

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HIGHWAYS & TRANSPORTATION**

**Call to Order:** By SENATOR CECIL WEEDING, Chairman, on March 14, 1991, at 3:00 p.m.

#### **ROLL CALL**

**Members Present:**

Cecil Weeding, Chairman (D)  
Betty Bruski, Vice Chairman (D)  
Bill Farrell (R)  
John Harp (R)  
Francis Koehnke (D)  
Jerry Noble (R)  
Jack Rea (D)  
Lawrence Stimatz (D)  
Larry Tveit (R)

**Members Excused:** None.

**Staff Present:** Paul Verdon (Legislative Council).  
Pat Bennett, Secretary

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

**Announcements/Discussion:** None.

#### **HEARING ON HOUSE BILL 236**

#### **Presentation and Opening Statement by Sponsor:**

REPRESENTATIVE BOB GILBERT, District #22, explained that House Bill 236 deletes the 200 mile radius allowed drivers in Montana without having to log and adopts the DOT standards which is a 100 mile radius. He stated in order to be sure that we continue to keep our Motor Carrier Truck Safety Inspection Program going, which is approximately a half million dollars per year, we need to comply with DOT rules. This bill will bring the State of Montana into compliance.

#### **Proponents' Testimony:**

BOB GRIFFITH, representing the Montana Highway Patrol, expressed support for HB 236.

CURT LAINGEN, Montana Motor Carriers Association, stated they support HB 236.

Opponent's Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

REPRESENTATIVE GILBERT closed the hearing on HB 236.

EXECUTIVE ACTION ON HOUSE BILL 236

Motion:

SENATOR STIMATZ MOVED that HB 236 BE CONCURRED IN.

Discussion:

SENATOR FARRELL will carry HB 236.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 236 BE CONCURRED IN.

HEARING ON HOUSE BILL 263

Presentation and Opening Statement by Sponsor:

CHAIRMAN WEEDING opened the hearing on HB 263.

Proponents' Testimony:

NADINE OBERG, representing the Montana Solid Waste Contractors, testified in support of HB 263. (SEE EXHIBITS 1 & 2)

VESTER WILSON, Bitterroot Disposal, stated he has served Ravalli County for fifteen years. Bitterroot Disposal does haul recyclables separate from the solid waste materials.

Opponents' Testimony:

None.

Questions From Committee Members:

None.

Closing by Sponsor:

CHAIRMAN WEEDING closed the hearing on HB 263

HEARING ON HOUSE BILL 309Presentation and Opening Statement by Sponsor:

DAVE BROWN, District#72, distributed a copy of a letter along with other information he received from Chuck Wells, Idaho Dept. Parks and Recreation. (SEE EXHIBIT 3) He stated that originally the bill set aside one half of one percent of money deposited in the Off Highway Vehicle Account for a State Special Revenue Fund to set up an Off Highway Vehicle Program. This is very similar to what is currently set up for snowmobilers. The House Committee however, changed it to one eighth of one percent. This legislation will allow Montana to get into a position where it can work with the BLM and the Forest Service to set up similar programs.

Proponents' Testimony:

JANET ELLIS, MT Audubon Legislative Fund, referred to page 4, lines 12 through 15, she stated they had it added into the bill in the House. There are areas that get damaged and need to be repaired and off highway vehicles are documented as causing soil erosion.

LINDA ELLISON, representing the Montana Trail Vehicle Riders Association, testified in support of HB 309. (SEE EXHIBIT 4)

DAL SMILIE testified in support of HB 309. (SEE EXHIBIT 5)

Opponents' Testimony:

JIM MANION, representing AAA of Montana and the Montana Highway User Federation, testified in opposition of HB 309. This bill will be diverting money from the highway trust account to non-highway use. It may seem that \$110,000 is not much, but this is money to match federal highway programs which could be a loss of up to \$400,000 in matching funds. He stated that their concern is that if these proposals change the method of states obtaining highway funding go through, Montana will be one of the ones who will suffer considerably. The Highway Users Fund is always opposed to taking highway trust funds to fund a small group of interests.

STEVE TURKIEWICZ, representing the Montana Auto Dealers Association and the Highway Users Federation, stated they oppose HB 309 for the same reasons Mr. Manion gave.

Questions From Committee Members:

SENATOR FARRELL asked about changing snowmobile from 15% to 10%.

DAVE BROWN stated that it was to recognize a percentage share of the total funds that go into this area.

JANET ELLIS responded to Senator Farrell's question stating that portion expired in 1977. It was at 15% to get the program started and they are now at 10%.

SENATOR FARRELL asked when they buy gasoline if they get a refund on their off road use.

LINDA ELLISON stated they are eligible for a refund, however because of the hassle to get this back individually she doesn't bother.

ARNIE OLSON, Administrator of the State Parks Division, stated that on page 3, line 10, and also on page 4, line 21, should be "must" and not "may".

SENATOR NOBLE asked how much in federal matching funds this will cost.

REPRESENTATIVE BROWN stated the way it is in the bill it would be one mile of repairing highway over twenty years.

Closing by Sponsor:

REPRESENTATIVE BROWN closed the hearing on HB 309. He stated that when HB 309 was in the House the Highway Department was opposed to the loss of funds and not the project. Senator Stimatz will carry HB 309 should it pass the Committee.

EXECUTIVE ACTION ON HOUSE BILL 29

Motion:

SENATOR HARP MOVED that HB 29 BE CONCURRED IN AS AMENDED.

Discussion:

PAUL VERDON explained to the Committee that he made up an unofficial gray bill for each House Bill 29 and House Bill 47. (SEE EXHIBIT 6) SENATOR WEEDING will carry HB 29.

Amendments, Discussion, and Votes:

SENATOR HARP MOVED to ADOPT the AMENDMENTS TO HOUSE BILL 29.  
(SEE EXHIBIT 7)

MOTION TO ADOPT AMENDMENTS TO HB 29 PASSED UNANIMOUSLY.

Recommendation and Vote:

MOTION PASSED UNANIMOUSLY that HB 29 BE CONCURRED IN AS AMENDED.

EXECUTIVE ACTION ON HOUSE BILL 47

Motion:

SENATOR HARP MOVED TO TABLE HB 47.

MOTION PASSED UNANIMOUSLY.

HEARING ON HOUSE BILL 59

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE DAN HARRINGTON, District #68, informed the Committee that HB 59 was drafted after he realized how easy it was to get a person's driving record just by writing in with the person's name and address. This bill will not prevent those who absolutely need to get those records, but rather will make it a little tougher for just anyone to get this. This bill will increase the fees from \$3 to \$6.

Proponents' Testimony:

STEVE BROWNING, representing State Farm Insurance Companies, distributed his suggested amendment to HB 59. (SEE EXHIBIT 8) Mr. Browning also asked the Committee to consider on page 2, line 12. The existing \$3 fee raises approximately \$1.2 million which according to the Department of Vehicles has been more than adequate to cover the costs.

DEAN ROBERTS, Administrator of the Motor Vehicle Division, stated he has no problem with the second amendment, but they do have a problem with the first amendment. This first amendment would not allow the FBI network to be used for anything other than criminal matters. The second amendment would give those people who need access to the information to get it.

Opponents' Testimony:

ROGER MCGLENN, representing the Independent Insurance Agents of Montana, stated that if the Legislature sees fit to pass this legislation, he recommended the Committee also pass either the amendment submitted by Mr. Browning or the Statement of Intent. He stated they would like to see a statement of intent should the amendment fail to clearly outline the legislative intent. Many of these reports are gathered electronically. There are firms that do this solely for insurance companies. Mr. McGlenn stated that HB 59 also should have a fiscal note because of the increase in fees. He stated that with the amendments or the statement of intent, they would not have any opposition to the bill. Due to another meeting, Jacqueline Terrell representing the American Insurance Association and Gene Phillips representing the National Association of Independent Insurers, wished to be listed as opponents.

MICHAEL SHERWOOD, Montana Trial Lawyers Association, stated he needed to express a concern. Under this statute availability to records is fine, but if it is made strictly confidential there could be a problem. He stated he doesn't see a problem with the bill as is, but they have been tracking the bill because of this concern.

Questions From Committee Members:

SENATOR HARP asked if Michael Sherwood had any problems with the amendments as far as excluding what they could not receive.

MICHAEL SHERWOOD stated that Mr. Browning's amendment would not affect their concern, the concern is to not be precluded from the in court discovery of this type of information. At this point, the bill would not preclude them.

SENATOR TVEIT asked Dean Roberts why there is an increase in fees.

DEAN ROBERTS, Department of Justice, stated they had nothing to do with the bill. He stated they are not for the \$6, the \$3 fee covers the cost now.

REPRESENTATIVE HARRINGTON stated it was an amendment put in by Representative Driscoll.

SENATOR NOBLE asked if this legislation will stop a person from writing in to get a record on a prospective employee.

DEAN ROBERTS said no. Under the way HB 59 is written, there would be no problem with a legitimate business person requesting information.

Closing by Sponsor:

REPRESENTATIVE HARRINGTON closed the hearing on HB 59. He is in agreement with the Statement of Intent. This bill is to limit who can get this information and to allow a certain amount of privacy.

EXECUTIVE ACTION ON HOUSE BILL 306Motion:

None.

Discussion:

CHAIRMAN WEEDING distributed copies of a letter from Joe Menicucci (SEE EXHIBIT<sup>9</sup>). He informed the Committee that the Director of Highways, John Rothwell, did not object to 80%, but would asked that a minimum of 25 mph be put in the bill.

The Committee requested amendments to be drawn up to reflect the Director's request. The Committee discussed "parks and playgrounds" within the bill.

REPRESENTATIVE BARNETT stated that if you were to take out parks and playgrounds, the bill would be gutted. This part of the bill gives the city control over that school crossing from the south side of town to where the schools are. There is an elevator by this crossing which shades part of that highway making it very icy.

SENATOR HARP pointed out that this legislation will affect the whole state. There are areas where parks and playgrounds are along primary highways.

REPRESENTATIVE BARNETT suggested that if they were to amend it to remove "parks and playgrounds" and were to include "schools and school crossings" this would address the problem.

SENATOR HARP suggested to the Committee to include a definition clause to clarify schools and school crossings.

PAUL VERDON stated that there was not a school zone definition, however 61-1-405 has a definition for a safety zone and in 61-1-209 gives a definition for a cross walk. The Department of Highways has rule making authority to make safety rules.

THE COMMITTEE requested amendments to reflect the 80%, with a limit of no less than 25 mph as well as to remove "parks and playgrounds" and to include "designated school crossings".

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

March 14, 1991

Page 8 of 8

EXECUTIVE ACTION ON HOUSE BILL 62

Motion:

None.

Discussion:

The Committee discussed HB 62 with regard to the penalty clause. SENATOR FARRELL informed the Committee about putting chains on the drivers wheels. He stated that you do not need chains on all eight tires to get up a hill. All that is necessary is to chain up one axle or the other. The Committee requested that "driver wheels" be changed to "required for appropriate drivers wheels". PAUL VERDON stated that subsection 6 allows the Department of Justice to make rules with regard to 5B and 5C. A statement of intent can be included to express what the Committee wants.

PAUL VERDON asked Senator Farrell what language he wanted in the statement of intent. Senator Farrell stated he wanted language limiting chains to one axle. Paul Verdon asked if the language "in any rules the Department makes in this regard should not require chains on more than one axle of the driver wheels" would be sufficient.

ADJOURNMENT

Adjournment At: 5:30 p.m.



SENATOR CECIL WEEDING, Chairman



PAT BENNETT, Secretary

CW/pb

HI031491.SM1



## Testimony - HB 263

For the record, my name is Nadine Oberg, and I represent the Montana Solid Waste Contractors, a state-wide association of private industry engaged in collection and disposal of solid waste in Montana.

It has long been public policy in Montana to regulate transportation for hire. HB 263 will include the pick-up and hauling of recyclable materials within Montana's already established regulatory framework. In addition, the bill will clarify exactly who can haul recyclables. It will not affect groups or individuals who are collecting reusable materials for cash, such as civic or charitable groups or the little kid from down the block.

The bill provides that two presently existing PSC authorities, Class C and Class D, will be able to haul recyclables for hire. Neither of these two carriers are rate-regulated. Class C carriers, who haul people or merchandise by contract, will need to apply for hauling authority for recyclables. For Class D carriers--garbage haulers--transportation of recyclable materials will be included within their already granted hauling authority.

By putting this bill in place, Montana will be taking important steps forward in meeting the needs of the future. The growing demand by the public for recycled products can best be met by establishing an adequate system to collect recyclables in the first place. We look forward to doing our part by sharing in the planning and preparation that will be needed, and urge your support of HB 263.

MONTANA SOLID WASTE CONTRACTORS, INC.

# Recycling in the States

Update 1989

The rush to recycle continued in 1989 as 38 states and the District of Columbia enacted more than 120 recycling laws through September; yet only two mandates for materials collection were passed. State laws also attacked plastics and such problem wastes as tires, used oil, and batteries with combinations of incentives, bans, and trade-in requirements.

---

National Solid Wastes Management Association  
1730 Rhode Island Avenue, NW  
Suite 1000  
Washington, DC 20036  
(202) 659-4613

**NSWMA**

Post-It™ brand fax transmittal memo 7671		# of pages ▶ <u>7</u>
To <u>REP DAVE BROWN</u>	From <u>CHUCK WYLLIS</u>	
Co. <u>STATE CAPITOL</u>	Co. <u>IDPR</u>	
Dept.	Phone # <u>208-334-2154</u>	
Fax # <u>406-444-4417</u>	Fax # <u>208-334-3812</u>	

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.

# 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.

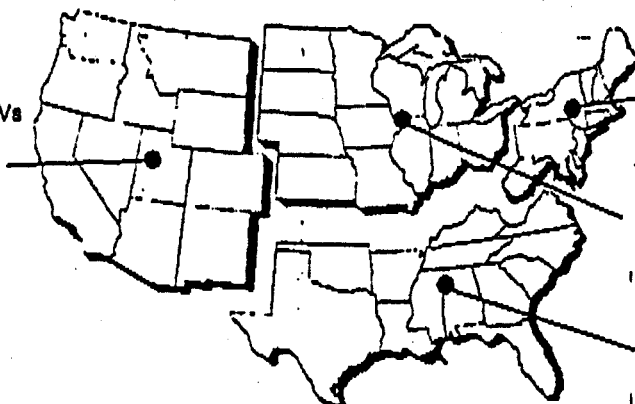
In 1989 there were an estimated 2.7 motorcycles, scooters and ATVs owned by every 100 persons living in the United States. Regionally, penetration was highest in the West where 3.2 vehicles were owned for every 100 residents, and lowest in the East where 2.1 vehicles were owned for every 100 residents.

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	6.9
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	2.8
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	175,600	101,500	66,500	7,600	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	24,800	2,600	4.3
Maryland	83,200	45,000	32,800	5,400	1.8
Mass.	112,900	67,800	41,000	4,300	1.9
Michigan	284,700	136,200	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

State	Motorcycle Population	Motorcycle Population by Model Type			Motorcycle Penetration Per 100 Population
		On-Hwy.	Off-Hwy.	Dual Purpose	
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	18,800	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	284,600	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	3.6
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	2.6
Utah	80,500	22,300	46,500	11,700	4.8
Vermont	20,300	8,300	11,000	1,000	3.6
Virginia	133,600	83,500	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 nopedes. See page 6 for model type definitions.  
The 1984 - 1989 state estimates are comparable only to the 1980 and revised 1979 estimates.

Source: 1989 Estimated Motorcycle Population, Motorcycle Industry Council, Inc., Irvine, CA.

Estimates of the Resident Population of States, July 1, 1989, U.S. Department of Commerce, Bureau of the Census.

Ex. 3  
3-14-91  
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)

<u>Type of Vehicle</u>	<u>Number of Vehicles</u>		<u>Number of Trips</u>	<u>Gasoline Usage</u>	<u>Gasoline Tax/Gallon</u>	<u>Total Gas Tax Collected</u>
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

SECTION  
57-1901 Creation of off-road motor vehicle  
fund — Purpose

57-1901. 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. 260, § 1, p. 612; am. 1973, ch. 297, § 3, p. 625.]

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 § 57-1901.

Section 2 of S. L. 1973, ch. 297 is compiled as § 57-1901.

Section 4 of S. L. 1973, ch. 297 provides this act should take effect on and after 1, 1974.

Sec. to sec. ref. This section is referred to in § 57-1801.

EX. C  
3-14-91  
HB 309

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	52,800	9.6	\$ 43,000,000.00
1977	77,000	15,700	39,700	44,650	21,600	1,154	5.3	50,700	9.1	\$ 47,500,000.00
1978	57,800	15,600	22,000	46,715	20,000	932	4.6	47,700	6.6	\$ 51,200,000.00
1979	67,900	16,500	28,600	51,417	22,800	981	4.3	43,900	7.5	\$ 64,400,000.00
1980	70,900	19,200	32,500	56,287	19,200	747	3.9	43,200	7.5	\$ 67,400,000.00
1981	68,400	20,200	29,000	55,975	19,200	1,502	7.8	44,500	7.2	\$ 62,000,000.00
1982	64,300	20,300	25,500	53,302	18,500	1,288	7.0		6.8	\$ 37,680,000.00
1983	63,000	20,000	22,600	52,124	20,400	1,872	9.2		6.0	\$ 46,150,000.00
1984	63,900	19,990	20,000	50,595	24,000	1,823	7.6		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 -~~Revenue~~ 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

Ex. 3  
3-14-91  
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.

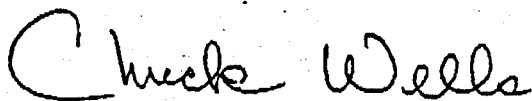
4 - Trail retreading projects have re-established trail treads that has been lost or narrowed through the years and has become a safety hazard for all users.

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 outslopes, 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

Montana Trail Vehicle Riders Assn.  
Linda Ellison, Land Use Coordinator  
3301 West Babcock, Bozeman, MT 59715  
March 14, 1991

In Support of House Bill 309

The importance of off-highway vehicle (OHV) recreation in Montana is considerable. With 2 OHVs to every street motorcycle in Montana, Montana ranks 4th in the nation, and ties with Utah and Wyoming, in the number of OHVs per 100 population. We add \$45 million to the state's economy in direct sales and related expenditures, excluding the tourist dollars generated with in-state movement and visits from out-of-staters.

As more and more roadless lands are closed to motorized recreation for whatever reasons, use of public land is being concentrated on a smaller and smaller landbase. With that concentration comes the potential for declines in resource condition.

The scope of work any volunteer group can accomplish is limited. In the long run, calling attention to problems where we have the opportunity to point them out is the best we can hope for if funding and coordination are not in place.

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 that would not be there in the first place, were it not for the operation of OHVs.

Program expenditures for the purpose of developing and maintaining OHV facilities 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.

Effective management, including the development of appropriate use levels and monitoring programs, requires an on-the-ground management presence.

Bringing together the piecemeal efforts where attention to motorized concerns has lapsed or been complacent is what the statewide OHV Program is all about, and we urge your support to recommend "do pass."

EXHIBIT NO. 5DATE 3-14-91BILL NO. HB 309

TO: Senate Highways and Transportation Committee  
FROM: Dal Smilie  
DATE: March 14, 1991  
RE: HB 309

I am a recreational trail rider, hiker and cross country skier. The trail system in Montana is used by all types of users. It is in need of repair. HB 309 will help keep the trail system intact.

The trail system in Montana exists mostly on public land but often crosses private land including mining claims. Some of the trail system is designated closed to OHV use but much is not. Horses, hikers, mountain bikers, snowmobilers and OHV enthusiasts utilize many of the same trails. Those trails need maintenance or the trail system will be lost.

In 1990 it was estimated that there were 21,800 trail bikes and ATVs and 6,000 dual purpose motorcycles in Montana. In that same year there were 82 motorcycle dealerships in Montana with 521 employees and a payroll of over \$8,402,000. Many people vacation in Montana because of its OHV trailriding opportunities. Many fishermen and hunters utilize the same trails on their ATVs. Often the only way the handicapped can experience the backcountry is on their ATVs. Maintenance of the trail system is critical to this sport.

Well maintained public trail systems allows the various types of public land users to exist in harmony. Many tales of user conflict arise from a lack of maintenance rather than an improper use. Even hikers finally wear out trails. Horse trails particularly need help.

Responsible OHV trail users have been volunteering their services to maintain and upgrade trails for several years. They cannot carry the burden by themselves. These same users voluntarily lobbied for a user fee bill that raised funds for similar purposes from an OHV decal. Unfortunately these funds have not been adequate. They ask that the highway use taxes which reflect a small portion of non highway use be shifted to help assist in maintaining the trail infrastructure.

This type of user tax shift to a more appropriate program is not new. This is exactly the same as the snowmobile account. Look how much benefit has come from that program.

This is an idea whose time has come. There is a similar bill before the U.S. Congress to shift the federal portion of gasoline taxes for similar purposes.

All trail users would benefit from the passage of HB 309. It is fair, it is consistent with the treatment of others. Montana needs its trail system and this bill guarantees funding to keep the trail system in place. Currently some public land managers don't even have enough funds to provide supervision to volunteer trail workers from the OHV community. This bill would solve that problem.

## UNOFFICIAL GRAY BILL

HOUSE BILL NO. 29 INTRODUCED BY KIMBERLEY

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING RESTRICTING THE USE OF REFLECTIVE OR DARKENING TINTING OR SUNSCREENING MATERIAL ON THE WINDSHIELD OR 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~~ WINDOW TINTING AND SUNSCREENING -- RESTRICTIONS -- EXEMPTIONS. (1) ~~No~~ A person ~~shall~~ may not drive any a motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such the 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~~ A person may not operate a motor vehicle with reflective or darkening material on the side or rear windows that prevents a person outside the vehicle from seeing clearly into the interior of the vehicle. 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)~~ (A) 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;

~~(A)~~ (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%;

~~(e)~~ (B) (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)-(c)~~ (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 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 OFFICER GRANTING THE WAIVER. THE HIGHWAY PATROL OR THE LAW ENFORCEMENT 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. 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].

-End-

Amendments to House Bill No. 29  
Third Reading Copy

Requested by Representative Kimberley  
For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon  
March 12, 1991

1. Title, line 6.

Following: "THE"

Insert: "WINDSHIELD OR"

2. Page 2, line 2.

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (6), A"

Insert: "A"

3. Page 2, line 12.

Following: line 11

Insert: "(a) 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;"

Renumber: subsequent subsections

4. Page 4, lines 8 through 18.

Strike: subsection (6) in its entirety

5. Page 5, line 5.

Strike: "OF THE HEAD"

Strike: "AGENCY"

Insert: "officer"

6. Page 5, line 6.

Following: second "THE"

Insert: "highway patrol or the local law enforcement"

EXHIBIT NO. 8

DATE 3-14-81

BILL NO. HB 59

Proposed Amendments to HB 59  
By Steve Browning for State Farm Insurance Companies

Insert at Page 2, line 11, following " "

Any law enforcement agency of this state which has access to public records of the division may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

either  
usually a  
statement

( Source § 74-2012, Laws of Kansas )

Alternative Amendment

PAGE ONE

Line eight, insert:

STATEMENT OF INTENT

A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL TO PROVIDE GUIDELINES FOR THE ADOPTION OF ADMINISTRATIVE RULES TO IMPLEMENT 61-11-105(2). THE DEPARTMENT OF JUSTICE IS GRANTED AUTHORITY TO DETERMINE WHETHER A PERSON OR FIRM HAS A LEGITIMATE PURPOSE FOR REQUESTING THE INDIVIDUAL DRIVING RECORD OF A LICENSEE. A "LEGITIMATE PURPOSE" SHALL INCLUDE THE FORMATION AND EXECUTION OF A CONTRACT, WHEN SUCH CONTRACT IS BASED IN PART UPON THE CONTENTS OF AN INDIVIDUAL'S DRIVING RECORD.

(RELIES)

31-3-111

CITY OF BELGRADE

STATE OF MONTANA

JOSEPH A. MENICUCCI  
CITY MANAGER

HENRY D. HATHAWAY  
DIRECTOR OF PUBLIC WORKS

MARILYN M. FOLTZ  
CLERK - TREASURER

SENATE HIGHWAYS

EXHIBIT NO. 8

DATE 3-14-91

BILL NO. HB 306

March 8, 1991

Senator Cecil Weeding, Chairman  
Senate Committee on Highways and Transportation  
Helena, Montana 59601

Dear Chairman Weeding and Committee Members,

During the testimony on HB 306 on Tuesday, March 5, 1991, the loss of Federal Highway funding was cited as an argument to reject HB 306.

I contacted Senator Baucus' Bozeman office to request information on the possible loss of Federal Highway funds if Speed zones were established in a method other than currently exists. After contacting the Federal Highway Administration, Mr. Cayle Jackson of Senator Baucus' office was referred to Mr. Dennis Lee an Engineer with the Federal Highway Administration in Washington D.C.. Both Mr. Jackson and I contacted Mr. Lee. He said that Federal Highway funding would be in jeopardy only if the State attempted to set the speed limit on Interstate Highways above 65 M.P.H. or above 55 M.P.H. on other Federally funded Highways.

Mr. Lee said that the Federal Highway Administration provided guidelines for establishing speed zones, however the guidelines are not binding and that the Federal Highway Administration does not get involved with speed zones. He said that speed zones are within the state and local governments jurisdictions.

If you have any questions concerning my conversation with Mr. Lee please don't hesitate to contact me. You could also contact Mr. Cayle Jackson at Senator Baucus' Bozeman office at 586-6104 or Mr. Dennis Lee at the Federal Highway Administration at (202) 366-2218.

Sincerely,  
CITY OF BELGRADE

  
Joseph A. Menicucci  
City Manager



**The Traffic Institute**  
Northwestern University

SENATE JUDICIARY

EXHIBIT 10

DATE 3-12-91

BILL NO. HB 306

EVALUATION OF MONTANA  
DEPARTMENT OF HIGHWAYS  
SPEED ZONING POLICIES AND PRACTICES

Prepared by

Robert K. Seyfried, P.E.  
The Traffic Institute  
Northwestern University

February 28, 1985

## INTRODUCTION

The Traffic Institute, Northwestern University was contacted by the Montana Department of Highways and requested to: (1) evaluate the Montana policy on establishing speed zones and (2) review several recent speed zoning decisions. The purpose of this study was to compare speed zoning, as practiced in Montana, with generally accepted traffic engineering principles and practice throughout the United States. The study was performed by Mr. Robert K. Seyfried, Associate Director, Transportation Engineering Division, The Traffic Institute (resume appended to this report).

This study included an evaluation of the Montana Department of Highways published policy on establishing speed zones, discussions with key Department of Highways personnel, a personal inspection of the sites of four recent speed zoning decisions in Montana, and two separate presentations of findings before the State Highway Commission, members of State legislative Highway Committees, and the State Highway Patrol.

This report documents the findings of the study.

## PHILOSOPHY OF SPEED ZONING

Establishing realistic speed regulation and control is essential to the safe and efficient movement of people and goods on the highway system and within communities. However, as with any traffic control decision, speed zoning cannot be dealt with solely as an engineering issue. In order to be effective, speed zoning must be addressed using the "3-E" approach: Engineering, Education and Enforcement.

Relative to speed zoning, the Engineering input involves the design of the roadway and roadside, measurement of traffic characteristics (such as traffic volumes and speeds, pedestrian volumes, accident history, etc.), and setting and posting speed limits.

The Education input involves educating the traveling public as to the importance of speed regulation and the development of driver judgment to recognize and respond to roadway and roadside conditions which require the driver to adjust his or her speed to something less than the established speed limit. Education is not simply limited to driver education within the school system. Education also involves being able to maintain the credibility of the traffic control devices placed along the roadway so that the drivers will understand the need for traffic regulations, and the vast majority of drivers will voluntarily comply with the regulations.

The Enforcement element of speed zoning involves identifying those drivers who are unable or unwilling to exercise good judgment in selecting appropriate speeds. Through apprehension and the judicial process, we attempt to modify the behavior of these drivers.

In any traffic control decision, including establishing speed zones, all of the 3-E's must be present and coordinated if we are to achieve the goals of safety and efficiency of traffic movement on the highways and within the communities.

## EVALUATION OF MONTANA SPEED ZONING POLICY

Establishment of speed zones within Montana is based primarily on a measurement of prevailing speeds under light volume, free-flow traffic conditions on the road. A sample of vehicle speeds are measured and, in general, the speed limit is set at the

"85th percentile" speed (rounded to the nearest 5 mph increment). This is the speed at or below which 85 percent of the drivers travel. Montana policy permits possible modifications to this speed based on factors such as accident history, geometric design, sight distance, traffic volumes, frequency of intersections and driveways, pedestrians, parked vehicles, and density and type of roadside development.

Inherent to this approach to establishing speed limits is the presumption that the large majority of drivers (85 percent) behave reasonably and are capable of perceiving conditions along a road which may require a speed reduction and react accordingly. By setting the speed limit at a level which will be voluntarily complied with by the large majority of motorists, it then becomes possible to focus enforcement actions against the relatively few (15 percent) who cannot or will not behave reasonably. If the speed limit were set at an artificially low level, enforcement personnel would not be able to discriminate between the few aberrant drivers who select excessive speeds and the large number of drivers who select reasonable speeds; all would be classified as "speeders".

Another reason that the 85th percentile speed is used as a basis for establishing speed zones is that it typically corresponds with the upper limit of the 10 mph "pace". The pace is defined as that 10 mph range of speeds which contains the largest percentage of drivers on the road. Numerous highway safety studies have consistently found that drivers are safest (have the lowest accident involvement rate) when they travel at a speed within this 10 mph pace. That is, drivers are safest when they travel at a speed close to that of most other drivers on the road. Accident involvement rates increase for drivers who travel at speeds that are either much higher or much lower than the majority of the other vehicles. By setting the speed limit at the upper limit of the pace, at the 85th percentile speed, we tend to encourage drivers to drive within this safest range of speeds.

The 85th percentile speed concept has been used for many years throughout the United States as a fundamental basis for establishing speed zones. For example, the Transportation and Traffic Engineering Handbook, published by the Institute of Transportation Engineers, indicates that "The 85th percentile speed as determined by speed studies is a principal factor to be used in the determination of proper speed limits."

The Montana policy on speed zoning is highly consistent with practices recommended by the Institute of Transportation Engineers and practices followed other states throughout the country. The Montana policy was specifically compared with the speed zoning policies of Texas, Illinois, and Ohio as part of this study. State policies in Illinois and Ohio tended to be more analytical in dealing with factors that might modify the 85th percentile speed (such as roadside conditions, accidents, volumes, etc.). The Montana and Texas policies tended to be more judgmental in considering these factors. However, all four state policies considered essentially the same factors as possibly modifying the 85th percentile speed, and all four placed fundamental reliance on the measurement of prevailing speeds and the use of the 85th percentile speed as a primary indicator of the appropriate speed limit.

In summary,

- The large majority of drivers can and do recognize a safe and appropriate speed for prevailing conditions along a road,

- Realistic speed zones allow enforcement personnel to concentrate their efforts on the relatively few drivers who cannot or will not exercise good judgment, and
- A speed zone set unrealistically low will
  1. be ignored by a large percentage of drivers;
  2. resulting enforcement activity will be perceived as harrassment (drivers will think of it as a "speed trap"); and
  3. the judicial system will not be able to effectively distinguish between drivers who do and do not exercise good judgment.

Sometimes, in establishing speed zones, the governmental body cannot set the limits at a level that community residents perceive as appropriately low. When this happens, speed zoning decisions tend to be highly controversial. Montana is certainly not alone in this problem; it occurs throughout the country. Many times this type of controversy develops because of the many popular misconceptions about speeds and speed limits. Some of these are discussed as follows:

1. It must be recognized that it is not possible to set speed limits that are appropriate for all possible conditions. Speed zones are established for favorable weather and traffic conditions. Drivers must be responsible for adjusting their speeds in response to traffic, weather, or other conditions that are less than optimal.
2. Raising the speed limit to be consistant with the 85th percentile speed does not generally affect traffic speeds. Studies in rural and urban areas in Montana, Minnesota, California, Illinois, South Carolina, and other states have consistantly found no significant changes in pervailing speeds when speed limits were increased to the 85th percentile level.
3. Drivers do not characteristically drive 5 mph higher than the speed limit. The vast majority of drivers simply drive at a speed that they perceive as being safe and reasonable. A possible exception to this is the 55 mph national speed limit. This limit was established as a national policy rather than based on the 85th percentile speed. As a result, a large percentage of motorists may consider that a higher speed is safe and reasonable on some highways. These motorists may select a speed about 5 mph above the 55 mph limit because they perceive this as an enforcement tolerance. Driver behavior with regard to the 55 mph speed limit can not generally be related to lower speed limits.
4. Experience has shown that speed limits set below the 85th percentile speed will not result in lower traffic speeds unless there is a consistent, conspicuous enforcement activity. The presence of police personnel, conspicuously enforcing the speed zone typically results in about a 10 percent speed reduction by all vehicles for a distance of 3 to 4 miles. After enforcement activity is discontinued, the speed reduction affect quickly disappears.

5. Lower speed limits do not necessarily reduce accidents nor do higher speed limits necessarily increase accidents. Numerous studies have found that lower speeds tend to be associated with a reduction in accident frequency and severity. However, it is important to recognize the distinction between lower speeds and lower speed limits.

## REVIEW OF RECENT SPEED ZONING DECISIONS

As part of this study, 4 recent speed zoning decisions by the Montana Department of Highways were reviewed. Information in Department files related to the speed zoning decisions was analyzed and each of the 4 sites was inspected during the period of January 21 - 23, 1985. The 4 speed zoning decisions reviewed included:

1. U.S. Route 2, Poplar
2. State Routes 41 and 287, Twin Bridges
3. U.S. Route 89, Neihart
4. U.S. Route 93, Missoula (near Miller Creek Road)

We are in basic agreement with the speed zoning decisions of the Department of Highways at all 4 locations. At some locations, we might have exercised different judgment in minor details concerning the location of the transition speed zones at the entrance to the community. However, we are in full agreement on the fundamental issue of the appropriate basic speed limit at each of these locations. We believe that the Department of Highways has exercised appropriate judgment and has followed well recognized and commonly used traffic engineering practices and procedures in establishing these speed zones.

The following comments concerning each of these speed zoning decisions are appropriate:

U.S. 2, Poplar. The basic speed limit through this community was established at 30 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate and there do not appear to be any roadway or roadside conditions which are not readily apparent to the motorist that would suggest a need for modification of the 85th percentile speed.

Roadside development begins abruptly at the west end of the community. This makes it difficult to achieve normal transition speed zoning to reduce the speed of approaching vehicles. The driver is normally transitioned through a series of successively lower speed limits as he approaches the built-up area of a community. To be successful, such transition speed zones must be consistent with the density of roadside development, so that the driver will perceive a need to gradually slow down. At the west end, because of the dramatic change in the character of roadside development (from rural to built-up), the transition speed zones had to be compressed into as short a distance as was practical. At the east end of the community, relatively sparse development extends a considerable distance beyond the denser developed portion of town. As a result, the transition speed zones extend for greater distances than at the west end. At the east end, the 50 mph speed zone could have been extended an additional 1000 feet farther east consistent with roadside development and measured speeds.

For the speed zones established, there appears to be adequate visibility of the marked school crosswalks, with one exception. There may be a sight obstruction created by vehicles parked along the south side of the street immediately adjacent to the western school crosswalk. Serious consideration should be given to prohibiting parking in this area.

State Routes 41 and 287, Twin Bridges. The basic speed limit through this community was established at 30 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate except as noted below. The roadway through this community provides for 4 lanes of moving traffic. If anything, the 30 mph limit appears to be slightly restrictive.

There appears to be a minor sight distance restriction at the T-intersection with Route 41. Parked vehicles on the east side of the road, north of the intersection make it necessary for vehicles on Route 41 to move forward past the stop sign in order to obtain a clear view of southbound traffic.

Transition speed zones at the north and south ends of the community appear to be consistent with prevailing speeds and roadside development, as designed. The beginning of the 40 mph speed zone for northbound traffic at the south end of the community could be moved somewhat further south. Placing the speed limit sign closer to the beginning of the horizontal curve would provide better advance visibility of the sign.

U.S. Route 89, Neihart. The basic speed limit through this community was established at 40 mph. This is consistent with the measured 85th percentile speed. This section is not identified as a high-accident location. Sight distance along the roadway appears to be adequate and there do not appear to be any roadway or roadside conditions which are not readily apparent to the motorist that would suggest a need for modification of the 85th percentile speed.

The roadway through this community is subject to peaks of recreational traffic during certain periods of the year. For relatively short periods of time, traffic congestion, aggravated by extensive parking on and adjacent to the roadway, is said to be of concern to the community. However, speed zones, if they are to be effective, must be based on conditions that prevail throughout most of the year when traffic volumes are low and conditions conducive to safe and efficient travel at 40 mph. Experience indicates that drivers can and do respond to restrictive conditions during peak traffic periods by reducing speeds.

Roadside conditions suggest that the 50 mph transition speed zone at the south end of the community could be ended about 1000 feet farther north, at the north end of a horizontal curve. The curve design appears adequate for 55 mph speeds and roadside development essentially terminates at this location. The 40 mph speed zone could be extended about an additional 500 feet at both the north and south ends of the community. Although the transition speed zones as designed are consistent with prevailing speeds of traffic, the roadside development in this community is of approximately uniform density for this additional distance beyond the end of the 40 mph zone as designed. This is a judgmental issue which does not affect the overall appropriateness of the basic 40 mph speed zone in this community.

U.S. Route 93, Missoula (at Miller Creek Road). The speed limit on Route 93 was established at 55 mph to a point approximately 450 feet east of the Miller Creek

Road intersection. This is consistent with the prevailing speed of traffic at this location and consistent with the drivers' perception of roadside development. Although there is a residential subdivision south of U.S. Route 93, it is well separated and screened from the roadway by a railroad right of way, fences, and vegetation. There is no access to the subdivision west of Miller Creek Road. As a result of these conditions, the motorist has no perception of roadside development until east of the intersection with Miller Creek Road. At this location, motorists respond to the presence of roadside commercial establishments by reducing their speeds. The location of the beginning of the 45 mph speed zone is consistent with this driver perception and behavior.

The stop sign controlled approaches of Miller Creek Road appear to provide the driver with adequate sight distance in both directions along U.S. Route 93. Although some accidents have occurred at this intersection, it is not considered a high-accident location. Reported accidents have averaged about 1 per year for the period 1972-1983. The section of highway which includes this intersection (as well as a bridge west of the intersection) has an accident rate about 10 percent higher than the Montana statewide average accident rate for primary routes and an accident severity rate which is below the statewide average.

## APPENDIX

Resume  
Robert K. Seyfried, P.E.

## RESUME

ROBERT K. SEYFRIED

The Traffic Institute  
Northwestern University  
555 Clark Street  
P.O. Box 1409  
Evanston, Illinois 60204

(312) 491-5040

POSITION Associate Director, Transportation Engineering Division  
1982 -

Responsible for the administration, planning, development and presentation of seminars and workshops in traffic engineering, transportation planning, urban planning, geometric design, traffic operations and planning, bicycle and pedestrian facility planning and design, highway engineering, and accident investigation. These continuing education programs are designed for professional engineering personnel of the city, county, and state transportation and engineering organizations and law enforcement agencies.

EDUCATION M.S., Northwestern University, civil engineering, 1970  
B.S., Northwestern University, civil engineering, 1968

PROFESSIONAL TRAINING Certificate, Traffic Accident Reconstruction  
The Traffic Institute, Northwestern University, 1981

PROFESSIONAL EXPERIENCE The Traffic Institute, Northwestern University  
Senior Transportation Engineer, Transportation Engineering Division, 1976 - 1982

Westenhoff and Novick, Inc., Chicago, Illinois

Chief Traffic and Transportation Planning Engineer, 1975 - 1976

Head of department responsible for traffic engineering, transportation planning, and environmental analysis projects. Included feasibility studies, planning and design of public transportation systems, freeway and arterial street systems, parking facilities, and terminal locations. Responsible for preparation of environmental impact studies, contract plans, and specifications for intersection improvements and traffic control systems. Responsible for engineering studies related to site development planning. Lecturer at Illinois Institute of Technology.

PROFESSIONAL Westenhoff and Novick, Inc.

EXPERIENCE

(continued)

Assistant Chief Traffic and Transportation Planning Engineer  
1969 - 1975

Assistant to department head responsible for supervision of  
traffic engineering and transportation planning projects.

CONSULTANT  
SERVICES

Consultation and preparation of expert testimony related to high-  
way traffic accidents. Analysis of roadway design and traffic  
control features, including geometric design of highways and  
intersections, traffic signal design and operation, signs and  
pavement markings, traffic control in construction and maintenance  
zones, and bicycle and pedestrian facilities design and operation.  
Traffic accident reconstruction.

Preparation of traffic engineering studies related to roadway  
improvements and site development.

PROFESSIONAL  
ACTIVITIES

Registered Professional Engineer, State of Illinois, 62-31085

Institute of Transportation Engineers, Member; Chairman of  
Committee 5B-9, "Urban Intersection Redesign Standards;"  
President of Illinois Section Institute of Transportation  
Engineers (1984).

American Society of Civil Engineers, Member

Transportation Research Board, Member of Committee A3C04, "Committee  
on Traffic Safety in Maintenance and Construction Operations."

PUBLICATIONS

Position and Direction on the Road (co-author), The Traffic  
Institute, Northwestern University, Stock No. 500, 1981.

Road Hazards, The Traffic Institute, Northwestern University,  
publication pending.

"Bicycle Facility Design and Legal Liability." Bicycle Forum  
Magazine, No. 8, 1982.

"Planning for Safe and Efficient Pedestrian Facilities." Metro-  
politan Association of Urban Planners and Environmental Designers,  
annual meeting, 1978.

"A challenge to U.S. Traffic Engineers: An Illinois Section  
Experience." Traffic Engineering Magazine, May 1976.

Reference Manual: Legal Liability and the Highway Professional  
(co-author). The Traffic Institute, Northwestern University, 1981.

Peak-Hour Traffic Signal Warrant (co-author), National Cooperative  
Highway Research Program Report 249, Transportation Research  
Board, 1982.

Amendments to House Bill No. 59  
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon  
March 20, 1991

1. Title, lines 7 and 8.

Strike: "INCREASING FEES FOR REQUESTS FOR DRIVING RECORDS;"

2. Page 1, line 10.

Following: line 9

Insert: " STATEMENT OF INTENT

To implement 61-11-105(2), a statement of intent is required for this bill to provide guidelines for the adoption of rules under which the department of justice may determine if a person or firm has a legitimate purpose for requesting the individual driving record of a licensee. "Legitimate purpose" includes the formation and execution of a contract when the contract relies in part upon the contents of an individual's driving record."

3. Page 2, line 12.

Strike: "\$6"

Insert: "\$3"

4. Page 2, line 13.

Strike: "\$15"

Insert: "\$10"

Amendments to House Bill No. 150  
Third Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Paul Verdon  
March 19, 1991

1. Page 3, lines 1 and 2.

Strike: "and other vehicles subject to tax under 61-3-504(2)"

2. Page 3, line 10.

Strike: "the"

Insert: "a light vehicle"

3. Page 3, line 11.

Following: "~~vehicle~~"

Insert: "his vehicle"

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 14 day of March, 1991.

Name: A. Nadine Oberg

Address: 36 S. Last Chance Gulch, Ste A.  
Helena, MT 59601

Telephone Number: 443-1160

Representing whom?  
Montana Solid Waste Contractors

Appearing on which proposal?  
HB 263

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:  
See Written Statement.

COMMITTEE ON: HIGHWAYS AND TRANSPORTATION

DATE:

3/14

HB 59  
HB 236  
HB 263  
HB 309

## VISITOR'S REGISTER

NAME	REPRESENTING	BILL #	SUPPORT	OPPOS
DAL SMILIE	Am Motorcyclist Assoc	HB 309	✓	
ED FEIST	CAP. TRAIL BIKE MTN	HB 309	✓	
Linda Ellison	MT Trail Vehicle	HB 309	✓	
DAVE BROWN	Sponsor - HO #72	HB 309	✓	
Joe Mullikin	RMTBRA	HB 309	✓	
Nadine Oberg	MT Solid Waste Contract	HB 263	✓	
Jacqueline M. Jernell	Am. Old. Assoc.	HB 59		X
GENE PHILLIPS	NAT. ASSOC IND. INS.	HB 59		X
Steve Browning	ALLIANCE AMER INS	HB 59	✓ (with amendment)	
Roger McGlen	State Farm Insurance	HB 59		
ROGER MCGLEN	INDEPENDENT INS. AGENTS ASSOC OF MT	HB 59		X
CURT LAINGEN	MT MOTOR CARRIERS ASSN	236	✓	
Jim Marion	AAA MONTANA	309		X
Janet Ellis	MT Audubon	309		
Michael Sherwood		59		if needed to be more restrictive

(PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY)