

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN BARRY STANG, on February 12, 1991, at 3:00 p.m.

ROLL CALL

Members Present:

Barry "Spook" Stang, Chairman (D)
Floyd "Bob" Gervais, Vice-Chairman (D)
Ernest Bergsagel (R)
Robert Clark (R)
Jane DeBruycker (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Mike Foster (R)
Patrick Galvin (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Jim Madison (D)
Linda Nelson (D)
Don Steppler (D)
Howard Toole (D)
Rolph Tunby (R)

Staff Present: Valencia Lane, Legislative Council
Claudia Johnson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HJR 12

Presentation and Opening Statement by Sponsor:

REP. ED GRADY, House District 47, Canyon Creek, said HJR 12 was introduced as a result of Congress' attempt to take federal money away from Montana's highways. There are many highways that are in need of interchanges, secondary roads need funding, overlays on the interstate need to be redone. The miles of highways in Montana and the amount of driving Montanans do are good reasons to make the needs known through this resolution.

Proponents' Testimony:

Ben Havdahl, Montana Motor Carriers Association, supports HJR 12 to maintain the current federal formula for matching funds in Montana.

Janelle Fallan, Montana Highway Users Federation, feels this is an important resolution, and urged the committee to give it favorable consideration.

Ken Dunham, Montana Contractors Association, supports the resolution.

Don Judge, AFL-CIO, Helena, presented written testimony in support of HJR 12. EXHIBIT 33

Opponents' Testimony: None

Closing by Sponsor:

REP. GRADY said he feels that every member of the House and Senate would sign this resolution. He urged the committee to support HJR 12.

HEARING ON HB 475

Presentation and Opening Statement by Sponsor:

REP. ED GRADY, House District 47, Canyon Creek, distributed information for the committee. EXHIBITS 1 and 2 This bill is a result of a Supreme Court case. The problem is the Office of Public Instruction (OPI) must put the food program up for bid. Federal regulations mandate the state agency implement the most cost effective system to provide distribution of services. For years it was not put up for bid, it was used as sole source. A new hauler was sought through bids, and received the bid. The company subsequently was not granted authority to haul by the Public Service Commission (PSC), which resulted with OPI contracting with a higher bidder. That conflicts with OPI having to put the school lunch program up for bids to get the lowest cost to taxpayers. Language in section 1 was changed by the drafter and changes were made on page 2, line 6. An amendment is proposed moving United States Department of Agriculture to the beginning of the sentence, "The United States Department of Agriculture surplus food commodities under a contract with the Office of Public Instruction". Changes were made to line 2. The rest is existing language within the present statute. The intent of the legislation is to put OPI in position to get the lowest cost to haul the food. Taxpayers pay more when OPI does not handle the food service program properly. There is good reason to move this bill to the Senate to combine with a proposed bill that is before the Senate.

Proponents' Testimony:

Joe Roberts, Howard Roberts Trucking, T & M Transport, said Howard Roberts Trucking responded to an invitation to bid to transport USDA donated food commodities from Helena to all outlying school districts in Montana. The only cost to school districts is transportation cost. Considerable time, effort and

money was expended to put the bid together for the three-year contract. Howard Roberts Trucking was the lowest responsible bidder. They went to the PSC to get hauling authority. Their attorney advised, and law seemed to say, that the award of the contract was itself the basis for a finding of public convenience and necessity. When application was made at the PSC, the current holder of the contract, Watkins Shepard, protested and PSC agreed it would have to go to full hearings. To go to a full hearing at that time required evidence that the present hauler was not carrying out the contract satisfactorily. The fact that the state would save substantial money for the same service was not allowable as evidence. There was not time to go to a full hearing, and no point in it as Roberts Trucking was not prepared to prove the present hauler was not performing the contract satisfactorily. A lawsuit resulted, first in the District Court then to the Montana Supreme Court. The Supreme Court gave Legislature the go ahead to get the statutes straightened out. Refer to the opinion of Justice Harrison which capsulized the problem, "While I concur with the majority opinion in this case, I find the result appalling to appellant Roberts. . ." The amendment Mr. Roberts is concerned with is on page 2, subsection c, it reads with the proposed amendment, "United States Department of Agriculture surplus food commodities under a contract with the Office of Public Instruction." With this amendment, if a business wins the bid, that bid is the basis for a finding of public convenience and necessity for the PSC to grant hauling authority. It is not a deregulation bill. The bidder winning the contract is still fully under the regulation of the PSC to meet insurance, safety, bonding and other requirements imposed by PSC. The intent of the bill is not to go after the present holder of the contract, but to seek a chance to compete. This is not a bill for Howard Roberts, it is a bill for the taxpayers and school districts in Montana who pay more money if there is not competition in awarding contracts.

Rex Manuel, self, said that in 1990 while serving as a member of the PSC, a meeting was held with the Commission and staff in which Howard Roberts presented the problems described. The statutes were unclear and the permit was not issued. It was pointed out that if such a bill was presented, it might be too broad. However, Mr. Manuel feels this bill only addresses the issue involved. The charge of the PSC is to see that Montana residents are insured a reliable transportation system, and also to see citizens are not charged excessive rates. Mr. Manuel feels the bill is a step toward good government practices and asks the committee to support the bill.

Opponents' Testimony:

Ray Kuntz, Director of Operations and Sales, Watkins Shepard Trucking, stated HB 475 is narrow and aimed at authority which Watkins Shepard holds. Mr. Kuntz presented written testimony.

EXHIBIT 3

Stan Kaleczyc, attorney for Watkins Shepard Trucking, represented the firm in proceedings before the PSC, the state District Court in Helena and the Montana Supreme Court. His testimony is focused on the court proceedings. Prepared testimony was presented with letters included which were solicited from various school districts which receive service from Watkins and Shepard for the District Court proceedings. EXHIBIT 4 Copies of the Supreme Court decision with the key holdings of the Court highlighted were distributed. EXHIBIT 5

Ben Havdahl, Executive Vice President for Montana Motor Carriers Association (MMCA), went on record in opposition to HB 475. This position does not involve support or opposition to one trucking company versus another trucking company, but the effect of the law. Written testimony was presented. EXHIBIT 6

REP. WANZENRIED stated his opposition to HB 475 and submitted a statement for the record. EXHIBIT 7

Technical Comments:

Greg Groepper, Office of Public Instruction, is not present to support or oppose the legislation, but to present some concerns. OPI did not ask for the bill. It did arise from a request to OPI by Roberts Trucking for bids. The PSC has the responsibility to see that trucking companies will get the job done. OPI would be reluctant to take over that responsibility. If the Class C certificate is instant, OPI will have to do the work PSC is doing now. Additional funding would be needed to investigate the suitability of the trucking firm. OPI requests a fiscal note if the bill is approved, to determine the additional cost for OPI to do the work PSC is doing.

Questions From Committee Members:

REP. TOOLE asked if the primary amendment to the bill is on page 2, which says surplus food commodities under a contract with the U. S. Department of Agriculture will be one of three areas where subsection 1 will apply. Subsection 1 says presentation of a written contract with the United States Government will be deemed sufficient proof of public convenience and necessity. Roberts Trucking would be entitled to a certificate if the bill passes. Mr. Roberts referred back to section 1 that states the Commission may issue a certificate of public convenience and necessity to any of the three parties. In reference to some earlier comments made, specifically by Mr. Groepper, the PSC is still involved in the process. This legislation only speaks to the issue of public convenience and necessity. All other regulatory aspects of the PSC would be in effect. OPI will not be asked to do the function of the PSC.

REP. TOOLE asked if other hauls would be affected by the addition of subsection c? Mr. Roberts said that is narrowly drawn. There is only one such contract that he knows of.

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REP. TOOLE asked Mr. Roberts if he represents anyone other than Roberts Trucking? Mr. Roberts said he represents Howard Roberts Trucking and T & M Transport.

REP. STEPPLER asked Mr. Groepper and Mr. Budt about the conclusion from the Supreme Court. The solution is for the agencies to consider overlapping requirements and tailor the procedures. Is there any problem with OPI and PSC working this out so OPI starts their contract bids earlier and PSC is notified? Can it be worked out without legislation?

Greg Groepper said the concern is the court decision criticized OPI for not starting the bid process earlier. That is a valid criticism, and the OPI can commit to doing bid offerings earlier.

Wayne Budt, Public Service Commission, said there is no problem coordinating with OPI. PSC cannot start a proceeding until a formal application is submitted. The bid process would need to be done and the application made.

CHAIRMAN STANG asked if there is anything that would prevent OPI from notifying PSC as soon as bids have been taken to start the process earlier? Mr. Budt said there wouldn't be, although the application must be noticed and sent out to people who want to review it. OPI could notify PSC and the carrier could be informed of the regulations to begin the process.

REP. STANG asked how long is the time between the bid acceptance until the hearing is held by PSC? Mr. Budt said the maximum time allowed on any application is 180 days. All new applications are noticed at the beginning of each month. There are 20 to 30 days for protest, the hearing, briefs, etc. Six months is the maximum PSC can take from the time it is filed.

REP. ELLIS asked what the requisites are for getting authority? Can authority be held by two firms simultaneously, or is it necessary to prove the other carrier is not doing a good job? Mr. Budt said the public convenience and necessity test as specified by the Legislature is that the carrier is able to provide the service and a public need for the service. There is no limit on the number of carriers in an area. REP. ELLIS asked if there is a firm already providing the service, isn't it difficult to show that the present firm cannot provide the service? Mr. Budt replied the theory under motor carrier regulation is if a carrier is providing the service, it should be allowed to provide that service unless there are problems.

REP. STANG asked if cost is part of public convenience and necessity? If the same service can be provided for less, does the Public Service Commission take that into consideration? Mr. Budt said it is based on service.

REP. TUNBY thought the Montana Procurement Act is supposed to address the cost end of the problem. How does that fit? Mr.

Budt said he believed it was from the Supreme Court. He could not answer the question.

Ray Kuntz said the Procurement Act requires the bid be responsive and responsible, and part of that is the lowest cost carrier that can provide quality service. The Procurement Act doesn't say that in all instances the award be made to the lowest bidder, it is the lowest bidder that can get the job done. The PSC jurisdiction looks at the ability to provide service. That is the first requirement with the certificate. As **Mr. Budt** said, they go hand in glove. PSC has a continuing role under HB 475. The focal point is price with OPI and quality of service with PSC.

REP. TUNBY asked what agency utilizes cost basis in their determination if the PSC doesn't at all. **Mr. Kuntz** said cost is not a factor with PSC, it is with OPI in granting the award.

REP. GALVIN said in current regulations is there a monopoly formed that cannot be broken as far as these commodities are concerned. **Mr. Budt** said that is technically correct with the certificate being discussed. There are other carriers that could haul by interconnecting with smaller carriers. The bid process is set up for one carrier.

REP. GALVIN asked if there's no changing the situation under the regulations as written. **Mr. Budt** said only if there is proof that the existing carrier can't do it.

REP. FOSTER asked **Mr. Groepper** if OPI enters into contracts with the private sector outside of this one? **Mr. Groepper** said OPI enters into a number of contracts with a number of private providers. For example, there is a statewide contract with Apple Computers to provide facility for schools to purchase computers at an educational discount, and contracts with individuals to provide instructional curriculum to workshops. In all instances OPI complies with the state Procurement Act, putting things out for bid and have a set of specifications.

REP. FOSTER asked if OPI is an expert in computers? **Mr. Groepper** said OPI is better staffed in computers than in other areas. There is a staff of two local area network specialists and four data processing specialists. The data processing manager has about 14 years of setting up networks and computer experience in Montana.

REP. FOSTER asked if the contract with Apple Computer does not work out and they don't provide the quality anticipated, what recourse does OPI have? **Mr. Groepper** said if defective equipment is provided or there is a problem with contract delivery, the recourse is dropping Apple from the state contract or not using them. It is not critical if a district can't get a computer within a week or a month, but it is critical in the area of food service. The concern is to be certain the food is received by

schools without making alternate arrangements.

REP. FELAND said he detects the PSC is a monopolizer. Is there a process to go through for temporary authority and if followed, with need shown, can authority be obtained. Mr. Budt said it is not that easy. The Commission can grant temporary authority, but it is limited to an area where there is no one to provide the service.

REP. ELLIS asked Mr. Kuntz the volume of this business? The difference per year in the contract is \$50,000. Mr. Kuntz stated the amount of trucking done for OPI was less than was bid. The request for bid was 130,000 cases. What was actually hauled in year one was 91,231 cases.

REP. ELLIS asked what is the economic volume? Mr. Kuntz replied \$234,464. In the second year at this point, it is running below 91,000 cases.

REP. ELLIS asked Mr. Roberts to address the bidding process. Mr. Roberts said early in December a meeting was held with Mr. Groepper and Superintendent Keenan explaining what was wanted with the bill and asked if there were any problems with it. At that time, they were told there were no problems. If the legislature wanted to change the policy, they were fully satisfied with it. The bidding process is operated by people down in the bureaucracy. Mr. Roberts has a letter from Gary Watt, Acting Director of the School Food Services to the PSC, supporting the application of Howard Roberts Trucking. A sentence from that letter, "One concern we have for having only one potential contractor is being at that contractor's mercy. If we have no way to protect our constituents we will soon be forced to look to alternate means of distribution, a fact we would like to avoid." Mr. Roberts said that is exactly what this bill is all about.

Closing by Sponsor:

REP. BRADY said things were pretty well aired. The reason for the bill is a conflict between the way OPI is bidding and the way authority is granted to haul. If no other trucker can bid, how will OPI save the taxpayer money? How will it ever be known if another company can do a good job under this method? The bill does not tell PSC it must give companies authority, the bill says PSC may give them authority. REP. BRADY would like the committee to pass the bill on the Senate to tie in with a Senate bill aimed at solving this problem.

HEARING ON HB 309

Presentation and Opening Statement by Sponsor:

REP. DAVE BROWN, House District 72, Butte-Silver Bow, introduced HB 309 which attempts to establish a Montana Off-Road Vehicle

Recreation Program. This is done by allocating one-half of one percent of the distributors gasoline license tax for the Off-Road Vehicle Program. According to the fiscal note it is about \$438,663 in FY 92 and \$438,664 in FY 93. A fax from Chuck Wells, the director of a similar program in the Idaho Department of Parks and Recreation, is presented. EXHIBIT 8 One in twenty Montanans has a motorcycle or off-road vehicle. The percentage of tax is projected on that basis. Projects being planned will provide money to the rural economy through private and public contracts, equipment and land purchase, labor and material, trail relocation projects, trail bridges, erosion control projects, etc. In terms of multiple use of land and care of that land, this is reasonable legislation. REP. BROWN urged the committee's support.

Proponents' Testimony:

Ken Hoovestol, Legislative Chairman, Montana Snowmobile Association, said he is in support of HB 309 and presented written testimony. EXHIBIT 9

Linda Ellison, Land Use Coordinator, Montana Trail Vehicle Riders Association, spoke in favor of HB 309 and presented two handouts. EXHIBIT 10 AND EXHIBIT 11 She Ellison presented written testimony. EXHIBIT 12

Dal Smilie, Vice Chairman, American Motorcyclist Association, is a trailrider from Helena, and supports HB 309. Montana has many miles of trails, used by all types of users. Some are restricted to nonmotorized use, but many are open to all use. Trails are being worn out, and there is environmental degradation due to the heavy use. The bill will allow maintenance of trails. The more environmental degradation there is, the more land is closed to users, and impact is heavier on the available trails. Many highway licensed vehicles also use trails and backroads. The amount of fuel tax allocated in the bill is reasonable. The bill is timely and is needed.

Robert Lee, Land Use Committee, Montana Trail Vehicle Riders Association, and the Director of the Park/Gallatin Chapter of MTVRA, worked on the fuel consumption statistics included in the handouts. The figures were determined by looking at different states in the region and nation that have off highway vehicle programs, selecting those which had information that applied in Montana. The five states selected, Utah, Oregon, California, Michigan and Idaho, figure consumption rates on an average consumption per vehicle. Fuel consumption per vehicle was multiplied by the number of off highway vehicles in Montana to come up with a forecast of the gallons burned per year in this state. On the average off-highway vehicles in Montana should be burning in the vicinity of two million gallons which would generate the \$421,000 based on 1991 consumption rates. Statistics used to determine number of off highway vehicles come from the Motor Industry Council.

Larry Ellison, Montana Trail Vehicle Riders Association, said he supports HB 309 and presented written testimony on the Trail Ranger program in Idaho. EXHIBIT 13

Russ Ehnes, President, Great Falls Trail Bike Riders Association, and on the Board of Directors of the Montana Trail Vehicle Riders Association, said he is in favor of HB 309. He presented written testimony. EXHIBIT 14

Dennis Miller, Board of directors, Montana Trail Vehicle Riders Association, and a member of the Rocky Mountain Trail Bike Riders, Helena, supports HB 309. Mr. Miller read a letter to MTVRA from the Forest Service. EXHIBIT 15

Ed Feist, President, Capital Trail Bike Riders, member of Montana Trail Vehicle Riders Association, said he is in favor of HB 309. He read a letter from Mark Petroni, District Ranger of Madison Ranger District. EXHIBIT 16

Earle Feist, Capital Trail Bike Riders Association, spoke in favor of HB 309. He read a letter from John R. Logan, District Ranger of Gardner Ranger District. EXHIBIT 17

Opponents' Testimony:

Bob Champion, Deputy Director, Department of Highways, opposes HB 309. The fiscal note points out this bill would make it possible to divert \$438,000 each year from the money that goes to build and maintain highways in Montana. One half of one percent sounds small and compared to the total program, it is. Montana has more highways than it has dollars to take care of those highways. The trend is for the federal government to shift more of the burden for highways to the state. The \$438,000 would repave about four miles of primary system highway which would last about 20 years. The diversion of that much money is the amount it takes to keep pavement on 80 miles of primary system highway. Only the legislature can balance whether it is better to start a new program as proposed by HB 309, or whether it is better to keep modern pavement on that 80 miles of road.

Janet Ellis, Montana Audubon Legislative Fund, opposes HB 309 as written and propose amendments. EXHIBIT 18 The Audubon feels it is appropriate to have part of this money go to repair damages on areas damaged by off highway vehicles.

Ed Madej opposed HB 309 and presented written testimony. EXHIBIT 19

Questions From Committee Members: None

Closing by Sponsor:

REP. BROWN said the committee has heard testimony that this program is generally going to clean up past ills. The Forest

Service and Bureau of Land Management and other land managing agencies work closely with off-road vehicle people now and this program will enhance doing that in the future. Use of funds is a policy decision of the legislature. Off-road vehicles pay their share of gas tax money and only use a portion of it on highways. It is reasonable to use some funds to cover off road vehicle activities.

HEARING ON HB 425

Presentation and Opening Statement by Sponsor:

REP. JESSICA STICKNEY, House District 26, Miles City, is carrying this bill by request of a constituent. The constituent's concern is that as a Mayflower agent, his tractor is used to haul other trailers. He was fined because he didn't have the right license. In his words, "Without the revision we are subjected to a high cost of licensing a tractor under a Schedule 3 GVW just to pull a Montana licensed trailer within the freight delivery zone. Secondly, if we were to license a tractor under Schedule 3, we would still have a problem if that tractor should break down as our other tractors licensed under Schedule 1 still would not be able to pull the trailer. Lastly, if we are allowed to pull the trailer licensed in another state under Schedule 3 with our tractor licensed under Schedule 1 within our delivery zone, we should also be allowed to pull a trailer thus licensed in Montana without any additional fees."

Proponents' Testimony:

Dave Galt, Administrator Gross Vehicle Weight Division, Department of Highways, stated the Department of Highways supports HB 425 for two reasons: 1) this bill clarifies which vehicles may be pulled in the local delivery zone by a truck paying Schedule 1 GVW fees; and 2) HB 425 establishes exactly how big the local delivery zone is. Schedule 3 fee is designed for vehicles with all weight put on the power unit, and the trailers do not have to pay GVW tax. This bill would not allow trailers pulled into the state on railroad cars to be pulled without purchasing a permit for that trailer. The other concern was deliver zone tractors taking a trailer, for example, to Great Falls from Helena and calling that local deliver zone. Deliver zone will be defined in the bill as 15 miles from the town.

Opponents' Testimony: None

Questions From Committee Members:

REP. GALVIN asked if trailers on flatcars are licensed? Mr. Galt replied they are licensed in states allowing trailer plate registration, as a permanent registration. A fee is paid, a plate is put on a trailer that is good for an extended time. In Montana, vehicles licensed under Schedule 3 fees can pull a trailer registered in any other jurisdiction, but the trailer

doesn't pay weight fees because all weight fees are paid on the tractor. These trailers on the railroad are licensed but they are not paying weight fees in the state.

Closing by Sponsor:

REP. STICKNEY urged the committee to give the bill a do pass.

HEARING ON HB 527

Presentation and Opening Statement by Sponsor:

REP. JOHN PHILLIPS, House District 33, Great Falls, presented HB 527 that deals with financial responsibility for auto insurance. There is a problem with people who are driving without insurance. Estimates are that one out of four do not have insurance. REP. PHILLIPS said it is his intention to keep only the penalty section of the bill.

Proponents' Testimony:

REP. DAVIS said there is a serious problem about liability. He proposed some amendments and explained them to the committee.
EXHIBIT 20

Ray Harbin, Lake County Commissioner, said the insurance industry has a difficult time policing those who purchase insurance and those who show responsibility. The law seems to be clear, When an automobile is purchased and registered, that person certifies that liability insurance will be continuously carried. REP. PHILLIPS recommends striking all of the financial responsibility language from the bill, add applicable fine and court costs and insert restitution. If a person is involved in an automobile accident without insurance, the judge may hold the plates of that individual until such time as all costs are paid, proof of registration and auto insurance obtained, and restitution made. That will be a bill with teeth in it. If this is done, the fiscal note essentially goes away.

Virginia McCulucci supports HB 527 because she and her husband were victims of an accident involving an uninsured driver. A judgment was obtained. The driver agreed to pay monthly installments. He made one payment and left town. She has a friend that had a similar experience.

Nancy Loncki, self, said she supports HB 527 and presented written testimony. EXHIBIT 21

Lenore Taliaferro, self, spoke in favor of HB 527 and presented written testimony. EXHIBIT 22

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, supports HB 527 with the recommendations made by REP. PHILLIPS to strike reporting requirements in this

bill and increasing penalties. It is not clearly identified in the bill that the insurance industry is required to report and provide copies to the Division of Motor Vehicles, but it would seem it says that, especially under section 2 on page 5 talking about canceled or terminated insurance. This is what insurance agents call an SR 22 filing. When a person has been found not in compliance with the financial responsibility laws, a filing had to be done with the Division of Motor Vehicles, which may not be canceled by an insurance company until 10 days notification of the cancellation. It is difficult to support a bill that would require responsible persons who have insurance in force, to comply with this provision of Montana statute. Normally, it applies in the case of a habitual offender, a person who has not maintained insurance on a regular basis. In addition to the cost outlined in the fiscal note, there will be a significant administrative cost to insurance companies to provide data to the Division of Motor Vehicles of policies placed in force, policy nonrenewed, policy midterm canceled, etc. Cost to insurance companies to produce this additional mailing will be passed along to the insurance consumer. Under 33-15-1103, one of the few exceptions allowed for midterm cancellation is for nonpayment of premium, and 33-15-1105, establishes procedures for renewal of insurance policies and the premiums paid. All states with compulsory auto insurance have struggled with this problem. It is estimated between 20 and 25 percent of the automobiles are uninsured. Requiring proof of insurance to County Treasurers was not effective. Judges are reluctant to impose maximum penalties for compulsory insurance violations. Mr. McGlenn supports the amendment to take license plates from individuals who do not comply.

Opponents' Testimony: None

Questions From Committee Members:

REP. CLARK sees a flaw in the theory. If someone has an accident and the car is wrecked, what good will it do to take the license plates? REP. DAVIS said he couldn't answer that. The idea is to take the plates until restitution is made or fines are paid.

REP. STANG asked if it would be possible to go to the next county, get a fictitious address, pay for plates and put them on the car. Mr. Harbin said most small community law enforcement people know who the habitual offenders are. If that individual were to have the plates removed from his automobile and got plates from an adjacent county, he would be apprehended quickly.

REP. FELAND asked what would be wrong with taking the drivers' license. Mr. Harbin said he had discussed that with a justice court judge with the County Attorney and all felt that had merit. Unfortunately, it is not within the scope of the title of the bill. Many of the people who do not have insurance also do not have drivers licenses. There are two provisions in the code that address violation of auto insurance, and fictitious

representation to a public official. Violation of either is punishable by \$500 fine and up to 6 months in jail. This bill tries to make conspicuous the person has had his plates removed.

REP. GERVAIS said he believes people that are picked up for not having insurance are people who can't afford it. How could they make restitution? Mr. Harbin said the state law provides that when you register your automobile you will provide continuous insurance on it. If you don't have it, you are violating the law.

Closing by Sponsor:

REP. PHILLIPS said this is a serious problem. Everyone has wrestled with it. He urged the committee's support.

HEARING ON HB 352

Presentation and Opening Statement by Sponsor:

REP. BOB RANEY, House District 82, Livingston, presented HB 352. He said it is concerning environmental impact money use.

Proponents' Testimony:

Janet Ellis, Montana Audubon Legislative Fund, described why the bill came about. The bill clarifies current law. It is unclear whether the snowmobile program can pay for mitigation costs from environmental damage. EXHIBIT 23

Opponents' Testimony:

Ken Hoovestol, Legislative Chairman, Montana Snowmobile Association, opposes the bill as drafted, but does not oppose the concept of the bill. The existing law is quite adequate. Written testimony was presented and proposed amendments submitted. EXHIBIT 24 AND EXHIBIT 25

Linda Ellison, Montana Trail Vehicle Riders Association, pointed out the language in HB 352 might hinder the ability to participate in dollar matching programs available and appropriate for assisting management and development of multiple use facilities. Trails are multiple use facilities. There is no problem with the program paying for them, because that is what the program is set up to do, but she does not want to lose the ability to use those matching funds to spread dollars further.

Bob Bushnell, Public Lands Chairman, Montana Snowmobilers Association, agrees with the attorney's decision from Fish, Wildlife and Parks, but he has a problem understanding the words "planning, mitigation and monitoring". Snowmobilers are strong environmentalists and spend more time in the environment than most people do. In the summer the trails are prepared and in the winter the trails are used.

Larry Ellison, Bozeman, opposes the bill as written. If amended as proposed by Mr. Hoovestol, he would support the bill.

Arnold Olsen, Administrator of the Parks Division of Fish, Wildlife and Parks, said he is present mainly to provide information. EXHIBIT 26

Questions From Committee Members:

REP. KNOX asked Janet Ellis to define the sensitive areas. Ms. Ellis defined sensitive areas for snowmobile grooming would be wildlife winter range areas.

REP. ELLIS asked how the current snowmobile program is funded. Mr. Olsen said it is through fuel tax and registration.

REP. CLARK asked Ms. Ellis to give an example of an environmental problem? Ms. Ellis noted an example of how the system didn't work. This past year in the Lincoln area there was an area of about 18 miles of snowmobile trail involving elk winter range. Biologists within the Department of Fish, Wildlife and Parks did not review the program before it was approved. There was conflict which has been resolved after much negotiations. Fish, Wildlife and Parks has not had a systematic approach to review environmental effects and to then mitigate the effects.

REP. CLARK asked where the money fit in to pay for that particular instance? Ms. Ellis said in that case it was paid for out of the snowmobile grooming program. The attorney's opinion sounded like it was questionable whether that could done. The bill tries to clarify that.

REP. CLARK asked Ms. Ellis about her reaction to Mr. Olsen's testimony? Ms. Ellis said the Parks Division under Mr. Olsen has been more environmentally sensitive. That was not true with previous administrators.

REP. CLARK asked if she agreed with Mr. Olsen's testimony that the problems aren't there? Ms. Ellis said the law works in many instances. It hasn't worked in every instance. Red Rocks Lake proposal in particular is far from negotiated.

Closing by Sponsor:

REP. RANEY went back to January 30, 1979 testimony of the Montana Snowmobile Association. "The Montana Snowmobile Association and snowmobilers throughout North America have long recognized and accepted the responsibility of paying our own way. We have never asked for, or do we intend to ask for, General Fund money or any other money that is not generated by the use of snowmobiles." How do we know what the next administrator is going to do? The language in the letter from the Montana Department of Fish, Wildlife and Parks, written by FWP Attorney Eileen Shore to Mr. Olsen, states on the first page of the letter, "I do not believe

that there is much question that snowmobile may be used for environmental documents related to the Montana Environmental Policy Act (MEPA)" and on the second page and the second full paragraph. Nobody really knows whether the snowmobile account monies or whether Fish, Wildlife and Park monies coming from coal tax and other sources would be used to pay for an EIS. First they admit they can do all of these things under the existing fund, than they admit maybe they can't, but are going to do them anyway. What is wrong with putting it in law and saying what will be done. You will pay for your own mitigation. Another program is being created in REP. BROWN'S bill, so there is additional threat of the money not being used as it was intended. The amendments are fine. Either way, it broadens the language to assert that costs will be borne by the fund and not by Fish, Wildlife and Parks.

EXECUTIVE ACTION ON HJR 12

Motion/Vote: REP. BERGSAGEL MOVED HJR 12 DO PASS.

Vote: HJR 12 DO PASS. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 425

Motion/Vote: REP. STEPPLER MOVED HB 425 DO PASS.

Vote: HB 425 DO PASS. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 306

Motion: REP. FOSTER MOVED HB 306 DO PASS.

Motion/Vote: REP. LARSON moved to adopt amendments.

Discussion:

Ms. Lane said the amendments take out of the bill amendments eliminating the necessity for an engineering and traffic investigation. Also removed the provision that eliminated the highway commissions exclusive jurisdiction to set special speed limits on federal aid highways and puts it back into the law. Basically, most of the amendments that were in the bill originally are reversed. Amendment 7 states the speed limit near a school can be reduced to not less than 80 percent of the speed limit that would be set on the basis of an engineering and traffic investigation. EXHIBIT 27

REP. STANG asked if REP. JOE BARNETT was aware of these changes?

Ms. Lane said she did not know. These amendments were brought to her by REP. LEE. He said the amendments were prepared by the Department of Highways and asked that they be prepared for the committee.

CHAIRMAN STANG said without the amendments, the bill will not go anywhere. The bill strips the department of any responsibility for setting speed limits.

REP. FOSTER thought the intent of the bill was to be effective within city limits. Maybe he misinterpreted.

CHAIRMAN STANG said the amendments would not effect city limits, it would effect school zones. The department had problems with turning over roads to cities to set speed limits without a study. If each local government set a speed limit, there will be no consistency. CHAIRMAN STANG said he could support the bill with the amendments.

REP. MCCULLOCH said part of the problem is federal highways which are part of the city limits. The bill would give cities authority to reduce speed limit on the highway where it comes through the city limits. REP. MCCULLOCH said he is in favor of the amendments.

REP. ELLIS said that REP. BARNETT should know what is happening to the bill.

REP. MCCULLOCH said it was better to take care of half of the problem than none of it. If the bill is not amended, it will be killed.

REP. KNOX said REP. LEE'S problem is one example that could be helped by the bill as amended. There is an intersection in his district built near a school and shopping area, and 55 MPH is too fast for that intersection.

Vote: Question was called to adopt amendments. Voice vote was taken. Motion CARRIED unanimously.

Motion: REP. KNOX MADE A SUBSTITUTE MOTION THAT HB 306 DO PASS AS AMENDED.

Vote: HB 306 DO PASS AS AMENDED. Motion CARRIED 13 to 4 with REP. BERGSAGEL, REP. STEPPLER, REP. FOSTER and REP. FELAND voting no.

EXECUTIVE ACTION ON HB 327

Motion: REP. CLARK MOVED HB 327 DO NOT PASS.

Discussion:

REP. BERGSAGEL said the subject is mute because the new clean air standards, gasolines and new cars are going to change in the next five year.

REP. ELLIS said it could cost the consumer quite a lot of money if this legislation passes.

Motion/Vote: REP. ELLIS MADE A SUBSTITUTION MOTION TO TABLE HB 327.

Vote: HB 327 BE TABLED. Motion CARRIED 16 to 1 with CHAIRMAN STANG voting no.

EXECUTIVE ACTION ON HB 47

REP. STEPPLER reported that the subcommittee decided to take both bills. Referring to HB 47, the subcommittee picked out two states to pattern the amendments after, Pennsylvania and Nebraska. HB 47 addresses the windshield and side windows. The windshield allows tinting that does not come below the AS-1 line and is not red and yellow in color. The AS-1 line is the line across the front of the windshield five inches below the top. The front side windows is 35 percent or more light transmittance. Section 2 provides exemptions and Section 3 is the penalty section. EXHIBIT 28

Motion: REP. STEPPLER MOVED HB 47 DO PASS.

Motion/Vote: REP. STEPPLER moved to adopt amendments.

Discussion:

REP. MCCULLOCH asked what about windows that are not factory installed? REP. STEPPLER replied that would be under the new Section 2. The highway patrol or local law enforcement agency may grant a waiver of the standards.

CHAIRMAN STANG said with Amendment 6, can a waiver be obtained for a car with dark windows when it is licensed or do would a person have to go a sheriff's office. REP. STEPPLER said that person would have to go to the local sheriff or highway patrol.

Ms. Lane said the penalty is a term of imprisonment in the county jail not to exceed six months or a fine not to exceed \$500 or both.

REP. GALVIN said under section C on page 1, it states a transmission of 35 percent. Is that for all windows? REP. STEPPLER replied it is the front side windows; the drivers window and passenger windows. Tests were performed by the law enforcement, and they preferred the 35 percent.

REP. MCCULLOCH referred to bottom of page 2, that says if a person already have the windows they can get a waiver. However, in new section 2, it says to qualify for a waiver on a new vehicle, it must be reasons of safety, security or medical reasons.

REP. STEPPLER replied that it refers to new cars not grandfathered in.

Motion/Vote: Question was called. Voice vote was taken to adopt amendments. Motion CARRIED unanimously.

Motion/Vote: REP. STEPPLER MADE A SUBSTITUTE MOTION THAT HB 47 DO PASS AS AMENDED.

Vote: HB 47 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 29

Motion: REP. STEPPLER MOVED HB 29 DO PASS.

Motion/Vote: REP. STEPPLER moved to adopt amendments.

Discussion:

REP. STEPPLER said this bill deals with darkening of side or rear windows. Again Nebraska's law was used saying 35 percent or more light transmittance on the side windows and 20 percent or more light transmittance on the rear windows. The vehicles are grandfathered in as in HB 47, and the same penalty and waiver clauses. EXHIBIT 29

Motion/Vote: Question was called. Voice vote was taken to adopt amendments. Motion CARRIED unanimously.

Motion/Vote: REP. STEPPLER MADE A SUBSTITUTE MOTION THAT HB 29 AS AMENDED DO PASS.

Vote: HB 29 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 263

Motion: REP. LARSON MOVED HB 263 DO PASS.

Motion/Vote: REP. LARSON moved to adopt amendments.

Discussion:

REP. LARSON addressed the amendments. The original bill was to create a new class of Class C carrier. Discussion with subcommittee members, REP. FELAND and REP. MCCULLOCH, and Mr. Budt, and carrier lobbyist Sue Langartner, developed an entirely new bill. Those are the amendments. It permits Class C carriers to haul recyclables and grants that authority to Class D carriers. The amendments have the approval of PSC. Class D carriers garbage hauling authority is protected. EXHIBIT 30

CHAIRMAN STANG asked for further explanation of the process of the Class D carrier would be.

REP. LARSON said page 1 of the amendments describes that Class C carriers may carry recyclables. Page 2 spells out how they may move recyclables. Section 3 divides the classification of motor

carriers into four classes, and specifies Class D motor carriers. A statement of intent is included in the amendment. The intent of the bill is to permit the garbage hauler to pick up recyclables at the garbage cans.

Mr. Budt said the bill does not open up recyclable transportation to just anyone who wants to do it. Authority from PSC will still be required.

REP. MCCULLOCH said the requirement is for those doing it for a fee. If Boy Scouts or church groups want to haul recyclables, the bill allows that.

REP. TOOLE said he believed the sponsor wanted an opportunity for young people to do it for hire and create a new class for that purpose.

REP. LARSON said the concern of the carriers is that recyclables are being taken out of the garbage, and unless need is shown that the garbage hauler is not fulfilling the recyclable needs, the garbage hauler should be protected. That was a valid concern in the opinion of the subcommittee. The sponsor did review the bill as amended.

CHAIRMAN STANG asked **Mr. Budt** if young people wanted to pick up recyclables in a city, and the trash hauler was not sorting recyclables from the garbage, would those people be able to apply for a permit and more than likely be able to get one? **Mr. Budt** assumed that if present hauler is not providing the service, he will not protest the application. To clarify a point, a Class C carrier could go door to door to pick up recyclables.

Vote: Question was called. Voice vote was taken to adopt amendments. Motion to **CARRIED** unanimously.

Motion: **REP. LARSON MADE A SUBSTITUTION MOTION THAT HB 263 DO PASS AS AMENDED.**

Vote: **HB 263 DO PASS AS AMENDED.** Motion **CARRIED** 14 to 3 with **REP. BERGSAGEL, REP. ELLIS** and **CHAIRMAN STANG** voting no.

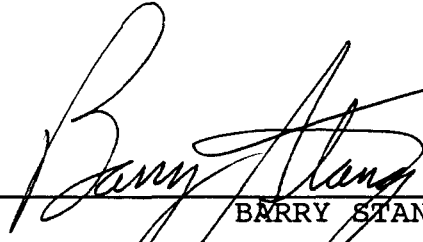
Bob Champion, Highway Department, presented written testimony for **HB 307. EXHIBIT 31**


REP. WANZENRIED presented information for **HB 192. EXHIBIT 32**

DON JUDGE, AFL-CIO, presented testimony for **HJR 12. EXHIBIT 33**

ADJOURNMENT

Adjournment: 6:45 P.M.


BARRY STANG, Chair


CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE

2-12-91

NAME	PRESENT	ABSENT	EXCUSED
REP. FLOYD "BOB" GERVAIS, V.-CHAIR	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. JANE DEBRUYCKER	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. MIKE FOSTER	✓		
REP. PATRICK GALVIN	✓		
REP. DICK KNOX	✓		
REP. DON LARSON	✓		
REP. SCOTT MCCULLOCH	✓		
REP. JIM MADISON	✓		
REP. LINDA NELSON	✓		
REP. DON STEPPLER	✓		
REP. HOWARD TOOLE	✓		
REP. ROLPH TUNBY	✓		
REP. BARRY "SPOOK" STANG, CHAIRMAN	✓		

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HOUSE STANDING COMMITTEE REPORT

February 13, 1991

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Mr. Speaker: We, the committee on Highways and Transportation
report that House Joint Resolution 12 (first reading copy --
white) do pass.

Signed: _____

Barry Stang, Chairman

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HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 425 (first reading copy -- white) do pass.

Signed: _____

Barry Stang, Chairman

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 306 (first reading copy -- white) do pass as amended .

Signed: Barry Stang, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "LIMITS"

Insert: "IN AREAS NEAR SCHOOLS"

2. Title, lines 5 through 10.

Following: "," on line 5

Strike: remainder of line 5 through "AREAS;" on line 10

3. Title, lines 10 and 11.

Following: "AMENDING" on line 10

Strike: remainder of line 10 through first "AND" on line 11

Insert: "SECTION"

4. Page 1, line 15 through page 3, line 4.

Strike: section 1 in its entirety

Renumber: subsequent sections

5. Page 3, line 9.

Following: "~~investigation~~"

Insert: "on the basis of an engineering and traffic investigation"

6. Page 3, line 16.

Strike: "or"

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7. Page 3, line 18.

Strike: "."

Insert: "; or

(d) decreases the limit in an area near a school to not less than 80% of the speed limit that would be set on the basis of an engineering and traffic investigation."

8. Page 4, line 13.

Following: line 12

Insert: "(5) Except as provided in subsection (1)(d), the commission has exclusive jurisdiction to set special speed limits on all federal-aid highways or extensions thereof in all municipalities or urban areas. The commission shall set these limits in accordance with 61-8-309."

HOUSE STANDING COMMITTEE REPORT

February 13, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 47 (first reading copy -- white) do pass as amended .

Signed: Barry Stang, Chairman

And, that such amendments read:

1. Title, line 4.

Strike: "TO PROHIBIT"

Insert: "RESTRICTING"

2. Title, line 5.

Strike: "REFLECTIVE OR DARKENING"

Insert: "TINTING OR SUNSCREENING"

3. Page 1, line 12.

Strike: "darkening prohibited"

Insert: "window tinting and sunscreening -- restrictions -- exemptions"

4. Page 1, line 18.

Strike: "A"

Insert: "Except as provided in subsection (6), a"

5. Page 1, lines 18 through 21.

Following: "vehicle" on line 18

Strike: remainder of line 18 through "vehicle." on line 21

Insert: "that is required to be registered in this state upon a highway if:

(a) the windows are tinted so that the driver's clear view through the windshield or side windows is reduced or the ability to see into the motor vehicle is substantially impaired;

(b) the windshield has any sunscreening material that is not clear and transparent below the AS-1 line or if it

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has a sunscreening material that is red, yellow, or amber in color above the AS-1 line;

(c) the front side windows have any suncreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 35%;

(d) the side windows behind the front seat have sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 20%, except for the side windows behind the front seat on a multipurpose vehicle, van, or bus; or

(e) the windows of a camper, motor home, pickup cover, slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205."

6. Page 1, line 24 through page 2, line 1.

Following: "windshield" on line 24

Strike: remainder of line 24 through "vehicle" on page 2, line 1

7. Page 2, line 4.

Following: line 3

Insert: "(5) As used in [sections 2 and 3] and this section, the following definitions apply:

(a) "AS-1 line" means a line extending from the letters AS-1, found on most motor vehicle windshields, running parallel to the top of the windshield or a line 5 inches below and parallel to the top of the windshield, whichever is closer to the top of the windshield.

(b) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons.

(c) "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle.

(d) "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(e) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(f) "Motor home" means a multipurpose passenger vehicle that provides living accommodations.

(g) "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional off-road use.

(h) "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user.

(i) "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user.

(j) "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun.

(6) Subsection (2) does not apply to a vehicle that is equipped with tinted windows of the type and specifications that were installed by the manufacturer of the vehicle or to any hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is affixed as specified under [section 2]. A certificate of waiver must be issued by the department for a vehicle that is registered in this state on [the effective date of this act] and is equipped with a sunscreening device or other material prohibited under subsection (2) on [the effective date of this act].

NEW SECTION. Section 2. Window tinting and sunscreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 61-9-405(2) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. The waiver must be in writing and must include the vehicle identification number, registration number, or other description to clearly identify the motor vehicle to which the waiver applies and the date issued, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver is effective, and the signature of the head of the law enforcement agency granting the waiver. The agency shall keep a copy of the waiver until the waiver expires.

NEW SECTION. Section 3. Window tinting and sunscreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 61-9-405(2) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) A person who applies a sunscreening material or a glass-plastic glazing material in a manner that results in a motor vehicle having a window that violates the requirements

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of 61-9-405(2) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

NEW SECTION. Section 4. {standard} Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4, apply to [sections 2 and 3]."

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HOUSE STANDING COMMITTEE REPORT

February 13, 1991

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Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 29 (first reading copy -- white) do pass as amended.

Signed: 
Barry Stang, Chairman

And, that such amendments read:

1. Title, line 4.

Strike: "PROHIBITING"

Insert: "RESTRICTING"

2. Title, line 5.

Strike: "REFLECTIVE OR DARKENING"

Insert: "TINTING OR SUNSCREENING"

3. Page 1, line 11.

Strike: "darkening of side or rear windows prohibited"

Insert: "window tinting and suncreening -- restrictions -- exemptions"

4. Page 1, lines 19 through 21.

Following: "windshield" on line 19

Strike: remainder of line 19 through "vehicle" on line 21.

5. Page 1, line 24.

Strike: "A"

Insert: "Except as provided in subsection (6), a"

6. Page 1, line 24 through page 2, line 2.

Following: "vehicle" on line 24

Strike: remainder of line 24 through "vehicle." on page 2, line 2

Insert: "that is required to be registered in this state upon a highway if:

(a) the windows are tinted so that the driver's clear

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view through the side or rear windows is reduced or the ability to see into the motor vehicle is substantially impaired;

(b) the front side windows have any sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 35%;

(c) the rear window or side windows behind the front seat have sunscreening or other transparent material that has a luminous reflectance of more than 35% or has light transmission of less than 20%, except for the rear window or side windows behind the front seat on a multipurpose vehicle, van, or bus; or

(d) the windows of a camper, motor home, pickup cover, slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205.

(5) As used in [sections 2 and 3] and this section, the following definitions apply:

(a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons.

(b) "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle.

(c) "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(d) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(e) "Motor home" means a multipurpose passenger vehicle that provides living accommodations.

(f) "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional off-road use.

(g) "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user.

(h) "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user.

(i) "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun.

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(6) Subsection (4) does not apply to a vehicle that is equipped with tinted windows of the type and specifications that were installed by the manufacturer of the vehicle or to any hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is affixed as specified under [section 2]. A certificate of waiver must be issued by the department for a vehicle that is registered in this state on [the effective date of this act] and is equipped with a sunscreening device or other material prohibited under subsection (4) on [the effective date of this act].

NEW SECTION. Section 2. Window tinting and sunscreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 61-9-405(4) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. The waiver must be in writing and must include the vehicle identification number, registration number, or other description to clearly identify the motor vehicle to which the waiver applies and the date issued, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver is effective, and the signature of the head of the law enforcement agency granting the waiver. The agency shall keep a copy of the waiver until the waiver expires.

NEW SECTION. Section 3. Window tinting and sunscreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) A person who applies a sunscreening material or a glass-plastic glazing material in a manner that results in a motor vehicle having a window that violates the requirements of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

NEW SECTION. Section 4. [standard] Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4, apply to [sections 2 and 3]."

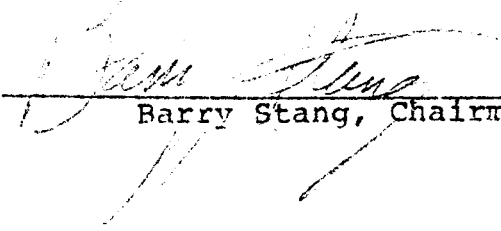
HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 263 (first reading copy -- white) do pass as amended.

Signed: 

Barry Stang, Chairman

And, that such amendments read:

1. Title, line 5 through line 8.

Strike: "ESTABLISH" on line 5 through "AUTHORITY" on line 8.

Insert: "CLARIFY THE PUBLIC SERVICE COMMISSION'S AUTHORITY TO
REGULATE THE TRANSPORTATION OF RECYCLABLES"

2. Title, line 9.

Strike: "69-12-205, AND"

Following: "69-12-301,"

Insert: "69-12-302, AND 69-12-406,"

3. Page 1, line 10.

Insert: "STATEMENT OF INTENT"

A statement of intent is required for this bill in order to provide guidance to the public service commission in adopting rules. It is the intention of the legislature that a Class D motor carrier have the authority to collect and transport source-separated recyclables and that Class C motor carriers have the authority to transport recyclables."

4. Page 3, line 3 through page 5, line 19.

Strike: Sections 2, 3, 4, and 5 in their entirety.

Insert: " Section 2. Section 69-12-302, MCA, is amended to read:

"69-12-302. Conditions resulting in Class C carrier considered as Class B carrier. (1) A Class C motor carrier operating with more than six contracts which are in effect at any given time and each of which are effective for a minimum of 180 days is considered to be operating as a Class B motor carrier.

Before transportation service may commence, pertinent contract information shall be furnished to the commission for each contract on forms prescribed by the commission. The commission shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must be kept in the cab of the motor carrier when operating under that contract.

(2) All Class C motor carriers must annually submit to the commission the names and addresses of all persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter, agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or commodities or for transporting persons.

(3) The provisions of this section shall not apply to solid waste contractors, transportation of recyclables, household goods carriers, or house movers, as defined by the department of public service regulation, or any carrier whose authority is limited to the pickup and delivery of property and is confined by certificate to transportation within a distance of 50 miles or less from a particular location. Any carrier whose property authority is incidental to the transportation of persons is not included in the exemption under this subsection."

Section 3. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are hereby divided into four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers.

(2) Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers embraces all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, and recyclables."

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February 13, 1991
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Section 4. Section 69-12-406, MCA, is amended to read:
"69-12-406. Restriction on transportation of certain waste.
Except as provided in 69-12-324, no Class A, B, or C carrier will
be authorized or permitted to transport ashes, trash, waste,
refuse, rubbish, garbage, or organic and inorganic matter within
the state. This restriction does not apply to recyclables."



EXHIBIT 1
DATE 2-12-91
HB 475

OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL
HELENA, MONTANA 59620
(406) 444-3095

Nancy Keenan
Superintendent

June 16, 1989

TO: Wayne Budt, Administrator, Transportation Division,
Public Service Commission

FROM: Gary Lee Watt, Acting Director,
Division of School Food Services

RE: USDA Donated Food Transportation Contract for the Division of
School Food Services, Office of Public Instruction

The Division of School Food Services will award a contract for hauling USDA donated foods to schools throughout Montana to H. R. Roberts and Sons of Fairfield, Montana, provided they obtain the proper Public Service Commission authority to do so.

In our certification to the Public Service Commission we support the H. R. Roberts and Sons application. We do so because the Roberts bid was considerably lower than the Watkins-Shepard bid (\$2.08 vs. \$2.63 per case for the first year with an overall estimated savings of over \$150,000 in three years). Federal regulations mandate that the state agency implement the most cost effective system for providing distribution services.

We wish to emphasize that the only dissatisfaction with Watkins-Shepard was the increased cost of transporting our donated foods. Since the money for shipping comes from state matching dollars given to local schools, it is our responsibility to acquire the necessary services for a fair and equitable price. The committee felt the Roberts bid met this criteria.

Point of information. One concern we have for having only one potential contractor is being at that contractor's mercy. If we have no way to protect our constituents, we will soon be forced to look to alternate methods of distribution - a fact we would like to avoid.

Time is of the essence. We need to have our hauler under contract and ready to transport donated foods by September 1, 1989. The commission's consideration of this fact will be appreciated.

GLW/sd

cc: Janet Miller
bcc: Bid Evaluation Committee
Gregg Groepper
Beda Lovitt
Watkins and Shepard Trucking
H. R. Roberts & Sons

EXHIBIT 2
DATE 2-12-91
HB 475

No. 89-492

IN THE SUPREME COURT OF THE STATE OF MONTANA

1990

STATE ex rel. H. R. ROBERTS and
ELIZABETH ROBERTS, d/b/a H. R.
ROBERTS & SONS, INC.,

Relators and Appellants,

vs.

PUBLIC SERVICE COMMISSION OF
THE STATE OF MONTANA,

Respondent and Respondent,

and

WATKINS AND SHEPARD TRUCKING, INC.,

Intervenor and Respondent.

APPEAL FROM: District Court of the First Judicial District,
In and for the County of Lewis and Clark,
The Honorable Jeffrey M. Sherlock, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

W. William Leaphart argued, Helena, Montana

For Respondents:

Robin McHugh argued, Helena, Montana

Stanley T. Kaleczyc argued, Helena, Montana

Submitted: March 13, 1990

Decided: April 13, 1990


Clerk

FILED
93 APR 13 PM 10 40
CLERK
MONTANA

plain on its face." We disagree with the PSC. Section 69-12-324, MCA, is so poorly written that its plain language appears to have no effect whatsoever. Subsections (1) and (2) speak of presenting "the" written contract without identifying the contract to which they refer. Subsections (1)(a) and (1)(b) define "transportation movement"--a term which cannot be found anywhere else in the Motor Carrier Act. Subsection (2) speaks of issuing a Class C certificate even though one of the two categories purportedly covered--solid waste carriers--is statutorily defined as a Class D carrier. Section 69-12-301(5), MCA. Like the District Court, we find it necessary to engage in some "statutory exegesis" to determine what the legislature intended.

~~The current confused nature of the exemption statute, and the present issue, appear to be the direct result of numerous amendments and procedural recodification of the exemption statute and related provisions of the Montana Motor Carrier Act.~~ The Act originally defined Class C carriers as including all carriers operating under contract. Section 3847.2, RCM (1935). Section 3847.10, RCM (1935), required Class C carriers to apply for a certificate of convenience and necessity which could be issued only after a public hearing. The 1971 Legislature added a subsection to the statute, then codified at § 8-110, RCM (1947), exempting from the hearing requirement Class C carriers operating under United States government contracts to transport persons or

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carriers. The disparate treatment does not violate Roberts's right to equal protection.

CONCLUSION

Roberts has been caught in a classic Catch-22 created by conflicting PSC and OPI requirements. PSC procedures prevented Roberts from obtaining a commodities endorsement until it had a contract. OPI requirements made the contract conditional on Roberts securing the endorsement by August 1--a deadline PSC procedures made impossible. In this situation, Roberts could never replace the existing carrier regardless of how capable or cost effective a carrier it might be.

The solution, however, is not for this Court to rewrite the regulatory legislation as Roberts suggests. The solution is for the agencies to consider their overlapping requirements and to tailor their procedures accordingly. The OPI could have taken bids on their commodities contract at an earlier date. The PSC could have initiated its notice and hearing procedure when Roberts entered a bona fide bid. The agencies' lack of foresight and flexibility may have harmed the appellant and cost taxpayers an extra \$150,000 by effectively nullifying Roberts's low bid.

Affirmed.

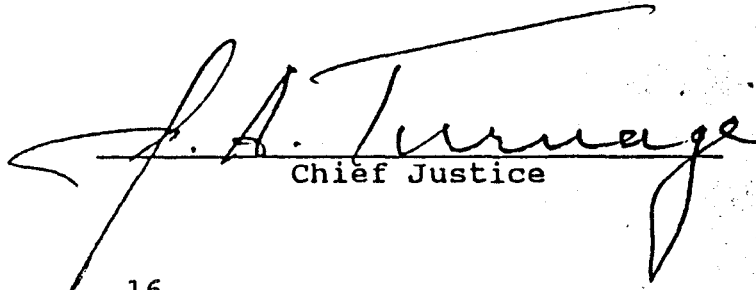

Chief Justice

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Justice John Conway Harrison, specially concurring.

While I concur with the majority opinion in this case, I find the result appalling to appellant Roberts. He found himself in a "Catch-22" situation, caught between two departments of State government whose internal regulations prevented him from getting the bid to which he was entitled. Had the Office of Public Instruction possessed the foresight to check with the Public Service Commission, Roberts would have been able to meet the time specifications.

As noted in the opinion, this is caused by the piecemeal amendments of our statutes which are, in various parts, inconsistent, contradictory and superfluous. In this opinion we ask that the legislature again try to correct such a holding as this by amending the Motor Carrier Act so that carriers such as Roberts can determine their rights and responsibilities, and at the same time bring some relief to the taxpayers who face the additional costs resulting from the holding in this case.

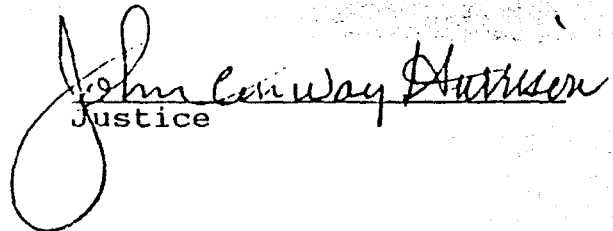

Justice



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HOME OFFICE
P.O. BOX 5328
MISSOULA, MONTANA 59806-5328
406 / 728-6121

TRUCKING INC.

IN STATE WATS 800-332-2714
OUT OF STATE 800-548-8895

February 12, 1991

Testimony against House Bill 475
from
Watkins and Shepard Trucking, Inc.

- 1) When Watkins and Shepard Trucking, Inc. was granted authority by the Public Service Commission it was via a contest hearing where Watkins and Shepard Trucking, Inc. proved the necessity for a new carrier.
- 2) Watkins and Shepard Trucking, Inc. has an outstanding service record over the course of the haul and has averaged a 1.8% cost increase per year for a total cost increase of 21.9% over 12 years as compared to a Consumer Price Index cost increase of 42.8%.
- 3) Watkins and Shepard Trucking, Inc. has the authority to haul three commodities within the state of Montana. These include school lunch, liquor and wood pellets. We are not allowed to haul any other commodity without Public Service Commission Authority and would like other carriers to operate under the same regulations that Watkins and Shepard Trucking, Inc. currently follows.
- 4) Utilizing the school lunch and liquor haul, has enabled Watkins and Shepard Trucking, Inc. to establish a reliable delivery system for other commodities for the entire state of Montana. Being both dependable and cost competitive requires that all areas of Montana be serviced on a regular schedule with as close to a full load as possible. If we lose the school lunch haul it will mean less freight to outlying areas resulting in these points not being serviced as often.
- 5) Currently, Watkins and Shepard Trucking, Inc. has over a \$5,000,000 payroll in Montana and purchases over \$3,000,000 in equipment, parts, tires and fuel in Montana per year. Narrow legislation aimed directly at Watkins and Shepard Trucking, Inc. instead of the industry is unfair and makes little economic sense.

TERMINAL LOCATIONS

☐ 14811 Marquardt Avenue
Santa Fe Springs, CA 90670

☐ P.O. Box 5055
Helena, MT 59604-5055

☐ 4445 S. Valley View Blvd., #9
Las Vegas, NV 89103

☐ 12855 48th Ave. S., Suite 300
Seattle, WA 98168

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TESTIMONY OF WATKINS & SHEPARD TRUCKING
IN OPPOSITION TO HB 475

Watkins & Shepard Trucking is a Montana corporation with terminals in Missoula and Helena, Montana. Watkins & Shepard trucks regularly travel throughout the state, delivering commodities to large and small communities alike in a cost effective and efficient manner. In all instances, Watkins & Shepard's intrastate service is conducted under the regulatory supervision of the Public Service Commission (PSC) from whom Watkins & Shepard has obtained certificates of public convenience and necessity, as required by applicable law.

An integral part of Watkins & Shepard's intrastate service is the delivery of USDA donated foods (also known more commonly as the school lunch program) under contract with the Office of Public Instruction (OPI). Watkins & Shepard has successfully delivered school lunches under a series of contracts with OPI for over 12 years. Attached to this testimony are letters of support from several school districts throughout the state which serve as a testament to Watkins & Shepard's ability to deliver school lunch on time and in a prompt and courteous manner. In fact, Watkins & Shepard first became involved with the delivery of school lunch when it was solicited by OPI 12 years ago to apply for a PSC license to haul school lunch and to bid on the OPI contract, after OPI's then-current contractor was providing unsatisfactory service. At that time, Watkins & Shepard went through a contested case proceeding before the PSC to obtain the certificate to haul USDA donated foods under which it currently operates.

Watkins & Shepard opposes HB 475, a bill which is supported by one other trucking company which took the PSC to court and lost when it was unable to obtain a certificate of public convenience and necessity to haul USDA donated foods. By its terms, HB 475 would take away from the PSC the authority and statutory responsibility to grant certificates of public convenience and necessity for the haul of USDA donated foods. For reasons which will be discussed below, there is no sound public policy reason for HB 475; rather, there are several public policy reasons why this bill should not become law.

In order to understand the implications of this proposal and thus understand why HB 475 does not represent good public policy, it is necessary to first understand the context in which the lawsuit and this legislative proposal have arisen.

This issue began when another trucking company which is supportive of HB 475 first went to OPI and requested that the contract to haul USDA donated foods be put out to competitive bid rather than be let as a sole source procurement. OPI has the statutory authority under Montana's Procurement Act to issue this particular contract on a sole source basis. OPI agreed to bid the contract on a competitive basis, provided that the successful bid obtained in sufficient time before the beginning of the contract

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term (which coincides, of course, with the beginning of the school year) a certificate of public convenience and necessity from the PSC. The other company approached the PSC and demanded that it be given a certificate without going through the normal PSC application process relying upon a strained and, as the Montana Supreme Court ultimately held, incorrect interpretation of the Motor Carrier Act. Alternatively, the other company demanded that the PSC expedite a hearing on its application for a certificate of public convenience and necessity without regard for the PSC's published regulations or the rights of protestants like Watkins & Shepard. When the PSC refused, the other company took the PSC to court. Watkins & Shepard then intervened.

The position of the PSC and Watkins-Shepard was (and is) that the general regulatory framework of requiring an applicant for a permit to go through the PSC applies to all state contracts, except for the specific types of transportation hauls enumerated in §69-12-234 MCA. These explicit statutory exemptions from the contested case proceeding to obtain a PSC permit are: (1) federal contracts to haul passengers intrastate and (2) state contracts to haul solid waste for the state or a state agency. Other than these two categories of haul, PSC authority must be obtained in advance.

Both the district court and the Supreme Court found that §69-12-324, as currently written, although somewhat poorly drafted, had been consistently interpreted by the PSC. As we demonstrated to the courts, that interpretation is consistent with the legislative history of the amendments which changed the words, but never the intent, of the statute at issue. The Supreme Court concluded that, "it [the statute] does not create a blanket exemption from the public convenience and necessity hearing for all government contracted Class C carriers."

What is important to note is this: The Montana Supreme Court upheld the PSC and Watkins-Shepard interpretation of the statute. The Court implicitly found that the statute as interpreted is lawful, and only suggested that the language be clarified to avoid any ambiguity. Moreover, in ruling in favor of the PSC and Watkins-Shepard on another issue raised by Roberts, the Court stated:

We hold that award of a contract under the Montana Procurement Act does not in itself excuse the winning carrier from a public convenience and necessity hearing under the Motor Carrier Act.

Finally, the Court found the current procedures and requirements to be lawful and constitutional, rejecting another argument raised by Roberts.

As mentioned previously, Watkins & Shepard was awarded its first contract to haul these goods approximately 12 years ago after

it went through the PSC process of applying for a certificate of public convenience and necessity. If HB 475 were enacted, no trucking company would have to go through the process of a PSC hearing to get authority to haul this commodity. The PSC process, however, is designed to determine whether a prospective hauler is qualified to do the job. We believe that this legislative proposal has several adverse public policy consequences.

First, by removing the requirement that any prospective hauler of school lunch first have its qualifications to haul the commodity approved by the PSC, this bill is designed to provide an advantage to one company which unsuccessfully tried to get a certificate, then took the PSC to court, again unsuccessfully, to force the PSC to grant it a certificate. It is narrow, special interest legislation in an area in which there is not widespread support for the legislation.

Second, there is no compelling reason to deregulate the delivery of this commodity. OPI in its bid specifications requires that the contractor first have PSC approval to haul the commodity; and, in this case, Watkins & Shepard has over 12 years of experience in delivering school lunch on time to the schools throughout the state. If the school lunch haul is to be deregulated, then by that same logic all trucking within Montana should be deregulated.

Third, if this bill were enacted, then OPI would have to stand in the place of the PSC and make decisions about the competence of trucking companies which want to haul the commodity. The Legislature has made the PSC the agency with the expertise in trucking. It is not good public policy to ignore that expertise which has been built up within the PSC over the decades and put the burden of evaluating the competence of trucking companies on OPI.

Fourth, as noted above, the Montana Supreme Court has already upheld the constitutionality and the legality of the present regulatory scheme as it relates specifically to the haul of this commodity. There is no legal problem with the present system.

Fifth, every state agency is required to award contracts to the responsive and responsible low bidder. It makes great sense for OPI to defer to the expertise of another agency, the PSC, in helping OPI decide which bidders are responsible within the meaning of the state's procurement laws. This balance should not be upset. Very simply, price alone is not the sole factor in the award of state contracts. It makes no sense to award a contract to a low bidder unless the state agency is assured that the low bidder can get the job done. Allowing the PSC to evaluate the competence of bidders as truckers protects OPI and the public interest.

Watkins & Shepard urges you to reject HB 475 as unnecessary legislation which does not represent sound public policy.

2-12-91

Exhibit 4 contains 13 letters from Montana schools praising Watkins-Shepard's Service. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

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No. 89-492

IN THE SUPREME COURT OF THE STATE OF MONTANA
1990

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STATE ex rel. H. R. ROBERTS and
ELIZABETH ROBERTS, d/b/a H. R.
ROBERTS & SONS, INC.,

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PUBLIC SERVICE COMMISSION OF
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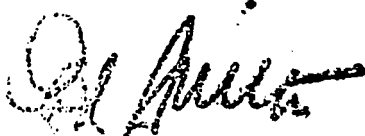
For Respondents:

Robin McHugh argued, Helena, Montana

Stanley T. Kaleczyc argued, Helena, Montana

Submitted: March 13, 1990

Decided: April 13, 1990



Clerk

FILED
MONTANA
APR 13 1990
CLERK OF SUPREME COURT

February 12, 1991

HB 475

Ben Havdahl, Montana Motor Carriers Association

Mr. Chairman.....members of the committee. For the record I am Ben Havdahl, Executive Vice President of the Montana Motor Carriers Association. MMCA would like to go on record in opposition to HB 475.

As has already been testified to, HB 475 is an attempt to loosen up and erode away the requirements of the Montana Motor Carrier Act now governing the acquisition of authority.....in this case.....Class C, contract carrier authority.

Montana Motor Carriers Association has had a long established policy which supports the continuation of the 60 year old regulated intrastate common and contract motor carrier system in Montana. MMCA strongly opposes any deregulation of the act in its entirety or in piecemeal fashion. Even though HB 475 does not purport to amend the section of the law that provides for "exemptions" per se, the effect of the bill would have the same effect as it applies to contract carriage involving a Montana State Government agency.

MMCA has seen the "exemptions" section of the motor carrier act grow and grow over the years. The effort to add exceptions to intrastate motor carriage economic regulations becomes alarming when the total scope of the exemptions is viewed in its entirety. The additions are added in small increments, usually one small exception every three or four sessions. In time they add up.

HB 475 is a case in point. The exception sought from Class C regulation for "surplus food commodities under a contract with the United States department of agriculture," would enable the Montana Office of Public Instruction to freely contract for transportation service without regard to the requirements under the motor carrier act.

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HB 475 asks that another exception be made in this case. MMCA worries that in the next session of the Legislature, other State agencies will be asking for similar exceptions for RFPs for various transportation proposals. Why not the Department of Highways and asphalt contracts, for example?

The assertion is that economic regulation is the cause of higher transportation costs for federal and state government is not a valid assertion.

The matter outlined in HB 475 has been tried by the Montana Supreme Court. MMCA filed a "friend of the court brief" supporting the procedure followed by PSC in the case.

It is not the motor carrier act that precluded a competitive carrier from obtaining the contract at less money. It was the lack of consideration by the agency making the request for a proposal for transportation for the requirements in place by the motor carrier act. Had they taken them into account before issuing the RFP, this matter would probably not be before this committee today.

The Montana Supreme Court said as much in the opinion upholding the motor carrier act. I would like to quote the significant paragraph,

"The solution, however, is not for this Court to rewrite the regulatory legislation as Roberts suggests. The solution is for the agencies to consider their overlapping requirements and to tailor their procedures accordingly. The OPI could have taken bids on their commodities contract at an earlier date. The PSC could have initiated its notice and hearing procedure when Roberts entered bona fide bid. The agencies' lack of foresight and flexibility may have harmed the appellant and cost taxpayers an extra \$150,000 by effectively nullifying Roberts's low bid"

MMCA agrees with that view and opposes HB 475. Thank you.



The Big Sky Country

EXHIBIT 7

DATE 2-12-91

HB 475

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE WANZENRIED

HOUSE DISTRICT 7

HELENA ADDRESS:

CAPITOL STATION
HELENA, MONTANA 59620
(406) 444-4800

HOME ADDRESS:

435 3RD AVE. EAST
KALISPELL, MONTANA 59901
(406) 752-2297

COMMITTEES:

LABOR & EMPLOYMENT
RELATIONS
NATURAL RESOURCES
TAXATION
FISH & GAME

MEMORANDUM

TO: Representative Stang, Chairman
Highways and Transportation Committee

FROM: Representative Dave Wanzenried *[Signature]*

DATE: February 12, 1991

RE: House Bill 475

I would like to be recorded as being opposed to House Bill 475.

Economic regulation exists to promote stability and predictability for all parties involved in the movement of goods within the state. The Public Service Commission is able to ensure that carriers holding the appropriate certificate provide service that ensures:

1. the shipper that service will be performed in the manner and at the rate agreed upon; and
2. the consignee (receiver of freight) that the freight will be delivered in good condition and in a timely manner.

There is a real danger in attempting to regulate or deregulate commodities on a piecemeal basis. The circumstances involved in the case which prompted the introduction of this bill hardly warrant a move toward de-regulation. The service provided by the current carrier has been (and continues to be) provided according to the standards and costs established by the shipper and expected by the various consignees. In fact, the party promoting the introduction of this bill did not even demonstrate that he was even able to provide the service. To deregulate a single commodity and allow cost to be the sole factor in determining the movement of this good will eliminate the stability and predictability that now exists in the movement of not only this commodity, but also the other commodities that are packed and shipped with this one.

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EXHIBIT
DATE 2-12-91
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FEB-11-91 MON 13:52 IDAHO DEPT PARKS & RECREATION

Post-It™ brand fax transmittal memo 7671		# of pages • 7
To REP DAVE BROWN	From CHUCK LUTTS	
Co. STATE CAPITOL	Co. IDPR	
Dept.	Phone # 208-334-2154	
Fax # 406-444-4417	Fax # 208-334-3817	

February 11, 1991

Representative Dave Brown
Montana Legislature
Room 202B

Dear Representative Brown

Attached are some of the fact sheets and information that relate to our Off-Road Motor Vehicle (ORMV) fund that may help you.

First of all Idaho's ORMV fund was calculated by using information from surveys that identified how much gasoline was consumed by the various ORMV's, and then figuring out what percentage that was of the total statewide gasoline consumption.

Several states have used this method to determine consumption figures and percentages and it is noted that these figures are dependant on total ORMV figures on a per capita basis. As an example, Idaho has the highest percapita ownership of motorcycles in the United States, with about 5.3 motorcycles per 100 population. So you can see that figure really increases when you count all and the ORMV's. Montana has also has a high per capita ownership of motorcycles, 4.7 per 100 population. (source: Motorcycle statistical annual 1990)(page inclosed)

Through the years a portion of Idaho's ORMV fund has been spent on trailbike projects not only to benefit the user but to protect the environment. The following list shows a variety of ways that ORMV funds have benefitted Idahoans and their beautiful state.

1 - ORMV projects have provided money that went back into the rural economy through private and public contracts, equipment and land purchases as well as labor and material.

2 - Trail relocation projects were funded to reroute trails or portions of trails that were through environmentally sensitive areas, such as; wet meadows, bogs or delicate stream crossings. These projects not only provided a service to all trail users but they also provided environmental protection for the resource.

U.S. MOTORCYCLE POPULATION AND PENETRATION BY REGION AND STATE

On a regional basis the greatest number of motorcycles, scooters and ATVs in use in 1989 were in the South and the Midwest. Although the West ranked third in motorcycle, scooter and ATV population, California was, by far, the nation's leading state, where one in every eight (13%) of the nation's motorcycles, scooters and ATVs were owned.

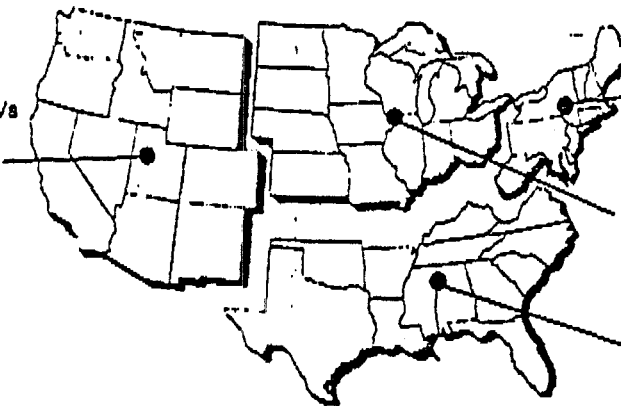
In 1989 there were an estimated 2.7 motorcycles, scooters and ATVs owned by every 100 persons living in the United States. Regionally, penetration was highest in the West where 3.2 vehicles were owned for every 100 residents, and lowest in the East where 2.1 vehicles were owned for every 100 residents.

Nearly one third (32%) of the nation's motorcycle, scooter and ATV population was owned in the five leading states; California, Texas, New York, Michigan, and Florida.

1989 ESTIMATED U.S. MOTORCYCLE POPULATION AND PENETRATION BY REGION

WEST

1,599,200 motorcycles, scooters & ATVs
3.2 vehicles per 100 persons
(Alaska and Hawaii included in West)



EAST

1,199,100 motorcycles, scooters & ATVs
2.1 vehicles per 100 persons

MIDWEST

1,693,800 motorcycles, scooters & ATVs
2.8 vehicles per 100 persons

SOUTH

2,062,900 motorcycles, scooters & ATVs
2.7 vehicles per 100 persons

1989 ESTIMATED U.S. MOTORCYCLE POPULATION AND PENETRATION BY STATE

State	Motorcycle Population	Motorcycle Population by Model Type			Motorcycle Penetration Per 100 Population
		On-Hwy.	Off-Hwy.	Dual Purpose	
Alabama	140,700	47,800	82,800	10,100	3.4
Alaska	38,200	5,600	28,100	2,500	8.9
Arizona	104,400	44,400	52,000	8,000	3.0
Arkansas	129,100	33,700	87,900	7,500	5.4
California	832,300	447,300	317,500	67,500	2.9
Colorado	92,300	43,500	38,100	10,700	2.8
Connecticut	72,100	44,100	24,400	3,600	2.2
Delaware	13,400	6,300	6,600	500	2.0
D.C.	1,800	1,800	0	0	0.3
Florida	273,300	151,500	101,500	20,300	2.2
Georgia	200,700	82,800	106,200	11,700	3.2
Hawaii	Not Available				
Idaho	53,400	13,900	29,900	9,600	5.3
Illinois	228,600	150,400	65,400	12,800	2.0
Indiana	175,800	101,500	66,500	7,800	3.2
Iowa	110,700	73,800	31,500	5,400	3.9
Kansas	84,200	35,600	23,700	4,900	2.6
Kentucky	88,600	32,400	51,200	5,000	2.4
Louisiana	121,700	37,800	78,300	5,600	2.8
Maine	52,000	24,600	24,600	2,800	4.3
Maryland	83,200	45,000	32,800	5,400	1.8
Mass.	112,900	67,600	41,000	4,300	1.9
Michigan	294,700	138,200	146,900	11,600	3.2
Minnesota	152,500	76,900	67,500	8,100	3.5
Mississippi	79,200	21,000	54,300	3,900	3.0
Missouri	133,600	47,000	80,300	6,300	2.6
Montana	37,600	9,800	21,800	6,000	4.7
Nebraska	50,000	20,600	25,700	3,700	3.1
Nevada	39,900	17,600	19,100	3,200	3.8
N.H.	55,800	30,200	23,200	2,400	5.1
New Jersey	125,800	66,000	52,800	7,000	1.6
New Mexico	45,700	19,800	20,200	5,700	3.0
New York	299,700	168,000	116,200	15,500	1.7
N.C.	158,800	58,300	92,100	8,400	2.4
N.D.	25,300	11,300	11,200	2,800	3.8
Ohio	264,800	143,000	111,400	10,200	2.4
Oklahoma	90,400	36,800	41,600	12,000	2.8
Oregon	108,700	41,200	58,100	9,400	3.9
Penn.	268,100	115,000	137,400	15,700	2.2
R.I.	21,400	15,700	4,800	900	2.2
S.C.	66,900	31,300	31,900	3,700	1.9
S.D.	26,900	12,600	11,700	2,600	3.8
Tennessee	156,900	51,700	94,500	10,700	3.2
Texas	423,000	219,400	173,900	29,700	2.5
Utah	80,500	22,300	48,500	11,700	4.8
Vermont	20,300	8,300	11,000	1,000	3.6
Virginia	133,600	63,500	60,200	9,900	2.2
Washington	145,800	70,000	61,500	14,300	3.1
W. Virginia	72,600	16,100	51,200	5,300	3.9
Wisconsin	167,100	100,700	56,900	9,500	3.4
Wyoming	22,400	6,300	13,100	3,000	4.7
U.S. Total	6,555,000	3,128,000	2,987,000	440,000	2.7

Note: Includes scooters and ATVs, and excludes mopeds and mopeds. See page 6 for model type definitions.
The 1984 - 1989 state estimates are comparable only to the 1980 and revised 1979 estimates.

EXHIBIT 8
 DATE 2-12-91
 HB 309

IDAHO'S OFF ROAD VEHICLE (ORV) STATISTICS
 Compiled in 1986 with data from previous years

- Motorcycles used off-road 44,500
- Registered snowmobiles 23,000
- Registered 4-Wheel Drives (in 1986) 56,000
- A.T.V.s Sold in Last 7 Years 25,000

TOTAL O.R.V.s in Use 148,500
 (Not counting unregistered snowmobiles; estimated at 8-10,000)

ECONOMIC IMPACT

- Snowmobiles contributed \$29,138,619.00 to Idaho's economy in 1980. (higher now)
- Motorcycles contributed \$59,370,000.00 to Idaho's economy in 1984.
- 4-Wheel Drives contributed \$27,471,125.00 to Idaho's economy in 1975 (it's much higher now)
- ATVs cotributed ? to Idaho's economy in 1985 ?.

ORVs CONTRIBUTED \$115,979,744.00 TO IDAHO'S ECONOMY EACH YEAR
 (Not counting ATVs or inflation prices)

GASOLINE CONSUMPTION
 (By each ORV user group - 1985)

Type of Vehicle	Number of Vehicles	Number of Trips	Gasoline Usage	Gasoline Tax/Gallon	Total Gas Tax Collected
Snowmobile	23,000 x	14 trips	x 9 gallons	x .145¢ tax	= \$420,210.00
Motorcycle	44,500 x	20 trips	x 3.5 gallons	x .145¢ tax	= \$451,675.00
4-Wheel Dr.	56,000	No Figures		No Figures	
ATVs	25,000 x	10 trips	x 3.5 gallons	x .145¢ tax	= \$126,875.00

TOTAL CONSUMPTION, GAS TAX PAID/YEAR \$998,760.00
 (Conservative Figures because we have no figures on off-road 4 x 4 use)

CHAPTER 19

OFF-ROAD MOTOR VEHICLE FUND

EXHIBIT 8

DATE 2-12-91

SECTION 52-1901 Creation of off-road motor vehicle fund — Purpose

52-1901. Creation of off-road motor vehicle fund — Purpose. — (1)

There is hereby created and established in the state treasury a fund to be known as the "off-road motor vehicle fund" to which shall be credited or deposited all moneys accruing for the purposes of the fund. The purposes for which moneys in the fund may be used shall be to acquire, purchase, improve, repair, maintain, furnish, and equip off-road motor vehicle facilities and sites in the state of Idaho. The park and recreation board is charged with the administration of the fund for the purposes specified herein. The provisions of section 67-4228, Idaho Code, are made applicable for the provisions of this section. All claims against the fund shall be examined, audited and allowed in the same manner now or hereafter provided by law for claims against the state, except that the board is hereby empowered to enter into agreements with legal governmental agencies in Idaho, for the disbursement of funds to them on a project by project basis.

(2) During each fiscal year, all amounts over the sum of three hundred thousand dollars (\$300,000) received into the off-road motor vehicle fund shall be transferred to the park and recreation capital improvement fund. [1973, ch. 297, § 2, p. 625; am. 1976, ch. 258, § 1, p. 877.]

Sec. to sec. ref. This section is referred to in § 63-2412.

63-2432. Distribution of tax revenues. — (1) The revenues received from the taxes imposed by sections 63-2403 and 63-2406, Idaho Code, and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the commission, to be distributed as follows:

(a) An amount of money equal to the actual cost of collecting, administering and enforcing the motor fuel tax act by the commission, as determined by the commission and certified quarterly to the state auditor, shall be transferred back to the commission; provided, that the amount so transferred back to the commission shall not exceed the amount authorized to be expended by regular appropriation authorization.

(b) An amount of money shall be transferred to the motor fuels refund fund, which is hereby created, sufficient to pay current refund claims. All refunds authorized to be paid by this act shall be paid from the motor fuels refund fund.

(c) From the balance remaining with the state treasurer after transferring the amounts in subsections (a) and (b) of this section:

(1) one per cent (1%) shall be transferred to the waterways improvement fund, as created in chapter 15, title 57, Idaho Code;

(2) one per cent (1%) shall be transferred to the off-road motor vehicle fund;

(3) sixteen and two thirds per cent (16.67%) shall be divided among incorporated and specially chartered cities, in the same proportion as the population of said incorporated or specially chartered city bears to the total population of all such incorporated or specially chartered cities as shown by the last regular or special federal census; and

(4) eighty-one and one third per cent (81.33%) shall be transferred to the state highway fund, as created in section 40-2210, Idaho Code.

(2) The revenues received from the taxes imposed by section 63-2409, Idaho Code, and any penalties, interest, or deficiency additions, shall be paid over to the state treasurer by the commission to be deposited in the state aeronautics fund, as provided in section 21-211, Idaho Code.

(3) The distribution and transfers required by subsections (1) and (2) of this section shall be made as frequently as required, and the state auditor and state treasurer shall take all necessary actions to achieve such transfers and distributions. [I. C., § 63-2432, as added by 1973, ch. 280, § 1, p. 612; am. 1973, ch. 297, § 3, p. 625.]

EXHIBIT

DATE

HB

Compiler's notes. The words "this act" and "motor fuels tax act" refer to §§ 63-2401 — 63-2434.
The "off-road motor vehicle fund" referred to in subsection (1) (c) (2) was created in § 67-1801.
Section 2 of S. L. 1973, ch. 297 is compiled as § 67-1901.

Section 4 of S. L. 1973, ch. 297 provided this act should take effect on and after 1, 1974.
Sec. to sec. ref. This section is referred in § 67-1801.

EXHIBIT

DATE

HB

YEAR	MOTORCYCLE POPULATION	ON HWY.	DUAL PURPOSE	LICENSED-- Hwy. USE	OFF HWY.	REGISTERED FOR OFF HWY.	%	TOTAL M.C. USED OFF HWY.	M.C./100 POPULATION	ANNUAL ECONOMIC VALUE
1973				43,295		2,781				*
1974				46,237		2,000				*
1975				44,428		1,778				*
1976	79,800	14,900	45,100	43,134	19,800	1,540	7.8		9.6	\$ 43,000,000.00
1977	77,000	15,700	39,700	44,650	21,600	1,154	5.3		9.1	\$ 47,500,000.00
1978	57,800	15,600	22,000	46,715	20,000	932	4.6		6.6	\$ 51,200,000.00
1979	67,900	16,500	28,600	51,417	22,800	981	4.3	52,800	6.6	\$ 64,400,000.00
1980	70,900	19,200	32,500	56,287	19,200	747	3.9	50,700	7.5	\$ 67,400,000.00
1981	68,400	20,200	29,000	55,975	19,200	1,502	7.8	47,700	7.2	\$ 62,000,000.00
1982	64,300	20,300	25,500	53,302	18,500	1,288	7.0	43,900	6.8	\$ 37,680,000.00
1983	63,000	20,000	22,600	52,124	20,400	1,872	9.2	43,200	6.0	\$ 46,150,000.00
1984	63,900	19,990	20,000	50,595	24,000	1,823	7.6	44,500	6.0	\$ 59,370,000.00

1985 Figures not available yet

Off Highway motorcycle share is about 75% of this

ECONOMIC VALUES

* Includes

- 1-Sales, new & used
- 2-Parts & accessories
- 3-Employee Salaries
- 4-Financing
- 5-Dealer Service
- 6-Product Advertising
- 7-Personal Income Taxes
- 8-Sales Taxes
- 9-Insurance Premiums
- 10-Vehicle Registrations

• Does Not Include

- 1-Revenues from publications
- 2-Corporate Income Taxes
- 3-Non-dealer Salary Taxes
- 4-After Market Salaries & Taxes
- 5-Special Event Attendance
- 6-Gas, Oil, Food & Lodging for M.C. Trips

EXHIBIT 8
DATE 2-12-91
HB 309

FEB-11-91 MON 13:56 IDAHO DEPT PARKS & REC

P.07

3 - Trail Bridges have been built in areas where all types of users were having trouble crossing streams (the bridges were constructed to accommodate horse use also) so the users as well as the environment benefitted.

4 - Trail retreading projects have re-established trail treads that has been lost or narrowed through the years and has become a safety hazard for all users.

5 - Erosion Control through the years we have learned that most trails with any use on them will carry water that eventually erodes the trail surface. The major secret to sustaining a good trail system is getting that water under control. With ORMV funds we have rebuilt trails with rolled trail and outsoles, installed water bars, designed water dips into existing trails, installed puncheon, turnpiking and other erosion controls.

Over all we feel that the ORMV fund has provided great services for ALL TRAIL USERS, motorized and non-motorized as well as providing us a way to help manage our resources in an environmentally sound manner.

If there's any other way we can help you, just give me a call at 208-334-2284 or at home 888-5916.

Sincerely,



Chuck Wells
Trails Supervisor

Testimony on HB-309

Montana Snowmobile Association
by Ken Hoovestol, Legislative Chairman
761-2811, Great Falls

First I want to dispel the myth and any thoughts of this being a diversion of highway funds. It is not. It is a refund of highway taxes paid on gasoline used for off-highway purposes as provided for in Article 8, Section 6 of the Montana Constitution and specifically stated in MCA 15-70-221. This is the same law that provides refunds to farmers, ranchers, construction companies, etc.

The Montana Snowmobile Association has long supported the concept of other recreational activities generating a funding source so joint projects could be undertaken to provide multi-purpose year-around trails and facilities. Our interest is simply to get more bang for the buck.

We have long worked with the cross-country skiers, for example. However no funding source has been identified for them as yet. They are allowed to use parking lots and facilities funded with snowmobile monies. Through negotiations and common courtesy this arrangement is working pretty well.

I am pleased to state that the Parks Division of the Department of Fish, Wildlife and Parks has done an excellent job of administering our program and spending our funds only after consulting with our Advisory Committee. Our relationship with this agency is the envy of most other snowbelt states.

The snowmobile program not only provides quality recreational opportunities for Montanan's, but brings in over \$15 million annually from snowmobile tourism. This is more than a 30 to 1 return on your investment.

We have not seen the documentation on consumption for other off-highway vehicles so we cannot speak to, or vouch for their request. We spent over 4 1/2 years compiling our documentation for our request in 1977 and 1979. (Even though usage is up in Montana, we have not come to you for an increase.)

In closing, I will state again that we support HB-309 in concept only and will let the OHV people speak to the merits of this Bill.

Thank you for allowing me to present this background information.

EXHIBIT 10
DATE 2-12-91
HB 329

SNOWMOBILING IN MONTANA



The expenditures of nonresident snowmobilers are part of Montana's travel industry and a component of Montana's economic base.

Nonresident Snowmobiler Expenditures in Montana by Category 1987-88

Expenditure Category	Expenditures
Snowmobile travel "package" (includes transportation, lodging, rental fees, etc.)	\$ 5,340,000
Snowmobile dealers, rental, or repair shops	1,020,000
Eating and drinking places	2,190,000
Automobile/truck service stations, garages, or dealers	480,000
Lodging places (hotels, motels, campgrounds, etc.)	1,320,000
Food, grocery, or convenience stores; liquor stores	360,000
Other retail stores (apparel, department, discount stores, drug stores, gift shops, etc.)	810,000
Transportation toll/from the area (airfare, bus fare, etc., paid in Montana)	420,000
Entertainment or other recreation places	210,000
Other places or types not listed above	150,000
SUBTOTAL, all outing expenditures	\$12,300,000
Snowmobiles	\$ 1,500,000
Snowmobile trailers	60,000
Recreational vehicles for use with snowmobile (camper, pickup, 4WD, etc.)	560,000
Clothing (suit, gloves, etc.)	200,000
Other related equipment (helmet, tools, sled, etc.)	80,000
Snowmobile parts and repairs	400,000
Registration, license, taxes, etc.	20,000
Other	220,000
SUBTOTAL, other items	\$ 3,040,000
TOTAL, all items	\$15,340,000

Source: University of Montana, Bureau of Business and Economic Research, Survey of Resident and Nonresident Snowmobilers, *Snowmobiling in Montana* (Missoula, MT, 1988).

Prepared for

The Montana Snowmobile
Association

The Institute for Tourism and Recreation
Research, University of Montana

The Montana Department of Fish,
Wildlife, and Parks

by

The Bureau of Business and
Economic Research

University of Montana
Missoula, Montana 59812

1988



SNOWMOBILING IN MONTANA

The popularity of snowmobiling in Montana is evidenced by the flurry and buzz of snowmobiles in and around Yellowstone National Park, Cooke City, Lincoln, and on other trails across the state. No one, however, has actually measured this popularity.

The Bureau of Business and Economic Research conducted separate surveys of resident and nonresident snowmobilers to obtain information about their activities and expenditures. These surveys revealed the following about snowmobilers:

	Montana Resident	Nonresident
Number of outings in Montana during 1987-88	8.6	1.5
Days snowmobiling per outing	2.6	3.6

Other important findings are summarized in the following tables:

**Select Characteristics of
Snowmobile Survey Respondents and Montana Residents
By Place of Residence
1987-88
(Percentages)**

	All Montana Adults	Montana Residents	Non- Residents
Age distribution:			
18-24	15	3	4
25-34	25	14	29
35-44	19	24	25
45-54	13	29	28
55 and older	28	30	14
Highest level of education:			
Some high school or less	15	12	4
High school graduate	29	49	32
Some college	31	20	25
College graduate	25	19	39
Household income (1987):			
Under \$15,000	28	12	4
\$15,000-\$34,999	43	51	24
\$35,000 or more	29	37	72

Source: University of Montana, Bureau of Business and Economic Research, Survey of Resident and Nonresident Snowmobilers, *Snowmobiling in Montana* (Missoula, MT, 1988).

Nonresident snowmobilers were typical of the "upscale" recreationists that visit Montana—they were relatively young, with above-average incomes and education. Resident snowmobilers, on the other hand, were more similar to Montanans in terms of age, income and education.

During each 1987-88 outing, nonresidents spent an average of \$410 in Montana for food, lodging, clothing, and other related expenses. In addition, nonresidents spent about \$152 in 1987 for other snowmobile related articles that they bought from Montana merchants. Montanans in 1987 spent less on their snowmobile outings (\$74), but far more for snowmobiles and related items (\$1,488).

**Snowmobile Outing Expenditures in Montana
by Category and Snowmobiler Residence
(Average Per Person Per Outing)
1987-88**

Expenditure Category	Montana Resident	Nonresident
Snowmobile travel package (includes transportation, lodging, rental fees, etc.)	\$ 7	\$178
Snowmobile dealer, rental, or repair shops	15	34
Eating and drinking places	11	73
Automobile/truck service stations, garages, or dealers	11	16
Lodging places (hotels, motels, campgrounds, etc.)	9	44
Food, grocery, or convenience stores; liquor stores	9	12
Other retail stores (apparel, department, discount, and drug stores; gift shops; etc.)	3	27
Transportation toll from the areas (airfare, bus fare, etc., paid in Montana)	2	14
Entertainment or other recreation places	1	7
Other places or types not listed above	6	5
TOTAL, all outing expenditures	\$74	\$410

Source: University of Montana, Bureau of Business and Economic Research, Survey of Resident and Nonresident Snowmobilers, *Snowmobiling in Montana* (Missoula, MT, 1988).

**Other Snowmobile Related Expenditures in Montana
by Category and Snowmobiler Residence
(Per Person)
1987**

Expenditure Category	Montana Resident	Nonresident
Snowmobiles	\$ 682	\$ 75
Snowmobile trailers	70	3
Recreational vehicles for use with snowmobile (camper, pickup, 4WD, etc.)	481	28
Clothing (suit, gloves, etc.)	45	10
Other related equipment (helmet, tools, sled, etc.)	30	4
Snowmobile parts and repairs	100	20
Registration, license, taxes, etc.	41	1
Other	39	11
TOTAL, all items	\$1,488	\$152

Source: University of Montana, Bureau of Business and Economic Research, Survey of Resident and Nonresident Snowmobilers, *Snowmobiling in Montana* (Missoula, MT, 1988).

EXHIBIT

11

DATE

2-12-91

HB

309

HB - 309

OHV FUNDING

MONTANA
TRAIL
VEHICLE
RIDERS
ASSOCIATION

By

MTVRA



Ethics

Conservation

Safety

Gas-Tax Rebate For Off-Highway Vehicle Program Funding

- * AMOUNT: 1/2 of 1% of existing tax based on estimated fuel use
SOURCE: Gasoline Distributor's License Tax
DESTINATION: OHV Program established in 1989
PURPOSE: Trail maintenance; resolution of resource conflicts
-
- * The gas tax is a "user fee" developed to maintain the state highway system.
-
- * Off-Highway Vehicles (OHVs) pay into the system without benefit
-
- * A great number of OHVs cannot be licensed for use on the state highway system.
 - by design (slow, geared low, no lights etc.)
 - by definition in law
-
- * The snowmobile and boating refunds represent similar management programs to benefit recreationists and resolve issues.
-
- * Rebate would not be a "taking" from the system.
 - trails, abandoned logging roads are a part of the state's recreation infrastructure to which there is a certain amount of obligation for upkeep as a whole
 - old logging roads in particular, even though abandoned, by law, remain a part of the state highway system, because federal dollars were spent on their construction
-
- * Trail maintenance benefits all users, including hikers, hunters, grazing permittees and horseback riders.
- * Spending OHV maintenance dollars on a trail does not change the trail's multiple use designation

- * OHV trail maintenance dollars represents "seed money" to spread maintenance/capital investment dollars further by attracting matching monies from a variety of state and federal programs..

- State weed control program
- National Recreation Trails Act
(a proposed Federal Gas-tax rebate program, supported by Gov. Stephens and a number of other western governors)
- increasing recreation emphasis by Federal land managing agencies
- increased incentive to make available federal programs for "matching" (K/V, LWCF funds, etc.)

(Knutson/Vandenberg Act: sets aside portions of timber sale monies for reclamation, trail replacement, etc. if requested; Land and Water Conservation Fund Act: revenues derived from off-shore leases to provide grants-in-aid to state and local governments to develop and improve outdoor recreation areas and facilities.)

- * Consistent funding is a necessity

- our tax structure is such (motor vehicle fees pay for schools) that there are no alternatives at present - the gas-tax is the only viable avenue for stable funding
- OHV management will remain a high concern but a low priority as long as the program is not financially capable of meeting its obligations

- * Raising direct OHV taxes isn't the answer;

- 3/4 of the tax now levied on these vehicles does not address OHV-related concerns

EXHIBIT 11
DATE 2-12-91
HB 309

SUMMARY OF MONTANA OHV FUEL CONSUMPTION STATISTICS
PRESENTED BY:
THE MONTANA TRAIL VEHICLE RIDERS ASSOCIATION (MTVRA)
JANUARY 24, 1991

The following information is being presented in order to establish a range of values for fuel consumed by Off Highway Vehicles (OHV's) in Montana. From this, figures can be established as to the amount of gas tax refund potentially available to the OHV program.

SUMMARY AND TAXES GENERATED

The estimated amount of fuel used by OHV operators in Montana for 1990 ranged from 2,660,460 to 1,595,720 gallons and would generate an average revenue of \$421,114, which is very close to the projected \$420,000 the proposed 1/2 of 1% tax refund would generate. The estimates are for off-highway motorcycles and ATV's only. The estimates are based on information from other states with OHV gas tax refund programs. With the \$0.20 Montana gas tax, these estimates would generate tax revenues for the OHV program as follows:

ESTIMATE SOURCE	GALLONS CONSUMED	TAX GENERATED
Utah	2,660,460	\$ 532,092.00
Oregon	2,554,820	\$ 510,964.00
California	1,965,460	\$ 393,092.00
Michigan	1,751,400	\$ 350,280.00
Idaho	1,595,720	\$ 319,144.00
	-----	-----
Average	2,081,108	\$ 421,114.40

METHODOLOGY

The methodology was to employ information from other states to generate fuel consumption rates. This was done by multiplying the number of OHV's in Montana by the rate of consumption per vehicle per year. While this is very straightforward, establishing the number of OHV's in Montana and the amount of fuel consumed by them required several informational sources.

There are several sources of information available for estimating the number of OHV's. The first is the Motor Industry Council's "1990 Motorcycle Statistical Annual". This document estimates that there are *27,800 off highway motorcycles and ATV's in service in Montana, a number that may well prove to be low.

The second source for estimating the number of OHV's is a set of outdoor recreation surveys that have consistently shown that the number of persons participating in OHV recreation is 11% of the total population (these numbers do not include those participating in snowmobiling). The Gallatin County, Montana "Land and Conservation Fund Survey", 1987, showed that 11% of the

population participated in OHV recreation. The 1986, Montana Outdoor Recreation Needs Survey and the 1988 Montana Statewide Comprehensive Outdoor Recreation Plan (SCORP) showed 11.5% of the population participating in OHV recreation. And finally, the 1986 National Trails Assessment study found that on a national basis, 11% of the population was participating in OHV recreation.

This being the case, 11% of Montana's estimated 790,000 population would be 86,900 OHV recreation participants. This number would most likely not represent the total number of OHV's in the state. The real number is somewhere between the MIC estimate of 27,800 and the 86,900 participants noted above. However, because there is no reliable way to convert the number of participants to vehicle numbers, the authors of this paper will use the lower MIC figure, knowing that the real number is at least 27,800, by a comfortable margin. It should be noted that this number will always be higher than the projected number of registered OHV's by the Montana Fish, Wildlife and Parks Dept.

ESTIMATING OHV FUEL CONSUMPTION IN MONTANA

The state sources listed below have used the figures presented to establish gas tax refund amounts for their OHV programs.

UTAH: (information source: Utah Dept. of Natural Resources, Parks Division, Scott Behmin, (801)-538-7200)
- Average fuel consumption per OHV = 164 gallons per year.
- Currently has 1/2 of 1% tax refund, going for full 1%.
- Total Utah OHV consumption = 7,074,468 gallons.

Multipling the number OHV's in Montana by the average fuel consumption in Utah would give an unrealistically high number of gallons consumed. Utah has a 12 month riding season whereas Montana has a 7 month season. For comparison purposes, the 164 gallons per OHV in Utah was multiplied by 7/12 to get an adjusted consumption of 95.7 gallons per OHV. This figure multiplied by 27,800 OHV's gives an annual fuel consumption of 2,660,460 gallons in Montana. This would be 0.6% of the total consumption. (2,660,460 OHV gallons / 419,875,000 total gallons)

OREGON: (information source: Oregon Dept. of Motor Vehicles, "ATV Fuel Tax Revenues" as forwarded by Larry McCall, ATV Use Consultant, Oregon State Highway Division, (503) 672-2472)

- Average fuel consumption per OHV, 1985, 136.7 gal/yr.
- Average fuel consumption per OHV, 1990, 125.7 gal/yr.

These figures cannot be applied directly to Montana, they need to be adjusted down for length of riding season. Oregon's season is 10 months long whereas Montana's is 7 months. Therefore 7/10 of the above figures gives 95.7 and 88.0 gallons per year, respectively. The average of these two figures is 91.9 gallons per year. Using the average figure would yield an annual fuel consumption in Montana of 2,554,820 gallons (27,800 X 91.9 = 2,554,820). This would be 0.6% of the total state consumption.

- CALIFORNIA (information source: "A Study To Determine Fuel Tax Attributable To Off-Highway And Street Licensed Vehicles Used For Recreation Off-Highway"; for the California Dept. of Transportation, Nov., 1990, as forwarded by Jerry Johnson, Chief of Off-Highway Motor Vehicle Rec. Division.)
- Average fuel consumption/off road motorcycle = 78.0 gal/yr.
 - Average fuel consumption/off road ATV = 57.1 gal/yr.
 - Mean consumption (adjusted by the ratio of cycles to ATV's, Table 2a) = 70.7 gal/yr.
 - State currently refunds 1% of gas tax to OHV fund.

The California study provides an array of information that allows estimating OHV fuel consumption based on the Calif. registration system, however, some of the basic information was applicable to Montana. The figures presented here are from Table 6 of the above noted study, but represent fuel consumption only for the 7 months from April to October, to adjust for the shorter length of riding season in Montana. Total fuel consumption in Montana based on these figures would be: 27,800 OHV's X 70.7 gallons per year = 1,965,460 gallons consumed.

- MICHIGAN: (information source: Michigan Dept. of Natural Resources, "Off-Road Vehicle Gasoline Consumption Survey", 1977, as forwarded by Jim Williams of the Motor Industry Council)
- Average fuel consumption per OHV = 63 gallons per year.
 - State DNR recommending \$1,000,000 gas tax refund (1985).
 - Total Michigan OHV consumption = 7,560,000 gallons.

The riding season in Michigan is comparable to that in Montana, so no adjustment was made for this factor. At 63 gallons consumed per year, this would yield an annual consumption of 1,751,400 gallons or 0.4% of the total ($27,800 \times 63 = 1,751,400$).

- IDAHO: (information source: Idaho Dept. of Parks & Recreation, "Idaho's Off Road Vehicle (ORV) Statistics", 1986)
- Average fuel consumption per motorcycle = 70 gal./year.
 - Average fuel consumption per ATV = 35 gallons per year.
 - Mean consumption = 57.4 gal/OHV/year. (adjusted for total number of vehicles of each type)
 - Currently has 1/2 of 1% tax refund.
 - Total Idaho OHV consumption = 3,115,000 + 875,000 = 3,990,000 gallons.

Idaho and Montana have virtually the same riding season and similar riding conditions, therefore no adjustment was made for these factors. Using the mean fuel consumption rate of 57.4 gallons per year yields a consumption of 1,595,720 gallons or 0.4% of the total ($57.4 \text{ gal.} \times 27,800 = 1,595,720$).

* The figure of 27,800 represents the Motor Industry Council's estimate of OHV's in Montana in 1989, from the 1990 Motor Cycle statistical Annual, page 8, MIC, Inc., Irvine, Calif.

MOTORCYCLE RETAIL OUTLETS, EMPLOYEES, AND PAYROLL

Of the estimated 10,704 retail outlets selling motorcycles and related products in the U.S. in 1990, 34% are retail outlets franchised to sell new motorcycles, scooters, or all-terrain vehicles (ATVs), and 66% are retail outlets specializing in motorcycle related parts, accessories, riding apparel, used vehicles, or service, but not franchised to sell new motorcycles, scooters or ATVs.

Motorcycle retail outlets employ an estimated 49,564 employees at an estimated annual payroll of \$779 million, including owner and manager salaries and advances.

In most states, franchised retail motorcycle dealers have formed nonprofit associations to engage in government relations and other activities for the good of the motorcycle industry in their state. The MIC recognizes and supports these state associations with several information exchange programs. The addresses of the state associations are listed on pages 45-46 of this publication.

EXHIBIT 11
DATE 2-12-91
BY 5508

	1990 Franchised Motorcycle Retail Outlets			1990 Non-Franchised Motorcycle Retail Outlets			1990 Total Motorcycle Retail Outlets		
	# Of Outlets	Est. # Of Employees	Est. Annual Employee Payroll (\$000's)	# Of Outlets	Est. # Of Employees	Est. Annual Employee Payroll (\$000's)	# Of Outlets	Est. # Of Employees	Est. Annual Employee Payroll (\$000's)
Total U.S.	3,600	26,752	\$ 448,674	7,104	22,812	\$ 330,264	10,704	49,564	\$ 778,938
State									
Alabama	57	410	\$ 6,438	66	201	\$ 2,484	123	611	\$ 8,922
Alaska	27	220	3,986	17	71	808	44	291	4,794
Arizona	44	359	6,496	106	440	5,035	150	799	11,531
Arkansas	44	317	4,970	65	198	2,446	109	515	7,416
California	344	2,804	50,786	803	3,332	37,143	1,147	6,136	87,929
Colorado	70	571	10,334	123	510	5,843	193	1,081	16,177
Connecticut	41	318	5,505	74	211	3,093	115	529	8,598
Delaware	8	62	1,074	18	51	752	26	113	1,826
D.C.	0	0	0	3	9	125	3	9	125
Florida	132	950	14,910	312	952	11,742	444	1,902	26,652
Georgia	85	612	9,601	96	293	3,613	181	905	13,214
Hawaii	6	49	886	28	116	1,330	34	165	2,216
Idaho	43	350	6,348	52	216	2,470	95	566	8,818
Illinois	147	1,007	16,244	329	971	18,095	476	1,978	34,339
Indiana	92	630	10,167	247	729	13,585	339	1,359	23,752
Iowa	66	452	7,293	195	575	10,725	261	1,027	18,018
Kansas	55	377	6,078	105	310	5,775	160	687	11,853
Kentucky	44	317	4,970	125	381	4,705	169	698	9,675
Louisiana	55	396	6,213	85	259	3,199	140	655	9,412
Maine	33	256	4,431	55	157	2,299	88	413	6,730
Maryland	37	287	4,968	72	205	3,009	109	492	7,977
Massachusetts	55	426	7,384	140	399	5,851	195	825	13,235
Michigan	147	1,007	16,244	292	861	16,060	439	1,868	32,304
Minnesota	85	582	9,393	195	575	10,725	280	1,157	20,118
Mississippi	38	274	4,292	41	125	1,543	79	399	5,835
Missouri	79	541	8,730	142	419	7,810	221	960	16,540
Montana	45	367	6,644	37	154	1,758	82	521	8,402
Nebraska	60	411	6,630	56	165	3,080	116	576	9,710
Nevada	25	204	3,691	30	125	1,425	55	329	5,116
New Hampshire	37	287	4,968	46	131	1,923	83	418	6,891
New Jersey	74	574	9,935	140	399	5,851	214	973	15,786
New Mexico	30	245	4,429	42	174	1,995	72	419	6,424
New York	180	1,395	24,167	412	1,174	17,220	592	2,569	41,387
North Carolina	100	720	11,296	123	375	4,629	223	1,095	15,925
North Dakota	33	226	3,647	30	89	1,650	63	315	5,297
Ohio	141	966	15,581	584	1,723	32,120	725	2,689	47,701
Oklahoma	46	331	5,196	90	275	3,387	136	606	8,583
Oregon	56	456	8,268	100	415	4,750	156	871	13,018
Pennsylvania	193	1,496	25,912	425	1,211	17,763	618	2,707	43,675
Rhode Island	11	85	1,477	24	68	1,003	35	153	2,480
South Carolina	41	295	4,631	63	192	2,371	104	487	7,002
South Dakota	31	212	3,426	28	83	1,540	59	295	4,966
Tennessee	72	518	8,133	104	317	3,914	176	835	12,047
Texas	203	1,462	22,930	353	1,077	13,286	556	2,539	36,216
Utah	36	293	5,315	49	203	2,328	85	496	7,643
Vermont	18	140	2,417	33	94	1,379	51	234	3,796
Virginia	69	497	7,794	104	317	3,914	173	814	11,708
Washington	83	676	12,254	129	535	6,128	212	1,211	18,382
West Virginia	36	279	4,833	50	143	2,090	86	422	6,923
Wisconsin	113	774	12,487	248	732	13,640	361	1,506	26,127
Wyoming	33	269	4,872	18	75	855	51	344	5,727

Note: A franchised motorcycle outlet is defined as a motorcycle retail outlet franchised to sell new motorcycles, scooters, or all-terrain vehicles (ATVs). A non-franchised motorcycle outlet is defined as a motorcycle retail outlet specializing in the sale of either motorcycle related parts, accessories, riding apparel, used vehicles, or service, but not franchised to sell new motorcycles, scooters, or ATVs. Because of differences in list sources, direct comparisons should not be made between the number of non-franchised outlets each year.

Source: 1990 Motorcycle Retail Outlet Audit, Motorcycle Industry Council, Inc., Irvine, California, August 1990.
1989 Motorcycle Retail Outlet Profile Survey, Motorcycle Industry Council, Inc., Irvine, California, May 1990.

PUBLIC LAND AND OFF-HIGHWAY MOTORCYCLE STATISTICS BY STATE

Excluding Alaska which is predominantly public land, over one fifth (22%) of the total U.S. acreage, or 419 million acres, is public land managed by federal and state government. Of this 419 million acres, 86% is in the western states. In 1989 an estimated 3.6 million motorcycles and ATVs were used for off-highway recreational purposes. In 1989 the off-highway motorcycle and ATV industry generated an estimated \$3.3 billion in consumer sales and services, and state taxes and licensing, of which \$0.9 billion is attributed to the retail sales of 303,000 new motorcycles and ATVs.

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1989 PUBLIC LAND AND OFF-HIGHWAY MOTORCYCLE STATISTICS BY STATE

State	Total Acreage (000)	(1) Public Land Acreage			1989 Sales of New Mcs. Used Off-Hwy At Some Time	(3) Total Mcs. Used Off-Hwy At Some Time	(4) 1989 Est. Annual Economic Value Of Off-Hwy Retail Mktplace (\$000)	Off-Hwy Mc. Penetration	
		Fed. Gov't. (000)	State Gov't. (000)	% of State				Off-Hwy Mcs. Per 100 Pop.	Off-Hwy Mcs. Per 1000 Public Acres
Alabama	32,678	1,132	48	3.6	6,800	95,400	\$ 67,904	2.3	80.8
Alaska	365,482	318,357	3,110	88.0	4,000	30,800	69,663	5.8	0.1
Arizona	72,688	31,673	37	43.6	4,000	62,500	38,508	1.8	2.0
Arkansas	33,599	3,399	44	10.2	9,500	97,200	110,956	4.0	28.2
California	100,207	46,323	1,269	47.5	39,300	412,600	365,050	1.4	8.7
Colorado	66,486	24,189	287	36.8	4,700	50,900	49,164	1.5	2.1
Connecticut	3,135	14	181	6.2	2,600	31,100	24,650	1.0	159.5
Delaware	1,266	30	11	3.2	800	7,500	7,590	1.1	182.9
Dist. of Columbia	39	11	N/A	28.2	0	100	N/A	0.0	9.1
Florida	34,721	4,280	278	13.1	10,500	131,500	100,333	1.0	28.9
Georgia	37,295	2,299	61	6.3	10,000	123,200	93,272	1.9	52.2
Hawaii	4,106	687	25	17.3	N/A	N/A	N/A	0.0	0.0
Idaho	52,933	33,759	47	63.9	3,600	39,300	50,581	3.9	1.2
Illinois	35,795	500	363	2.4	7,400	88,800	72,464	0.8	102.9
Indiana	23,158	437	54	2.1	5,400	81,400	49,679	1.5	165.8
Iowa	35,860	160	52	0.6	3,400	42,300	33,482	1.5	199.5
Kansas	52,511	582	37	1.2	1,600	30,800	22,963	1.2	49.8
Kentucky	25,512	1,401	42	5.7	5,900	58,200	58,375	1.6	40.3
Louisiana	28,868	1,181	38	4.2	6,400	86,200	68,628	2.0	70.7
Maine	19,848	150	72	1.1	2,500	29,000	38,056	2.4	130.6
Maryland	6,319	197	216	6.5	4,500	41,200	39,756	0.9	99.8
Massachusetts	5,035	83	266	6.9	4,100	50,200	41,118	0.8	143.8
Michigan	36,492	3,529	253	10.4	13,800	168,200	149,101	1.8	44.5
Minnesota	51,206	3,460	3,441	13.5	7,000	80,800	73,613	1.9	11.7
Mississippi	30,223	1,678	22	5.6	5,000	59,400	81,423	2.3	34.9
Missouri	44,248	2,072	107	4.9	6,400	89,600	69,887	1.7	41.1
Montana	93,271	28,236	52	30.3	3,000	27,800	45,214	3.4	1.0
Nebraska	49,032	714	148	1.8	2,500	30,600	39,287	1.9	35.5
Nevada	70,264	59,815	144	85.3	3,000	23,300	45,242	2.1	0.4
New Hampshire	5,769	740	30	13.3	1,900	27,800	26,453	2.5	36.1
New Jersey	4,813	151	300	9.4	5,800	64,200	53,478	0.8	142.4
New Mexico	77,766	25,871	119	33.4	1,900	26,700	27,522	1.7	1.0
New York	30,681	1,460	258	5.6	11,300	143,400	115,424	0.8	83.5
No. Carolina	31,403	2,219	125	7.5	10,500	104,200	98,547	1.6	44.5
North Dakota	44,452	1,942	16	4.4	1,000	14,500	11,348	2.2	7.4
Ohio	26,222	322	193	2.0	9,400	131,900	93,041	1.2	256.1
Oklahoma	44,088	867	95	2.2	3,200	55,000	44,416	1.7	57.2
Oregon	61,599	30,031	89	48.9	6,800	69,600	68,079	2.5	2.3
Pennsylvania	28,804	639	276	3.2	14,400	160,500	148,816	1.6	175.4
Rhode Island	677	5	9	2.1	700	6,900	6,269	0.7	492.9
So. Carolina	19,374	1,169	79	6.4	4,200	37,700	54,049	1.1	30.2
So. Dakota	48,882	2,733	113	5.8	1,200	14,900	14,037	2.1	5.2
Tennessee	26,728	1,988	120	7.9	8,700	107,900	88,334	2.2	51.2
Texas	168,218	3,335	225	2.1	15,300	217,600	150,225	1.1	61.1
Utah	52,697	33,569	95	63.9	3,600	58,400	54,910	3.4	1.7
Vermont	5,937	322	171	8.3	1,200	12,600	14,044	2.2	25.6
Virginia	25,496	2,455	54	9.8	5,400	74,000	54,112	1.2	29.5
Washington	42,694	12,459	234	29.7	6,800	79,600	68,261	1.7	6.3
West Virginia	15,411	1,165	206	8.9	4,500	57,100	69,256	3.1	41.6
Wisconsin	35,011	1,890	119	5.7	6,200	73,400	68,641	1.5	36.5
Wyoming	62,343	31,431	119	50.6	1,300	16,200	14,979	3.4	0.5
U.S. Total	2,271,342	727,111	13,750	32.6	303,000	3,624,000	\$ 3,250,100	1.5	4.9

Note: The 1989 sales, population, and economic figures above are not comparable to prior year estimates due to sales and population revisions. Includes competition motorcycles and three and four-wheeled all-terrain vehicles.

Source: (1) Statistical Abstract of the United States, 1989, U.S. Department of Commerce, Bureau of Census. Includes state park and recreation areas only.
 (2) Derived from MIC Manufacturers Shipment Reporting System, 1989 Annual Report.
 (3) 1989 Estimated Motorcycle Population and Usage, Motorcycle Industry Council, Inc., Irvine, CA.
 (4) Derived from "Economic Value of the Motorcycle Retail Marketplace," on page 11, by M.I.C. Includes retail sales of motorcycles and ATVs (new and used) and parts and accessories, dealer servicing, product advertising, vehicle financing charges, insurance premiums, dealer personnel salaries, state sales and dealer personal income taxes, and vehicle registration fees.

The TRAILS of IDAHO

EXHIBIT 11
DATE 2-12-91
HB 309

For
those
of
a
one-track
mind

“Where are we?” I asked. It was 2 o’clock in the afternoon. We’d been riding through the Sawtooth National Forest for hours, and it was time for a rest break in a scenic high mountain meadow.

I was thoroughly lost. All I knew for certain was that I had driven two hours east from Boise at dawn on roads that dwindled from interstate to two-lane paved to gravel and finally to dirt. Twenty miles beyond the general store that is the sum total of Featherville, Idaho, the last “town” on the map, I arrived at a national forest campground.

From there, I was loaded on a loaner Honda XR250 and told to follow Chuck Wells, Idaho’s state trails supervisor. Fat chance. Wells is an accomplished off-road racer and he knows the Sawtooth trail system like the back of his hand.

However, following Wells was definitely easier than the alternative. My other guide for the day was Bill Uhl, a member of nearly every U.S. team to the International Six Days Enduro during the 1970s and holder of several gold medals from the event. Uhl’s XR was carrying a chain saw, a long-handled shovel and various other implements, but that didn’t seem to slow him down much—if at all.

So I fell in line behind Wells. And he stopped frequently to let me catch up.

I can’t tell you much about Idaho’s scenery based on those first hours since I was too busy watching Wells’ constantly disappearing rear tire. But I got a vivid impression of Idaho’s trails: They’re narrow—just about the width of a dirt-bike tire—and they wander over the rugged terrain like a lost sheep looking for its flock.

That image is entirely appropriate, since many areas of the Sawtooth National Forest are used by sheepherders who acquire permits to graze their herds on the rocky slopes. They’ve used these trails for decades.

Based on what I could see, it must be a very solitary existence. When I finally caught up to Wells and Uhl for the afternoon rest stop, I suddenly realized that we hadn’t seen a single sign of civili-

zation all day—no houses, no roads, not even a two-track jeep trail. To an Eastern rider, used to getting 20 minutes of single-track followed by 15 minutes of dirt road followed by five minutes of single-track and then a short stretch of highway, it was disconcerting. I kept expecting to find some landmark that would tell me where we were. Finally, I asked Wells.

He was sitting on a rock, cutting up an apple he’d taken from his fanny pack. He handed me a piece and said, “We’ve just ridden up the Skeleton Creek Trail.” I’m sure that pinpointed our location in his mind.

“But where does that put us?”

He gave me one of those looks that an indulgent native gives a tourist.

“Well,” he said, pointing with the blade of his pocket knife, “the camp’s back that way, and over that next range of mountains is the ski area at Sun Valley.”

In other words, we were somewhere in central Idaho.

Wherever we were, it was beautiful. Mountain peaks encircled the meadow. Even though it was July, some of them were still capped with snow. Below the snow, the hillsides were covered with pine forests and open meadows. The only sounds were the buzzing of insects and an occasional bird call. I decided I liked being lost in Idaho.

“How long have these trails been here?”

This time it was Uhl who answered. Just looking at Bill Uhl you can tell he’s no ordinary guy. From his thick red beard to his large, callused hands, Bill Uhl looks like exactly what he is: a modern-day mountain man—Jeremiah Johnson on a motorcycle. He spends most of his life in the woods, and he looks right at home there.

“Some of these trails,” he said, “were built by miners more than 100 years ago. A lot of the others were built for fire protection and maintained by the fire crews. But then they started using helicopters and smoke jumpers and the trails were forgotten.

“For a long time, it was just the shepherds, the hunters and a few diehards



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Story & photos
by
Bill Wood

who used the trail system."

Uhl was among those diehards. He spent endless hours in the Idaho forests throughout the '70s preparing himself for the rigors of ISDE competition.

"The whole time I was riding the Six Days," he said, "this was my training ground. I developed a method for carrying a chain saw with me so I could clear the trails and keep riding."

The chain saw was necessary because the mountains of Idaho get a tremendous amount of snow each winter. And that snow knocks down thousands of trees across the narrow trails. After a tough winter, nearly every trail in the state is clogged with downed trees. Each spring, Uhl would clear his favorites and get on with his training program.

With the increase in popularity of outdoor recreation in the '80s, Uhl discovered that other people wanted access to the trails he was using. Many of them rode trail bikes, but others were on snowmobiles, horses, mountain bikes or foot. And they all faced the same problem he did: keeping the trails open.

He discussed the situation with Wells, who had been a park manager, but became off-road vehicle coordinator for the state in 1974, "because the job was available and I was the only one in the department who had an interest in it."

Wells and Uhl realized that Idaho was in an unusual position. The state has 12 national forests that cover much of the land. In fact, three-quarters of the state is public land administered by government agencies. Its national forests once provided 18,000 miles of trail open to motorized recreation. Even after the designation of 4.1 million acres of wilderness land, where trail bikes aren't allowed, nearly 8,000 miles of trail remained.

But the U.S. Forest Service, which has the responsibility for most of those trails, didn't have the money for an extensive trail maintenance program. Trails might be cleared every five years, every 10 years, or not at all. In fact, the U.S. forest rangers often didn't have a clear picture of the trails in their areas.

"They just don't have time on horseback to get out every year and see every mile of trail in their districts," Uhl said. "I know some districts where the rangers have never been on some of the trails."

On the other hand, the state government had a strong commitment to off-road recreation. Idaho riders are required to pay a \$5 yearly registration fee for their trail bikes, plus the state allocates up to 1 percent of its gasoline tax money—more than \$700,000 annually—for off-road recreational use, figuring that at least 1 percent of the gasoline is burned in vehicles operated off road.

The only thing the state lacked was land on which to build and maintain trails. With so much of the state taken up by national forests, there wasn't much room left for state-administered riding areas.

In other words, the federal government had the land but not much money, while the state had an available supply of money but not much land. The solution was to form a partnership, which is exactly what Wells did.

"Through the years, our department provided grants to the Forest Service and the Bureau of Land Management for miscellaneous trail projects on their lands," he said. "We got a lot of good work done, but one of the things I kept seeing was that trails wouldn't be opened until August or September, and that wasn't serving the users."

"The problem was that the trail clearing crews all used horses or went in on foot. When you go to clear a trail, it may be 100 yards to the next downed tree or it may be five miles. It would often take them longer to get to the downed trees than it would to clear them."

And that led to another idea. With his extensive background in off-road riding, Wells knew that a trail bike was the quickest way to get around in the



Bill Uhl carries his chain saw to work in the woods.



Volunteers from the Idaho Trail Machine Association help push a downed tree out of the way on the Little Skeleton Trail.

woods. Why not mount the trail clearing crews on motorcycles?

"I felt that a proficient motorcyclist could go down the trail faster and make up time. And that would mean we'd clear a lot more miles of trail."

To test that idea, Wells needed a proficient motorcyclist who had plenty of experience on Idaho trails and could carry a chain saw with him. In other words, he needed Bill Uhl.

In 1986, Uhl became Idaho's first trail ranger—an employee of the state charged with clearing off-road recreation trails in the national forests. That summer, he truly lived like a mountain man, spending his time alone in the woods, riding and clearing trails. All by himself, Uhl cleared 350 miles of trail, offering convincing proof that the program could work. However, it did require one modification.

"It worried me having him out there alone," said Wells. "One time he went out in good weather, but then it turned to rain and snow. About 3 inches of snow fell before he finally pulled out, and he was chilled to the bone. I kept thinking that he could get hurt or fall down and there would be no one to help him. So we decided to go with two-man teams."

These days, there are four Idaho trail rangers operating in two teams, and last year they cleared more than 900 miles of national forest trails.

I was in Idaho to see the trail ranger program in action. And the Little Skeleton Trail, a connecting route off the main Skeleton Creek Trail, provided the perfect opportunity. As we finished our rest break in the meadow, we headed

straight for it.

It was easy to tell that the Little Skeleton Trail was once a lot like the other trails we had ridden. It was a narrow path winding over the flanks of the Idaho mountains to connect two major trails. Under other circumstances, it would have been a pleasure to ride.

But this trail hadn't seen any maintenance in a decade. You could ride no more than a few minutes before running into a downed tree blocking the way. To negotiate the trail, a rider would have to wander far from the existing route—causing damage to the surrounding environment. And the danger wasn't all to nature. A rider off the trail can easily crash on hidden obstructions and fall a long way down the hillside.

With Uhl taking the point, however, we just stopped each time we came across a trail obstruction and cleared a path through it. Uhl and Wells worked the chain saws while a group of volunteers from the Idaho Trail Machine Association provided the muscle to move logs out of the way.

The volunteers usually don't work directly with the trail rangers. Instead, they have their own trails to clear around the state. Each year, the 800 members of the association maintain about 400 miles of trail in their spare time.

One of those volunteers is Clark Collins, who is also founder of the Blue Ribbon Coalition, a nationwide group representing the interests of all types of responsible forest users—trail-bike riders, snowmobilers, horseback riders, four-wheel-drive enthusiasts, and even wool growers, cattlemen and represen-

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tatives of the timber industry.

Collins noted that trail-bike riders in Idaho have been involved in this volunteer effort for 25 years. Recently, preservationist groups that want to see motorcycles banned from the national forests have adopted a similar trail maintenance program.

"It's interesting that they've started to mimic one of our successful programs," he said. "That's kind of a compliment."

Our progress along the Little Skeleton Trail was slow. The XR spent a lot more time resting than moving. But by the time we reached the other end, the trail was again open to trail users of all types.

What difference does a short section of connecting trail like the Little Skeleton make? Not much by itself, but it is another link within the Sawtooth National Forest trail system. And trail systems, not trails, are the key to enjoyable trail riding. Just ask Bill Uhl.

"The forest rangers add up the miles of trail on the map and leave it at that. But it may be that you've got this piece of trail here that's four miles long, then you have to go down the road 10 miles and here's an eight-mile section. Trails like that go nowhere and do nothing.

"We maintain systems of trails so that you can explore the whole area. This system (in the Sawtooth and Boise National Forests) contains about 1,000 miles of trails."

And that's why you can go riding for hours in the Sawtooth without ever hitting a road section. Because the trail system is maintained by people who understand and appreciate off-road riding. By the end of the day, we would complete an 80-mile loop, all on single-track trails.

We left the Little Skeleton Trail and turned onto another main trail that would take us back to camp. It was already early evening, but I was really beginning to feel comfortable on the loaner XR, so the trip was a pleasure. Mile after mile, the trail wound through pine forests, traversing mountain slopes and crossing green meadows.

Along the way, Uhl stopped to show me additional work done by the trail rangers. These projects didn't just involve clearing the trail; in some cases the rangers had rerouted it to eliminate a tricky spot that would have stopped inexperienced riders.

"Most trails have just one or two difficult sections that turn them from intermediate trails into expert trails," he said. "We concentrate on those spots as time permits. That way, we can upgrade the entire trail system for use by more people. If an intermediate rider can do it, then a beginning rider can do it with some effort."

In other places, the trail rangers had performed work specifically designed

to protect the forest environment—stabilizing the trail where it crossed wetlands and rerouting it to provide drainage and prevent erosion. Much of that work is also handled by outside contractors through grants from the state's ORV fund.

"The state spends hundreds of thousands of dollars each year relocating trails or rebuilding bad designs," said Uhl, noting that such work is important to protect both the environment and recreational riding opportunities.

"A properly designed trail won't erode the land even when it's used, while an improperly designed trail will lead to erosion even when it's not used. If the trail is designed badly, it's going to require a tremendous amount of maintenance or it will disappear all by itself. You can't keep it there if it never should have been there in the beginning."

And if that sounds like the kind of statement you might hear from an environmentalist, you're right. Because Uhl, Wells and Collins are convinced that responsible trail riding and environmentalism go hand in hand. Trail users, whether they enjoy hiking, horseback riding, snowmobiling or motorcycle riding, are all attracted to the outdoors for the same reasons. And they all have a stake in protecting nature.

It was nearly dark by the time we returned to camp. But there was still time around the campfire to tell stories and solve the world's problems. Quite a bit of that discussion fell into the "what if..." and "how about..." categories, but there was one comment from Uhl that really stuck with me.

I asked him about the growing pres-

sure from preservationist groups to claim more and more land as wilderness, taking out many forms of recreation. And he told me that movement would directly affect the notion of protecting the environment.

"Look at the situation here," he said. "We used to have 18,000 miles of trails. But because of the wilderness movement, we've been confined to a much smaller area. All that does is raise the impact on those areas. So now we need to expand our trail systems in those areas to keep the impact spread out so there is no environmental damage."

"It's like a cattle feedlot. If you have the right number of cows for the space you have, everything's fine. But if you stick enough cows in there, pretty soon they're standing in crap up to their bellies."

In Idaho, people like Wells, Uhl and Collins are making sure the situation remains in balance. But as I watched the fire flicker outside my tent that night, I couldn't help thinking that the national forests in some other states are starting to look like overcrowded feedlots.

It wasn't a comforting thought to sleep on.

If you'd like to learn more about trail riding in Idaho, write to the U.S. Forest Service's Intermountain Region headquarters, Federal Building, 324 25th St., Ogden, UT 84401; or the Forest Service's Northern Region, Federal Building, 200 E. Broadway St., P.O. Box 7669, Missoula, MT 59807. For more information on Idaho's Trail Ranger program, write to Chuck Wells, Idaho Department of Parks and Recreation, Statehouse Mail, Boise, ID 83720.



Taking a trailside rest in a high mountain meadow along the Skeleton Creek Trail in the Sawtooth National Forest.

January 9, 1991

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Off Highway Vehicle Revenue
By Calendar Year

	CY 87	CY 88	CY 89	CY 90	Grand Total
0025 Interest Earnings	\$0.00	\$0.00	\$0.00	\$1,230.15	\$1,230.15
1035 Decals	\$0.00	\$0.00	\$0.00	\$39,694.02	\$39,694.02
1041 Decal Reimbursements	\$705.00	\$113.50	\$844.50	\$0.00	\$1,663.00
1047 Fines	\$182.53	\$45.00	\$0.00	\$7.00	\$234.53
Grand Total	\$887.53	\$158.50	\$844.50	\$40,931.16	\$42,821.70

MEMORANDUM

Helena, MT 59620

December 20, 1990

TO: Becky Poore

FROM: Jeannie Sewell

RE: OHV Fines

Per your request, I have listed below the OHV's Fines.

Enacted 10-6-30-90

HE 90-10-31-90

Figure 12. Resident Recreation Participation Projections
(participation in thousands for adults 18+ years of age)

ACTIVITY PARTICIPATION	% POPULATION	MEDIAN DAYS/YEAR	1985 PARTICIPATION	1990 PARTICIPATION	2000 PARTICIPATION	1985 ACTIVITY OCCASIONS	1990 ACTIVITY OCCASIONS	2000 ACTIVITY OCCASIONS
Backpacking	14.4	19	84.1	91.2	106.3	504.8	547.2	637.6
Bicycling	88.6	20	229.1	247.7	286.2	4582.3	4954.1	5724.6
Camping	51.9	8	367.8	333.1	385.5	2462.2	2664.6	3084.3
Horseback Riding	22.3	6	132.3	143.5	308.6	795.5	861.1	1851.7
Hunting	37.6	10	222.8	241.1	279.0	2228.0	2411.1	2790.2
Jogging	23.8	25	140.4	151.9	175.7	3509.0	3796.3	4393.1
Mountain Biking	12.7	5	15.7	16.8	19.2	78.3	84.0	96.0
Nature Study/								
Bird Watching	31.3	21	188.1	203.7	236.4	3940.9	4278.4	4965.1
Off Road - 4 Wheel	24.1	7	142.7	154.1	178.0	998.6	1078.4	1245.7
Off Road - ATV	11.5	10	67.2	72.2	82.5	671.8	721.6	825.3
Picnicking	74.8	6	445.4	482.2	557.9	2672.3	2892.9	3347.5
Walking/Hiking	77.7	30	456.9	494.9	573.5	137.1	14847.2	17205.9
Canoeing	11.7	11	66.2	71.8	84.0	264.9	287.3	336.0
Fishing	56.4	12	335.6	363.2	420.2	4027.2	4358.4	5041.9
Kayaking	1.1	4	6.6	7.2	8.4	426.3	28.7	33.6
Motorboating	22.6	5	196.0	212.3	246.2	979.8	1061.7	1230.9
Rafting	1.8	3	106.4	114.1	132.4	319.3	342.2	397.1
Sailing	5.5	2	19.2	20.7	24.0	38.3	41.3	47.9
Swimming - Pool	55.3	7	209.1	225.9	260.8	1463.7	1581.6	1825.4
Swimming - Lake	22.2	6.5	251.6	272.4	316.0	1635.1	1770.6	2053.9
Waterskiing	14.4	6	86.4	89.6	108.0	345.6	358.5	431.8
Windsurfing	2.2	2	7.0	7.7	8.9	14.1	15.3	17.9
X-Country Skiing	1.8	7	107.8	116.6	135.4	754.9	815.9	947.8
Downhill Skiing	8.8	6	110.4	119.5	138.7	662.3	717.3	832.5
Ice Skating	12.6	5	76.3	82.1	94.2	229.0	246.3	282.7
Snowmobiling	18.2	4	94.8	105.7	121.8	473.8	528.4	609.2
Baseball/Softball	24.1	3	144.3	156.0	179.9	1010.2	1092.1	1259.1
Basketball	5.5	1	90.8	99.1	113.9	907.9	991.2	1138.8
Football	6.1	2	39.8	43.0	49.4	159.3	171.9	197.6
Golf	20.0	10	119.0	128.7	149.0	1189.5	1287.5	1489.8
Lawn Games	39.1	5	233.3	252.4	292.0	1166.3	1262.2	1460.0
Soccer	3.8	5	18.8	20.5	21.3	93.8	102.3	106.5
Target Shooting	2.8	5	167.6	181.3	207.7	838.6	906.6	1038.8
Tennis	1.1	6	66.8	72.1	83.6	601.3	648.5	752.1

Source: The Vermont Outdoor Recreation Needs Survey of 1985.
Note: Activity Occasions = Participation in an activity for any length of time.

EXHIBIT 11
DATE 2-12-91
HB 309

EXHIBIT 11DATE 2-12-91HR 309**BLUE RIBBON COALITION INC.**

"Preserving our natural resources FOR the public instead of FROM the public"

P.O. BOX 5449 • POCATELLO, IDAHO 83202 • (208) 237-1557

LEGISLATIVE SUMMARY FOR**THE NATIONAL RECREATIONAL TRAILS FUND ACT OF 1990**

The bill will create a National Recreational Trails Trust Fund.

This money will come from the Highway Trust Fund, but only in the amount (determined by the Secretary of Transportation) equivalent to the off-highway recreational fuel taxes received after January 1, 1990.

Using the Fund, the Secretary of Interior will administer a program of grants to the States for use in constructing and maintaining recreational trails. 50% of the amount will be allocated equally among eligible States. The other 50% will be allocated in proportion to the amount of off-highway recreational trail motor fuel use during the preceding year.

For the first three years after passage of the bill, a State shall be eligible if it's grant application proposes to use grant monies for the eligible purposes listed below. After three years, a State shall be eligible if it has: (1) established a State Recreational Trails Advisory Board; (2) allocated it's state fuel tax imposed on fuel used in off-highway recreational trail motors, for use in constructing and maintaining recreational trails; and (3) submitted a grant application to use funds for:

- (1) Construction and maintenance of multiple use recreational trails.
- (2) Acquisition of easements.
- (3) Acquisition of fee simple title from a willing seller, when the objective cannot be accomplished by other means.
- (4) Development of trail-side facilities.
- (5) Operation of environmental protection and safety education programs relating to recreational trails.
- (6) Administrative expenses (not to exceed 5% of the total)

A State may not use grant monies for condemnation of any kind of interest in property. Money not expended within 2 years after receipt shall be returned to the fund.

In addition, the Secretary will ensure that grant monies are used for the benefit of safer, more enjoyable, and more environmentally sound motorized and non-motorized recreational trail use. The bill also calls for cooperation from federal agencies administering land in the State. For private property owners affected, the State shall obtain written assurances that the owner will cooperate and participate.

Bill offers way to improve nation's trails

Thanks to the progressive insight of Sen. Steve Symms and Rep. Larry Craig, R-Idaho, a way has been found to improve the nation's system of recreation trails.

They have introduced the National Recreational Trails Fund Act which would maintain and upgrade deteriorating trails and create an advisory board representing all types of users.

How would it be funded? Answer: by a fuel tax transfer.

It works like this. When users of off-highway vehicles purchase fuel, a fuel tax is collected. Until now, all funds from the federal fuel tax has been lumped into the Federal Highway Trust Fund. Much of it is spent to improve and build federal highways, but Congress often plays funny games with this fund and uses surpluses as loans to fund non-related programs.

The National Recreational Trails Fund Act would simply allow for a refund of that portion of tax collected from off-highway users, and use the refund for a national trail system.

Currently, farmers and commercial operators receive off-highway refunds. It is time that motorized recreation groups are allowed the same opportunity.

The benefits? Building, improving and maintaining multiple use trails throughout the nation.

Notice that the term "multiple use" is used.

That means motorized recreation groups are willing, as they have in the past, to share these trails with non-motorized groups such as horsemen, cross-country skiers and hikers.

The advisory board mentioned above would consist of four members from motorized groups and four from non-motorized users. Grants from the fund would be issued by the government only to projects that are agreeable to, and to the benefit of, both groups.

The trails bill has widespread support.

A recent field hearing was held in Idaho Falls by Sen. Symms and Rep. Craig. Off-highway groups from several different states testified in favor of the bill. Included were national organizations such as the Blue Ribbon Coalition, International Snowmobile Council, International Snowmobile Industry Association, International Association of Snowmobile Administrators, Motorcycle Industry Council, American Motorcycle Association, United 4x4 and others.

State snowmobile and trailbike groups from Utah, Idaho, California, Nevada, Montana, Wyoming, and other states also testified for the bill.

Even though the trails bill would greatly



Darryl Harris

Idaho
conservative
comment

benefit non-motorized users, guess what?

Yep. Some individuals and groups oppose the Symms-Craig bill. Why? Partly because they automatically oppose any outdoor legislation not introduced by their liberal preservationist friends in Congress. Partly because they oppose nearly all outdoor progressive bills that provide something of benefit for users rather than merely locking it up.

And partly because they are infiltrated and manipulated by extremists whose goal is to eliminate all motorized recreation on public land as well as all grazing, agriculture, timber production, mining, and commodity production on public land.

Never mind that this trails bill would create and maintain usable trails for hundreds of thousands of people on a multiple-use basis. Never mind that most horsemen and hikers are longing for just such trails. Never mind that cross country skiers would have access to them. Never mind that it would provide an environmentally sound place for motorized recreation users.

But thanks to people like Clark Collins, executive director of the Blue Ribbon Coalition, which represents more than 150 nationwide organizations, this legislation has a good chance to become law.

In his testimony at the hearing, he said, "This act offers an opportunity for all trail recreationists to work together on a proposal that will encourage cooperation and co-existence. It has the potential to bring about that unity by expanding our shared-use trail opportunities."

"Motorized and non-motorized trail users working together on the Trails Advisory Committee will be encouraged to resolve differences. This legislation will increase the incentive for all recreationists to work together and assist land managers in providing recreation trails for present and future trail users," Collins concluded.

What a breath of fresh air! Compare that to the whining we generally hear from individu-

als with the preservationist mentality regarding multiple use of public lands.

Just think of it! Motorized recreation groups willing to use their funds to build and maintain trails, then offer those facilities for use by non-motorized individuals and organizations who will not share in the costs! Yet many of them are opposed to the bill.

This idea of motorized groups sharing trails is not new. A motorcycle club near the Wenatchee National Forest, for example, regularly clears and maintains more than 130 miles of trails but encourages non-motorized use on them. Indeed, 35 percent of the use of those Wenatchee trails are by non-motorized users.

Several states have off-highway vehicle programs funded by registration fees and state fuel taxes with the majority of them designated toward shared-use trails. Trail systems and parking facilities supported by snowmobilers are nevertheless used by cross-country skiers and snowshoers.

In many areas, warming huts provided by snowmobile funds are enjoyed by non-motorized users in both winter and summer. Joint use is encouraged and welcomed by these motorized groups responsible for the funding.

Ken Nelson, president of the California-Nevada Snowmobile Association, testified:

"The trail facility needs in California and Nevada are great. At the present time we get no benefit from our OHV use from federal taxes paid on the fuel consumed for off-road recreation.

"We are aware that fuel tax monies are in some instances diverted to completely unrelated governmental programs. We understand that the act will benefit all trail users and that OHVs will not be exclusive beneficiaries. The common interest of all trail users is recognized and we see real merit in having a funding source to help provide facilities and ease problems.

"The people buying and using off-road vehicles represent some of the fastest-growing recreational interests in America. With a good safe trail system in all states and with the education in how to use off-road vehicles by such programs as the 'Tread Lightly' program, we can give the people a good safe experience in the outdoors."

A common-sense statement. It's time we heard some common sense from so-called environmental groups.

Darryl Harris is the owner of Harris Publications of Idaho Falls, which publishes several magazines including Snowmobile West, Snow Action, Blue Ribbon and Our Land.



State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

EXHIBIT 11
DATE 2-12-91
HB 309

STAN STEPHENS
GOVERNOR

October 24, 1990

Clark L. Collins, Executive Director
Blue Ribbon Coalition, Inc.
P. O. Box 5449
Pocatello, ID 83202

Dear Mr. Collins:

Thank you for your letter regarding the National Recreational Trails Funds Act.

As you know, Montana is perhaps the premier outdoor recreation state in America. The use of back country trails, whether it be motorized or nonmotorized, is of major recreational importance in Montana.

The President's Commission on Americans Outdoors helped identify the need to restore and expand our trails system, and the National Recreational Trails Fund Act mobilizes that vision with a stable funding source for trails restoration and enhancement.

I can enthusiastically support the legislation, and will encourage Montana's Congressional Delegation to also support passage of the bill.

Thank you again for writing and if I can be of any further assistance to you, please do not hesitate to contact me.

Sincerely,

STAN STEPHENS
Governor

cc: The Honorable Conrad Burns
The Honorable Max Baucus
The Honorable Ron Marlenee
The Honorable Pat Williams

Feb. 10, 1991

EXHIBIT 11
DATE 2-12-91
HB 309

Bozeman Chronicle:

Bush's forest plan would cut less, spend more

By JOAN HAINES
Chronicle Staff Writer

President Bush's 1992 Forest Service budget proposes spending 9 percent more on managing timber sales, but at the same time proposes cutting less timber, the agency's top budget officer said today.

The increase is due to the escalating costs of preparing timber sales to meet an onslaught of environmental challenges, said acting Budget Director Steve Satterfield of Washington, D.C.

"It costs a lot of money" to prepare assessments of timber sale impacts and "to deal with appeals and litigation," Satterfield added.

Bush's budget asks for \$287 million to manage Forest Service timber sales in 1992, while Congress appropriated \$263 million in 1991, he said. In 1991, Congress targeted 9.5 billion board feet for sale — 200 million board feet more than targeted for sale in Bush's 1992 proposal.

The big winner in the president's budget is recreation — wilderness and campground management — on which the president proposes to spend \$246 million or 23 percent more than Congress approved for this year, Satterfield said.

The big losers are wildlife and fish habitat management, reforestation and maintenance of facilities,

'Given the overall tight federal budget proposals, we feel the president gave the Forest Service a pretty high priority.'

— Steve Satterfield
U.S. Forest Service

roads and trail maintenance.

The Bush budget asks for a 13 percent less to maintain wildlife and fish habitat and 5 percent less for facility, road and trail maintenance Satterfield said.

The president is asking for a total of \$3.4 billion for Forest Service programs, up 3 percent from the \$3.3 billion approved by Congress for 1991.

"Given the overall tight federal budget proposals, we feel the president gave the Forest Service a pretty high priority," Satterfield said.

"We think the budget goes a long way toward balancing and rounding out the timber and multiple use program," Satterfield said.

The money requested for reforestation and timber stand improvement is 12 percent less than what Congress appropriated for this year.

EXHIBIT 12
DATE 2-12-91
HB 309

MONTANA TRAIL VEHICLE RIDERS ASSN.

3301 W. Babcock
Bozeman, MT 59715

Linda Y. Ellison *Land Use Coordinator*

February 12, 1991

IN SUPPORT OF HB-309

Recreation is an important part of the economic base of this entire country. The January 1987 report of the President's Commission on Americans Outdoors served as an indication of the importance of outdoor recreation to our national economy and to individual health and well-being. The report called for all Americans to become involved -- to start a grass roots effort to improve opportunities for participation in outdoor recreation. MTVRA accepted that challenge, and that same January, began our efforts to establish a Montana Off-Highway Vehicle (OHV) Recreation Program.

Through that program, whose framework was finally established last session, we hope to create a better awareness and understanding on the part of the public of the importance of OHV recreation to Montana's total recreation picture, and of the role that program plays in providing recreation opportunities and resource protection that benefits the entire multiple-use recreation community.

As more and more roadless lands are closed for whatever reason, be it wilderness designation, to resolve a conflict with other users, or following a decline in resource condition, all public land use is being concentrated on a smaller and smaller landbase. With that concentration comes the potential for greater declines in resource conditions. Motorized recreation does present uncommon maintenance concerns, which, when left to their own devices, do often result in degradation of resources.

The scope of work that can be accomplished by any volunteer group is severely limited. The best we can hope for is to call attention to the various resource concerns where we have the opportunity to point them out and hope the message gets around.

We are missing a coordination mechanism to ensure an overview of the process, to bring together the piecemeal efforts where attention to motorized concerns have lapsed and the attendant deterioration has ensued. That's what we have set out to accomplish with initiation of a state-wide OHV Program.

I believe our actions last session, are an indication to you, the Montana Legislature, that we recognize and accept the responsibility of paying our own way. We have not asked for, nor do we intend to ask for, any money that is not directly generated by the use of OHVs. The monies we've requested in HB 309, is that portion of the gasoline tax fund that would not be there in the first place, were it not for the operation of OHVs.

Article 8, Section 6 of the Montana Constitution, and 84-1855 RCM,

recodified as 15-70-221 MCA, clearly states that only those gasoline tax monies generated by highway use should be used in highway construction, therefore those tax monies generated by off-highway use should be eligible to be expended for off-highway purposes. A legal opinion by the Legislative Council, rendered in 1977, at the time the Montana Snowmobile Program was established, says such requests do not constitute a diversion of highway funds.

HB 309 does not constitute an increase in gasoline taxes and therefore should not be related to or considered with any gas tax increase bills.

Program expenditures are for the purpose of developing and maintaining OHV facilities, and will be implemented in much the same way that snowmobile monies are disbursed, through techniques including but not limited to: cooperative management agreements, volunteer "adoption" contracts, contracted services, challenge grants, special permits, and other partnership approaches.

Probable projects might include: trail construction or reconstruction, trail clearing, tread armoring, stabilization of stream banks in crossing areas, trail relocation or rehabilitation, fencing, bridge building, development of trailhead facilities, possible right-of-way acquisition, and equipment purchase or lease.

The establishment of an effective recreation management program, including the development of appropriate use levels and monitoring programs, requires an on-the-ground management presence. The possible creation of a position or positions as exemplified by the Trail Ranger Program in Idaho, should not be ruled out.

At the present time the MDFWP has just begun the process of evaluating program scope and administration, as per statute requirements. Few specific details are yet available, however department representatives are here to answer any questions you may have regarding administration and program related activities. What we need to keep in mind, is the fact that OHV program \$\$ represent "seed money" to increase the reach of capital investment and maintenance dollars through partnership with such programs as the state weed control program, federal programs like the Knuteson-Vandenberg Act and The Land and Water Conservation Fund, and the proposed National Recreation Trails Fund Act.

You have an obligation to insure the funds we've requested are used in accordance with the Constitution and the law, and to determine the amount of fuel used in OHVs, we hope the facts we present will adequately allow you to make that determination.

Because of the registration allowances Montana law has made for OHVs and snowmobiles used on private lands, there are no ^{reliable} statistics for the number of OHVs in Montana.

A computation of fuel use based on a rider survey was also ruled out due to the disastrous fire season in 1988 which skewed the length of the riding season for recording purposes, and the

remaining 18 month period was not sufficient to allow an adequate sample to be taken. None the less, there are a number of ways to estimate the fuel consumption on which this request is based.

Included in the handout is a study of OHV fuel consumption in Montana. It is based on OHV fuel consumption rates from five other states with gas tax refund programs in place. Our findings indicated that the average consumption rate, per vehicle, would have generated approximately \$421,000, or almost the exact amount that 1/2 of 1% would generate based on Montana's 1990 total consumption figures.

Significantly, these other states have programs based on a refund of 1/2 of 1%, except where they have gone back and have completed in-depth studies to verify original findings. In each case of re-verification, the refund rate has been increased to a full 1% in California, Oregon, and Utah.

The author of the fuel consumption study is present here today, to offer further testimony and will be available to answer your questions as needed.

By current industry estimates, OHV activity adds \$45.2 million to the economy of Montana derived from direct sales and related expenditures, not counting the contribution to the highway construction fund by the use of our cars and pickups in transporting our machines to and from the use areas, or the tourism dollars generated by out-of-staters who come to enjoy our facilities and OHV opportunities.

There are 82 dealers in Montana, employing approximately 521 employees, and generating about \$8.5 million in payroll \$'s.

Montana ranks 4th in the nation, and ties with Utah, and Wyoming, in the number of OHVs per 100 population.

There are 2 OHVs to every road motorcycle in Montana.

Trail maintenance benefits all users, including hikers, hunters, grazing permittees, equestrian trail riders, and mountain bicyclists. Spending OHV maintenance dollars on a trail will not change the trail's multiple use designation.

Multiple-use management is a significant economic advantage to local communities. Montana needs a pragmatic approach to OHV management. The state's recreation infrastructure is one of her most important assets, and resource protection is the ultimate goal. The people of Montana need HB 309 and we urge your support.

EXHIBIT 13
DATE 2-12-91
HB 309

3301 W. Babcock
Bozeman, MT 59715
12 February, 1991

My Testimony in support of HB-309

I'd like to tell you a little about Idaho's trail rangers. There is a reprint of an article in your handout from MTVRA from the August 1990 American Motorcyclist. It's the cream colored pages.

Today Idaho has 2 two man trail ranger teams. They are state employees. they and their equipment are paid for out of OHV sticker and gas tax funds.

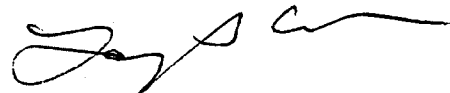
The rangers presently work about 900 miles of trail per year. They clear down timber, reroute unsound and difficult sections, build bridges, punchion, and much more. I have rode a few of the trails that they have worked on. They are very nice.

I know 2 of the rangers personally. They do an excellent job and are 2 of the most environmentally caring people I've ever seen.

I hope you'll support HB-309 so Montana can have a program like Idaho's.

Thank you.

Truly,



Larry G. Ellison

EXHIBIT

DATE

HB

14
2-12-91
309

GREAT FALLS TRAIL BIKE RIDERS ASSOCIATION SUPPORTS HB-309 BECAUSE IT WOULD PUT GAS TAX DOLLARS, WHICH WE HAVE PAID, TO USE BENEFITING ALL USERS OF THE TRAIL SYSTEMS ON PUBLIC LANDS INCLUDING MOTORIZED AND NON-MOTORIZED RECREATIONIST.

HB-309 WOULD BOOST MONTANA'S ECONOMY IN SEVERAL WAYS: IT WOULD INCREASE TOURISM IN MONTANA BY DRAWING OUT OF STATE RECREATIONIST AND WOULD ALSO IMPROVE REVENUE FOR OFF HIGHWAY VEHICLE (OHV) DEALERS THROUGH INCREASE SALES WHICH WOULD IN TURN INCREASE TAX DOLLARS TO THE STATE OF MONTANA.

A SIMILAR PROGRAM FOR SNOWMOBILES HAS RESULTED IN A ~~1~~^{MULTI} MILLION DOLLAR PER YEAR INDUSTRY

HB-309 WOULD RESULT IN THE DECREASE OF USER CONFLICTS ON PUBLIC LANDS THROUGH BETTER DISTRIBUTION OF USER GROUPS THROUGH AN IMPROVED TRAIL SYSTEMS. THROUGH EDUCATIONAL PROGRAMS BOTH EXPERIENCED AND INEXPERIENCED OHV RIDERS WOULD BE LESS LIKELY TO CAUSE ENVIRONMENTAL DAMAGE AND ARE MORE LIKELY TO RIDE QUIET OHV'S AND RIDE IN A MANNER THAT WOULD NOT DISTURB OTHER USERS OF PUBLIC LANDS.

^{refund}
GAS TAX DOLLARS COULD BE USED TO CREATE RIDING AREAS IN APPROPRIATE PLACES. MANY RIDERS, ESPECIALLY YOUNGER RIDERS, DO NOT HAVE LEGITIMATE RIDING AREAS TO USE. CONSEQUENTLY, THEY USE VACANT AREAS TO CLOSE TO CITIES AND TOWNS AND THE NOISE FROM THESE RIDERS IS VERY ANNOYING TO THE RESIDENTS OF THESE AREAS.

OUR GROUP HAS WORKED EXTENSIVELY WITH THE FOREST SERVICE TO MAINTAIN AND IMPROVE TRAILS, SOME OF WHICH WOULD HAVE BEEN CLOSE AS DOCUMENTED IN THIS LETTER FROM THE FOREST SERVICE. (READ THE LETTER) THIS LETTER DOCUMENTS ONLY A PORTION OF THE TRAILS WHICH OUR GROUP MAINTAIN EACH YEAR.

DO TO THE LIMITED FUNDING FOR TRAIL MAINTENANCE IN FOREST SERVICE BUDGET, ALL OF THE MATERIALS WHICH WE USED IN MAINTAINING THESE TRAILS ARE PAID FOR OR DONATED BY ARE OUR MEMBERS.

WE MUST STRESS OUR EFFORTS BENEFIT ALL USERS, HORSEMEN, HIKERS, BICYCLISTS, AS WELL AS MOTORIZED USERS.

IN CLOSING I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO COMMENT ON HB-309. THIS BILL WOULD HELP ELIMINATE EXISTING PROBLEMS RELATED TO OHV USE, MAKE IT A SAFER SPORT, BOOST OUR STATES ECONOMY AND ALLOW GROUPS LIKE GREAT FALLS TRAIL BIKE RIDERS ASSOCIATION, TO CONTINUE ITS EFFORTS MAINTAINING MONTANA'S TRAILS.

Thank you,

Russ Ehnes
President
2134 St S.W.



United States
Department of
Agriculture

Forest
Service

Kings Hill Ranger District

EXHIBIT 14
DATE 2-12-91
HB 309

REPLY TO: 2350

Date: February 5, 1991

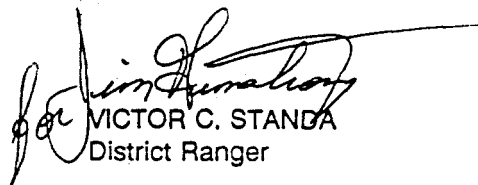
SUBJECT: Trail Maintenance and Reconstruction

TO: To Whom It May Concern

The Great Falls Chapter of the Montana Trailbike Riders Association has performed maintenance and reconstruction of the trails in the Deep Creek-Tenderfoot area and in the Hoover Creek area for the past 4 years. This assistance from the Great Falls Chapter has made a significant improvement in the quality of maintenance on the trails in the two areas and has enabled the Kings Hill Ranger District to do more maintenance on other trails on the district.

Through the volunteer efforts of the Chapter both trail systems, approximately 50 miles, have been brought up to acceptable standards of maintenance. Without the assistance of the Chapter some of the trails in the two systems would probable be close to public use.

I wish to take this time to thank all the members of the Great Falls Chapter of the Montana Trailbike Riders Association for their assistance on the two trail systems.


VICTOR C. STANDA
District Ranger



United States
Department of
Agriculture

Forest
Service

Region 1

Federal Building
P.O. Box 7669
Missoula, MT 59807

Reply to: 2060

Date: January 8, 1991

EXHIBIT 15
DATE 2-12-91
HB 309

Linda Y. Ellison
Land Use Coordinator
Montana Trail Vehicle Riders Assn.
3301 W. Babcock
Bozeman, MT 59715

Dear Linda,

I appreciate your input relative to my slide talk on biodiversity, in the context of off-highway vehicle use, and apologize if it offended you. Another person at the same forum expressed a similar opinion and after the meeting we talked about the concept I was trying to express and the type of slide of off-highway vehicle use that would be a better visual representation. That particular part of the talk was aimed at bringing out the importance of habitat corridors and connectivity of habitats, and the sometimes drastic impacts we can have in severing those corridors through off-highway vehicle use in sensitive areas. I agree that the slide in question showed a higher than normal impact from off-highway vehicle use and I will change to a slide showing more typical use and impacts.

Personally, I am also an off-highway vehicle user and, like you, am very concerned with our image. Unfortunately, there have been negative impacts on soil, water, vegetation, and habitat corridors/linkages from the presence, noise, and effects of off-highway vehicle use in sensitive habitats or during sensitive times of the year for certain species. The key in most cases is not excluding that use, but managing the route locations and sensitizing drivers to low impact vehicle use. However, if we do not take a strong part in promoting low impact and sound management I am afraid we may loose our options in terms of off-highway vehicle use.

I feel strongly that we must build the willingness of off-highway vehicle users to take personal responsibility for a "light-on-the-land" approach. This should not only include minimizing effects, but taking part in our own destiny by actively supporting education of off-highway vehicle users and supporting use restrictions in sensitive areas. A person with your commitment, and leadership ability, could make a significant contribution to natural resource management, by promoting this approach.





Linda Ellison

EXHIBIT 15

DATE 2-12-91

HB 309

The reason that many species and communities have become ~~endangered~~ is not because of off-highway vehicle use, but because of the cumulative effects of man's impacts, including off-highway vehicle use, on fragile species and habitat relationships. Other types of cumulative effects that affect biodiversity include shifts in habitat patterns and conditions, fragmentation of habitats, loss of site productivity, and deterioration of water and air quality. What is important, and I tried to emphasize this in the slide talk, is that we can't manage sustainable ecosystems for mankind by exclusion of resource use or management. We need to manage resource use and their effects with ecosystem processes to provide for sustainable ecosystems and resources.

Thanks again for your feedback on the slide talk. I would be glad to talk further with you on the phone or the next time I'm in Bozeman if you see ways that we could mutually work towards improving our image as off-highway vehicle users. If you would like to call and talk, my phone number is (406) 329-3214.

Sincerely,

Wendel J. Hann

WENDEL J. HANN
Regional Ecologist
Range, Air, Watershed,
and Ecology Staff Group



United States
Department of
Agriculture

Forest
Service

Beaverhead
National Forest

Madison Ranger District
5 Forest Service Road
Ennis, MT 59729
(406) 682-4253

Reply to: 2300

EXHIBIT

Date: January 8, 1991

DATE

HB

Montana Trail Vehicle Riders Association
c/o Linda Ellison
3301 West Babcock
Bozeman, MT 59715

Dear Linda:

On several occasions we have discussed the need for additional trail maintenance on the Madison Ranger District. Trail maintenance is a very frustrating subject, we never seem to have the resources to do the complete job. While we try to rotate maintenance on a regularly scheduled basis we never seem to get back to the trails before they need critical maintenance to keep them open and maintain adequate drainage.

Cooperative efforts with the MTVRA, the Blue Ribbon Coalition and Montana 4x4 Association have helped us stretch the available \$\$\$. However, more is definitely needed. This past fall the Madison Ranger District experienced numerous violations to our Travel Plan. I believe that some of these problems could have been eliminated with better trail maintenance and, especially, better trail marking.

I would welcome any cooperative effort to improve our trail maintenance program with the expressed objective of keeping the trails open. I'm afraid that lack of trail maintenance and signing will eventually reduce trail vehicle riders opportunities.

Sincerely,



MARK A. PETRONI
District Ranger

United States Forest
Department of Service
Agriculture

Gardiner Ranger District
P.O. Box 5
Gardiner, MT 59030
(406) 848-7375

EXHIBIT 17
DATE 2-12-91
HB 309

Reply To: 2800

Date: January 25, 1991

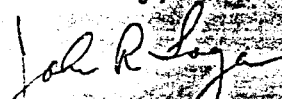
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*

Dear *

The members of the Montana Trail Vehicle Riders Association (MTVRA) have volunteered many hours of volunteer service for the Gardiner Ranger District, Gallatin National Forest. Over the past 15 years, this group has annually cleared over 15 miles of trail in the Tom Miner/Sunlight area and provided a much needed service to National Forest visitors. Additionally, this group has shown excellent team spirit and provided input, suggestions, and solutions throughout the Gallatin Petrified Forest NEPA analysis. This NEPA document covered lands on four separate districts and determined future management guidelines for the petrified forest.

MTVRA members have always been willing to provide information, ideas and recommendations concerning district plans and projects, work very hard to reach equitable solutions, and pro-actively support OHV use in this area.

Sincerely,


JOHN R. LOGAN
District Ranger

Proposed Amendments to HB 309
Montana Audubon Legislative Fund
House Highways & Transportation
January 12, 1991

EXHIBIT 18
DATE 2-12-91
HB 309

1. Page 4, Line 4
Strike "only to"
Insert "for the following purposes: (i) to"
 2. Page 4, Line 6
Following "cost"
Insert ";
 3. Page 4, Line 6
Following "and"
Insert "(ii) to address environmental consequences of facilities through planning, mitigation, and monitoring.
(b)"
 4. Page 4, Line 8
Strike "and to promote off-highway vehicle safety."
 5. Page 4, Line 10
Strike "(b)"
Insert "(c)"
-
6. Page 4, Line 5
Following "public"
Insert "and to repair areas damaged by off-highway vehicles"

**Testimony of Edward R. Madej
on HB 309
before the**

EXHIBIT 19
DATE 2-12-91
HB 309

**House Highways and Transportation Committee
February 12, 1991**

Mr. Chairman and Members of the Committee,

My name is Ed Madej, and I own a small computer graphics business here in Helena. As a hiker and sportsman, I urge you to oppose HB 309 as presently written. This legislation will encourage more off road vehicle use on Montana's public lands without encouraging responsible ORV behavior or repairing existing ORV damage to our public lands.

I speak with several years of experience in attempting to repair ORV damage to Mt. Helena City Park and the adjacent Helena National Forest land. Mt. Helena and the surrounding 700 city park is extremely popular with hikers, runners and mountain bikers, with several hundred people reaching the summit on warm spring or summer days. In fact Mt. Helena is the most climbed mountain in Montana.

Both Mt. Helena City Park and the adjacent national forest land have been closed to ORV use for twenty years, yet ORV impacts remain. This is do to the slow natural revegetation of ORV ruts in this dry climate and the continual trespass of ORVs on these lands. Park signs are frequently ignored and fences cut by irresponsible ORV use. For the last four years hikers such as myself have aided the city parks department and the Helena National Forest in marking and restoring park lands, to little avail in many cases.

There are several ways of encouraging responsible ORV use. One way is better enforcement of ORV closures. Unfortunately, enforcement is both expensive and difficult on remote lands. A second way is by educating ORV users to be more responsible and more respectful of closures and other outdoor recreationists. This is very difficult as well, since as Montana Department of Fish, Wildlife and Parks data shows, the majority of ORV users in Montana are young men under the age of 25. This is an age group of people that is hard to imbue with a strong sense of responsible recreational behavior. Although less than 11% of Montanans use ORVs (MTFWP data, 1986) they cause damage all out of portion to their numbers.

A third way of encouraging responsible ORV behavior is by making the ORV user to pay for the damages they cause to public lands by allocating a portion of the gasoline license tax to restoring these lands. I believe this approach is suggested by an amendment suggested by Montana Audubon. In the case of Mt. Helena City Park,

hikers and the taxpayers of Helena are paying to restore damage caused by irresponsible ORV use.

In closing, I urge committee members to oppose HB 309, unless it is amended.

Thank you for this opportunity to testify

EXHIBIT 19
DATE 2-12-91
HB 309

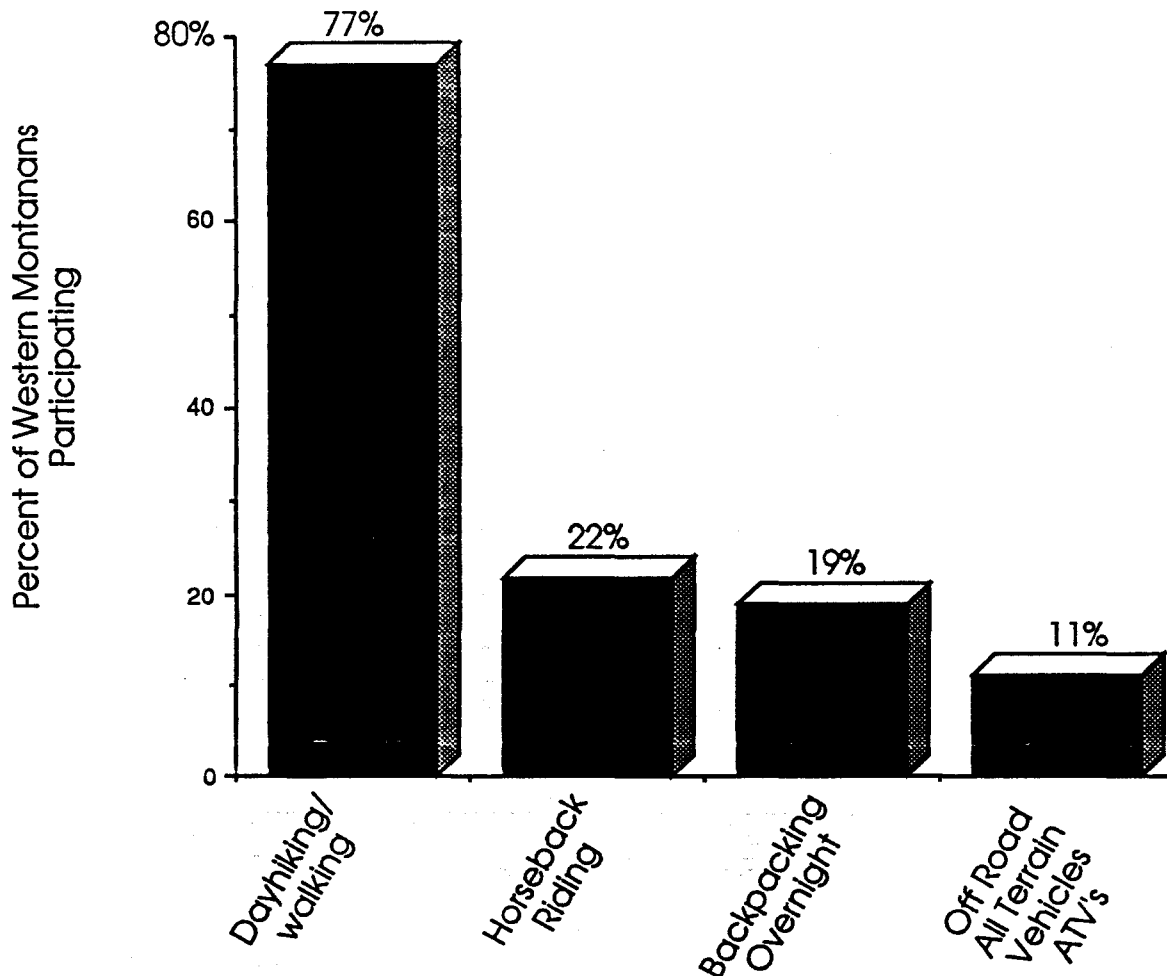
Ed Madej
920 Breckenridge
Helena, MT 59601

EXHIBIT 19
DATE 2-12-91
HB 309

SUMMER RECREATION

Trail Based Recreation Activities

- Among those living in the Western half of Montana, dayhikers outnumber those who use ATV's by 7 to 1, while horseback riders and backpackers outnumber those who use ATV's by 2 to 1.

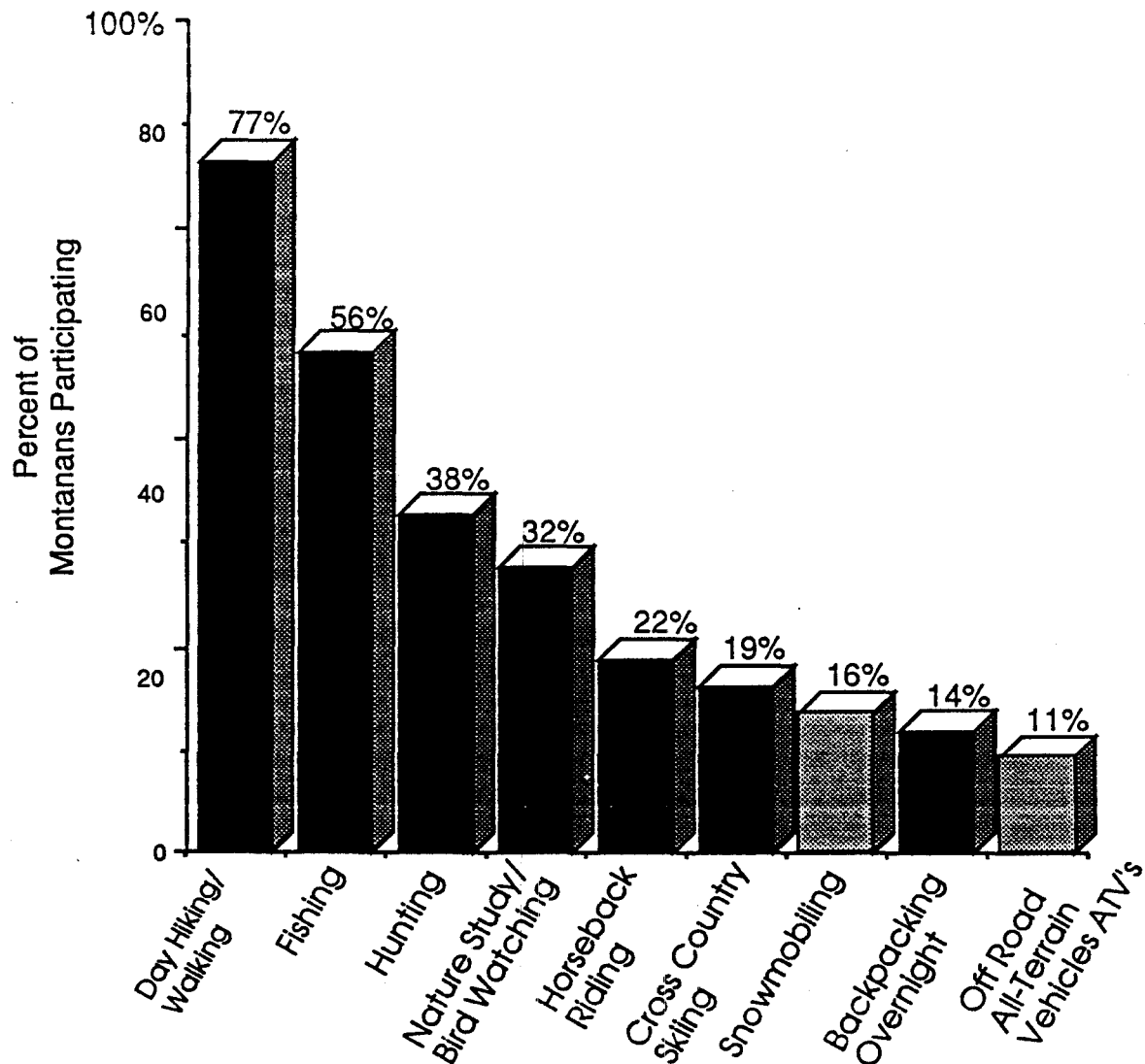


* Source: Montana Department of Fish Wildlife & Parks
1986

OUTDOOR RECREATION PARTICIPATION IN MONTANA

RECREATION ACTIVITIES, ALL OR PART
OF WHICH OCCUR ON TRAILS

- The majority of trail based recreationists in Montana are non-motorized. Snowmobiling and ATV'ing make up a small part of the outdoor recreation spectrum.



* Source: Montana Department
Fish Wildlife & Parks 1986

EXHIBIT 19
DATE 2-12-91
HB 309

OFF ROAD
ALL TERRAIN
VEHICLES - ATV'S

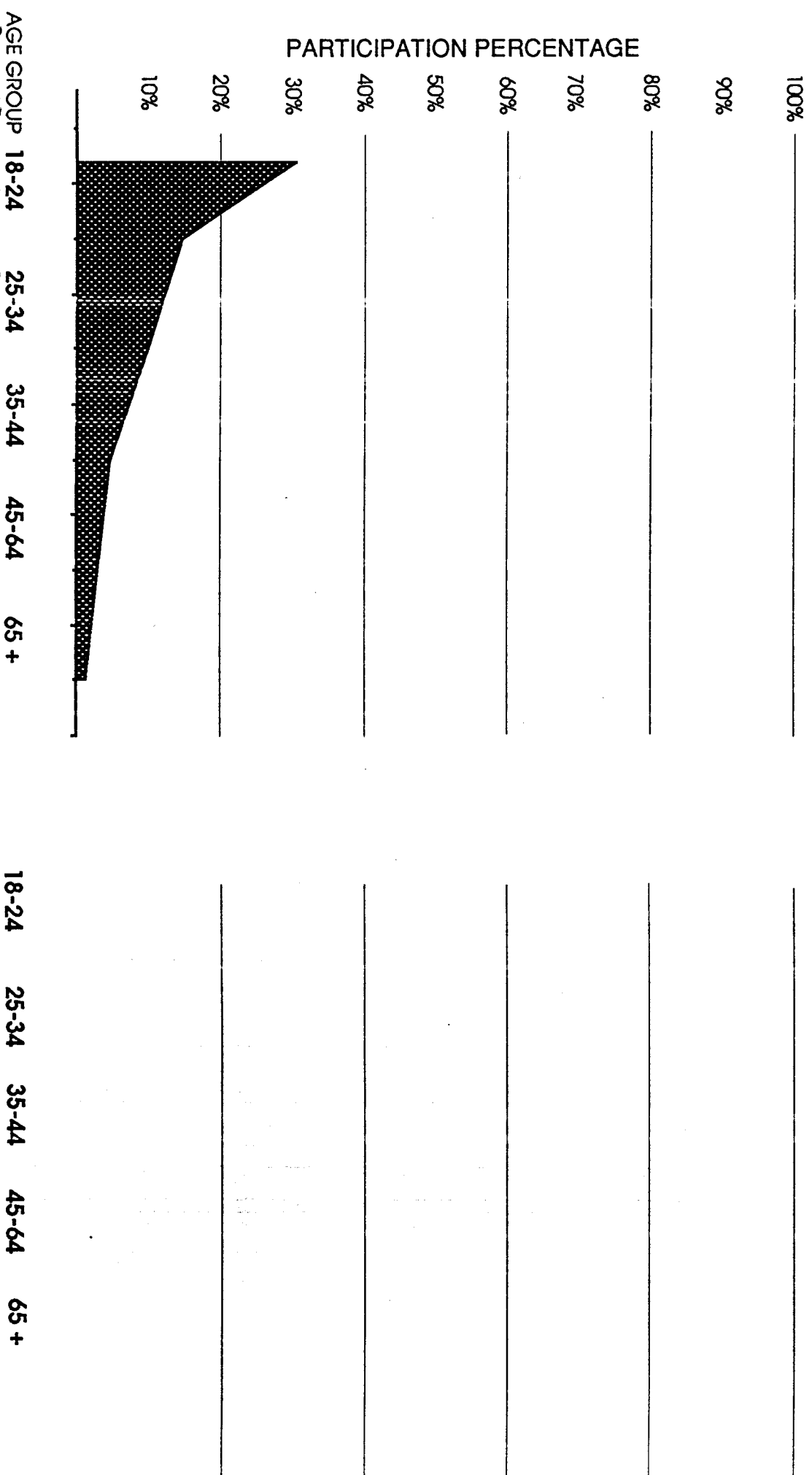


EXHIBIT 19
DATE 2-12-91
HB 309

DAYHIKING/ WALKING

FISHING

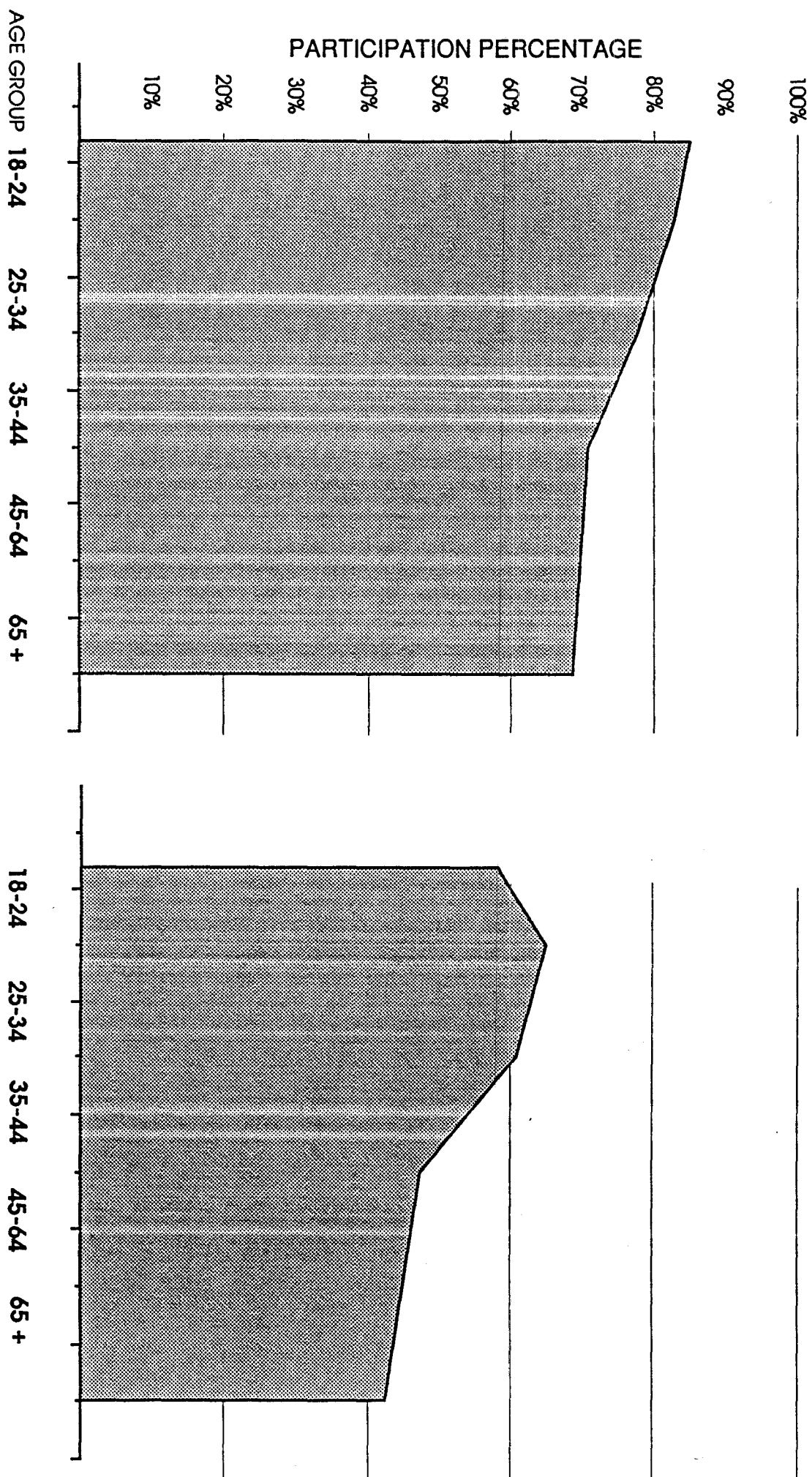


EXHIBIT 19
DATE 2-12-91
HB 309

HUNTING

NATURE STUDY / BIRDWATCHING

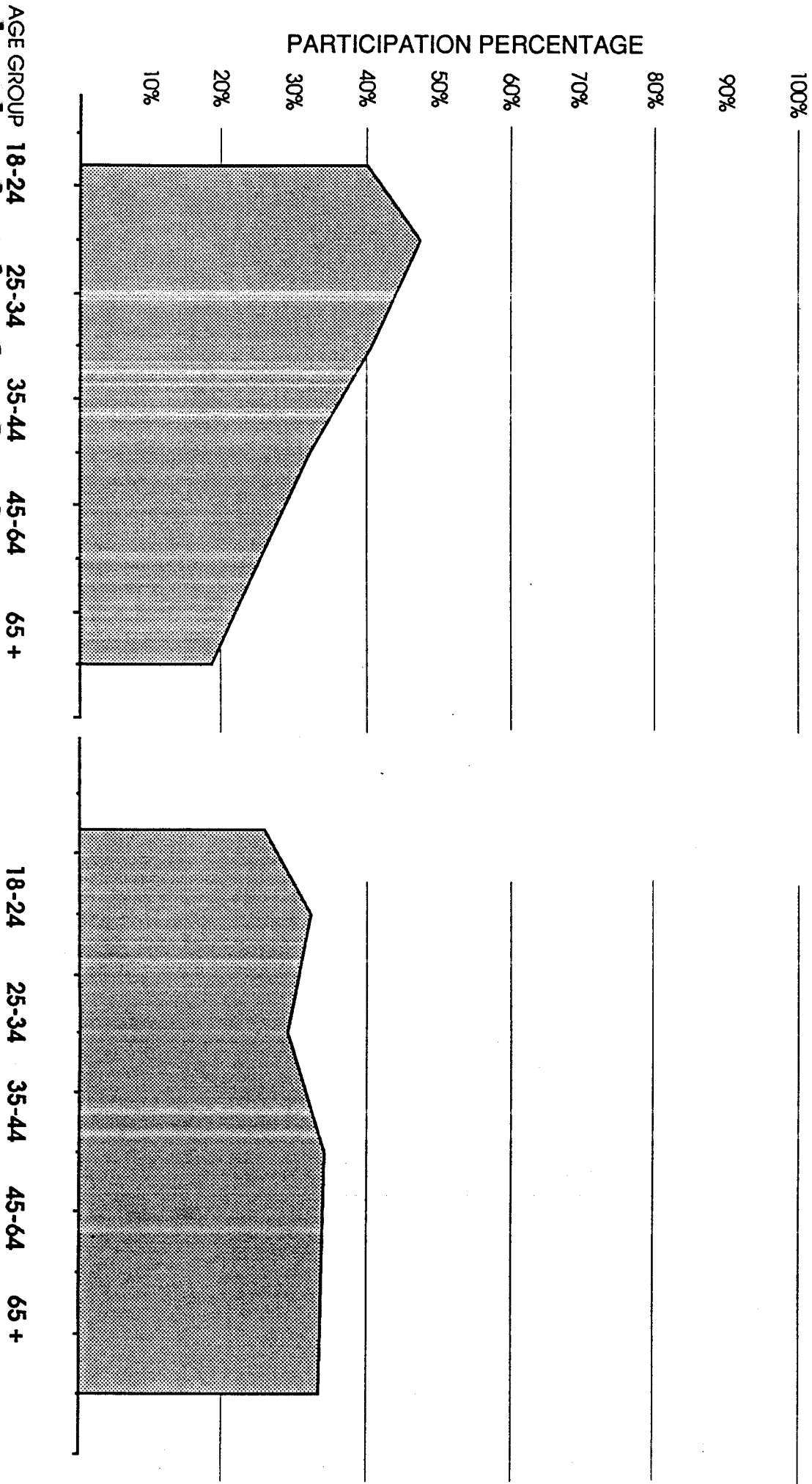


EXHIBIT 19
DATE 2-12-91
HB 309

HORSEBACK RIDING

BACKPACKING OVERNIGHT

AGE GROUP 18-24

25-34

35-44

45-64

65 +

18-24

25-34

35-44

45-64

65 +

PARTICIPATION PERCENTAGE

80%

70%

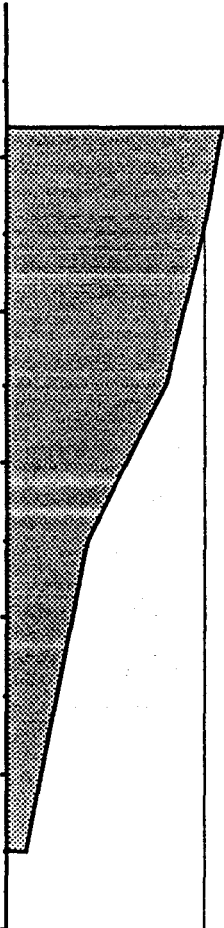
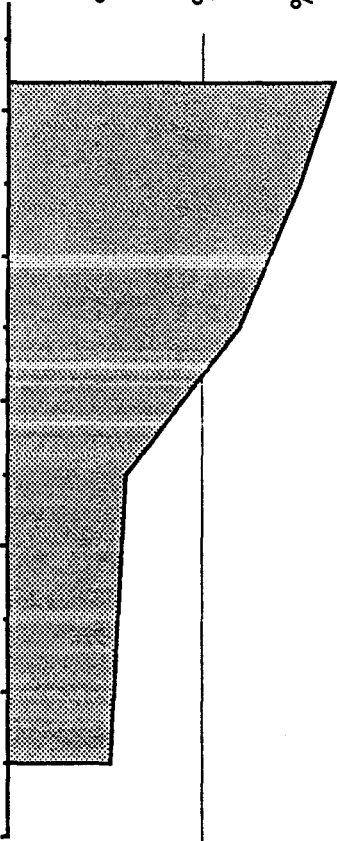
50%

40%

30%

20%

10%



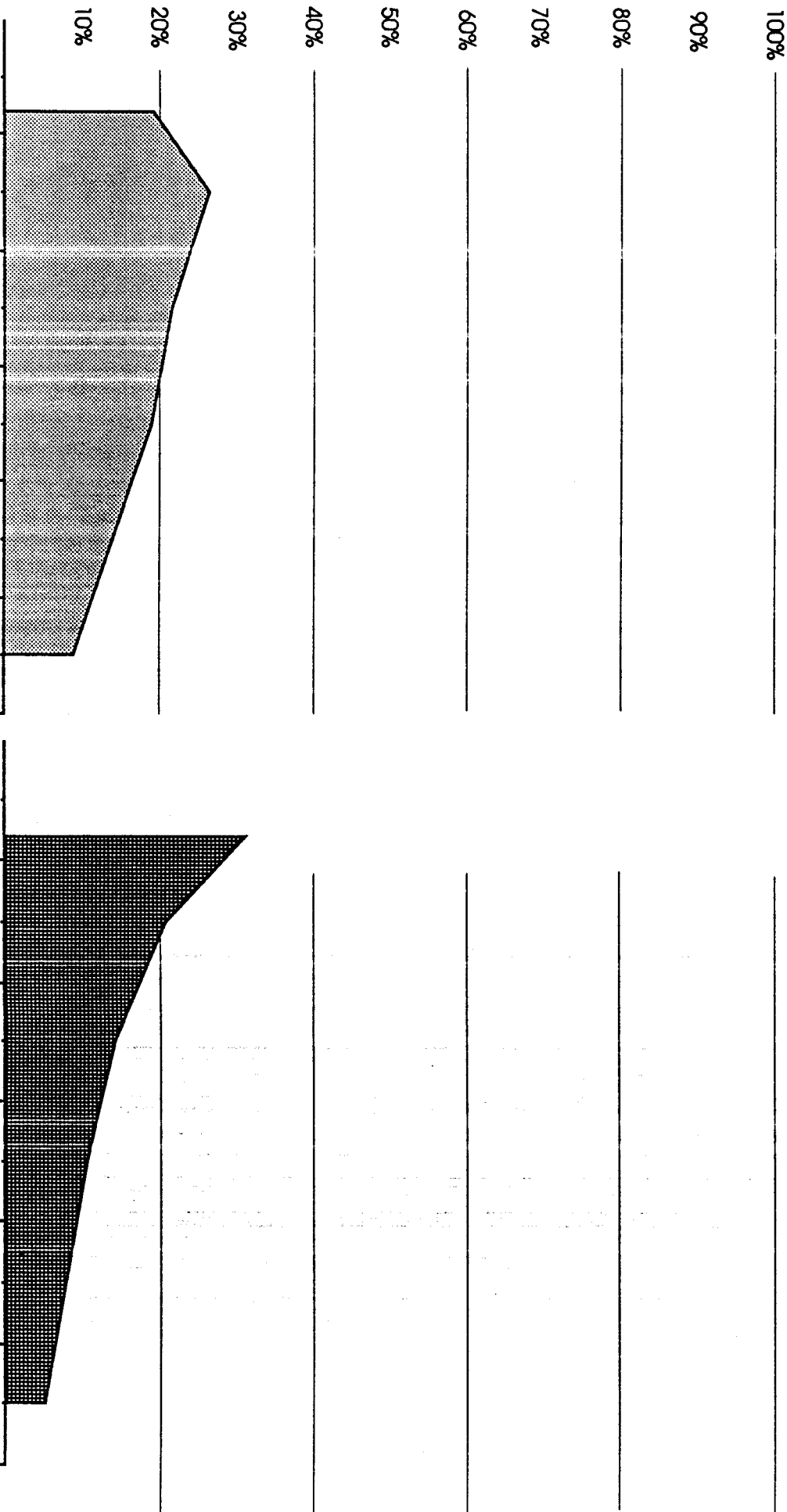
WINTER RECREATION

CROSS COUNTRY SKIING

SNOWMOBILING

EXHIBIT 19
DATE 2-12-91
HB 009

PARTICIPATION PERCENTAGE



AGE GROUP 18-24

25-34

35-44

45-64

65+

18-24

25-34

35-44

45-64

65+

EXHIBIT 20
DATE 2-12-91
HB 527

Amendments to House Bill No. 527
First Reading Copy

Requested by Representative Davis
For the Committee on

Prepared by Greg Petesch
February 7, 1991

1. Page 7, line 9.

Following: "treasurer"

Insert: "or to the judge hearing a case in which lack of
insurance is shown,"

2. Page 7, lines 11 and 12.

Following: "until"

Strike: remainder of line 11 through "required" on line 12

Insert: "proof of compliance with subsection (1) is shown, all
applicable fines and court costs are paid,"

EXHIBIT 21
DATE 2-12-91
HB 527

February 11, 1991

To Whom It May Concern:

I am writing to support House Bill 527 which would require proof of financial responsibility for motor vehicle owners. In my opinion, the current law does not have strong enough penalties for those who choose not to obey it. The rights of the victims of uninsured motorists must be protected. It is my hope that a strong bill will deter uninsured motorists.

Nancy Loncki
807 Chickadee Court
Great Falls, MT
59404

(406) 761-5716

EXHIBIT 22
DATE 2-12-91
HB 527



LENORE F. TALIAFERRO

1026 Ninth Avenue
Helena, MT 59601

406/443-0489

February 8, 1991

TESTIMONY ON HB 527
"REQUIREMENTS FOR PROOF OF FINANCIAL RESPONSIBILITY
FOR MOTOR VEHICLE OWNERS"
SPONSOR: REP. JOHN PHILLIPS

I support HB 527. I submit to you that **PROOF** of liability insurance by motor vehicle owners is essential. Presently, all individuals who wish to get new tags sign testimony that insurance is in effect, when in fact, not all who sign have required insurance, or, cancel immediately.

Law abiding drivers who do carry liability insurance become victims of those who do not. An uninsured driver can cause damage and harm to another individual. The cost of repair and other accident expenses become the burden of the victim. The victim incurs real costs in excess of his/her insurance premium. A claim on the victim's coverage results in increased rates for future premiums, or possible cancellation. The person who has caused the damage has little to lose and continues to assure that liability insurance is in effect, when it is not, and suffers minimal consequence.

If one is required by law to carry this insurance, then it is essential that this law be **ENFORCED**. It is crucial that proof of insurance be required and that the ability to cancel coverage be eliminated for at least 12 months from the date that proof of coverage is provided in order to secure lawful, current license tags. If this requirement of coverage for 12 months could become an amendment to the bill, then it might be less burdensome on the insurance industry and eliminate the need for notification and related costs. I reiterate the need to prohibit cancellation for 12 months, unless the owner of the vehicle can prove that no vehicle is owned. This requirement would at least protect lawful victims from bearing costs created by unlawful, uninsured drivers for at least a year.

While enforced penalties are necessary, it is important to make sure that very low income persons are taken into consideration so that these persons who simply have inadequate income to meet basic needs would not be severely penalized because of a poverty condition. Transportation is critical to families with young children and to older persons who have no other means of getting to essential services.

Submitted by,

Lenore F. Taliaferro

Testimony on HB 352
House Highways & Transportation Committee
February 12, 1991

EXHIBIT 23
DATE 2-12-91
HB 352

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

With the amendments offered by the sponsor, this bill makes it clear that snowmobile account monies can be used to address environmental consequences of those facilities.

It has been brought to our attention that passed snowmobile grooming projects funded by the Montana Dept. of Fish, Wildlife & Parks (MDFWP) have largely escaped environmental review. MDFWP has stated that future grooming proposals under their direction will be reviewed as required by the Montana Environmental Policy Act. Montana Audubon feels that it is fair and appropriate for this review, as well as any recommendation for mitigation of impacts, be paid for out of the snowmobile account funds. This is particularly true for three reasons:

- 1) If snowmobile trails are proposed in sensitive areas, particularly wildlife winter range, there are additional costs associated with such proposals. If a proposal is allowed to occur in a sensitive area, it may only be allowed if there is additional signing, fencing, enforcement, wildlife monitoring, etc. The money for such mitigation should come from the snowmobile program. Recreation in sensitive areas brings with it very real costs.
- 2) The Montana Snowmobile Association assures us that they are willing to pay for the costs of their program. The strict language in the statutes, and a recent legal opinion from the Montana Department of Fish, Wildlife & Parks, question whether or not the money in this program can be used for mitigation and monitoring. The language proposed in this bill clarifies that mitigation and monitoring are part of the costs associated with this program.
- 3) There is no General Fund tax money in a recreation program for the state of Montana. The State Parks System is in dire straits - and cannot afford to subsidize the snowmobile grooming program. The only logical source of funding for any mitigation or monitoring of snowmobile facilities is the snowmobile account.

Almost all of the currently groomed snowmobile trails are in non-sensitive areas. There are, however, several places where snowmobiles have proposed to go or are going that include sensitive areas. If there are such proposals in the future, the program should pay for these costs.

- 1) Red Rock Lakes National Wildlife Refuge. We decided to propose HB 352 because of the proposal to groom into this refuge. The area is well known as moose wintering range. When MDFWP decided to do an Environmental

Assessment (EA) on this proposal last summer, they were unsure how to pay for it. They finally determined that the EA could be paid for with snowmobile funds. They completed the EA in the fall of 1990. If the proposal is granted, there are various mitigation measures suggested, including signing, fencing, extra enforcement and monitoring.

2) In the Lincoln area, 18 miles of groomed trail go through elk winter range. After much negotiation, the MDFWP came up with the following mitigation requirements for this area: signing the area and posting a map of the winter game range. Snowmobilers agreed to voluntarily police themselves.

3) Several areas in the Badger-Two Medicine near Browning were rejected for grooming because of the affect on mountain goat winter range (Lee Creek and across Bullshoe and Running Owl, the North Fork of Badger to Kip Creek). This is one area in the history of the program that grooming has not been allowed because of wildlife.

I have included some background information on the snowmobile program for your benefit:

1) Testimony from the Montana Snowmobile Association from a 1979 hearing stating that they have "long recognized and accepted the responsibility of paying our own way..."

2) A copy of the legal opinion issued by the Montana Department of Fish, Wildlife & Parks stating that mitigation and monitoring costs are questionable to pay for out of this fund.

We feel that we have a legitimate concern and that the clarifying language in this bill answers our concern. We want to assure the committee, like we have tried to assure snowmobilers we have talked to, that we are not at all interested in shutting down snowmobiling in Montana.

We do not feel that this clarifying language will add significant costs to this program because

1) Most of the trails that snowmobilers groom are on federal land, either U.S. Forest Service or BLM. These federal agencies should pay the cost of any Environmental Assessments done for snowmobile trails. EAs written for state or private land would come out of this fund.

2) Probably 95% of the trails that snowmobilers are interested in grooming are not in sensitive areas. When a trail does go through a sensitive area, the additional costs of recreating in such an area should be paid for with recreational monies.

We are willing to discuss amendments to this bill that the Montana Snowmobile Association, or any other interested party, would propose to make. We are willing to work with anyone who is interested in this program to help us clarify the language in Montana law, and not threaten snowmobilers.

1605 Lewis
Billings, Montana 59102

EXHIBIT

DATE

HB

23

2-12-91

352

Montana

Exh. #2

SNOWMOBILE

Association

January 30, 1979

Testimony in support of SB-172

The Montana Snowmobile Association and snowmobilers throughout North America have long recognized and accepted the responsibility of paying our own way. We have never asked for, or do we intend to ask for general fund money or any other money that is not generated by the use of snowmobiles. We bring to your attention the fact that the monies we are requesting in SB-172 is that portion of the gasoline tax funds that would not be there were it not for the operation of snowmobiles, and therefore should have no real effect on the highway fund. We further point out, that the sport of snowmobiling does contribute to the highway fund, many times this amount through the use of our cars and pickups in transporting our machines to and from the use areas. We are not talking about these or any other legitimate highway funds. We are talking about off-highway gasoline tax dollars, but since the legislature has to determine the amount used in off-highway vehicles, you have the obligation to insure these funds are used in accordance with the intent of the Constitution and the Revised Codes of Montana.

Snowmobilers not only pull our own weight, but the tourism and other winter related activities contribute an enormous economic input to Montana.

The sports of boating and snowmobiling are more closely related than with any other sport. Both are family sports, both are limited to about the same length season, both operate in controlled circumstances, neither have a direct impact on the ground, both require vehicular parking facilities, both number about the same, and both use about the same amount of gasoline, but boats currently receive three times the amount of money.

Two years ago we introduced this same bill. The House Taxation Committee suggested our request be cut in half for two basic reasons:-
(1) Their concern over proper administration of the earmarked funds, and
(2) Lack of specific details on what type projects would be funded and where the actual requirements were.

We accepted this compromise with the understanding that our original request could be granted by the 46th. legislature if these concerns were eliminated. The facts we present here today should adequately dispel these concerns.

We have asked the Department of Fish and Game to provide an accounting of their snowmobile related activities. They have responded by preparing the brochures and reports you will receive, as well as their testimony today.

The people of Montana need SB-172 and we urge your support.

Thank you.

ntana

SNOWMOBILE

Association

January 30, 1979

FACT SHEET IN SUPPORT OF SB- 172

- 30,000 snowmobiles now operating in Montana.
- 142,000 snowmobilers currently active in Montana.
- The above figures show an approximate 25% increase in the past two years.
- In the US, sales are up 26% in '77-'78 over '76-'77.
- A 1977 study by the Dept. of Interior HCRS showed:-
 - 8.9 million people in the US snowmobiled 4 or more times,
 - 5.3 million people in the US snowmobiled 4 times or less, plus
 - 5.3 million people in the US expressed a strong interest.This adds up to 14.2 million snowmobilers in the US compared to 12 million skiers.
- a recent Nielson poll states that snowmobiling is the 3rd. fastest growing sport in the US, following tennis and snow skiing.
- There are 165 snowmobile dealers in Montana.
- Snowmobiling constitutes a \$46 million economic impact to Montana.
- Our request amounts to about \$2.00 per Montana snowmobiler.
- Boaters receive 9/10 of 1% whereas snowmobilers currently receive only 3/10 of 1% even though they number about the same and the use about the same amount of gasoline.
- Our claim for 6/10 of 1% is based on the national average of gasoline consumption per machine per year. Montanans will average more, due to less controlled conditions.
- 30,000 snowmobiles using 110 gal. each @.08¢ = \$264,000.00
- Article 8 section 6 of the Montana constitution and 94-1855 RCM, clearly states that only those gasoline tax monies generated by highway use should be used in highway construction, therefore those tax monies generated in off-highway use should be expended for off-highway purposes. A legal opinion by the legislative council says our request does not constitute a diversion of highway funds.
- SB-172 is the only bill introduced this session that will provide additional funding for snowmobile programs.

Ken Hoovestol, legislative chairman
Montana Snowmobile Association
1805 Lewis
Billings, Montana 59102

(Documentation of the ab
facts can be provided
upon request)

**Montana Department
of
Fish, Wildlife & Parks**

EXHIBIT 24

DATE 2-12-91

HB 392



MEMO

TO: Arnie Olsen
FROM: Eileen Shore *Eileen*
DATE: January 14, 1991
SUBJECT: Snowmobile legislation

You have asked the legal unit to answer the following question:

Can snowmobile funds now used for developing and maintaining facilities also be used to pay for related planning and preparation of environmental assessments or environmental impact statements, etc?

As I understand it, the question has been posed in view of legislation that the Montana Audubon Society may introduce, and which the Montana Snowmobile Association does not wish to have introduced. The copy of the legislation I have goes beyond the issue of funding environmental assessments or environmental impact statements, and includes use of snowmobile funds "to minimize environmental consequences of facilities through planning, mitigation, and monitoring. Therefore, I will attempt to address the issue of whether, in my opinion, this additional language is needed.

In answering these questions the following language of the present statute must be construed:

Money credited to the snowmobile account may be used only to develop and maintain facilities open to the general public at no admission cost and to promote snowmobile safety.

60-3-201(5), MCA

I do not believe that there is much question that snowmobile funds may be used for environmental documents related to the Montana Environmental Policy Act (MEPA) (Section 75-1-101 et seq., MCA),

Memorandum
January 14, 1991
Page -2-

EXHIBIT 24
DATE 2-12-91
HB 352

since an environmental analysis may be a legally required part of the development of facilities.

In addition, I believe that if the department interpreted the statute to include planning, mitigation and monitoring in order to minimize environmental consequences, it is likely that a court would probably accept that interpretation as reasonable, especially if such activities are associated with a MEPA analysis.

However, there is some possibility that a court would look at the statute's limiting language ("may be used only to develop and maintain facilities") as expressing a legislative intent that the money be used only for activities directly related to parking area and trail construction and maintenance. Such a narrow and mechanical interpretation would most likely exclude mitigation measures, especially if they were "off site" measures, that is, mitigation measures pursued away from the physical location of the snowmobile facility. I believe a narrow interpretation might also exclude environmental monitoring as a valid use of money from this account.

The legislative history of the snowmobile legislation makes no mention of environmental monitoring, assessment or mitigation, but emphasizes the law's own emphasis on development, maintenance and safety. There is no discussion of why the law has the limiting "only" language.

dm

c: . Bob Lane
Mary Ellen McDonald
Liz Lodman

snowmo.ao

Testimony on HB-352

Montana Snowmobile Association
by Ken Hoovestol, Legislative Chairman
761-2811, Great Falls

2/12/91

EXHIBIT 24
DATE 2-12-91
HB 352

The concern that prompted HB-352 was whether or not existing law would permit snowmobile funds to be used for environmental documents such as an EA or an EIS. We feel the attached attorneys opinion clearly states that existing law is adequate. Therefore we feel that HB-352 is not needed.

If, after reviewing the attached opinion, the committee feels that additional language is in fact needed, I submit the following ammendments:

Page 3, line 13
Following "used"
Insert: only

Page 3, line 15
Following "cost"
Insert: Where snowmobiling is allowed.

Page 3, line 20
Following "facilities"
Strike: through planning, mitigation, and monitoring

The words "planning, mitigation and monitoring" are undefined and vague as to their meaning and would only lead to an unworkable law.

Our preference would be that HB-352 be simply tabled in committee.

Thank you for your consideration.

EXHIBIT 25
DATE 2-12-91
HB 352

Amendments to House Bill No. 352
Introduced (white) Reading Copy

Requested by Rep. Raney
For the Committee on Highways

Prepared by Doug Sternberg
February 12, 1991

1. Title, line 6.

Strike: "MINIMIZE"

Insert: "ADDRESS"

2. Page 3, line 19.

Strike: "minimize"

Insert: "address"

EXHIBIT 26
DATE 2-12-91
HB 352

HB 352
February 12, 1991

Testimony presented by Arnold Olsen, Dept. of Fish, Wildlife & Parks

During the 14 years that the Department of Fish, Wildlife & Parks has administered the Montana Snowmobile Program, potential conflicts involving sensitive wildlife areas have occurred. They have been resolved through negotiations involving the local snowmobile clubs, land management agencies and our department.

At the present time, all applications for trail grooming projects are reviewed by department biologists to evaluate wildlife impacts prior to releasing grooming funds. The biologists identify sensitive areas and recommend approval, mitigation or, if necessary, disapproval of grooming projects.

Nearly 90% of the snowmobile groomed trail system is on U.S. Forest Service land. Environmental concerns are also addressed in Forest Travel Plans.

The department has assisted in resolving issues involving snowmobiles and grizzly bears, moose, elk, mountain sheep and other species in places like Teton Pass - Waldron Creek in Teton County, Badger Two Medicine - Marias Pass, Ten Lakes Wilderness Study Area near Eureka, Keep Cool Hills near Lincoln, and the Red Rock Lakes National Wildlife Refuge.

Where conflict occurred funds were withheld until environmental issues were resolved. In particularly sensitive areas some projects were canceled. Where mitigation measures were an answer they included:

- signing to direct snowmobilers to stay on the groomed trails,
- rerouting of trails,
- mandatory trail designation through specified areas.

Use of some sensitive areas is monitored using traffic counters.

The department believes the existing law allows expenditure of snowmobile funds for environmental assessment purposes. This is viewed as a necessary and reasonable cost of providing groomed snowmobile trails. To date such expenditures have not been questioned by snowmobilers or auditors.

While snowmobile funds have not funded environmental monitoring, we believe that this is allowable if associated directly with a trail grooming project.

The department is now considering preparing a Programmatic Environmental Impact Statement for the entire snowmobile program. This will be done to bring the program into compliance with the Montana Environmental Policy Act. In our opinion this cost is allowed under the existing snowmobile law.

In summary, Mr. Chairman, the department has the responsibility to manage recreational uses and to preserve wildlife values. We must balance legitimate environmental concerns with reasonable opportunities for recreational use. The existing law accommodates this goal.

EXHIBIT 27
DATE 2-12-91
HB 306

Amendments to House Bill No. 306
First Reading Copy ((White))

Requested by Representative Lee
For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 12, 1991

1. Title, line 5.
Following: "LIMITS"
Insert: "IN AREAS NEAR SCHOOLS"

2. Title, lines 5 through 10.
Following: ";" on line 5
Strike: remainder of line 5 through "AREAS;" on line 10

3. Title, lines 10 and 11.
Following: "AMENDING" on line 10
Strike: remainder of line 10 through first "AND" on line 11
Insert: "SECTION"

4. Page 1, line 15 through page 3, line 4.
Strike: section 1 in its entirety
Renumber: subsequent sections

5. Page 3, line 9.
Following: "~~investigation~~"
Insert: "on the basis of an engineering and traffic
investigation"

6. Page 3, line 16.
Strike: "or"

7. Page 3, line 18.
Strike: "."
Insert: "; or
(d) decreases the limit in an area near a school to
not less than 80% of the speed limit that would be set on
the basis of an engineering and traffic investigation."

8. Page 4, line 13.
Following: line 12
Insert: "(5) Except as provided in subsection (1)(d), the
commission has exclusive jurisdiction to set special speed
limits on all federal-aid highways or extensions thereof in
all municipalities or urban areas. The commission shall set

these limits in accordance with 61-8-309."

House BILL NO. 306
 INTRODUCED BY *Spencer* *Spencer*

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING WHEN A LOCAL
 IN AREAS NEAR SCHOOLS
 AUTHORITY MAY ALTER SPEED LIMITS; ELIMINATING THE NECESSITY
 OF AN ENGINEERING AND TRAFFIC INVESTIGATION BEFORE A LOCAL
 AUTHORITY CAN ESTABLISH A SPEED LIMIT, ELIMINATING THE
 HIGHWAY COMMISSION'S EXCLUSIVE JURISDICTION TO SET SPEED
 LIMITS ON FEDERAL-AID HIGHWAYS OR EXTENSIONS IN
 MUNICIPALITIES OR URBAN AREAS; AMENDING SECTIONS 61-8-302
 AND 61-8-310, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 61-8-303, MCA, is amended to read:~~

"61-8-303. Speed restrictions -- basic rule. (1) A person operating or driving a vehicle of any character on a public highway of this state shall drive it in a careful and prudent manner, and at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation, taking into account the amount and character of traffic, condition of brakes, weight of vehicle, grade and width of highway, condition of surface, and freedom of obstruction to view ahead, and he shall drive it so as not to unduly or unreasonably endanger the life,

~~limb, property, or other rights of a person entitled to the use of the street or highway.~~

~~(2) Where no special hazard exists that requires lower speed for compliance with subsection (1) of this section, the speed of a vehicle not in excess of the limits specified in this section or established as authorized in 61-8-309, 61-8-310, 61-8-311, and 61-8-313 is lawful, but a speed in excess of those limits is unlawful:~~

~~(a) 25 miles per hour in an urban district;~~

~~(b) 35 miles per hour on a highway under construction or repair or on a highway being surveyed;~~

~~(c) 55 miles per hour in other locations during the nighttime, except that the nighttime speed limit on completed sections of interstate highways is 65 miles per hour.~~

~~(3) "Daytime" means from one-half hour before sunrise to one-half hour after sunset. "Nighttime" means at any other hour.~~

~~(4) The speed limits set forth in this section may be altered by the highway commission as authorized in 61-8-309, 61-8-310, and 61-8-313.~~

~~(5) The driver of a vehicle shall, consistent with subsection (1), drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when~~

EXHIBIT

DATE

HB

27

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INTRODUCED BILL

HB 306

1 ~~approaching a hill crest, when traveling upon a narrow or~~
 2 ~~winding roadway, and when a special hazard exists with~~
 3 ~~respect to pedestrians or other traffic or by reason of~~
 4 ~~weather or highway condition."~~

5 Section 2. Section 61-8-310, MCA, is amended to read:

6 "61-8-310. When local authorities may and shall alter
 7 limits. (1) If a local authority in its jurisdiction
 8 determines ~~on the basis of an engineering and traffic~~
 9 ~~investigation that the speed permitted under 61-8-303 and~~
 10 ~~61-8-309 through 61-8-313 is greater or less than is~~
 11 ~~reasonable and safe under the conditions found to exist upon~~
 12 ~~a highway or part of a highway, the local authority may set~~
 13 ~~a reasonable and safe limit thereon which:~~

14 (a) decreases the limit at an intersection;

15 (b) increases the limit within an urban district, but
 16 not to more than 55 miles per hour during the nighttime; ~~or~~

17 (c) decreases the limit outside an urban district, but
 18 not to less than 15 miles per hour; ~~or (d) decreases the limit in an area near a school~~
 19 ~~(2) A board of county commissioners may set limits as~~
 20 ~~provided in subsection (1)(c) without an engineering and~~
 21 ~~traffic investigation on a county road, as defined in~~
 22 ~~60-1-103.~~

23 (3) A local authority in its jurisdiction shall may
 24 determine by an engineering and traffic investigation the

25 proper speed for all arterial streets and shall set a

1 reasonable and safe limit thereon which may be greater or
 2 less than the speed permitted under 61-8-303 for an urban
 3 district.

4 (4) An altered limit established as authorized under
 5 this section is effective at all times or at other times
 6 determined by the authority when appropriate signs giving
 7 notice of the altered limit are erected upon the highway.

8 (5) ~~The commission has exclusive jurisdiction to set~~
 9 ~~special speed limits on all federal-aid highways or~~
 10 ~~extensions thereof in all municipalities or urban areas. The~~
 11 ~~commission shall set these limits in accordance with~~
 12 ~~61-8-309."~~

13 NEW SECTION. Section 3. Effective date. [This act] is

14 effective on passage and approval.

-End-

*the limit in an area near a school
 is not less than 80% of the speed limit that
 would be set on the basis of an
 engineering and traffic investigation.*

(5) Except as provided in subsection (1)(d), the
 commission has exclusive jurisdiction to set special speed
 limits on all federal-aid highways or extensions thereof in
 all municipalities or urban areas. The commission shall set

these limits in accordance with 61-8-309.

EXHIBIT 28
DATE 2-12-91
HB 47

Amendments to House Bill No. 47
First Reading Copy (White)

Requested by Representative Stepler
For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 11, 1991

1. Title, line 4.

Strike: "TO PROHIBIT"

Insert: "RESTRICTING"

2. Title, line 5.

Strike: "REFLECTIVE OR DARKENING"

Insert: "TINTING OR SUNSCREENING"

3. Page 1, line 12.

Strike: "darkening prohibited"

Insert: "window tinting and sunscreening -- restrictions --
exemptions"

4. Page 1, line 18.

Strike: "A"

Insert: "Except as provided in subsection (6), a"

5. Page 1, lines 18 through 21.

Following: "vehicle" on line 18

Strike: remainder of line 18 through "vehicle." on line 21

Insert: "that is required to be registered in this state upon a
highway if:

(a) the windows are tinted so that the driver's clear
view through the windshield or side windows is reduced or
the ability to see into the motor vehicle is substantially
impaired;

(b) the windshield has any sunscreening material that
is not clear and transparent below the AS-1 line or if it
has a sunscreening material that is red, yellow, or amber in
color above the AS-1 line;

(c) the front side windows have any sunscreening or
other transparent material that has a luminous reflectance
of more than 35% or has light transmission of less than 35%;

(d) the side windows behind the front seat have
sunscreening or other transparent material that has a
luminous reflectance of more than 35% or has light
transmission of less than 20%, except for the side windows
behind the front seat on a multipurpose vehicle, van, or
bus; or

(e) the windows of a camper, motor home, pickup cover,

slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205."

6. Page 1, line 24 through page 2, line 1.

Following: "windshield" on line 24

Strike: remainder of line 24 through "vehicle" on page 2, line 1

7. Page 2, line 4.

Following: line 3

Insert: "(5) As used in [sections 2 and 3] and this section, the following definitions apply:

(a) "AS-1 line" means a line extending from the letters AS-1, found on most motor vehicle windshields, running parallel to the top of the windshield or a line 5 inches below and parallel to the top of the windshield, whichever is closer to the top of the windshield.

(b) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons.

(c) "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle.

(d) "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(e) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(f) "Motor home" means a multipurpose passenger vehicle that provides living accommodations.

(g) "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional off-road use.

(h) "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user.

(i) "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user.

(j) "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun.

(6) Subsection (2) does not apply to a vehicle that is equipped with tinted windows of the type and specifications that were installed by the manufacturer of the vehicle or to any hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is

affixed as specified under [section 2]. A certificate of waiver must be issued by the department for a vehicle that is registered in this state on [the effective date of this act] and is equipped with a sunscreening device or other material prohibited under subsection (2) on [the effective date of this act].

NEW SECTION. Section 2. Window tinting and sunscreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 61-9-405(2) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. The waiver must be in writing and must include the vehicle identification number, registration number, or other description to clearly identify the motor vehicle to which the waiver applies and the date issued, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver is effective, and the signature of the head of the law enforcement agency granting the waiver. The agency shall keep a copy of the waiver until the waiver expires.

NEW SECTION. Section 3. Window tinting and sunscreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 61-9-405(2) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) A person who applies a sunscreening material or a glass-plastic glazing material in a manner that results in a motor vehicle having a window that violates the requirements of 61-9-405(2) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

NEW SECTION. Section 4. {standard} Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4, apply to [sections 2 and 3]."

1 HOUSE BILL NO. 47

2 INTRODUCED BY GRADY

3
4 **RESTRICTING**
5 **A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT THE USE OF**
6 **TINTING OR SUNKENING**
7 **REFLECTIVE OR DARKENING MATERIAL ON THE WINDSHIELD OR SIDE**
8 **WINDOWS OF A MOTOR VEHICLE; AND AMENDING SECTION 61-9-405,**
9 **MCA."**

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 61-9-405, MCA, is amended to read:

12 "61-9-405. Windshields to be unobstructed and equipped
13 with wipers -- ~~darkening prohibited~~ ^{restrictions -- exemptions} (1) No A person shall

14 may not drive any a motor vehicle with any a sign, poster,
15 or other nontransparent material upon the front windshield,
16 side wings, or side or rear windows of such the vehicle
17 which that obstructs the driver's clear view of the highway
18 or any an intersecting highway

19 (2) ~~a person may not operate a motor vehicle with~~
20 ^{Exempt as provided in subsection (6), a}

21 ~~reflective or darkening material on the front windshield or~~
22 ~~side windows that prevents other persons from seeing into~~
23 ~~the driver's portion of the vehicle that is required to be registered in this state upon a highway if:~~

24 (2)(3) The windshield on every a motor vehicle shall
25 must be equipped with a device for clearing rain, snow, or
other moisture from the windshield, ~~which and the device~~
~~shall must be so constructed as to be so that it is~~

1 ~~controlled or operated by the driver of the vehicle.~~

2 {3}{4} Every Each windshield wiper upon a motor vehicle

3 shall must be maintained in good working order."

-End-

(5)

(6)

New Section. Section 2.

New Section. Section 3.

New Section. Section 4.

EXHIBIT 28
DATE 2-12-91
HB 47

INTRODUCED BILL

-2-

HB 47

Amendments to House Bill No. 29
First Reading Copy (White)

Requested by Representative Steppler
For the Committee on Highways and Transportation

Prepared by Valencia Lane
February 11, 1991

1. Title, line 4.

Strike: "PROHIBITING"

Insert: "RESTRICTING"

2. Title, line 5.

Strike: "REFLECTIVE OR DARKENING"

Insert: "TINTING OR SUNSCREENING"

3. Page 1, line 11.

Strike: "darkening of side or rear windows prohibited"

Insert: "window tinting and sunscreening -- restrictions --
exemptions"

4. Page 1, lines 19 through 21.

Following: "windshield" on line 19

Strike: remainder of line 19 through "vehicle" on line 21.

5. Page 1, line 24.

Strike: "A"

Insert: "Except as provided in subsection (6), a"

6. Page 1, line 24 through page 2, line 2.

Following: "vehicle" on line 24

Strike: remainder of line 24 through "vehicle." on page 2, line 2

Insert: "that is required to be registered in this state upon a
highway if:

(a) the windows are tinted so that the driver's clear
view through the side or rear windows is reduced or the
ability to see into the motor vehicle is substantially
impaired;

(b) the front side windows have any sunscreening or
other transparent material that has a luminous reflectance
of more than 35% or has light transmission of less than 35%;

(c) the rear window or side windows behind the front
seat have sunscreening or other transparent material that
has a luminous reflectance of more than 35% or has light
transmission of less than 20%, except for the rear window or
side windows behind the front seat on a multipurpose
vehicle, van, or bus; or

(d) the windows of a camper, motor home, pickup cover,

slide-in camper, or other motor vehicle do not meet the standards for safety glazing material specified by federal law in 49 CFR 571.205.

(5) As used in [sections 2 and 3] and this section, the following definitions apply:

(a) "Camper" means a structure designed to be mounted in the cargo area of a truck or attached to an incomplete vehicle for the purpose of providing shelter for persons.

(b) "Glass-plastic glazing material" means a laminate of one or more layers of glass and one or more layers of plastic in which a plastic surface of the glazing faces inward when the glazing is installed in a vehicle.

(c) "Light transmission" means the ratio of the amount of total light, expressed in percentages, that is allowed to pass through the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(d) "Luminous reflectance" means the ratio of the amount of total light, expressed in percentages, that is reflected outward by the sunscreening or transparent material to the amount of total light falling on the motor vehicle window.

(e) "Motor home" means a multipurpose passenger vehicle that provides living accommodations.

(f) "Multipurpose vehicle" means a motor vehicle designed to carry 10 or fewer passengers that is constructed on a truck chassis or with special features for occasional off-road use.

(g) "Pickup cover" means a camper having a roof and sides but without a floor designed to be mounted on and removable from the cargo area of a pickup truck by the user.

(h) "Slide-in camper" means a camper having a roof, floor, and sides designed to be mounted on and removable from the cargo area of a truck by the user.

(i) "Sunscreening material" means a film, material, tint, or device applied to motor vehicle windows for the purpose of reducing the effects of the sun.

(6) Subsection (4) does not apply to a vehicle that is equipped with tinted windows of the type and specifications that were installed by the manufacturer of the vehicle or to any hearse, ambulance, government vehicle, or any other vehicle to which a currently valid certificate of waiver is affixed as specified under [section 2]. A certificate of waiver must be issued by the department for a vehicle that is registered in this state on [the effective date of this act] and is equipped with a suncreening device or other material prohibited under subsection (4) on [the effective date of this act].

NEW SECTION. Section 2. Window tinting and sunscreening -- waiver -- conditions. The highway patrol or a local law enforcement agency may grant a waiver of the standards of 61-9-405(4) for reasons of safety or security or for medical reasons based on an affidavit signed by a licensed physician. The waiver must be in writing and must

include the vehicle identification number, registration number, or other description to clearly identify the motor vehicle to which the waiver applies and the date issued, the name of the owner of the vehicle, the reason for granting the waiver, the dates the waiver is effective, and the signature of the head of the law enforcement agency granting the waiver. The agency shall keep a copy of the waiver until the waiver expires.

NEW SECTION. Section 3. Window tinting and sunscreening -- penalty. (1) A person who owns or operates a motor vehicle in violation of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

(2) A person who applies a suncreening material or a glass-plastic glazing material in a manner that results in a motor vehicle having a window that violates the requirements of 61-9-405(4) is guilty of a misdemeanor and is punishable as provided in 46-18-212.

NEW SECTION. Section 4. {standard} Codification instruction. [Sections 2 and 3] are intended to be codified as an integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4, apply to [sections 2 and 3]."

HOUSE BILL NO. 29

INTRODUCED BY KIMBERLEY

RESTATEMENT
A BILL FOR AN ACT ENTITLED: "AN ACT ~~PROHIBITING~~ THE USE OF
~~TINTING OR SUNSCREENING~~
~~REFLECTIVE OR DARKENING MATERIAL ON THE SIDE OR REAR WINDOWS~~
OF A MOTOR VEHICLE; AND AMENDING SECTION 61-9-405, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-9-405, MCA, is amended to read:

"61-9-405. Windshields to be unobstructed and equipped
with wipers -- ~~darkening of side or rear windows prohibited~~."

(1) No person shall may not drive any motor vehicle with
any sign, poster, or other nontransparent material upon the
front windshield, side wings, or side or rear windows of
such vehicle which that obstructs the driver's clear
view of the highway or any intersecting highway.

(2) The windshield on every each motor vehicle shall
must be equipped with a device for clearing rain, snow, or
other moisture from the windshield, ~~which and the device~~
shall must be so constructed as to be controlled or operated
by the driver of the vehicle.

(3) Every Each windshield wiper upon a motor vehicle
shall must be maintained in good working order.

(4) ~~A~~ Except as provided in subsection (6), a person may not operate a motor vehicle with
~~reflective or darkening material on the side or rear windows~~

1

2

~~that prevents a person outside the vehicle from seeing~~
~~clearly into the interior of the vehicle."~~

-End-

*that is required to be registered in
this state upon a highway if:*

- (a)
(b)
(c)
(d)
(5)
(6)

*New Section: Section 2.**New Section: Section 3.**New Section: Section 4.*

EXHIBIT 29
DATE 2-12-91
HB 29

Amendments to House Bill No. 263
First Reading Copy

Requested by Rep. Larson
For the Committee on Highways and Transportation

Prepared by Paul Sihler
February 11, 1991

1. Title, line 5 through line 8.

Strike: "ESTABLISH" on line⁵ through "AUTHORITY" on line 8.

Insert: "CLARIFY THE PUBLIC SERVICE COMMISSION'S AUTHORITY TO
REGULATE THE TRANSPORTATION OF RECYCLABLES"

2. Title, line 9.

Strike: "69-12-205, AND"

Following: "69-12-301,"

Insert: "69-12-302, AND 69-12-406,"

3. Page 1, line 10.

Insert: "STATEMENT OF INTENT

A statement of intent is required for this bill in order to provide guidance to the public service commission in adopting rules. It is the intention of the legislature that a Class D motor carrier have the authority to collect and transport source-separated recyclables and that Class C motor carriers have the authority to transport recyclables."

4. Page 3, line 3 through page 5, line 19.

Strike: Sections 2, 3, 4, and 5 in their entirety.

Insert: " Section 2. Section 69-12-302, MCA, is amended to read:

"69-12-302. Conditions resulting in Class C carrier considered as Class B carrier. (1) A Class C motor carrier operating with more than six contracts which are in effect at any given time and each of which are effective for a minimum of 180 days is considered to be operating as a Class B motor carrier. Before transportation service may commence, pertinent contract information shall be furnished to the commission for each contract on forms prescribed by the commission. The commission shall retain a duplicate of the information in its files, and a copy of the form, confirmed by the commission, must be kept in the cab of the motor carrier when operating under that contract.

(2) All Class C motor carriers must annually submit to the commission the names and addresses of all persons, corporations, or other legal entities with whom the Class C carrier has executed a contract, charter, agreement, or undertaking for the distribution, delivery, or collection of wares, merchandise, or

commodities or for transporting persons.

(3) The provisions of this section shall not apply to solid waste contractors, transportation of recyclables, household goods carriers, or house movers, as defined by the department of public service regulation, or any carrier whose authority is limited to the pickup and delivery of property and is confined by certificate to transportation within a distance of 50 miles or less from a particular location. Any carrier whose property authority is incidental to the transportation of persons is not included in the exemption under this subsection."

Section 3. Section 69-12-301, MCA, is amended to read:

"69-12-301. Classification of motor carriers. (1) Motor carriers are hereby divided into four classes to be known as:

- (a) Class A motor carriers;
- (b) Class B motor carriers;
- (c) Class C motor carriers;
- (d) Class D motor carriers.

(2) Class A motor carriers shall embrace all motor carriers operating between fixed termini or over a regular route and under regular rates or charges, based upon either station-to-station rates or upon a mileage rate or scale.

(3) Class B motor carriers shall embrace all motor carriers operating under regular rates or charges based upon either station-to-station rates or upon a mileage rate or scale and not between fixed termini or over a regular route.

(4) Class C motor carriers shall embrace all motor carriers operating motor vehicles for distributing, delivering, or collecting wares, merchandise, or commodities or transporting persons, where the remuneration is fixed in and the transportation service furnished under a contract, charter, agreement, or undertaking.

(5) Class D motor carriers embraces all motor carriers operating motor vehicles transporting (including pickup and disposal) ashes, trash, waste, refuse, rubbish, garbage, and organic and inorganic matter, and recyclables."

Section 4. Section 69-12-406, MCA, is amended to read:

"69-12-406. Restriction on transportation of certain waste. Except as provided in 69-12-324, no Class A, B, or C carrier will be authorized or permitted to transport ashes, trash, waste, refuse, rubbish, garbage, or organic and inorganic matter within the state. This restriction does not apply to recyclables."

EXHIBIT 31
DATE 2-12-91
HB 307

WITNESS STATEMENT

NAME Bob Champion BILL NO. HB 307
ADDRESS 2701 Prospect Helena
WHOM DO YOU REPRESENT? Mont Dept of Highway
SUPPORT _____ OPPOSE X AMEND _____

COMMENTS: _____

The Montana Dept of Highway opposes
HB 307 because

1) the funds are needed for
needed physical improvements
to Montana highways

2) Federal changes being proposed
in congress will shift more of
the burden to Montanans

3) It represents an unwarranted
diversion of highway funds

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



The Big Sky Country

EXHIBIT 32
DATE 2-12-91
HB 192

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE WANZENRIED

HOUSE DISTRICT 7

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620
(406) 444-4800

HOME ADDRESS:
435 3RD AVE. EAST
KALISPELL, MONTANA 59901
(406) 752-2297

COMMITTEES:
LABOR & EMPLOYMENT
RELATIONS
NATURAL RESOURCES
TAXATION
FISH & GAME

MEMORANDUM

TO: Barry Stang, Chairman
House Highways and Transportation Committee

FROM: Representative Dave Wanzenried

DATE: February 12, 1991

RE: House Bill 192

Thank you for conducting such a comprehensive hearing on House Bill 192, legislation proposing to place log hauling under economic regulation of the state.

There were two points that came up during the hearing which deserve clarification:

1. Several opponents testified to the effect that they "knew what the transportation rates are" and could not understand how anyone could work without knowing what he/she was to be paid.

Those persons are logging contractors who own their own trucks. When they sign a contract with the mill, that contract has a section containing an amount to be paid for transportation. Individuals who own logging trucks but are not logging contractors do not have access to the contracts between the mills and the logging contractors. They don't know what the transportation rates are.

2. One Opponent stated that under House Bill 192 owners of logging trucks would have to pay full GVW fees rather than the 75% agriculture allowance they are currently entitled to.

EXHIBIT 32
DATE 2-12-91
HB 192

The GVW fees are administered by the Highway Department. The Public Service Commission will regulate the rates for log hauling.

While the bill does remove the agricultural exemption on logs, it does not change the existing GVW fee schedule---logging trucks would continue to pay the same fees under House Bill 192.



EXHIBIT 33
DATE 2-12-91
HB HJR 12

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE JOINT RESOLUTION 12 BEFORE THE
HOUSE HIGHWAYS AND TRANSPORTATION COMMITTEE, FEBRUARY 12, 1991

Mr. Chairman, members of the committee, my name is Don Judge and I'm appearing here today on behalf of the Montana State AFL-CIO in support of House Joint Resolution 12.

As with any resolution adopted by the Legislature, HJR 12 would not carry the weight of law, nor does it provide for any sanction if it's provisions are not adhered to. Adoption of this resolution would, however, send a clear signal to the United States Congress and the President that Montanans are concerned about how they would choose to allocate federal dollars to our nation's highway and transportation systems.

As a state with a relatively small population for the size of its lands, Montana's tax base is often insufficient to adequately fund the necessary Governmental functions. This is particularly true of our gasoline taxes which are used primarily for highway, street and road construction, maintenance and improvement. Our population base is simply too small to fund costs associated with the vast expanse of highways which crisscross our state.

These highways serve as the lifeblood of our state's economic and social activities. Products are hauled to market, children are bussed to schools, medical services are accessed and tourists are encouraged to visit over our state's highways. These highways also serve as vital links between the east and west coasts and to our neighbors to the north of our border.

We simply can't afford to allow this network to go into disrepair. Unfortunately, if the Congress and the President adopt allocation formulas based on population, Montana's share of federal funding will shrink dramatically and we will simply be unable to halt the gradual deterioration of these systems.

As Montana looks ahead to encouraging economic development and creation of value-added industries, we need to keep in mind the importance of the role transportation will play. If we are to create jobs and economic opportunities, we will need to offer a quality highway system over which raw materials and finished products can flow smoothly.

It is the role of the United States government to make sure that no region of our great country will be forgotten in promoting and

EXHIBIT 33
DATE 2-12-91
HB HJR 12

expanding our economic wealth. One way that it can insure this for Montana is by rejecting efforts to re allocate federal funding which would penalize sparsely populated rural states.

House Joint Resolution 12 simply asks the President and the Congress not to forget us, because we are an important part of this great country. We urge you to give HJR 12 a "do pass" recommendation. Thank You.

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

Highways COMMITTEE BILL NO. HJR 12
 DATE 2-12-97 SPONSOR(S) Rep Grady
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ben Hubbard	MT Motor Carrier Ass'n	X	
Janelle Tallan	MT Highway Users	X	
Ken Dunham	MT Contractors Ass'n	X	
JAMES TUTWILER	MT Chamber Commerce	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways COMMITTEE BILL NO. HB 475
DATE 2-12-91 SPONSOR(S) Rep. Shady
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ray Kuntz	Watkins Shippers Trucking	-	X
Ben Hovelson	MT Motor Carriers Assn		X
Joe Roberts	Howard Roberts Trucking T.M. Transport	X	
REX MANUEL	SELF	X	
Charles Hahn	Hahn Ranch Trucking	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

p 1062

Highways COMMITTEE BILL NO. HB309
DATE 2-12-91 SPONSOR(S) Rep Brown

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon		AMEND
DAL Smilie	American Motorcyclist Assn	✓	
ED FEIST	CAPITAL TRAIL BIKE RIDERS	✓	
Dennis Miller	MTVRA Rocky Mtn Trail Bike Riders	✓	
Russell L. Ehnes	Great Falls Trail Bike Riders	✓	
JERRY LEWANDOWSKI	MTORA GT FALLS	✓	
Earle Feist	Capital Trail Bike Riders	✓	
Ramona Ehnes	GFTBRA Jt Falls	✓	
Pic Ehnes	GFTBRA GT FALLS	✓	
Robert Lee	MTVRA, Bozeman	✓	
Larry G Ellison	MTVRA, Bozeman	✓	
Linda Ellison	MTVRA Bozeman	✓	
Bob Park II			
BOB CHAMPION	Mont Dept of Highways		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

DAVE Brown

HD #72 sponsor

X

You may want to ask how many are going to

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

p. 2 of 2

HOUSE HIGHWAYS

COMMITTEE

BILL NO.

HB 309

DATE 2-12/91

SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Ed Mader	MYSELF	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Doc & Abelin	MYSELF	<input type="checkbox"/>	<input type="checkbox"/>
Ken Hoover	MT. Snowmobile Assn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Huway COMMITTEE BILL NO. HB 425
DATE 2-12-91 SPONSOR(S) Rep Stickney
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Dave Dart	DOH	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Heavys COMMITTEE Rep Phillips BILL NO. HB527
DATE 2-12-91 SPONSOR(S) Rep Phillips
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Michael Sherwood	MTLA	X	
Mark Peterson, Helena, MT		X	
ROGER McGLERN	INDEPENDENT INS. AGENTS ASSOC OF MT	AS ATTENDES	
VIRGINIA NICCOLUCCI	PRIVATE CITIZEN	X	
RAY HARBIN	LAKE Co Commissioner	X	
Erin Jones	NDPB	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Always COMMITTEE BILL NO. HB 352
DATE 2-12-91 SPONSOR(S) Rep. Raney
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon	amend X	
Russ Ehres	Great Falls Trailbike Riders		X
JERRY LEWANDOWSKI	MTURA GT FALLS		X
Ramona Ehres	Great Falls - Seef.		X
Vic Ehres	Great Falls - Seef.		X
Larry Ellison	MTURA, Bozeman		X
Linda Ellison	MTURA Bozeman		X
Bob Bushnell	MT Snowmobile Assn		X
Arnold Olsen	FWP		
Ken Hoovestel	MT Snowmobile Assn		X
Dennis Miller	MTURA Rocky Mtn Trail Bike Riders		X
ED FEIST	MTURA CAPITOL TRAIL BIKE RIDERS		X
Earle Feist	MTURA Capital Trail Bike Riders		X

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