

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS AND TRANSPORTATION

Call to Order: By CHAIRMAN TVEIT, on FEBRUARY 16, 1989, at 1:00 P.M. in Room 410 of the State Capitol.

ROLL CALL

Members Present: SENATORS: Larry Tveit, Darryl Meyer, Hubert Abrams, Bill Farrell, John Harp, Jerry Noble, Larry Stimatz, Cecil Weeding, Bob Williams

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council

Announcements/Discussion: CHAIRMAN TVEIT announced the hearings on House Bill 149, House Bill 223, Senate Bill 389 and House Bill 392.

HEARING ON HOUSE BILL 149

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE STANG, District 52 stated that House Bill 149 was at the request of the Highway Department. This bill will require the Department to notify the owner from whom the property was acquired by the Department. If the owner wants to acquire the excess property, he would be able to bid on it. House Bill 149 would repeal language in the law that is infrequently used and makes it significantly less time consuming for the Department to dispose of excess land.

List of Testifying Proponents and What Group they Represent:

Beate Galda, Attorney for the Department of Highways

Testimony:

BEATE GALDA, Attorney for the Department of Highways stated that the Department was in support of House Bill 149. SEE EXHIBIT 1. She also had a handout for the Committee which depicts the layout of excess land. SEE EXHIBIT 2.

List of Testifying Opponents and What Group They Represent:

Lorna Frank, Farm Bureau
Carol Mosher, Montana Cattle Stock and Cattle Women Association

Testimony:

LORNA FRANK representing the Montana Farm Bureau stated they oppose House Bill 149. SEE EXHIBIT 3.

CAROL MOSHER representing the Montana Stock Growers and Cattle Women expressed opposition to House Bill 149. This bill would cause some problems for the rural people.

Questions From Committee Members:

SENATOR NOBLE asked Carol what problems she sees in House Bill 149.

CAROL MOSHER stated that if you owned property all around a town and the road is changed, you could have small acreage that are cut off from the highway that people in town would like to bid on. It may be only worth \$100 per acre to the rural people, but someone from town will bid higher because it would make a good homesite. It could interfere with ditches that go through there or interrupt the right-of-way.

SENATOR WILLIAMS asked if the lands needs to be sold by public auction.

BEATE GALDA answered that it would be required to be sold by public auction. It is done at the court house.

SENATOR MEYER asked what happens, like in Great Falls, as far as the businesses and someone else should happen to bid higher than that business.

BEATE GALDA stated that the problem with some of that is that the neighboring business is not the original owner and they would not have any right under the statute now. Those parcels are not attractive to anyone else but it could be done maliciously to interfere with some of the businesses.

SENATOR TVEIT asked about the irrigation ditches. If there was supply ditch through a part of land when the Department bought it, when it is put up for auction, what would happen to that ditch.

BEATE GALDA stated that they could not sell that land without protecting that existing use without providing an easement. In most situations where the Department buys property for public purpose, generally ditches are moved.

Closing by Sponsor: REPRESENTATIVE STANG explained that the 5 acres was put in the House, was to protect the larger parcels. He stated that when the bill was brought to him, it was directed to clarify the situations in Great Falls and Billings.

HEARING ON HOUSE BILL 223

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE WALLIN, District 78 stated that House Bill 223 is brought before the Committee on behalf of about 250 automobile dealers in Montana. This bill asks that they use just one license plate on the back of a demonstrator car. There are about 17 states that just use rear license plates.

List of Testifying Proponents and What Group they Represent:

Steve Turkiewicz, Executive Vice-President of the Montana Auto Dealers Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

STEVE TURKIEWICZ, Executive Vice-President of the Montana Auto Dealers Association expressed their support of House Bill 223. SEE EXHIBIT 4.

Questions From Committee Members: None

Closing by Sponsor: REPRESENTATIVE WALLIN closed the hearing on House Bill 223.

HEARING ON HOUSE BILL 392

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE DARKO, District 2 explained that House Bill 392 was at the request of those who go south for the winter in a motor home. There were problems with registering a motor home through the mail. Quite often they just register in the state they are in residence. The registration date has been moved from the 1st of January to the 1st of May. The bill should have no fiscal impact on counties or local government.

List of Testifying Proponents and What Group they Represent:

Gene Pigeon, Montana Good Sam Club

List of Testifying Opponents and What Group They Represent:

None

Testimony:

GENE PIGEON representing the Montana Good Sam Club stated that they have approximately 4,500 members in the State of Montana. They are in support of House Bill 392 over the staggering license bill. This is to try to keep the RVs licensed in Montana. It will allow them to license their vehicle between May 1st and June 15th. He stated that there are 80 recreational vehicles in the Chapter in Helena. About 40 are down south at the present, and they are hoping this bill will pass so they can license when they get back. Some of the County Treasurers have stated that they would rather have the bill set at May 1st, rather than the staggered system.

Questions From Committee Members: SENATOR WILLIAMS asked Gene Pigeon if, as a Snowbird, he likes this bill better than SB 345.

GENE PIGEON stated that he likes House Bill 392 better because with the other method the County Treasurers would have to prorate some registrations, which would mean much more paperwork and time.

Closing by Sponsor: REPRESENTATIVE DARKO closed saying that this system circumvents those problems that a staggered system would bring on.

HEARING ON SENATE BILL 389

Presentation and Opening Statement by Sponsor: SENATOR

JERGSON, District 8 stated that Senate Bill 389 is a result of a conversation which he and Senator Jenkins had with Norris Nichols, Motor Vehicle Fuel Division in the Department of Revenue. There are farmers and ranchers who purchase a diesel car or pickup and are then required to pay taxes on the diesel fuel they use out of bulk tanks. They have to buy a bond and file reports. This bill proposes that if they don't want to go through all the paperwork, they have the option of paying \$108 pre-paid tax for the fuel they might use.

List of Testifying Proponents and What Group they Represent:

Kim Enkerud, Montana Stock Growers
Chad Smith, Land Improvement Contractors
Lorna Frank, Montana Farm Bureau

List of Testifying Opponents and What Group They Represent:

None

Testimony:

KIM ENKERUD representing the Montana Stock Growers stated that they support Senate Bill 389.

CHAD SMITH representing the Montana Land Improvement Contractors stated that most of the people in the Land Improvement Contracting business, the heavy equipment contractors, do operate farms as well. They would be greatly benefited by any simplification in filing the taxes.

LORNA FRANK representing the Montana Farm Bureau stated that they support Senate Bill 389.

Questions From Committee Members: SENATOR WEEDING asked Norris Nichols if they would require more than one permit.

NORRIS NICHOLS said no, that it would cost \$108 for each vehicle. At the present time, there are only 106 who are bonded, and most of those are in Eastern Montana. This option may encourage them to comply. He suggested to have the bill amended to have it collected at the time of purchasing the license.

Closing by Sponsor: SENATOR JERGESON closed the hearing on Senate Bill 389.

DISPOSITION OF SENATE BILL 389

Discussion: None

Amendments and Votes: None

Recommendation and Vote: SENATOR WILLIAMS MOVED that SENATE BILL 389 DO PASS.

MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL 334

Discussion: CHAIRMAN TVEIT gave a summary of Senate Bill 334 and informed the Committee that Representative Bardanoue has a similar bill in the House.

Amendments and Votes: None

Recommendation and Vote: SENATOR FARRELL MOVED TO TABLE SENATE BILL 334.

MOTION PASSED on a ROLL CALL VOTE 6-3.

DISPOSITION OF SENATE JOINT RESOLUTION 9

Discussion: JESSE MUNRO, Acting Director for the Department of Highways stated that he brought Bob Champion from the Department.

BOB CHAMPION from the Department of Highways explained what effects SJR 9 would have on the Department of Highways. SEE EXHIBIT 5.

Amendments and Votes: None

Recommendation and Vote: SENATOR WEEDING MOVED to TABLE SENATE JOINT RESOLUTION 9.

MOTION PASSED UNANIMOUSLY.

DISPOSITION OF SENATE BILL 345

Discussion: None

Amendments and Votes: None

Recommendation and Vote: SENATOR FARRELL MOVED to TABLE
SENATE BILL 345.

MOTION PASSED UNANIMOUSLY.

ADJOURNMENT

Adjournment At: 2:30 p.m.



SENATOR LARRY TVEIT, CHAIRMAN

LT/pb

senmin.216

ROLL CALL

HIGHWAY COMMITTEE

DATE February 16, 1989

51st
LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
CHAIRMAN TVEIT	✓		
VICE CHAIRMAN MEYER	✓		
SENATOR ABRAMS	✓		
SENATOR FARRELL	✓		
SENATOR WEEDING	✓		
SENATOR NOBLE	✓		
SENATOR STIMATZ	✓		
SENATOR HARP	✓		
SENATOR WILLIAMS	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 16, 1989

MR. PRESIDENT:

We, your committee on Highways and Transportation, having had under consideration SB 389 (first reading copy -- white), respectfully report that SB 389 do pass.

DO PASS

Signed: _____
Larry J. Tveit, Chairman

2-17-89
8125
eg

SENATE HIGHWAYS

EXHIBIT NO. 1DATE 2-16-89BILL NO. H13149

Successor in Interest Option

Background:

Since 1959, Montana law has provided an option for the original owner or his successor in interest to require the Department to sell land at public auction rather than exchange it for other land and an option to match the high bid if property is offered for sale by the Department. Since 1959 the Department estimates that less than ten former owners or their successors in interest have exercised their option to meet the high bid and purchase the property. During that period the Department estimates that it has sold 350 parcels of land. The Department sells or trades an average of 10 to 15 parcels per year.

The Department does not have legal authority to purchase more land than it needs unless the excess land is an uneconomic remainder. During negotiations with nearby landowners the Department is sometimes able to exchange the excess land for other land it needs for a highway project. This land is normally not useful to the original owner since it is too small to use by itself or it is isolated from the rest of his property. In a recent situation in the Billings area, a condemnation action was almost settled by an exchange of land but the previous owners, one of whom had moved out of state and the other had moved away from Billings, blocked the exchange because they disliked the condemnee and didn't want him to have the land. They were not interested in purchasing the remainder.

Where excess land was purchased during an earlier project, it is often impossible to determine who the successor in interest is. In several situations encountered by the Department, the original owner had subdivided his property and it was impossible to determine who had the right to exercise the option. The Department has been involved in two lawsuits concerning the determination of the successor in interest. In one case the original owner had deeded her land to one party but later deeded her option under the statute to another party. Both wanted to exercise the option. This case went to the Montana Supreme Court for final determination. In two other situations the original owner had merely deeded the option to be the successor in interest to a party who wanted the right to meet the high bid without the risk of making a bid.

The statutory option normally merely results in delay while the Department attempts to determine the successor in interest, to contact him, and to wait for his response. Most original owners or their successors in interest are not interested in repurchasing a piece of property which was too small to be worth retaining at the time of the original purchase for highway purposes. The statutes also prohibit the Department from combining several small parcels where each was under different ownership. This results in lower prices for the sale because of increased advertising and separate appraisals and often results in lower prices for the land or the inability to sell the small parcels.

What the Proposed Bill Does:

This bill will allow the Department of Highways to exchange land without first contacting the original owner or his successor in interest. If the property to be sold is five acres or less, the original owner will be given at least ten days notice of sale and will still have the right to make a bid at public auction if he is interested in repurchasing excess land acquired by the Department. This bill will, however, eliminate his option and that of any successor in interest and will eliminate the attendant problems and litigation necessary to determine who may exercise that option. This bill was amended in the House. As a result of the amendment, if the property exceeds five acres, the law will not change and the original owner or his successor in interest will have an option to meet the high bid to repurchase the property.

Department Position:

The Department of Highways believes that this bill will eliminate a seldom used but expensive and time consuming privilege and therefore supports this bill.

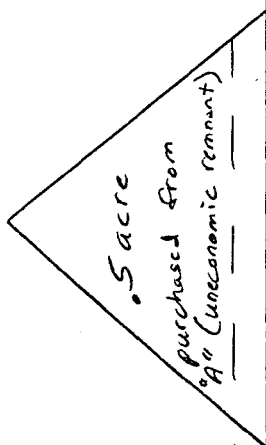
SENATE HIGHWAYS

EXHIBIT NO. 2

DATE 2-16-89

BILL NO. HB 149

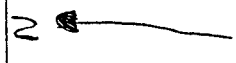
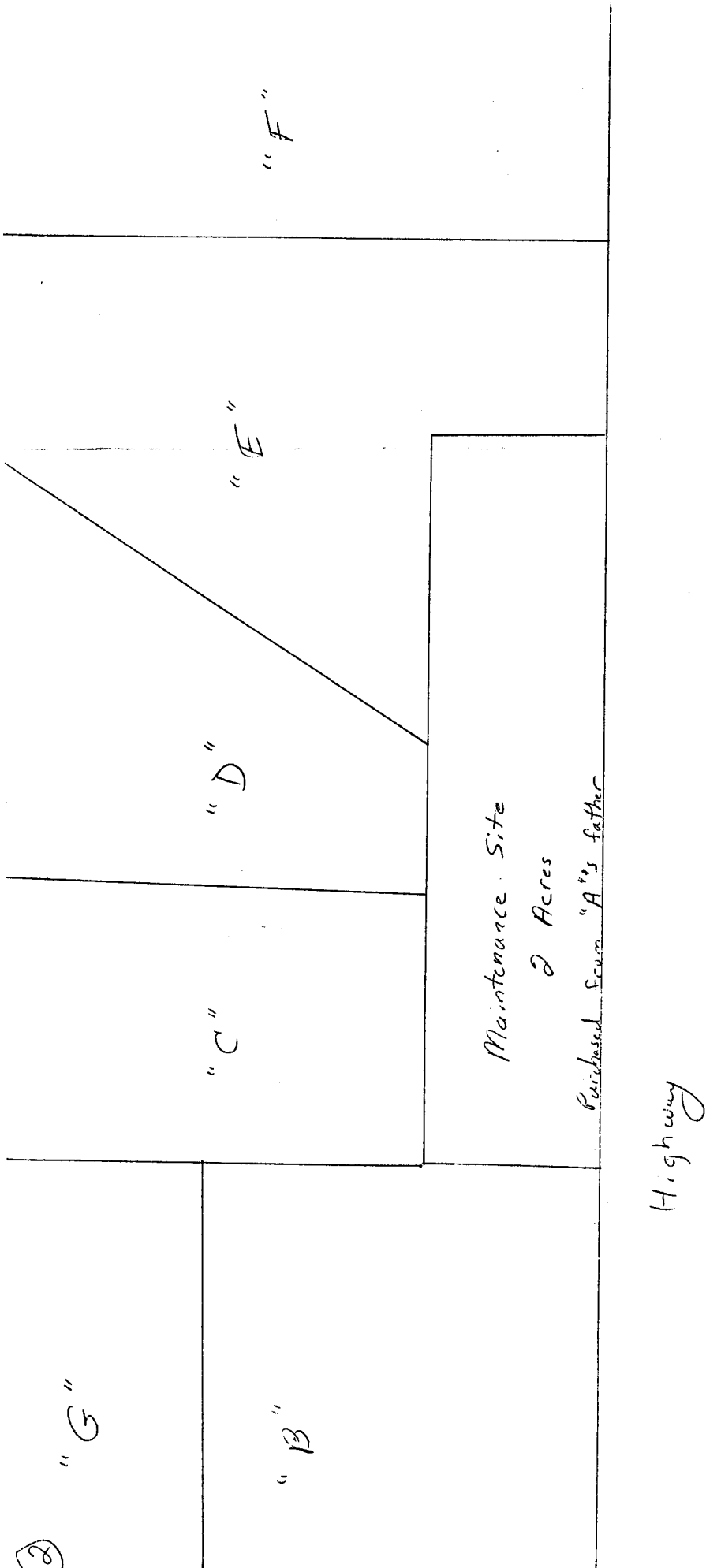
Owner "B"



right-of-way to be purchased

Existing Highway

Owner "A"



"A"

"A" still owns property on south side of Highway but he has subdivided and sold the property on the north side



MONTANA FARM BUREAU FEDERATION

502 South 19th • Bozeman, Montana 59715
Phone: (406) 587-3153

SENATE HIGHWAYS
EXHIBIT NO: 3
DATE 2-16-89
BILL NO. HB 149

BILL # HB 149 ; TESTIMONY BY: Lorna Frank
DATE Feb 16, 1989 ; SUPPORT _____ ; OPPOSE Yes

Mr. Chairman, members of the committee, for the record my name is Lorna Frank, representing Montana Farm Bureau.

Farm Bureau opposes HB 149, we feel that land for sale must be offered to the original owner or his successor before it is offered to anyone or put up for public auction regardless of the size of the parcel. The problem arises within a city, town or subdivision where no one knows who the original owner was, this bill needs to address that problem, not extend into the rural area where the original owner or successor can be determined, therefore we urge this committee to not concur on HB 149.

SIGNED: Lorna Frank

MONTANA AUTOMOBILE DEALERS ASSOCIATION
INC. HB 223

501 N. SANDERS

HELENA, MONTANA 59601

PHONE 442-1233

Senate Highway Committee
February 16, 1989
Testimony for House Bill 223

Mr. Chairman and members of the Committee, my name is Steve Turkiewicz, Executive Vice-President of the Montana Auto Dealers Association. On behalf of the Auto Dealers Association, we support the passage of HB 223.

I point out that this bill affects only the dealer demonstration plates. These are temporary plates authorized in current law for specific applications. All this bill does is change the requirement for two temporary plates to one plate placed on the rear of the car.

The problem has evolved because of the materials used in the manufacturing of today's cars. Most bumpers are made from plastic composites. For the rear plates most dealer use either the magnetized plate bars attaching them to the car's trunk or the rubber flanged plate holder that are held between the trunk and the trunk lip.

The difficulty arises when placing the front plate on the vehicle. On many new cars there is no provision for temporarily attaching a plate. The magnetic bar won't adhere and there is no place to put the flanged holder without the potential of damage to the car. In order to comply with current statues the plate literally must be permanently attached, usually with a couple of bolts. Now this doesn't sound too difficult. Except, when you consider most dealer inventories are outside on the lots and we in Montana receive our fair share of inclement weather. Try to place yourself in the salesperson's situation on day like yesterday or today. Putting on a plate with two bolts in single digit weather is quite a chore. Plus, since there are time limitations for the plate being on the vehicle; someone has to take that front plate off the vehicle when it is returned to the lot.

In summary, this is a bill applying only to temporary demonstration plates. No reduction in the fees paid for the plate is envisioned. And, it is not an attempt to apply the use of single plates to any other category of license.

Therefore, we respectfully request that this committee recommend a DUE PASS for House Bill 223.

SENATE HIGHWAYS

EXHIBIT NO. 5

DATE 2-16-89

BILL NO. 5JR9

SCENIC ROUTES

MONTANA

February, 1989

SCENIC ROUTES

A. HISTORY/BACKGROUND

- A1. Nothing in current Montana law or regulations defines or designates "Scenic Routes" or "Scenic Highways".
- A2. Montana Department of Highways did a "Scenic Route" study in 1965 (no implementing action was ever taken).
- Identified 70 routes totaling approximately 1,900 miles.
 - Ranked into four categories by points.
 - Committee included MDOH/other State Agencies/Feds/Private.
 - Committee rode over every route.
- A3. Montana Highway Commission approved designation of "Pintler Scenic Route" August 9, 1977 (Old U.S. 10A Anaconda, Philipsburg, Drummond).
- Approved as a five year pilot study.
 - Initial cost for signing \$10,000.
 - Special traffic counts do not confirm any change in traffic do to the signing of scenic designation.
 - MDOH received intense political pressure to continue this designation, so the signs where left up.
- A4. U. S. Forest Service implemented "National Forest Scenic Byways Program" in 1988 (Routes now approved: Wise River Polaris and Beartooth Highway. Some routes now being considered: U.S. 89 - Kings Hill, Thompson Pass, Marias Pass, Seeley Swan).
- Nominated by each National Forest/approved at USFS Washington D.C. level.
 - Must traverse National Forest Lands.
 - USFS wants okay from State or Local Highway Agency.
 - Major national publicity in cooperation with Chrysler Corporation.

SCENIC ROUTES

B. SELECTION CRITERIA

Listed below are some factors which need to be decided on in order to select scenic routes.

- B1. The route must be SCENIC.
- B2. Must be "worthwhile".
 - Should not be monotonous or repetitive.
- B3. Must be an adequate paved road.
 - Adequate for an RV 28 feet.
- B4. Must be a loop.
 - Cannot be a "stub" route.
- B5. The scenic corridor must lend itself to reasonable development of tourist services and amenities which are part of the "scenic experience" of the user.
- B6. Must not be too long or too short. (For example, should a scenic route be considered which is more than 100 miles or less than 20 miles long?)
- B7. Must be compatible with other transportation uses. (For example, use of east shore of Flathead Lake by large chip trucks as well as recreationalists.)

SCENIC ROUTES

C. POLICY ISSUES/QUESTIONS

C1. Preservation of Present Scenic Qualities

Designating a road as "scenic" connotes a need to preserve and perhaps enhance the scenic aspects of the existing road.

- Should the road be preserved "as is?"
- Should widening, clearing, and tree cutting be allowed?
- Should billboards be embargoed/should existing billboards be purchased?
- Does the "scenic" designation tend to make the roadside areas "recreational or park" uses under federal law?

C2. Priority for Reconstruction

- Does the "scenic" designation give projects on the route priority for reconstruction?
- Or should reconstruction not be considered in order to preserve the scenic character of the route?

C3. Provision of Visitor Services

- Should rest areas, picnic areas, pullouts, roadside signs and displays and other visitor services be provided?

C4. Provision of Additional Signing/Publications/Maps

- Should additional highway directional signing be provided? For example, if the Beartooth Highway from south of Red Lodge to the Wyoming border is designated as a scenic highway, is it intended that directional signing saying something like "Beartooth Scenic Highway" be provided at Red Lodge? At the junction with Primary Highway 310 in Rockvale? On Interstate 90 at the Laurel Interchange?
- Should "scenic" highways be shown differently on the official highway map of Montana?
- Should Montana publish a separate map which highlights and emphasizes scenic highways in Montana?

C5. Provision of Increased Maintenance

- Should designated "scenic" highways be kept open throughout the winter?
- Should there be a higher standard of maintenance service than is otherwise warranted? (The federal designation of the Beartooth Highway as a "scenic byway" is likely to result in increased pressure on MDOH to keep this highway open for a longer season.)

REC:by:si:3E

ROLL CALL VOTE

SENATE COMMITTEE HIGHWAYS AND TRANSPORTATION

Date FEBRUARY 16, 1989 Bill No. SB 334 Time _____

<u>NAME</u>	<u>YES</u>	<u>NO</u>
VICE CHAIRMAN MEYER	✓	
SENATOR ABRAMS	✓	
SENATOR FARRELL	✓	
SENATOR WEEDING	✓	
SENATOR NOBLE		✓
SENATOR STIMATZ	✓	
SENATOR HARP		✓
SENATOR WILLIAMS	✓	
CHAIRMAN TVEIT		✓

Secretary
Pat Bennett

Chairman
Larry Tveit

Motion: SENATOR FARRELL MOVED TO TABLE SENATE BILL 334.

MOTION PASSED 6-3.