

MINUTES OF THE MEETING OF THE HOUSE HIGHWAYS AND
TRANSPORTATION COMMITTEE, FEBRUARY 8, 1983

The meeting was called to order by Chairman Abrams on Tuesday, February 9, 1983 at 12:30pm, in Room 129, State Capitol. All members of the Committee were present.

HEARINGS

HOUSE BILL 542. REP. LES KITSELMAN, District 60, Yellowstone County, testified as sponsor of the bill, which would allow certain Harley Davidson motorcycles, built between 1932 and 1955 to run without lights in the daytime, since it would be detrimental to their electrical systems.

PROPOSERS

MR. LEE PURDY, Bozeman, told the Committee parts for the motorcycles were last manufactured in 1958 and since they are used only for special purposes, the bill would allow them to operate without lights during the daytime only.

MR. DAL SMILIE, Helena, advised committee members the daytime headlights on requirement may not have a beneficial effect anyway and provided committee members with pictures of various models for their review.

OPPOSERS

COL. LANDON, Montana Highway Patrol, said he was concerned the motorcycles would be operating without stoplights during the day. Rep. Kitselman, responded, saying the lights operate during braking and are visible for a distance of 500 feet.

QUESTIONS

REP. SOLBERG asked what age constituted an antique. Rep. Kitselman replied any vehicle 25 to 30 years of age or older would be considered an antique.

REP. SHONTZ asked why legislation had not been introduced to register the motorcycles as antiques, adding it would be easier for law enforcement personnel if such motorcycles were registered. Rep. Kitselman replied an effort was being made to come up with an antique plate for the motorcycles.

REP. HEMSTAD asked if there weren't provisions for driving automobiles registered as antiques. Rep. Zabrocki said there were, adding such vehicles could only be used for special occasions.

REP. SHONTZ asked if it would be rational to issue antique plates for such motorcycles. Rep. Kitselman answered, saying special motorcycle plates would be necessary, which could be accomplished by administrative rule.

REP. LYBECK asked how many motorcycles would be involved throughout the State. Rep. Kitselman replied there were fewer than 250 and the hearing was closed.

HOUSE BILL 560. REP. HUBERT ABRAMS, District 56, Wibaux, testified as sponsor of the bill which was drafted at the request of the Department of Justice to eliminate duplication in filing of accident reports. He told the Committee new sections were addressed on page 1, lines 21-22, of the bill.

PROPONENTS

COL. LANDON, Montana Highway Patrol, told committee members the bill would eliminate unnecessary red tape for persons involved in accidents. He said the accident reports are not presently used for statistical purposes and the Patrol believes they aren't needed when an officer fills out his report.

OPPONENTS

There were no opponents of the bill.

QUESTIONS

REP. KOEHNKE asked if the bill applied to the Montana Highway Patrol only. Col. Landon said it applied to any peace officer in the State.

REP. STOBIE asked how current statute referred to penalties. Col. Landon told him when an accident is not investigated, the person involved would be required to file a report via the quickest route, for example, by telephone. He added the proper language was taken from the Uniform Vehicle Code to prevent anyone from covering up an accident.

REP. KEYSER asked if another section of the law would require an accident to be reported, when necessary, if language on page 3 of the bill were eliminated. Col. Landon replied if the provision had been eliminated, it was not intentional.

MR. GREG PETESCH, Legislative Council Attorney, advised the Committee there are two sections requiring anyone arriving upon the scene of an accident to stop and give aid and remain at the scene. Rep. Keyser said he was concerned this language may have been omitted.

The hearing on House Bill 560 was closed.

HOUSE BILL 588. REP. BERNIE SWIFT, District 91, Ravalli County, testified as chief sponsor of the bill, which clarifies public ownership of public roads created by subdivision, amending Sections 7-14-2107 and 7-14-2657, MCA. He said the bill makes it clear that a road dedicated by subdivision is handled differently, citing as an example, roads created as early as 1910 through 1916, which in the past 8 to 10 years, have been affected by subdividing in Ravalli County. Rep. Swift told the Committee dedicated roads must be laid out on a plat, which become a fact of law and of ownership, creating the need for the change in codes.

PROPOSERS

There were no proposers of the bill.

OPPOSERS

There were no opposers of the bill.

QUESTIONS

IN CLOSING, Rep. Swift advised the Committee to check statutes for intended purpose, adding he worked with his county attorney in drafting the bill.

REP. HAMMOND asked how ownership would be determined between two owners, when one was situated on each side of a dedicated road. Rep. Swift said the bill pertains to situations created by subdivision, adding the responsibility would remain with prior owners.

REP. LYBECK asked if the provision would apply to a 30 acre plat which had been subdivided. Chairman Abrams advised Mr. Petesch would check the sections prior to executive action on the bill and the hearing was closed.

HOUSE BILL 606. REP. FRANCIS KOEHNKE, District 45, Townsend, testified as chief sponsor of the bill, advising committee members of the Supreme Court decision made October 22, 1981, which held existing Montana statute on the 55mph speed limit to be unconstitutional. He said Montana law allowed its Attorney General to set a speed limit no less than the federally mandated speed limit and expalined subsection (2) is an automatic repealer, while subsection (3) clarifies a conflict in Sections 104 and 107 of the conservation law, (exhibit).

PROPONENTS

MR. MIKE KOEHNKE, Townsend, told committee members the State of Washington began a petition to change its speed limit, adding most traffic in Idaho, Montana and Oregon moves faster than 55mph, according to patrolmen. He provided committee members with an explanation of Chapter 122, which allows the Governor to set a 65mph speed limit, if federal funds are not affected and said he questions limiting authority to the Montana Highway Patrol. He advised the issue is a policy decision with which the Legislature can deal and told committee members it is necessary to determine whether or not speed in excess of 55mph is a misdemeanor, adding increased interest in the speed limit is creating pressure on the national level to change the statutes. Mr. Koehnke said the interstate system is constructed for speeds of 70mph, except where otherwise posted.

MR. GARY WICKS, Director, Department of Highways, told the Committee House Bill 484 would accomplish the same goal in a clearer manner, adding he did not oppose House Bill 606. He said he questioned limiting jurisdiction to the Montana Highway Patrol and it doesn't have the manpower and relies on other law enforcement personnel for assistance, adding he foresees administrative problems with language on page 2, line 6 of the bill, which would become effective if the federal government no longer provided aid on the basis of the 55mph limit. Mr. Wicks said the matter should be addressed in the appropriate section and told the Committee he would support the bill, if Montana Highway Patrol jurisdiction and the other problems he mentioned were corrected.

MS. SARAH POWER, Assistant Attorney General, Department of Justice, said there is a problem with Section (3) of the bill pertaining to jurisdiction limit, as five counties in the State have no stationed Highway Patrolman and the speed limit would only be enforced by local officials. She told the Committee the bill would create a peace officer exception for the 55mph speed limit only, and would not relieve enforcement or manpower problems. Ms. Power referred to page 2, lines 6-7 of the bill, which address Chapter 122 and explained the language would probably conflict with subsection (2) on page 3. She said the 65mph limit is to be proclaimed by the Governor, however, the Supreme Court found this authority to be unconstitutional, as the Legislature cannot permanently delegate its authority to the Governor without Legislative ratification. She told the Committee if Chapter 22 were implemented by the Governor, it would conflict with Section (2) on page 3, which totally eliminates any speed limit. Ms. Power expressed Departmental support of the 55pmh speed limit and suggested the Committee resolve the conflicts in the bill.

OPPONENTS

There were no opponents of the bill.

IN CLOSING, Rep. Koehnke advised the Montana Highway Patrol would have jurisdiction in those five counties even though none would be stationed in the counties.

EXECUTIVE SESSION

HOUSE BILL 9. REP. HARP moved the bill Do Pass and moved the bill be amended according to amendments provided to committee members, including a change in funding to 75% and 25%. Rep. Brown seconded the motion, which was unanimously approved by the Committee (exhibit).

REP. SOLBERG provided committee members with a letter from the Legislative Auditor and a map of sufficiency ratings for the rural primary system in the State (exhibit) and said the section or road referred to in the February 3, 1983, letter from the Legislature Auditor, was temporary and not contracted. He advised the Committee the road was built to last five years with six inches of crushed gravel and a one inch topping and said his point is that he questions how authentic the sufficiency ratings are since other newer, properly constructed roads are given the same sufficiency level in the ratings of December 31, 1981.

REP. SOLBERG reminded the Committee they gave Do Pass motions to House Bill 7 and Senate bill 10 and it was his understanding the Committee wanted the Montana Highway Commission to have the power to designate where funds were to be spent, particularly during the next two years. He told the Committee if other areas of the State were checked, additional sufficiency rating problems would be found and advised them of the 1927 statutes which would connect all county seats via the primary system, and provided statistics for primary miles per district as follows: district 1, 11%; district 2, 15%; district 3, 6%; district 4, 8%; district 5, 10%. Rep. Solberg informed committee members he thought the old formula used to allocate funds worked well. He said there are two areas, Ekalaka to Broadus and Scobey to Glasgow, where county seats have not been connected by primary roads.

REP. HARP advised the Committee there was a need to add future critical miles as well as present miles. He said the formula would change as needs changed, reminding the Committee the Department of Highways and the Highway Commission support the bill.

REP. SOLBERG said he questioned sufficiency levels throughout the State.

REP. HAMMOND commented it appeared the Department and the Commission believe the present formula is not the most efficient means of expending the funds.

REP. SHONTZ informed committee members present statutes do not address the needs of financial districts and small districts had to save funds for larger projects. He said the bill was created with larger districts to provide greater accessibility of funds and to address needs over and above financial district funds presently available. He told committee members the fund was created last session and would address such areas as Kalispell and Sidney, in addition to financial districts, adding that for years funds were addressed too far in one direction and the reconstruction trust account would prevent a move too far in the opposite direction.

REP. KEYSER asked if the sufficiency rating was computed in the same manner in the bill as it is now. Mr. Wicks replied there would be no change if five financial districts were formed, since the districts have been based upon sufficiency ratings for the past forty years.

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MR. WICKS said there are problems with sufficiency ratings with regard to use of judgment and he questions how many dollars should be put into the rating system, adding the State of New York went back to the judgment system. He told the Committee the sufficiency rating is a relative one and is not perfect and that he does plan to better it. Mr. Wicks said the Highway Reconstruction Trust Account established last session, dedicated 100% state funds to areas in Montana with the greatest need and continued the federal matches for other funds. He explained reconstruction funds could be spent outside financial districts and were to be funded by gas and coal tax dollars, adding the projects were described in the book presented to committee members. Mr. Wicks advised members of \$40 million reconstruction dollars, of which \$32 million would be for reconstruction and \$8 million for pavement. He said nearly all funds for completion of the primary system are earmarked dollars.

REP. BROWN asked why the Department did not wish to retain the present method since its purpose is to prevent iniquities in districts and use the funds for reconstruction in critical areas. Mr. Wicks said Rep. Brown had a good idea if the Legislature would fund reconstruction as requested.

REP. BROWN said he was concerned with House Bill 9 and requested the Committee delay action on the bill although he believed the reconstruction bill would pass.

REP. UNDERDAL asked about the sufficiency rating for Highway 200 over Rogers Pass. Mr. Wicks said the highway between Libby and Troy is a problem because of falling rocks and slides.

REP. SHONTZ told the Committee problems could arise if the sufficiency rating were tied to the formula.

REP. UNDERDAL commented he was not ready to vote on the bill as there are too many unanswered questions.

REP. STOBIE called for the question. The motion made by Rep. Brown that House Bill 9 Do Pass as Amended was approved with ten members voting aye and seven voting no (roll call vote).

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HOUSE BILL 542. REP. SHONTZ moved the Committee amend the bill and provided proposed amendments to the bill (exhibit).



REP. HEMSTAD asked if Section 1,(5), addressed the situation. The motion was given unanimous committee approval.

REP. BROWN moved the bill Do Pass as Amended. Rep. Hammond seconded the motion and the bill was approved with all members voting aye, except Rep. Hemstad, who voted no.

HOUSE BILL 560. REP. ZABROCKI moved the bill Do Pass. Rep. Lybeck seconded the motion, which was unanimously approved by the Committee.

CHAIRMAN ABRAMS appointed a subcommittee comprised of Representatives Shontz and Keyser, with Rep. Zabrocki as Chairman, to study House Bills 484 and 606 and report to the Committee.

The meeting was adjourned at 2:30pm.


REP. HUBERT ABRAMS, CHAIRMAN


Joann T. Gibson, Secretary

STANDING COMMITTEE REPORT

FEBRUARY 8

19 33

MR. SPEAKER:

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 9

~~PLATE COPY~~ PRECEDING COPY WHITE
Color

" AN ACT AUTHORIZING THE MONTANA HIGHWAY COMMISSION TO DESIGNATE SUFFICIENCY LEVELS FOR APPORTIONMENT OF CONSTRUCTION FUNDS TO THE FEDERAL-AID PRIMARY SYSTEM; AUTHORIZING THE DEPARTMENT OF HIGHWAYS TO ALLOCATE FUNDS ACCORDINGLY; AMENDING SECTION 60-3-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 9

Be amended as follows:

1. Page 2, line 16.

Following: "apportion"

Strike: "divide"

Insert: "distribute three-fourths of"

2. Page 2, line 19.

Strike: line 19 in its entirety

3. Page 2, line 21.

Following: "and"

Strike: "the other portion"

Insert: "one-fourth of the available state construction funds for the federal-aid primary system"

AND AS AMENDED

DO PASS

MR. HUGHBERT ABRAMS

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 8 19 83

SPEAKER:
MR.

We, your committee on HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE Bill No. 542

FIRST reading copy (WHITE)
color

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING MOTORCYCLES
THAT QUALIFY FOR REGISTRATION AS COLLECTOR'S ITEMS FROM
REQUIREMENTS RELATING TO HEADLIGHTS AND TAILLIGHTS;
PROVIDING THAT IF NOT PROPERLY EQUIPPED THEY MAY NOT BE
OPERATED AT NIGHT; AMENDING SECTIONS 61-8-359, 61-9-203,
AND 61-9-204, MCA."

Respectfully report as follows: That HOUSE Bill No. 542

Be amended as follows:

1. Title, line 5.

Following: "WHAT"

Strike: "QUALIFY FOR REGISTRATION"

Insert: "ARE REGISTERED"

2. Page 2, line 7.

Following: "motorcycle"

Strike: remainder of line 7

Insert: "is registered"

3. Page 3, line 11, 12.

Following: "motorcycle"

Strike: remainder of line 11 through "registration" on line 12

Insert: "is registered"

4. Page 4, line 25.

AS AMENDED Following: line 24

DO PASS Strike: through "registration" on line 25

Insert: "is registered"

REP. HUBERT ABRAMS

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 8

19 33

SPEAKER:

MR.

HIGHWAYS AND TRANSPORTATION

We, your committee on

having had under consideration HOUSE Bill No. 560

FIRST reading copy (WHITE color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE AND CLARIFY
THE DUTIES OF MOTOR VEHICLE OPERATORS AND LAW ENFORCEMENT
OFFICERS CONCERNING THE FILING OF ACCIDENT REPORTS; TO
PROVIDE A PENALTY FOR FAILURE TO FILE A REPORT; AMENDING
SECTIONS 61-7-109 AND 61-7-111, MCA; AND PROVIDING AN
IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 560

DO PASS

REP. HUBERT ABRAMS

Chairman.

HOUSE Highways + Transp. COMMITTEE

DATE 2-8-83

[illegible]

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME DAL Smiles BILL No. HB 542
ADDRESS 1127 5TH Ave Helena DATE 2/8/83
WHOM DO YOU REPRESENT Self
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Jim Beck BILL No. 606
ADDRESS Heber DATE 2-8-83
WHOM DO YOU REPRESENT Dept of Hygiene
SUPPORT _____ OPPOSE ☒ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Sarah Power BILL No. 606

ADDRESS Atty General's Office DATE 2/8/83

WHOM DO YOU REPRESENT "

SUPPORT _____ OPPOSE X AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME MIKE KOENNIKE BILL No. HB 606
ADDRESS TOWNSEND DATE 1-8-83
WHOM DO YOU REPRESENT Self
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

CHRIS DRAAYER MOTORS
HARLEY-DAVIDSON HEADQUARTERS
872 SOUTH STATE STREET • SALT LAKE CITY, UTAH 84111
PHONE 322-5505

2-8-83
LB542

MESSAGE

REPLY

Mr. Lee Farnsworth

DATE

Salt Lake City, Utah

2/9/79

Dear Sir: Regarding the proposed motorcycle lights on law in Utah.

In researching the question, will some older Harley Davidson Motorcycles be able to comply we find that these particular machines 1932 to 1955 cannot have their (lights) electrical systems run continually without possible failure.

Most of these machines are antiques and were not designed for such prolonged electrical use. Not many of these motorcycles were even made and even fewer are in use today. The costs necessary to try and modify their systems would be tremendous as well as the fact that these machines are antiques and their value depends on how original they are equipped.

In my opinion because of the technical data and the amount of motorcycles falling in this category these machines should be exempt from ~~mandatory~~ mandatory lights on law.

Please call me if you have any questions.

Sincerely yours,

Chris Draayer
Chris Draayer

SIGNED

P. The DRAAYER BOARD, INC., Box 505 Dallas Texas

INSTRUCTIONS TO SENDER:

1. YELLOW COPY. 2. SEND WHITE AND PINK COPIES WITH CARBON INTACT.

INSTRUCTIONS TO RECEIVER:

1. WRITE REPLY. 2. DETACH STUB. KEEP PINK COPY. RETURN WHITE COPY TO SENDER.

1) Harley Davidson Dealer since 1925

THE CYCLE BARN
1751 WEST 3500 SOUTH
GRANGER, UTAH 84119

Senator Jack Bangerter

Feb. 10, 1979

Rep. Lee Farnsworth

Dear Sirs:

In regards to the proposed "lites on" law in Utah (SB-41), we here at The Cycle Barn in Granger feel that this would add an undue hardship to the older model motorcycle owner. They would find it necessary to modify their electrical systems to be able to withstand the extreme strain on the charging system.

We are dealers in Kawasaki and Harley-Davidson motorcycles and all of our models come equipped with the "lites on" system from the factories. We have found that our 250 cc and smaller models have had reoccurring electrical problems resulting from continual headlight use.

In view of the aforementioned facts we would be opposed to the "lites on" amendment introduced by Rep. Farnsworth.

Sincerely,


Duane Rowe
General Manager

THE

DUANE ROWE

CYCLE BARN

801-973-7112

1751 West 3500 South

Granger, Utah 84119

0028967 C <801>466-9330
MID TOWN M/C PARTS
1480 S. STATE STREET
SALT LAKE CITY UT 84115

4

MID-TOWN MOTORCYCLE PARTS

1480 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84115
PHONE (801) 466-9330



HONDA



To Mr. Lee Farnsworth
or

Senator Jack M. Bangerter

Although I'm sure our motorcycle
electrical supply business would increase, we
here at Midtown Motorcycle Parts feel that
a Mandatory "Life's on" law would not be
in the best interests of the motorcycling
public's good.

MID-TOWN MOTORCYCLE PARTS

David R. Bangerter

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645



4-044005E041002 01/10/79 ICS IPMMTZZ CSP SLCB
1 8012684642 MGM TDMT SALT LAKE CITY UT 02-10 1138P EST

1-200-257-2241

L BURNETT
857 EDISON ST
SALT LAKE CITY UT 84111

THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

8012684642 MGM TDMT SALT LAKE CITY UT 100 02-10 1138P EST
ZIP
REPRESENTATIVE JAMES Z HANSEN
399 EAST OAK LN
FARMINGTON UT 84025

PLEASE THINK OF THE AMERICAN ANTIQUE MOTOR CYCLE ELECTRICAL SYSTEM AND
DON'T SUPPORT REPRESENTATIVE FARNSWORTHS AMENDMENT "LITES ON" FOR MOTOR
CYCLES (SB-41). MODEL T'S DON'T HAVE TO HAVE TURN SIGNALS PLEASE SAVE
OUR HARLEY-DAVIDSONS.

L BURNETT
857 EDISON ST
SALT LAKE CITY UT 84111

2339 EST

MGMCOMP MGM



**BAPTIST
FOUR
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and the
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Sunday School: 9:30 A.M.

Morning Worship:

10:45 A.M.

Evening Worship:

7:30 P.M.

RADIO

KGWV, 630 on AM dial

11:00 Sunday

TAPES

WITHOUT COST
INQUIRE AT CHURCH OFFICE

CARLSTON "RED" BERRY
Pastor

The Honorable Ken Nordtvedt
State Capitol
Helena, Montana 59620

February 1, 1983

Dear Mr. Nordtvedt,

I want you to know how much I appreciate your efforts on behalf of two things at the present time. One is home and christian schools; I and my congregation are very much in favor of your HB 49 as originally written, and I have communicated as much to the chairmen and vice chairmen of both the House and Senate Education Committees.

The other is HB 542, changing the requirements of the headlight law for collector's-class motorcycles. I do not have one of that vintage, but have friends who do, and am familiar with the problems of putting a constant strain on ancient 6-volt electrical systems, or facing the alternative of conflict with law enforcement officers.

Again, thank you for what you are trying to accomplish in these areas. It is refreshing to have a representative who is unashamedly in favor of our traditional rights as individuals and under the constitution, and is trying to preserve them for us. God bless you as you serve in this session of the legislature.

Sincerely,

Carlston "Red" Berry
Pastor

★

2-8-83

Ex
Rep Koehnke
HB 606

Summary of MCA Sections on Speed Limits

MCA 61-8-303. Speed restrictions - basic rule. (1955)

- (1) "drive in a careful and prudent manner" "no greater than is reasonable and proper under the conditions"
- (2) "but a speed in excess of those limits is unlawful"
 - (a) "25 MPH in an urban district"
 - (b) "35 MPH on a highway under construction"
 - (c) "55 MPH ... during nighttime, except...on completed sections of interstate highways is 65 MPH"

61-8-304. (Conservation speed limit) - exception to basic rule. (1974)

- 55 MPH on all highways, day and night

61-8-309. Establishment of special speed zones. (1955)

"the department of highways determines upon the basis of an engineering and traffic investigation that a speed limit set by 61-8-303 is greater or less than is reasonable or safe under the conditions"... "the commission may set a reasonable and safe special speed limit...."

61-8-310. When local authorities may and shall alter limits. (1955)

- general authority is given to local jurisdictions to set a reasonable and safe speed limits at intersections, within urban districts, outside urban districts to be effective at all times, except upon all federal-aid highways in urban areas. is reserved to state commission.

61-8-312. Special speed limits on trucks, truck tractors, motor-driven cycles, and vehicles towing house trailers. (1955)

- (1) "GVW 8,000 lbs. at a speed of 65 MPH on completed sections of the interstate and four-lane divided highways and 60 MPH ...on primary and secondary highways. However, the truck nighttime speed limit shall not exceed that of automobiles as stated in 61-8-303." (55 MPH on noninterstate.)

61-8-313. Special speed limits.(1955)

- (1) - 10 MPH for vehicle with solid rubber or cushion tires.
- (2) - safe speed over bridges and other elevated structures as posted.

Chapter 122, Laws of 1977.

- (1) - Provides for a 65 MPH conservation speed limit unless otherwise limited by the basic rule (61-8-303). This would only replace the existing 55 MPH limit; nothing else.
- (2) - Effective date: Governor is to issue a declaration to implementing the provision when it will not jeopardize the state's continued eligibility to receive federal-aid highway funds. Effective upon issuing the proclamation.

MCA 61-8-711. Violation of chapter - penalty.

- (1) "It is a misdemeanor for any person to violate any of the provisions of this chapter (Chapter 8, Traffic Regulations) unless the violation is ...a felony...."
- (2) "a first conviction...punished by a fine of not less than \$10 or more than \$100 or by imprisonment for not more than 10 days. "(S)econd conviction within 1 year... punished by a fine of not less than \$25 or more than \$200 or imprisonment for not more than 20 days or by both...." "(T)hird or subsequent convictions within 1 year after the first conviction...shall be punished by a fine of not less than \$50 or more than \$500 or by imprisonment for not more than 6 months or by both...."

" 61-8-718. Penalty for violation of conservation speed limit.

- (1) "A person violating the speed limit imposed pursuant to 61-8-304 is guilty of the offense of unnecessary waste of a resource currently in short supply and upon conviction shall be fined \$5, and on jail sentence may be imposed. Bond for this offence shall be \$5."

2-8-83

EX

Rep Koehn

HB 601

California pushes faster speed limit

55-mph exemptions sought

MICHAEL F. CONLAN
Newhouse News Service

WASHINGTON — The federal government will examine a proposal that would exempt some roads from the national 55-mph speed limit, which has been credited with saving thousands of lives and billions of gallons of fuel since its imposition nine years ago.

The Transportation Department will review a plan that now is being developed by California officials, according to Raymond Peck Jr., director of the National Highway Traffic Safety Administration.

Under the proposal as currently envisioned, a state would apply to the federal government for permission to raise the speed limit selectively on certain sections of highway or for certain types or traffic or, perhaps, at certain times of day. A state would make its case based on accident statistics and design specifications of the highway.

"There are roadways which by any rational stretch of the imagination can accept vehicular travel at speeds in excess of 55," Peck says.

In the years since Congress enacted the national speed standard as a conservation measure during the Arab oil embargo of 1973-74, more and more motorists — with the acquiescence of police and politicians — have been ignoring it.

Federal law requires that states enforce the speed limit and certify that at least half their motorists comply with it.

Peck says he expects to receive a report soon that for the first time, one or two states have failed to meet those requirements. If that is the case, Washington could withhold from offending states up to 5 per cent of federal highway safety funding.

Peck says such sanctions could lead to a drive in Congress to overturn the 55-mph speed limit entirely. He says he hopes the issue would not come to a vote, noting that as part of the recently enacted 5-cent-a-gallon gas tax increase, Congress directed the National Academy of Sciences to conduct a one-year study of the benefits of the national speed limit.

HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

House Bill 606, Section 3:

This section only clarifies a conflicting point-of-law. The question has been asked: "Does a person commit a criminal misdemeanor when violating section 61-8-303, MCA (the 55 MPH conservation speed limit)?"

Some lawyers and justice's say no, other say maybe.

Facts:

61-8-104. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter.

History: En. Sec. 23, Ch. 263, L. 1955; R.C.M. 1947, 32-2125.

61-8-711. Violation of chapter — penalty. (1) It is a misdemeanor for any person to violate any of the provisions of this chapter unless the violation is declared to be a felony by this chapter or other law of this state.

(2) Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not less than \$10 or more than \$100 or by imprisonment for not more than 10 days. For a second conviction within 1 year thereafter, the person shall be punished by a fine of not less than \$25 or more than \$200 or by imprisonment for not more than 20 days or by both such fine and imprisonment. Upon a third or subsequent conviction within 1 year after the first conviction, the person shall be punished by a fine of not less than \$50 or more than \$500 or by imprisonment for not more than 6 months or by both such fine and imprisonment.

(3) On failure of payment of a fine, the offender in case of a misdemeanor shall be imprisoned in the county jail in the county in which the offense was committed, and the imprisonment shall be computed upon the basis of one day's incarceration for each \$2 of the fine.

(4) Upon conviction, the court costs or any part thereof may be assessed against the defendant in the discretion of the court.

History: En. Sec. 154, Ch. 263, L. 1955; R.C.M. 1947, 32-21-157; amd. Sec. 70, Ch. 421, L. 1979.

However, the traffic law, section 61-8-718, MCA, states:

61-8-718. Penalty for violation of conservation speed limit. (1) A person violating the speed limit imposed pursuant to 61-8-304 is guilty of the offense of unnecessary waste of a resource currently in short supply and upon conviction shall be fined \$5, and no jail sentence may be imposed. Bond for this offense shall be \$5.

(2) For the purpose of this section only, the fees of the justice's court shall be the balance of the fine not otherwise allocated by law and shall be remitted as set forth in 3-10-603(3).

History: En. 32-2144.6 by Sec. 6, Ch. 60, L. 1974; amd. Sec. 1, Ch. 248, L. 1974; amd. Sec. 1, Ch. 6, L. 1975; R.C.M. 1947, 32-2144.6(1); amd. Sec. 71, Ch. 421, L. 1979.

2-8-83
Ex
M. Koehnke
HB606

CHAPTER NO. 122

AN ACT TO ESTABLISH A FUEL CONSERVATION SPEED LIMIT OF 65 MILES PER HOUR; AMENDING SECTION 32-2144.1, R.C.M. 1947; REPEALING SECTIONS 32-2144.3 AND 32-2144.4, R.C.M. 1947, AND PROVIDING A CONTINGENT DELAYED EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-2144.1, R.C.M. 1947, is amended to read as follows:

"32-2144.1. **Conservation speed limits — exception to the basic rule.** *To assist in the conservation of valuable and scarce motor fuel resources while providing for the safe and convenient flow of traffic, a person may operate a motor vehicle in excess of 65 miles per hour on a public highway in this state unless otherwise limited under 32-2144. The speed limit imposed pursuant to this act is an exception to the basic requirements of section 32-2144 and a speed in excess of the speed limit established pursuant to this act is unlawful notwithstanding any provision of that section.*"

Section 2. **Repealer.** Sections 32-2144.3 and 32-2144.4, R.C.M. 1947 are repealed.

Section 3. **Effective date.** The governor may issue a declaration implementing the provisions of this act when such implementation will not jeopardize the state's continued eligibility to receive funds authorized by the Federal Highways Act. This act is effective upon the issuing of the declaration of implementation.

Approved March 25, 1977.

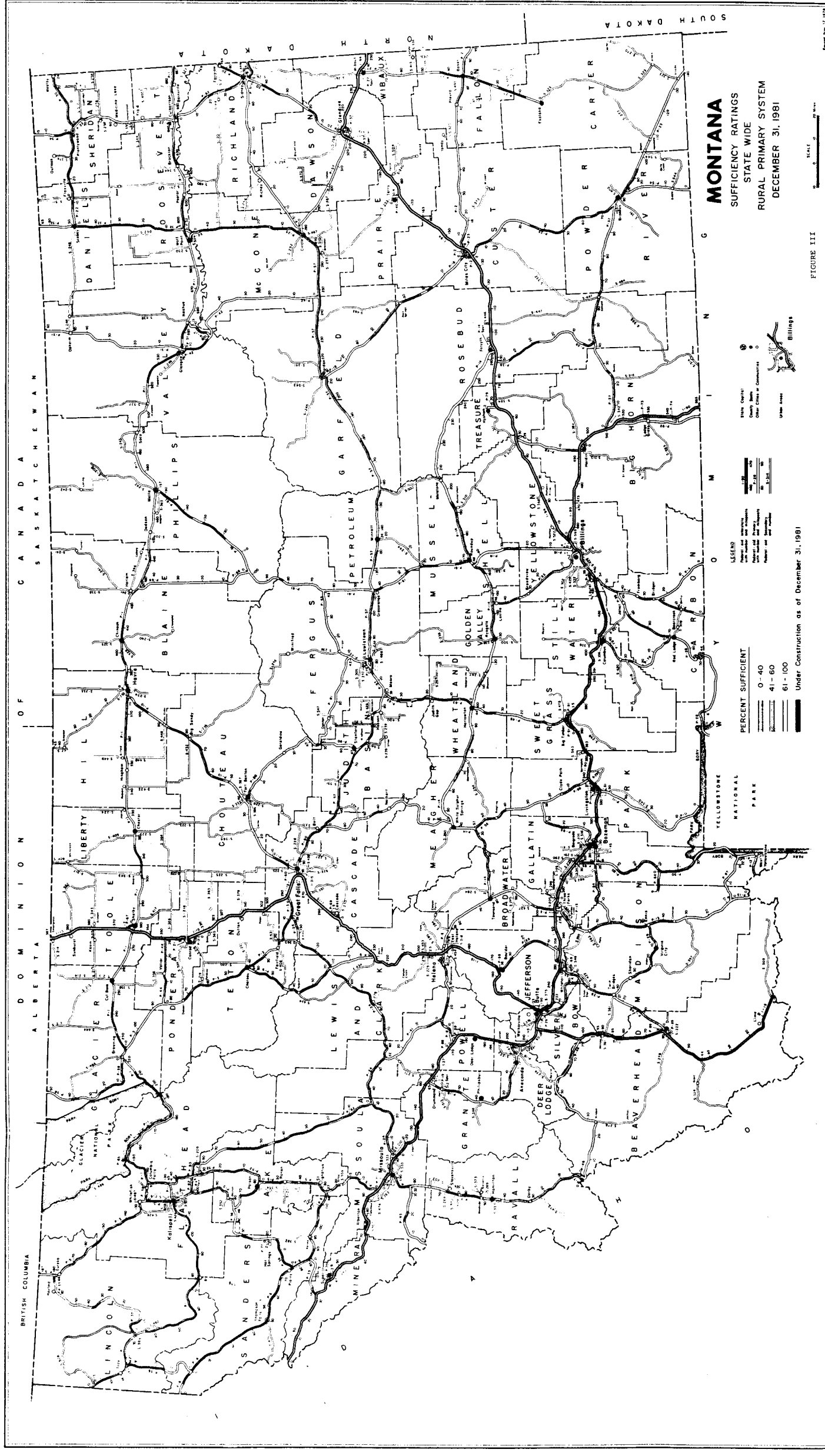
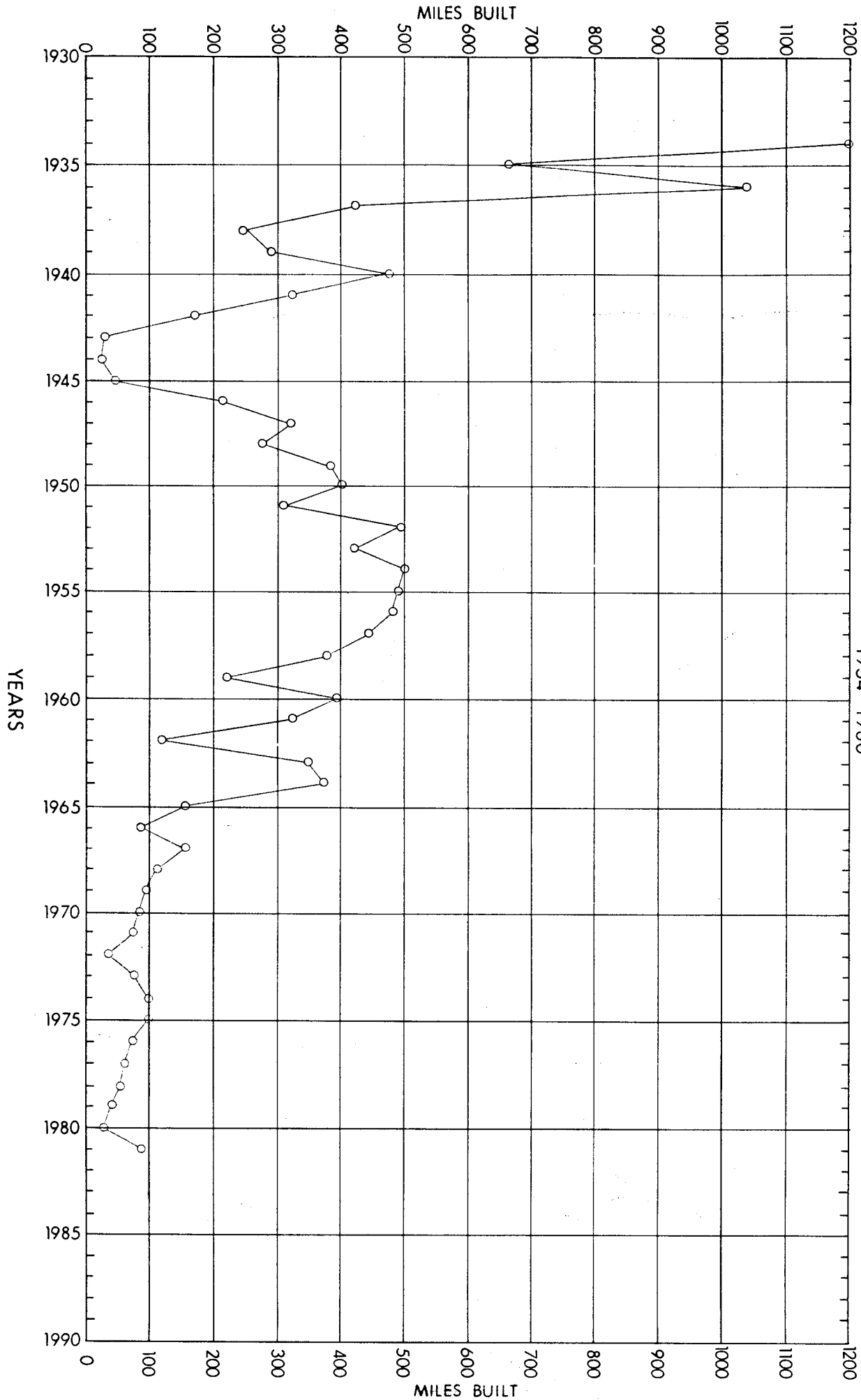


FIGURE III

MONTANA
SUFFICIENCY RATINGS
STATE WIDE
RURAL PRIMARY SYSTEM
DECEMBER 31, 1981

MONTANA
MILES OF RURAL PRIMARY FEDERAL AID HIGHWAY
1934 - 1980



2-8-83
HB9

2-8-83
HB9

STATE OF MONTANA

Office of the Legislative Auditor

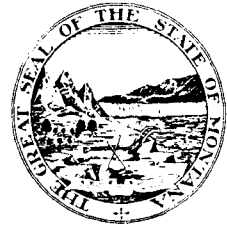
STATE CAPITOL
HELENA, MONTANA 59620
406/449-3122

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AND CONTRACTED AUDITS

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PERFORMANCE/SUNSET AUDITS

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JOHN W. NORTHEY



ROBERT R. RINGWOOD
LEGISLATIVE AUDITOR

February 3, 1983

Representative Chester Solberg
House Chambers
State Capitol
Helena, Montana 59620

Dear Representative Solberg:

In response to your questions concerning the sufficiency ratings and costs of construction for two sections of Highway 13 near Scobey, I have compiled the following information. The two sections in question run between mile posts 3.7 and 6.2 and between mile posts 60.9 and 65.7.

The first section was reconstructed in 1979 with a cost per mile in 1982 dollars (adjusted for inflation) of \$304,604. This section runs directly north from the intersection of U.S. Highway 2 and Montana Highway 13 for approximately 2.5 miles and has a 1980 sufficiency rating of 98 percent. The sufficiency rating on this section is 100 percent in all areas except for two points off for capacity.

The second section runs directly south from the Port of Scobey at the Canadian border for approximately 5 miles and has a 1980 sufficiency rating of 61 percent. This section received high ratings for capacity and drainage and low ratings for foundation and safety. The cost for the latest improvements and the source of funding for this section of highway is not easily determined for several reasons. This section of highway has been a secondary highway and a primary highway at various times. In addition, the latest improvements have been constructed in four segments from 1968 to 1978. Starting at mile post 60.9 and going north for 1.65 miles is a section of highway last improved in 1971. According to officials in the Planning and Statistics Bureau, this section received a one inch overlay of road mix probably using state maintenance funds. These same officials said they could not readily identify exactly how much money went into this section since records for maintenance funds are not kept in the same detail as construction funds. The next segment is at mile post 62.6 and is a bridge that was reconstructed in 1968. The cost for this project was also not readily available. The next segment runs for 3.1 miles beyond the bridge and was last improved in 1968. Department officials stated this segment was also most likely improved using maintenance funds when it received a one inch overlay of road mix. Again the actual cost of the improvement is not available. The final segment runs for

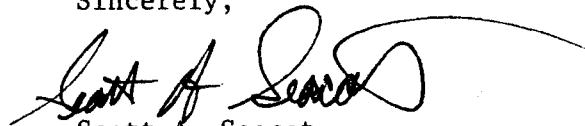
approximately 1/10 mile and it received a two inch overlay of road mix in 1978 for a cost in 1982 dollars of approximately \$130,000. We were not able to determine an average cost per mile for the whole 5 mile section because the data was not available.

Part of your concern was the relatively high sufficiency rating (61 percent) for the small amount of money that was spent on this second section of highway. The overall sufficiency rating is based on the four segments discussed above. We have discussed the department's procedures for determining sufficiency ratings and the sufficiency rating for this particular section of highway with officials in the Planning and Statistics Bureau. They stated that sufficiency ratings are determined partly by visual inspection and measurement of the road during field visits, partly from data kept by the department on traffic volume, traffic accidents, etc., and partly from analysis of road plans and diagrams. They stated this section of highway rated high in capacity (29 out of 30) because of the low traffic count (87 average daily traffic). This section was low in safety (2 out of 20) mainly because of inadequate stopping sight distances. These officials stated the primary reason this section received a relatively high rating is because of the low traffic volume. They pointed out that a similar section of road (between mile posts 48.1 and 50.7) with an average daily traffic of 832 has a 1980 sufficiency rating of 42 percent.


Because of the importance of the traffic count in determining sufficiency ratings, you suggested that we check with the Port of Scobey to get the traffic count at the border. We called the U.S. Customs Office at the Port of Scobey and their records showed an average of 35 vehicles entering the U.S. and 34 vehicles leaving the U.S. each day in 1982. Therefore, the average daily traffic at the Port of Scobey would be 69. We asked for the maximum traffic count and a customs official scanned the log book and said that 114 appeared to be the highest count of vehicles entering the U.S. in one day in 1982. He also said that they do not keep daily counts of vehicles leaving the U.S. but that it is approximately the same as the number entering. Using this assumption, the maximum traffic count for 1982 at the Port of Scobey was about 228.

If you have questions, or need further information, please feel free to contact me.

Sincerely,


Scott A. Seacat
Deputy Legislative Auditor

Reviewed and Approved:


Robert R. Ringwood
Legislative Auditor

SAS/j9n

Proposed Amendment - HB 9

1. Page 2, line 16.

Following: "~~apportion~~"

Strike: "divide"

Insert: "distribute three-fourths of"

2. Page 2, line 19.

Strike: line 19 in its entirety

3. Page 2, line 21.

Following: "and"

Strike: "the other portion"

Insert: "one-fourth of the available state construction funds
for the federal-aid primary system"

ROLL CALL VOTE ----- 1983 HIGHWAYS AND TRANSPORTATION COMMITTEE

	Date: 2/5 No: HB 16 Do Pass as Am.	Date: 2/8 No: HB 9 Do Pass as Am.	Date: 3/1 No: SB 106	Date: 3/3 No: HB 440	Date No:	Date: No:
ABRAMS	Y	N	Y	N		
ZABROCKI	Y	Y	Y	Y		
BROWN	N	N	--	N		
COMPTON	Y	N	Y	N		
HAMMOND	Y	Y	N	Y		
HARP	Y	Y	--	N		
HEMSTAD	N	Y	--	--		
HOWE	N	N	Y	Y		
KENNERLY	Y	Y	N	--		
KEYSER	N	Y	N	N		
KOEHNKE	N	Y	Y	Y		
LYBECK	Y	Y	N	Y		
O'CONNELL	Y	Y	N	N		
SHONTZ	Y	N	N	--		
SOLBERG	Y	N	Y	N		
STOBIE	N	Y	Y	--		
UNDERDAL	N	N	Y	N		

EXCUSE

DATE 2/8
REPRESENTATIVE Kochube
IS EXCUSED FROM COMMITTEE HEARING.

REP. HUGH ABRAMS, CHAIRMAN
HIGHWAYS AND TRANSPORTATION COMMITTEE

PROXY VOTE

Date 2/8
REPRESENTATIVE Kochube
BILL NO. 9, 542, 560
INSTRUCTIONS yes on all 3
Francis Kochube

SIGNATURE