

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By Chairman Stang, on January 24, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Dan Harrington

Members Absent: None

Staff Present: Paul Verdon, Researcher
Claudia Johnson, secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 212

Presentation and Opening Statement by Sponsor:

Rep. Guthrie, House District 11, opened by stating this bill is an act to increase the property tax mill levy for county bridges from 4 mills to 8 mills. The provision relates to the lineal footage of bridges to a county required for the additional mill levy. Amending section 7-14-2502 MCA and providing an effective date.

Testifying Proponents and Who They Represent:

Brad Dezort, Chairman of the Board of Teton Co. Commissioners,
MACO
Gordon Morris, MACO

Proponent Testimony:

Mr. Dezort stated in Teton Co. they have a total of 275 bridges, the second largest count in the state of Montana. 170 of those bridges are 20' or longer. Mr. Dezort stated with the current 4 mill limit revenue generated for their county to repair those bridges amounts to less than \$80,000. A 4 mill levy in Cascade County would generate about \$320,000. Mr. Dezort stated the salary for their bridge crews takes approximately \$78,000 just to fund the five people they have on staff, and approximately another \$50,000 for their M and O. The linear feet is maintained around 6500' and Mr. Dezort stated this bill would eliminate that restriction and

give them more flexibility. Mr. Dezort stated there are five irrigation projects in Teton Co. that require bridges and culverts. Mr. Dezort gave a synopsis of the immensity of the bridges in Teton Co.: 1) The Cory bridge, a wood structure of 132' long, 2) The Colin South bridge, a 150' steel bridge, 3) Deep Creek bridge, 81' long, concrete, and 4) The Hamilton Ranch bridge, is a 119 foot steel bridge. Mr. Dezort stated if any one of these bridges were to go down due to flooding, etc., they would not be able to repair them under the present mill levy. Mr. Dezort stated this bill needs to be amended because of mitigating circumstances when disaster occur. They fall into the state 2 mill disaster and have to work with FEMA, and they are only allowed to replace those bridges to their original condition.

Gordon Morris indicated that HB 212 is a direct result of a resolution, MACO 88-7, which called for the millage to be increased for the bridge levy, was adopted by the Montana Assoc. of Co. and the commissioners of the 55 member counties, unanimously, and was given a high priority in regard to legislative issues for this session. Mr. Morris stated that counties in Montana currently are responsible for construction, reconstruction, or rehabilitation for all bridges on all public roads and streets in Montana which are not directly under state or federal jurisdiction. Mr. Morris distributed a handout taken from the FY 1989 county budget report. See Exhibit 1. Mr. Morris stated this is not to be assumed as a personal property tax increase, but it does increase the statutory authority.

Testifying Opponents and Who They Represent: None

Opponent Testimony:

None

Questions From Committee Members: Rep. Westlake asked Mr. Morris if there was a way for those counties that are not in trouble to not be subject to the increase millage. Mr. Morris stated if the mill levy is raised from 4 to 8 mills, it does not carry with it any automatic assumption that it will affect those counties, other than the fact that Commissioners will have additional authority that they may choose to use or not to use.

Closing by Sponsor: Rep. Guthrie closed by stating the bridge tax has not been amended since 1979, and there has been some inflation since that time. Rep. Guthrie strongly supported and asked the Committee for the passage of HB 212.

HEARING ON HOUSE BILL 196

Presentation and Opening Statement by Sponsor:

Rep. Cobb, House District 42, stated HB 196 is requested by the legislative audit committee for foot trails and paths to be established by the Dept. of Highways. Rep. Cobb stated that current law requires that the state, city and county spend not less than 3/4 of 1% of the amount appropriated to the dept. of Highways for the construction program, maintenance program, and preconstruction program each fiscal year. Rep. Cobb stated that they had done an audit on the dept. and they could not really identify where they had spent any money or tried to for the foot paths and trails. Rep. Cobb stated that construction contracts are spread out over a number of years and it is hard for them to segregate out specific expenditures on a particular year. For this reason the dept. is not able to come in compliance with the law. Rep. Cobb stated that the Dept. of Highways will submit an amendment that the paths will be built instead of in an accounting procedure.

Testifying Proponents and Who They Represent:

John Northey, Attorney for Legislative Audit Committee
Bill Salisbury, Dept. of Highways

Proponent Testimony:

Mr. Northey stated that the present law does not allow a highway dept. to use a rolling average, and because construction contracts are multi-year, the dept. does not have control which fiscal year those funds are spent. Mr. Northey stated it is the Legislative audit committee's intent to give the dept. more flexibility within the confines of the current law, which is the 3/4 of 1 percent expenditure. Mr. Northey stated it is not the intent of the audit committee to change the substantive law, but to clarify the law so the dept. can properly account for the use of the funds.

Mr. Salisbury stated that he is neither a proponent nor opponent, but was present to offer or propose changes that would allow the dept. to provide the necessary accountability for the projects. Mr. Salisbury offered some amendments to be attached that allow the expenditures to be permissive rather than mandatory on all highway systems. He stated it would also clarify the requirement related to the interstate system currently in the bill that requires them to construct foot paths and bikeways after a reasonable time after the completion of the interstate. Mr. Salisbury stated is also provides a specific amount per year to spend over a five consecutive fiscal year period. The amount they have in

their amendment is for \$200,000 that they would let to contract in any of the five consecutive years. The amendment also eliminates cities and counties, because they do not have any way to tell what they have to expend their highway funds on.

Testifying Opponents and Who They Represent: None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Cobb closed stating there are 2 issues:
1) how does the dept. account for the 3/4 of 1 percent, and
2) where are all the bike paths? Rep. Cobb stated he thought the original intent of the bill was for bike paths, and stated that they should have had bike paths in the bill.

HEARING ON HOUSE BILL 223

Presentation and Opening Statement by Sponsor:

Rep. Wallin, House District 78, stated his bill is to allow car dealers/demonstrators to display only one license plate. Rep. Wallin stated he was informed the MHP had some concern with one plate, but stated there are 17 states that require only one plate at this time. Rep. Wallin felt it would be a accommodation for a large number of people, instead of switching plates every time you try out a car to use a magnetic plate. See Exhibit 2.

Testifying Proponents and Who They Represent:

Steve Turkiewicz, Mt. Auto Dealers Assoc.

Proponent Testimony:

Mr. Turkiewicz urged the passage of HB 223 and stated that the intention of the bill is not to change the law, but to make it easier to comply with.

Peter Funk stated the Dept. of Justice is neither for nor against this bill, but wanted the Committee to understand the law enforcement divisions within the dept. of Justice is seriously concerned with the concept of one plate. Mr. Funk stated the MHP receive a lot of their information from the license plate in the front, because they are usually meeting cars head on.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Roth asked Mr. Turkiewicz if a dealer has one hundred sets, will he be able to use the two hundred now. Mr. Turkiewicz stated the dealers will continue to use both of their sets until the bill passes.

Rep. Stang asked Rep. Wallin when a dealer takes a car home does he use a dealer plate or demonstrator plate. Rep. Wallin replied that a demonstrator plate is used, and went on to say that not very many dealer plates are issued. A dealer plate is used when a dealer takes a car home to check out a problem that couldn't be found otherwise. Rep. Wallin stated a owner or manager of a car dealership that drives a car home night after night with a dealer plate on has paid extra for that plate and even his family is allowed to use it according to the law.

Closing by Sponsor: Rep. Wallin closed stating the inconvenience that comes with this bill can easily be addressed and the accommodations it would allow for the dealers would be of great help to them.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 149

Motion: Rep. Roth moved to adopt HB 149 that addresses the right of a former owner to purchase land offered for sale by the dept. of Highways.

Discussion: None

Amendments, Discussion, and Votes: Rep. Zook moved to accept the amendments. Rep. Bachini called the question. The motion CARRIED unanimously to DO PASS the amendment.

Recommendation and Vote: Rep. Nelson moved to accept HB 149 as amended. Rep. Campbell called the question. The motion CARRIED unanimously to DO PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 164

Motion: Rep. O'Connell moved to adopt HB 164, on the obstruction or hindrance of a driver's clear view.

Discussion: Rep. Bachini stated he is against this bill as is.

HOUSE COMMITTEE ON HIGHWAYS AND TRANSPORTATION

January 24, 1989

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Amendments, Discussion, and Votes: Rep. Aafedt moved to adopt the amendment. Rep. Roth called the question. The motion CARRIED unanimously to DO PASS.

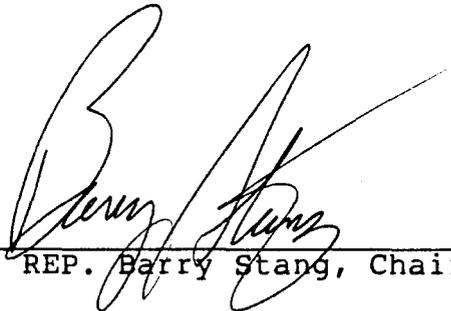
Recommendation and Vote: Rep. O'Connell moved HB 164 as amended. Rep. Roth called the question. Roll call vote was taken, the motion FAILED.

Motion: Rep. Stang changed the motion to a DO NOT PASS. The same vote was used as above for the reverse motion and FAILED 5/9.

Motion: Rep. Roth moved to reconsider the bill. Rep. Patterson made the motion to table HB 164. The motion CARRIED to TABLE HB 164. Rep. Zook voted no.

ADJOURNMENT

Adjournment At: 5:00 p.m.



REP. Barry Stang, Chairman

BS/cj

2006.min

STANDING COMMITTEE REPORT

January 25, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that HOUSE BILL 149 (first reading copy -- white) do pass as amended .

Signed: _____
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 10.

Following: "PROPERTY"

Insert: "OF 5 ACRES OR LESS"

2. Title, line 11.

Following: "OF"

Strike: "THE"

Insert: "A"

3. Title, line 12.

Following: "OWNER;".

Insert: "AND"

4. Title, line 13.

Following: "60-4-202, AND"

Strike: "60-4-205"

Insert: "60-4-204"

5. Title, lines 13 and 14.

Following: "MCA" on line 13

Strike: the remainder of line 13 through "MCA" on line 14

6. Page 2, line 22, through page 3, line 8.

Strike: sections 3 and 4 in their entirety

Insert: "Section 3. Section 60-4-204, MCA, is amended to read:

"60-4-204. Option of original owner or successor in interest to purchase at sale price. ~~The~~ When the department sells an interest in a parcel of real property greater than 5 acres in size, the owner from whom the interest was originally acquired or his successor in interest shall have has the option to purchase

January 25, 1989
Page 2 of 2

the interest by offering ~~therefor~~ for the interest an amount of money equal to the highest bid received for the interest at the sale. The offer ~~shall~~ must be sent to the department by registered or certified mail within 10 days from the date of the sale."

Renumber: subsequent sections

FY 1989 COUNTY BRIDGE FUND BUDGETS

BUDGETED EXPENDITURES AND REVENUES FY 89

COUNTY	POPULATION	COUNTY MILL VALUE	TOTAL BUDGETED EXPENDITURES	TOTAL NON-TAX REVENUES	PROPERTY TAX REVENUE	FY 88-89 MILL LEVY	PER CAPITA LEVY	BUDGETED DASH RES
MUSKELSHIELL	4,500	\$14,122	\$0	\$0	\$0	0.000	\$0.00	\$22
PARK	12,300	\$20,163	\$87,850	\$7,790	\$73,395	3.640	\$5.97	\$1,82
PETROLEUM	600	\$3,032	\$17,000	\$0	\$7,580	2.500	\$12.63	\$2,00
PHILLIPS	5,400	\$32,839	\$585,500	\$25,590	\$197,034	6.000	\$36.49	\$12
PONDERA	6,600	\$17,984	\$97,541	\$4,100	\$71,936	4.000	\$10.90	\$1
PONDER RIVER	2,300	\$17,373	\$0	\$0	\$0	0.000	\$0.00	\$1
POMELL	6,900	\$11,107	\$89,214	\$25,872	\$27,767	2.500	\$4.02	\$1
PRAIRIE	1,600	\$4,327	\$29,750	\$810	\$11,675	2.698	\$7.30	\$1
RAVALLI	25,200	\$28,204	\$171,086	\$15,350	\$135,938	4.820	\$5.39	\$3
RICHLAND	12,100	\$66,400	\$381,572	\$13,469	\$164,059	2.471	\$13.56	\$1
ROOSEVELT	11,200	\$44,525	\$403,990	\$6,500	\$133,574	3.000	\$11.93	\$13
ROSEBUD	12,300	\$214,532	\$154,345	\$2,000	\$97,428	0.454	\$7.92	\$4
SANDERS	8,800	\$29,588	\$173,000	\$5,000	\$158,003	5.340	\$17.95	\$3
SHERIDAN	5,300	\$38,804	\$250,000	\$7,425	\$0	0.000	\$0.00	\$3
SILVER BOW	33,700	\$37,454	\$180,178	\$24,249	\$137,157	3.662	\$4.07	\$3
STILLWATER	6,200	\$17,982	\$101,376	\$8,304	\$89,809	5.000	\$14.49	\$2
SWEET GRASS	3,100	\$7,014	\$36,663	\$2,255	\$22,094	3.150	\$7.13	\$1
TETON	6,100	\$16,032	\$120,000	\$1,377	\$96,192	6.000	\$15.77	\$1
TOOLE	5,200	\$30,322	\$127,416	\$1,500	\$50,031	1.650	\$9.62	\$4
TREASURE	1,000	\$4,415	\$58,048	\$3,569	\$26,481	5.998	\$26.48	\$1
VALLEY	8,600	\$29,746	\$200,000	\$8,540	\$171,932	5.780	\$19.99	\$6
WHEATLAND	2,200	\$7,119	\$46,500	\$3,145	\$28,199	3.961	\$12.82	\$1
WIBAUX	1,300	\$16,701	\$323,907	\$1,856	\$50,104	3.000	\$38.54	\$1
YELLOWSTONE	118,100	\$198,881	\$555,053	\$39,250	\$521,068	2.620	\$4.41	\$22
TOTAL	809,500	\$1,924,788	\$9,279,512	\$722,740	\$5,285,912	2.746	\$6.53	\$1,82
FY 88 TOTAL	818,800	\$1,982,798	\$9,751,764	\$896,573	\$5,438,381	2.743	\$6.64	\$2,00
% CHANGE	-1.1%	-3.0%	-5.1%	-24.1%	-2.9%	0.1%	-1.7%	EXHIBIT 1

DATE 1-24-89
HB 212

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB223, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing demonstrator motor vehicles to display only one license plate; amending Section 61-3-301, MCA; and providing an immediate effective date.

ASSUMPTIONS:

1. There are 6,800 sets of demonstrator plates issued per year and that amount will remain constant during the 1991 biennium.
2. Cost of producing a single license plate in the 1991 biennium is \$1.13.

FISCAL IMPACT:

	FY90		FY91	
	Current	Proposed	Current	Proposed
	Law	Law	Law	Law
Expenditures:				
Operating Expenses	\$15,400	\$ 7,700	\$15,400	\$ 7,700
		Difference		Difference
		\$ (7,700)		\$ (7,700)

Funding: Motor Vehicle Account

Ray Shackelford 1/24/89
RAY/SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

Norm Wallin 1/31/89
NORM WALLIN, PRIMARY SPONSOR DATE

DATE - 24-89
HB 223

Fiscal Note for HB223, as introduced

MONTANA AUTOMOBILE DEALERS ASSOCIATION
INC.



501 N. SANDERS

HELENA, MONTANA 59601

PHONE 442-1233

EXHIBIT 3
DATE 1-24-89
HB 223

Mr. Chairman and members of the Committee, my name is Steve Turkiewicz and I represent the Montana Auto Dealers Association. On behalf of the Auto Dealers Association, we support the passage of HB 223.

I point out that this bill affects only the dealer demonstration plates. These are temporary plates authorized in current law for specific applications. All this bill does is change the requirement for two temporary plates to one plate placed on the rear of the car.

The problem has evolved because of the materials used in the manufacturing of today's cars. Most bumpers are made from plastic composites. For the rear plates most dealer use either the magnetized plate bars attaching them to the car's trunk or the rubber flanged plate holder that are held between the trunk and the trunk lip.

The difficulty arises when placing the front plate on the vehicle. On many new cars there is no provision for temporarily attaching a plate. The magnetic bar won't adhere and there is no place to put the flanged holder without the potential of damage to the car. In order to comply with current statues the plate literally must be permanatley attched, usually with a couple of bolts. Now this doesn't sound too difficult. Except, when you consider most dealer inventories are outside on the lots and we in Montana receive our fair share of inclement weather. Try to place yourself in the salesperson's situation on day like yesterday or today. Putting on a plate with two bolts in single digit weather is quite a chore. Plus, since there are time limitations for the plate being on the vehicle; someone has to take that front plate off the vehicle when it is returned to the lot.

In summary, this is a bill applying only to temporary demonstration plates. No reduction in the fees paid for the plate is invisioned. And, it is not an attempt to apply the use of single plates to any other category of license.

Therefore, we respectfully request that this committee recommend a DUE PASS for House Bill 223.

DEPARTMENT OF HIGHWAYS

EXHIBIT 4
DATE 1-24-89
HB 149



STAN STEPHENS, GOVERNOR

2701 PROSPECT AVE.

STATE OF MONTANA

HELENA, MONTANA 59620

January 23, 1989

Representative Barry Stang
House of Representatives
Capitol Station
Helena, MT 59620

HOUSE BILL NO.149

Please find attached a proposed amendment for your consideration. In response to the comments at the committee Hearing last Thursday, I have proposed an amendment that would allow the original owner or his successor in interest to meet the high bid to purchase property over five acres in size. This would still take care of most of the Department's problems since most of the parcels sold are smaller than five acres. Under this amended version of the bill, the Department could trade property without the possibility that the original owner or his successor in interest could insist that the property be offered for public sale. The Department would give the original owner notice of all sales, but the original owner or his successor in interest would not have the option to meet the high bid unless the property being offered for sale is bigger than five acres.

I have also attached a copy of my testimony at the hearing and a chart which compares the present law, the bill and the proposed amendments. If you would like to discuss this further, please call me at 6097.

Thank you.

Beate
BEATE GALDA, ATTORNEY
LEGAL DIVISION

BG:dh:lf

Attachments

Successor in Interest Option

Background:

Since 1959, Montana law has provided an option for the original owner or his successor in interest to require the Department to sell land at public auction rather than exchange it for other land and an option to match the high bid if property is offered for sale by the Department. Since 1959 the Department estimates that less than ten former owners or their successors in interest have exercised their option to meet the high bid and purchase the property. During that period the Department estimates that it has sold 350 parcels of land. The Department sells or trades an average of 10 to 15 parcels per year.

The Department does not have legal authority to purchase more land than it needs unless the excess land is an uneconomic remainder. During negotiations with nearby landowners the Department is sometimes able to exchange the excess land for other land it needs for a highway project. This land is normally not useful to the original owner since it is too small to use by itself or it is isolated from the rest of his property. In a recent situation in the Billings area, a condemnation action was almost settled by an exchange of land but the previous owners, one of whom had moved out of state and the other had moved away from Billings, blocked the exchange because they disliked the condemnee and didn't want him to have the land. They were not interested in purchasing the remainder.

Where excess land was purchased during an earlier project, it is often impossible to determine who the successor in interest is. In several situations encountered by the Department, the original owner had subdivided his property and it was impossible to determine who had the right to exercise the option. The Department has been involved in two lawsuits concerning the determination of the successor in interest. In one case the original owner had deeded her land to one party but later deeded her option under the statute to another party. Both wanted to

exercise the option. This case went to the Montana Supreme Court for final determination. In two other situations the original owner had merely deeded the option to be the successor in interest to a party who wanted the right to meet the high bid without the risk of making a bid.

The statutory option normally merely results in delay while the Department attempts to determine the successor in interest, to contact him, and to wait for his response. Most original owners or their successors in interest are not interested in repurchasing a piece of property which was too small to be worth retaining at the time of the original purchase for highway purposes. The statutes also prohibit the Department from combining several small parcels where each was under different ownership. This results in lower prices for the sale because of increased advertising and separate appraisals and often results in lower prices for the land or the inability to sell the small parcels.

What the Proposed Bill Does:

This bill will allow the Department of Highways to exchange land without first contacting the original owner or his successor in interest. The original owner will be given at least ten days notice of sale and will still have the right to make a bid at public auction if he is interested in repurchasing excess land acquired by the Department. This bill will, however, eliminate his option and that of any successor in interest and will eliminate the attendant problems and litigation necessary to determine who may exercise that option.

Department Position:

The Department of Highways believes that this bill will eliminate a seldom used but time consuming privilege and therefore supports this bill.

PRESENT LAW

HOUSE BILL NO. 149

PROPOSED AMENDMENT

When Department trades land for land needed for highways.

Original owner or successor in interest may stop trade and insist property be sold at auction.

The Department may trade property without first notifying original owner or successor in interest. He cannot stop trade.

No change from bill.

When Department sells land of 5 acres or less.

Original owner or successor in interest may meet high bid and purchase property.

Original owner must be notified of sale. He may bid if he chooses but he has no option to meet the high bid.

No change from bill.

When Department sells land larger than 5 acres.

Original owner or successor in interest may meet high bid and purchase property.

Original owner must be notified of sale. He may bid if he chooses but he has no option to meet the high bid.

No change from present law. Original owner or his successor in interest may meet high bid and purchase the property.

EXHIBIT 4
DATE 1-24-89
HB 149

ROLL CALL VOTE

Highways and Transportation

COMMITTEE

DATE January 24, 1988 BILL NO. 164

NUMBER _____

NAME	AYE	NAY
Rep. Bachini, Bob		✓
Rep. Davis, Ervin		✓
Rep. Harrington, Dan		excused
Rep. O'Connell, Helen	✓	
Rep. Stepler, Don		✓
Rep. Westlake, Vernon		✓
Rep. Aafedt, Ole	✓	
Rep. Campbell, Bud		✓
Rep. Clark, Robert	✓	
Rep. Owens, Lum		✓
Rep. Patterson, John		✓
Rep. Roth, Rande	✓	
Rep. Zook, Tom	✓	
Chairman Stang, Barry "Spook"		✓
Vice Chairman Linda Nelson		✓

TALLY

Louise Johnson
Secretary

Barry Stang
Chairman

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MOTION: Rep O'Connell moved No Pass as amended
the motion failed 5/9.
Rep Patterson moved to TABLE HB 164
the motion CARRIED Rep Zook voted no.