

MINUTES OF THE MEETING
HIGHWAYS AND TRANSPORTATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 21, 1985

The meeting of the Highways and Transportation Committee was called to order by Chairman Harp on February 21, 1985, at 5:15 p.m. in Room 420 of the State Capitol.

ROLL CALL: All members of the Committee were excused except Representatives Keyser and Smith, who were excused.

CONSIDERATION OF HOUSE BILL 887: Representative Jack Sands, District 90, sponsor, said House Bill 887 was drafted at the request of one of his constituents in Billings, and would consolidate law enforcement functions on highways.

Representative Sands explained various responsibilities of the Public Service Commission (PSC), the GVW enforcement authority of the Department of Highways and functions of the Department of Justice would all be transferred to the Montana Highway Patrol. He said a Highway Patrol officer could check for safety, road violations, GVW and tariffs and that the bill would put more enforcement officers on Montana highways. He stated it does not transfer administrative functions or rule-making authority of any department or commission to the Highway Patrol.

Representative Sands provided committee members with copies of proposed amendments (Exhibit 1), which he said serve to clarify the transfer of functions. He added that no jobs would be eliminated and the effective date of the bill would be July 1, 1987.

PROPONENTS: Mr. Pat Patterson, Billings, told committee members he had been in all phases of transportation since 1943. He said he became concerned when he read a proposal to cut Montana Highway Patrol staff by one-third. Mr. Patterson explained he believes GVW weigh stations are ineffective as truck drivers take alternative routes to avoid the stations when they are overweight. He said 37 pound portable scales, which cost \$1,000 each, would serve to eliminate the overweight problem, as officers could carry the scales in their vehicles and stop a truck at any time. He commented that as Montana's transportation industry grows, highways deteriorate from overloaded vehicles.

Mr. Ben Havdal, Montana Motor Carriers, stated it is the policy of his association to work with law enforcement on a cooperative basis, but the Association presently works with many different agencies and it is his belief the bill could be of assistance in establishing uniform policy among such agencies. He commented he had not seen the proposed amendments.

OPPONENTS: Mr. Gary Wicks, Director, Department of Highways, told the Committee he sees problems with the bill as introduced. He said the intent was to leave the administrative responsibilities of GVW pertaining to size and weight with the PSC. He explained the GVW peace officers within the Department of Highways would still have authority according to language in the bill, and that he understands the Representative's thoughts on the matter, but things work fairly well as they are now.

Mr. Wicks continued, stating the GVW Division of the Department of Highways has taken steps to improve its efficiency by increasing the number of roving scale workers from zero in 1983 to 17% now and 24% by the end of 1985. He explained these workers collected \$33,000 in fees during three days in April, 1984, in the Saltese area (Exhibit 2). Mr. Wicks said the Department will build GVW weight stations at Havre and Clear Water Junction in an effort to further improve enforcement of GVW regulations.

Mr. Wicks explained that, if the bill were to pass, GVW would be moved to the Montana Highway Patrol and those FTE would be upgraded from Grade 11 to 13 at an annual increase of \$250,000 in salaries, in addition to expenses for additional cars and training. He said some states have GVW officers within their highway patrol divisions, but most are situated within transportation departments, who appear to have better truck-weight enforcement programs. He commented that the State of North Dakota transferred its GVW division to its department of highways in July, 1982, from its highway patrol division.

Mr. Wayne Budt, Transportation Division, Public Service Commission, stated that since the PSC was charged with regulating common carriers in the State, it is concerned with the proposal that all operations enforcement be handled by the Montana Highway Patrol. He said he believes there would be problems with one agency enforcing GVW and others setting policy and regulations and that the system seems to be working as it is (Exhibit 3).

Mr. Joe Roberts, Assistant Attorney General, Department of Justice, told committee members the Department opposes the bill as "the loose ends need to be clarified since this is legislation of substantial magnitude and would require major revisions for those agencies affected". He said the major mission of the Montana Highway Patrol is law enforcement, but he fears this would suffer if the bill were passed. He explained he believes the concept is "not entirely bad" but needs to be approached cautiously.

QUESTIONS: Representative Zabrocki asked Mr. Roberts if the primary mission of the Montana Highway Patrol was to help people. Mr. Roberts replied that it was, along with traffic enforcement.

Representative Harbin asked Mr. Wicks why the Department of Highways referred to income from GVW fees as "financial stationary" on Exhibit 2. Mr. Wicks replied that the term could be simplified to "permits", if necessary, to promote clarification.

Representative Abrams asked Representative Sands to explain Section 10 of the proposed amendments. Representative Sands replied that the bill would not add new responsibilities to the Montana Highway Patrol or change jobs in other departments.

Representative Harbin asked how the bill would affect Department of Highways personnel and said he did not think it necessary that the agents of the same department act in enforcement capacities.

Representative Peterson asked Mr. Patterson how accurate the scales were, which he referred to in his testimony. Mr. Patterson replied they were within 1½% of accuracy. Mr. Don Copley, Administrator, Gross Vehicle Weight Division, Department of Highways, stated his division's GVW scales are sealed to one-tenth of 1% and weigh 80 pounds. He commented the Division is testing a set of scales which weigh 43 pounds and cost \$3,000 each.

In closing, Representative Sands asked the Committee to vote on the concept of the bill and said he is prepared to meet with the PSC, the Department of Highways, public employees and Montana Motor Carriers on technicalities in the bill. He explained he believes the bill makes sense and would provide for better enforcement with fewer personnel, especially if enacted on a gradual basis.

CONSIDERATION OF HOUSE BILL 383: Representative Harp advised committee members of proposed amendments to House Bill 383 and asked Mr. Tom Gomez, Legislative Researcher, to explain the Bill Summary and amendments (Exhibits 4 and 5).

Mr. Gomez stated the amendments address concerns of the railroads for taxation versus fees, and state authority to act as proposed in the bill, as well as other matters. He explained, "the amendments are legislative findings which will become codified if the bill passes and that also, they address legislative policy and intent", as there is a need to demonstrate a rational basis for treating the railroads differently from other classes of persons, especially because the bill would impose a burden on railroads as a particular class.

In addressing the direct relationship between railroad abandonment and increased traffic on highways, Mr. Gomez stated the amendments state that undue deterioration of state highways results in a threat to safety of motorists and imposes a financial burden on the State in its duty to the public in assuring safe and adequate highways. He said, "the legislative findings would indicate that interstate commerce can be impeded by deterioration of highways" in that "railroad abandonment results in the aforementioned problems".

Referencing railroad contemplation of abandonment, Mr. Gomez stated it was the belief of the sponsor and others that costs of deterioration of highways due to branch line abandonment should be borne by the railroads as they are responsible for such costs. He commented that the statement of legislative policy would provide guidance to the courts and indicate an intent to require payment on the part of additional highway costs incurred, in addition to establishing a fair and reasonable amount of determining the cost to be borne by railroads abandoning branch lines.

Mr. Gomez explained costs are not based on assessment of real or personal property nor taxation of the assets of a railroad company and that the action proposed in the bill would appear distinct from any activity prohibited under federal law.

Mr. Gomez said Section 3 provides definitions for the purpose of clarity and to give an exact meaning for language contained in the provisions of the bill. He indicated Section 3 would define, among other things, the "Montana rail plan", which is developed by the Department of Commerce, pursuant to state law and the 4R Act, while the remainder of amendments are technical in nature (to clean up renumbering, etc.).

According to Mr. Gomez, amendment 4 would strike "year" on page 1, line 22, of the bill and insert "for a period of no more than 7 years". He explained prior wording seemed to put an undue hardship on railroad companies because it imposed a burden in perpetuity.

Referring to amendment 10, Mr. Gomez said Section 9 of the amendment would clarify ramifications should a railroad fail to make payments as required and that it has nothing to do with the right of the railroads to abandon branch lines, but makes it clear that failure to make abandonment impact payments would create an unpaid debt owed the State. He explained that Section 10 of the amendments indicates the construction of the meaning of language in the bill and again clarifies the rights of railroads under the Staggers Act, U.S.C. 10903 (which he read to the Committee).

Mr. Gomez advised committee members the purpose of the bill would appear well-founded given expressed findings of the Committee. He explained Section 13, pertaining to severability would provide that the remaining parts of the bill that are able to stand alone will do so if any other part of the bill is rendered invalid by the courts.

Representative Harbin asked what the effective date of the bill would be. Mr. Gomez replied it would be October 1, 1985.

Chairman Harp asked Mr. Gomez to define the term, "legislative findings". Mr. Gomez replied the coal tax law has "legislative findings" as do the highway codes. Chairman Harp commented the legislative findings appear to be the "guts" of the bill. Mr. Gomez replied one could say "the Legislature is making explicit findings, which while not binding on the courts, have great weight and limit the possibility of the court usurping the Legislature in making policy findings of its own".

Chairman Harp asked about (4) of Section 1, amendment 1, and how it pertained to legislative findings. Mr. Gomez replied the costs being imposed on railroads are only those they are responsible for and (4) of Section 1 gives a rational reason for imposing such costs (based upon a formal study).

Chairman Harp commented he would like to see the bill work. Mr. Gomez read what he considered to be a relevant portion of Title 49 U.S.C. 11503, to committee members. He said the last subsection states that imposition of another tax that discriminates against a railroad is not permitted, because it is an act that unreasonably burdens and discriminates against interstate commerce, and that the question is, what constitutes discrimination, that imposes an unreasonable burden on interstate commerce. Mr. Gomez advised committee members that Sections 1 and 2 of the amendments suggest a reasonable basis for imposing costs and a rational basis for the bill and that another question might be whether the interests of the railroads are more reasonable and compelling than those of the public to adequate and safe highways.

Representative Harbin asked if it would be appropriate to add language to Section 6 stating that the bill does not violate the 4-R Act. Mr. Gomez replied he referred to an academic work, known as Sutherland on Statutes and Statutory Construction, and found it unnecessary.

Chairman Harp stated he would like the bill to be in order and committee members to be well-informed when the bill goes to the House floor. Mr. Gomez commented the Legislative Council respects the wishes of any legislator, in response to a bill draft request, and can't offer any guarantee that the bill as amended would stand up in court, but looking at the wording, he believes the bill as amended, is defensible. He said under Joint Rule 6-34, it would appear that "this is not a revenue bill" and that in some jurisdictions in the Country, the impact payments could be considered to be a tax. However, in determining whether a measure is a tax, the court must consider the purpose of legislation, the method by which the State calculates the amount of financial liability upon which a debt is owed, and the court will look for "appearances" of a tax such as an assessment on the value of property and other actions. He advised that if it is determined that the bill contains a tax, then perhaps it is a reasonable tax.

Chairman Harp asked Mr. Gomez to define the term, "legislative findings". Mr. Gomez replied the coal tax law has "legislative findings" as do the highway codes. Chairman Harp commented the legislative findings appear to be the "guts" of the bill. Mr. Gomez replied one could say "the Legislature is making explicit findings, which while not binding on the courts, have great weight and limit the possibility of the court usurping the Legislature in making policy findings of its own".

Chairman Harp asked about (4) of Section 1, amendment 1, and how it pertained to legislative findings. Mr. Gomez replied the costs being imposed on railroads are only those they are responsible for and (4) of Section 1 gives a rational reason for imposing such costs (based upon a formal study).

Chairman Harp commented he would like to see the bill work. Mr. Gomez read what he considered to be a relevant portion of Title 49 U.S.C. 11503, to committee members. He said the last subsection states that imposition of another tax that discriminates against a railroad is not permitted, because it is an act that unreasonably burdens and discriminates against interstate commerce, and that the question is, what constitutes discrimination, that imposes an unreasonable burden on interstate commerce. Mr. Gomez advised committee members that Sections 1 and 2 of the amendments suggest a reasonable basis for imposing costs and a rational basis for the bill and that another question might be whether the interests of the railroads are more reasonable and compelling than those of the public to adequate and safe highways.

Representative Harbin asked if it would be appropriate to add language to Section 6 stating that the bill does not violate the 4-R Act. Mr. Gomez replied he referred to an academic work, known as Sutherland on Statutes and Statutory Construction, and found it unnecessary.

Chairman Harp stated he would like the bill to be in order and committee members to be well-informed when the bill goes to the House floor. Mr. Gomez commented the Legislative Council respects the wishes of any legislator, in response to a bill draft request, and can't offer any guarantee that the bill as amended would stand up in court, but looking at the wording, he believes the bill as amended, is defensible. He said under Joint Rule 6-34, it would appear that "this is not a revenue bill" and that in some jurisdictions in the Country, the impact payments could be considered to be a tax. However, in determining whether a measure is a tax, the court must consider the purpose of legislation, the method by which the State calculates the amount of financial liability upon which a debt is owed, and the court will look for "appearances" of a tax such as an assessment on the value of property and other actions. He advised that if it is determined that the bill contains a tax, then perhaps it is a reasonable tax.

Chairman Harp indicated that from his work on the House Taxation Committee, he believed House Bill 383 did not provide for a tax because it would not immediately increase or decrease tax revenues. Because the bill is not then a revenue bill, Chairman Harp expressed hope that the Committee would act without further delay on House Bill 383 to assure that the bill receives consideration before the transmittal date required for general bills.

Representative Harbin told committee members they may need to consider other modes of transportation, such as rivers and airlines, and asked what would happen if railroads lowered their rates to the point that a branch line was unprofitable, in order to abandon the line. Representative Glaser responded that such action would be subterfuge.

Chairman Harp told committee members the bill is a point to start from for the next session.

Representative Peterson reminded committee members of the need to be concerned with possible legal ramifications and related costs.

DISPOSITION OF HOUSE BILL 383: Representative Zabrocki made a motion that the amendments to House Bill 383 be approved. The motion was given unanimous committee approval.

Representative Zabrocki then made a motion that House Bill 383 DO PASS AS AMENDED. The motion was given unanimous committee approval.

DISPOSITION OF HOUSE BILL 887: Representative Harbin made a motion that House Bill 887 be Tabled. The motion was given unanimous approval by the Committee.

DISPOSITION OF HOUSE BILL 66: Representative Harbin made a motion that the Committee approve the proposed amendments (Exhibit 6), which would insert "at a speed in excess of 25 miles per hour" following, "ENCLOSED" in the Title, line 6 and on page 1, line 10. The motion was seconded by Representative O'Connell and passed with all members voting aye except Representative Campbell, who noted no.

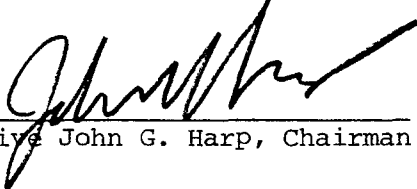
Representative O'Connell then made a motion that House Bill 66 DO PASS AS AMENDED. The motion passed with 7 members voting aye, 4 voting no, 1 abstaining and Representatives Keyser and Smith excused (Roll Call Vote attached).

DISPOSITION OF HOUSE BILL 225: Representative Abrams made a motion that the bill DO PASS.

Minutes of the House Highways and Transportation Committee
February 21, 1985
Page 7

Representative Harbin made a substitute motion that House Bill 225 be Tabled. The motion made by Representative Harbin passed with 7 members voting aye and Representatives Peterson, Zabrocki, Campbell, Abrams, and Howe voting no. Representatives Keyser and Smith were excused and left no vote.

There being no further business before the Committee, the meeting was adjourned at 6:50 p.m.



Representative John G. Harp, Chairman

DAILY ROLL CALL

HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE

49th Legislative Session

Date 2-21, 1985

Name	Present	Absent	Excused
Harp	X		
Abrams	X		
Campbell	X		
Compton	X		
Glazer	X		
Harbin	X		
Howe	X		
Kennerly	X		
Keyser			€
Koehnke	X		
O'Connell	X		
Peterson	X		
Smith			€
Zabrocki	X		

House Highways & Transp. COMMITTEE

DATE Feb. 21, 1985

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments HB 887, introduced bill

1. Title, line 8.

Following: "MCA"

Insert: "; REPEALING SECTIONS 61-12-201 THROUGH 61-12-208, MCA;
AND PROVIDING A DELAYED EFFECTIVE DATE"

2. Page 1, line 17.

Following: "to"

Insert: "subsection (1)(c) of 69-12-201 to the extent that
subsection pertains to safety operations of motor carriers
and to subsections (1)(f), (1)(g), and (2) of"

Following: "69-12-201"

Strike: "(1)(f)"

3. Page 3, line 3.

Following: "establish"

Strike: ", "

Insert: "and"

Following: "maintain"

Strike: ", "

Following: "and"

Insert: "provide for the highway patrol to"

4. Page 7, line 18.

Following: "(j)"

Strike: "section"

Insert: "subsection (1)(c) of 69-12-201 to the extent that
subsection pertains to safety operations of motor carriers
and subsections (1)(f), (1)(g), and (2) of"

Following: "69-12-201"

Strike "(1)(f)"

Following: "and"

Insert: "section"

5. Page 7, line 20.

Strike: "effective"

Insert: "applicability"

6. Page 8, line 1.

Following: "rules"

Strike: the remainder of line 1 and line 2 through "October 1,
1985"

Insert: "applicable July 1, 1987"

7. Page 8, line 8.

Following: line 7

Insert: "NEW SECTION. Section 10. Transfer of personnel. It is the intention of the legislature that persons employed by the department of highways to enforce provisions of Title 61, chapter 10, and persons employed by the public service commission to enforce the provisions of Title 69, chapter 12, on June 30, 1987, must be employed by the department of justice, division of motor vehicles, in the performance of duties similar to those they performed before July 1, 1987.

NEW SECTION. Section 11. Repealer. Sections 61-12-201 through 61-12-208, MCA, are repealed.

NEW SECTION. Section 12. Effective date. Sections 1 through 7 and Section 10 are effective July 1, 1985."

7

SPECIAL ASSIGNMENT ACTIVITY REPORT

0660
2-5-87
Exhibit 2
6557

Date & Time Start APRIL 16, 1984

Date & Time Finish APRIL 19, 1984

Location: Hwy's # I-90, , Nearest Town(s) SALTESE

District(s) Worked 1

Scale: Permanent # Type of Scale: Platform
Portable #63- 340 Portable Loadometer X
 #63- 343 Portable Eldec X
Eldec # 120 & #122

Number of Trucks: Northbound -0- South -0- East 1050 West 790

Total Trucks Checked 1740 Total Trucks Weighed (Platform)

Total Trucks Weighed (Portable) 1105

Total Trucks Adjusted and Reduced to Legal Load 39

Number of Notices to Appear Issued (GVW 51 PSC 91) TOTAL 142

TOTAL AMOUNT OF BOND REQUESTED (GVW \$ 14,285. PSC \$ 7,025.) TOTAL \$ 21,310.00

FINANCIAL:

G.V.W. FORM 2 (CUSTOM COMBINE)	No. Issued	<u>-0-</u>	TOTAL FEES \$	<u>-0-</u>
G.V.W. FORM 3 (GVW FEES)	No. Issued	<u>-0-</u>	TOTAL FEES \$	<u>-0-</u>
G.V.W. FORM 13 (L.P.G.)	No. Issued	<u>1</u>	TOTAL FEES \$	<u>30.00</u>
G.V.W. FORM 32				
(LPG TRIP PERMITS)	No. Issued	<u>-0-</u>	TOTAL FEES \$	<u>-0-</u>
(DIESEL TRIP PERMITS)	No. Issued	<u>153</u>	TOTAL FEES \$	<u>4590.00</u>
(TEMP. TRIP PERMITS)	No. Issued	<u>190</u>	TOTAL FEES \$	<u>4995.00</u>
(RR-LP)	No. Issued	<u>5</u>	TOTAL FEES \$	<u>440.00</u>
(OVERSIZE)	No. Issued	<u>15</u>	TOTAL FEES \$	<u>215.00</u>
(OVERWEIGHT)	No. Issued	<u>11</u>	TOTAL FEES \$	<u>460.00</u>
7% WEIGHT PERMITS	No. Issued	<u>10</u>	TOTAL FEES \$	<u>100.00</u>
IMPL. DEALER	No. Issued	<u>-0-</u>	TOTAL FEES \$	<u>-0-</u>
MF-38 FUEL BOND	No. Issued	<u>13</u>	TOTAL FEES \$	<u>1300.00</u>

TOTAL AMOUNT OF FINANCIAL STATIONERY \$ 12,130.00

TOTAL AMOUNT OF BOND MONEY REQUESTED AND FINANCIAL STATIONERY SOLD \$ 33,440.00

12 ENFORCEMENT OFFICERS

390 MAN HOURS

SALARIES	\$2,760.34
OVERTIME	2,410.03
EXPENSES	944.00
TOTALS	\$6,114.37

The Montana Public Service Commission is opposed to HB 887.

Our opposition to this bill is based on the following critical areas.

First, the Public Service Commission has been charged with the responsibility to supervise and regulate motor carriers in this state. This Commission must regulate the properties, facilities, operations, accounts, service, practices, affairs, and safety operations of all motor carriers. These responsibilities are each, in their own right, vital in encouraging a healthy system of common carrier motor transportation within this state for the convenience of the shipping public.

Paramount in ensuring that this responsibility be carried out is the ability of the Public Service Commission to enforce its rules and regulations.

Since 1931 the Public Service Commission has maintained and operated its own enforcement bureau, not to deny any other enforcement agency the opportunity to enforce these statutes, not to eliminate cooperation and coordination of interagency personnel, but to ensure timely, reliable and consistent enforcement of Commission rules and regulations for the benefit of the shipping public.

This bill would remove all enforcement from the PSC. It would put the Commission in the position of having to rely on another agency for vital enforcement functions, naturally subject to that agencies own preferences, timetables and personnel shortages.

2-21-85
Ex 3-p2
HB 887

Second, this bill would develop an unnatural association of one agency issuing Certificates of operating authority through contested case proceedings and another agency solely responsible for interpreting those certificates in the field. This association promotes inconsistencies and unnecessary delays of motor carriers on the road.

Third, the role of the Highway Patrol has traditionally been enforcement on the highways. Passage of HB 887 would take patrol personnel off the highway and place them in GVW scales. The patrol is already on record requesting additional personnel to perform their present duties. To give them sole responsibility for GVW and PSC rules and regulations would place an unfair and unnecessary burden on an already understaffed agency.

If the intent of this bill is to transfer existing GVW and PSC personnel to the Patrol to perform current enforcement functions, there would be no savings to the State. Presently GVW and PSC enforcement personnel are Grades 11 and 12 and Patrol officers are Grades 13 and 14.

If the intent of this bill is to place only the enforcement rules and regulations from GVW and PSC in the Highway Patrol, then the result would be a decrease of enforcement levels in all three areas. The Highway Patrol would be solely responsible for all three agencies enforcement duties without the benefit of additional personnel in the 4th largest state in the union.

Finially, if the intent of this bill is to transfer GVW and PSC enforcement responsibilities to the patrol with additional patrol personnel to offset this increased responsibility, the result would be an unnecessary and dramatic increase in cost to this state.

2-21-85
EX 3-~~A~~
HB 887

We therefore urge you to give a do not pass recommendation to HB 887,
thus allowing the PSC, GVW and the Highway Patrol to continue to
coordinate and cooperate in the motor carrier enforcement responsibilities
of this state.

Wayne Budt, Administrator
Transportation Division
Montana Public Service Commission

WITNESS STATEMENT

NAME Wayne Budt BILL NO. 887
ADDRESS _____ DATE 2-24-85
WHOM DO YOU REPRESENT? Mont PSC
SUPPORT _____ OPPOSE X AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.
Comments: Attached

Exempt
Summary
HB 383

BILL SUMMARY

(HB 383)

HB 383 provides for an abandoned railroad highway assistance account to be established for the purpose of funding improvement, repair, and maintenance of public highways needed as a consequence of the abandonment of railroad lines and the subsequent increase in motor vehicle traffic in the area previously served by the abandoned railroad line.

HB 383 contains the following major provisions:

Section 1 provides a statement of legislative findings that is necessary to express a rational basis for treating railroads differently from other classes of persons.

Section 2 is a statement of legislative intent that is needed to provide the courts and state agencies with an expressed policy that may be used in guiding their interpretation of the bill.

Section 3 contains definitions for critical terms used in the bill and is provided to assure an exact meaning to such terms.

Section 4 creates an abandoned railroad highway assistance account within the state special revenue fund to consist of abandonment impact payments.

Section 5 requires a railroad that abandons a branch line or main line that was potentially profitable to pay into the state special revenue account one-half of the additional cost of improving, maintaining, or repairing the public highways in an area previously served by the abandoned railroad.

Section 6 establishes a criteria for determining the potential profitability of a rail line abandoned by a railroad based upon a determination of revenue in excess of avoidable costs in the state rail plan completed by the commerce department.

Section 7 provides for a method of determining the additional cost of improving, maintaining, or repairing public highways caused by the abandonment.

Section 8 gives the department of highways authority to fulfill its responsibilities under the bill.

Section 9 clarifies action that may be taken against a railroad for its failure to comply with the abandonment impact payment requirements provided in section 5.

100-100
Ampt 5
HB383

Amendments to House Bill No. 383

1. Page 1, line 11.

Following: line 10

Insert: "Section 1. Legislative findings. The legislature

finds a clear and direct relationship between the abandonment of railroad lines by a railroad company and the increased motor vehicle and truck traffic in an area previously served by the abandoned railroad line. The legislature further finds that the increased motor vehicle and truck traffic resulting from railroad abandonment causes considerable undue wear upon and deterioration of the public highways, posing a serious threat to the health and safety of the citizens of the state and placing a difficult financial burden on state government because of the additional costs of improving, maintaining, and repairing the public highways in an area previously served by the abandoned railroad line. The legislature further finds that:

(1) it is the unquestionable duty of the state to assure safe and adequate public highways;

(2) inadequate public highways obstruct the free flow of traffic, increase the costs of motor vehicle operation, endanger public safety on the highways, and generally impede economic progress and interstate commerce;

(3) absent additional highway funds, railroad abandonment will lead to unsafe and inadequate highways in those areas impacted by such abandonment;

(4) the additional costs of improving, maintaining, and repairing highways caused by railroad abandonment are not included in the private cost-benefit calculations of a railroad company contemplating abandonment; and

(5) a portion of the additional highway costs should be borne by the railroad company responsible for producing such costs.

Section 2. Legislative policy and intent. Consistent

with the findings in [section 1], the legislature intends:

(1) that the state provide for adequate and safe public highways in those areas impacted by railroad abandonment;

(2) to require a railroad company abandoning a railroad line that was potentially profitable to bear a portion of the additional highway costs caused by increased motor vehicle traffic resulting from the abandonment;

(3) to establish a fair and reasonable method for calculating the amount of the additional highway costs to be borne by the railroad company, payment of which is not required as a condition for engaging in any business activity and is not based on an assessment on real property, a levy on the valuation of personal property, or taxation against a percentage of the assets or income of the railroad company; and

(4) to impose upon a railroad company only that portion of the increased costs of improving, maintaining, or repairing public highways which can be reasonably attributed to the impact of railroad abandonment.

Section 3. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment" means cessation of the use of any part of a railroad line or the activity thereon with no intention to use the railroad again or to resume the activity, which abandonment is approved pursuant to the requirements of 49 U.S.C. 10903.

(2) "Montana rail plan" means the report developed by the department of commerce as part of its railroad planning activities required by 60-11-101 and the applicable provisions of the federal Railroad Revitalization and Regulatory Reform Act of 1976.

(3) "Rail abandonment highway impact analysis" means the analytical modeling of potential impact to highways as a consequence of railroad abandonment, consisting of a calculation of highway costs attributable to a rail line

abandonment, that is included as part of the Montana rail plan.

(4) "Railroad" means any corporation, person, association of persons, or other entity owning or operating a railroad located, in whole or in part, in the state."

Renumber: subsequent sections

2. Page 1, line 14.

Following: "section"

Strike: "2"

Insert: "5"

3. Page 1, line 17.

Following: "section"

Strike: "2"

Insert: "5"

4. Page 1, lines 21 through 22.

Following: "was" on line 21

Insert: "potentially"

Following: "section" on line 22

Strike: "3"

Insert: "6"

Following: "year" on line 22

Insert: "for a period of no more than 7 years"

5. Page 2, line 4.

Following: line 3

Strike: "4"

Insert: "7"

6. Page 2, lines 16 through 17.

Following: "section" on line 16

Strike: "2"

Insert: "5"

Following: "considered" on line 17

Insert: "potentially"

7. Page 2, line 25.

Following: "section"

Strike: "2"

Insert: "5"

8. Page 3, line 11.

Following: "section"

Strike: "2"

Insert: "5"

9. Page 3, line 13.

Following: "section"

Strike: "2"

Insert: "5"

10. Page 3, line 14.

Following: line 13

Insert: "Section 9. Failure to comply with payment

requirements. The failure of a railroad company to make payments as required by [section 5] creates an unpaid debt that is owed to the state. Such unpaid debt may be collected by the seizure and sale of real or personal property in possession of the railroad company within the state.

Section 10. Construction. Nothing in [this act] may be construed to allow the state to abridge or deny the right of a railroad company to pursue abandonment of a railroad line as provided in 49 U.S.C. 10903."

Renumber: subsequent sections

11. Page 3, lines 19 through 20.

Following: "through"

Strike: "4"

Insert: "7 and sections 9 and 10"

2-21-85
EX5-P.5
HB383

12. Page 3, line 21.

Following: "Section"

Strike: "5"

Insert: "8"

13. Page 3, line 24.

Following: line 23

Strike: "5"

Insert: "8"

14. Page 3.

Following: line 24

Insert: "Section 13. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

Feb. 21, 1985
Exhibit 6
HB 66

February 21, 1985

Proposed Amendment to House Bill No. 66.

1. Title, line 6.
Following: "ENCLOSED"
Insert: "AT A SPEED IN EXCESS OF 25 MILES PER HOUR"
2. Page 1, line 10
Following: "pickup"
Insert: "at a speed in excess of 25 miles per hour"

ROLL CALL VOTE

HOUSE COMMITTEE HIGHWAYS AND TRANSPORTATION

DATE 2-21-85 BILL NO. HB 66 TIME 6:40pm

NAME	AYE	NAY	ABSTAIN
REP. HARP		X	
ABRAMS		X	
CAMPBELL		X	
COMPTON		X	
GLASER	X		
HARBIN	X		
HOWE	X		
KENNERLY	X		
KEYSER			X
KOEHNKE			X
O'CONNELL	X		
PETERSON	X		
SMITH			X
ZABROCKI	X		
Totals	7	4	3

Joann T. DeWolf
Secretary

Representative John Harp
Chairman

Motion: DPAA - O'Connell
1st - 1st
4th
8th

STANDING COMMITTEE REPORT

February 21

1945

MR. **SPEAKER:**

We, your committee on **HOUSE HIGHWAYS AND TRANSPORTATION**

having had under consideration **HOUSE BILL** Bill No. **SEN 66**

FIRST reading copy (**WHITE**)
color

**AN ACT PROHIBITING CARRYING PASSENGERS UNDER 13 YEARS OF AGE IN
A TRUCK BOX NOT FULLY ENCLOSED.**

Respectfully report as follows: That **HOUSE BILL** Bill No. **66**

Be amended as follows:

1. Title, line 6.
Following: "ENCLOSED"
Insert: "AT A SPEED IN EXCESS OF 25 MILES PER HOUR"
2. Page 1, line 10
Following: "pickup"
Insert: "at a speed in excess of 25 miles per hour"

AND AS AMENDED

~~DO-PASS~~

Representative **John G. Harn**.....
Chairman.

STANDING COMMITTEE REPORT

Page 1 of 5

February 21 19 35

MR. SPEAKER:

We, your committee on HOUSE HIGHWAYS AND TRANSPORTATION

having had under consideration HOUSE BILL Bill No. 361

FIRST reading copy (WHITE)
color

AN ACT ESTABLISHING AN ABANDONED RAILROAD HIGHWAY ASSISTANCE ACCOUNT;
PROVIDING FOR PAYMENTS INTO THAT ACCOUNT BY RAILROADS ABANDONING LINES;
AND ALLOWING FOR EXPENDITURES FROM THAT ACCOUNT TO MEET ADDITIONAL
HIGHWAY COSTS CAUSED BY RAILROAD ABANDONMENTS.

Respectfully report as follows: That HOUSE BILL Bill No. 361

Be amended as follows: (pages 2 through 6)

~~DO PASS~~

HB 383

Amendments to House Bill No. 383

1. Page 1, line 11.

Following: line 10

Insert: "Section 1. Legislative findings. The legislature

finds a clear and direct relationship between the abandonment of railroad lines by a railroad company and the increased motor vehicle and truck traffic in an area previously served by the abandoned railroad line. The legislature further finds that the increased motor vehicle and truck traffic resulting from railroad abandonment causes considerable undue wear upon and deterioration of the public highways, posing a serious threat to the health and safety of the citizens of the state and placing a difficult financial burden on state government because of the additional costs of improving, maintaining, and repairing the public highways in an area previously served by the abandoned railroad line. The legislature further finds that:

(1) it is the unquestionable duty of the state to assure safe and adequate public highways;

(2) inadequate public highways obstruct the free flow of traffic, increase the costs of motor vehicle operation, endanger public safety on the highways, and generally impede economic progress and interstate commerce;

(3) absent additional highway funds, railroad abandonment will lead to unsafe and inadequate highways in those areas impacted by such abandonment;

(4) the additional costs of improving, maintaining, and repairing highways caused by railroad abandonment are

not included in the private cost-benefit calculations of a railroad company contemplating abandonment; and

(5) a portion of the additional highway costs should be borne by the railroad company responsible for producing such costs.

Section 2. Legislative policy and intent. Consistent with the findings in [section 1], the legislature intends:

(1) that the state provide for adequate and safe public highways in those areas impacted by railroad abandonment;

(2) to require a railroad company abandoning a railroad line that was potentially profitable to bear a portion of the additional highway costs caused by increased motor vehicle traffic resulting from the abandonment;

(3) to establish a fair and reasonable method for calculating the amount of the additional highway costs to be borne by the railroad company, payment of which is not required as a condition for engaging in any business activity and is not based on an assessment on real property, a levy on the valuation of personal property, or taxation against a percentage of the assets or income of the railroad company; and

(4) to impose upon a railroad company only that portion of the increased costs of improving, maintaining, or repairing public highways which can be reasonably attributed to the impact of railroad abandonment.

Section 3. Definitions. As used in [this act], unless the context requires otherwise, the following definitions apply:

(1) "Abandonment" means cessation of the use of any part of a railroad line or the activity thereon with no intention to use the railroad again or to resume the activity, which abandonment is approved pursuant to the

HA 383

February 21

19 65

requirements of 49 U.S.C. 10903.

(2) "Montana rail plan" means the report developed by the department of commerce as part of its railroad planning activities required by 66-11-101 and the applicable provisions of the Federal Railroad Revitalization and Regulatory Reform Act of 1976.

(3) "Rail abandonment highway impact analysis" means the analytical modeling of potential impact to highways as a consequence of railroad abandonment, consisting of a calculation of highway costs attributable to a rail line abandonment, that is included as part of the Montana rail plan.

(4) "Railroad" means any corporation, person, association of persons, or other entity owning or operating a railroad located, in whole or in part, in the state."

Re-number: subsequent sections

2. Page 1, line 14.

Following: "section"

Strike: "2"

Insert: "5"

3. Page 1, line 17.

Following: "section"

Strike: "2"

Insert: "5"

4. Page 1, lines 21 through 22.

Following: "was" on line 21

Insert: "potentially"

Following: "section" on line 22

Strike: "3"

Insert: "6"

Following: "year" on line 22

Insert: "for a period of no more than 7 years"

HB 383

February 21

19 95

5. Page 2, line 4.

Following: line 3

Strike: "4"

Insert: "7"

6. Page 2, lines 16 through 17.

Following: "section" on line 16

Strike: "2"

Insert: "5"

Following: "considered" on line 17

Insert: "potentially"

7. Page 2, line 25.

Following: "section"

Strike: "1"

Insert: "5"

8. Page 3, line 11.

Following: "section"

Strike: "1"

Insert: "5"

9. Page 3, line 13.

Following: "section"

Strike: "1"

Insert: "5"

10. Page 3, line 14.

Following: line 13

Insert: "Section 9. Failure to comply with payment

requirements. The failure of a railroad company to make payments as required by (section 5) creates an unpaid debt

HAB 383

February 21 1925

that is owed to the state. Such unpaid debt may be collected by the seizure and sale of real or personal property in possession of the railroad company within the state.

Section 10. Construction. Nothing in [this act] may be construed to allow the state to bridge or deny the right of a railroad company to pursue abandonment of a railroad line as provided in 49 U.S.C. 10903."

Remember: Subsequent sections

11. Page 3, lines 19 through 20.

Following: "through"

Strike: "4"

Insert: "7 and sections 9 and 10"

12. Page 3, line 21.

Following: "Section"

Strike: "5"

Insert: "8"

13. Page 3, line 24.

Following: line 23

Strike: "5"

Insert: "9"

14. Page 3.

Following: line 24

Insert: "Section 13. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

AND AS AMENDED

DO PASS

PROXY VOTE

Date 2-21-85

Representative C. Smith District _____

having been excused from this meeting of the House Highways and

Transportation Committee, hereby leaves proxy vote for:

House Bill(s): 887 Aye _____ No X Abstain _____
383 as amend X _____

Senate Bill(s): _____ Aye _____ No _____ Abstain _____

Other instructions: _____

P. S. Smith
Representative Signature

[Signature]
Rep. John G. Harp, Chairman

PROXY VOTE

Date 2-21-85

Representative Keyser District _____

having been excused from this meeting of the House Highways and

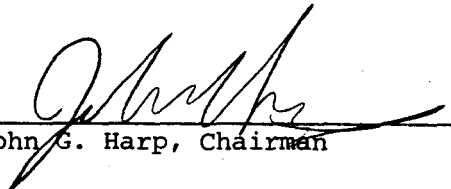
Transportation Committee, hereby leaves proxy vote for:

House Bill(s): 887 Aye _____ No X Abstain _____
383 as amend X _____

Senate Bill(s): _____ Aye _____ No _____ Abstain _____

Other instructions: _____

Representative Signature _____


Rep. John G. Harp, Chairman