

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By Chairman Stang, on March 9, 1989, at 3:00 p.m.

ROLL CALL

Members Present: All with exception of:

Members Excused: Rep. Harrington

Members Absent: None

Staff Present: Paul Verdon, Researcher
Claudia Johnson, secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 709

Presentation and Opening Statement by Sponsor:

Rep. Hanson, House District 100, stated that HB 709 is a backup bill for an impact road. Rep. Hanson said this money is an appropriation but stated it needed to be heard in the Highways Committee. Rep. Hanson stated this is a secondary road is near the Spring Creek Coal Mine in the Decker community. Rep. Hanson stated that there are 14 miles of road that is still gravel. She stated that the \$2.8 million combined with the \$2.6 million that Big Horn County has available will do the total road. Rep. Hanson stated it is ironic that they formerly had 600 semiloads of Montana coal transported over this road each year and today most of that coal is coming out of Wyoming on the interstate, but it is still being contracted in Montana, but is not coming from Montana mines.

Testifying Proponents and Who They Represent:

Marilyn Ferguson, Resident of Kirby, Mt.
Rusty Rokita, Rep. Big Horn County Board of Commissioners
Tom Ebzery, Attorney, Nerco, Inc.
Sen. Manning,
James Mockler, Exec. Dir. Mt. Coal Council

Proponent Testimony:

Ms. Ferguson stated she has driven over this road for years and when she went to town to purchase her plane ticket to be

here at the hearing, she drove through water running over the road in 25 places. Ms. Ferguson stated there are holes that are 1 foot deep and 2 feet wide. Ms. Ferguson urged the Committee's support in passage of HB 709.

Mr. Rokita stated he wanted to clarify HB 709. He read a letter from the Big Horn County Commissioners stating that they are in support of HB 709 and have filed a pre-application to pave Highway #314. Mr. Rokita stated that the county has been gathering data for a comprehensive Highway #314 Economic Impact Assessment Report and it should be finished in a week. See Exhibit 1.

Mr. Ebzery stated he represents Nerco Inc. that operates Spring Creek surface coal mine and is a joint venture partner in the Decker Coal Co. mine. Mr. Ebzery stated that Highway 314 is extremely hazardous with sharp corners and narrow places. Mr. Ebzery urged the Committee's support for HB 709. See Exhibit 2.

Sen. Manning urged the Committee's support for HB 709.

Mr. Mockler stated the statutory allocation to the coal board as of this year is \$6.4 million to be allotted to the Coal Board for impact assistance. Mr. Mockler stated this is a good bill and urged the Committee's support for HB 709.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Owens asked Mr. Gosnell if there is a time limit on this if this bill is passed? Mr. Gosnell stated there are two contracts and both would be ready for contract letting by February 1990. Mr. Gosnell stated all the P.E.E. work, right-of-way acquisition and utility movement should be done by the end of September of 1989. Mr. Gosnell stated if the 5:1 federal match continues, the federal-aid money secondary will accumulate at \$350,000 per year, so by fiscal year 1990 there would be \$1.1 million available to Big Horn Co., but that would not cover the project.

Rep. Westlake asked Mr. Gosnell if the part that is to be funded by this bill is the only priority for this funding or are there other projects that the money would be used for? Mr. Gosnell did not know how much money the Coal Board funds had available and did not know what requests they have. Mr. Gosnell stated at this time they are buying right-of-way, utility relocation under a coal board grant that will be matched by Big Horn Co.

Closing by Sponsor: Rep. Hanson closed stating she had figures showing that there are other projects. Rep. Hanson stated the \$2.8 million in this bill is at the top of the list. Rep. Hanson stated the money is available and asked the Committee's support for HB 709. Rep. Hanson asked that the Committee delay executive action to see what the Committee on Appropriations does.

HEARING ON SENATE BILL 94

Presentation and Opening Statement by Sponsor:

Senator Bengtson, Senate District 49, stated this bill is a program that allows the State Highway Dept. to let out for bids to a franchise to put logo signs on the interstate. Sen. Bengtson stated in another part of the bill it allows for an informational directional sign. The program is intended to provide to be a motorist's information and is not designed for advertising. This bill is to get the traveling motorist off of the highway to spend time and money in Montana. Sen. Bengtson stated the new manual put out by the Federal Government in January has allowed for a lot more flexibility and the mom and pop businesses are using it throughout the country. Sen. Bengtson stated that the charge for each logo runs between \$85 to \$100 per month. Sen. Bengtson said the tourism dept. conducted a survey throughout Montana and has received a very positive report by the businesses in Montana. See Exhibit 3.

Testifying Proponents and Who They Represent:

Gary Wallrack, Helena Sign Works
Al Donahue, Chairman of Advisory Council
Ron Prout, Publisher of Travel Host Magazine
John Wilson, Administrator of the Mt. Promotion Div., Dept. of Commerce
Rob Morwick, Missoula Chamber of Commerce
Rep. Francis Koehnke
Bonnie Tippy, Mt. Innkeepers Assoc.
Elmer Frame, Missoula campground owner
Lawrence Smith, Co Owner of KOA campground in Great Falls
Don Ingels, Montana Chamber of Commerce

Proponent Testimony:

Mr. Wallrack stated that SB 94 is a very important link in directing tourists to businesses of Montana. Mr. Wallrack stated one of the largest sources of revenue for lodging, food and fuel is the trucking industry and it cannot be estimated how many dollars in fuel is lost because the motorist does not know it is there. The University of Montana did a tourist survey that showed how vital the program is to Montana. Mr. Wallrack stated that the bids will be solicited from private companies, the program will

be awarded to a private company. The construction and installation will be done by a private company, and that alone is estimated at \$1 million for the interstate. Mr. Wallrack stated that the program will be paid for by the fees of the services provided. The 34 states have implemented this program and it is a proven fact that the tourist looks for these signs. Mr. Wallrack stated it will create at least 18 new private jobs in Montana and a cash flow.

Mr. Donahue stated this bill will bring the tourist in off the highway into the local community. Mr. Donahue stated the bed tax has risen 14 percent in the last year which shows an increase in tourism and a total of about \$4 million in the bed tax to use for tourism.

Mr. Prout stated the average tourist is 50-64 years of age, middle income with some college education. Some of them are retired and have an annual income in excess of \$40,000 per year and spend an average of \$71 a day. Fifty-one percent were on vacation, twenty-seven percent visiting family and friends, and thirty-four percent stated they were just passing through. Mr. Prout stated when you use a national logo there is a familiarity that the motorists watch for. See Exhibit 4.

Mr. Wilson stated the last Legislature directed the dept. to complete a state wide inventory of highway signs in HB 607, and develop a comprehensive plan for a system of highway signs. Mr. Wilson stated that has been done and gave a synopsis of the options available to improve highway signing. See Exhibit 5.

Mr. Morwick stated the Chambers supports the concept of logo signs on the highways and urged the Committee's support for SB 94.

Representative Koehnke urged the Committee's support for SB 94.

Ms. Tippy stated that it seems like Montana draws closer every year to becoming a first class tourist destination site and urged the Committee's support in the passage of SB 94.

Mr. Frame stated as owner of a campground he asked the Committee to recommend approval of SB 94. See Exhibit 6.

Mr. Smith stated that there is no doubt that tourists are directed into the businesses by signs along the highway and urged the Committee's support of SB 94.

Mr. Ingels added his and the departments support for SB 94.

Testifying Opponents and Who They Represent:

Tom Harrison, Myhre Advertising

Opponent Testimony:

Mr. Harrison stated he has a few concerns with SB 94. 1) The Mom and Pop business compared to the Motel 6 or McDonalds compared to Dixies. 2) The signs may only advertise businesses within three miles of the interstate. 3) The bill discriminates against businesses open less than the required number of hours, 4) Service stations cannot advertise under federal regulations unless they have tire service, and a restaurant that does not serve breakfast cannot advertise. Mr. Harrison stated as a fair chance for businesses it leaves the main businesses out in these small towns in Montana. See Exhibit 7.

Questions From Committee Members: Rep. Roth asked Mr. Wallrack if he anticipated that his company would become one of the franchisees? Mr. Wallrack stated he did.

Rep. Roth asked Mr. Wallrack to explain to him how this is not advertising when a business has a logo on one of these signs? Mr. Wallrack gave an example of a billboard for \$600 and 12 miles out, a family driving on the highway observes the sign that says swimming pool, sauna, French Quarter bar, lounge and best motel around for 50 miles, Mr. Wallrack stated that is advertising, another family on the highway comes to an exit sees the logo of the sign proposed in this bill that is just informational, it cannot state what they have, just that it is there.

Rep. Roth asked Mr. Wallrack if the fee paid for by the businesses is a fixed fee? Mr. Wallrack replied they took written proposals from all the sign companies that wanted to be in the program and the ones they picked were consistent in their price for at least five years which averaged about \$96 per sign or about 1/6 the cost of the bill board.

Rep. Roth asked Mr. Wallrack how they will pick the businesses to put on the signs? Mr. Wallrack said it has been discussed in other states that it could be: 1) First come first serve per legal notice in the paper; or 2). Pick from a hat. Mr. Wallrack stated that Oregon picks theirs on closeness to the interstate exit and Idaho gets around the service station for tire repair by furnishing a jack, a tire change kit available, and a call list provided for a one hour service.

Rep. Stang asked Mr. Unsworth if the federal regulations have been changed enough from last session for the Ma and Pa operations and Superamericas that they could qualify for these? Mr. Unsworth replied that the federal rules have been relaxed recently and that is the reason for the change of the language in the bill.

Beate Galda commented that the language has been changed to

"should" so you are not directing motorist to a place of service that might be open and might not.

Rep. Stang asked Ms. Galda if the dept. felt the federal regulation for guidelines were loose enough that the dept. can make the decisions without the federal government coming in and making them change the sign or take away the federal money? Ms. Galda replied that as long as the dept. uses the provisions that have "should" standards and change them on recent basis the federal government would not have any complaints.

Rep. Roth asked Mr. Unsworth how many people would be employed on the project through the dept., and if so has there been any preliminary work on the regulations? Mr. Unsworth replied that preliminary work has been done along with the bill two years ago since then there has been significant changes. The dept. through the traffic unit has been interested in following this program through the association of the highway officials. Mr. Unsworth stated a lot of the specific details have not been worked out at this time.

Rep. Bachini asked Mr. Unsworth about the effective date and if they would be able to take off with this immediately? Mr. Unsworth stated the fiscal note is written with the assumption that it would be ready in a year.

Closing by Sponsor: Rep. Bengtson closed stating this bill originated because of all the traveling her family does. Sen. Bengtson said this bill brings money into the State, the federal regulations have relaxed for flexibility for smaller businesses. Sen. Bengtson stated since this January of 1989 the federal regulations have changed from four logos to six logos and urged the Committee's support for the passage of SB 94.

HEARING ON SENATE BILL 242

Presentation and Opening Statement by Sponsor:

Senator Harp, Senate District 4 stated that SB 242 is a request from the Dept. of Highways to conform with the recent change of the Relocation Assistance Act of 1986. Recently the Dept. of Transportation has issued a warning to the dept. that unless the current law is changed to repeal some of the provisions on relocation assistance for real property and acquisition, Montana will lose federal funding.

Testifying Proponents and Who They Represent:

Beate Galda, Dept. of Highways

Proponent Testimony:

Ms. Galda distributed a handout from the Federal Highway

Administration of the Governor which states changes on relocation changes. See Exhibit 8. Ms. Galda stated there are two relocation bill acts presently in Montana: 1) Montana Highway projects which went into effect in 1969, and 2) since 1971 the fair treatment of another one for different federal agency projects. In 1987 Congress comprehensively amended the relocation assistance provisions by liberalizing them by the types of fees and people that are affected by the relocation. See Exhibit 9.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Stang asked Ms. Galda to explain the relocation process? Ms. Galda stated it is the purchasing of property which includes a house, e.g., if putting in an interchange, the owner is entitled to the fair market value of the property under Montana law and in addition if it is federally funded project the owner is also entitled to relocation assistance, e.g., moving expenses, rent while looking for a new home, or the difference if a rental for 3½ years, business expenses, advertising expenses for setting up in a new location, and kind of an expense that is caused by the federal program and having to spend money they wouldn't be spending otherwise.

Closing by Sponsor: Sen. Harp closed.

HEARING ON SENATE BILL 402

Presentation and Opening Statement by Sponsor:

Senator Harp, Senate District 4, opened stating this bill is an act to eliminate the PSC authority to order installation of signals at railroad crossings. Sen. Harp stated the bill also authorizes the Highway Dept. to prioritize the expenditures of funds on railroad crossings and provides for a public hearing. Sen. Harp stated he has been approached by MRL, Burlington Northern, PSC and Dept. of Highways and this would authorize the Highway Commission to set priorities and would repeal the authority of the PSC to order the installation of a signal. Sen. Harp stated this would give the Board of Commissioners in any county where a signal would be located the right to conduct a public hearing for input and safety concerns.

Testifying Proponents and Who They Represent:

Wayne Budt, Administrator of Transportation Division, PSC
Beate Galda, Dept. of Highways

Charlie Chambers, Assist. Chief Engineer for MRL from Missoula.
Verle Ostrander, Engineer of Public Works, BNRR

Proponent Testimony:

Mr. Budt stated the dept. supports the bill as is. Presently the Highway Dept. rates the railroad crossings where there is hazard using various criteria set up in the statement of intent in the bill. Mr. Budt stated the rating system is done completely by computer and is based on a mathematical formula, e.g., number of cars, trains, etc. Mr. Budt stated there isn't any public input into this process. The crossings identified by the dept. are scheduled for signals as the funds allow. Mr. Budt stated the PSC involvement in this is from a statute passed in 1919 that allowed the commission to look at the signals of crossings, whistles, etc. and would have to have a petition from the county commission and then have a hearing on it. See Exhibit 10.

Ms. Galda stated the dept. supports this legislation. Ms. Galda said that the dept. presently spends between \$1 million and \$1½ million per year on safety projects for railroad crossings and the dept. has prioritized the crossings state wide including off system roads.

Mr. Chambers stated he is in favor of SB 402. Mr. Chambers stated that MRL has only been in existence for two years and in that time has worked with the Dept. of Highways on signal crossings. He stated that last year the Dept. of Highways and MRL agreed to rehabilitate and upgrade 4 or 5 signals, and this year it will be 12 signals.

Mr. Ostrander stated that BN supports this bill. Mr. Ostrander stated the Dept. of Highways does a great deal of work in the design of highways and all the signals are an integral part of the highway design and stated they do a great job.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Steppler asked Ms. Galda that along with taking over the control from the PSC will the Highway Dept. assume all the financial responsibilities for these crossings? Ms. Galda stated that is correct and will be paid under the federal-aid projects.

Rep. Steppler asked Ms. Galda what the costs was for the railroad crossing signals. Ms. Galda stated she has been told about \$75,000 per signal.

Closing by Sponsor: Sen. Harp closed stating that the ongoing operation of signals will be met by the Dept. of Highways and felt the dept. is better able to set the priorities and regulate and enforce the regulations.

EXECUTIVE ACTION:

DISPOSITION OF SENATE BILL 242

Motion: Rep. Roth moved for SB 242 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Zook called the question. The motion CARRIED unanimously to BE CONCURRED IN.

DISPOSITION OF SENATE BILL 402

Motion: Rep. Stepler moved for SB 402 to BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Campbell called the question. The motion CARRIED unanimously to BE CONCURRED IN.

HEARING ON SENATE BILL 256

Presentation and Opening Statement by Sponsor:

Senator McLane, Senate District 42, stated this bill allows county governments to create a county road and bridge depreciation reserve fund. Sen. McLane stated that with the lose of federal revenue sharing with I 105 in effect it has become increasingly difficult for county governments to replace and acquire property, capital improvements, equipment and machinery. Sen. McLane stated it would be more desirable for county governments to budget road and bridge fund money that has not been expended or encumbered at the end of a fiscal year in road and bridge depreciation reserve funds. Sen. McLane stated it would give the county governments more flexibility for major road and bridge expenditures. Sen. McLane stated this procedure is being used for county libraries and it works well.

Testifying Proponents and Who They Represent:

John Beaudry, Co. Admin. and Planning Dir. for Stillwater Co.

Proponent Testimony:

Mr. Beaudry stated that Stillwater Co. has lost \$140,000 to \$180,000 per year with the end of federal revenue sharing in 1986 with no replacement of that loss. Mr. Beaudry stated they have 29 major bridge structures in the county and two have failed in the last five years that have resulted with trucks in the river. See Exhibit 11.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Patterson asked Sen. McLane if the county has a surplus dollar amount at the end of the year from the road and bridge fund can it be transferred to another fund within the county to purchase other needs? Sen. McLane stated they could not, it stays in the road and bridge depreciation fund.

Rep. Zook asked Mr. Beaudry what the mill levy for the road fund is in his county? Mr. Beaudry stated it is at the maximum amount of 18 mills and has been there for a number of years.

Rep. Campbell asked Mr. Beaudry if the money is put into this reserve how do you get it out? Mr. Beaudry stated that when the need arises to replace a piece of road equipment if the reserve is built up to a sufficient amount it would be budgeted towards that account for that purchase.

Rep. Stang asked Mr. Beaudry how many other accounts are set up for reserve funds for the counties? Mr. Beaudry stated he knows of two that are authorized in the statutes: Fairgrounds and Libraries.

Closing by Sponsor: Sen. McLane closed stating this is a good bill for county governments that choose to use it, because it would help the counties do a better job of managing the road and bridge funds.

EXECUTIVE ACTION:

DISPOSITION OF SENATE BILL 256

Motion: Rep. Campbell moved for SB 256 to BE CONCURRED IN.

Discussion: Rep. Zook stated he has a problem with this bill, because when an unused tax balance is reverted to reduce the subsequent year's levy the tax payers benefit from a reduction in taxes.

Rep. Westlake stated the way it was explained to him in his county is this way they have to accumulate against a major expenditure for road and bridge repair etc., and is still using the same amount of money that they would ordinarily have to have to purchase for this, and gets a reserve fund that has some income possibility in case of future major expenditure.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Rep. Roth called the question. Roll call vote was taken. The motion CARRIED to BE CONCURRED IN 8/6. Rep. Bachini, Rep. Stepler, Rep. Clark, Rep. Patterson, Rep. Zook and Rep. Nelson voted no.

DISPOSITION OF HOUSE BILL 712

Motion: Rep. Stang moved HB 712 to DO PASS.

Discussion: Rep. Stang stated the question that everyone had is in section 8, why all the fees wasn't moved to \$5 if they wanted to make them all the same. Rep. Stang read a letter from the Motor Vehicle Div. See Exhibit 12.

Mr. Robinson remarked that Rep. Stang requested the study on the impact of standardizing the fees and Mr. Robinson stated they decided it was best to leave them as they were with the counties and just take care of the problems with the state.

Amendments, Discussion, and Votes: Rep. Campbell moved to adopt a amendment for all of the fees under section 8, a-j subsection 1, be raised to \$10.

Rep. Roth called the question.

Rep. Stang spoke against the bill stating that if the fees are raised to \$10 the bill will be killed and the counties will be back where they started from and the Dept. of Justice will be short of funds.

Motion: Rep. Campbell withdrew his motion.

Recommendation and Vote: Rep. Roth called the question. The motion CARRIED unanimously to DO PASS. Rep. Bachini, Rep. Patterson and Rep. Stepler voted no.

HEARING ON SENATE BILL 389

Presentation and Opening Statement by Sponsor:

Senator Jergeson, Senate District 8, stated his bill is from the last interim when the farmers and ranchers discussed the fuel tax, permits, and forms for diesel vehicles using diesel fuel off of their farm storage for vehicles they are

supposed to post bond, file quarterly reports, pay taxes and keep records of their mileage. Sen. Jergeson stated the purpose of this bill is to provide these people with an alternative to all the bureaucratic red tape they have to go through to be in accordance with the law. Rather than posting the bond and keeping track of the mileage they can pay a fee of \$108 for each year and not have to worry about the paper work.

Testifying Proponents and Who They Represent:

Norris Nichols, Administrator Motor Fuels Division, Dept. of Revenue

Ron DeYoung, Mt. Farmers Union and Stockgrowers Assoc.

Proponent Testimony:

Mr. Nichols distributed amendments for SB 389 and stated that Sen. Jergeson had explained the bill thoroughly. Mr. Nichols stated that there has been a problem for diesel fuel cars since they came out on the market and have access to bulk storage. Mr. Nichols stated he thought the fee of \$108 came from the LPG permit for light pickups and cars.

Mr. DeYoung wanted to go on record in support of SB 389.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Campbell asked Mr. Nichols what kind of policy does the state require on bonds? Mr. Nichols stated there are three types of bonds: 1) Surety Bond. 2) CD made out to the Dept. of Revenue. 3) Letter of credit from a bank.

Rep. Owens asked Sen. Jergeson if there was some way to work with the county people to force the farmers and ranchers to pay for the \$108 permit? Mr. Jergeson stated this had been discussed in the Senate Committee to sell the permit to everyone but there hadn't been an amendment introduced to do this.

Rep. Steppler asked Mr. Nichols asked how the \$108 diesel fee is compared to the tax paid by a gas vehicle? Mr. Nichols stated that he has been told that a diesel vehicle will get up to 1/3 more mpg than a gas vehicle does.

Rep. Patterson asked Sen. Jergeson when the effective date of this bill? Sen. Jergeson stated that when an effective date isn't specified the effective date is October 1.

Rep. Stang asked Sen. Jergeson if he would have any objection to the amendment that was proposed to go through the County Treasurers to sell the \$108 permit. Sen. Jergeson replied that it did need to be considered but not in the context of this bill.

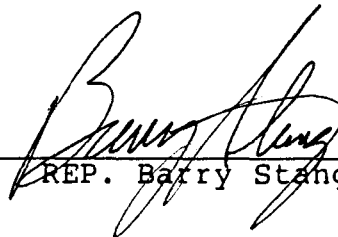
Rep. Aafedt asked Sen. Jergeson if this fuel permit is available for other than farmers and ranchers. Sen. Jergeson stated that this bill applies for agricultural non-highway use and had been discussed that some contractors would probably be able to use this.

Closing by Sponsor: Sen. Jergeson closed by asking the Committee to look at the amendments that Mr. Nichols had proposed and try to work them into the bill.

There being no further business the Committee was adjourned.

ADJOURNMENT

Adjournment At: 6:10 p.m.

A handwritten signature in dark ink, appearing to read "Barry Stang", is written over a horizontal line.

REP. Barry Stang, Chairman

BS/cj

5506.min

DAILY ROLL CALL

HIGHWAYS AND TRANSPORTATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date March 9

NAME	PRESENT	ABSENT	EXCUSED
Chairman Stang, Barry "Spook"	✓		
Vice Chairman Linda Nelson	✓		
Rep. Bachini, Bob	✓		
Rep. Davis, Ervin	✓		
Rep. Harrington, Dan			✓
Rep. O'Connell, Helen	✓		
Rep. Stepler, Don	✓		
Rep. Westlake, Vernon	✓		
Rep. Aafedt, Ole	✓		
Rep. Campbell, Bud	✓		
Rep. Clark, Robert	✓		
Rep. Owens, Lum	✓		
Rep. Patterson, John	✓		
Rep. Roth, Rande	✓		
Rep. Zook, Tom	✓		

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that SENATE BILL 242 (third reading copy -- blue) be concurred in.

Signed: _____
Barry Stang, Chairman

[REP. ROTH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that SENATE BILL 402 (third reading copy -- blue) be concurred in.

Signed: _____
Barry Stang, Chairman

[REP. BACHINI WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation
report that HOUSE BILL 712 (first reading copy -- white) do
pass .

Signed: _____
Barry Stang, Chairman

STANDING COMMITTEE REPORT

March 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that SENATE BILL 256 (third reading copy -- blue) be concurred in .

Signed: _____
Barry Stang, Chairman

[REP. KELLER WILL CARRY THIS BILL ON THE HOUSE FLOOR]

EXHIBIT 1
DATE March 9
HB 709

BIG HORN COUNTY



HARDIN, MONTANA 59034
March 9, 1989

Barry Stang, Chairman

Highway & Transportation Committee
State Capitol
Helena, Montana 59620

Reference: Testimony HB # 709

Dear Chairman Stang
and fellow committee members,

Big Horn County is pleased to offer the following testimony in support of HB #709.

First, we wish to clarify that while we stand in absolute support of HB #709, this support should not be construed as deteriorated support for the continuance and funding of the Montana Coal Board. Please be aware Big Horn County has filed a pre-application to pave Highway #314 with the Coal Board.

Second, please be aware Big Horn County has been gathering data for a comprehensive Highway #314 Economic Impact Assessment Report. Unfortunately, the report will not be finished for at least another week.

The need to convert Highway #314 from a back-country shale road to a serviceable secondary highway raises a series of very complex and important issues for the State of Montana. Those issues need to be examined, not from a singular point of view, but from a very broad perspective. The following is an overview:

1. Secondary #314 is an important access between Wyoming and Montana. Not only is it a vital commercial link related to stoker coal sales for Montana and the Dakota's, but it receives high recreational traffic, especially during the summer. All traffic from the east (Highway #212) and north entering Tongue River or Sheridan, Wyoming areas, use the road. It is the only access to the Rosebud Battlefield, and it is one of the routes used by tourists to follow Custer's trail toward the Custer National Battlefield.

No doubt a telephone call would demonstrate support for the project by some obvious beneficiaries including Custer Country Tourism, the National Park Service, Fish, Wildlife and Parks, the Department of Highways, and our State tourism office.

2. With historical accident rates as an indicator, Highway #314 is more dangerous than other secondary roads in Montana. During the past ten years more than 400 accidents have been recorded by the Montana Highway Department. While the average secondary accident rate in the State is 2.38 MVM; highway #314 is 2.58 MVM. (computer data available)

A little over a year ago a truck driver was killed in a rollover and there have been numerous 'close calls' between trucks and passenger vehicles. In 1988, Wyoming Saw Mills of Sheridan, Wyoming, had three wrecks totaling more than \$20,000's in vehicle damage.

3. Highway #314 is extremely valuable to Montana commerce, not only in the area of coal hauling, but also for livestock and logging.

For example, Wyoming Saw Mill employs over 100 people in Montana and depends upon timber from Montana for raw material. Due to the condition of the road, the cost of hauling logs from Montana to Wyoming is exorbitant. In 1988, the U.S. Forest Service completed a study of Highway #314 and determined that the cost of hauling logs over that road was more than double what it would be on pavement. As a consequence timber in Montana has been devalued.

Since Montana Counties receive 25% of the money from timber sales on federal lands, #314 is costing the public money through lost revenue. Because raw material prices are set in the same manner for private timber sales, Montana farmers and ranchers have also found their timber devalued.

By paving this road, Montana would not only increase the value of timber, but would also allow Wyoming Saw Mills to drive further into Montana to purchase raw materials. They would create competition for our products and therefore, increase timber values.

To provide a benchmark for some of the traffic and related cost, in a recent survey Scheckla Trucking indicated that they run 30 trucks per day on the road, during the log hauling season, for a total in excess of 3000 trips per year. It should be noted that Bearpaw Logging and others also use the road.

Even though these businesses are based in Wyoming, they pay GVW and fuel taxes in Montana, as well as buy supplies, parts, and tires in Montana. For example, in a three month period last fall, Scheckla Trucking went through about 300 truck tires due to the shale surface on the road. At an approximate cost of \$400 per tire, that represents about \$12,000 in tires. They also have experienced wrecks; the last two have entailed more than \$30,000 in damage, and it was a Scheckla driver who was killed on the road about a year ago in a rollover.

The economic impacts of the road and potential benefits to Montana are not confined to the logging industry.

Stoker coal is like firewood: its price is established by the cost of mining, taxes, transportation, and the laws of supply and demand.

In 1982, the mine mouth price of stoker coal from the Decker area was \$34.50 per ton. It could be bought at only one place in Wyoming: Big Horn Coal. Today, the mine mouth price is \$22.00 per ton...a customer saving of \$12.50 per ton. The reason for the drop in coal prices, while other prices have continued to rise, is that Spring Creek Coal, a Montana based coal company, began making stoker coal and provided competition.

The beneficiaries of Spring Creek's entry into the market have been the State of Montana in the form of severance taxes, the employees who mine and haul coal in the form of jobs, and consumers in the form of cost savings.

For Montana, cost savings is a larger issue than one would suspect at first glance, because the largest consumers are public entities:

To name a few, they include the taxpayers who support schools in Plentywood, Bainesville, Turner, Lodge Grass, Hardin, Scooby, Arlee, Dixon, Ophiem, Lame Deer, Wyola, Jordan, and Froid. Montana also sells coal to at least six schools in Wyoming, a couple in Nebraska and several in the Dakotas. Beneficiaries also include taxpayers who support public buildings such as recreational facilities, courthouses, and hospitals in communities like Forsyth, Hardin, Hysham, Jordan, Sheridan, Wyo. and the V.A. Hospital to name a few.

Other beneficiaries include Tribal housing authorities, private businesses, and of course, farmers and ranchers who depend upon stoker coal.

Finally, beneficiaries include trucking companies in Montana who haul coal, such as Zerby Brothers from Glasgow, Antelope Grain from Antelope, Simmonson from Plentywood, John Prince from Forsyth, Holmes Plumbing in Hardin, and stoker coal haulers from the Dakotas.

The point is, the consumer base for stoker coal is very, very large and the economic impacts very broad.

Recently, Spring Creek advised Big Horn County that they are losing coal sales due to the condition of the road; sales like the Bentonite Mine in Colony, Wyoming. A survey of truck drivers from Montana, North Dakota, South Dakota and parts of Wyoming, conducted in January and February of this year, confirms Spring Creek's position. Truckers simply cannot afford to buy coal in Montana when it is less expensive to drive 80^{miles} farther and buy a slightly lessor quality coal in Wyoming for the same price.

Schultz Coal Sales, the marketing agent for Spring Creek stoker coal has shown us a computer list about six feet long of lost customers. They have all quit buying coal in Montana.

If Spring Creek's sales decline to a point where it is no longer feasible to remain in the stoker coal market, then one can safely presume the price of coal will immediately return to \$34.50 per ton or beyond very quickly. Remember, there is no regulatory agency that governs sale price...only competition.

Given the current estimated volume of stoker coal sold last year, it has been estimated the existing savings to the consumer is somewhere between a low of \$1.5 million to a high of 2.1 million dollars per year. (based on 125,000 - 175,000 ton of coal sold)--Schultz Sales, sold 67,875 tons in the 1987-88 season and they indicate they have about a one-third market share. According to Schultz, his company made 2,595 trips over Highway #314 in 1987-88.

To date, Big Horn County has received letters of support for funding the project from most of the school districts and governmental units who buy stoker coal, and the survey of truckers indicates similar support and verifies haul data. Nearly every trucker surveyed indicated that they could also increase coal sales, if the road were better. Oddly enough, even Big Horn Coal in Wyoming supports the project.

4. In summary, several points should be made:

For one, a good deal of money, nearly \$200,000, has already been spent by the Coal Board, Big Horn County and Montana Highway Department examining and engineering this project. With that, little start-up time would be required to acquire right of ways and go to bid.

It is also essential to recognize that since this is an off-system secondary road, Big Horn County is saddled with the responsibility of determining how to build and maintain the road. While the County has the capacity to maintain the road, we don't have enough funds to build it.

It is very important for the Legislature to know that the County has saved 2.6 million dollars in off-systems money to be matched with this project. Even so, and excluding inflation, it will take until the late 1990's to save enough additional money to complete the entire project without state coal tax support.

In closing, there is a very broad base of support for the project. It comes not only from those who drive the road, or sell coal and logs which are hauled upon the road, or from the schools and other public entities across the state that buy coal, or from employees who work at the mines and ranchers in the area, but it also comes from groups such as the Montana Association of Counties who in the 1989-91 Policy Statement supported returning Coal Tax dollars to coal areas, rather than promoting a State general fund build-up.

Support has also been registered by the Montana Legislatures Coal Tax Oversight Committee, who passed a resolution on Sept. 21, 1988 in favor of the proposed project.

We have collected a great deal of hard evidence to support the position that replacing this shale road with a paved highway is a very good use of State funds which offer significant financial benefits. It is critical for Montana to build a long lasting infrastructure if we are to ensure competition in the market place, to save the public dollars, and to increase the value of Montana products.

While we can't build roads with cost savings, we sure can't build Montana, stabilize business, help school systems, or fund state and local governments with lost revenues caused by a deteriorated road system.

Thank you for your time and attention to our concerns. Big Horn County requests that the Highway #314 Economic Impact Report be allowed to be entered as further testimony, as soon as it becomes available.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rusty Rokita', written in a cursive style.

Rusty Rokita,
for the Big Horn County
Board of Commissioners

cc: Alvin Torske, Chairman

EXHIBIT 2
DATE March 9
HB 709

TESTIMONY OF NERCO, INC. ON HB 709

Mr. Chairman and members of the House Highways Committee--for the record, my name is Tom Ebzery. I am a private attorney in Billings, and I am representing Nerco, Inc. Nerco operates a Spring Creek surface coal mine in southeastern Montana, as well as being a joint venture partner in the Decker Coal Company mine.

HB 709 is but another step which has occurred in a cooperative manner since early 1986 when citizens of the Busby area in Big Horn County said "they couldn't take it any more" of the worst road in Montana. Here are just a few of the reasons why this road needs repair and reconstruction now.

- 1) There are numerous sharp corners and narrow places in the road where it is extremely hazardous to meet oncoming traffic.
- 2) Very low visibility conditions exist due to dust any time the road is dry, particularly in summer.
- 3) There is a high volume of truck traffic, as well as employee service worker traffic to coal mines in the Decker area, ongoing logging operations in the area, and movement of livestock and agricultural products both to and from the area.
- 4) In the summertime, there are many large campers and motor homes pulling boats from outlying areas to the Tongue River reservoir.

5) Parents transport children to and from school daily during the school year.

A series of meetings with the Montana Highway Department, Big Horn County commissioners and the Montana Coal Board resulted in a two-phase rehabilitation program to engineer and construct this 14-mile road. After the initial planning and survey in 1987 and 1988, the County Commissioners and Coal Board have devised a plan where 2.8 million dollars from the Coal Board will be granted to Big Horn County in Fiscal Year 1990 to complete the project. This amount will be at least matched by Big Horn County to enable the project to be completed.

Without this bill, it may take a decade or more to fix a road so hazardous that it's a miracle more people are not killed--the large number of near misses grows each month.

I was present at the State Capitol in 1975 and attended the Conference Committees on SB 13 and related bills which made up and formed the 30% coal severance tax. From good authority, I can state that the only reason Senator Dave Manning supported such a high tax was to insure that counties impacted by coal development would have adequate funding for rehabilitation and construction of roads and highways. A decade later, the late

Senator expressed dismay at the lack of action and funding for highways such as the Busby road. The Busby road is a road impacted by coal development. Companies such as Nerco and Decker have paid millions of taxes both at the county and state levels to alleviate such impacts. Those funds have been funneled in part to the Coal Board which agrees that this is not only a proper, but a necessary use of its funds.

Mr. Chairman, the Coal Tax Oversight Subcommittee has visited this area, toured the road, and survived not only to tell about it, but to sponsor a resolution requesting the transfer of funds from the Montana Coal Board so the joint effort can continue. I would like to commend the Big Horn County Commissioners, the Montana Highway Department, the Coal Board and Representative Marian Hanson for a model agreement. This is a bill which needs your support now so that it can catch up with the others and the project can move forward.

Thank you.

THOMAS E. EBZERY

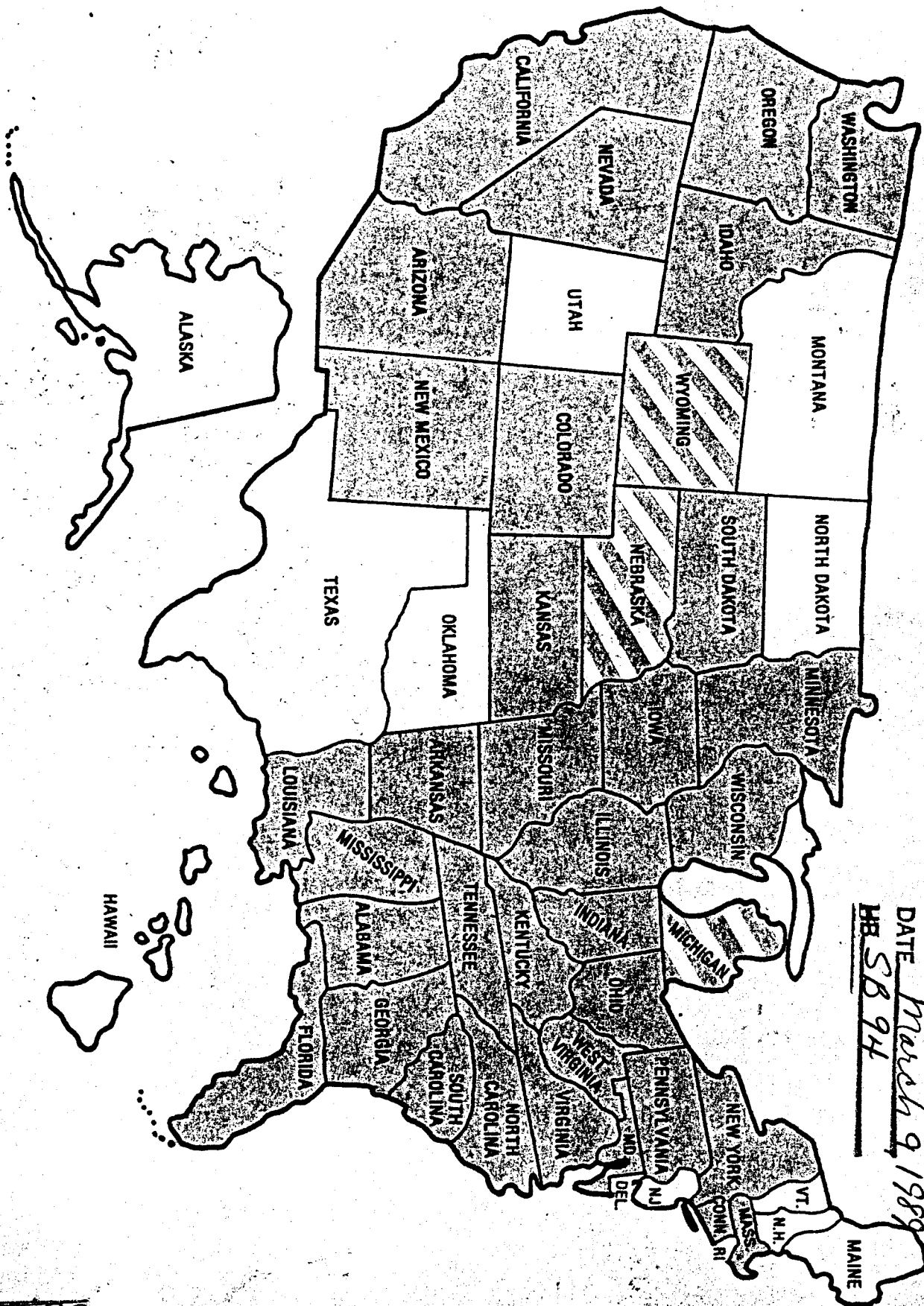
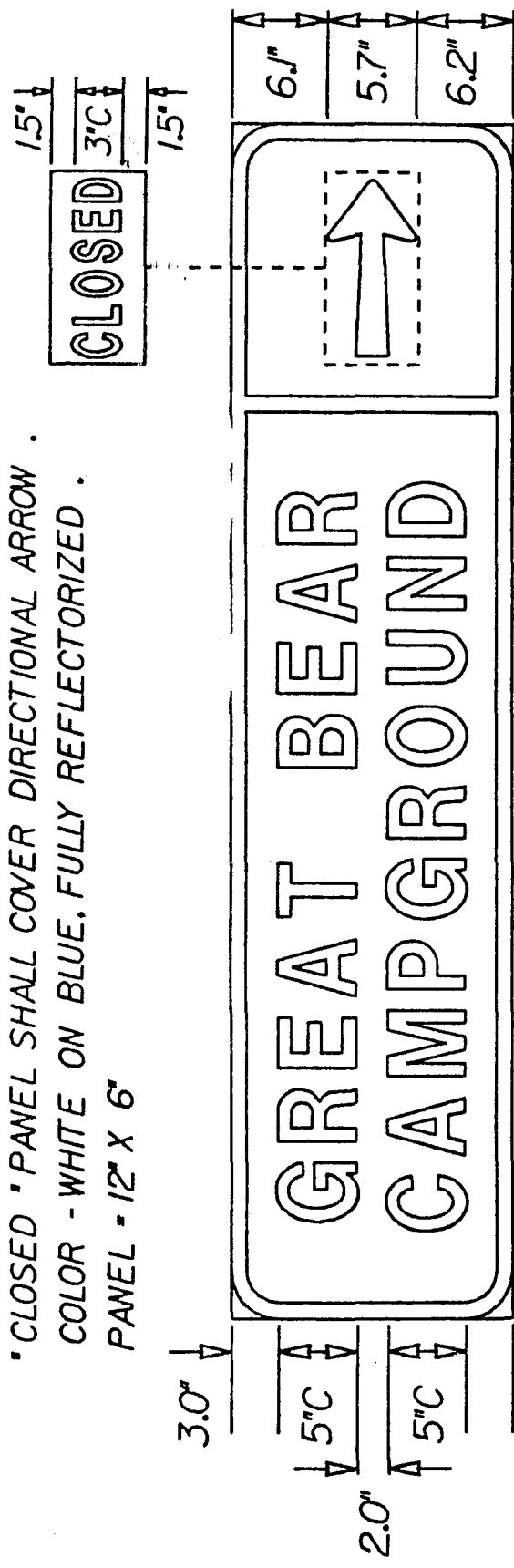


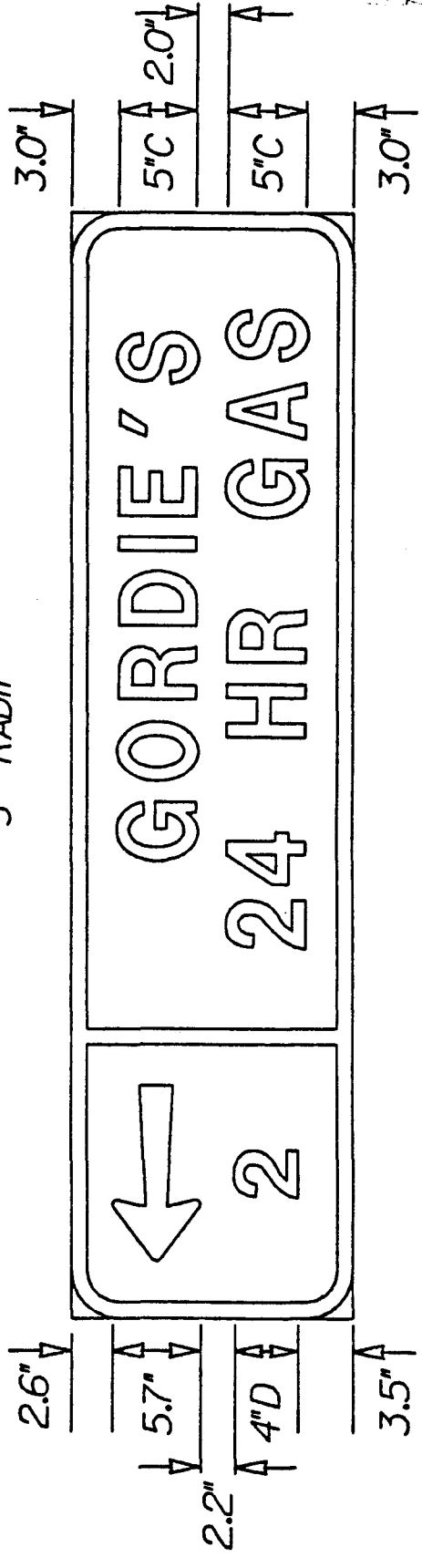
EXHIBIT 4
DATE March 9, 1989
HB SB 94

EXHIBIT 4
DATE 3-09-89
SB 94

*CLOSED *PANEL SHALL COVER DIRECTIONAL ARROW .
 COLOR - WHITE ON BLUE, FULLY REFLECTORIZED .
 PANEL - 12" X 6"



SIGN PANEL - 72 "X 18 "
 1" BORDER
 3 " RADII



COLOR - WHITE LEGEND AND BORDER ON BLUE
 BACKGROUND, FULLY REFLECTORIZED .

NO DISTANCE SHOWN IF LESS THAN 1 MILE . ARROW - 11" X 5.7 "

Bergeson

DATE 3-19-89
 SB 94

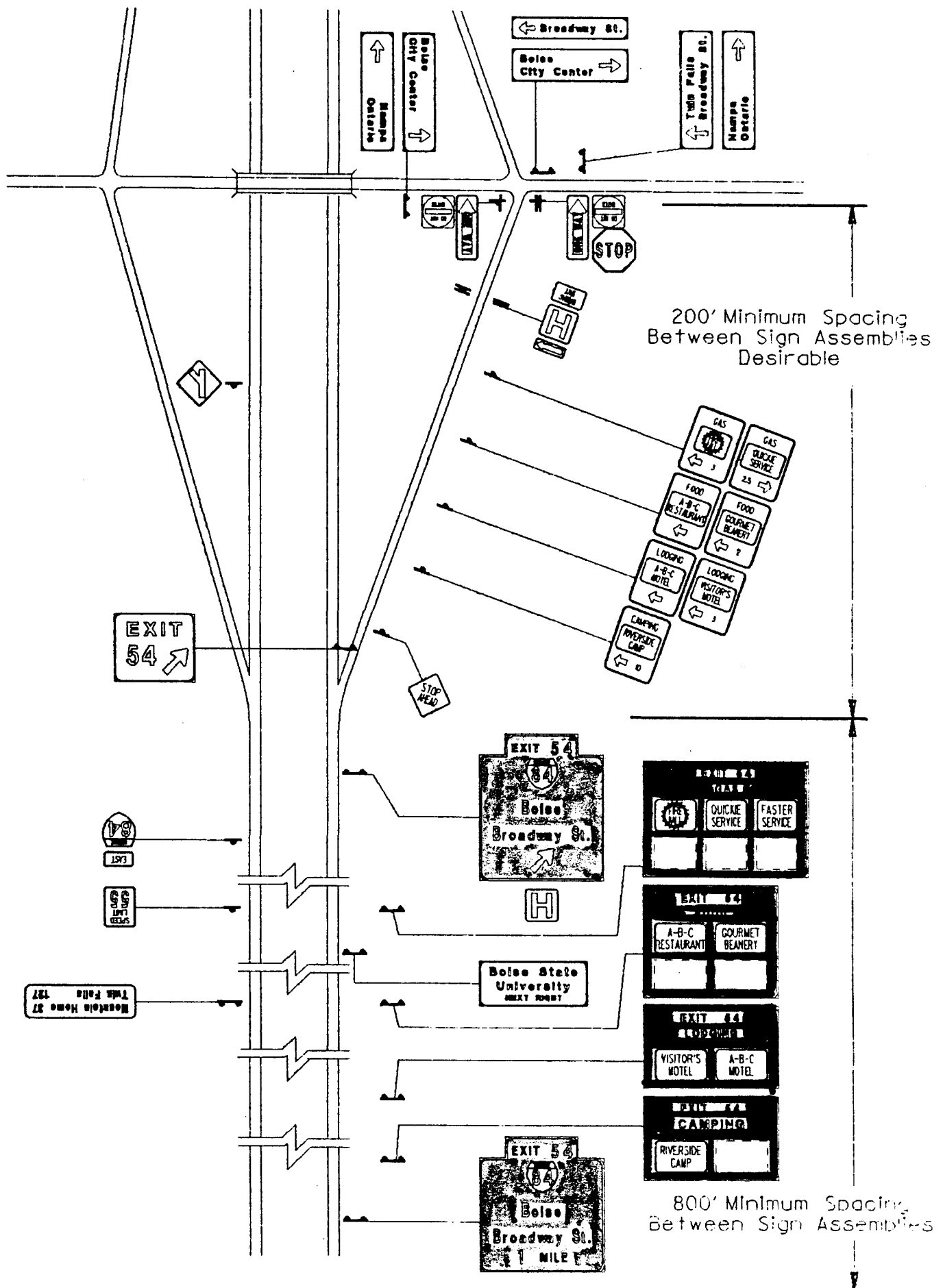
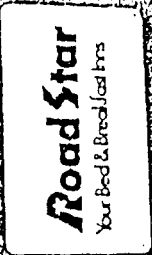
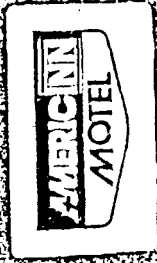


FIGURE-I-TYPICAL SIGNING FOR INTERCHANGES

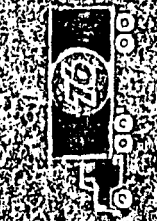
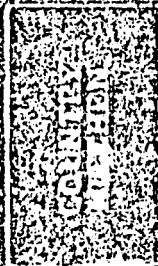
LODGING-EXIT 209



CAMPING-EXIT 178



FOOD-EXIT 207



GAS-EXIT 207



EXHIBIT 5
DATE March 9
SB 94

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE - FOR THE RECORD MY NAME IS JOHN WILSON, ADMINISTRATOR OF THE MONTANA PROMOTION DIVISION OF THE DEPARTMENT OF COMMERCE.

THE LAST LEGISLATURE PASSED HB 607 WHICH DIRECTED THE DEPARTMENT OF COMMERCE TO COMPLETE A STATEWIDE INVENTORY OF HIGHWAY SIGNS AND DEVELOP A COMPREHENSIVE PLAN FOR A SYSTEM OF HIGHWAY SIGNS. WE HAVE COMPLETED THAT TASK AND YOU HAVE BEFORE YOU OUR RECOMMENDATIONS.

HIGHWAY SIGNING IS HIGHLY REGULATED AND USUALLY FOR GOOD REASONS. THE FEDERAL GOVERNMENT PROMULGATES THE LION'S SHARE OF THE REGULATIONS.

BE THAT AS IT MAY, THERE ARE A NUMBER OF OPTIONS AVAILABLE TO THE STATE TO IMPROVE ITS HIGHWAY SIGNING WITHIN THE PURVIEW OF THOSE REGULATIONS. OUR REPORT OUTLINES TEN SPECIFIC THINGS THE STATE CAN DO TO ENHANCE OUR INTERSTATE, PRIMARY AND SECONDARY SIGNING.

TWO OF OUR RECOMMENDATIONS DEAL WITH THE BILL YOU HAVE BEFORE YOU (SB 94). AFTER PUBLIC OPINION POLLING (AAA AND BUSINESSES) A SERIES OF PUBLIC MEETINGS AND CLOSE INVESTIGATION OF WHAT IS POSSIBLE, WE RECOMMEND THAT BOTH THE LOGO SIGNS AND THE TOURIST-ORIENTED DIRECTIONAL SIGNS PROGRAM BE PUT IN PLACE BY MEANS OF CONTRACT WITH A PRIVATE VENDOR.

OUR REASONS ARE AS FOLLOWS:

1) THEY BOTH PROVIDE A PRINCIPLE SERVICE OF GIVING THE TRAVELER NEEDED DIRECTION.

2) THE TOURIST-ORIENTED DIRECTIONAL SIGNS ARE A PRO-BUSINESS DEVELOPMENT BY MAKING VISITORS AWARE OF OPPORTUNITIES, THEREBY POTENTIALLY LENGTHENING THEIR STAY.

3) THEY BOTH SOLVE PROBLEMS FOR THE PRIVATE SECTOR BY PROVIDING SIGNING OPPORTUNITIES WHERE NONE EXIST.

4) BOTH ARE TASTEFUL AND WILL NOT DETRACT FROM MONTANA'S BEAUTY.

5) BOTH CAN BE ACCOMPLISHED AT LITTLE OR NO COST TO THE STATE.

6) 32 OUT OF 50 STATES HAVE SUCESSFULLY ADOPTED THE LOGO PROGRAM. IT'S NOT AN ISSUE THAT IS GOING TO GO AWAY.

FOR THESE REASONS, WE BELIEVE ADOPTION OF SB 94 WOULD BE WORTHWHILE AND BENEFICIAL TO THE STATE AS A WHOLE.

March 9, 1989

WITNESS STATEMENT

NAME ELMER FRAME BILL NO. SB 94
ADDRESS 3695 TINA Ave
WHOM DO YOU REPRESENT? MONT CAMPGROUND OWNERS OF MONTANA
SUPPORT ☒ OPPOSE ☐ AMEND ☐
COMMENTS: see exhibit #6

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CAMPGROUND OWNER'S ASSOCIATION OF MONTANA

P.O. Drawer A
St. Regis, Montana 59866

President:

Bud McClure '87 - '89
West Glacier KOA
Box 215
West Glacier, MT 599

March 9, 1989

EXHIBIT 6
DATE March 9
SB 94

Vice-President:

Ed Pierce '87 - '89
Campground St. Regis
P.O. Drawer A
St. Regis, MT 59866

House Highways Committee
Representative Stang, Chairman

Members of the Committee:

My name is Elmer Frame. My wife and I own a campground in Missoula. I am here on our behalf and also represent Bud McClure, President of the Campground Owners' Association of Montana (C.O.A.M.).

Secretary-Treasurer:

Ruby Pierce '86 - '89
Campground St. Regis
P.O. Drawer A
St. Regis, MT 59866

I respectfully ask that you recommend approval of S.B.94. This legislation is long overdue as a motorist information service. It will allow small campgrounds that cannot afford expensive billboards a chance to tell the highway traveler where to find their businesses.

Board of Directors:

Don Thiesen '87 - '89
Sunrise Campground
31842 Frontage Road
Bozeman, MT 59715

Although I support the bill as written, I would ask that you add the word "campgrounds" on line 21, page 6. KOA Campgrounds are franchised nationally and headquartered in Montana. They are obligated under the franchise agreement to use standard colors and should be named along with service stations, restaurants, and motels. The attached copy of Page 6 (SB94) shows where the word campgrounds should be inserted.

Bob Rucker '87 - '89
Rocky Mountain Camp
Jardine Route, Box 1
Gardiner, MT 59031

Campground owners of Montana support this bill as written with the word "campgrounds" added on line 21, page 6. The words "camping" or "campgrounds" appear on line 22, page 1; line 17, page 4; line 21, page 4; line 19, page 5; line 25, page 8; line 23, page 10; and line 22, page 11 (7 times). Therefore, it is apparent that campgrounds are included in the sign program and authorized by the U.S. Department of Transportation.

Ed Pierce '87 - '89
Campground St. Regis
P.O. Drawer A
St. Regis, MT 59866

Respectfully submitted,

Kim Smith '85 - '88
Helena KOA
3820 North Montana
Helena, MT 59601

Elmer Frame

Elmer M. Frame
3695 Tina Ave.
Missoula, MT 59802

EF/lis
Enc

1 system to provide:

- 2 (a) business identification; and
 3 (b) directional information for businesses, services,
 4 and activities of interest to tourists.

5 NEW SECTION. Section 3. Specific information signs
 6 within right-of-way of interstate highway system. Specific
 7 information signs may be erected and maintained within the
 8 right-of-way of the interstate highway system to give the
 9 traveling public specific information as to motorist
 10 services available on a crossroad at or near an interchange.

11 NEW SECTION. Section 4. Specific information signs --
 12 number of business signs -- distances. (1) The number of
 13 specific information signs permitted is limited to one for
 14 each type of motorist service along an approach to an
 15 interchange or intersection.

16 (2) No more than six business signs may be displayed
 17 on a "GAS" specific information sign, and no more than four
 18 business signs may be displayed on a "FOOD", "LODGING", or
 19 "CAMPING" specific information sign. Except as provided in
 20 subsection (3), no business may be allowed more than one
 21 business sign on the same specific information sign.

22 (3) In areas where there are only one or two qualified
 23 businesses available for each of two or more types of
 24 motorist services, business signs for two types of services
 25 may be displayed by a business on the same specific

1 information sign. No more than two business signs for each
 2 type of service may be displayed in combination on a
 3 specific information sign.

4 (4) To qualify for business identification on a
 5 specific information sign, a motorist service facility shall
 6 meet the eligibility criteria established in [section 6] and
 7 may not be located more than 3 miles from the interstate
 8 highway. However, if no eligible services are located within
 9 the 3-mile limit, the distance limits may be increased in
 10 3-mile increments until either an eligible service or 15
 11 miles is reached.

12 NEW SECTION. Section 5. Sign composition -- spacing
 13 --conformity with laws. (1) A specific information sign
 14 panel must have a blue background with a white reflectorized
 15 border. The panels may be illuminated subject to regulation
 16 by the department.

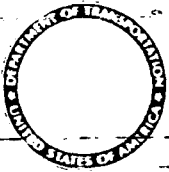
17 (2) A business sign must have a blue background with a
 18 white legend unless other requirements are established by
 19 the department. Nationally, regionally, or locally known
 20 commercial symbols, brands, or trademarks for service
 21 stations, restaurants, and motels must be used when
 22 applicable. The symbol, brand, or trademark used on the
 23 business sign must be reproduced in the colors and general
 24 shape consistent with customary use. Messages, symbols,
 25 brands, or trademarks that interfere with or resemble any

EXHIBIT 7
DATE March 9
SB 94

SB 94 FACT SHEET

1. This bill discriminates against in-town business establishments in favor of businesses located along the interstate highways of the state, since "specific information signs" may only advertise businesses within three miles of the interstate, unless no "eligible services" are located within the three mile limit. This bill will particularly discriminate against downtown businesses in Montana's cities.
2. This bill discriminates against in-town business establishments located more than five miles from a primary highway (unless no "qualified" business is located within five miles of the Primary highway) by declaring such businesses as ineligible for advertising on "tourist-oriented directional signs." Once again, this provision of the bill will have a significant impact upon downtown businesses in cities.
3. This bill discriminates against business establishments which are open less than the required number of hours (e.g., gasoline service stations must be in continuous operation at least 16 hours a day, 7 days a week (p. 6, l. 3-4) or do not provide the required range of services (e.g., gasoline service stations must provide tire repair (p.6,l. 1-2), by declaring those establishments which do not meet the criteria ineligible advertisers on "specific information signs."
4. The bill requires that the Highway Department make subjective determinations of what constitutes "qualified" establishments -- for example, lodging facilities must provide "adequate" sleeping accommodations (p. 6, l. 17), and camping services must provide "adequate" camping and parking spaces (p. 7, l. 23) -- all within the sole discretion of the Highway Department -- before such businesses may advertise on "specific information signs."
5. Eligibility for advertising on "tourist-oriented directional signs" also requires that a gas, food, lodging or camping establishment be open for a certain minimum amount of time (be in continuous operation 8 hours a day, 5 days a week, including Saturday or Sunday (p. 10, l. 15-19). "Tourist services" must also meet the same criteria during the "tourist season" in order to be eligible (p. 10. l. 15-17).

6. The Department of Highways also must make subjective determinations of what constitutes an "acceptable level of service to the public" in assessing the eligibility of businesses to advertise on "tourist-oriented directional signs" (p. 9, l. 23-24). In addition, the Highway Department determines whether a tourist service derives a majority of its income "from tourists not residing in the immediate area of the activity" (p. 10, l. 21-23).
7. The "motorist information sign program" authorized by SB 94 puts the Highway Department in the business of issuing franchises to "qualified" persons to establish and operate the "specific information signs" and "tourist-oriented directional signs" (p. 11, l. 15-25, page 12., l - 18).
8. The bill creates exceptions to existing outdoor advertising statutes by placing signs on the publicly operated rights-of-way or publicly leased land where such signs previously were prohibited (p. 15, l. 1-6).
9. There are a number of practical issues not addressed by SB 94, for example:
 - * Can one franchisee monopolize the state?
 - * Who will monitor potential advertisers to ensure their eligibility for the program and that they remain eligible?
 - * How will revenues be collected and disbursed if advertisers go out of business or no longer are eligible?
 - * What liability will the state still have in the event of an accident involving a sign established by this program?
 - * What is the need for the state to establish this program?
 - * Why may only certain types of businesses be allowed to advertise under this program to the exclusion of other providers of services to the traveling public, such as auto parts stores, private museums, and art galleries?
 - * How much will this program cost? Can it be operated in a cost-effective manner? Is the fiscal note attached to the bill realistic?



DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

EXHIBIT

8

DATE March 9
SB 242

OFFICE OF
THE ADMINISTRATOR

December 16, 1988

IN REPLY REFER TO:

HRW-10

The Honorable Stan Stephens
Governor-elect of Montana
State Capitol
Helena, Montana 59620

Dear Governor-elect Stephens:

I am writing to you as the head of the agency that has been designated as the Federal Government's lead agency for implementing and administering the requirements of the amended Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601-4655 (Uniform Act).

On October 20, 1987, my predecessor, R. A. Barnhart wrote to you to enlist your support for the passage in your State of a comprehensive statute to enable all State, local, and private entities receiving Federal funds to comply with the Uniform Act, as amended. Specific requirements of the Uniform Act found in §§ 210 and 305 relate to assurances which must be provided by displacing or acquiring agencies indicating their ability to comply with certain provisions of the Uniform Act. These assurances must be in place as of April 2, 1989. If they are not, the Federal agency providing the financial assistance for any ongoing project must withhold funding for any acquisitions or displacement occurring on or after April 2, 1989, and further, shall not approve any new activity, project, or program which will result in acquisition or displacement.

While we believe that many States may have specific legislation already in place or general assent language that could provide adequate protection come April 2, in many States the situation is unclear and open to question. In any event, the adequacy of State legislative authority can only be determined by appropriate State officials. Therefore, I respectfully request that you review the adequacy of State legislation to assure that State legislation is, or will be, in place no later than April 2, 1989, to permit unimpeded activities of State or local agencies receiving Federal financial assistance which may be used to acquire real property or to displace residents or businesses. The State legislation may be program-specific, comprehensive, or general in nature. The important point is that all affected State agencies must be able to provide the necessary assurances of compliance so that Federal financial assistance may continue without any interruptions due to failure to comply with the Uniform Act.

I appreciate your assistance in this matter.

Sincerely yours,

Robert E. Farris
Federal Highway Administrator

Bente Gallala
Department of Highways

Relocation Assistance

EXHIBIT

9

DATE March 9, 1989
SB 242

Background:

In 1969, the Legislature enacted a bill for relocation of persons displaced by the highway projects (Part 3, Chapter 4, Title 60, MCA) and, in 1971, one for fair treatment of condemnees for persons displaced by federally assisted programs and for property acquisition. (Chapter 31, Title 70, MCA). These bills were enacted in response to federal legislation which created a federal relocation program to assist persons displaced by federally funded projects and which regulated the acquisition of real property.

In 1987 Congress comprehensively amended the Uniform Relocation Assistance and Real Property Acquisition Policies Act. As a result it is necessary for Montana to amend its statutes to be in compliance with the federal act in order to be eligible for federal funding of projects involving property acquisition or the displacement of persons. The federal act requires the state's certification that it will carry out relocation assistance and property acquisition on projects with federal funds in accordance with state laws which accomplish the purpose and effect of the federal act. Failure to comply may result in the withholding of approval of any federal financial assistance on a project involving property acquisition or relocation.

What the Proposed Bill Does:

This bill repeals the two existing relocation assistance acts under Montana law and replaces them with broad enabling legislation. The bill will authorize all state agencies or any other legal entity which has eminent domain authority and which receives federal funding for any program or project which displaces persons to comply with federal law to obtain relocation assistance. It also gives express rulemaking authority under the

act to enable agencies to adopt rules necessary to follow federal requirements. It provides an immediate effective date because the federal law requires state compliance by April 2, 1989.

The bill also adds a definition of the term "appraisal" and amends the property acquisition provision by adding the right of a condemnee to donate property or proceeds to an agency and by allowing the Waiver of the appraisal requirement where property has a low fair market value.

Department Position:

Most of the federally funded highway projects of the Department of Highways involve the acquisition of real property or the displacement of persons from their homes, farms, or businesses. The federal act provides a more uniform treatment of displaced persons. This bill will enable the Department to comply with the federal requirements in order to assure continued funding of federal-aid highway projects as well as federal payment of relocation expenses to displaced persons. The Department supports this bill.

BG:ml

EXHIBIT 10
DATE 3-09-89
SB 402

SB 402

Testimony of Wayne Budt, Administrator, Transportation Division,
Montana Public Service Commission supporting SB 402

PRESENT SYSTEM:

The Highway Department has since the late 60's or early 70's had federal funds for the installation of signals at highway crossings. The department rates the crossings for hazards using various criteria as set out in the bill. This rating system is done completely by computers based on a mathematical formula. There is no public input into this process. The crossings identified by the department are scheduled for signalization as the funds allow.

The Montana Public Service Commission's present statutes, which have been on the books since 1919, allow a county commission to petition the PSC to order the installation of signals at rail crossings. Obviously, the Commission only receives crossing petitions for those crossings which are low on the Highway Department's priority list. As a matter of course, the Commission conducts its hearing on the matter in the affected area.

The case in question this past year was a crossing by Bainville, Montana. This crossing was near the North Dakota border and within a mile of Fort Union which is being restored by the U. S. Forest Service. The people who filled the gym for this hearing also expressed other concerns, including the number of school busses that use the crossing and the fog in the area from the close proximity of the river. Commissioner Oberg, who was the hearing examiner on this case, issued a proposed order ordering BN to install signals. BN challenged that proposed order and we are awaiting a transcript before issuing a final order. If the Commission upholds the proposed order the BN will in all likelihood appeal our order because it is the railroad's position that signals do not benefit the railroad and therefore they should not be required to pay for them.

PROPOSED LEGISLATION:

SB 402 will move the "APPEAL" function from the PSC to the Highway Commission. It will require the Highway Commission to go to the affected area upon a County Commission request and hear what the people have to say concerning the rail crossing in their area. The Highway Commission will then be able to adjust the priority list to allow for the signalization if the record that is developed supports the change.

The PSC would not have supported this bill if the provision for a hearing in the affected area (page 2 lines 7 and 8) had not been included. The PSC does not want to reduce the public's right to participate in these safety matters.

This change will move the decision making process on signalization under one department. The Highway Department is the logical agency since the disbursement of federal funds for signals already rests within that agency.



EXHIBIT 11
DATE March 9, 1989
SB 256

COUNTY OF STILLWATER

State Of Montana
Columbus, Montana

MARCH 8, 1989

House Highways and Transportation Committee
Representative Barry Stang, Chairman
Capitol Station
Helena, MT 59620

Re: Stillwater County Support for Senate Bill 256

Dear Representative Stang and Committee Members:

Please accept the following testimony in support of SB256.

1. Federal revenue sharing payments to county governments were eliminated in 1986. This amounted to a loss of \$140,000 to \$180,000 per year in Stillwater County alone. These funds were used to purchase road maintenance equipment, bridge materials, and for other capital improvement projects. Without revenue sharing funds, our options are limited for acquisition of property, capital improvements, and equipment necessary to maintain and improve county road and bridges. Senate Bill 256 would help us with this problem. We encourage your support of SB 256.

Sincerely,
Stillwater County Commissioners


Earl R. Adams, Chairman

2. I strongly support Senate Bill 256. Stillwater County has 29 major bridge structures and many of them are over 40 years old. Two of our bridges have failed in the last 5 years which resulted in vehicles in the river. This situation is a limiting factor for economic development in our area. In addition, the County owns about 40 pieces of road and bridge equipment. Some of this equipment is over 30 years old and there are no reserve funds to replace old road and bridge equipment. SB 256 would help

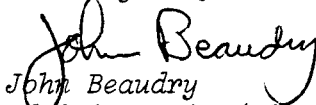
in our attempt to deal with these problems.

Yours Truly,


Duane E. Christensen
Road Supervisor

3. Senate Bill 256 would provide counties with the funding flexibility they need to allocate road and bridge financial resources for operations and maintenance functions throughout the fiscal year. This is especially important through the winter when the expense of snowplowing is relatively unpredictable. SB 256 also provides a method of financing longer term capitol needs. In addition, SB 256 provides an incentive to avoid unnecessary year end spending and deposit money that has not been expended or encumbered into a reserve fund. SB 256 would encourage long term fiscal responsibility. Therefore, I encourage you to support Senate Bill 256.

Best Regards,


John Beaudry
Administration/Planning Director


STATE
OF
MONTANA
DEPARTMENT OF JUSTICE
MOTOR VEHICLE DIVISION

303 Roberts, Helena, Montana 59620 (406) 444-4536

EXHIBIT 12
DATE March 9, 1989
HB 712

MEMORANDUM

TO: Representative Barry Stang

FROM: Bob Robinson, Administrator 
Motor Vehicle Division

DATE: March 9, 1989

SUBJECT: Request for Information on Financial Impact of Changing
Fees in 61-3-321(1) to \$5.00 in HB 712

House Bill 712 as submitted established a standard \$5.00 fee to title vehicles and register a motor vehicle under 61-3-321(3). The revenue derived from title filings is split between the county and the State. Vehicle registration income under Subsection 3 is deposited with the State.

You asked that we show the financial impact of standardizing fees at \$5.00 under Subsection 1 of 61-3-321. The attached schedule shows the impact: approximately a \$3,033,944.00 revenue loss to counties. All revenue derived from registration fees under Subsection 1 is allocated to the county road and bridge fund. HB712 is intended to standardize State fees, but we did not attempt to adjust the county fees.

1988 REGISTRATIONS AS DISTRIBUTED UNDER 61-3-321(1)
(A THROUGH J)

<u>Subsctn</u>	<u>Description</u>	<u>Vehicle Registered</u>	<u>Prsnt Fee</u>	<u>Total \$</u>	<u>\$5 Flat Fee Total \$</u>
A	MtrVehUnd 2850#	198,788	\$5	993,540	993,540
B	MtrVehOvr 2850#	279,112	\$10	2,791,120	1,395,560
C	Electric Veh	-----No Information Available-----			
D	Motorcycle Quads	25,339	\$2	50,678	126,695
E&F	Tractors,Trks,Buses	300,163	\$10	3,001,630	1,500,815
G	TrailersUnd 2500GVW	8,318	\$2	16,636	41,590
H	Trailers 2500#-6000#	63,729	\$5	318,645	318,645
I	Trailers over 6000#	46,182	\$10	461,820	230,910
J	Log, Oil, Road and Bridge Trailers	713	\$15	11,445	3,815
		<hr/> 922,394		<hr/> \$7,645,514	<hr/> \$4,611,570

VISITORS' REGISTER

Highway

COMMITTEE

BILL NO. SB 94, 242, 256, 355 DATE March 9, 1989SPONSOR 389, 402 & 449 HB 709

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
DVANE Tolay	Driver Services	SB 355	
GARY WALRACK	MT SIGN WORKS	✓	
Ron Proul	TRAVEL MARKETING	✓	
CHARLEY CHAMBERS	MONT RAIL LINK	402	
VERLE OSTRANDER	BN RR	402	
Beate Galda	Dept of Highways	SB 242 & 94	
ELMER FRAME	MONT CAMPGROUND OWNER	SB 94	
Rob Movanic	Missoula Chamber	SB 94	
Andy Neal	Montana Farm Bureau	SB 389	
Loren Smith	Great Falls HOA Hand	SB 94	
John Beaudy	Stillwater County	SB 256 ✓	
Rick Young	Stillwater County	SB 256 ✓	
Bonnie Lipsey	Montana Ironworkers	SB 94	
Marilyn B. Ferguson	Big Horn Cty. SECC	HB 709	
Randy White	Big Horn County	HB 709	
Don Ingels	Mt Chamber of Commerce	SB SB 94	
Tom Eberly	Nerco	HB 709	
Linda Hill Anderson	MACo	HB 256	
Tom Harmon	Myke Sign	SB SB 94	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

Highways and Transportation

COMMITTEE

DATE March 9

BILL NO. B254

NUMBER _____

NAME	AYE	NAY
Rep. Bachini, Bob		✓
Rep. Davis, Ervin	✓	
Rep. Harrington, Dan	✓	
Rep. O'Connell, Helen		
Rep. Steppler, Don		✓
Rep. Westlake, Vernon	✓	
Rep. Aafedt, Ole	✓	
Rep. Campbell, Bud	✓	
Rep. Clark, Robert		✓
Rep. Owens, Lum	✓	
Rep. Patterson, John		✓
Rep. Roth, Rande	✓	
Rep. Zook, Tom		✓
Chairman Stang, Barry "Spook"	✓	
Vice Chairman Linda Nelson		✓

TALLY

8

6

Secretary

Chairman

MOTION: _____
