

MINUTES OF THE MEETING
HIGHWAY AND TRANSPORTATION COMMITTEE
MONTANA STATE SENATE

March 14, 1981

The Eighteenth meeting of the Highways and Transportation Committee was called to order on the above date in Room 410 of the State Capitol Building by Chairman Mark Etchart at 1:00 p.m.

ROLL CALL:

Present: Senator Mark Etchart, Senator Tom Hager, Senator Roger H. Elliott, Senator Larry J. Tveit, Senator Carroll Graham, Senator Lawrence G. Stimatz. Absent: Senator Frank W. Hazelbaker, Senator Jack Healy. Excused: Senator Dave Manning.

CONSIDERATION OF HOUSE BILL NO. 595:

Representative Sivertsen, Chief Sponsor of HB595 told the committee this is an act to repeal the requirement that the attorney general declare speed limits as a condition to receiving federal highways funds; to increase the speed limit to 70 miles per hour on Interstate Highways and 65 miles per hour on primary and secondary highways.

He told the committee the federal government is spending a lot of money on the enforcement of the 55 miles per hour speed limit. They contend that this is saving energy and lives. If you break those figures down, you will find that it has not been that significant. There are fourteen other states that are considering legislation such as this. Wyoming has killed their bill, this session, but not because it was unpopular. The reason the bill is dead is because of political squabbles. I have been working with these other states for a number of years so that we could have a joint effort to repeal the 55 miles per hour speed limit and go to Washington D. C. to ask Congress to do likewise. I guess you can agree or disagree with the federal government mandating the 55 miles per hour speed limit. I don't happen to agree that it was legal for them to impose this on us. We had nothing to say about it. And, since that time, we have been trying to enforce this law that was imposed upon us. It has been very costly to the government. In 1979, up to \$56,000,000 was used to enforce that law. And other monies have been used too. There were pleas to get private funds, that totaled more than that amount. If you are interested in saving more lives and energy, perhaps that money could be better spent and more wisely. The federal government is holding over our heads the fact that they will and shall withhold some of our highway dollars if we repeal this law. This is a states rights

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issue. The state should get the states rights back. I guess the biggest argument against this bill, if we adopt it, is that we will stand a chance of losing our federal funds. It depends on how you look at it. President Reagan favors letting this go back to the states. In his executive address, three weeks ago, he stated therein that he would not appropriate any monies for the 55 miles per hour speed limit. It is up to the U. S. Congress, and they are leaning more in this direction, also. I think if the states would hold together on this issue, and indicate to the U. S. Congress that we can handle this situation on a state or local level, that they will listen to us.

James R. Beck, representing the Department of Highways, spoke in opposition to HB595. HB595 introduced by Sivertsen and others would repeal the daytime 55 m.p.h. speed limit and substitute therefore a speed limit of 70 m.p.h. on the interstate system and a 65 m.p.h. limit on primary and secondary highways. The enactment of this bill would have a profound impact upon the Montana Department of Highways.

The National 55 m.p.h. speed limit was enacted by Congress and is the law. Section 154 of Title 23, United States Code Annotated provides in part:

"(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,****"

Section 106, United States Code Annotated referred to above requires that for every proposed federal-aid project the state shall submit proposed plans, specifications and estimates (P.S. & E.) to the Secretary for approval. Until these are approved there is no method whereby the State can receive federal-aid funds for the highway project.

The net effect of the failure to obtain future P.S. & E. approval is to deny the state of Montana federal-aid for future highway projects. As this committee is aware the Interstate Program of the Department of Highways is funded on a 90% - 10% ratio and most of the others on a 75% - 25% ratio. Overall the construction program of the Department is about 80% federally funded. In fiscal year 1981 the total federal-aid apportioned to Montana was \$82,851,161.00 All of the apportionments for fiscal year 1982 will not be made until next October.

The argument that there has been a change in Washington and that the present Administration will not penalize Montana if this bill is passed ignores the wording of the law. The national 55 m.p.h. speed limit statute does not allow the

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Secretary any discretion in the matter. The law is very specific. "The Secretary of Transportation shall not approve***"

While it may be that the present administration in Washington is in sympathy with the provisions of HB595, nevertheless they are committed to upholding the law. Mr. R. A. Barnhart, the President's appointee as Federal Highway Administrator on February 18, 1981, sent a memo to the Administrator of the Montana Division of the Federal Highway Administration. In his memo Mr. Barnhart states, in reference to 23 U.S.C. 154(a):

"There is no discretion under this provision to continue project approval to any state which does not have an established maximum speed limit of 55 m.p.h.*****"

Mr. Barnhart advised as follows:

"Please meet with the appropriate transportation officials in your state and reemphasize the mandatory nature of the law so that they can communicate the consequences of legislative action to the Governors and legislatures.*****"

Mr. Beck gave each committee member a copy of Mr. Barnhart's memorandum.

In closing, Mr. Beck said, in the last year or so the legislatures of nine states (Arizona, Wyoming, Connecticut, Georgia, Idaho, Mississippi, Nebraska, Utah and Virginia) have considered changing their speed limits to exceed 55 m.p.h. In every instance their legislation has failed to pass. The legislatures of those states, no doubt, realized the consequences of such action.

Senator Gary Lee, Senate District 17, spoke as a proponent to this bill. He told the committee he has been an opponent of the 55 m.p.h. speed limit since its conception. The contention of those supporters that it saves lives and saves gas, are based on shaky ground. The consumption of fuel decreases on the interstate highways, which are fuel efficient. Also, they are driving smaller cars. Less fatalities is a good argument, but I don't think you can prove you have had less people actually die because of the 55 m.p.h. speed limit. We still have a lot of crimes and violent deaths. I have noticed an increase in air fatalities since this law went into effect. We have made it so that these individuals have to fly in order to get to their destination quickly. We will still see an increase, as long as people are held back in their use of the highway systems. I take great offense at the assumption that I am an unsafe driver and that I am threatening to cripple and kill people if I drive over 55 m.p.h. The only argument to not passing this bill, is that we could possibly lose federal money.

There is no real way of knowing if our funds will be cut back or not. The federal government cannot give us anything it has not taken in the first place. It is very evident that individuals are having a hard time paying the 12 cent gas tax. What is the use of finishing these highways if we can only drive 55 m.p.h. I urge you to pass HB595.

Senator Lee introduced a letter from S. R. "Pete" McEwen, and read it to the Committee. See Exhibit "A".

Senator Etchart asked if there were any other proponents to HB595. There were none.

Senator Etchart asked if there were any opponents to HB595.

Harold Paulsen, representing the Montana Highways Users, told the committee they oppose HB595. We withstand to lose funding on the interstate and primary systems, and we feel this is too risky. I personally concur with Senator Lee and Representative Sivertsen. I think that states rights are important. But, it is the law of the land. There has been a lot of talk about the enforcement of the 55 m.p.h. speed limit. Funding Sanctions would be implied against states that would raise the limits or not enforce them. Our board members feel this is too risky. We have 90 miles to complete on the interstate system at two million dollars per mile.

Larry Huss, representing the Montana Contractors Association, told the committee they oppose the bill. We feel the loss of federal funding and the decline to construct new highways in Montana would severely hurt the state. It is important that the 55 m.p.h. speed limit be left in force. It also promotes fuel efficiency and highway safety.

Larry told the committee he also represents the Montana Motor Carriers Association, and they also oppose this bill. They spend 90% of their time on the open highway, and they are running at constant speeds. The fuel savings is considerable. For every mile per hour over the speed limit of 55 m.p.h. the motor carrier increases his cost about 2% on his fuel for a given year. The 55 m.p.h. speed limit is a good management tool to use. We hope it will stay in force.

Bob James, Attorney representing the State Farm Insurance Agency, told they committee they oppose this bill. He passed out two brochures. The first, a mid-year report, July 1980, on the 55 mph speed limit, and second "Insurance Backgrounder" on the Federal 55 m.p.h. speed limit: Lifesaver or Nuisance? He urged the committee to take the time and read these, even though they are lengthy. He told them State Farm is strickly opposed to the bill, for several reasons. The first reason

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is conservation. The second, safety. I think if this bill passes you will have increased fatalities, and an increase in the number of serious injuries. You are going to have more accidents. You are going to have more insurance claims. There will be an increase in insurance premiums. Since January of 1974, they have done various studies relating to the 55 m.p.h. speed limit. The fatality rate has decreased about 16%. They attribute half to the 55 m.p.h. speed limit and half to the new safety measures on cars. It is estimated that 4,500 lives per year are saved by the 55 m.p.h. speed limit. I think it is important to realize the safety in slower speeds. Your chances of being killed are one to four if you are going 55 m.p.h. If you increase your speed from 55 to 60 m.p.h., it doubles, and it doubles again from 60 to 70 m.p.h. (Page 5, Figure 3, Fatality Rates by Highway Types.) He asked the committee to refer to the graphs and he explained them in detail. One of the death rate arguments is that we have wide open spaces and those highways are safe. The fact is, that the death rate is higher in western states. The fact is that speed kills, and it kills more often in western states. If you drive a smaller car, the death rate increases. Small cars are not as safe as larger cars. The survival space is less in a small car. 85% of all fatalities are occupants of small cars. Slower speeds reduce seriousness of injuries. Spinal cord injuries are down 60% to 70%. Head trauma injuries were reduced by 90,000 per year, according to the American Epilepsy Association. There will be more accidents, more injuries, more fatalities, more claims, more property damage. This bill will also have an increased liability on the State of Montana. Assuming that you have more accidents, you will have to assume that some of those accidents will involve state vehicles. The state could be sued, and I think the committee should consider that. If this passes, the liability of the state increases. The public does not support this bill. In 1979, more than one-half of the drivers obeyed the speed limit. The average speed was 55.8 miles per hour. It was 58.3 miles per hour in rural areas. On the rural interstate 10% go over 55 miles per hour. You will never get 100% compliance with the 55 m.p.h. speed law. 75% go under 60 m.p.h. Most people think they are in compliance with the law at 60 m.p.h. I urge you do not pass this bill.

Albert Goke, representing the Highway Traffic Safety Division of the Department of Highways, said they oppose this bill. He passed out a set of charts and graphs relating to highway safety. See "B". Mr. Goke went over the graphs in detail. He wanted the committee to understand that Montana could in fact be in a position to be sanctioned, if we do not support the 55 m.p.h. speed limit law.

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Dennis Dunphy, State Capitol, Office of Attorney General, said they oppose this bill. They would like to register their opposition both for what this bill does and what this bill does not do. This is an issue of states sovereignty. Those issues I will not discuss. We are here to advise the legislature of state of the law. There is an argument that goes along these lines; the legislature can change the speed limit law without losing \$85,000. No, the law is clear, the federal statute is mandatory. The committee should be aware of the fact that the Secretary of Transportation cannot ignore the law.

Mr. Dunphy passed out a letter he wrote to John G. Womack, General Counsel, National Highway Traffic Safety Administration, in Washington D. C., regarding the Federal Aid Highway Act Funds -- in Montana. The letter in part stated that there is presently pending before the Montana Legislature an act (HB595) which, if approved in its present form, would eliminate the 55 mile per hour speed limit in Montana. I would like your response, on behalf of the Department of Transportation, to the following inquiry:

Whether, under existing federal law, the Secretary of Transportation will approve construction projects in Montana funded by authority of the Federal Aid Highway Act if the Montana Legislature repeals the 55 mile per hour speed limit in this state.

While I understand that the Reagan administration may propose legislative changes in this area to the 97th Congress, my question is directed to the Secretary's options under the law as it now reads.

In response, Mr. Womack, replied, Section 154 of Title 23, United States Code, states that the secretary "shall not approve any project under section 106 (23 U.S.C. 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....." The language used in this section is unequivocal in directing the secretary to withhold his approval.

If this is passed, we will be ripping up a check for money received for highway construction. He then passed out a copy of the Montana Law, 61-8-305, (2) "The attorney general shall terminate by proclamation any speed limit proclaimed under 61-8-304 whenever such a speed limit is no longer required by federal law as a condition to the states continuing eligibility to receive funds authorized by the federal-aid Highway Act of 1973 and all acts amendatory thereto or by any other federal statute."

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Mr. H. M. Wordal, from Helena, MT, representing himself, told the committee he is opposed to HB595. In reading over the bill he noticed that it does not specify that a person has to travel at any particular speed. And, there is no penalty attached to this bill. When you travel at 70 m.p.h., you use up more fuel than you do at 55 m.p.h. He had his wife read an article from the Reader's Digest. See Exhibit "C".

Larry Majerus, representing the Montana Highway Patrol, Motor Vehicle Division, said they oppose this bill. I would only add, that if you raise the speed limit, we would have to give a lot more consideration to what that would be. 65 m.p.h., in many instances is too much, much too high. There are a lot of bad roads in this state, that we have high fatalities on now. A lot of frontage roads would fall into this category. You have a serious obligation to consider what speed limits should be. There are no sanctions against the state in Federal law for repealing this act. The law says, "shall not approve, shall not fund". The sanctions apply to enforcement of the act.

Senator Tveit asked the people in the room if all of them testified at the House hearing. Most of them replied yes.

Senator Tveit asked if anyone knew how many federal dollars came into this state last year.

Jim Beck told him \$80,000,000 apportionment every year. In 1979 and 1978, we got extra money, called Interstate Discretionary Funds. We got \$100,000,000, plus, in federal funding.

Senator Tveit asked how many miles of road were built last year.

Mr. Beck said he was not sure, but he could get that information for them.

Senator Etchart asked anyone who could answer, if the higher cost of fuel might have something to do, or be a contributing factor in less fatalities.

Mr. James, said, yes, definitely, when costs go up, less people drive.

Representative Sivertsen told the committee there were a number of years, from 1955, in the State of Montana, where we have seen a decline in fatalities, such as an economic recession. The Department of Transportation has changed their methods by which they compile this data, many times. In 1975, anyone who died, was used in the years death total. Then in the fall of 1975, they changed that to only one

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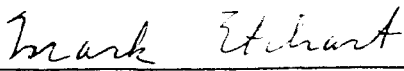
month. I can show this committee how they compile these figures, if you want to take the time.

Representative Sivertsen in closing stated that the Federal Government imposes this on us. It is an attempt by the Federal government to control everything we do in this state. The Reagan team has said that he is not going to appropriate any money for enforcement of the 55 m.p.h. speed limit. Can you expect us to try to enforce a federal government mandate with no appropriation. It is something that we need to pursue. It is going to be costly to enforce. The cost during the next ten years will be \$676,000,000. As I said, in 1979, Carter appropriated up to 56,000,000 and that did not include all of it. I urge you to pass this bill.

There being nor further testimony or questions, the hearing was closed on HB595.

ADJOURNMENT:

The meeting adjourned until Tuesday, March 17, 1981, at 1:00 p.m.



Senator Mark Etcahrt
Chairman

cdf

ROLL CALL

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/14/81

NAME	PRESENT	ABSENT	EXCUSED
SENATOR MARK ETCHART	✓		
SENATOR TOM HAGER	✓		
SENATOR FRANK W. HAZELBAKER			
SENATOR ROGER H. ELLIOTT	✓		
SENATOR LARRY J. TVEIT	✓		
SENATOR DAVE MANNING	Excused		✓
SENATOR CARROLL GRAHAM	✓		
SENATOR JACK HEALY			
SENATOR LAWRENCE G. STIMATZ	✓		
VERDON - Legislative Council			

Each day attach to minutes.

DATE _____

COMMITTEE ON //

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos.
Am. Nardal	Self	595		X
Howard Nardal	Self	✓		X
Bob James	State Farm	595		✓
Emlyn Blynn	Self	595	✓	
STEPHEN C. JOHNS	SELF	595	✓	
Alberd Goke D.K.	Highway Traffic Safety			✓

NAME: J. A. Beck DATE: _____

ADDRESS: 2701 Prospect

PHONE: 449-2584

REPRESENTING WHOM? U.S.

APPEARING ON WHICH PROPOSAL: 1 B 545

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

HOUSE BILL NO. 595

House Bill No. 595 introduced by Sivertsen and others would repeal the daytime 55 m.p.h. speed limit and substitute therefore a speed limit of 70 m.p.h. on the Interstate System and a 65 m.p.h. limit on primary and secondary highways. The enactment of this bill would have a profound impact upon the Montana Department of Highways.

The national 55 m.p.h. speed limit was enacted by Congress and is a law. Section 154 of Title 23, United States Code Annotated provides in part:

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Section 106, United States Code Annotated referred to above requires that for every proposed federal-aid project the state shall submit proposed plans, specifications and estimates (P.S. & E.) to the Secretary for approval. Until these are approved there is no method whereby the State can receive federal-aid funds for the highway project.

The net effect of the failure to obtain future P.S. & E. approval is to deny the State of Montana federal-aid for future highway projects. As this committee is aware the Interstate Program of the Department of Highways is funded on a 90% - 10% ratio and most of the others on a 75% - 25% ratio. Overall the construction program of the Department is about 80% federally

funded. In fiscal year 1981 the total federal-aid apportioned to Montana was \$82,851,161.00. All of the apportionments for fiscal year 1982 will not be made until next October.

The argument that there has been a change in Washington and that the present Administration will not penalize Montana if this bill is passed ignores the wording of the law. The national 55 m.p.h. speed limit statute does NOT allow the Secretary any discretion in the matter. The law is very specific. "The Secretary of Transportation shall not approve * * *"

While it may be that the present administration in Washington is in sympathy with the provisions of H.B. 595, nevertheless they are committed to upholding the law. Mr. R. A. Barnhart, the President's appointee as Federal Highway Administrator on February 18, 1981, sent a memo to the Administrator of the Montana Division of the Federal Highway Administration. In his memo Mr. Barnhart states, in reference to 23 U.S.C. 154(a):

"There is no discretion under this provision to continue project approval to any State which does not have an established maximum speed limit of 55 m.p.h.* * *"

Mr. Barnhart advises as follows:

"Please meet with the appropriate transportation officials in your state and reemphasize the mandatory nature of the law so that they can communicate the consequences of legislative action to the Governors and legislatures.* * *"

A copy of Mr. Barnhart's memorandum is attached.

In the last year or so the legislatures of nine states (Arizona, Wyoming, Connecticut, Georgia, Idaho, Mississippi, Nebraska, Utah and Virginia) have considered changing their speed limits to exceed 55 m.p.h. In every instance their legislation has failed to pass. The legislatures of these states, no doubt, realized the consequences of such action.

JRB:snk:8H

memorandum

Subject: 55 MPH Speed Limit

Date: February 18, 1981

From: Federal Highway Administrator

Reply to
Attn. of: HCC-20

To: All Associate Administrators, Regional Administrators,
and Division Administrators

The first quarter of the calendar year (January-March) is an important time of the year with respect to those provisions establishing the National Maximum Speed Limit - 55 m.p.h. (23 U.S.C. 154), as State legislatures meet during this period. Each year bills are introduced in the various States to amend provisions of the law at the State level, including repeal of the 55 m.p.h. limit by establishing a higher limit, by amending the penalty provisions (fines and points) and by prohibiting various methods of enforcement (radar or airplanes). Many of these bills are acted upon with an incomplete understanding of the law.

Title 23 U.S.C. 154(a) provides for the establishment of a 55 m.p.h. speed limit. The law is clear and unequivocal in this respect and states as follows:

(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

There is no discretion under this provision to continue project approval to any State which does not have an established maximum speed limit of 55 m.p.h. Although violation of this provision does not result in an immediate loss of funding, it does result in the immediate termination of project approval which will ultimately result in the loss of Federal aid. In the past, we have responded to inquiries from the States on the financial penalty by utilizing the total amount of unobligated balance in a State as the potential amount of dollar loss.

Please meet with the appropriate transportation officials in your State and reemphasize the mandatory nature of the law so that they can communicate the consequences of legislative action to the Governors and legislatures. If you are contacted by the media or legislative officials, it would be appropriate to reference the law. All legislative proposals should continue to be forwarded to the Office of Chief Counsel for review.


R. A. Barnhart

HAWK ELECTRIC & PLUMBING SUPPLY, INC.

4058 - 10TH AVE. SOUTH
GREAT FALLS, MONTANA 59401

PHONE 761-5410

March 13, 1981

Senate Highway Committee
Attn: Senator Gary Lee
Box 112 Capital Station
Helena, Montana 59620

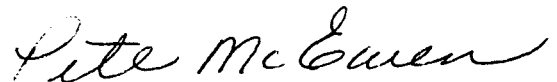
Dear Senators,

Keep in mind the vast distances a businessman has to travel to serve the state of Montana. Hampering speed laws and fines are detrimental to the people in the retail business as well as people in service. Virtually, there is no rail transportation left in our state and air transportation is very sparse. In a lot of cases, travelling by car or truck is the only way to service accounts or branch stores. So, keep in mind we need reasonable speed laws and fines. The DWI driver is the one to be concerned about. I travel twenty to thirty thousands of miles a year and I see people breaking these laws from the standpoint of intoxication and the abuse of alcohol. Don't be misled by organizations who are declaring that high speeds kill. We know the miles travelled over the last five years are less but yet our death rate is up each year. Since 1975 the speed limit has been 55 mph.

Get to the crutch of the problem, which is alcohol; not speed.

Thank-you, for your consideration.

Sincerely,



S.R. "Pete" McEwen

SRM/dl

WHOLESALE, ELECTRICAL AND PLUMBING SUPPLIES

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

Interstate & Kresnay System

Too risky

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE :

3-14-81

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

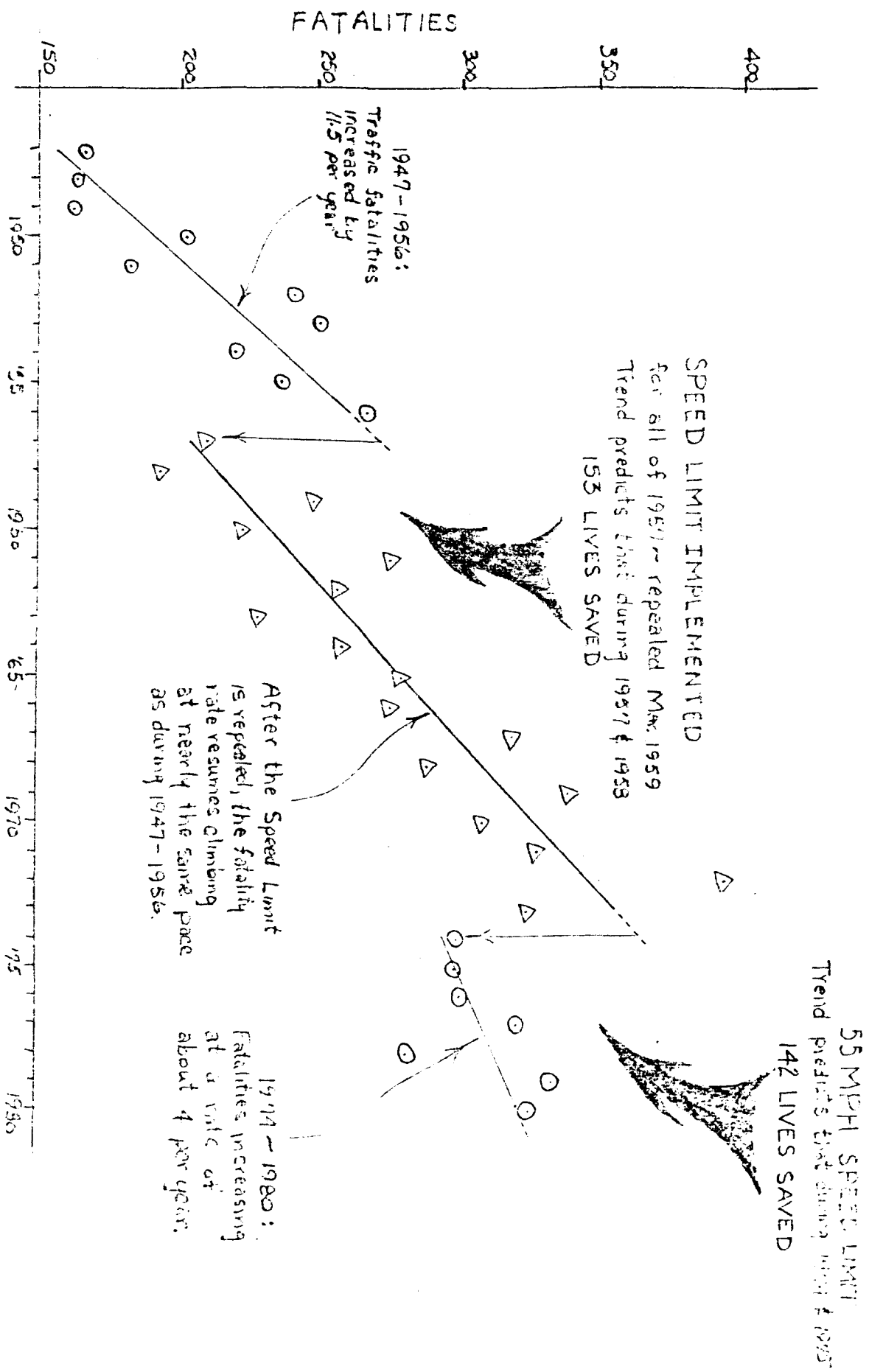
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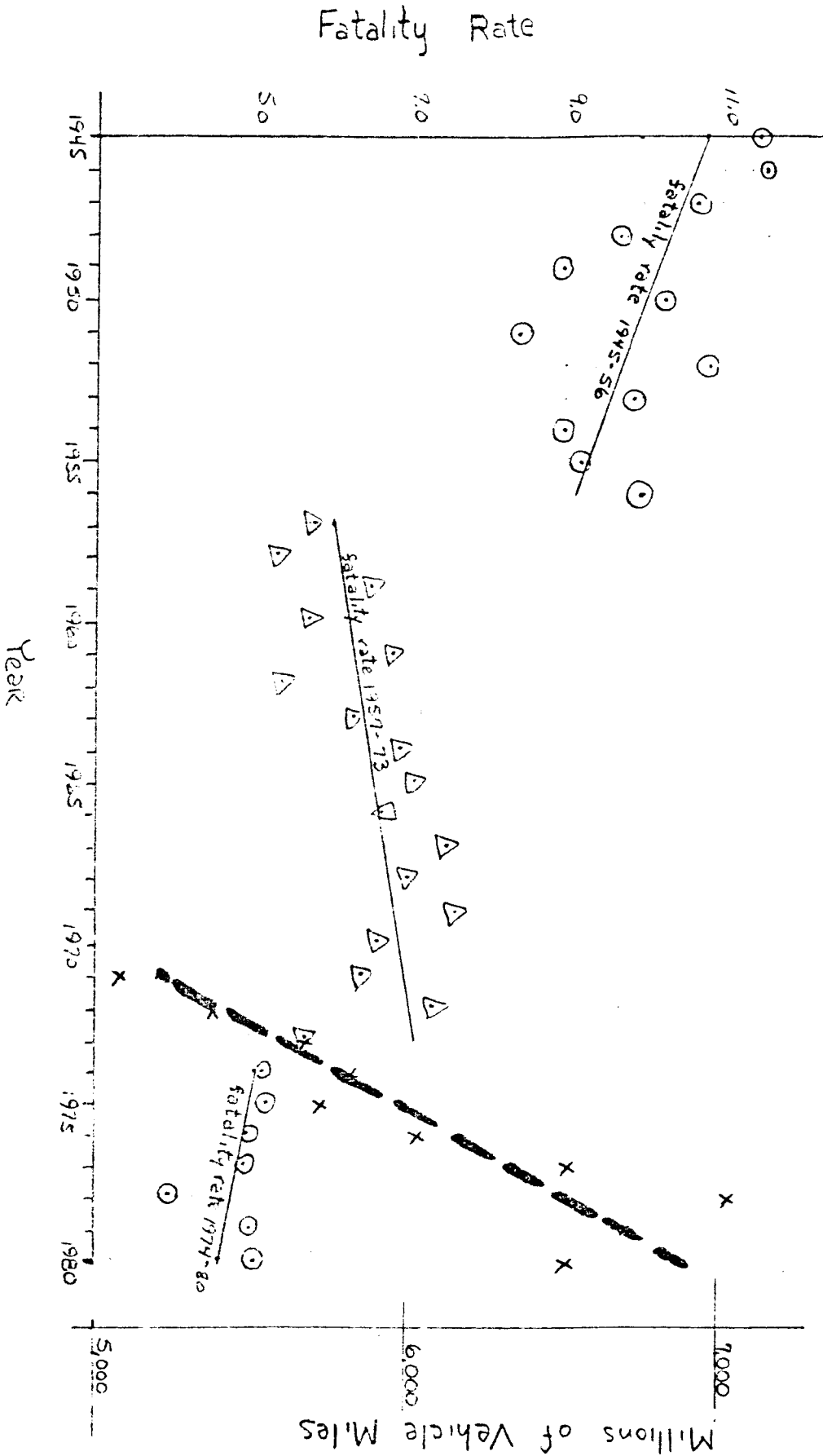
Effects of Speed Limits on Traffic Fatality Trends in Maryland from 1947 to 1980

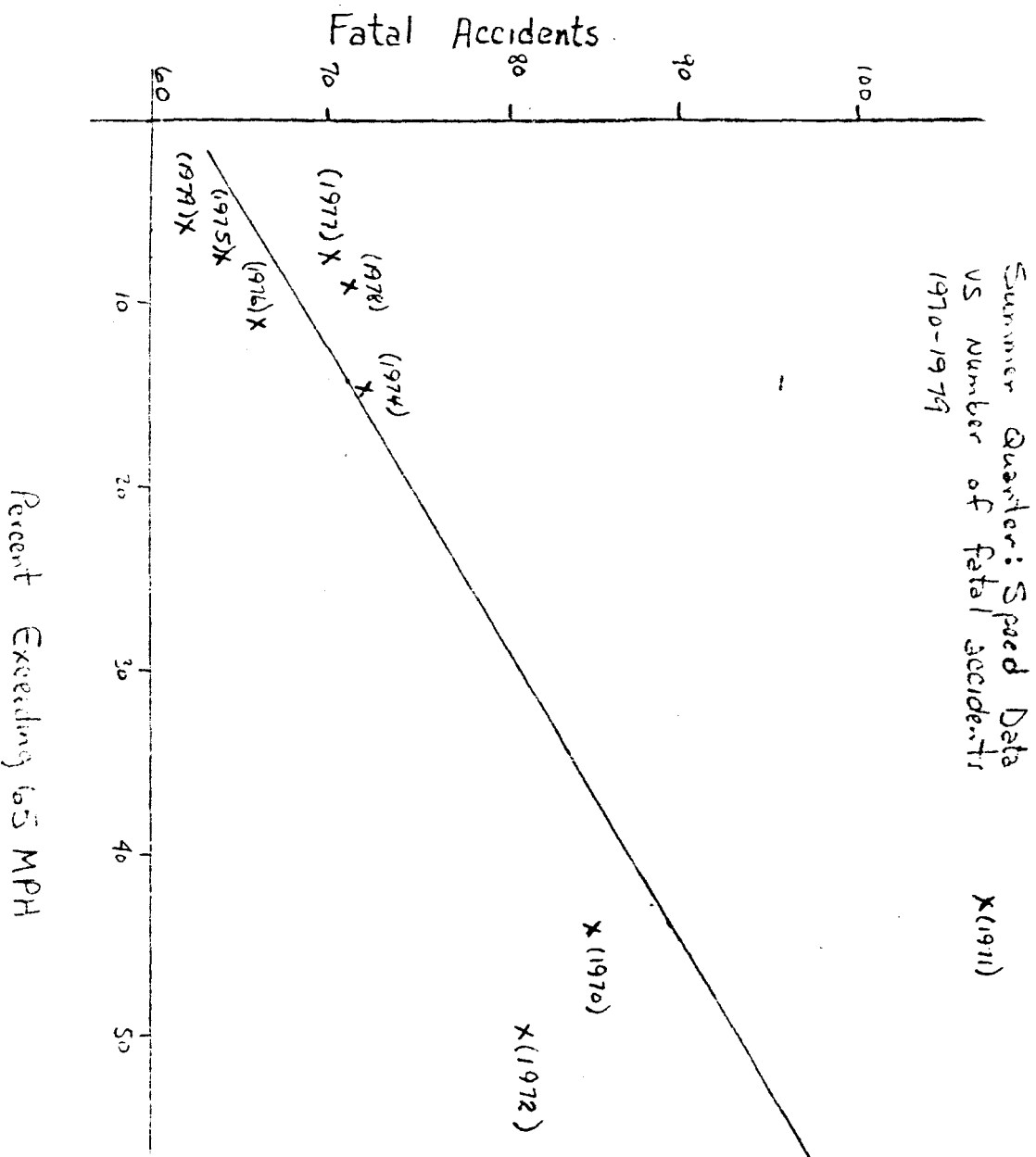
GROKE



MONTANA TRAFFIC FATALITY RATE (Traffic Deaths per 100 Million Vehicle Miles)
 1945-1980 in three parts. Annual vehicle miles travelled in Montana 1971-1980.

	1972	1980	% of Change
Vehicle Miles	5373	6502	+21.0%
No. of Fatalities	395	325	-17.7%
Fatality Rate	7.35	5.00	-32.0%





When the number of vehicles exceeding 65 MPH is greater than 40%, the number of fatal accidents is over 80. This is shown by the data for 1970, 71 & 72. When the number of vehicles exceeding 65 MPH is less than 10%, the number of fatal accidents is less than 65. This occurred in 1974 through 1979. This correlation is expressed graphically by the trend line that states that for each 10% increase in the number of vehicles exceeding 65 MPH, six more fatal accidents will occur.

§ 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.

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 50 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."

NAME: Dennis Dunphy DATE: 3.14.81

ADDRESS: State Capital, Office of Atty Gen'l

PHONE: 449-2026

REPRESENTING WHOM? Office of Attorney General

APPEARING ON WHICH PROPOSAL: HB 595

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STATE
OF
MONTANA
ATTORNEY GENERAL
MIKE GREELY

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

4 March 1981

John G. Womack
General Counsel
National Highway Traffic
Safety Administration
400 Seventh Street S.W.
Washington, D.C. 20590

Re: Federal Aid Highway Act Funds--Montana

Dear Mr. Womack:

There is presently pending before the Montana Legislature an act (HB595) which, if approved in its present form, would eliminate the 55 mile per hour speed limit in Montana.


I will present testimony to the Senate Highways Committee shortly and would like your response, on behalf of the Department of Transportation, to the following inquiry:

Whether, under existing federal law, the Secretary of Transportation will approve construction projects in Montana funded by authority of the Federal Aid Highway Act if the Montana Legislature repeals the 55 mile per hour speed limit in this state.

While I understand that the Reagan administration may propose legislative changes in this area to the 97th Congress, my question is directed to the Secretary's options under the law as it now reads.

Thank you for your prompt attention to this matter.

Very truly yours,


DENNIS J. DUNPHY
Assistant Attorney General

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

 **Mailgram**



1-0192670071 03/12/81 TLX COASTGUARD WSH HELA
13001 WHTSA WASHDC 122054Z MAR 81

MR. DENNIS J. DUMPHY
ASSISTANT ATTORNEY GENERAL
STATE OF MONTANA
STATE CAPITOL
HELENA, MONTANA 59601

THIS IS IN RESPONSE TO YOUR LETTER OF MARCH 4, 1981,
ASKING WHETHER, UNDER EXISTING FEDERAL LAW, THE
SECRETARY OF TRANSPORTATION WILL APPROVE STATE CON-
STRUCTION PROJECTS FUNDED BY THE FEDERAL AID HIGHWAY
ACT IF THE MONTANA LEGISLATURE REPEALS THE FIFTY-FIVE
MILE PER HOUR SPEED LIMIT.

SECTION 154 OF TITLE 23, UNITED STATES CODE, STATES
THAT THE SECRETARY "SHALL NOT APPROVE ANY PROJECT
UNDER SECTION 106 (23 U.S.C. 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, . . ." THE LANGUAGE USED IN THIS
SECTION IS UNEQUIVOCAL IN DIRECTING THE SECRETARY TO
WITHHOLD HIS APPROVAL.

FRANK BERNDT
CHIEF COUNSEL, NOA-30
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
DEPARTMENT OF TRANSPORTATION
WASHINGTON DC 20590
TLX 692427

1626 EST

WFMCOMP WGM

eligibility to receive funds authorized by the Federal Aid Highway Act of 1973 and all acts amendatory thereto or any other federal statute. The speed limit may not be less than that required by federal law, and the attorney general shall by further proclamation change the speed limit adopted pursuant to this section to comply with federal law. Any proclamation issued pursuant to this section becomes effective at midnight of the day upon which it is filed with the secretary of state. A speed limit imposed pursuant to this section is an exception to the requirements of 61-8-303 and 61-8-312, and a speed in excess of the speed limit established pursuant to this section is unlawful notwithstanding any provision of 61-8-303 and 61-8-312.

History: En. 32-2144.1 by Sec. 1, Ch. 60, L. 1974; R.C.M. 1947, 32-2144.1; amd. Sec. 66, Ch. 421, L. 1979.

61-8-305. Applicability of conservation speed limit — administrative procedure act not applicable. (1) The provisions of 61-8-304 shall not apply to those public streets and highways for which a speed limit lower than that required by federal law was applicable on March 2, 1974, under any other state, county, municipal, or other local law, ordinance, regulation, or order.

(2) The attorney general shall terminate by proclamation any speed limit proclaimed under 61-8-304 whenever such a speed limit is no longer required by federal law as a condition to the state's continuing eligibility to receive funds authorized by the Federal-Aid Highway Act of 1973 and all acts amendatory thereto or by any other federal statute.

(3) The establishment of a speed limit pursuant to 61-8-304 shall not be subject to the provisions and requirements of the Montana Administrative Procedure Act.

History: En. 32-2144.2, 32-2144.3, 32-2144.4 by Secs. 2, 3, 4, Ch. 60, L. 1974; R.C.M. 1947, 32-2144.2, 32-2144.3, 32-2144.4.

61-8-306. Lower speed limits. Nothing in 61-8-304 through 61-8-307 shall prohibit any state, county, municipal, or other local official, board, or body which has authority to enact laws relating to motor vehicle speed limits from establishing speed limits lower than that required by federal law on any public streets or highways as permitted by law on March 2, 1974.

History: En. 32-2144.5 by Sec. 5, Ch. 60, L. 1974; R.C.M. 1947, 32-2144.5.

61-8-307. Existing statutes not affected. Sections 61-8-304 through 61-8-306 in no way affect traffic control statutes and violations of existing statutes shall be prosecuted solely as provided therein.

History: En. 32-2144.7 by Sec. 7, Ch. 60, L. 1974; R.C.M. 1947, 32-2144.7.

61-8-308. Permission of authorities to hold speed contest. No race or contest for speed shall be held and no person shall engage in or aid or abet in any motor vehicle speed contest or exhibition of speed on a public highway or street without written permission of the authorities of the state, county, or city having jurisdiction and unless the same is fully and efficiently patrolled for the entire distance over which such race or contest for speed is to be held.

History: En. Sec. 1, Ch. 100, L. 1967; R.C.M. 1947, 32-2143.1.

NAME :

DATE: 3-14-81

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU :

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Fifty-Five Is Fast Enough

On trial for seven years, the
55-m.p.h. national speed limit
is still under attack. It's time
the critics faced some facts

By ROGER PENSKE

IN 1972, the winning car in the Indianapolis 500 was clocked at an average speed of 162.962 m.p.h., a record that stands today. The car, which I owned, was driven by my friend Mark Donohue. Three years later, Donohue crashed and was fatally injured while practicing for the Grand Prix in Austria. He was not yet 39.

Professional race drivers deliberately accept the risks of high speed and the ever-present possibility of sudden death behind the wheel. But for thousands of ordinary motorists every year, death on the highway is all too often unnecessary.

I am a lifelong racing enthusiast,

ROGER PENSKE is chairman of the Automotive Safety Foundation, organized by auto-industry leaders after the publication of the Reader's Digest article "—And Sudden Death" in 1935.

first as a driver and today as a car builder and team owner. I am also a firm believer that speeding motor vehicles belong *only* on racetracks, not on public highways. Yet one of our most effective safeguards against needless highway slaughter—the national 55-m.p.h. speed limit—is today under severe attack from increasingly vocal skeptics around the country.

Some leaders of the anti-55 movement ought to know better. These are the racing enthusiasts who have been conducting a national publicity campaign to discredit and repeal the 55 limit. Their campaign, aimed at dedicated racing fans, has been very influential. And why not? Auto racing is currently the country's fourth-most-popular spectator sport. Already this year, bills to raise the

speed limit have been introduced in six states.

Active in the anti-55 campaign are two of the largest-circulation magazines for motor-racing fans, *Car and Driver* and *Road & Track*. Last September, John Tomerlin, *Road & Track's* highway-affairs analyst, told a national meeting of state traffic-safety officials that the federal government's claim that 55 saves lives and fuel cannot be documented. Also figuring in the campaign against the law were delegates to the Republican National Convention, who adopted a platform plank attacking the national speed limit as an invasion of states' rights.

In addition, critics contend that enforcement costs too much and diverts police from more important work, that it is creating a nation of scofflaws since no one obeys it, and that it amounts to "Big Brotherism." Let's examine these charges:

Charge: The 55-m.p.h. limit is just another example of Washington-imposed Big Brotherism.

Fact: Shortly after the Arabs shut off the oil in October 1973, the Emergency Highway Energy Conservation Act became law, requiring all states to impose a highway speed limit of 55, or risk losing federal highway funds. But 28 states had already jumped ahead of Big Brother by imposing 55 (and in some cases, 50) on their own. The National Governors Association and the heads of all state law-enforcement agencies continue to support the 55 limit. And public-opinion polls consistently

show that about 75 percent of drivers also support it.

Charge: The 55 law doesn't save lives.

Fact: Though the speed limit was imposed to save fuel, not lives, its safety benefits became apparent shortly after it was enacted. In 1974, the first year of 55, auto fatalities dropped by more than 9000. Critics say that the reduction was because Americans drove less in 1974 than in 1973. But the decrease in miles traveled was only 2.5 percent, compared with a 16-percent fatality drop.

Traffic engineers attributed the reduction in highway accidents to something called "traffic pace." When all drivers travel at about the same speed, which tends to happen under the 55 law, there is no need to weave from lane to lane to pass. But when speed limits go up, the faster cars are continually zooming around the slower ones, creating prime conditions for accidents.

And consider this: If you do have a crash at 70 m.p.h. or faster, your chances of survival are 50-50. Cut your speed to between 50 and 60 m.p.h., and the odds climb to about 31-to-1 in your favor.

According to the U.S. Department of Transportation, strong enforcement of 55 could forestall as many as 415,000 injury-producing accidents over the next ten years, and save up to 32,000 lives.

Charge: Drivers ignore the 55 limit.

Fact: A certain percentage of drivers *always* exceed the speed limit. Yet

FIFTY-FIVE IS FAST ENOUGH

the latest speed-monitoring reports from states around the country indicate that the average speed on roads posted for 55 is less than half-a-mile-an-hour over the limit.

Charge: Police are taken off more important work to enforce 55, and the law costs too much to enforce.

Fact: The U.S. National Highway Traffic Safety Administration reports that "no significant redistribution of resources results from the 55-m.p.h. speed limit." Police are *not* being pulled off more important duties to enforce 55. And critics who argue that enforcement of the speed limit wastes tax dollars aren't aware that states spend only a small percentage of their law-enforcement budgets for 55. In any case, states will always have to enforce *some* kind of speed limit, whether it is 40, 55 or 70. The cost doesn't vary significantly for different speeds.

Charge: The 55 limit saves an insignificant amount of fuel.

Fact: The exact amount of savings varies with the vehicle, but cuts in fuel use when speed is reduced from 70 to 55 m.p.h. commonly range from 15 percent to 30 percent.

In 1978, the Department of Transportation estimated that Americans were saving 1.5 billion gallons of motor fuel a year as a result of 55.

Recent analyses, which take into account today's more fuel-efficient engines, show that savings of motor fuel attributable to 55 now amount to 3.4 billion gallons a year—about 3 percent of our total consumption.

Critics claim time and money would be saved if trucks and buses were exempt from 55. Again, wrong. According to fleet companies, slower speeds improve fuel mileage for trucks and buses, and cut maintenance costs. For example, Consolidated Freightways, the nation's second-largest regulated motor carrier, changed gear ratios to limit top speed on its rigs to 57 m.p.h., and thus realized 8-percent better fuel economy. United Parcel Service conducted fuel-consumption tests with identical tractor-trailers, one driven at 55 m.p.h. and the other at 65 m.p.h. The 55-m.p.h. truck got 32-percent better fuel economy. And so it goes around the country: truck fleets *are* saving because of the 55 law.

AMERICANS have had seven years to evaluate the 55-m.p.h. speed limit. *All* the evidence is favorable. The law saves gas. *And* lives.

✻ For information on reprints of this article, see page 244 ✻

Son Burst

WHEN OUR FIVE-YEAR-OLD SON asked if he could go to see a movie playing at our local theater, I told him I didn't think he would enjoy it because the jokes would be over his head. He thought about it for a moment, then said, "That's all right, Mom. We can sit in the balcony."

—Contributed by Lynne Dziedzic

NAME :

DATE :

ADDRESS:

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE : _____

ADDRESS :

PHONE :

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APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

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