

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Bruski-Maus, Vice-Chair, on February 11, 1993, at 1:02 p.m.

ROLL CALL

Members Present:

Sen. Cecil Weeding, Chair (D)
Sen. Betty Bruski-Maus, Vice Chair (D)
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: Sen. Harp

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: HB 180, HB 197, HB 209
Executive Action: HB 180, HB 197, HB 209

HEARING ON HOUSE BILL 180

Opening Statement by Sponsor:

Rep. Anderson, House District 81, explained HB 180 would tighten up the current laws pertaining to special motor equipment. He stated a lot of abuses have occurred in this area, especially with equipment being used in construction. He informed the Committee that the House had amended HB 180 to classify trailers used to apply fertilizer in the field as special mobile equipment. According to **Rep. Anderson**, such trailers are not currently classified as special mobile equipment because fieldwork makes it difficult or impossible to use brakes and other safety features that are required. He said HB 180 removed farm tractors from the current law because it has been too confusing having them included. He explained that because farm tractors are generally

used as implements of husbandry it is not necessary to license them either regularly or as special mobile equipment (SM).

Proponents' Testimony:

Dave Galt, Department of Transportation (DOT), spoke from prepared testimony (Exhibit #1).

Dean Roberts, Motor-Vehicle Division, Department of Justice, stated his department agrees with DOT on HB 180. According to **Mr. Roberts**, county treasurers and the Title of Registration Bureau have had trouble deciding how the law should be applied in specific cases. He stated HB 180 would clarify the language in the law and alleviate this confusion.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. TVEIT asked **Dave Galt** to clarify the definition of a concrete mixer. **Dave Galt** replied for the purposes of HB 180, he would define a concrete mixer as the small concrete mixers that are mounted on a set of wheels or an axle and are hauled to the job site. He stated attempts to classify a concrete mixer as an entire truck have also been made, but DOT has consistently classified mixer trucks as trucks required to have a concrete truck license at 55% GVW. He stated if the concrete mixer in question is a little mixer trailer it would receive a SM license.

SEN. SWYSGOOD verified that farm tractors are considered "implements of husbandry" only when owners of the equipment are using the equipment in the operation of their farm. When **Dave Galt** replied that **SEN. SWYSGOOD** was correct, **SEN. SWYSGOOD** expressed his concern about the long-term application of this definition to custom farmers. He asked if farmers would have to buy license plates for their equipment just to transport it because they do not own the land they are going to work. **Dave Galt** replied he had never considered the effect of these specifications on custom farmers. He stated he had only considered the application of these statutes to contractors who uses farm tractors to transport equipment in their contracting business. He told the Committee regardless of how HB 180 would remove a farm tractor from the definition of special mobile equipment, such an application would fall under the category of SM equipment. He stated the equipment of custom farmers would probably fit under the definition of SM equipment as well, since the definition of an implement of husbandry refers exclusively to use by the owners or renters of the equipment and the farm.

SEN. SWYSGOOD stated he would like ensure that custom farm operators who own their equipment could qualify for SM plates. **Dave Galt** said he was not sure state inspectors would know if such equipment fell under the definition of implement of husbandry or not. He emphasized if they did not, that piece of

equipment would probably be required to have a SM plate.

SEN. SWYSGOOD asked if that were possible under current law without any additions to HB 180. **Dave Galt** replied with or without additions to that law or to HB 180 a custom farmer's tractor would qualify for a SM license.

SEN. KOEHNKE asked if other mobile farm equipment like combines, swathers, etc. would also qualify. **Dave Galt** replied an "implement of husbandry" is basically defined as a vehicle designed for agricultural use by the owner in continuation of his farm business. He said all of the vehicles **SEN. KOEHNKE** had mentioned are implements of husbandry and do not require a plate.

SEN. MCCLERNAN asked about the definition of "trailers used to apply fertilizer on the field". **Dave Galt** responded HB 180 specifically referred to anhydrous ammonia trailers. He explained the problem with this type of equipment is if they are referred to as trailers they must be licensed as a trailer and fulfill the necessary requirements including brakes. He said DOT has been informed the ammonia trailers cannot have brakes.

SEN. TVEIT asked **Dave Galt** to clarify the difference between an anhydrous ammonia trailer being used for commercial purposes and other commercial spreaders spreading dry fertilizer. **Dave Galt** responded there would be no difference.

SEN. WEEDING asked if he had correctly understood that custom farmers doing work for hire for various people would not qualify for the husbandry exemption and would need a special plate for the tractor. **Dave Galt** responded the way the definition currently reads, an implement of husbandry is only an implement of husbandry when it is used by the owner of the farm upon which the machinery is operating. He said if the farm implement is involved in a business like custom harvesting or farmwork, that vehicle would be SM equipment. He stated HB 180 would not change this definition.

SEN. WEEDING stated he did not think it would be easy to classify or enforce the definition of implement of husbandry because of crop-sharing, cash lease, etc. **Dave Galt** replied HB 180 was designed to remove farm tractor from this piece of the M.C.A. for precisely this reason; it has caused much confusion over the past few years.

SEN. HARP asked **Dave Galt** to clarify how HB 180 would actually affect vehicles in this category. **Dave Galt** stated the old definition of SM vehicles uses "designed or used" in the definition. He explained the SM plate was for vehicles that were designed for some purpose other than to be driven on the highway, but are moved on the highway. He stated the confusion arises with the phrase "used to transport property"; if a trailer is not used to transport property, does it fall into the SM category or is it a trailer. **Dave Galt** stated DOT interprets it as a

trailor. **SEN. HARP** expressed his disagreement.

SEN. SWYSGOOD asked if farm tractors and implements of husbandry were defined in rule or in statute. **Dave Galt** replied both were defined in statute.

SEN. WEEDING asked if the custom combiners that move through the state every fall were required to have special plates. **Dave Galt** replied they are required to purchase a custom combine plate. He explained Montana farmers wanting to do custom harvesting are also required to get a custom harvesting permit and pay a resident custom harvesting fee. Custom combining machinery is not classified as SM machinery.

SEN. SWYSGOOD read the definition of "implement of husbandry" in MCA 61-1-21. An implement of husbandry includes every "vehicle which is designed for agricultural purposes exclusively used by the owner thereof in the conduct of his agriculture operation". He stated custom combiners use their machinery in relationship to his agriculture operation, which represents doing farmwork for others. He asked why that would not fit the definition.

Dean Roberts stated the federal government and the State interpretation of situation for the certified drivers license (CDL) is that such people are not in the business of agriculture but of combining. **SEN. SWYSGOOD** asserted that was the definition of **Dean Roberts** and the federal government and not his. **Dean Roberts** agreed that was the interpretation, not necessarily how **SEN. SWYSGOOD** would interpret it.

SEN. REA asked if a farmer intending to help the adjacent neighbor would also be required to have a SM plate. **Dean Roberts** replied that farmer would need an SM plate. He explained for CDL purposes the federal government requires custom combiners to have a CDL and meet all license requirements. He stated his department interprets those laws. A farmer cannot pull a combine down the highway on a truck without a CDL license even if he is going to his neighbors if he is in the business of making money at combining.

SEN. WEEDING asked if it was necessary to buy four or five licenses at \$5 each to go put a neighbor's hay in. **Dave Galt** replied he would like to get a legal opinion on the exact definition of an implement of husbandry. He stated it was important to realize this discussion does not directly apply to the intent of HB 180. He assured the Committee farm tractors would not be treated any differently under the law if HB 180 were passed. He said he did not believe farm tractors needed to be specifically mentioned in HB 180.

SEN. WEEDING agreed that the removal of any reference to farm tractors in HB 180 made the Committee's discussion and questions rather moot.

Closing by Sponsor:

Rep. Anderson reiterated that HB 180 would remove tractors from the definition of special mobile equipment, and stated the Committee's discussion illustrated the inconsistencies of current law. He concluded the real intent behind HB 180 was to make sure those vehicles which should be regularly licensed and meet safety requirements of brakes, lights, etc. really are licensed.

At this point SEN. BRUSKI-MAUS turned the Committee Chair over to CHAIRMAN WEEDING.

EXECUTIVE ACTION ON HOUSE BILL 180

Motion: SEN. HARP moved HB 180 DO NOT BE CONCURRED IN.

Motion: SEN. TVEIT made the substitute motion HB 180 BE CONCURRED IN.

Discussion:

SEN. HARP stated HB 180 was a bad bill for agriculture.

Vote: The substitute motion CARRIED with SEN. SWYSGOOD, SEN. HARP and SEN. KOEHNKE voting NO.

SEN. TVEIT was nominated to carry HB 180 in the Senate.

HEARING ON HOUSE BILL 197

After a brief discussion, CHAIRMAN WEEDING determined that SEN. MCCLERNAN could introduce HB 197, since the sponsor, Rep. Quilici, was not present.

Opening Statement by Sponsor:

SEN. MCCLERNAN, Senate District 34, alluded to HB 197 as this Session's "Butte bill", and assured the Committee it was a no-cost piece of legislation. He stated there had been a lot of work on historic inventories to attract outside funds both private and federal to protect the cultural resources of Butte and Anaconda and to promote tourism to the area. He explained that although HB 197 included a provision for erecting signs which would identify Butte and Anaconda as a cultural area, the cost involved would be borne by funds contributed by local governments. SEN. MCCLERNAN then deferred to the sponsor.

Rep. Quilici, House District 71, stated HB 197 would designate Silver Bow and Deerlodge counties as a cultural heritage area. According to Rep. Quilici, the U.S. Department of the Interior had investigated designating Butte and Anaconda as a national historic landmark district in 1980. He said HB 197 would have DOT erect signs on the highway which reflect the historical

designation. He assured the Committee the signs' cost would in no way impact the General Fund or DOT's special revenue fund by referring to HB 197's fiscal note which states that any funds expended would come from private donations, grants or other sources.

Rep. Quilici stated the cultural heritage designation is very important for the Butte/Anaconda area; it would enable this area to apply for federal grants to help with the preservation of historical infrastructures. He said very few other areas in the U.S. have received this federal designation and support. He stated this area has 100 years of history and it would be a shame if the infrastructure were ever demolished or allowed to deteriorate and disappear because it would mean the loss of a part of Montana's heritage. He said a house resolution had been introduced in conjunction with HB 197.

Proponents' Testimony:

Gene Vuchovich, 1st Vice-President of the League of Cities and Towns (LCT), Board Member of Montana Association of Counties (MACo) and the City-County Manager for Anaconda-Deerlodge County, stated Anaconda-Deerlodge County has passed a resolution of intent supporting HB 197 as state and federal legislation which would recognize the significant historic aspects of the area. He stated Lowell, Massachusetts was the first area the national park services recognized as a historic park. He informed the Committee the designation has had a significant impact upon the Lowell economy and expressed his hope the Butte/Silver Bow-Anaconda/Deerlodge area could also enjoy the same economic growth with such a designation. He distributed copies of a resolution passed by the county commissioners at a recent meeting and a briefing paper on the Butte-Anaconda Regional Historic Preservation Plan (Exhibits #2 and #3).

Brian Cockhill, Director, Montana Historical Society, expressed his organizations support for HB 197. He stated the tourism potential in Deerlodge and Silver Bow area is immense and should be based on the existing cultural resources. He explained the Butte/Anaconda area is probably unique in the United States because of its industrial development in an otherwise rural western United States. Using the example of the silver mine development in Butte at the time of the Battle of the Little Bighorn, **Brian Cockhill** illustrated that Butte's history is indeed a significant one, particularly to Montana. He expressed the Historical Society's support of Deerlodge and Silver Bow counties in their efforts to realize the potential for a historical park in that area.

Mike Shea, Assistant Public Works Director in Butte/Silver Bow, stated he was speaking on behalf of Jack Lynch, the Public Works chief executive, who was at another hearing. He expressed his agreement with the comments of **SEN. MCCLERNAN** and **Rep. Quilici**. He reiterated the fact that HB 197 would have zero impact on the state budget and introduced **Mark Reavis** who presented a brief

slide presentation to familiarize the Committee with the intent of HB 197.

Mark Reavis, Butte/Silver Bow's Historic Preservation Officer, During his slide presentation **Mr. Reavis** demonstrated the role the Anaconda/Butte proposed heritage program could play in Montana tourism and summarized the plan's key components. He stated the Gold West territory has the ability to take some of the tourist pressure off of Yellowstone and Glacier National parks which are suffering because of over-use. He explained state parks need to be linked together in a transportation system and promoted as such. He said multiple counties have unique resources and could be interesting to tourists. He stated his organization was hoping to develop various transportation systems from interstates to pedestrian trails to rail connections between Butte and Anaconda.

Mr. Reavis stated another key component in the proposed heritage program is signage. According to **Mr. Reavis**, state monuments like the Anaconda stack and the multiple historic properties on the Butte hill are not signed and as a result poorly visited. He said the highway system plays an important role in directing tourists, and HB 197 would provide the necessary authority to begin these projects by providing the heritage area designation and allowing the signing of various points of interest and historic resources. **Mr. Reavis** explained billboards were not a preferred alternative, his group was interested in the brown highway signs, improvements in the logo and green directional signage. He stated both of these types of signs would contribute to the long term development and success of a historic transportation and new transportation systems.

Ed Beaudett, County Attorney for Anaconda/Deer Lodge County, stated he was testifying in his capacity as Chairman of the Anaconda chapter of the regional historic preservation plan. He told the Committee his organization had been working diligently with individuals from Butte-Silver Bow, Arco, the state Historic Preservation Office, the National Park service as well as consultants and investigators on the plan. According to **Mr. Beaudett** the program arose from the Super-Fund activities in Butte/Silver Bow and Anaconda/Deerlodge counties. He explained Arco is required to comply with the National Historic Preservation Act in its clean-up responsibilities. He said this requirement has enabled various groups to draft a cultural heritage plan allowing everyone in Montana and the United States to enjoy this areas unique heritage. He reiterated HB 197 provides the state with the opportunity to participate non-monetarily and allow this this plan to move forward.

Clint Blackwood, Travel Promotion Agency, Department of Commerce, stated his agency supports HB 197. He said a main goal of his agency is to increase the time non-resident visitors spend in Montana. In order to accomplish that goal, **Mr. Blackwood** said more "product" needs to be developed. He expressed his belief

that the proposed historical corridor that HB 197 would help to implement would significantly contribute to developing that product and interest.

Evan Barrett, Executive Director, Butte Local Development Corporation and Regional Historical Preservation board member, addressed the issue from an economic perspective since Highway Committee members generally understand the role that highways and signage play in the economy. He explained Butte/Silver Bow county is clearly in a transitional economic stage; it is moving away from an economy primarily based upon mineral extraction and the future economic components have yet to be determined. He stated a sound economic strategy is one that builds upon an area's comparative advantages and the unique historical nature of Butte/Silver Bow makes tourism a real option for the area.

Mr. Barrett stated HB 197 would provide the no-cost cultural heritage area designation and allow the communities to erect highway signs. He stressed that these are two key elements which would help develop the tourism potential in Butte/Silverbow. He mentioned the resolution calling upon the federal government to make the analogous designation which would make Montana eligible to apply for federal grants. He concluded the plan presented to the Committee would help to provide a new and broader way to work with tourism in Montana.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. KOEHNKE asked **Rep. Quilici** if the signs would read "Butte, America". **Rep. Quilici** responded they would not.

SEN. SWYSGOOD asked **Rep. Quilici** if HB 197 stipulates that the consolidated governments of Butte-Silver Bow and Anaconda-Deerlodge counties will design the signs as a money saving feature. **Rep. Quilici** responded by assuring **SEN. SWYSGOOD** that DOT would review the sign design and determine their exact location.

SEN. SWYSGOOD said that under HB 197 monies may be accepted from other state agencies and asked **Rep. Quilici** to clarify what agencies. **Rep. Quilici** stated that portion of the bill referred to pass-through monies from, for example, the Department of Highway Traffic Safety. **SEN. SWYSGOOD** asked if the costs of maintaining the signs would be borne by DOT's budget. **Rep. Quilici** replied the House Highways Committee had amended HB 197 to specifically assure that the signs would be both erected and maintained out of private donations or grants.

SEN. MCCLERNAN asked **Rep. Quilici** if HB 197 had generated a good

feeling amongst the representatives who had voted for it. **Rep. Quilici** replied "absolutely".

SEN. REA asked if the federal designation of a cultural heritage area would restrict the type of activities that can ensue within the area. **Mark Reavis** replied the designation acknowledges the national historic importance of the area, but does not restrict any property rights. He explained the designation merely gives an area the ability to promote itself and accept any grants that might be proffered.

SEN. BRUSKI-MAUS expressed her curiosity as to why this measure needed to be legislated. She stated Wibaux has been designated a national business historical site and is getting signs without having to go through the legislative process. **Rep. Quilici** responded that the signs would be on interstate highways and before any sign can be erected on an interstate they must be approved by the federal highway administration and the state DOT. **SEN. BRUSKI-MAUS** stated Wibaux's signs are being erected by the highway department. **Mark Reavis** replied since 1975 DOT has been requested to acknowledge that Butte is a national historic landmark district, but DOT has consistently turned down the request.

SEN. BRUSKI-MAUS asked if Gold West Territory was providing any assistance in this matter. **Mark Reavis** said yes.

CHAIRMAN WEEDING asked **Gene Vuchavich** to verify that the project being presented to the Committee would entail more than just a designation.

Gene Vuchavich verified that these organizations were hoping to preserve much of the historically significant structures still existing in Butte and Anaconda. He outlined future plans for preserving those structures and making the history available to tourists. He said another reason HB 197 stipulates the signs be designed by the local areas is to ensure that the local historic preservation boards can make sure the signs reflect the true historic significance of the area.

CHAIRMAN WEEDING asked **Gene Vuchavich** to expand on the area's possible eligibility for federal monies should the resolution asking for federal designation pass and be successful in Washington, D.C. **Gene Vuchavich** stated in the best-case scenario a national park could be designated in this heritage area. According to **Mr. Vuchavich**, the establishment of a national park would allow the restoration and implementation of the old passenger railroad line running between Butte and Anaconda. He explained one of creating the major problems of such a line is the liability insurance, and national park operations are exempt from liability insurance. He concluded such a designation would be a real economic boon for the area.

SEN. MCCLERNAN asked **Evan Barrett** to comment on the possible

economic impacts of the designation. **Evan Barrett** stated a federal designation would bring a number of financial opportunities, but the money would not all come from the federal government. He explained his regional historic park plan group has worked for at least six months to produce a plan involving federal monies, grant monies, and foundation monies from a number of different sources. He said this plan proposes a four or five year \$15 million plus development. He emphasized that the state and federal designations are "the lynch-pins" that would allow the implementation of the broader economic plans which will make a reality out of the proposed plan.

Closing by Sponsor:

Rep. Quilici emphasized HB 197 would help Butte-Silver Bow and Deerlodge-Anaconda as well as Montana in general. He stated his hope that HB 197 would be concurred in.

It was established that **SEN. MCCLERNAN** would carry HB 197 in the Senate should the Committee concur in it.

EXECUTIVE ACTION ON HOUSE BILL 197

Motion: **SEN. SWYSGOOD** moved HB 197 BE CONCURRED IN.

Discussion:

Dave Bohyer informed the Committee that an amendment was necessary if the sponsors of HB 197 would like DOT to be able to spend any of the monies they receive for this purpose without going through the legislative process and having those monies appropriated bi-ennium by bi-ennium. He explained under Montana law donations received from private persons can be spent without legislative appropriation, but that any monies received from federal or state agencies would either have to be specifically appropriated each legislative session or statutorially appropriated. He stated MCA 17-7-502 could be amended to reflect the legislature's design that once those monies are recieved, DOT could expend them.

SEN. SWYSGOOD stated his approval of statutorily appropriating those funds. He raised a concern that the language regarding the maintenance of the signs did not specifically indicate that DOT would maintain them only out of the funds generated in Section 4. He asked **Dave Bohyer's** opinion. **Dave Bohyer** replied the contolling language was "as funds are available under Subsection 4" and that would apply to both the errecting and maintaining of the signs.

CHAIRMAN WEEDING questioned whether the Committee was being specific enough about the signs maximum height and width. **SEN. BRUSKI-MAUS** stated the only signs DOT would puts up are location and historical signs. **SEN. SWYSGOOD** stated HB 197 states that sign appearance be "subject to the provision of federal law", so

the possible sign dimensions would be controled by federal requirements and restrictions.

Motion: SEN. SWYSGOOD withdrew his motion on HB 197 and MOVED THE AMENDMENT Dave Bohyer had outlined (Exhibit #4).

Discussion:

SEN. REA asked whether the statuatory amendment would create any difficulties. Other Committee members and Dvae Bohyer assured SEN. REA that although HB 197 would need to be returned to the House, the amendment should not cause any undue difficulties.

Vote: The MOTION CARRIED UNANIMOUSLY.

Motion/Vote:

SEN. SWYSGOOD moved HB 197 BE CONCURRED IN AS AMENDED. The MOTION CARRIED with SEN. HARP ABSTAINING because of absence.

HEARING ON HOUSE BILL 209

Opening Statement by Sponsor:

Rep. Grady, House District 27, stated HB 209 clarifies when people from salvage yards can tow a vehicle without having a permit. He told the Committee HB 209 passed the House with flying colors, and stated that the Highway Patrol also supports the measure.

Proponents' Testimony:

Henry Lohr, Owner/Operator of Hank's Salvage south of Townsend, reiterated that HB 209 is a housecleaning measure which would clarify the language currently in Montana statute. He distributed a list of the definitions incorporated into the language of current law and HB 209 (Exhibit #5). He explained HB 209 stipulates that vehicles can be taken to a salvage yard or graveyard site and can be either towed or driven by the individual for that purpose. He reiterated SB 209 only represented a clarification of the legal language.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

CHAIRMAN WEEDING asked that the portion of HB 209 starting with "the county treasurer shall" be clarified. Dave Bohyer explained that the Legislative Council is statutorally required to clean-up the language whenever it amends a section and the change CHAIRMAN WEEDING was referring to was just such an instance.

Dave Bohyer remarked the only substantive change HB 209 would

introduce was in subsection 3. The remaining changes are housecleaning in nature.

CHAIRMAN WEEDING asked if HB 209 would waive the \$5 fee. Mr. Lohr stated the intent of HB 209 would be to allow the one-way removal of automobiles and the \$5 fee was not necessary. The purpose was to move the vehicle and there won't be any great distance and no need for a \$5 transit fee just to move the vehicle to a wrecking yard.

CHAIRMAN WEEDING stated Dave Bohyer had informed him that

Closing by Sponsor:

Rep. Grady reiterated HB 209 would only clarify the language of the existing law and stated that Rep. Clark, who is a highway patrolman, was in support of the measure. He informed the Committee that he had asked SEN. BRUSKI-MAUS to carry HB 209 on the Senate floor.

EXECUTIVE ACTION ON HOUSE BILL 209

Motion/Vote: SEN. REA moved HB 209 DO PASS and the motion CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 2:16 p.m.



SENATOR CECIL WEEDING, Chair



BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORTATION DATE February 11, 1953

[illegible]

Came in to meeting at 7:15

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 12, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 197 (first reading copy -- white), respectfully report that House Bill No. 197 be amended as follows and as so amended be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

That such amendments read:

1. Title, line 8.

Strike: "AND"

2. Title, line 10.

Following: "AREA"

Insert: "PROVIDING A STATUTORY APPROPRIATION; AND AMENDING
SECTION 17-7-502, MCA"

3. Page 3, line 13.

Following: "expend"

Insert: ", as a statutory appropriation under 17-7-502,"

4. Page 13.

Following: line 13

Insert: "Section 3. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

AM Amd. Coord.
Sec. of Senate

Senator McClellan
Senator Carrying Bill

351426SC.San

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; [section 2]; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.) ""

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 11, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 209 (first reading copy -- white), respectfully report that House Bill No. 209 be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 11, 1993

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration House Bill No. 180 (first reading copy -- white), respectfully report that House Bill No. 180 be concurred in.

Signed: Cecil Weeding
Senator Cecil Weeding, Chair

CLERICAL

HL Bill No. 197

Date: 2-15-93

Time: _____



S / H Standing Committee

Highways

Robert Celestine
(Chairman)

Weeding



S / H Committee of the Whole

(Legislative Council Staff)

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #2, insert

" ; PROVIDING... "

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

Both Sides

HOUSE BILL: 180
SUBMITTED BY: DAVID A. GALT, ADMINISTRATOR
MOTOR CARRIER SERVICES DIVISION
DATE: JANUARY 20, 1993

SENATE HIGHWAYS

EXHIBIT NO. 1

DATE February 11

BILL NO. HB180

The department appears before the committee today to urge support for HB180.

The changes in this legislation are designed to tighten the application of SM equipment license plates. Over the years we have allowed to many vehicles to operate with SM plates (vehicles such as tool trailers, shop trailers, office trailers, truck mounted generators). These vehicles are either trucks or trailers and were designed to carry persons or property. The current definition also says used to transport property. The word used in the current definition provides a broad area for interpretation. This area for interpretation needs to be reduced. This part has been misconstrued and allowed issuance of SM plates to none SM vehicles. However, the MCS Division has attempted to tighten the application over the last three years and this bill would help.

personal tax and a \$5 plate fee - they do not
SM plates vehicles pay ~~the same fees as other vehicles~~
Registration and
~~except~~ GVW fees; but this bill is more than just a revenue generator for the Department of Transportation. SM vehicles are also exempt from safety regulations (except lights) and CDL requirements. We need to ensure that only bona-fide special mobile equipment are granted these exceptions.

In anticipation of several questions let me take a minute to explain why farm tractors and concrete mixers are deleted. Farm tractors have always been and will continue to be implements of husbandry when operated by farmers. By specifically naming farm tractors in this section contradictory statutes are created. Do we want to require SM plates on farm tractors?

The concrete mixers that this section talks about, are small mixers on wheels that are towed to the job site. These vehicles will still be SM equipment. However this section could be applied to mixer trucks. In fact they have a separate 55% GVW fee class.

A great deal of confusion can be eliminated by removing specific reference to concrete mixers and farm tractors without impacting either industry.

This bill will provide more control over SM vehicles we urge your support.

DAG:D:MCS:11.si

RESOLUTION NO. 263

**A RESOLUTION OF INTENT TO SUPPORT STATE AND FEDERAL
LEGISLATION WHICH RECOGNIZES THE SIGNIFICANT HISTORIC,
MINING, SMELTING, LABOR AND CULTURAL RESOURCES OF THE
ANACONDA-BUTTE REGION THROUGH APPROPRIATE
DESIGNATION**

WHEREAS, Anaconda-Deer Lodge and Butte-Silver Bow are the site of more than 100 years of living history of the early development of natural resources and the industrialization of America; and

WHEREAS, the development of the copper mining and smelting industry in this region has long been recognized as of national significance; and

WHEREAS, natural and cultural resources of Anaconda-Deer Lodge and Butte-Silver Bow can make a substantial contribution to economic development in the region, especially in regard to enhancing tourism opportunities; and

WHEREAS, Anaconda-Deer Lodge and Butte-Silver Bow have joined together with U. S. Environmental Protection Agency, the National Advisory Council for Historic Preservation, the Montana Department of Health and Environmental Sciences, the Montana Historic Preservation Office and Atlantic Richfield Company in signing a Programmatic Agreement which calls for a comprehensive approach to addressing important historic resources throughout the entire area affected by Superfund activities; and

WHEREAS, the signatories of the Programmatic Agreement agreed to work together on a plan for historic preservation to meet not only the various laws and regulations that govern each separate agency, but also to create a positive program of economic development for Anaconda-Deer Lodge and Butte-Silver Bow

BE IT RESOLVED by the Commission of Anaconda-Deer Lodge County, as follows, to-wit:

That it is the intention of the Anaconda-Deer Lodge County Commission to request and support State and Federal Legislation that recognizes the historical significance of our region.

DATED this 20th day of January, 1993.

Val "Buzz" Galle
VAL "BUZZ" GALLE, Chairman
Anaconda-Deer Lodge County Commission

ATTEST:

Carol L. Gilluly
CAROL GILLULY
Clerk of the Commission

BUTTE-ANACONDA REGIONAL HISTORIC PRESERVATION PLAN

BRIEFING PAPER

June, 1992

SENATE HIGHWAYS

EXHIBIT NO. 3

DATE February 11, 1993

BILL NO. HB 197

The Butte-Anaconda region of southwestern Montana contains one of the richest, most colorful histories in our nation. As a source of copper it contributed greatly to America's industrialization during the first half of this century. Today, however, the region faces unique environmental, historic preservation and economic challenges. A costly and extensive effort to identify and clean up the remains of 100 years of mining and smelting activity is underway. At the same time, prudent steps are needed to save nationally significant historic resources located in the area. And, the economy is still in transition, continuing a forty year decline in mining-related employment.

The national significance of the development of the copper mining industry in this region has long been recognized. Numerous books, studies, and articles have been written about the facilities and circumstances surrounding the development of "the richest hill on earth". Butte contains one of the nation's largest National Historic Landmark Districts. Designated in 1962, the district encompasses mining, commercial and residential structures, which form a unique and striking landscape. In addition, there are many individual buildings and resources in the communities that have been identified under state and federal guidelines as being of historic significance.

In the early 1980s, several areas in the Butte-Anaconda region were designated for cleanup under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Superfund. The National Historic Preservation Act (NHPA), requires that federal agencies take into account the effects of their proposed undertakings on properties listed in or eligible for inclusion in the National Register of Historic Places. Cleanup activities may impact important historic sites and so potential conflicts have arisen between cleanup activities under CERCLA and the preservation of the historic resources and landscape.

In the spring of 1992 eight local, state and federal agencies joined together with the Atlantic Richfield Company (ARCO) in a unique undertaking in the region. The various agencies included the U.S. Environmental Protection Agency (EPA), the National Advisory Council for Historic Preservation, the Montana Department of Health and Environmental Sciences, the Montana State Historic Preservation Office, Anaconda, Butte and Walkerville local governments, and ARCO. The National Park Service is also participating in an informal advisory role. Representatives of these organizations signed a Programmatic Agreement (PA) which calls for a comprehensive approach to addressing important historic resources throughout the entire area affected by a host of Superfund activities. In doing so they agreed to work together on a plan for historic preservation to meet not only the various laws and regulations that govern each separate agency, including Superfund, but also to create a positive program of economic development opportunities in Butte and Anaconda.

Three major issues are the focus of the Programmatic Agreement. These are being addressed together in the planning work that is now underway:

- Historic preservation and the intent of section 106 of the NHPA;
- The remediation goals and intent of CERCLA; and
- The local communities' objectives of economic development.

As a first step, the principal parties have agreed to cooperate in the development of a Regional Historic Preservation Plan (RHPP). Its primary focus is on creation of a plan for the historic resources that also considers the potentially conflicting goals and constraints of the cleanup and local economic development needs. There is agreement that the plan will include a comprehensive approach to historic preservation and specific actions for implementation, including recommended funding sources, management alternatives and assigned responsibilities. ARCO is funding this planning effort, which is now underway. Citizens of the communities that are involved have joined together with local government staff and consultants, supported by resource people from the various state and federal agencies. This "Joint Committee" will provide input, comment and review of the plan as it is developed. The plan is scheduled to be completed by year end, and then will be available for review by the public.

Prior to the signing of this Programmatic Agreement an analysis by the University of Montana Institute for Tourism and Recreation Research was prepared to identify the potential economic benefits of a historical park. The research concluded that by increasing both current capture and over night stay rates by a conservative 25%, a local economic benefit of \$88 million, and almost 1,700 new jobs would be realized by year 2005.

An intriguing aspect of the plan is the potential opportunity to create the first historical park in the Rocky Mountain region managed by the National Park Service (NPS). The purpose of such parks is to preserve and interpret aspects of our country's industrial history for visitors. Lowell, Massachusetts was the nation's first historical park managed by the NPS. There, many of the historic buildings, canals and machinery tied to the early years of the textile industry were restored, and now serve as major attractions to visitors. This park is credited with helping pull Lowell out from a 40 year old local economic depression.

If such a park is to prove feasible in the Anaconda-Butte area, it will require united action by the Montana congressional delegation, with support from both state and local government, as well as support from the National Park Service. The mines, headframes, mining buildings, residential and commercial structures, and railroad linkages still intact could provide a dynamic educational experience for people interested in experiencing our country's and the West's industrial growth. The raw material for a vital heritage experience is available. A sound plan, and an implementable program and solid citizen support are needed to make it a reality.

Once the Regional Historic Preservation Plan is complete, a second Programmatic Agreement will be signed. This second agreement will call for specific steps for implementation including funding commitments and management agreements. While the NPS historical park concept may be most feasible, other management scenarios may be considered as well in the final analysis. These may include local and/or state agency administration, the establishment of a regional parks governing commission and/or the use of private non-profit and for profit organizations.

This is only to introduce you to this exciting effort. We would be happy to share additional details. Seldom before has there been an agreement by so many agencies with diverse responsibilities and views on such a complex and opportune matter. It offers a chance to demonstrate that the act of cleaning up a Superfund site does not have to ignore local economic and social benefits, and could even be beneficial in its impetus for historic preservation.

For further information, please contact Janet Cornish, project manager, CDS of Montana, 201 West Granite, Butte, Montana 59701, (406)723-7993.

Amendments to House Bill No. 197
Third Reading Copy

SENATE HIGHWAYS
EXHIBIT NO. 4
DATE February 11
BILL NO. HB 197

For the Committee on Highways and Transportation

Prepared by Dave Bohyer
February 11, 1993

1. Title, line 8.
Strike: "AND"

2. Title, line 10.
Following: "AREA"
Insert: "PROVIDING A STATUTORY APPROPRIATION; AND AMENDING
SECTION 17-7-502, MCA"

3. Page 3, line 13.
Following: "expend"
Insert: ", as a statutory appropriation under 17-7-502,"

4. Page 13.
Following: line 13
Insert: "Section 3. Section 17-7-502, MCA, is amended to read:
"17-7-502. Statutory appropriations -- definition --
requisites for validity. (1) A statutory appropriation is an
appropriation made by permanent law that authorizes spending by a
state agency without the need for a biennial legislative
appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective,
a statutory appropriation must comply with both of the following
provisions:

(a) The law containing the statutory authority must be
listed in subsection (3).

(b) The law or portion of the law making a statutory
appropriation must specifically state that a statutory
appropriation is made as provided in this section.

(3) The following laws are the only laws containing
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203;
10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-
25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101;
16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-
704; 17-5-804; 17-6-409; 17-7-304; 19-5-404; 19-6-709; 19-8-504;
19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;
19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109;
20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-
5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-
402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-
13-102; 53-6-150; 53-24-206; 61-5-121; [section 2]; 67-3-205; 75-
1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-
2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-
215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.) ""

75-10-501. Definitions. Unless the context requires otherwise, in this part the following definitions apply:

(1) "Board" means the board of health and environmental sciences provided for in 2-15-2104.

(2) "Component part" means any identifiable part of a discarded, ruined, wrecked, or dismantled motor vehicle, including but not limited to fenders, doors, hoods, engine blocks, motor parts, transmissions, frames, axles, wheels, tires, and passenger compartment fixtures.

(3) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(4) "Junk vehicle" means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven.

(5) "Motor vehicle graveyard" means a collection point established by a county for junk motor vehicles prior to their disposal.

(6) "Motor vehicle wrecking facility" means:

(a) a facility buying, selling, or dealing in four or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or

(b) a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification. The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard.

(7) "Person" means any individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity, whether organized for profit or not.

(8) "Public view" means any point 6 feet above the surface of the center of a public road from which junk vehicles can be seen.

(9) "Shielding" means the construction or use of fencing or manmade or natural barriers to conceal junk vehicles from public view.

DATE 11 February

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: HB 180, HB 197, HB 209

Name	Representing	Bill No.	Check One	
			Support	Oppose
MARK A. REAVLS A.I.A.	BUTTE SILVER BOW	197	✓	
Brian Cackhill	Mt. Hist. Soc.	197	✓	
Mike Shea	Butte - Silver Bow	197	✓	
Chit Blackwood	Travel Montana	197	X	
Henry E. Lohr	Hank's Salvage	209	X	
DEAN S. RAY	Mont. Wildlife Dir. John	180	X	
DAN GALT	M.D.T.	180	✓	
Ed Beaudette	Anaconda D.L. Co.	197	✓	
Gene Vuchasich	" "	197	✓	
Evan Barrett	BLDC	197	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY