

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION
MONTANA STATE SENATE

February 8, 1983

The meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on Tuesday, February 8, 1983 at 1:00 p.m. in Room 410, State Capitol.

ROLL CALL: Roll was called with the following Senators present: Senator Etchart, Senator Elliott, Senator Shaw, Senator Tveit, Senator Graham. Those Senators coming in late: Senator Hager, Senator Stimatz. Those Senators absent: Senator Daniels, Senator Manning.

HOUSE BILL NO. 198: Hearing commenced on House Bill No. 198, sponsored by Representative Harp, District 19, by request of the Highway Department through the Legislative Performance Audit. Representative Harp said this is an act to empower the Department of Highways to set fees for the issuance of permits for the use or occupancy of state highway rights-of-way. It add's section (5) on page 2, which states: "The Department may adopt rules setting fees to recover the cost of the issuance of permits to use or occupy state highway rights-of-way." This bill has a fiscal note and a statement of intent. I will let Mr. Jim Beck, from the Legal Division of the Department of Highways explain them to you. Representative Harp told the committee the Legislative Performance Audit, showed that it costs an average of \$60 to issue a permit. They recommended that the Highway Department try to recover the cost of issuing these permits. This bill would give the Highway Department the authority to charge for the permits, so that the cost would be borne by those who benefit, rather than the public at large.

Jim Beck, Legal Division, Department of Highways, told the committee they support this bill. The bill was introduced by the Highway Department, upon the recommendation of the Legislative Performance Audit. The Statement of Intent explains the bill quite clearly. The Legislature intends that the Department have discretion to set such fees. Use of highway right-of-way is a benefit to adjoining landowners as well as other private users. The costs involved in issuing those permits should be borne by those who have the benefit rather than the public at large. In exercising its discretion, the Department should consider such factors as administrative costs, necessary inspections to insure compliance with the conditions under which such permits are issued, and value of the use of which a permit is issued. The Department should also address whether the permit allows utilization of excess right-of-way or right-of-way along the roadway, and the purpose

for which the permit is issued. It is the intention that the fees for permits issued apply only to new permits. The Department is not using this rulemaking authority as a revenue measure. The amount of revenue collected will depend on the fees set by the department, and any fees collected would be deposited in the highway earmarked fund.

There were no further proponents or opponents. Senator Etchart asked if there were questions from the committee.

Senator Graham asked Mr. Beck if he thought this was a good bill.

Jim Beck replied yes, especially in the case of a major shopping center. The amount of work that goes into trying to design and insure that approach's are constructed safely should be borne by that person or corporation rather than the people of Montana.

Senator Graham asked Mr. Beck how many trips the Highway Department would make to inspect approach's.

Jim Beck told the committee each permit would involve a minimum of two trips to the site; one to pick the location, and one to inspect the construction of the approach.

Senator Etchart asked Mr. Beck how many permits are issued and what the engineering costs are, and if this would discourage potential builders.

Mr. Beck, said no, I don't think so, because we are limited to charging them the actual costs of doing the work. He said he doubts whether this would discourage a shopping center. Some of the projects for major shopping centers require an EIS, and this can be quite costly.

Mark Etchart asked how much this is currently costing the state.

Jim Nelson, Governor's Council on Management, told the Committee an average of \$60 for each permit issued. We issued 316 permits in 1982.

Senator Stimatz asked Mr. Beck if the Department of Highways has a lot of priority excess right-of-ways in the state, such as 10th Avenue South in Great Falls.

Mr. Beck told the committee he is unaware of excess right-of-ways. This is one problem that we are trying to get resolved. I can get you a list of the excess right-of-ways that we have.

Senator Stimatz told Mr. Beck he would like to see a list of the priority excess right-of-ways that people are using free.

In closing, Representative Harp told the committee the intent of the bill is for the Highway Department to recover their costs of issuing permits for excess right-of-ways. He read the Statement of Intent to the Committee, and said this really explains it all very well.

Senator Stimatz had one more question about the excess right-of-ways. He asked if the Highway Department knew the extent of the problem of excess right-of-ways.

Mr. Jim Nelson replied he was not sure the actual number of acres involved in excess right-of-ways. He told Senator Stimatz there are computer printouts available, and these show quite a number of parcels.

Senator Stimatz asked if the computer printouts were understandable, and if you could take that list and identify some of the major pieces.

Jim Beck said he would get this information for Senator Stimatz.

Senator Elliott asked Jim Beck what the definition of excess right-of-way is.

Jim Beck told the committee excess right-of-way is right-of-way not presently being used or no foreseeable use in the future.

There being no further discussion, hearing on House Bill No. 198 was closed.

HOUSE BILL NO. 205: Hearing commenced on House Bill No. 205, sponsored by Representative Fabrega. Representative Fabrega told the committee he sponsored this bill by request of the Montana Contractors Association. It is an act revising the discretionary authority of the Highway Commission regarding projects for competitive bidding; and clarifies the exception to competitive bidding, amending section 60-2-112. This bill changes the law on competitive bidding to allow the Highway Commission greater discretion. Increased from \$1,000 to \$10,000 is the estimated value at which competitive bidding is required. Stricken from the law is the subsection that allows the commission to ignore the competitive bidding requirement if the work can be done in a more efficient manner. New language in the bill empowers the Highway Commission to

contract with County Commissioner if project can thereby be accomplished at less cost.

Representative Fabrega passed out an amendment, that the Highway Department wrote. On page 1, line 21, strike "(2)" in it's entirety and insert: "(2) If the Commission determines that there are special circumstances which require that a contract be let by means other than competitive bidding, it may do so; the Commission must specify the special circumstances in writing. (3) The Commission may enter into contracts with the units of local government for the construction of projects; however, prior to so doing it must find that the work can be accomplished at lower total costs, including total cost of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project." Representative Fabrega said (3) addresses the problem that some work was contracted with local governments without taking into consideration all of the costs.

Bill Olson, Secretary-Manager of the Montana Contractors Association told the committee they are in support of this bill. This increase is just keeping up with time. I would like to acknowledge the Highway Commission. In the past several years there has been no real violation of the statutes. Our main concern is the accountability of the local governments with the Highway Commission, on the off-system roads. A lot of this work has been done by the County Governments when the contractors could have done the same job for less money. We recommend a do pass on this bill.

Jim Beck, Legal Division, Department of Highways told the committee the amendments were prepared by request of the Department and are designed to cover special circumstances. He told them he could think of several instances in which the Commission might want to handle the contract without competitive bidding.

Senator Hager asked Mr. Beck if the new language in the bill is asking the local governments to bid on the projects.

Jim Beck replied no.

Senator Hager asked Mr. Beck if this would be a lot of additional accounting costs for the counties.

Mr. Beck said he did not foresee a problem with this.

Senator Elliott asked Mr. Beck if the addition of the words "by entering such contract", on line 3 of (3),

after the word "that", would be a problem.

Mr. Beck said those words would be no problem.

Senator Elliott said he has some problems with all the items listed in section (3), such as: lower total costs, including total cost of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project.

Mr. Beck told Senator Elliott and the committee all of these items were put in by request of the Montana Contractors Association, not the Department of Highways.

Mr. Olson, Montana Contractors Association told the committee they know from experience that the County's accounting on their costs of projects leave a lot to be desired. What we are asking, is that if the County enters into a contract with the Highway Commission, that they be able to justify all the costs involved. In essence, to compare apples to apples. It is easy to say they can do it for a lower cost when they don't charge anything against their equipment.

Senator Elliott asked if there is any relationship between Senate Bill No. 91 and House Bill No. 205. Senator Elliott read Senate Bill No. 91, Page 1, line 24, (2) "The Commission may delegate the authority, with all applicable statutory restrictions, to award any contract covered by this section to the department or to a unit of local government."

Mr. Beck told the committee that under House Bill No. 205, we would not need to delegate, we could enter into small contracts up to \$10,000 without going to Commission. As far as local governments are concerned, we are talking about two different situations. The local governments are using their own money.

Senator Elliott asked if Senate Bill No. 91 has any dollar limitation.

Mr. Beck said no, the limitation is in House Bill No. 205, 60-2-112. It is presently \$1,000 and would be raised to \$10,000, if passed.

Senator Elliott commented he would have to do some further research on this.

There being no further discussion, hearing on House Bill No. 205 was closed.

ACTION ON HOUSE BILL NO. 198: Senator Stimatz asked that action on this bill be held up, as he wanted to do some research on it.

ACTION ON HOUSE BILL NO. 205: Senator Elliott asked that action be held until he had time to research the bill. He asked Paul Verdon, Legislative Council Researcher to give a report on the effects of Senate Bill No. 91 and House Bill No. 205, should they both pass. He said he had concerns over what the cumulative affect of both bills would be.

OTHER BUSINESS: Senator Etchart closed the formal part of the committee meeting in order that an independent trucker from Shelby could speak off the record to the committee concerning his recommendations about the taxation of the trucking industry.

Don Driemeyer, Shelby Diesel, Inc., Box 125, Highway 2 West, Shelby, MT 59474, was introduced to the committee.

Mr. Driemeyer told the committee his concern is their concern. The truck strike will affect you very soon, probably within a week to ten days. Trucks will be turned back to the bankers. This will hurt me and you and everyone around us. You know our concern and can do something different about taxation and GVW license fees. We feel there should be a different taxation structure. We are operating under the 1938 structure and this is 1983. We should have the laws updated to 1983. Our highways are constructed by 1938 standards. Even the contractors are ignoring today's standards. It is not the weight of the truck that ruins the highways. It is the horse power. In a short time ten percent of the truckers will be going out of business. The trucker's associations do not know or understand how our highways are built or how they hold up or what horse power does to a highway. You have to start with the grass roots. What we propose would be a fair type of taxation.

Senator Etchart asked if he was proposing a ton-mile concept.

Mr. Driemeyer gave the committee a two page statement with figures and charts. See Exhibit 1. He told them efficiency is important, but time is also important. The dollar cost is not as important as the time cost, because of the outdated license laws that we have to live by. We have done a study on the per ton miles that Montana does not get paid for. Montana get's nothing but a \$25 diesel permit. So whethbr a trucker has 250 horse power or 625 horse power, the same \$25 permit applies. Some of the people going through the state are using 1100 horse power engines and packing 108,000 of grain.

All Montana gets is \$25 for a diesel permit. These truckers don't even buy fuel in Montana, as their fuel tanks are very large. Montana gets nothing for the use of their highways. And, these are the trucks that are tearing up our highways, making the bumps in them. The larger horse power engines became available in 1966, 1967. Since that time, the economy has gone to hell, and the cost and taxes have gone up. Now time is the big element.

Senator Elliott asked Mr. Driemeyer to explain lateral torque.

Mr. Driemeyer said they use inch pounds. The formula is 1 foot in x amount of time. 81,000 lbs is probably the most efficient load. This is a ton-mile-horsepower combination. We suggest that if a trucker is overweight, let him pay an additional license, when at the scale, for horsepower and weight. Don't fine him. By doing this, the higher license fee for larger horsepower would keep these people from doing this, it would keep them at 81,000 lbs. Set Montana up as a model state and prorate to other states. Prorates are not helping Montana. Montana gets the least in reciprocity. Our GVW laws are the worst and federal regulations are harassing the state truckers. The truckers could buy these licenses by the month, quarter, or year, as they do now.

Senator Etchart asked about the single width tires on the four wheel trailers some of the trucks are using now. He asked if these are tearing up the highways.

Mr. Driemeyer said yes they are.

Senator Elliott asked if this concept has been adopted anywhere else in the nation.

Mr. Driemeyer said no. They have contacted 48 states, and all of them are operating on the 1938 system, which is outdated. Again, it is not the weight you put on the highways, it is the lateral torque.

ADJOURN: There being no further business before the Committee, the meeting was adjourned at 2:20 p.m.

Mark Etchart

Senator Mark Etchart, Chairman

Highways

2/3/83

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ROLL CALL

SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE

48 ~~47~~th LEGISLATIVE SESSION -- ~~1981~~ 1983

Date 2/8/83

NAME	PRESENT	ABSENT	EXCUSED
Senator Mark Etchart, Chairman	✓		
Senator Hager, Vice Chairman	✓ <i>CR</i>	<i>late</i>	✓
Senator Elliott	✓		
Senator Shaw	✓		
Senator Tveit	✓		
Senator Graham	✓		
Senator D. Manning	<i>absent</i>	✓	
Senator Stimatz	✓ <i>late</i>	late	
Senator Daniels		✓	
Paul Verdon, Leg. Council	✓		
Carol Doyle Frasier, Secretary	✓		

Highways & Transportation

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
William Olson	MT. Contractors Assn.	HB 205	✓	
J. Beck	DOH	HB 205 198	✓	
Don Driemeyer	Trucking			

(406) 434-5891 434-2938

SHELBY DIESEL, INC.
 HYDRAULIC SERVICE & SALES
 TRUCK & TRAILER MAINTENANCE

DON DRIEMEYER
 President

BOX 125
 HWY 2 WEST
 SHELBY, MONTANA 59474

434-2938

HYDRAULIC SERVICE & SALES
TRUCK & TRAILER MAINTENANCE

BOX 125
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SHELBY, MONTANA 59474

PROPOSED AMENDMENT TO H.B. 205

Page 1, Line 21

Strike: "(2)" in its entirety.

Insert:

" (2) If the Commission determines that there are special circumstances which require that a contract be let by means other than competitive bidding, it may do so; the Commission must specify the special circumstances in writing.

(3) The Commission may enter into contracts with units of local government for the construction of projects; however, prior to so doing it must find that ^{by entering such contract} the work can be accomplished at lower total costs, including total cost of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project."

Renumber following section.

NAME: William Olson DATE: 2/8/87

ADDRESS: Helena Mt

PHONE: 442-4162

REPRESENTING WHOM? Montana Contractors Assn.

APPEARING ON WHICH PROPOSAL: HB 205

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

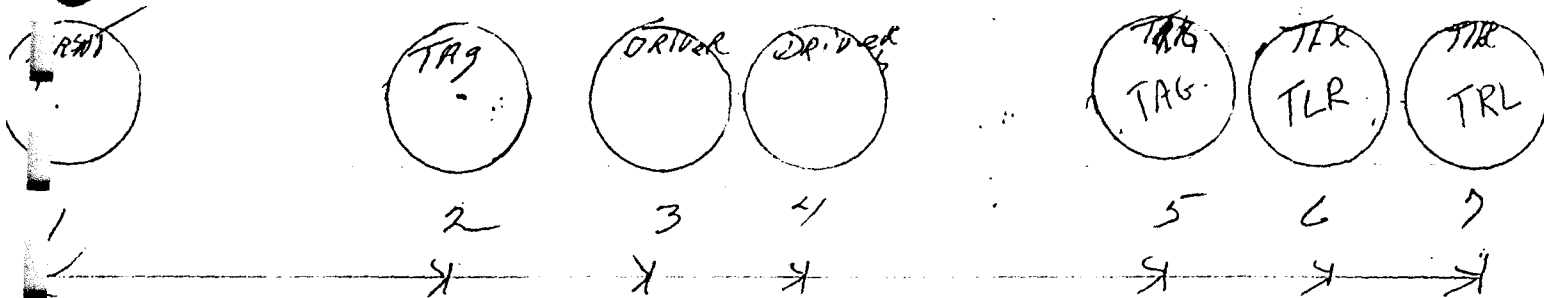
COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

signature
2/8/83
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H/11A# H/151A0

Don Dremeyer



#1 - 9000 lbs

#2 or #3 or #4 18000 per axle

#6 or #6 or #7 18000 per axle - (The length allowed 36-42 ft)

#2 - #5 or more 9000 per axle

Licenses per unit as straight truck or semi unit

example below for 5 axle semi unit 81000 lb ie $\frac{81000}{20000} \times .025 = 1.0125$

1.1 - 250	-	335	-	350	-	380	-	400	-	425	-	425
2025 ⁰⁰	-	2713 ⁵⁰	-	2835 ⁰⁰	-	3040 ⁰⁰	-	3240 ⁰⁰	-	3442 ⁵⁰	-	5062 ⁵⁰

Below Based on \$29 Per gal Fuel Tax Per yearly mileage of 20,000												
5.4	5.2	5.0	4.8	4.6	4.4	4.2	4.0	3.8	3.6	3.4	3.2	3.0
1086 ²⁰	1166 ⁶⁰	1211 ⁵⁴	1260 ⁰⁰	1312 ⁵⁰	1369 ⁵²	1425 ⁰⁰	1481 ⁰⁰	1537 ⁰⁰	1593 ⁰⁰	1649 ⁰⁰	1705 ⁰⁰	1761 ⁰⁰
Multiplied By 5000 trucks												
5,431,000	5,833,300	6,057,700	6,300,000	6,562,500	6,847,850	7,150,000	7,469,000	7,804,000	8,155,000	8,522,000	8,905,000	9,305,000

difference between 250 HP & 600 HP - 2,444,000

Same rate would apply to other units as well

5000 miles per truck per year

2329 ⁵⁰	2500 ⁰⁰	2511 ⁵⁰	2500 ⁰⁰	2812 ⁵⁰	2924 ²⁵	3035 ⁰⁰
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license cost depreciated each year with continued ownership
10% per year example 250 HP.

2025-	2025-	2025-	2025-	2025-	2025-	2025-	2025-	2025-	2025-
	.90	.80	.70	.60	.50	.40	.30	.20	.10
1822 ⁰⁰	1620 ⁰⁰	1417 ⁵⁰	1215 ⁰⁰	1011 ⁵⁰	810 ⁰⁰	607 ⁵⁰	405 ⁰⁰	202 ⁵⁰	

used truck purchase (year used divided by .80)

example used 250 HP

2 year old truck $1620^{00} \div .80 = 2025^{00}$

9 " " " $2025^{00} \div .50 = 2531^{12}$

Broken units i.e. Truck tractor - trailers would be licensed in much the same way.

[example used] (250 HP.)

Tractor - 3 axle - $45000 \text{ lbs.} \div .0250 = 1125^{00}$

However if a tr is licensed separately Multiply by .030

[example used] 36 ft 2 axle tr - $36000 \times .030 = 1080^{00}$

Variation - 40 ft 3 axle trailer $45000 \times .030 = 1350^{00}$

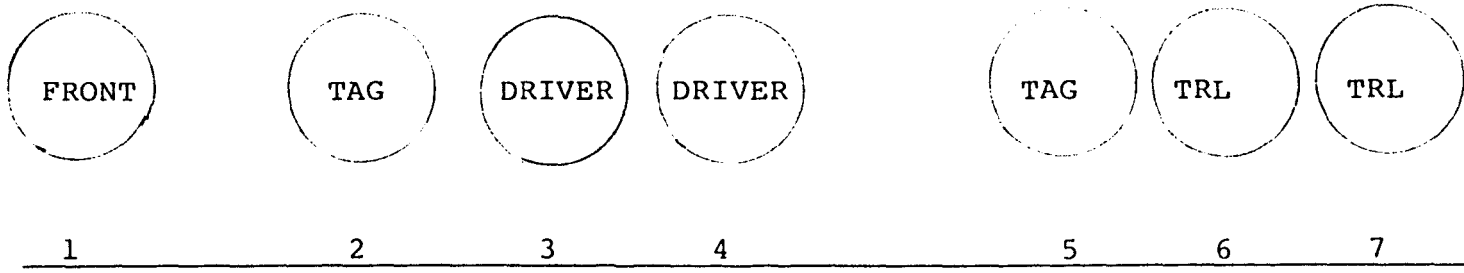
Depreciation scheduled 10% per year as above.

used equipment purchased division .80

example used -

4 year old 36 ft 2 axle tr - $1080^{00} \times .60 = 648 \div .80 = 810^{00}$

Units after nine years will stay on same schedule of 90% depreciated. (unless kits installed or a tr is installed)
(new engine, and, or axles installed)



- #1 - 9000 lbs
- #3 or #3 & #4 18000 per axles
- #6 or #6 & #7 18000 per axles - (Trailer length allowed 36 - 42 ft.)
- #2 - #5 or more 9000 per axle

License per unit as straight truck or semi unit
Example below for 5 axle semi unit

							Gross	HP.
					81000	lb i.e.	81000	x .0250
I.P. 250	--335	--350	--380	400 --	425		625	
2025.00	--2713.50	--2835.00	--3040.00	3240.00	3442.50		5062.50	

			fuel	per	mileage	
Below	Based on	\$09 per gal	tax	yearly	of	70,000
5.8	5.4	5.2	5.0	4.8	4.6	4.0
mpg. \$1086.20	1166.66	1211.54	1260.00	1312.50	1369.57	1575.00

Multiplied by	5000 trucks					
5,431,000	5,833,300	6,057,700	6,300,000	6,562,500	6,847,850	7,875,000

Difference between 250 HP & 600 HP - 2,444,800
Some trucks will log 150,000 miles and over
150,000 miles per truck would look like

2327.59	2500.00	2596.15	2700.00	2812.50	2934.78	3375.00
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license cost depreciated each year with continued ownership
10% per year example 250 HP

2025-	2025-	2025-	2025-	2025-	2025	2025-	2025	2025-	2025
.90	.80	.70	.60	.50	.40	.30	.20	.10	
1822.50	1620-	1417.50	1215-	1011.50	810-	607.50	405-	202.50	

Used truck purchase (year used divided by .80)
example used 250 HP
2 year old trk 1620.00 ÷ .80 = 2025.00
9 year old trk 202.50 ÷ .50 = 253.12

Broken units, i.e., Truck tractor - trailer would be licensed in much the same way.

[example used] (250 HP)

Tractor - 3 axle - 45000 lbs \div .0250 = 1125.00

However if a trailer is licensed separately multiplier .030

[example] used 36 ft. 2 axle trailer - 36000 x .030 = 1080.00

Variation - 40 ft. 3 axle trailer - 45000 x .030 = 1350.00

Depreciation schedule 10% per year as above.

used equipment purchased divisor .80

example used -

4 year old 36 ft 2 axle trailer - 1080.00 x .60 = 648 \div .80 = 810.00

Units after nine years will stay on same schedule of 90% depreciated.

(Unless kits installed or updated) (New engines, and, or axles installed.)