

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN BARRY STANG**, on March 11, 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)

Members Excused: Rep. Howard Toole

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 SB 290

Presentation and Opening Statement by Sponsor:

SEN. FRANCIS KOEHNKE, Senate District 16, Townsend, said this bill will rectify a double tax situation. The U-Haul company and other companies that rent out diesel trucks are paying the taxes twice. He turned the hearing over to Mr. Nichols to explain how the bill will work.

Proponents' Testimony:

Norris Nichols, Director, Motor Fuels Division, said when a

person that rents a truck i.e., U-Haul, that truck is filled with fuel. The fuel is paid for by the previous lessee and so on. The present statute provides that the U-Haul company has to be licensed and report a paid tax. This bill releases the companies from the permit and paying the taxes twice.

Opponents' Testimony: None

Questions From Committee Members:

CHAIRMAN STANG asked Mr. Nichols if the U-Haul company pays the tax on a form and then the person renting the truck also pays a tax. Mr. Nichols said that is correct. The U-Haul pays the tax for their local area e.g., Butte, Kalispell etc., the records are sent to Phoenix, AZ headquarters. The headquarters file a quarterly report and submit the tax again.

Closing by Sponsor:

SEN. KOEHNKE thanked the committee and urged their support of SB 290.

HEARING ON SB 44

Presentation and Opening Statement by Sponsor:

SEN. BOB BROWN, Senate District 2, Whitefish, said this bill authorizes the Department of Highways to construct, improve and maintain the existing roads in the state parks. Presently, the department may authorize and conduct maintenance on roads that link state highway roads or other public roads to the state parks. He said once the visitors get into the parks, they aren't able to get to some of the places of interest because of the bad conditions of the roads. Many of the parks charge to enter into the state parks and then the roads are inaccessible. He said the bill was suggested to him by the former Sen. Matt Himsl. The road in the West Shore State Park on Flathead Lake is all but impassable. This bill will authorize the department to work out an arrangement with the Department of Fish, Wildlife and Parks (FWP) to provide access to the parks by the connecting roads and to maintain the roads within the parks.

Proponents' Testimony:

Arnie Olsen, Administrator of State Parks, Department of Fish, Wildlife and Parks, said the department is in support of SB 44. It will enable, but not required the Department of Highways to construct and maintain roads within Montana's state parks. The department did maintain the roads until 1965 when the parks were transferred to FWP. He distributed written testimony. EXHIBIT 1

Susan Lenard, Montana Audubon Legislative Fund, said the parks are a critical and an important quality of life to Montana. She said the Montana Audubon was part of the State Parks Future

Committee, which in their report recommended this piece of legislation to Governor Stan Stephens. She asked the committee's support for the passage of SB 44.

Opponents' Testimony: None

Questions From Committee Members:

REP. KNOX asked Mr. Olsen if they are spending \$58,500 per year now, what will it take to maintain these roads. Mr. Olsen said they estimate about \$1½ million per year.

REP. GALVIN asked about the fees already collected at the sites of the parks, do they include maintenance fees and boat ramp fees. SEN. BROWN said the current law does not allow FWP to make any contract agreements with the Highway Department to maintain the roads within the parks.

CHAIRMAN STANG said it does not mention other funds on line 13, it states "if they shall with state highway funds" to fix roads within the parks. He said it appears that the intent of the bill is to use other funds along with state highway funds to do this. He asked SEN. BROWN how will this bill do what it is expected to do. SEN. BROWN said he knows that it is possible for FWP to work cooperatively with the Highway Department on connecting roads and he wanted that to be possible within the parks. CHAIRMAN STANG asked SEN. BROWN if he thought some language should be placed in the bill to say "with state highway or other available funds".

Bill Salisbury, Department of Highways, said currently the Department of Highways can work with other entities to do this maintenance work on a case by case basis, but it is a piecemeal job. He said what SEN. BROWN is trying to do is to make a more comprehensive program. The way the law is written now, highway funds cannot be used for that. The department can contract with other funds which would do two things: 1) to make it possible for the department to use highway trust funds; and 2) make it a more comprehensive program, because the department would then have the responsibility to maintain those highways.

CHAIRMAN STANG asked how this bill relates to the 2 or 3 other bills that are before other committees, to fund the state parks roads with other means. Mr. Olsen said the State Parks Committee made some recommendations to the Governor and the Legislature about funding which has been translated into those various bills. REP. SCHYE'S bill will provide funds for some roads. Mr. Olsen said if the state parks system was adequately funded this legislative session, it would make more sense to have the Highway Department give the funds to FWP to do the necessary road work and try to create a road entity within FWP. Mr. Olsen said if there is enough money to rehabilitate the park's system, a portion of that would go to the Highway Department.

CHAIRMAN STANG asked Larry Tobiason, AAA Montana, why they did not testify in favor or against this bill, and if they had a stand on the use of highway funds other than highways. Mr. Tobiason said they are always against aversion. Using highway funds for means other than strictly for the maintenance and new construction in Montana. He guessed a road inside of a park could be called an highway, but wasn't sure, it could be an extension of a highway. He did not know this bill would be using highway funds, he thought it would be from the state park's money and the Highway Department would do the work. Mr. Tobiason said they would be concerned if that is the case.

Closing by Sponsor:

SEN. BROWN said it doesn't make much sense to provide for road maintenance and construction of the roads leading to state parks if the people cannot get further into the parks, especially when fees are charged and than they cannot use the roads. He urged the committee's support of SB 44.

HEARING ON SB 122

Presentation and Opening Statement by Sponsor:

SEN. CECIL WEEDING, Senate District 14, Jordan, said that SB 122 is essentially a continuation of the status quo in its present form. It is an extension of the highway re-construction trust program. It is due to expire in 1993. The program was started in 1983. It was a crash re-construction program that was supposed to be above and beyond the ongoing highway effort at that time. It was a phased-in program that never got up to full speed until 6 years into the program. Money was taken out of the program in 1986, so 1 year was lost. He said all the problems of the RTF program have not been cured to do what it was intended to do care of. It is critical that the effort continues in the building of highways. The life of the federal activities of late where there is an uncertain future regarding highway monies, the roads that the program will cost-share on and the rate of cost-share that will be put out are in good shape now, and that is why it is critical that this program continues while the federal monies are still there. With or without them, the needs are still there to re-build the highways and no other way to do it. This bill extends the 12% coal tax that went into the RTF program, and it continues the \$.20 gasoline and diesel fuel tax. He said the original intent was to go back and capture some of the federal royalties that at one time flowed into the Highway Department. The Senate Taxation committee diverted those monies into the school foundation program. He said the funding would have been better off by staying with the royalties instead of the coal money. The fiscal note is zero with the amendments that were added on the bill in the Senate committee. He said a message needs to be sent to the contractors and planners to inform them that the program will go on for another 10 years.

Proponents' Testimony:

Ken Dunham, Montana Contractor's Association, said the RTF program in Montana was the most farsighted legislation that was passed in the state when it went into effect 10 years ago. To make a commitment to get past the interstates and federal highways in Montana and do something about the deteriorating state roads, the program has touched most every area of Montana. The current situation with the expiring RTF program and the uncertainty of the federal program and gas taxes and gas prices, it is imperative that Montana keeps its options open to do something about the highway systems in Montana. The federal program for Montana is very much up in the air at this time. If the worst happened for the state, it could take a \$30 million to \$50 million hit annually in federal dollars. There are more federal dollars that will come into the state in the next year or so, but the percentage is proposed to change. The RTF program did put \$282 million into Montana's highways. It is a real boost from every aspect of Montana from tourism to agriculture to the construction industry. He encouraged the committee to re-authorize this program to keep the option open for Montana's future.

Larry Tobiason, Triple A Montana, said with President Bush in support of reducing the federal state funds, it will no doubt become a reality. To extend the RTF program is more important now than ever before. Montana's gas tax is the 8th highest in the nation, which means that making additional revenue for the Highway Department by increasing the gas tax is not very profitable.

Steve Turkiewicz, Montana Auto Dealer's Association, said for the reasons expressed by the previous speakers, he urged the committee's support for this bill.

James Tutwiler, Montana Chamber of Commerce, urged the committee's support for SB 122. He said the infrastructure in Montana is very important to the state, particularly the ability to move commerce through the state. It is a never increasing potential for the good of Montana, especially with the Free Trade agreement working well with Canada and the expected increase of tourism in the next couple years. With tourism the third fastest growing industry in Montana, this bill relates to the ability to attract and promote the growth of that industry.

Opponents' Testimony: None

Questions From Committee Members:

CHAIRMAN STANG asked SEN. WEEDING if the committee doesn't put the \$9 million into the fund from the foundation program, how is the money going to be made up in the future, is that the money from the gas tax. SEN. WEEDING said the coal tax substituted somewhat. He asked Mr. Salisbury to answer. Mr. Salisbury said

the coal tax was put in at the start of 1983. The revenues have declined. The royalties were taken out in the 1986 session and was never really replaced. It was \$40 million per year and has never been fully re-funded. **CHAIRMAN STANG** asked why the fiscal note shows that the \$9 million be taken out of the foundation program and placed in the highway re-construction fund. **Mr. Salisbury** said in the existing legislation, the mineral royalties are in the school foundation program, but that was changed in 1986. When the fiscal note was written for the original bill, it was intending to use existing royalties that were coming back in, but they were stripped in the Senate Taxation Committee. The fiscal note that is before the committee was originally written for the bill. The current fiscal note does not have an impact on this bill.

Closing by Sponsor:

SEN. WEEDING said this bill sends a message to those that deal with the highway funds, that the Legislature has made a commitment to fund the RTF program. The way the funds have been drawn down, the 1993 Legislature may have to look at some way of putting more money back into the program.

EXECUTIVE ACTION ON SB 290

Motion: **REP. CLARK** MOVED SB 290 BE CONCURRED IN.

Motion/Vote: **REP. FOSTER** called the question. Voice vote was taken.

Vote: SB 290 BE CONCURRED IN. Motion CARRIED unanimously. **REP. FOSTER** moved to place SB 290 on the consent calendar. Motion CARRIED unanimously.

HEARING ON SB 121

Presentation and Opening Statement by Sponsor:

SEN. TOM KEATING, Senate District 44, Billings, said this bill deals with "orange" school busses that do contracted services with the schools. There are fleets of school busses that are owned privately, but contract their services to the schools. When the busses converted from kerosene to diesel fuel, they became a special fuel user. Because diesel fuel is considered a special fuel user that is used by truckers, etc., and Montana is part of a multi-state coalition for the distribution of diesel taxes depending on how many miles are driven in a particular state in a particular vehicle, there had to be a lot of record keeping for these vehicles under the special use permit. The information was then given to the GVW in the Department of Revenue so there could be a division for the taxes paid on this permit. If the busses belonged to the schools, then the tax did not have to be paid. In some cases, if they didn't have to pay the taxes, they could ask for a rebate, therefore, the reason for

having to keep all the records. Most of the school contractors buy the diesel fuel already "tax paid", i.e., buying in bulk. Some buy in bulk and pay the tax quarterly themselves. If they pay the tax to the license fuel dealer, than the dealer has to make the report on the taxes collected. If the dealer doesn't pay the tax, than the user with the special permit has to pay the tax. The contractors are now buying the diesel fuel in bulk and do not ask for a rebate, they stay in the state, and the drivers do not have to keep any records. This bill will allow a special fuel user to not have to apply for a permit nor will they have to keep track of the in-state travel if they prepay the tax at the time they buy the fuel in bulk. There are times during the school year that the busses are used for other purposes. During that time, they are required by law to cover the sides of the bus. If the busses stay instate and have paid the tax, there isn't any problem, but if they need to go out of state to haul i.e., firefighters, they have to purchase the special user permit.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. KNOX asked how is it established when a special permit is needed. SEN. KEATING said if the diesel fuel is purchased in bulk and the tax is paid at that time, a special user permit is not needed.

REP. STEPPLER asked if this special user permit was just for diesel fuel or is it also for propane. SEN. KEATING said it is just for diesel fuel.

Closing by Sponsor:

SEN. KEATING thanked the committee for a good hearing and urged their support of the bill.

EXECUTIVE ACTION ON SB 122

Motion: REP. LARSON MOVED SB 122 BE CONCURRED IN.

Discussion: CHAIRMAN STANG said this bill extends the coal severance tax collections. CHAIRMAN STANG asked if this bill extends the current gas tax beyond 1993. Mr. Salisbury said it is related to coal taxes. It extends the provision to fund the remainder of the expenditures.

Motion/Vote: REP. TUNBY called the question. Voice vote was taken.

Vote: SB 122 BE CONCURRED IN. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 568

Motion: REP. FELAND MOVED HB 568 DO NOT PASS.

Discussion: REP. LARSON said he would go with the do not pass recommendation. His reason is the increase in general fund expenses by \$700,800 the first year and \$700,100 the second year. It is a 36% increase.

REP. ELLIS said that is why the fee increases are in the bill, to provide more services.

REP. KNOX said this bill will provide for the re-instatement of services to some of the counties that have lost their services.

Motion/Vote: Question was called. Voice vote was taken.


Vote: HB 568 DO NOT PASS. Motion CARRIED unanimously.

Motion/Vote: REP. FELAND MADE A SUBSTITUTE MOTION THAT HB 568 BE TABLED. Question was called. Voice vote was taken.


Vote: HB 568 BE TABLED. Motion CARRIED unanimously.

ADJOURNMENT

Adjournment: 4:30 p.m.



BARRY STANG, Chair



CLAUDIA JOHNSON, Secretary

BS/cj

HOUSE OF REPRESENTATIVES

HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 3-11-91

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	✓		

HOUSE STANDING COMMITTEE REPORT

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TDB
March 11, 1991

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Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 290 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: Barry Stang, Chairman

Carried by: Rep. Foster

HOUSE STANDING COMMITTEE REPORT

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2-11-91
JDB
March 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Highways and Transportation report that Senate Bill 122 (third reading copy -- blue) be concurred in .

Signed: _____
Barry Stang, Chairman

Carried by: Rep. Stang

EXHIBIT 1
DATE 3-11-91
HB SB 44

SB 44
March 11, 1991

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

Our department supports SB-44 which would enable, but not require, the Montana Department of Highways to construct and maintain roads within our state parks.

New funding would have to be found to make it feasible for the Department of Highways to actually begin doing any more than incidental work.

The State Park System was administered by the Department of Highways until 1965 when parks were transferred to Fish, Wildlife and Parks. The convenience of Highway Department maintenance was lost in the transfer.

State park roads need attention. Within our 60+ parks there are an estimated 135 road miles. The Department of Fish, Wildlife and Parks currently spends about \$58,500 per year for road maintenance and recognizes that the amount is inadequate.

We contract some roadwork and seek assistance from county road departments. Occasionally the Department of Highways has done limited work on a cost reimbursable basis.

We do what we can ourselves, but we lack equipment, labor and expertise. The department has only three road graders...the newest one is 21 years old, the oldest 43!

The Montana Promotions Division will not advertise some of our most significant parks, including Bannack, because of road conditions. This in turn has a dampening impact on tourism and the associated businesses.

This bill would allow the Department of Highways, which has the necessary expertise and the appropriate equipment, to work on interior park roads if funding can be found.

Our department, therefore, urges your favorable consideration of SB 44.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Hiways COMMITTEE BILL NO. SB 290
DATE 3-11-91 SPONSOR(S) Sen. Koehnke
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Mosier	U-HAUL	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

VISITOR REGISTER

DATE	VISITOR	COMMITTEE	BILL NO.
3-11-91	Hivings	Sen. Brown	SB 44

PLEASE PRINT

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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 REGISTER**

Hivings COMMITTEE BILL NO. SB 122
 DATE 3-11-91 SPONSOR(S) Sen. Weeding
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JAMES TETWILER	MT CHAMBER C.	✓	
Ken Dunham	MT Contractors' Assoc.	X	
Steve Turkiewicz	MT Auto Dealers Assn	X	
Larry Tobiasow	AAA Montana	X	
Ben Hardahl	MT Motor Carriers Assn	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.