

MINUTES OF MEETING  
HIGHWAYS & TRANSPORTATION COMMITTEE  
MONTANA STATE SENATE

The meeting of the Highways and Transportation Committee was called to order at 1:00 p.m., on January 29, 1987, by Chairman Larry Tveit in Room 410 of the State Capitol.

ROLL CALL: All members of the Highways and Transportation Committee were present.

CONSIDERATION OF SENATE BILL NO. 106: Senator Halligan, Senate District No. 29, testified that Senate Bill 106 requires the Department of Highway's, GVW Officers, to be armed while on duty. Section 61-12-203, MCA, is amended to read: "61-12-203. Official attire required for making arrests. Qualified employees may make arrests throughout the state only when dressed in official uniform and displaying the official badge authorized by the department." All gross vehicle weight officers must go through training at the Law Enforcement Academy where they must pass the fire arms qualifications. GVW Officers are qualified peace officers who are required to stop cars, make arrests, serve warrants and assist police officers and sheriffs.

PROPOSERS: Dolan Duffy, GVW Officer for the Department of Highways testified that he is a GVW Officer who was instrumental in having Senator Halligan introduce Senate Bill 106 for the GVW Officers. GVW Officers are submitted to take written examinations and complete a three month training program at Montana's Law Enforcement Academy. They are required to pass the fire arms training program and if they failed to do so they are immediately dismissed. Mr. Duffy testified that he has been subjected to harrassment by members of motor cycle clubs who come into the scale houses. He feels that he should be able to carry a weapon in order to protect himself.

Tom Schneider, Public Employees Retirement, testified that he is in support of Senate Bill 106 for the following reasons:

1. Campus Police who are not armed during the day, but by legislation are armed at night if they are carrying money.
2. GVW Officers have money all the time and are not located in cities or towns, but on the outskirts of the towns.
3. Being on the border of the state of Montana, makes it easy for a person to rob the scale houses if they are leaving the state of Montana.

There is liability on both sides and any time you have someone you have a liability, but in this case you probably have a greater loss of liability by not arming people who control money, wear badges, and have the legal rights to arrest people and serve warrants.

Jim Racicot, GVW Officer, testified that he is jeopardizing his life when he is enacting the laws which include serving a warrant. FBI statistics of 1985, show that there are over 100 million persons on probation; 180 thousand felonies on parole. In the state of Montana there are 2,748 thousand felonies on probation, 737 on parole. Mr. Racicot stated that when he serves a warrant he does not know whether he is addressing a felony, someone on probation, or someone who has committed a crime for he is wearing an uniform and they mistake him as being a law enforcement officer.

See Exhibit I, II, and III.

Robert Montgomery, Retired GVW Officer, testified that he felt GVW Officers, who are peace officers, should be armed to protect their lives. He supports Senate Bill 106.

Tony Harbaugh, Custer County Sheriff, Miles City, testified that he agreed with the testimony that was already presented before the committee; but felt that GVW Officers should be armed before someone loses a life.

Jim DuPont, Deputy Sheriff, Flathead County, testified that he supports Senate Bill 106 for in his county, because of man shortage due to the cut back, it take him forty-five minutes to respond to a call by a GVW Officer.

OPPONENTS: Dennis Bacon, Sky Country Inc., testified that he is opposed to Senate Bill 106 for it did not make sense to arm a GVW Officer. That the response time for local police, or highway patrol to the weigh scales is tremendous. He does not feel that GVW Officer's lives are threaten and that they do not have a great deal of money in the weigh stations; therefore, he does not feel that they would be robbed.

Gary Wicks, Director, Department of Highway's, testified that he opposed Senate Bill 106. That he was pleased to see SB 106 in front of the legislature in order to have this matter resolved whether or not a GVW Officer should carry a gun. This issue has been dealt with for the last fifteen (15) years. In 1975, Ron Richards, then Director of Highways, signed an order forbidding GVW Officers to carry weapons. Section 61-21-203, Montana Codes, gives the Highway Department Director discretionary authority to allow GVW Officers to carry weapons, or not.

In 1981, Mr. Wicks reviewed the decision made by Ron Richards, and came up with the same conclusion that he did, that GVW Officers were not authorized to carry weapons. He felt the legislature limited the powers of GVW Officers, in terms of arrest, and powers relating to misdemeanors. Mr. Wicks spoke with regards to the lawsuit that was filed against the Department of Highways. The court upheld the authority of the Director to use his discretionary powers to allow GVW Officers to carry guns.

Mr. Wicks testified about the safety of GVW Officers, and other highway department employees; he does recognize the problems they face in performing their duties as GVW Officers. GVW Officers are instructed, if they need help, to call for a police officer, or highway patrol to assist them.

Mr. Wicks pointed out that at no time has a GVW Officer been shot at, assaulted, or robbed. He felt that it was not necessary for GVW Officers to carry weapons and is opposed to Senate Bill 106.

Robert Holding, Montana Motor Carriers Association, testified that many things have been discussed today about GVW Officers carrying guns but he would like to point out that the surrounding states do not allow their GVW Officers to carry guns. That for the most part truckers do not feel guns are necessary. Montana Motor Carriers oppose Senate Bill 106.

Keith Olson, Montana Logging Association, testified that he represents 650 independent loggers, approximately 1/2 are involved in hauling logs. He believes that the loggers are developing a good relationship with GVW Officers and he would hope that they would continue to do so. He also felt because of the badges GVW Officer wear, the public might confuse the GVW Officers as law enforcement officers. He opposed Senate Bill 106.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck told Mr. Holding that he noted and found it interesting that the trucking industry was in opposition of Senate Bill 106. Senator Lybeck was concerned if there had been threats, or harrassment by the officers.

A question was asked to how much money was actually involved; Mr. Wicks, stated that when a GVW Officer has \$500.00 in his possession he is to deposit the amount of money immediately. That most of the truckers pay by mastercharge or visa cards.

Mr. Wicks was asked about the additional help that has been hired for the weigh stations by Senator Hager. The weigh stations are suppose to be open twenty-four hours; therefore, additional GVW Officers have been hired to cover the additional hours that they must stay open.

The committee members also wondered what other state agencies allowed the carrying of weapons; they were told the Department of Fish and Game and the Department of Highways were the only two agencies that were allowed to carry guns.

Senator Stimatz and Gary Wicks, Director, had a conversation as to what "peace officers" duties were, and the difference between a peace office and a law enforcement officer. Mr. Wicks testified that a peace officer carries out the duties of a peace officer, and a law enforcement officer carries out the duties of a law enforcement officer, and he is allowed to carry a weapon. As peace officers, GVW Officers duties are to serve warrants that are related to the Department of Highways.

Jess Monroe, Department of Highways testified on Senate Bill 100. He testified that there seemed to be some confusion by the committee whether Senate Bill 100 was requiring trailers, semi-trailers, to pay a new tax or are they paying the ad valorem tax. Section 61-3-502 states: "That a tax upon all sales of new motor vehicles for which a license is sought an original application for title is made." The new vehicle is subject to the light vehicle license fee, if applicable, but is not subject to any other assessment, taxation, or fee in lieu of a tax during the calendar year in which the original application for title is made. That all vehicles above 3/4 tons are subject to the ad valorem tax. The local government has not been collecting the new car sales tax, and the Department of Highways has not been collecting the new car sales tax on semi-trailers, trailers, or house trailers.

Jess Monroe presented the proposed amendments to Senate Bill 100. (Exhibit V)

The meeting was adjourned.

  
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SENATOR TVEIT, CHAIRMAN

ROLL CALL

HIGHWAYS & TRANSPORTATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date \_\_\_\_\_

NAME	PRESENT	ABSENT	EXCUSED
Chairman: Larry Tveit	✓		
Vice Chairman: Lawrence Stimatz	✓		
Senator Hubert J. Abrams	✓		
Senator William Farrell	✓		
Senator Tom Hager	✓		
Senator Sam Hofman	✓		
Senator Ray Lybeck	✓		
Senator Darryl Meyer	✓		
Senator Cecil Weeding	✓		
Senator Bob Williams	✓		

Each day attach to minutes.

DATE 1-29-87

COMMITTEE ON Highways & Transportation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
TONY HARBAUGH	CUSTER Co. SHERIFF	SB 106	X	
JIM DUPONT	M.S.P.O.A	SB 106	X	
W.P. Bacon	SKY Country Inc.	SB 106		X
BOB HELDING	MT. MOTOR CARRIERS	SB 106		X
TIM RACICOT	GUW OFFICERS	106	X	
Rolan Puffy	GUW OFFICER	106	X	
ROBT. D. MONTGOMERY	(RETIRED) GUW OFFICERS	106	X	
GARY CEE	GUW OFFICER	106	X	
Dan MOORE	GUW OFFICER	106	X	
L. N. Sturman	G.V.W. OFF.	106	X	
Rene Butler	G.V.W. OFF.	106	X	
Jesse Murray	Dept of Highways	106		X
JACK HADSTROM	11	106		X
JEITH OLSON	MT. Logging Assn.	106		X
Gary Wicks	Montana Dept of Highways	106		X
Tom Schuder	M PEA	106	X	

(This sheet to be used by those testifying on a bill.)

NAME: Dennis Bacon DATE: 1-29-87

ADDRESS: 27 Bardet Lane, Bozeman MT

PHONE: 587-7742 - (Bus) 586-5305

REPRESENTING WHOM? Sky Country Inc.

APPEARING ON WHICH PROPOSAL: SB 106

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENT: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL VOTE

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION

Date Jan. 14, 1987 Bill No. 106 Time \_\_\_\_\_

<u>NAME</u> <u>Highways &amp; Transportation</u>	<u>YES</u>	<u>NO</u>
Chairman: Larry Tveit		✓
Vice Chairman: Lawrence Stimatz	✓	
Senator Hubert J. Abrams		✓
Senator William Farrell	✓	
Senator Tom Hager		✓
Senator Sam Hofman		✓
Senator Ray Lybeck	✓	
Senator Darryl Meyer		
Senator Cecil Weeding	✓	
Senator Bob Williams	✓	

Arnell M. Carlson  
Secretary

Larry Tveit  
Chairman

Motion: 5-4- Do Not Pass

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



NAME: W. L. OLSON DATE: 1-2-75

ADDRESS: P.O. Box 1716 Jackson 59403

PHONE: 755-3125

REPRESENTING WHOM? MT. ...

APPEARING ON WHICH PROPOSAL: SB 100

DO YOU: SUPPORT?            AMEND?            OPPOSE?

COMMENTS: MLA ...  
...  
...  
MLA ... GNV ...  
...  
MLA ...  
...

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

Before 1971 the GVW Enforcement Officer was not allowed to write Notices to Appear if a truck had a weight violation. They would call for assistance from the Montana Highway Patrol. This made it so that the truck driver had to stay at the enforcement facility sometimes between 30 minutes to one hour if not longer, to get a free Highway Patrolman to write the Notice to Appear.

In 1971, Lieutenant Governor Bill Christiansen introduced House Bill #8 to give the scalemen the powers of arrest and the powers to write tickets so as not to cause undue delay in getting the drivers and loads back on the roads as soon as possible. At this time, scale people could wear firearms if they so desired and furnished their own hand guns.

Up until this time, Gross Vehicle Weight Officers did not have a highly visible uniform. They wore tan work pants and shirt and they were not readily identifiable as peace officers. In 1976, this all changed and they were put in a uniform of light blue shirt and pants with dark blue stripes down the legs of the pants. Today the Gross Vehicle Weight Enforcement Officer is becoming more and more visible with the officers taking on more and more duties.

To become a Gross Vehicle Weight Enforcement Officer, you must first pass a written and oral test given by a panel of officers. (2) you must pass the basic class at the Montana Law Enforcement Academy, including firearm training, (3) you must pass a three month on the job training period with tests as to your progress every week and then a final test of your knowledge of enforcing rules and regulation laws that include taking people into custody, because they cannot post bond. We also collect money for trip permits to enable a truck and trailer to cross our state.

The main duties of a Gross Vehicle Weight Enforcement Officer are:

1. Protecting the highways of Montana.
2. Issuing tickets to people that do not comply with the laws as set down by the State of Montana and the Legislature.
3. Assist other agencies. We now assist the Montana Highway Safety Patrol Officer by doing safety checks on driver's log books to make sure the driver is complying with the law and we then if time permits, do actual inspections of the vehicles for critical elements, such as brakes and air lines.
4. We assist the Public Service Commission field officers to see that carriers have the right authority to be hauling certain commodities such as lumber. Interstate and Intrastate Authorities.
5. We also complete forms for the Department of Livestock concerning where livestock was shipped from and their destination. We make sure they have the right brand papers and health papers.
6. We serve warrants of arrest for non-payment of fines.



STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION  
PERSONNEL DIVISION

# CLASS SPECIFICATION

379cso  
CLASS CODE: 379017-

UPDATED: 5/79  
68 APR -11

## GVW ENFORCEMENT OFFICER I

### SUMMARY OF WORK:

Under general supervision performs technical law enforcement work in the enforcement of the laws, rules and regulations governing the registration, size and weight, safety and operating authority of commercial and farm vehicle traffic.

### ILLUSTRATIVE EXAMPLES OF WORK:

Enforces all laws and regulations pertaining to commercial and farm vehicle traffic at permanent and portable scale sites; inspects vehicles for compliance with rules governing registrations, fuel, safety, operating authority and size and weight; issues proper licenses and permits and exercises powers of arrest when necessary; issues citations and serves warrants; collects money and distributes according to procedure; collects non-sufficient funds checks; prepares for and appears in court. Assists other agencies in enforcement activities when requested; provides assistance to travelling public; maintains weigh station appearance; maintains records of work performed including records of monies collected and permits issued; may assist in training other personnel; performs related work as required.

### REQUIREMENTS:

**KNOWLEDGES:** Working knowledge of different types of commercial vehicles and the general provisions of the laws and regulations regulating their operation; investigative procedures; methods, practices and terminology used in bookkeeping. Some knowledge of law enforcement procedures.

**ABILITIES:** Ability to quickly make accurate judgements, to exhibit emotional stability and remain calm in stress situations; to communicate effectively orally and in writing; to establish and maintain effective working relationships with employees, other agencies and the public; to learn the laws and regulations regulating commercial and farm vehicles; to enforce regulations with firmness and tact; to work outdoors under a variety of weather conditions; to perform bookkeeping and recordkeeping procedures; to learn the operation of scale equipment.

The above knowledges and abilities are typically acquired through a combination of education and experience equivalent to graduation from high school and one year of law enforcement experience. Will be required to successfully complete the Montana Law Enforcement Academy (MLEA) basic course after three months of on-the-job training.

**NECESSARY SPECIAL REQUIREMENTS:** Willingness to work various shifts on a seven day a week basis. Must possess a medical certificate certifying physical condition and ability as required by MLEA before employment.

*New duties - Patrols Assigned Areas -*

*PURSUES OFFENDERS when Necessary -*

## SENATE HIGHWAYS

EXHIBIT NO. \_\_\_\_\_

DATE 1-29-87BILL NO. 106

SCHEDULE OF G.V.W.  
REVENUE AND EXPENDITURES  
FISCAL YEAR 1985-86

## REVENUE

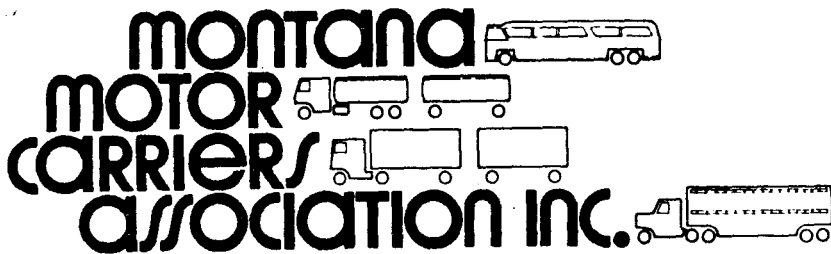
GVW Fees	\$ 7,341,993	
Re-registration Fees	102,260	
Special Permits	81,471	
Stickers	90,478	
Restricted Route Permits	200,640	
Custom Combine Permits	16,980	
GVW Form 3	939,060	
Trip Permits	665,690	
County GVW	10,778,186	
County Fines	271,148	
Special Permits	979,075	
Transit Dealer Fees	5,085	
Restricted Route Permits	274,790	
Temporary Fuel Permits	670,450	
L.P.G. Permits	164,280	
Total G.V.W.		<u>\$22,581,586</u>

## EXPENDITURES

G.V.W. Operations		
Personal Services	\$ 2,299,072	
Operating Expenses	789,325	
Equipment	116,452	
Total G.V.W. Operations		<u>\$ 3,204,849</u>

Difference to Highways Special

Revenue Account for General Operations		<u>\$19,376,737</u>
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B.G. HAVDAHL, EXECUTIVE VICE PRESIDENT  
501 NORTH SANDERS  
P.O. BOX 1714, HELENA, MONTANA 59624  
TELEPHONE: AREA CODE 406 442-6600

SENATE HIGHWAYS

EXHIBIT NO. \_\_\_\_\_

DATE 1-29-87

BILL NO. 106

January 29, 1987

RE: Senate Bill 106 - To Arm GVW Officers

Section 61-12-206 (page 28 of GVW Law Booklet) lists the offenses for which GVW Officers may make arrests. They are as follows:

- (a) Part 1, chapter 10, title 61-Vehicle Size & Weight
- (b) Part 3, chapter 4, title 61-Transit Plates
- (c) Sections 15-24-201 through 15-14-205-Mobile Homes
- (d) Sections 15-70-302 through 15-70-307-Special Fuel (License-permit)
- (e) Sections 15-70-311 through 15-70-314-Special Fuel (Custom Combines)
- (f) Section 61-3-502 - Vehicle Sales Tax
- (g) Sections 61-10-201 through 61-10-215-GVW Fees
- (h) Sections 61-10-222 through 61-10-224-GVW Fees
- (i) Sections 61-10-231 through 61-10-233-GVW Fees

In addition under PSC statutes they may arrest for economic and safety violation.

Attached is an Exhibit from a study on firearms in the fall of 1984. At that time we were consistent with the western part of the country.

Attached also is a copy of a newspaper article from the Salt Lake Tribune from last October.

BGH/sh



MEMBER

REPRESENTING THE TRUCKING INDUSTRY IN MONTANA

Survey conducted in the  
Fall of 1984

EXHIBIT 1

<u>Jurisdiction</u>	<u>Agency</u>	<u>Issue Citations</u>	<u>Powers of Arrest</u>	<u>Issued Firearms</u>	<u>Other Means of Self-Defense</u>
Montana	Highways	Yes	Yes	No	No
Alberta	MTB	No	No	No	No
Idaho	DOT	Yes	No	No	No
North Dakota	Patrol	Yes	Yes	No-Scale *Yes=Rovers	No N/A
South Dakota	Patrol-Comm.	Yes	Yes	No	No
Wyoming	Patrol-Revenue	Yes	No Yes	No-Scales *Yes-Patrol	No
Colorado	DOH	Yes	Yes	No	No
Arizona	DOT	Yes	No	No	No
Utah	Patrol	Yes	Yes	*Yes	N/A
Nevada	Dept. of Motor Vehicles	Yes	Yes	**Yes	N/A
California	DOT	No	No	No	No
Oregon	DOT	Yes	Yes	No	No
Washington	Patrol	Yes	Yes	No	No

\*Regular Highway Patrolmen

\*\*Motor Vehicle Department employees (receive same training as Highway Patrol)

January 29, 1987

Firearms - GVW Officers

A survey of eight states relating to firearms to GVW officers found the following:

DO NOT issue firearms:

Arizona  
Colorado  
Idaho  
Nebraska  
North Dakota  
Oregon  
South Dakota ( Sgt. and above do carry firearms)  
Wyoming

\*DO

California  
South Dakota ( Sgt. and above)

\* In states where firearms are issued this function is part of the Highway Patrol.

# Legislative Auditor Recommending A Reorganization of Ports of Entry

By Dave Jonsson  
Tribune Staff Writer

A major reorganization of the Utah Highway Patrol's truck weigh stations (ports of entry) was recommended Tuesday by the Utah Legislative Auditor General.

The UHP should turn over many port duties to lower-paid employees with limited police powers, reorganize its staffing and favor larger, busier weigh stations, and encourage tougher enforcement of intrastate trucking, Legislative Auditor General Wayne L. Welsh reported.

Savings could amount to \$1 million a year or more, he said.

The report was released to the Legislature's audit subcommittee, but Wednesday it will get a full, and possibly heated, airing at the monthly meeting of the Transportation and Public Safety interim committee.

The report suggests the patrol could save \$320,000 annually by turning over much of port staffing to civilian employees paid only about 72 percent as much as troopers. Another \$337,000 could be realized from stepped-up weight enforcement operations, and some \$300,000 to \$600,000 more would be realized in fines and penalties.

"The primary purpose of ports of entry and portable scales is to prevent overweight trucks from causing damage to the state's roads and bridges. The staff also sells permits and enforces the oversize truck laws," Mr. Welsh reported. Some 48 UHP officers and 6 civilians staff the eight ports of entry, and there are another 16 troopers who patrol the state's highways doing portable scale weighing.

The audit found that all other western states except one use special function police officers rather than state police officers to man their ports of entry.

Mr. Welsh noted that "Utah needs to reallocate staff between large and small ports of entry. Large ports cannot adequately monitor their heavy flows of traffic for lack of staff, while small ports remain open many more

troopers in event of arrests or pursuits.

Auditors found that at larger ports of entry, troopers often are so busy that much traffic drives on by, unweighed. At Wendover, Perry and Echo, outbound trucks are frequently unmonitored. At each place, auditors recommend addition of two full-time equivalent positions. Smaller ports, however, such as Monticello, Daniels Canyon, Peerless and Kanab, permit revenues are so small as to not justify full-time, around-the-clock operation. These should be opened on an unannounced, random schedule, for a shift at a time, the auditors decided. This would free up 10 full-time positions for use elsewhere in the patrol.

Interior highways have excessive numbers of overweight trucks because truckers do not fear detection because of the patrol's emphasis on border highways, auditors reported. At ports of entry overweight trucks range from 15 to 30 percent of truck traffic, and run an average of 4,000

pounds overweight. But in the interior, up to 50 percent of trucks were found to be overweight in a sampling, and excess pounds were up to 6,000 pounds and more.

"Because Utah does not have the deterrent of portable WIM enforcement, overweight trucks are damaging the state's roads and structures. Portable WIM screening would help reduce the number of overweight trucks and thus reduce road damage," auditors reported.

WIM screening with portable equipment allows troopers to move quickly from one place to another, set up within minutes, and screen all truck traffic, which only needs to pull to the side of the road, pass over the equipment at a slow speed, and continue on without stopping, if not overweight.

The Utah Highway Patrol declined to submit a written response to the audit. This response will be given at Wednesday's committee meeting, officials told Mr. Welsh.

## Hearing Planned to Consider Future of S.L. Watershed

The future of Salt Lake City's watershed will be considered during a public hearing scheduled for 7 p.m. Wednesday in the Salt Lake City Council Chambers at the City-County Building.

The hearing will allow residents to voice their opinions on how best to protect the quality of the water which flows from the canyons east of Salt Lake City. City Creek, Red Butte, Parleys, Big Cottonwood and Little Cottonwood canyons provide much of the drinking water used by Salt Lake City residents during the spring and early summer.

Mayor Palmer DePaulis scheduled the hearing as the first step in a watershed management plan being done for the city by Rear West

a private consulting firm. It is hoped the plan will anticipate the long-range, cumulative effect of canyon development on both water quality and quantity. The consultants have also been asked to determine whether existing restrictions, controls and enforcement activities are adequate to protect the watershed.

The watershed plan is different from the comprehensive canyon master plan which has been promised by Salt Lake County. The county plan will attempt to balance all the conflicting demands in the canyons, including residential development, tourism, skiing, and protection of natural resources. Salt Lake City's plan is focusing on watershed protection only.



Amendment to Senate Bill No. 100

1. Title, line 7  
Strike: "HOUSETRAILERS"  
Insert: "TRAVEL TRAILERS"
2. Page 1, line 16  
Strike: "housetrailers"  
Insert: "travel trailers"