Federal Aviation Administration. A 1981 Attorney General's opinion concluded that the Supremacy clause of the United States Constitution preempts states from regulating commercial aircraft insurance requirements.

The Second Aeronautics proposal would be to amend section 67-3-205 which requires MDT to conduct multiple transactions of aircraft registration fees which are to be deposited 90% to the general fund and the 10% balance to MDT's aeronautics account.

The amendment would eliminate unnecessary multiple transactions and allow the deposits to be made as the funds are received.

The Third Aeronautics bill would allow the Department to lease space, improvements or equipment in state owned airports for a term up to 40 years instead of the current 10 year limit. This would make it the same time period as the lease of the real property allowed in 67-2-302 and would encourage lessees to invest money and time into a long term relationship with the Department.

MDT will propose amendments to the ethanol statutes in Title 82 and 15 to promote the use of Montana agricultural products in the making of ethanol by allowing a 15% tax reduction on Montana produced product. In addition, the bill would provide exceptions to the mandated use of ethanol should Montana production decline to less than 20 million gallons for three months; the bill would also provide an exception to the ethanol incentive requirements for distributors in the event of a disaster declaration in a Montana county by the US Secretary of Agriculture.

The Department will propose a bill that would allow cities, towns, non-profits and transportation districts an opportunity to use money distributed under the Senior Citizen and Disabled Persons transportation services account (15-1-122 (3) (e)) as matching funds to meet federal grant matching requirements for transit services provided in federal law.

The Department will request a bill to allow MDT to enter into reciprocity agreements with other states to allow the registration of intrastate motor carriers. In addition, the bill would allow the Department to use interstate registration fees which previously went to the general fund, to be used for the MCSAP program in the Federal Special Revenue Fund. Changes in federal law preclude the use of funds for any purpose other than the motor carrier safety programs meaning the general fund would no longer be an eligible use.

The Department will propose legislation to amend the current law that allows a private entity that successfully sues a state agency in a contract dispute to collect interest, costs and attorney fees but which does not allow for reciprocal payment of the litigation expenses in the event the state prevails in the litigation. The bill is intended to allow the state to recover its costs and interest in the event the state prevails.