

MINUTES OF THE MEETING OF THE HOUSE JUDICIARY COMMITTEE  
February 6, 1981

The House Judiciary Committee was called to order by Chairman Kerry Keyser at 8:00 a.m. in Room 437 of the Capitol. All members were present except REP. CONN who was excused. REP. CONN arrived after presenting a bill in another committee. Jim Lear, Legislative Council was present.

HOUSE BILL 604 REP. NORDTVEDT, chief sponsor, stated the purpose of this bill is to submit to the qualified electors an amendment of the Montana Constitution to require elections, except primary elections, to be held within 22 days following payment or reporting of taxes. This will consolidate elections and hopefully more people will turn out to vote. There are three times when people pay their taxes, April for income taxes, and property taxes twice a year. This might have an impact on their awareness of candidates.

BILL TODD, Informed Taxpayers of Montana, was in favor of the bill. He read from written testimony. EXHIBIT 1.

There were no other proponents.

MARGARET DAVIS, League of Women Voters of Montana, was opposed to the bill. DAVIS gave written testimony. EXHIBIT 2.

WILLIAM L. ROMINE, Montana Clerk & Recorder, was opposed to the bill. ROMINE gave written testimony. EXHIBIT 3

ALAN ROBERTSON, Secretary of State's Office, was opposed to the bill. His office received a number of calls from clerks who were quite concerned about the bill. ROBERTSON commended Mr. TODD for his work on this. The concerns of the clerks were primarily uniformity of dates. When would the date be chosen and who would choose it? They are concerned with all the things that have to be done prior to elections. There would be a number of elections and how it would impact on their workload and the cost included.

In closing, REP. NORDTVEDT stated there is a misunderstanding of what would happen. It would not create another election. There is a universal agreement to consolidate elections. It is difficult to simultaneously change it to be in the constitution. There is a need for some type of constitutional guidelines.

REP. EUDAILY asked if the taxes would be paid on October 31 instead of November 30. The sponsor stated that would probably be the result. REP. EUDAILY asked why not change the date taxes are to be paid instead of changing election dates. REP. NORDTVEDT stated it can be approached that way.

REP. EUDAILY asked when property taxes are paid in the spring. TODD replied May 31. REP. EUDAILY stated school districts have to wait until almost June. School levies have to be in by August. It would

seem the school officials would not be happy with this bill since they cannot have the levies in April.

TODD stated he did talk to school boards. Every teacher he talked to agrees with him.

REP. EUDAILY stated more and more levies fail. If they lose the one in June they hardly have time to file another.

TODD replied what other place has the opportunity to have more than one election.

REP. EUDAILY stated he worked on an interim committee for two years. This idea was never brought to the committee. Where were the people who were in favor of this bill then? TODD replied if he would have known about the committee he would have been there.

REP. KEEDY stated the first assumption is that elected officials are untrustworthy until right before election day. REP. NORDTVEDT felt a more realistic view is near election time people are more responsible to the voters. There are tendencies for both voters and elected officials.

REP. SHELDEN asked if the budget process would be affected. The sponsor stated it would not affect it.

REP. YARDLEY stated doesn't the taxpayer pay property taxes before November. Normally the tax notice comes right before the election.

REP. NORDTVEDT stated if they are mailed out on time taxpayers usually receive the notices before election day. He received his in December.

There was no further discussion on House Bill 604.

HOUSE BILL 598 REP. ASAY, chief sponsor, stated this bill's purpose is to provide for the setting of a date for execution of a criminal defendant. The need for this arises from the cases of St. v. Coleman and St. v. Fitzpatrick. REP. ASAY read EXHIBIT 4 to the committee, a letter from the Attorney General's Office.

JOHN MAYNARD, Attorney General's Office, was in favor of the bill. MAYNARD stated the date of execution the court sets is not less than 30 days and not more than 60 days from when it is pronounced. The problem is any subsequent date is called into questions because the statute is vague. The purpose of the Attorney General's Office is to see that the law is enforced. When a sentence of death is pronounced it is done in immediate action. The litigation should be rapid. In the state of Arkansas, the governor sets the execution

date. In Montana, district court judges set the date. When a petition is filed then by rights it is moved to dismiss. In executing an appeal a national organization becomes involved. They raise questions that have not been raised before. Ninety days would allow the petition to be filed and decided by the court. The only deadline currently is six months for post conviction petition.

There were no opponents.

REP. ASAY closed the bill.

HOUSE BILL 583 REP. BURNETT, sponsor, stated this was to provide for offset of damages in a personal injury or wrongful death action. In the '77 session the governor vetoed the bill.

JERRY ZORDY, representing himself, mentioned the Senate changed the '77 bill and the bill never made it to the governor.

This bill would provide when someone brings law suit against another party, damages would be reduced by payments they have already received. For example, if someone is injured in a car accident, payment would be made by the insurance company. That person is then allowed to recover the money also from the person who caused the accident. If the injured person paid his own insurance he could collect twice.

If the person has made a contribution to the payment of his insurance and his place of employment paid the rest, he would be able to recover twice. The purpose is to eliminate duplication on payments. This would have a good affect on premiums of insurance causing lower costs to the public. This statute has been recommended by the Commission on Medical Liability Association.

There were no further proponents.

Opponent MIKE MELOY, Montana Trial Lawyers Association, stated the purpose of the bill is if you pay for a benefit and you recover from someone else's insurance company you are entitled to receive other benefits. The problem is in respect to collateral sources, some are paid for in one way or another by the individual who is recovering. MELOY stated if a worker is injured negligently he is entitled to worker's compensation. Worker's compensation has the ability to receive any money the injured party received from the insurance company. By receiving money and giving it back is eliminating the need for worker's compensation. In personal injury cases they now look to see how much the plaintiff was negligent and how much the defendant was negligent. If the plaintiff is 10% negligent the money is reduced by 10%.

REP. BURNETT closed the bill.

REP. YARDLEY asked about lines 19 and 20. ZORDY stated when you make contributions to your insurance the collateral is recovered, when you do not make payments it is not recovered. Someone who has paid should be able to recover from the additional source.

REP. YARDLEY asked if a distinction should be applied. ZORDY stated it is made in the bill.

REP. EUDAILY asked if the legislature wanted state health packages lines 19 to 21 would be involved. It was answered correct. If families are included the employee pays for the additional members.

REP. MATSKO stated if he paid his insurance one day and became employed the next day, and the employer paid for the insurance, his situation would be changed. It was replied the payment of the money would depend on your status at the time of the accident.

REP. HUENNEKENS stated in many cases the payment of insurance is an added benefit to the employee as part of his employment.

REP. EUDAILY asked if there would be a problem to eliminate lines 19-21. The sponsor stated if the committee could not accept those lines not to waste the time on the bill.

REP. KEYSER asked what programs were included in line 16. ZORDY was not sure but thought it included Medicaid and Medicare.

HOUSE BILL 595 REP. SIVERTSEN stated this would repeal the required speed limit. Amendments were handed to the committee. EXHIBIT 5. REP. SIVERTSEN felt the states should stand up for their rights and send a message to Washington D. C. to get off the states' backs. The federal government has been able to threaten the state to comply by saying they will take away federal highway funds. There have been no instances where the money has been withheld. Constitutionally they cannot withhold the money. REP. SIVERTSEN stated President Reagan supports the states' rights concept and so does the new Secretary of Transportation.

REP. SIVERTSEN stated the federal government claims the speed limit saves lives. When those statistics are broken down there is not as many lives saved as they want you to believe. It is interesting to note that 59% of the traffic fatalities were traveling under the speed limit of 55 mph.

As far as energy conservation, there have been many studies done that indicate not that much fuel is saved. REP. SIVERTSEN stated he was in Washington D.C. in the spring of '79 to talk with federal officials concerning the 55 mph speed limit. He stated we can put

a man on the moon yet cannot create a carburetor that is efficient. He feels it can be done and it has been. The U.S. Congress should take a realistic look at the energy crisis in the country. We should not use energy as an excuse to enforce this. It is costly to the public.

The states of Wyoming, Idaho, New Mexico, North Dakota and New York are introducing similar bills this session.

There were no proponents at this time.

LARRY A. TOBIASON, Montana Auto Association, was opposed to the bill. If this bill were passed then Montana would not have a speed limit at all. Many highways are in need of repair and construction and are not safe to travel at excessive speeds.

JIM BECK, Department of Highways, gave EXHIBITS 6 and 7.

ALBERT GOKE, Highway Safety, stated highway fatalities have declined sharply in 1974-75 when the law was instated. If the state had no speed limit today many people would probably drive at 55 mph anyway. The majority of drivers have accepted the 55 mph speed limit.

DENNIS DUNPHY, Attorney General's Office felt this is a bad bill. If the public is to send a message to Washington D.C. it will succeed to reduce federal spending - at least in Montana. DUNPHY stated if the speed limit were abolished then a conditional enactment of the law would result.

LARRY MAJERUS, Motor Vehicle Division, stated there would be no speed limit if this bill passed. He felt many of the 18-24 year olds would not be competent to drive at the excess speeds. Other states that are doing this have a savings clause that protects the state.

There were no further opponents.

Proponent, SENATOR GARY LEE, was allowed to give his views. He felt the only reason many people are not supporting the bill is because they are afraid of losing federal funds from the federal government. SENATOR LEE does not feel this issue is right. For the federal government to withdraw this money they must have a means to hold the money.

In closing, REP. SIVERTSEN referred to the amendments proposed. Primary and secondary highways would have a speed limit of 65 mph. At night on the interstate 65 mph would be enforced. He felt that if there is no speed limit on the interstate drivers will drive at a speed prudent and careful. He felt the states should not knuckle under to threats of the federal government.

REP. TEAGUE asked the background of the bill. REP. SIVERTSEN answered it passed in the house and was killed in the senate in 1977.

REP. TEAGUE stated in his district 75% of the people are for higher speed limits. GOKE stated he knew of two polls that took information on the speed limit. One poll indicated 54% of the people support the 55 mph. Montana Auto Association conducted a poll of their membership. Gallop polls indicate 75-80% of the people are for 55 mph, but this does not necessarily reflect Montana.

REP. TEAGUE was concerned about the threat by the federal government to withhold money. BECK stated it is not a threat, it is the law. If the state does not have 55 mph speed limit federal monies will not be approved for the state.

REP. SEIFERT asked what percentage of the budget is spent on administration and construction by the Department of Highways. BECK replied approximately 9% in administration and 15% in construction.

BECK indicated the highway commission can set speed limits in certain areas; but the Highway Department itself does not set any limits.

REP. EUDAILY asked if the state is in nonconformance. BECK said every year they have to send to the Secretary of Transportation data concerning studies of speed limit conformance in the state.

REP. EUDIALY asked if BECK has seen articles in the paper stating Montana does not comply and is likely to lose funds. BECK stated he has never seen anything like that. GOKE had not read the articles either.

REP. EUDAILY asked if the 55 mph speed limit was abolished would there be a law to go back to. DUNPHY stated it would be back to the old basic rule. REP. KEYSER stated that would be to drive in a careful and prudent manner depending on weather conditions, weight of the vehicle, and the road. At night there would be specific speed limits.

REP. BROWN suggested the removal of 61-8-305 from the bill. The sponsor stated it is up to the committee. A speed limit in Montana will help the highway patrol in directing traffic.

REP. KEYSER asked how many traffic fatalities occurred on the interstate within the last year. GOKE stated he has the information back at his department. They have it broken down by time of year, road condition, etc. Goke stated copies could be brought to the committee.

REP. IVERSON stated assuming the law is 55 mph are there statistics of average speeds actually traveled. GOKE replied the speed summary report.

REP. IVERSON asked how the information was compiled. GOKE replied it is a quarterly report. Times of the studies are controlled at a random selection, the weather could change in the middle of the testing. Highway department vehicles are used. REP. IVERSON wondered if the color of the cars used would make an on-coming car slow down.

That ended the discussion on House Bill 595.

HOUSE BILL 606 REP. O'HARA, chief sponsor, stated the purpose of the bill is to lessen crimes against the elderly by providing an increase of prison sentence created against people over 60. Most of the crimes committed against the elderly are physical and financial crimes. That is because senior citizens are more susceptible to physical harm because they cannot defend themselves as easily as younger people. Most senior citizens are on a fixed income. If someone steals money from them it might be a major setback for the elderly person. Six months mandatory required sentencing would be imposed on the criminal in addition to the normal sentence for the crime.

REP. O'HARA stated the Report to U.S. Subcommittee on Aging reveals the elderly the most vulnerable among all age groups. They suffer the most. The crimes against them should have stricter penalties.

GRACE HICKS, LISCA and American Association of Retired Persons, is in favor of the bill. The Montana Sheriff's Association has had peace officers put on programs to make senior citizens aware of crimes committed against them. HICKS stated one of the most popular crimes against the elderly are people who try to make the elderly person invest money into schemes and then leave town with the money. HICKS stated it is important to put strict laws in force for crimes committed against the senior citizens. She stated she is beginning to get scared. She lives in a low income project and will not walk down the street alone at all. She mentioned a woman was murdered there. HICKS stated most criminals get off "scott free" or if they are imprisoned they can get out in 90 days. But if the same was caught on a traffic violation he might get 5-6 years in prison.

There were no further proponents.

There were no opponents.

REP. O'HARA stated in closing, elderly people suffer more. All of them are on fixed incomes. It takes the elderly longer to heal if

they were beaten up. An elderly person can be permanently confined to a wheelchair or institution because of a beating.

REP. CONN asked if the language of the bill indicates provisions. REP. O'HARA would like the bill to go through as is.

REP. EUDAILY stated if House Bill 10 is passed it stated the age of 65 where this sponsor's bill is 60. REP. O'HARA replied he would like it to be 60.

REP. KEEDY asked what would prevent the judge from saying I want to give the criminal 20 years but I will give him 19 years and 6 months and add the other six months from this bill. REP. O'HARA stated there are ways to get around that.

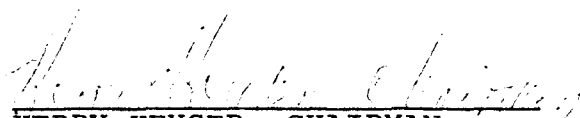
REP. HANNAH felt the judge would sentence the criminal 20 years and because it was a crime against an elderly person an additional penalty of 6 months would be imposed.

REP. EUDAILY stated some sentences can be deferred or suspended. REP. O'HARA stated this would be a mandatory six months. If a criminal were given 0 months to serve the additional 6 months would be served mandatory.

REP. HUENNEKENS asked if a senior citizen committed a crime against another senior citizen he would have the same fine. REP. O'HARA said yes.

There was no further discussion on House Bill 606.

The meeting adjourned at 10:50 a.m.

  
KERRY KEYSER, CHAIRMAN

mr



U.S. House of Representatives  
 Houshoun and Houshoun, C.M.C.  
 State Chairman  
 P.O. Box 2000  
 Billings, MT 59101

Don't complain about high taxes  
 unless you write complaint letters  
 to your Legislators and Congressmen.

Ignorance leads to tyranny

February 6, 1981

Mr. Kenneth Nordvedt  
 1000 N. 10th Street  
 Billings, MT 59101

Dear Mr. Nordvedt:

Dear Mr. Nordvedt:

This letter is written to support Mr. Nordvedt's bill to provide for a  
 Constitutional Amendment to have elections held directly after paying taxes.

This bill has been passed because of two problems: (1) we have too many  
 elections, particularly single issue elections, and (2) too few people vote.  
 This bill will provide solutions to these two problems: (1) combine the  
 elections, and (2) vote while the tax bill is still hurts. This bill is a special  
 interest legislation designed for the exclusive benefit of the largest special  
 interest group in the state or in the country, the taxpayers. The provisions of the  
 Constitutional Amendment are unconstitutional and only provides  
 for the sequence and timing of elections to have election days and tax days. Current  
 Montana laws require that elections be held before we pay our taxes. This Con-  
 stitutional Amendment will require that elections be held immediately after we  
 pay our taxes.

There may be some other benefits from this Amendment. Even though the wording  
 of the Amendment is very flexible, it will probably cause us to establish one  
 general election day in the spring and one general election day in the fall.  
 It will probably cause us to eliminate single issue elections and to con-  
 sider whether either the spring general election or the fall general election,  
 since single issue elections are looked upon by most taxpayers as wasteful spend-  
 ing and too often the voter participation is small. All of this adds more to  
 the taxpayers anger and frustrations. Also it will probably cause us to change  
 the dates for paying property taxes from May 31 and November 30 to April 30 and  
 October 31, which are the dates used by several States, including Minnesota and  
 Washington State. This also should cause more voter awareness of their ever  
 increasing property taxes. The amounts of wasteful spending at every level of  
 government, the increasing size and cost of our bureaucracy, and with this aware-  
 ness, would probably reduce voter apathy and voter boycotts. The government  
 officials, which want the approval of bond issues and mill levies will probably  
 need to give a more thorough explanation to the voters as to why they need the  
 money. This bill will also make it easier to lay good tax relief and other reform  
 legislation on the table after our Legislators have worked so hard to prepare them  
 and have them passed.

Why shouldn't we taxpayers pay all taxes just a few days before election day? These taxes include income taxes, social  
 security taxes, property taxes, school taxes, inheritance taxes, estate taxes, inventory taxes, corporation taxes.

Your answer: \_\_\_\_\_

House of Representatives  
Walter Underhill  
P.O. Box 2008  
Billings, MT 59104

Don't complain about high taxes  
unless you write complaint letters  
to your Legislators and Congressmen.

Ignorance leads to tyranny

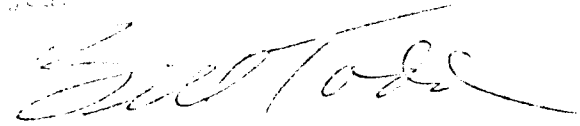
Page 2  
Representative Norval Nordveit  
February 4, 1981

The idea of voting immediately after we pay our taxes has received a lot of support with many influential people and the courts. Both in support of the bill to have federal taxes paid and local taxes, taxes paid in October just before the fall elections 1978, when April 15 was the deadline for paying last year's taxes. It will be re-introduced soon by Senator Frank Lautenberg. Our own Congressman Tom Hayden told me personally that he would like to get the bill through the House this session. I would like to send you a letter written to me, dated December 21, 1980, from the author of California's Proposition 13 - Dennis R. Hoag. I think there would be fewer if we were required to pay our taxes just a few days before election day. And imagine how much lower they'd be if we had to pay taxes just before election day. Also I have been appointed as the Montana representative to a National Taxpayers Advisory Council, with one representative from each state, which will meet with President Reagan in the near future to discuss taxpayer concerns and problems.

I like the song title "If you can't live, don't growl". It is much like "If you can't do something positive and effective about trying to correct problems (in government and elsewhere), don't complain". Someone once said, "There are some things that can't be done, and they are always bothered by those who find ways of doing it".

I would like to see your committee would look favorably on this bill. I will be happy to answer any questions.

Sincerely,  
Walter Underhill

  
Walter Underhill, Billings, MT.

WU:2008

Why shouldn't we taxpayers pay all taxes just a few days before election day? These taxes include income taxes, social security taxes, property taxes, school taxes, inheritance taxes, estate taxes, inventory taxes, corporation taxes.

Your answer: \_\_\_\_\_



League of Women Voters of Montana 6 Feb 81  
Margaret S. Davis  
917 Harrison, Helena, Montana 59601

HB 604 - opposed  
Amending Article IV, section 3, elections

The League of Women Voters of Montana is opposed to HB 604 for several reasons. Chiefly, we question burdening the constitution with a provision that could be accomplished by statutory law. Since 1971 we have supported the concept that the state constitution should be limited to fundamental law.

that

As to the substance of HB 604, we are concerned the citizens potentially would face six elections (2 generals, 2 primaries, 1 school, and perhaps 1 special election) every even year. By including the word "either" on page 1, line 25, it appears that the unit of government would have the option of choosing any one of the three time periods mentioned in this bill.

If the purpose of this bill is to increase the public's awareness of the relationship between its taxes and elected officials, we believe it would be of limited effectiveness. Citizens' interest in government finance is often highest during the period when state, local government, and school budgets are set. For the average homebuyer, property taxes are often paid out through escrow accounts and reported to them at year end. Renters may never be aware of real property tax assessments though they are of course affected. For many, vehicle license taxes have the biggest impact, and they are collected throughout the year.

Finally, the traditional November general election date has much to commend it, particularly considering Montana's weather (December) and its citizens' work and recreation habits (June).

*Margaret Davis*

NAME: William C. Romine DATE: 2-6-81ADDRESS: P.O. Box 1691 HelenaPHONE: 442-2220REPRESENTING WHOM? Mont. Clerks & Recorders.APPEARING ON WHICH PROPOSAL: H.B. 604DO YOU: SUPPORT?                      AMEND?                      OPPOSE? x

COMMENTS: There are many problems in having the general election in  
the fall coming within 22 days after taxes are due. By Fed. Law, the  
fall election for President & Congress is held on the first Tuesday  
following the first Monday in Nov. Therefore, there would be an election  
early in Nov for Federal offices and then another election in Dec  
December for state & local elections. The clerks would have to cancel the  
registration of those who didn't vote in Nov, which generally takes about  
30 days, which would not give those voters much time to re-register.  
Also, local legislators would not know who was elected until a few  
days before they took office. Finally, there have been more and  
more recounts in recent years, which would cause more delays.

Exhibit 4

STATE  
OF  
MONTANA

ATTORNEY GENERAL  
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59601 TELEPHONE (406) 449-2026

MEMORANDUM

TO: Representative Tom Asay  
Representative Michael Keedy

FROM: John Maynard, Assistant Attorney General

RE: HB 598 - Setting Execution Dates

DATE: 4 February 1981

HB598 arises out of my recent experience in two death penalty cases, State v. Fitzpatrick and State v. Coleman, both returned by the United States Supreme Court on October 6, 1980. Prior to that time, safeguards built into the current statutes ensured that the defendants in these cases would pursue their statutory remedies expeditiously.

Section 46-20-204(1), MCA, provides as follows

If an appeal is taken, a sentence of death shall be stayed by order of the trial court until final order by the supreme court.

(Emphasis added.) The final order in Coleman was issued on December 19, 1980, at which time he had ninety days within which to petition the United States Supreme Court for a writ of certiorari. The district court had, in its discretion, continued the stay it had imposed until final order of the United States Supreme Court. What this all boils down to is that in order to have his execution date stayed a capital defendant must take certain actions within certain statutory time limits up until the time the United States Supreme Court first declines to hear his case. At that time the situation changes.

Capital defendants still have statutory methods of attacking their convictions after the United States Supreme Court hears their cases, e.g. petition for postconviction relief. They do not, however, have any time limits within which they must initiate such proceedings. The only way in which the state can

compel them to initiate them without undue delay is by asking the district court to set a new execution date. At the present time new execution dates "must not be less than 30 days nor more than 60 days from the date the sentence is pronounced." HB598 would allow more flexibility for district courts in using execution dates to keep post appeal capital litigation moving through the courts expeditiously.

The two day limitation is included in contemplation of the time when the statutory review is exhausted and last minute stays are sought. If these last minute stays are granted, then waiting thirty days before a new execution date can be set is unreasonable.

The final sentence to be added is simply a requirement that the Montana Supreme Court has imposed but not published that the defendant be present with counsel when new dates are set. It should be included in the statute for purposes of notice.

Amendments to HB 595 - Proposed by Representative Sivertson

1. Title, line 7.

Following: "HOUR"

Insert: "ON INTERSTATE HIGHWAYS AND 65 MILES PER HOUR ON PRIMARY  
AND SECONDARY HIGHWAYS"

2. Page 2, line 13.

Following: "the"

Insert: "interstate"

3. Page 2, line 14.

Following: line 13

Strike: "of the state."

Insert: ";

4. Page 2.

Following: line 14

Insert: "(e) 65 miles per hour during daytime on the primary and  
secondary highways of the state."

§ 154. National maximum speed limit.

(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour, or (2) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (2) of this subsection shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(b) As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(d) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section.

NATIONAL MAXIMUM SPEED LIMIT

Sec. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

"(f) (1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

Exhibit  
6



Highway Safety Division  
Community Affairs  
State of Montana  
Capitol Station  
Helena, MT. 59601

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section will result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

"(i) (1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

"(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title."

# SPEED SUMMARY REPORT

Send to Office of Highway Planning 10/10/44  
Annual Report - Year Ending

September 30, 1980

STATE

Montana

State Code, District, Year

SYSTEM	CARD NO.	VMT WEIGHTED FACTOR	ADULTS	No. of SECTIONS	No. of VEHICLES OBSERVED	TEST SITE	PERCENT EXCEEDING 65 MPH	AVG.	MEDIAN	85th PERCENTILE	PERCENT EXCEEDING
INTERSTATE URBAN	12	0.0213	0.0354	0.04	0.02286	Free Flow					
	13					All Vehicle Factor					
	14					All Vehicles	0.5311	0.560	0.5190	0.6120	0.0315
INTERSTATE RURAL	22	0.131611	0.098440	0.110	0.0516816	Free Flow					
	23					All Vehicle Factor					
	24					All Vehicles	0.664	0.581	0.5780	0.6350	0.094
MULTI LANE DIVIDED	32	0.002	0.00102	0.04	0.01649	Free Flow					
	33					All Vehicle Factor					
	34					All Vehicles	0.3796	0.5330	0.5330	0.5012	0.0217
MULTI-LANE UNDIVIDED	42	0.0111	0.00201	0.04	0.01712	Free Flow					
	43					All Vehicle Factor					
	44					All Vehicles	0.453	0.5490	0.5510	0.6000	0.024
TWO LANE RURAL	52	0.6103	0.75186	0.45	0.14133	Free Flow					
	53					All Vehicle Factor					
	54					All Vehicles	0.531	0.5600	0.5590	0.6180	0.0514
STATEWIDE TOTALS	64	1.0000	0.85683	0.67	0.25466	All Vehicles	0.578	0.5670	0.56160	0.62140	0.27001618

tary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met. Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year.

#### § 105. Programs.

(a) As soon as practicable after the apportionments for the Federal-aid systems have been made for any fiscal year, the State highway department of any State desiring to avail itself of the benefits of this chapter shall submit to the Secretary for his approval a program or programs of proposed projects for the utilization of the funds apportioned. The Secretary shall act upon programs submitted to him as soon as practicable after the same have been submitted. The Secretary may approve a program in whole or in part, but he shall not approve any project in a proposed program which is not located upon an approved Federal-aid system.

(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.

(c) In approving programs for projects on the Federal-aid primary system, the Secretary shall give preference to such projects as will expedite the completion of an adequate and connected system of highways interstate in character.

(d) In approving programs for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials with the concurrence of the State highway department of each State and, in urbanized areas, also in accordance with the planning process required pursuant to section 134 of this title.

(e) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other official authorized by the President to make such recommendation.

(f) In approving programs for projects on the Federal-aid systems pursuant to chapter 1 of this title, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports, public ports for water transportation, new town communities, and new town-in-town communities, and in approving such programs the Secretary shall give consideration to such projects.

#### § 106. Plans, specifications, and estimates.

(a) Except as provided in section 117 of this title, the State highway department shall submit to the Secretary for his approval, as soon as practicable after program approval, such surveys, plans, specifications, and estimates for each proposed project included in an approved program as the Secretary may require. The Secretary shall act upon such surveys, plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction on (1) the Federal-aid secondary system, except in States where all public roads and highways are under the control and supervision of the State highway department, and (2) the Federal-aid urban system, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.

(c) Items included in any such estimate for construction engineering shall not exceed 10 per centum of the total estimated cost of a project financed with Federal-aid highway funds, after excluding from such total estimate cost, the estimated costs of rights-of-way, preliminary engineering, and construction engineering. However, this limitation shall be 15 per centum in any State with respect to which the Secretary finds such higher limitation to be necessary.

(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis.

## VISITORS' REGISTER

HOUSE                      Judiciary                      COMMITTEE

BILL 595

Date 2/6/81

SPONSOR Sivertsen

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Judiciary

COMMITTEE

Date 2/6/81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE JUDICIARY COMMITTEE

Date 2/6/81

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

HOUSE JUDICIARY COMMITTEE

BILL 583

Date 2/6/81

SPONSOR Burnett

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Judiciary

HOUSE

COMMITTEE

BILL 604

Date 2/6/81

SPONSOR Nordtvedt

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.