

MINUTES OF THE MEETING  
HIGHWAYS AND TRANSPORTATION COMMITTEE  
MONTANA STATE SENATE

February 1, 1977

The sixth meeting of the Highways and Transportation Committee was called to order by Chairman Manning on the above date in Room 404 of the State Capitol Building at 9:30 a.m.

ROLL CALL: Senators Hager and Etchart were excused, Senator Graham was absent. All other members of the committee were present.

The following witnesses were present to testify:

Gerald Neils	Montana Logging Association
Lawrence R. Mikesell	" " "
R. P. Greil	" " "
Robert Lamley	Champion Timberlands
Harry Cheff	Canyon Logging Company
Jim Beck	Department of Highways
Don Copley	" " "
Homer Wheeler	" " "
Dean Zinnecker	Montana Association of Counties
William Leslie	Mineral Specialities
Duane Tooley	Montana Highway Patrol
Joe R. Sol	Montana Highway Patrol
Curt Wheeling	Department of Administration
	Communications Division
Bob Holding	Montana Wood Products Association

CONSIDERATION OF SENATE BILL 160: Senator Tom Towe, chief sponsor of SB 160, explained to the committee that this bill provides that public works projects use coal byproducts whenever those products are reasonably available and reasonably suitable to the project. Another provision of the bill requires publicity of the project by the state agencies involved in the project. An example of such coal byproducts is fly ash which is used as mineral filler if hydrated lime is not used. In North Dakota fly ash is used in every case because it is just as good and much less expensive than hydrated lime. There seems to be hesitation in Montana to use fly ash because of a belief that hydrated lime causes a necessary chemical reaction and therefore has benefits that fly ash does not. However, studies do not prove this claim to be true. Fly ash could make the price of filler 1/3 to 1/4 less than the cost of hydrated lime.

Senator Towe indicated that there are presently two places in Montana where fly ash is collected. There are the Savage mine in Richland County and a collection depot at Billings. If the use of the coal byproduct is not economical or feasible or of comparable quality then another product would be used.

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Senator Towe referred to a court case that had been fully resolved involving the principal fly ash marketer in the state and the Department of Highways. The Department of Highways gave its assurances that greater consideration would be given to the use of fly ash in construction projects. But, in fact, since that time little fly ash has been used by the department. SB 160 would give greater encouragement to the department to use coal byproducts in construction.

Mr. Bill Leslie of Mineral Specialties testified that we are in the middle of an energy crisis and it only makes sense to use the fly ash that is useful in construction when hydrated lime uses so much energy in production. The reasons why fly ash should be used in construction have been upheld by independent testing laboratories. In 1975 three million tons of fly ash were used in asphalt according to the National Ash Association and the Edison Electric Institute. Ten million tons were used in the stabilization of roads. This material has many of the characteristics of the manufactured materials, and although more of it may have to be used in a project, it does do the job. There have been problems with the Department of Highways in the past, and it is only through constant and rigorous efforts that more fly ash is now being used by the department. The sources of fly ash in the area include the two plants in Montana, sources in Canada, North Dakota, and Wyoming. Mr. Leslie indicated that he could show that he had asked for lesser amounts of money per ton than other states, with prices running from \$12 to \$14 per ton while hydrated lime runs \$35 per ton. The practical use of fly ash in highway construction is now a goal of the FHWA.

Senator Towe noted that Pat Vinz of the Montana Energy Advisory Council had desired to testify about the need to use coal byproducts, but was unable to appear before the committee today.

Chairman Manning called for opponents of the bill. Mr. Jim Beck of the Department of Highways rose to offer amendments to the bill. He commented that this problem has been a court matter that he thought had been resolved to everyone's satisfaction. Mr. Beck suggested the following amendments: striking line 12 and inserting "the state agency should use coal byproducts whenever such byproducts are reasonably available and it is determined after engineering tests that they are suitable for some benefit within the scope of the project." At the end of section 2 the following would be added: "Publicity requirements are hereby waived for those state agencies already having such procedures." Mr. Beck commented that these amendments may help to determine what is reasonable and beneficial.

Homer Wheeler of the Department of Highways, Engineering Division, quoted figures from department projects as follows:

	Total mineral filler used	fly ash used	hydrated lime used
1973	16,032 Tons	8,832 Tons	7,200 Tons
1974	6,637 "	3,312 "	1,592 "
1975	4,484 "	2,859 "	1,648 "
1976	6,642 "	4,485 "	2,157 "

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Mr. Wheeler noted that the differences for the different years were caused mainly by the needs of the crushed aggregate of the various areas.

Mr. Wheeler noted that a report of Oscar Manz, a North Dakota professor who is heavily involved in the study of fly ash, in 1974 reported that nationwide in 1974 4,500 tons of fly ash were used and Montana used 3,312 tons of that total.

Mr. Don Copley of the Department of Highways commented that Mr. Leslie's report of the use of fly ash in this country included the use of fly ash in fills. There are some experimental projects which have been using fly ash in embankments. Fly ash is very dry and takes 20-26% more water. Another problem is that fly ash doesn't support vegetation and erodes very rapidly. So fly ash must be enclosed within an envelope of soil. The experiments on this type of use are still going on. Mr. Copley commented that North Dakota used a 50-50 mixture of fly ash and lime to stabilize the dirt. Their use was from an economic standpoint because the aggregate had to be hauled from Glendive because they didn't have any suitable for construction.

Mr. Terry Bass of the Montana Contrators Association said that he was opposed to SB 160, but that if the Highway Department amendments were accepted they would not oppose the bill. Mr. Bass said that one of the problems with this bill is that it doesn't just apply to highways, but to all state agencies involved in construction.

Senator Aber asked if fly ash could be used as sand in cement. Mr. Leslie answered that fly ash works in cement if a pozzolan is present, in other words, fly ash is used in cement if another substance is present that has cementing characteristics. Fly ash is also used in cement as a pumping agent. Other state highway departments use fly ash in concrete, this being a major use of fly ash. 1975 figures indicate that 21 tons of fly ash were used as a partial replacement for portland cement.

Senator Aber asked if using fly ash in cement made the cement more brittle. Mr. Leslie answered that they must use more of another additive for air entraining when fly ash is used, but it should stop the spalling off. As an example of a project in which fly ash was used in cementing, Mr. Leslie pointed to Hungry Horse Dam where fly ash was shipped in from Canada.

Senator Lockrem asked if there was a difference in the unit bid price per ton of filler between lime and fly ash. Mr. Wheeler answered that when the project is bid they usually don't know whether a mineral filler will be necessary or not until the contractor produces a stock pile of the aggregate. If a filler is not needed, then there is no specification for one; if the aggregate is not sufficiently fine, mineral filler will be specified. If hydrated lime is essential, then the Highway Department specifies the use of hydrated lime. If during construction it becomes obvious that

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something else is required then the Highway Department can change the specifications of the project.

Chairman Manning asked if there were any differences between the mountainous parts of the state and the plains in terms of the types of aggregates found. Mr. Wheeler answered that both the mountainous and the plains areas of the state have different aggregates and different needs. An experimental project is under way to determine the differences in aggregates in the different parts of the state. But for the most part they do not know before the project begins if a filler will be needed or not.

Senator Towe said that he would like to look at Mr. Beck's proposed amendments as they sounded acceptable to him. He was merely interested in encouraging the state agencies where possible to make an effort to use coal byproducts as they would save in energy needed in transport.

CONSIDERATION OF SENATE BILL 142: Senator Aber, chief sponsor of SB 142, explained to the committee that this bill does not derive any new money, it simply reallocates the funds that we have now. As a background, Senator Aber explained that when the law enforcement agencies combined to be on the same frequency, they made communications centers in almost every county in the state, thereby mandating twenty-four hour manning of these centers by the county. The smaller counties didn't need these centers, but the cost of running them fell on the counties. The Highway Patrol derived the most benefit from the centers but the patrol did not have any funds to help with the expenses of the centers. The Highway Patrol finally worked out this agreement with Senator Aber to give 20% of the fines not counting the \$5 fines, that the Highway Patrol collected back to the counties. The state will still reimburse the counties the \$7.50 per fine for the JP costs, but an additional 20% off the top will be left with the counties. Senator Aber reported that for his own county of Stillwater, the total amount of fines collected from January 1, 1976 to December 31, 1976 totalled \$25,298, not segregating the \$5 fines. 20% of this figure returned to the county for law enforcement communication purposes would really help to offset the expenses in keeping open the communication centers 24 hours each day.

Mr. Dean Zinnecker of the Montana Association of Counties testified that they were in support of SB 142 as most of the counties have the twenty-four hour stations manned for the patrol and the state should share the costs of these stations.

Captain Duane Tooley, the chief Examining Officer of the Highway Patrol testified that this communications system funding has been a problem since the system began. The need for communication will continue to increase and the counties will need to increase their services to provide communication from which the Patrol largely benefits. This 20% system seemed to be the best approach to the problem that the Patrol could come up with. The fines are usually proportional to the number of highway patrolmen in the area and hence the amount of use of the communication systems that the

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counties provide. Captain Tooley said that the committee might wish to put an upper limit on the total amount available to the counties from the fine kickback so that the fines would not exceed that cost of the communication system. An upper limit of \$25,000 would cover any foreseeable cost of the communication system.

Colonel Joe Sol, the chief of the Montana Highway Patrol testified that they had been notified that Missoula County needed \$17,500 from the Patrol for their share of the cost of the communication system or the county would discontinue service.

Mr. Curt Wheeling of the Department of Administration, Communication Division, testified that his department had worked closely with the Patrol on the project. The Department of Administration supports the concept of SB 142, but would offer one amendment: Should communication facilities of the Patrol improve in an area so that the county services are not needed, then the provisions of this bill no longer apply. In some areas the Patrol has its own system that is independent of the county systems. Such an example is Lewis and Clark County. The trend will continue as most of the larger counties will have separate Patrol systems.

Senator Aber commented that he would have no objection to either suggested amendment.

Chairman Manning asked if this applied to the dual contribution of the city and the county in some areas. Mr. Zinnecker answered that the systems are usually handled by the counties, but in consolidated systems, the counties would handle the distribution of funds for the system.

Captain Tooley commented that should the city provide funding the county would provide the city with some of the money received under this bill and the language of the bill provides for that.

Mr. Wheeling commented that most cities are developing their own systems of communication that can't be mixed with the Patrol as they are on a different frequency.

Senator Lockrem asked if there was a contradiction in the testimony of Captain Tooley concerning the system being a users system and the costs being proportionate to the use of the system and then saying that there needed to be an upper limit set on the amount of money that a county could receive from these payments. Captain Tooley answered that other bills in this legislative session would drastically increase the fines collected, and a county could have too many fines available. Normally the only other way to raise the fines would be to increase the number of patrolmen.

Senator Hazelbaker asked where the patrol maintained the 24 hour dispatch. Colonel Sol answered that there are six division points in the state where the patrol operates dispatch centers for 16 hours a day, 5 days a week, with the county providing the remainder of the service. But the only full time center is in Helena.

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Senator Aber asked if this bill would reimburse those six division centers for the full time or only the hours the patrol center is not in operation. Is there any way this bill protects for overpayment in such cases? Captain Tooley answered that this bill would give such counties their full 20% of the fines collected. Senator Aber asked if it would be possible to give counties only the 20% for the hours each week that they man the centers. Captain Tooley said that there was no way to tell the difference of when the fines were given without creating a tremendous amount of bookkeeping problems. If the counties must be available for any dispatch, then they must have the people and they therefore would be incurring the costs.

CONSIDERATION OF SENATE BILL 178: Senator Richard Smith of district 8, chief sponsor of the bill, explained to the committee that this bill by the request of the Department of Highways simply defines axle to stop the use of phony axles and yet allow the use of the legitimate tag axles.

Mr. Jim Beck of the Highway Department commented that the bill had been discussed previously by the committee and that the problem has come about because of the phony axles that were mounted so that the vehicle could legally carry more weight, when in fact the axles were nonfunctional on the highway. This bill says that axles must be capable of transporting the weight of the vehicle to the road.

Senator Smith said that this bill was necessary to get something on the books that would take care of the boat and trailer axles while still allowing the legitimate axles to be used.

CONSIDERATION OF SENATE BILL 147: In Senator Graham's absence, Chairman Manning asked that someone from the Highway Department explain the bill to the committee. Mr. Jim Beck testified that this bill was introduced for the Highway Department for the purpose of alleviating the enforcement problems with truckers, primarily grain trucks, that are hauling overweight. This bill would remove the privilege of going to the first scale if the vehicle is 7% over GVW. In 1974 the tolerance allowed was up to 5%, but in 1975 there were no penalties at all for violating that provision. There are problems with FHWA because the first scale provision is a technical violation of the Federal Highway Act, but there doesn't appear to be any reason to fear any federal action, although the threat is ever present. The 7% figure is one that everyone should be able to live with. If the truck is over 7% overweight, it will be subject to fine and does not receive the privilege of the first scale.

Mr. Copley of the GVW division of the Department of Highways said that SB 147 was requested to alleviate the enforcement problem that has existed since 1974. Some of the problems include: The argument as to whether there was a scale at the loading place; if there was a scale present that it was closed; the present language deals with a reasonable opportunity to check the weight which is vague; the shipping papers of the loading point are not always pre-

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sented.

Mr. Bob Holding of the Montana Wood Products Association stated that there were some loggers that had questions about this bill.

Mr. Gerald Neils of the Montana Logging Association stated that most loggers represented by him were now in a situation that when they delivered to the mills, the logs were weighed and paid for on the basis of weight, but the mills would not pay for the logs that were hauled in excess of the allowed GVW. So there is no incentive to be over weight. The problem exists in trying to determine the legal weight in the woods. Most loggers are hauling a variety of species of trees whose weight differs greatly. The electronic bunk scales on the trucks are subject to variation in accuracy depending on the truck's plain.

Some of the questions that the truckers had included the following questions asked by Mr. Neils and responded to by Mr. Copley of the Department of Highways:

1. Do truckers have to get legal when they are between the allowable weight and 7% over tolerance?  
Answer - Yes.
2. Does the 7% apply to the axle load weight or GVW?  
Answer - Total GVW.
3. When truckers exceed the 7% and are fined, what is the base weight, 78,000 pounds or 73,280 pounds?  
Answer - The gross for which the vehicle was licensed.
4. If the trucker exceeds the 7%, are his special route permits cancelled?  
Answer - No.
5. Are the fines graduated on an accumulated basis? If so over what period of time?  
Answer - I don't have that information here now, but there are graduated schedules followed now. There would be no change in that.
6. If the truckers are operating on restricted road limits does the 7% apply to the restricted load?  
Answer - Yes.

Mr. Holding commented that the logging industry was trying to do the best it could to police itself on the weight limits. But with the many adverse conditions, there are still violations.

Chairman Manning asked how long the truck bed scales had been in use. Harry Cheff of Canyon Logging in Columbia Falls replied that they had been out now for about three years. The problem is the connection between the cab and the trailer, for any moisture affects the accuracy of the scale. The scales can be off two to three to

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five thousand pounds. The Forest Service scales in the woods have been off up to 5000 pounds.

Senator Lockrem asked how they were able to reduce their loads if found overweight. Mr. Robert Lamley of Champion Timberlands in Missoula said that there were a couple of different methods used. If the logger is only a few hundred pounds off, they cut the butts off the logs. In some areas they are able to leave the log at the scale, tag it and claim it later. The problem comes on the interstate, for they can't leave the logs. They must cut them into small pieces and haul them away. If a truck is really found to be over weight, they can ever force him to bring another truck and loader out to take off the excess weight.

Mr. Neils said that there might be a logical solution to all of this in working out simple agreements with the scale masters. If the mistake is an honest one and the weight was not excessively over, they would be allowed to run. If the loggers were way over, they would be fined.

Senator Lockrem asked what happens on a cold day to their weight. Mr. Greil answered that they might carry 3000 pounds of ice, resulting in the mills getting some free logs.

Mr. Neils said that another problem existed which was peculiar to the short loggers having to do with front axle weights. Mr. Lawrence Mikesell commented that a definition of axle would help. He has the problem of constantly being over weight on his front axle only because he has a self loading vehicle and the boom is swung over the cab when the rig is on the road. He is forced to buy more GVWs and haul less just to be legal in front.

Senator Smith asked that the questions asked by Mr. Neils and the answers made by Mr. Wheeler be entered as part of the record. Senator Smith also requested that the letter and research paper referred to in testimony on SB 134 be entered in the record. (attached #1 & #2).

Chairman Manning thanked the witnesses for appearing.

DISPOSITION OF SENATE BILL 178: Senator Lockrem moved that SB 178 do pass, Senator Smith seconded the motion. The motion carried unanimously with Senators Graham, Hager and Etchart absent and not voting.

Adjournment: There being no further business, the meeting was adjourned at 11:02.

  
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DAVE MANNING, CHAIRMAN





SENATE Highways & Transportation COMMITTEE

BILL SB 142, 147, 160, 178

VISITORS' REGISTER

DATE 2/1/77

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Gerald Nicks	Montana Logging Assoc	147		
Robert A. McTearney	Montana Logging Assoc	147		
R. P. Laird	" " "	147		
Robert A. McTearney	" " "	147		
Robert Lamby	Champion Timberlands	147		
James W. Hill	Montana Logging Assoc	147		
Henry Chaff	Canyon Logging Co	147		X
John R. Chaff	LHC Inc.	147		X
John Leach	DOH	147/178		
Don Copley	DOH	147		
Homer Wheeler	DOHurs	160		
Dean Finnecke	Mt. Assn of Coi.	142	✓	
William Lurie	Montana Apiculture	160		
Duane Tooley	MHP	142	✓	
Joe R. Soli	MHP	142	✓	
Curt Wheeling	OOA Communications	142	X	
Bob Holding	MONTANA Wood Products Assn	147/178		

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

# STANDING COMMITTEE REPORT

February 1 19 77

MR. President

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration SENATE Bill No. 178

Respectfully report as follows: That SENATE Bill No. 178

DO PASS

OK.

Final Report

TRIAL MOTOR VEHICLE INSPECTION  
PROGRAM

LEWIS AND CLARK COUNTY MONTANA

1976

prepared by

Kenneth J. Tiahrt  
Statistical Center  
Montana State University  
Bozeman, Montana

for the

Montana Highway Traffic Safety Office  
Department of Community Affairs  
Helena, Montana



## HIGHWAY TRAFFIC SAFETY DIVISION

January 25, 1977

*Senator R. Smith*

## MEMORANDUM

TO: Senator Richard G. Smith  
Montana Forty-Fifth Legislature  
State Capitol

FROM: Albert E. Goke *A.E.G.*  
Administrator  
Highway Traffic Safety Division

SUBJECT: Trial Motor Vehicle Inspection Program,  
Lewis and Clark County, Montana 1976

During fiscal year 1976, in anticipation of legislation, either implementing or repealing Montana's current Periodic Motor Vehicle Inspection law, this Division requested and received approval for a budget amendment to conduct a trial inspection program aimed at documentation of vehicle conditions in our state. The trial program was conducted in Lewis and Clark County during the summer of 1976. The program was managed by Montana State University and actual inspections were conducted by personnel from the Helena Vo-Tech Center.

Attached is a copy of the final report which is currently being printed. The report compares data collected this past summer in Montana to available information from four other states.

Two major conclusions were made.

- a. Montana outage rates were always lower than those reported for California which has no Periodic Vehicle Inspection program.
- b. When compared to a composite outage rate for Pennsylvania, New Jersey and Washington, D.C. which have regular inspection programs, the rates for Montana were lower on some subsystems but never significantly higher.

Senator Richard G. Smith

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January 25, 1977

In view of these results, the Division has concluded that PMVI as envisioned in Montana and throughout the nation, has little chance of providing benefit to the public.

We are available to aid in your deliberations at any time.

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OSCAR KVALEN

PAT MC KITTRICK

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ROBERTA MOODY  
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ROBERT PERSON  
DIRECTOR, RESEARCH

February 1, 1977

TO: Senate Committee on Highways and Transportation

FROM: Bob Person *Bob Person*

RE: Importer's gas tax in neighboring states.

A question recently arose as to what our neighboring states did with regard to fuel taxes on motor fuels, especially gasoline, imported in vehicle fuel tanks. A quick check revealed the following information:

Colorado: A tax must be paid on all fuel used in Colorado, but fuel used in interstate commerce and 20 gallons or less imported in a car, bus, or truck tank are exempt.

Idaho: Exemptions are allowed for fuel imported in the tank of a motor vehicle in quantities not exceeding 30 gallons.

Nebraska: A tax is imposed on motor vehicle fuels brought into the state in vehicles having a supply tank of over 30 gallons capacity connected with the carburetor.

North Dakota: A 7¢ per gallon tax is imposed on all fuel imported for use in the state.

South Dakota: Fuel entering the state in a motor vehicle fuel tank of 40 gallons or less is exempt as is fuel used in foreign or interstate commerce.

Wyoming: Fuel in quantities not exceeding 20 gallons (50 gallons for a licensed common carrier) brought into the state in an ordinary gasoline supply tank is not taxed.

The reference I used gave no indication of enforcement techniques. (Source: CCH, State Tax Guide)