

MINUTES OF THE MEETING  
HIGHWAYS & TRANSPORTATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

January 29, 1987

Chairman Rep. John Harp called this meeting to order at 1:00 p.m. in room 317 of the Capitol, Helena, Montana.

ROLL CALL

Rep. John Mercer was excused and Rep. Hal Harper came into the committee for executive action. All other members were present, as was Mary McCue, committee researcher.

Bills to be heard were HB 261, HB 269, and HB 281.

HOUSE BILL 261

Rep. Dennis Nathe, House District #19, sponsored HB 261. He said this is a bill establishing a veterans memorial highway on that portion of the interstate from Butte to the Canadian line. There may be a signing problem. This is on behalf of all the veterans in the state of Montana; he feels that Montana should do something to honor those veterans from World War I and II, the Korean War, and Vietnam.

PROPONENTS

GEORGE O. POSTON, representing United Veterans Committee in Montana, wanted to propose an amendment to HB 261 starting at the Montana-Idaho border instead of Butte and going to the Canadian border. There is a precedence for this in Oregon. The United Veterans Committee is in support of this.

TOM CROSSER, disabled vietnam veteran, lends his support to this, and thanks Rep. Nathe for his efforts on behalf of Montana veterans.

RICH BROWN, State director of Veterans Affairs Division, is very much in favor of designating a memorial highway to Montana veterans. Veterans wouldn't have any kind of objection to this. He handed out a map that shows the veteran population by county, exhibit #1. There are 106,910 veterans currently living in Montana. About 3500 have been killed in action. This memorial is an excellent idea, and they are particularly fond of the aspect that the highway would go to the Canadian border, because during World War II the First Special Service Force trained in Helena. This Force was half Canadian and half U.S. troops which was the

forerunner of the Green Berets. Many Canadians came across the border to join U.S. Forces in the Vietnam conflict. They will be meeting with them shortly and might propose to the Canadians that they designate the highway at least from Calgary down to the Montana border as a Canadian Veterans highway, then it would be possible to drive on a Veterans highway to the from Idaho to Calgary to go to the Winter Olympics.

DON GRUEL, Highway Department, said the DOH doesn't have any problems with this bill. There are some problems with the signing because of federal aid regulations on the interstate that may not allow signing along the route. There could be plaques or signs put in the rest areas and scenic turnouts. From Butte to the Canadian line there would be ten different locations on which those signs could be placed. They are estimating a sign could be placed in rest areas for about \$500 each, making it cost \$5,000 for the 10 area signs.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE

Rep. Roth questioned if there is a possibility of getting the feds to suspend that regulation. Mr. Gruel answered it specifically says, unless they have changed the regulations, legislatively naming memorial highways is prohibited.

Rep. Fritz asked how interstates are named in other areas? Mr. Gruel thought they are named on maps but there are no actual signs allowed along the interstate highways.

Rep. Harp wondered what would happen if we just did this. Mr. Gruel mentioned he had been wanting to challenge that regulation for a long time. Rep. Harp questioned if they are going to be politically able to say they are not going to support a motion regarding this type of memorial? Those in attendance thought this would be a good chance to see what would happen.

Rep. Roth thought a fiscal note would be necessary because of the \$5,000 cost of putting up signs. Might be able to get some veterans organizations to donate those and give them the credit. Would save money and get organizations involved.

Mr. Brown thought the idea is excellent if it could be worked out with the highway department so that one veterans group did not put up a different sign, it should be a uniform sign.  
He would rather see this go through without a fiscal note.

Rep. Harp agreed that the veterans organizations will help pay for this signing at no cost to the state. Mr. Poston would voluntarily coordinate with the department of highways and the veterans. He will get back after February 6 with more definite information.

Rep. Nathe said he had no problem with starting at the Montana-Idaho border.

Rep. Nathe closed. He is flexible and will work with anyone to accomplish what he has in mind.

#### HOUSE BILL 281

Rep. Gary Spaeth, House District 84, sponsored this bill. It is an act to provide rulemaking authority to the department of justice to implement Title 61, Chapter 5, MCA, relating to licensing for motor vehicle operators and providing an immediate effective date.

Rulemaking authority was given licensing for motor vehicle operators when it was a separate and distinct division and certain parts were brought into the department of justice and redrafted and reorganized. Some of those parts lost their basic rulemaking goes authority. It is fairly common as far as rulemaking authority goes that the agency has rulemaking authority under this chapter to adopt rules. When we move sections or statutes around and move them into other chapters we sometimes lose that rulemaking authority and that is what we have in this instance. Not asking for any more rulemaking, just want to clarify that they have the authority right now to develop rules dealing with license, testing, suspension, and revocation. There is a lot of question and there has been money spent on this same question. A very recent supreme court decision dealt with this specific issue and in administrative agencies, this is acceptable law and fairly well written and granted as far as courts are concerned. They restated 'administrative agencies enjoy only those powers specifically conferred upon them by the Legislature'; but it got lost. Later on the supreme court concluded that they impliedly have the authority to adopt the rules that they had had, and indicated that it would be on a case by case basis basically. HB 281 is to clear up a situation that shouldn't have to exist.

#### PROPOSERS

LARRY MAJERAS, Motor Vehicle Division, Department of Justice, said part of the reminder that they have this legislative problem comes from the Legislative Council staff. Rulemaking authority is under Title 44, Motor vehicles is in Title 61. Title 44 deals with the authority the department

has that relates to the highway patrol. Because the licensing and the highway patrol are located in the same statutes, they carried forward their rulemaking authority. It does cause confusion among attorneys because they cannot readily find it; they do not anticipate any new rules as a result of this ruling authority. They will update their authority in their annual review as required.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE - None

Rep. Spaeth closed.

HOUSE BILL 269

REP. TOM JONES, House District 4, Kalispell, sponsor of HB 269, said this bill raises the legal height of 13'6" to 14' for trucks in the state of Montana, so there will be uniformity with surrounding states.

PROPONENTS

BEN HAVDAHL, Montana Motor Carriers Association, supports HB 269. He handed out a rundown on the Western states reflecting their current statutory height allowance for vehicles. In 1983 Montana passed the Multi-State Highway Agreement legislation which in effect is a compact of which now 16 western states and provinces are members. The main objective is to make size and weights of trucks and trailers uniform. There is a little subgroup within that highway group involving the northwest states, states of Idaho, Utah, Nevada, Oregon, Washington, and Montana, and all but Montana have a statutory height of 14'. The objective here is to make that uniform so equipment can move from one state to another without height problems. EXHIBIT #4.

DON GRUEL, highway department, agreed Montana does belong to the Multi-State Uniformity Committee and the other mentioned states do have the 14' height. It is expected that Wyoming will also go to the 14' height. The Montana DOH has no problem with the increase to 14'. It would require a change in one structure that would be affected.

OPPONENTS - None

QUESTIONS (OR DISCUSSION) FROM THE COMMITTEE

Rep. O'Connell asked about the one structure that would have to be changed. Mr. Gruel said there is one statewide that would be affected by this change in height.

Rep. Roth asked if there are any bridges that have to be changed to accommodate this 14' height. Mr. Gruel explained that the only bridge that would be affected would be the bridge north of Big Timber on US 191. Some other bridges in the state have problems clearing the 13' height and those bridges are signed for that height. Rep. Roth asked if there is liability if someone goes through there and runs into them and claims the state had a 14' clearance? Mr. Gruel said there always is that liability, but with the signing and only one additional bridge, he saw no problem.

Mr. Havdahl explained the kind of equipment that would take advantage of 14' height most probably involves the sets of doubles combinations and almost exclusively those will run on the interstate system and will go around any bridges that will not accommodate their height.

Rep. Tom Jones closed.

EXECUTIVE SESSION

HOUSE BILL 269

Rep. Clyde Smith moved HB 269 DO PASS. Motion was adopted unanimously.

Rep. Harp asked Rep. Swysgood to work on Rep. Nathe's bill and do some work on that language including that additional road area.

Discussion on HB 281 - Mary McCue, researcher thought it looked like a grant of new rulemaking authority. It would need a statement of intent although it isn't actually needed since there is a court case that says it is there in the other title. She suggested changing the title to say "clarifying" that the department has the rulemaking authority rather than "providing". They want to codify this in 61, there is nothing there now. It is all in 44.

Rep. Fritz moved statement of intent and the bill as drafted DO PASS WITH STATEMENT OF INTENT ATTACHED. Motion was adopted unanimously.

The committee adjourned at 1:40 p.m.

  
Rep. John Harp, Chairman



# STANDING COMMITTEE REPORT

January 29 19 87

Mr. Speaker: We, the committee on HIGHWAYS & TRANSPORTATION  
report HB 281

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> do pass | <input type="checkbox"/> be concurred in     | <input type="checkbox"/> as amended                              |
| <input type="checkbox"/> do not pass        | <input type="checkbox"/> be not concurred in | <input checked="" type="checkbox"/> statement of intent attached |

REP. JOHN HARP

Chairman

*JD*  
1st reading copy ( white )  
color

STATEMENT OF INTENT  
HOUSE BILL NO. 281

A statement of intent is required for this bill because section 1 expressly grants the department of justice general rulemaking authority to promulgate regulations to enforce Title 61, chapter 5. The department's authority to adopt administrative rules affecting Title 61, chapter 5, has been challenged in the Montana supreme court principally because there is no easily identifiable general rulemaking authority in chapter 5. On past occasions, the department has relied on the authority granted the highway patrol by 44-1-103 to promulgate regulations for licensing motor vehicle operators. Clarification of rulemaking authority is needed since reorganization of the department's functions removed the licensing of motor vehicle operators from the highway patrol.



REP. JOHN HARP

Chairman.



# STANDING COMMITTEE REPORT

January 29 19 67

Mr. Speaker: We, the committee on HIGHWAYS & TRANSPORTATION

report HOUSE BILL 269

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

REP. JOHN HARP

Chairman

1st

White

reading copy ( \_\_\_\_\_ )  
color



# 4  
June 29, 1987  
169-Rep Tom Jones

Western States

Height Allowance

California	14 feet
Nevada	14 feet
Utah	14 feet
Oregon	14 feet
Washington	14 feet
Idaho	14 feet
Wyoming	14 feet
Colorado	14 feet 6 inches
North Dakota	14 feet (LVC's) 13 feet 6 inches (others)
South Dakota	13 feet 6 inches
Nebraska	14 feet 6 inches

WITNESS STATEMENT

NAME George O. Poston BILL NO. 261  
ADDRESS P.O. Box 4385 HELENA MT. 59604 DATE 1-29-87  
WHOM DO YOU REPRESENT? United Veterans Committee of Montana  
SUPPORT XX OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

Highways & Transp. COMMITTEE

BILL NO. HB 261-269-281

DATE January 29, 1987

SPONSOR \_\_\_\_\_

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Don Gravel	INDOH 261 269		
Larry Mayanus	Dept of Justice	HB 281	
George O. Foster	HELENA -	HB 261	
Tom Crosser	OBFP	HB 261	
Rich Brown	Mt Vet Affairs	"	
Ben Hardant	MT MOUNT CATHARIS	HB 269 <sup>x</sup>	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.