

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on January 26, 1993, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
Sen. John Harp (R)
Sen. Francis Koehnke (D)
Sen. Doc Rea (D)
Sen. Spook Stang (D)
Sen. Chuck Swysgood (R)
Sen. Henry McClernan (D)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)

Members Excused: None.

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Beth Satre, Committee Secretary

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

Committee Business Summary:

Hearing: SB 219, SB 185, SB 198
Executive Action: SB 198, SB 185, SB 105, SB 219

HEARING ON SENATE BILL 219

Opening Statement by Sponsor:

After excusing himself from the Committee, SEN. TVEIT opened the hearing on SB 219 by reading from prepared testimony (Exhibit #1).

Proponents' Testimony:

Dave Galt, Administer, Motor Carrier Services Division, Department of Transportation (DOT), read from prepared testimony (Exhibit #2).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. STANG asked **David Galt** if granting DOT the authority to employ people from other states to enforce Montana laws would also give DOT the authority to replace Montana residents who are currently employed with out-of-state enforcement officers. **Dave Galt** replied SB 219 would probably give DOT that authority. He stated, however, that was not DOT's intent. DOT personnel currently staff the joint Montana/Idaho weigh station in Haugen, Idaho and **Dave Galt** stated that has been a very beneficial operation. According to **Dave Galt**, DOT requested SB 219 because it felt the further promotion of joint authorities was a good idea and other circumstances might require allowing other states' operators to enforce Montana law.

SEN. SWYSGOOD stated he would address the Committee and then ask **Dave Galt** to respond. He expressed his dislike of the provisions that SB 219 makes for the operation of joint weigh and inspection stations between the province of Alberta and Montana. Given the fact that two countries were involved, **SEN. SWYSGOOD** felt the creation of the existing weigh station through an executive order without any legislative review was totally inappropriate. He had heard nothing but complaints from both Canadian and American trucking companies about this operation and expressed his opinion that something needed to be done about the current situation. According to **SEN. SWYSGOOD** two sets of completely different rules and regulations that govern trucking are being enforced. The Canadians enforce Canadian law on the American truckers and vice versa. **SEN. SWYSGOOD** stated this has created a continual conflict between trucking companies operating in the two jurisdictions.

SEN. SWYSGOOD stated he was in agreement with the provision SB 219 would make for the joint staffing of weigh stations between two states. He did, however, voice concerns about one state providing all of the service and staff.

Dave Galt responded DOT does have a broad authority to enter into agreements with provinces and states to operate joint weigh stations. It was under that authority that an agreement involving the current operation in Coutts, Alberta was made. He admitted there have been complaints about those things **SEN. SWYSGOOD** addressed. **Dave Galt** explained the operating procedure in Coutts. The Montana officers enforce U.S. law on motor carriers coming out of Montana for rules or regulations they might have violated while in Montana. At Coutts, those vehicles going into Montana which are legal in Canada but in violation of Montana law are advised that they are illegal and asked to correct the potential violation. **Dave Galt** concluded by saying the joint weigh station has fulfilled DOT's primary goal by eliminating one stop for the motor carriers entering and leaving Montana.

SEN. SWYSGOOD asked **Dave Galt** if the weigh station at Shelby could be eliminated and the one at Great Falls be used in its place since trucks are required to stop there any way. **Dave Galt** replied the station at Great Falls is only a northbound weigh station and the station at Shelby is only a southbound weigh station. He stated the advantage of the Coutts facility is that both north and southbound vehicles could be processed at a point which is close enough to the border to eliminate any bypass of the weigh station. According to **Dave Galt** if a weigh station were to set up south of Shelby, carriers could bypass it by turning onto Highway 2 at Shelby. **SEN. SWYSGOOD** asked **Dave Galt** if there was a southbound scale at Great Falls at the Vaughn Exit. **Dave Galt** replied a long time ago a set of scales was located southbound out of Manchester. The scales as well as the building have been removed.

SEN. SWYSGOOD asked **Dave Galt** to confirm that spot checks were held there. **Dave Galt** replied affirmatively.

SEN. REA asked **Dave Galt** to clarify the actual terms under which the staff of the current joint weigh stations are and would be employed. **Dave Galt** responded by describing the status of employees at both the Haugen and Coutts weigh stations. In Idaho all employees are Montana residents. In Alberta six officers are Montanans and eight are Canadian. In both cases the officers from Montana are given special status allowing them to enforce the size and weight rules of the other jurisdiction. The Montana DOT does not have the authority to make that offer reciprocal. **Dave Galt** admitted he was unsure how a newly opened scale or joint port of entry would be staffed: with their people, Montanans or a combination of both. He stated the goal of such a facility would be that all staff be able to enforce the same law.

SEN. SWYSGOOD asked **Dave Galt** if Montana officers employed in Coutts need Visas. **Dave Galt** replied that they have visas which are valid for one year and cost \$75 (U.S.) per person.

SEN. STANG expressed his concern about losing jobs for Montanans. He asked **Dave Galt** if he would object to amending SB 219 so it would rule out the possibility of employing an out-of-state law enforcement officer in a weigh station within the state of MT. He stated he found it acceptable, as in the case of Haugen, to take Montana residents and move them into another province or another state. He did not find it acceptable, however, to bring staff in from Idaho to replace the eight people that currently work at the Haugen weigh station. **Dave Galt** stated he would agree to an amendment, but did not agree with the amendment **SEN. STANG** had just suggested. He pointed out that such an amendment would still allow an agreement placing a joint weigh station in another state. **Dave Galt** stated he would agree to any language that would protect the positions at existing operations.

SEN. SWYSGOOD asked **Dave Galt** to clarify the agreement made with Idaho as it pertains to the staffing at the Haugen weigh station.

Dave Galt replied the agreement was and is that Montana would supply the total staff.

SEN. SWYSGOOD asked Dave Galt if the authority that the highway commission has to enter into an agreement with a state or a province is granted through statute or rule-making. Dave Galt replied that the authority is granted in MCA 62-3-11.

SEN. HARP asked Dave Galt if the intent of SB 219 is to allow DOT to hire out-of-state workers to come in and function within Montana. Dave Galt replied SB 219 would allow that, but would also allow resident officers in a joint weigh station in their state or province to enforce Montana law. SEN. HARP asked then if it would be a reciprocal agreement, and Dave Galt responded that since both Alberta and Idaho have granted Montana the authority to enforce their laws it is reciprocal in a sense.

SEN. HARP asked if Montana residents are currently staffing the Haugen station. After Dave Galt replied in the affirmative, SEN. HARP asked if SB 219 would make it possible for them to be residents of Idaho. Dave Galt replied in the affirmative.

SEN HARP asked about the situation in Canada. Dave Galt stated there are Montana residents, who are employees of the DOT, and there are Alberta residents, who are employees of the Alberta Transportation and Utilities Commission, operating at the same weigh station.

SEN. HARP asked who paid the Canadian employees and Dave Galt replied that Alberta funds their employees, Montana funds its employees, and the cost of operation is split.

SEN HARP asked if SB 219 would allow DOT the flexibility to hire strictly Canadian residents where there is currently a blend of both canadian and montana residents. Dave Galt replied he believed the current language of SB 219 would allow DOT that flexibility.

CHAIRMAN WEEDING asked about the executive order SEN. SWYSGOOD had mentioned in his previous comments. Dave Galt replied it was not an executive order per se, but an agreement reached with the concurrence of Governor Stevens' administration.

Closing by Sponsor:

SEN. TVEIT reiterated he was presenting SB 219 at DOT's request of DOT and stated if the need for an amendment exists he would be agreeable. He stated his hope that a representative of DOT would be present to answer the Committee's questions during executive session.

HEARING ON SENATE BILL 185

Opening Statement by Sponsor:

SEN. SWYSGOOD, Senate District 37, stated SB 185 addresses the current law as it relates to overweight vehicles stopped at weigh stations. Under the current statute they can be made to unload before they are allowed to proceed. SB 185 would allow DOT to issue a special permit to certain illegal overweight loads after they had paid their fines. The permit would allow that vehicle to proceed to a designated facility to unload. **SEN. SWYSGOOD** stated that many times forcing the download of an overweight vehicle compromises public, hauler and DOT employee safety.

SEN. SWYSGOOD stated SB 185 would also increase the fees charged for overweight loads. This increased fine structure only applies for vehicles no more than 10,000 lbs. overweight; anything over that limit would still be made to unload. **SEN. SWYSGOOD** explained that an overweight of under 10,000lbs. can be construed as unintentional, but anything heavier can be considered a blatant violation. According to **SEN. SWYSGOOD** the increase in penalty and overload fees SB 185 would institute is designed to make continually running slightly overloaded unprofitable.

Proponents' Testimony:

Dave Galt stated the mission of the DOT Motor-Carrier Division is to protect the highways and weighing trucks is an integral part of that mission. When trucks are found to be overweight they are required by law to reduce to legal limits before they can proceed. **Dave Galt** cited overloaded trucks carrying logs, hazardous material, and livestock to show how this requirement can create situations which violate common sense safety standards and/or Workers Comp guidelines. He stated several people had been injured in the past at weigh stations unloading overweight loads.

Dave Galt explained DOT does not want to condone overweight operations, but needs to provide a safe mechanism to adjust those overloads that are within reason. According to him, less than 10% of the citations issued last year were in excess of 10,000lbs. DOT is of the opinion that overloads up to 10,000lbs can be considered an honest mistake. **Dave Galt** stated DOT has had a lot of problems in the past caused by offloading on highway right-of- ways and would like to stop that practice. Because of this, DOTs position toward an extremely overweight carrier is that the overweight should be adjusted onto another vehicle, not left on the highway right-of-way. Finally **Dave Galt** told the Committee that SB 185 has a fail-safe clause allowing DOT not to issue a permit if it appears that a carrier thinks they could operate profitably by overweight shipments.

Ben Havdahl, Montana Motor Carriers Association, stated his organization supports SB 185 for the reasons already outlined by **SEN. SWYSGOOD** and **Dave Galt**. He applauded the additional language in SB 185 that provides additional flexibility for loaders and haulers of live loads and allows the removal of overweight live loads to a safe place off of the highway right-of-way and away from the scale. According to **Ben Havdahl**

livestock is loaded in a field where there are no scales and being within the 5% or 7% currently allowed can be very difficult. **Ben Havdahl** felt that both industry and the State of Montana would benefit from SB 185.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. KOEHNKE asked if the distance to the facilities "designated" could be almost across Montana, like from the Idaho border to Miles City. **SEN. SWYSGOOD** replied he would assume a permit issued to an overweight load would allow the vehicle to go to someplace that was safe and within a reasonable distance from the place of apprehension. He did not believe DOT would issue a permit for travel almost across the state.

SEN. REA requested clarification about the definition and function of "designated facilities". He pointed out that all facilities could not be equipped to handle all the commodities that had already been mentioned like hazardous waste, logs, and livestock. **David Galt** stated **SEN. REA** was right, and DOT would have to designate the facilities for specific commodities depending on the scale or locality.

SEN. REA asked what the current practice is with cattle. **Dave Galt** responded that overloads between 0% and 5% are left up to the discretion of the officer at the weigh station. **Dave Galt** stated many times cattle have been offloaded just on a chute although DOT has tried to discourage that practice.

SEN. REA asked how DOT had arrived at the figure of 10,000lbs. and how that would equate to a load of yearlings. **David Galt** responded he had chosen 10,000lbs rather than a percentage because a percentage would vary with the size of the vehicle. The already existing statute tolerance of 5% and 7% also applies to axle weights. According to **Dave Galt** this would make the number of yearlings equivalent to the overweight dependant on the axle's gross weight and other variables.

SEN. STANG asked that the location and staff of the "designated facilities" be clarified if the overweight vehicle was apprehended at the Haugen weigh station. **David Galt** stated he had planned on using commercial not state maintained facilities and the location of those facilities would vary with commodities. For a load of gasoline the facility might be St. Regis. For cattle it might be a sale yard in Missoula.

SEN STANG asked **Dave Galt** if overweight trucks hauling potatoes would be allowed to continue into Idaho with the overweight or if they would be made to unload. **Dave Galt** stated DOT would have to work with Idaho and the potato farmers on this issue. Up to now, DOT has issued citations to overweight potato trucks caught at

the Haugen scale and permitted them into Idaho because it did not want to have those potatoes dumped on the side of the road.

SEN. STANG asked about the current practice when a load is more than 10,000lbs overweight and what would happen under SB 185. **Dave Galt** stated it currently depends on the commodity. Certain hazardous commodities cannot be offloaded at weigh stations and are sent to their destination or to a facility near the weigh station. Often when vehicles are weighed on portable scales on the side of the road, overloads are not offloaded in the ditch but allowed to go to a place where they can legalize the load. According to **Dave Galt** DOT's intent in SB 185 was to create a mechanism for the carriers that are close, but not intentionally overloading. **Dave Galt** stated he thought 10,000lbs was a good point to draw the line between intentional and accidental overloading. He stated DOT feels if a vehicle is over 10,000lbs. it would have to stay at the weigh station until its load can be reduced. He cautioned the Committee that possible situations might arise where that could prove very difficult.

SEN. REA asked what the obligation of the State was when a overweight truckload of cattle or another commodity has to be unloaded. **Dave Galt** answered current statute states overloaded commodities must be immediately reduced. Commodities can be offloaded on the highway right-of-way and are offloaded and cared for at the owners expense.

CHAIRMAN WEEDING requested **Dave Galt** clarify the 10,000lb. figure mentioned in SB 185 and how it would apply to different sizes of trucks. **Dave Galt** stated the 5% tolerance is applicable to all axle limits and all gross weights. On a small truck that percentage tolerance might be 2,000lbs, but on a large truck stretched out to maximum length with nine axles that weight could be as much 14,000lbs. He stated DOT chose 10,000lbs as being in the middle and assured the Committee that single axle trucks operating 10,000lbs over one axle are very rare.

CHAIRMAN WEEDING asked what would happen to repeat offenders. **Dave Galt** replied SB 185 allows DOT the option to issue a permit. Repeat violators would probably not be issued a permit and required to stay at the weigh station until they have offloaded. **Dave Galt** stated such a problem would be brought to the attention of a supervisor, a chief or himself so that action could be taken against that carrier.

Closing by Sponsor:

SEN. SWYSGOOD stated many of the Committee's questions pertained to areas that SB 185 would not change; SB 185 would establish tolerances primarily for agricultural commodities loaded away from facilities with scales. According to **SEN. SWYSGOOD** SB 185 addresses the congested, hazardous and impossible work conditions that can arise at many weighing facilities when overweight trucks are currently apprehended. He defended the 10,000lbs limit SB 185 would set, as well as DOTs ability to establish reasonable

"designated facilities" for offloading.

HEARING ON SENATE BILL 198

Opening Statement by Sponsor: SEN. WEEDING, Senate District 14, stated SB 198 was requested by DOT in response to the Intermodal Surface Transportation Efficiency Act (ISTEA). With the advent of ISTEA most of the guidelines binding the disposition of federal funds disappeared. The states will be getting mostly lump sums and far greater discretion on how to use those funds then in the past. SEN. WEEDING stated SB 198 would essentially recreate the financial districts, formulas for fund allocation and the responsibilities of the Highway Commission previously defined and enforced by federal guidelines. To this end the first six sections of SB 198 redefines and places familiar terms like the primary, secondary, urban, and national highway systems into Montana statute. SEN. WEEDING added that later sections of SB 198 would institute necessary alterations to adapt to the changes in the federal highway aid brought about by ISTEA and would give some additional authority to the Montana Highway Commission to make rules to implement ISTEA.

Proponents:

Jim Beck, Chief Counsel of DOT, stated that prior to ISTEA's enactment in 1991, federal aid funds were allocated to the states primarily on the basis of the interstate, federal aid primary, secondary and urban systems. The Federal Aid Highway Acts allocated funds on the basis of these systems. In response to these Acts the Montana statutes created parallel systems. ISTEA changed this. According to Jim Beck, upon the enactment of ISTEA it became apparent Montana's statutes relating to funding and the allocation of federal highway funds needed to be changed. Jim Beck stated DOT looked at various alternatives and concluded the present system had served the State well. As a result DOT decided to try to reenact within the provisions of ISTEA the systems the State has had in the past, and that is what SB 198 is. Jim Beck stated SB 198 would create the National Highway System which will be primarily comprised of the present interstate system plus selected portions of the present primary system. The definition section creates primary, secondary, and urban highway systems which are virtually the same as now. According to Jim Beck, SB 198 would also allow DOT a means of transferring federal aid funds to highways that are not on any of the other systems but whose maintenance DOT is responsible for.

Jim Beck stated the Montana Highway Commission will allocate a portion of the ISTEA funds to each of the financial systems. These funds would be used for projects located on the systems. The funds that are allocated to the primary system will then be apportioned among the five financial districts. Funds allocated to the secondary system will be apportioned to the counties much in the same way. Jim Beck said that SB 198 would eliminate the first apportionment of funds to the financial district instead

allocating those funds directly to the 56 counties. He stated a comparison of the two systems had been done and there is very little difference in the relative share that each county would get by eliminating the first allocation to the financial district. He stated the Highway Commission will still establish the priorities and select the projects. SB 198 does, however, require that priorities and projects on the urban and secondary systems be set and selected in consultation with local officials. **Jim Beck** emphasized that SB 198 neither addresses nor affects the present maintenance system. He reminded the Committee that DOT would be introducing a joint resolution asking that whole maintenance system and maintenance responsibilities be addressed by a study. If that resolution is passed DOT could address the problems of maintaining the State's highways next session.

Carl Schweitzer, Montana Contractors Association, expressed his organizations support of SB 198.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. HARP pointed out that in SB 198 both the expenditures of the Highway Reconstruction Fund, the Highway Reconstruction Program, and national, secondary and primary highway systems also seem to include maintenance. He reminded the Committee that when the RTF program was instituted it was solely for the rebuilding of roads not the maintenance of them. He asked **Jim Beck** if he were reading the provisions of SB 198 wrong. **Jim Beck** replied that definitely was not DOT's intent. The intent as it applies to the RTF program was to change the names in the two parallel sections to reflect the changes of the new sections. **Jim Beck** stated that codifying the necessary changes was difficult and that he would be willing to draft a clarifying amendment if it proved necessary. He offered to double check the language.

SEN. HARP asked if the National Highway System would include all the interstate and any other highways that DOT designates as highways of national significance. He stated Montana has submitted or will submit a proposal to the Federal Highway Administration (FHA). They will massage it and submit it to Congress. According to **Jim Beck**, the ultimate decision as to which of the present primary highways will comprise the National Highway system will be made by Congress in 1995.

SEN. HARP requested **Jim Beck** clarify how money is going to be apportioned under the financial laws to primary highways that might or might not be included in the National Highway System between now and 1995, when Congress will make the final decision. **Jim Beck** replied that the National Highway System will not be under a financial district law, but the rest of the primaries will be under the financial district laws. He stated the Highway Commission would decide what apportionable dollars will go to

roads other than interstate.

SEN. HARP stated the Highway Commission must have taken a look at the map and decided which highways they would like to have designated part of the National Highway System. He asked what the Commission felt should be part of the federal program. **Jim Beck** asked **SEN. HARP** to address his question to **Steve Kologi**, who could explain to the process and Montana's current position in it.

Steve Kologi, Director of Program and Planning Division, DOT, stated the process of deciding which roads will comprise the national highway system has been a lengthy process that started before the passage of ISTEA. Three years ago, the Federal Highway Administration (FHA) asked that DOT and the Highway Commission submit their version of the National Highway system. According to **Steve Kologi** the FHA gave only a mileage limitation. The Montana proposal should contain no more than 4% of the total mileage of Montana's roads, streets and highways which amounts to about 2800 miles. **Steve Kologi** stated the interstate eats up 1200 miles of that. After holding public meetings around the State in the fall of 1990, the Highway Commission adopted a national Highway System that included 6.6% of Montana's roads that they submitted to the FHA. The FHA then developed an "illustrative system" which used their original 4% figure and submitted it to Congress. When Congress adopted ISTEA they adopted language which set up an interim National Highway system comprised of those routes that were functionally classified as principal arterials back in 1976. As **Steve Kologi** stated this does not include all of the roads in the Montana Highway Commission's proposal, but more than FHA's "illustrative system".

ISTEA also required that DOT and the Highway Commission functionally reclassify all Montana roads into principle arterials, minor arterials, major collectors, minor collectors and local roads and streets. **Steve Kologi** told the Committee that has been finished and submitted to the FHA, and on April 1 Montana will submit a new version of its National Highway system. According to **Steve Kologi** the new version will contain the highways now functionally classified as principle arterials.

SEN. TVEIT asked where the process currently stands. **Steve Kologi** replied the principal arterial system has been submitted to the FHA and in April Montana's national highway system will be submitted. The FHA will take that proposal, develop their proposal and submit it to Congress. The final decision will be made there. **Steve Kologi** informed the Committee that DOT and the Highway Commission has made the staffs of Montana's congressional delegation aware of the process and will make sure to keep them apprised and involved in the process.

SEN. MCCLERNAN asked if SB 198 is basically a housekeeping measure or does it change policy. **Jim Beck** replied DOT is not changing policy but SB 198 is not strictly a housekeeping bill,

since there is a significant change in the process. The Highway Commission will now have discretion in allocating funds among the major programs, whereas that discretion was really dictated by the Federal Aid Highway Acts in the past. Aside from that, Jim Beck stated DOT's intent with SB 198 is of a housekeeping nature.

After SEN. TOEWS asked him to clarify pg. 4 Section 6, Jim Beck explained that the section refers to the fact that some funds for off system programs can be allocated without regard for financial systems. He cited DOT's off-system bridge and railroad crossing programs as examples of such programs. He stated that this funding provision is currently in the law now, but it is more specific.

SEN. TOEWS asked if that constituted a change. Jim Beck replied that it both did, and did not. According to him the applicable section, MCA 60-3-213, is very specific. He had drafted this section in more general terms so that as new programs come along DOT would not need to ask to have the law amended.

Closing by Sponsor:

SEN. WEEDING closed by informing the Committee he had taken SB 198 to the Montana Association of Counties (MACo) for their opinions. MACo had asked Vernon Peterson, their transportation chair to evaluate it and he gave it a stamp of approval (Exhibit #3). SEN. WEEDING stated MACo had asked him to assure the Committee they were in support of SB 198.

EXECUTIVE ACTION ON SENATE BILL 198

Discussion:

SEN. HARP stated the 14 repealing sections in SB 198 made him nervous. He requested that Dave Bohyer review them to make sure everything is in order. He cited the possible complications with maintenance as an example of this.

Jim Beck offered to be present when the Committee discussed the repealers. He felt it might be helpful if he could explain DOT's intent with the repealers and would like to make sure he had not inadvertently repealed any thing.

SEN SWYSGOOD seconded SEN. HARP's request and said a brief synopsis of each repealing section would be helpful.

SEN. HARP reminded the Committee that SB 198 as it now stands might place a maintenance program in the RTF program.

CHAIRMAN WEEDING asked Jim Beck to double check Section 4 and the RTF program since the Committee would not want it jeopardized. He requested DOT representatives explain the enhancement portions of the ISTE program and apportionment of related funds.

Steve Kologi stated ISTEA differs in a few ways with the past statutes. There are "set asides" in ISTEA. The first set aside is for safety programs. Other than putting a little more money into those programs, it does not differ all that much from the past. A completely new set aside is the "enhancements". There are a list of 10 items and which includes some things that do not directly apply to highways like foot and bicycle paths and historic preservation.

SEN. HARP requested a list of the enhancements and asked if something on air pollution was on the list.

Steve Kologi stated two proposals to distribute enhancement monies were submitted to the Montana Highway Commission. MACo, the League of Cities, and DOT staff submitted the proposal that was accepted. It would take the enhancement monies and distribute them to local governments on a per capita basis. The monies are distributed to cities with populations over 1000 and to the counties so that every person in Montana gets a share of that it. The other proposal would have created a super committee at the state level composed of members of various organizations who had expertise which correlated to the various enhancement categories. This committee would have developed rules, solicited nominations from around the state and submitted deserving projects to the Highway Commission for its approval. According to **Steve Kologi** the counties and cities are now working on prioritizing their projects, and DOT was not suggesting that the distribution of these funds be legislated.

Steve Kologi stated ISTEA also creates the Congestion Mitigation and Air Quality (CMAQ) fund, from which Montana receives about \$4 million a year. CMAQ was set up to tackle the air pollution and congestion problems of the nation's major cities, and to try to get people out of their cars, into mass transit, on their bikes, or walking. **Steve Kologi** explained that if all Montana's cities complied with carbon monoxide standards, Montana's entire CMAQ allocation could have been invested in the surface transportation program and distributed according to the categories SB 198 would create. Missoula is, however, not in compliance, so most of the CMAQ money has to be spent in Missoula. Some CMAQ money will be spent to address PM 10 ("dust") problems primarily in the western portions of the State.

There was some general discussion about air quality categories, and why Lame Deer was the only eastern city with PM 10 problems. **SEN. HARP** mentioned that eastern Montana had benefited more than western Montana in past federal highway programs. **SEN. WEEDING** closed executive session on SB 198 by stating DOT staff would be informed when the Committee was ready to go into executive session on SB 198 so that they could be present.

EXECUTIVE ACTION ON SENATE BILL 185

Motion: **SEN. HARP** moved DO PASS on SB 185

Discussion:

SEN. STANG stated he was opposed to SB 185 because he does not understand the mechanics involving the designated facilities were actually going to work. He was of the opinion DOT would eventually need to contract with moving and storage places to see that overweight loads were being safely offloaded.

SEN. SWYSGOOD explained that **SEN. STANG** should not understand the word "facility" literally. He felt the intent behind SB 185 was not to require the state to be responsible for any overload or cargo. In SB 185 "designated facility" refers to the nearest facility where you can safely unload. It does not mean the State will maintain warehouses and facilities to unload or store any cargo, it refers generally to an area or a town where the necessary equipment is available or obtainable, and the truck does not obstruct highway traffic.

SEN. TVEIT stated there are basically two parts to SB 185. First, DOT can issue permits which can be purchased immediately. Secondly, DOT can indicate where the overloaded vehicles can go to adjust their loads.

CHAIRMAN WEEDING told the Committee that he recalled driving past a scale house at Circle during harvest time and seeing piles of wheat all over the tarmac. He stated the drivers would "just open the end gate and let 'er spill".

SEN. SWYSGOOD stated occasionally irate truck drivers have just walked around their vehicles, opened the traps and dumped their loads right on the scale.

SEN. TVEIT stated he thought SB 185 was a good piece of legislation.

Vote: DO PASS motion for SB 185 CARRIED with **SEN. STANG** voting NO.

EXECUTIVE ACTION ON SENATE BILL 105

Discussion: **SEN. STANG** asked the Committee to hold action on SB 105 for about a week. He stated he had made a commitment to some people opposed to SB 105 to give **Rep. Wanzenreid** ample time to introduce HB 172 which would require the Public Service Commission (PSC) to set a minimum rate for Class E motor carriers. The Committee voiced no objection.

EXECUTIVE ACTION ON SENATE BILL 219

Motion: **SEN. MCCLERNAN** moved DO PASS on SB 219

Discussion:

SEN. TVEIT defended SB 219 on the ground that there are economical reasons behind DOT's decision to ask for the authority that SB 219 would create.

SEN. STANG expressed that his concern with SB 219 was the potential loss of jobs for Montanans. He suggested this problem could possibly be addressed through a statement of intent indicating it is not DOT's intent to replace working Montanans with working people from other states or provinces.

CHAIRMAN WEEDING stated **Dave Bohyer** had informed him that statements of intent are discouraged except for cases where an agency is being granted rulemaking authority.

Dave Bohyer informed the Committee that statements of intent also disappear when the applicable sections are codified. In the case of SB 198, DOT might remember the statement for two years or until Dave Galt gets appointed to some other position, but it would not stay in the law. If the Committee wanted to indicate intent it could create a policy section to the effect that DOT is not supposed to hire people from out of state or people are not supposed to lose their jobs, which would be codified in 61-12-2 that.

SEN. STANG asked **Dave Galt** to comment.

Dave Galt stated he did not have a problem with any language that would protect people's jobs. He expressed concern that it would defeat the money-saving purpose of SB 219 if the Committee made it impossible to hire anybody from out-of-state.

SEN. STANG stated his primary concern was protecting jobs in Montana. He expressed his hope that if another weigh station or port of entry was built DOT could negotiate an agreement which would do that. He stated if it is in Montana it should be staffed by Montana residents. If it is on the border then they could staff it 50/50. If it is in a different state he was not sure how it should be staffed.

CHAIRMAN WEEDING suggested the Committee could write a letter to DOT stating it is not the Committee's intent to depose those currently working in those weigh stations.

SEN. BRUSKI-MAUS stated her district borders three states: Wyoming, South Dakota, and North Dakota. She stated her belief that in a reciprocal agreement where both states are funding the installation's costs, both states should also provide the staff if both state's laws are being enforced. She asked if that could be incorporated into SB 219.

Dave Bohyer stated he could draft a section accomplishing that, but expressed his uncertainty if such a section would meet **Dave Galt's** objectives.

SENATE HIGHWAYS & TRANSPORTATION COMMITTEE

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SEN. TVEIT asked SEN. MCCLERNAN to withdraw his motion. He cited the fact that the Committee obviously had a few problems with SB 219. He expressed his opinion that a letter of intent would not suffice, and that an amendment which addressed these problems but left DOT a certain amount of flexibility should be drafted.

SEN. MCCLERNAN withdrew his motion.

CHAIRMAN WEEDING asked SEN TVEIT, Dave Galt and Dave Bohyer work together to come up with some language that will address the problems brought up in discussion.

SEN. SWYSGOOD stated he would still vehemently oppose SB 219 as it applies to Canada. He expressed his opinion that he did not think it right that American officers are currently in Canada enforcing Canadian and American rules and that Canadian officers could be enforcing both Canadian and American rules. He stated he did not have a problem with the rest of SB 219.

CHAIRMAN WEEDING stated the Committee had agreed not to act on any controversial bills on the day they were heard, so the Committee would not take any action on SB 219 today.

ADJOURNMENT

Adjournment: 2:37 p.m.



SENATOR CECIL WEEDING, Chair



BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION DATE JAN. 26, 1993

[illegible]

SENATE STANDING COMMITTEE REPORT

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January 26, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration Senate Bill No. 185 (first reading copy -- white), respectfully report that Senate Bill No. 185 do pass.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

SENATE BILL 219

TE HIGHWAYS

EXHIBIT NO. 1

SPONSORED BY: SENATOR TVEIT

DATE JANUARY 26, 1993

BILL NO. SB 219

DATE: JANUARY 26, 1993

I appear before this committee today to urge your support for SB 219. This bill will grant the authority to the director of the department of transportation to appoint people from other jurisdictions as peace officers for joint weigh station operations.

The state of Montana has entered into several agreements with neighboring jurisdictions to operate joint weigh stations. With budget dollars getting harder to find these agreements provide a means of getting more coverage with less money.

Dave Galt of the Department of Transportation is here to discuss the details of the bill, and we will answer any of your questions. Thank you.

While this bill would not further reduce the costs of the two facilities now in operation, it would allow us to expand our efforts with other jurisdictions without the corresponding increase in personnel costs.

We urge your support for SB 219. Thank you.

SB 219

SUBMITTED BY: DAVID A. GALT

SENATE HIGHWAYS

EXHIBIT NO. 2

DATE JANUARY 26, 1993

BILL NO. SB 219

DATE: JANUARY 26, 1993

The department appears before this committee today to urge your support for SB 219. This bill will grant the authority to the director of the department of transportation to appoint people from other jurisdictions as peace officers for joint weigh station operations.

The State of Montana has entered into several agreements to operate joint weigh stations. We currently operate a Montana/Idaho scale on I-90 near St. Regis, and we work with the Alberta officials at a weigh station in Coutts, Alberta. These facilities have offered reduced downtime to the motor carrier industry and well as reduced government costs.

We have the authority to sign agreements with these other jurisdictions, however we do not have the authority to appoint other jurisdiction's weight enforcement officers that same authority granted to our Motor Carrier Services Officers. This bill would provide that authority.

While this bill would not further reduce the costs of the two facilities now in operation, it would allow us to expand our

efforts with other jurisdictions without the corresponding increase in personnel costs.

We urge your support for SB 219. Thank you.

SENATE HIGHWAYS

EXHIBIT NO. 3

DATE January 26, 1993

BILL NO. SE 198

January 26, 1993

To the Honorable Chairman Senator Weeding and Committee Members:

I am Vernon Petersen, a Fergus County Commissioner and the Chairman of the Montana Association of Counties Transportation Committee.

I want to go on record in support of Senate Bill 198. We had some input on what this bill should contain with the past administration and it reflects that in its present form. There is not a lot of substantive change from the past allocation method and that worked very well. The change from districts to counties in the secondary portion simply eliminates one unnecessary step and gets the same job done. The removal of the "cap" on secondary allotments makes this section the same as the urban section was in the past and that has worked well. Those are the basic changes and we think that is for the better.

Thank you.



Vernon Petersen

DATE January 26, 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 289, SB 185, SB 198

Name	Representing	Bill No.	Check One	
			Support	Oppose
Dave Galt	MDT	219 185	X	
Ben Hardahl	MT Motor Carriers	219 185	X	
Jim Leck	MDT	198	✓	
Stephen Koloci	MDT	198	✓	
Carl Schweitzer	MCA	198	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY