

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By Senator Cecil Weeding, Chair, on March 16, 1993, at 3:14 p.m.

ROLL CALL

Members Present:

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

Members Excused: Sen. Doc Rea

Members Absent: Sen. John Harp

Staff Present: Tom Gomez, Legislative Council
Beth Satre, Committee Secretary

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

Committee Business Summary:

Hearing: HB 336, HB 541, SB 373, HB 530,
Executive Action: None.

HEARING ON HOUSE BILL 336

Opening Statement by Sponsor:

Rep. Bird, House District 52, said she was submitting HB 336 at the request of the county treasurers. She stated HB 336 would abolish the requirement that vehicle owners provide certification of compliance with the Financial Responsibility Law prior to registering their vehicle. She explained the registration receipt would state that unless the vehicle is eligible for an exemption under MCA 61-6-303, it is unlawful to operate the vehicle without a valid motor vehicle liability insurance policy, a certificate of self-insurance or a posted indemnity bond as required by MCA 61-6-301.

Rep. Bird informed the Committee that **SEN. DOHERTY** was also sponsoring a bill, SB 153, which addresses the same section and

contains the same language as HB 336. She said SB 153 would also provide for a tier of fines, but added she was unsure whether or not SB 153 would pass through House Judiciary. She told the Committee that both bills were drafted by **John MacMaster**. She said he had assured her no problem would exist if both HB 336 and SB 153 were to pass unless one were amended in a way which conflicted with the section as that section reads in the other bill. She mentioned that **SEN. TOWE** had sponsored SB 55 which would have provided that a vehicle would be confiscated on the third conviction.

Proponents' Testimony:

Cort Harrington, Montana County Attorneys Association, stated County Treasurers Association had asked that HB 336 be introduced. He emphasized that HB 336 would not abolish the insurance requirement but simply eliminate the mandatory signature upon motor-vehicle registration. He explained a primary problem is that the current law is unenforceable. He said it would be virtually impossible for some county prosecutor to convict anyone of false swearing if they sign the certificate and did not have insurance. According to **Mr. Harrington**, the burden of proof would rest on the state to verify that the person had insurance on that particular day. He added nothing would prevent someone from having insurance and canceling it the day after they signed. He concluded there were more appropriate methods to approach people who drive without automobile insurance than the current method. He stated he understood the Motor-Vehicle Division of the Department of Justice also supported HB 336.

Peter Funk, Department of Justice, stated **SEN. DOHERTY** was carrying SB 153 which also includes the removal of this certification on behalf of his department. He said the Department of Justice has been in favor of removing this certification for the last two sessions and supports HB 336.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. MCCLERNAN asked **Mr. Harrington** to elaborate on the other methods of addressing people who drive without insurance. **Cort Harrington** said those methods were largely contained in SB 153, which would involve seizing the vehicle, and instituting additional fines.

CHAIRMAN WEEDING asked if anybody had suggested coordinating language between HB 336 and SB 153. As long as neither bill is amended, **Rep. Bird** said coordinating language is not necessary because the language used in both bills is identical. She expressed her suspicion that SB 153 would not get out of the House Judiciary Committee.

Closing by Sponsor:

Rep. Bird closed.

HEARING ON HOUSE BILL 541**Opening Statement by Sponsor:**

Rep. Linda Nelson, House District 19, stated HB 541 would allow county commissioners to form a rail authority where there is an abandoned railroad so that they could find a short-line operator to continue operation. She said HB 541 would allow the county commissioners to levy up to six mills with a public referendum for this purpose. She emphasized the main purpose of HB 541 is not to buy a railroad, but to keep grain going by rail instead of by highway. According to Rep. Nelson, HB 541 used portions of a Minnesota law, the Port Authority Law, and the Montana Urban Transportation District Laws. She informed the Committee HB 541 was amended in the House to address the concerns of the unions and of Burlington Northern (BN). She said the House Committee assured the union that HB 541 does not represent a buy out for BN and assured BN that HB 541 would only allow the management of abandoned railroads within the authority. She explained that other amendments established Public Service Commission (PSC) regulation and made a public referendum part of the process to establish a rail authority.

Rep. Nelson walked the Committee through HB 541, explaining the specific content of each section. She noted that HB 541 would exempt mills levied for the rail authority from the property tax limitations of Initiative 105 (I-105) and places the rail authorities under PSC jurisdiction.

Proponents' Testimony:

Mary Nielsen, Association for Branch Line Equality, spoke from prepared testimony in favor of HB 541 (Exhibit #1).

SEN. BRENDEN, Senate District 10, said starting April 1979 Northeastern Montana went through one of the longest and most severe droughts ever experienced, he added it was about twice as long as the infamous drought of the thirties. SEN. BRENDEN said Valley and Daniels counties have lost 20-25 percent of their population as a result of these dry years. According to SEN. BRENDEN, prior to 1979 grain elevators had been shipping about 1000 cars on the branch line from Opheim, but that number has now decreased to maybe 100. He stated since the land is once again productive, farmers need an alternative way to get their grain to market. He said a short-line railroad ending at Whitetail, MT has been established on the Sioux Line and is beneficial for his area. He stated the roads in northeastern Montana are "in terrible straits" and added that providing alternative methods of shipping grain at competitive rates would help to save the roads.

Viggo Andersen, Montana Grain Growers Association and Montana Citizens Freight Rate Association, spoke from written testimony in support of HB 541 (Exhibit #2).

George Paul, Montana Farmers Union (MFU), said the trend today in transportation is intermodal planning and both highway and railroad programs are necessary for a successful transportation system in Montana. He stated that MFU had supported Governor Stevens' plan to expand the traditional Department of Highways and to create the Department of Transportation. He added that MFU continues to work with DOT and Governor Racicot to further upgrade Montana's transportation system. According to **Mr. Paul**, the formation of local rail authorities would be a wonderful compliment to Montana's current transportation system; it would encourage the development of a strong rail function based on local programs with local funding. He stated HB 541 would foster the development of programs allowing the people in the affected communities, who know the exact circumstances, to work more effectively with state officials.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. KOEHNKE asked about the condition of the rail lines in question. **Mary Nielsen** replied the 48 miles of track between Scobey and Opheim is abandoned but not in "excessively bad shape". She said according to the experts with whom she had spoken the track could be rehabilitated relatively easily. She stated, however, her organization is concerned about the entire line. She said, although there is no current plan to abandon the line, that potential exists for all branch lines in Montana.

SEN. SWYSGOOD asked if "common carrier", as the term relates to railroads, were statutorily defined. **Rep. Nelson** responded yes, and added that the term was defined in either the Port Authority Law or the Urban Transportation District Laws.

SEN. SWYSGOOD asked if the rail authorities would own the equipment. **Rep. Nelson** said perhaps in some instances the rail authority would own the equipment, but she added the intent of HB 541 was to recruit a shortline operator who would own the equipment.

SEN. SWYSGOOD asked how the authority would be regulated if circumstances dictated that it provide the equipment. He stated six mills would not levy much money and asked if the producers could possibly own the equipment. **Rep. Nelson** agreed that six mills would not raise a lot of money and suggested the financing could perhaps be accumulative. She said county commissioners have a certain amount of authority which could be helpful in such situations.

SEN. TOEWS asked if HB 541 would allow a rail authority to be established which did not encompass the entire county but just the portion served by the particular rail. **Rep. Nelson** replied a rail authority could serve an entire county, a portion of a county or more than one county.

SEN. STANG asked **Rep. Nelson** if supporting HB 541 would be a gamble which could encourage the railroad to abandon more branch lines. **Rep. Nelson** replied she hoped not and assured the Committee that every option would be exercised to keep BN in the area. She said BN's decision to abandon the Opheim branch line was protested as far as was reasonably possible. She emphasized the counties would rather have an established railroad in the area and not be forced to bear the responsibility establishing an authority would entail.

SEN. SWYSGOOD said HB 541 provides that these rail authorities would be exempt from taxes. He asked if shortline operators would also be exempt from taxes if they were recruited and operated the branch lines for a profit. **Rep. Nelson** admitted she was not certain. She added the rail authorities might need a certain amount of flexibility so they could make an attractive enough offer to recruit shortline operators. She suggested HB 541 might make taxation an option for the county.

CHAIRMAN WEEDING said he understood the language to indicate that only property owned by the rail authority would be exempt from taxation and noted shortline operators would probably have their own rolling stock. **Rep. Nelson** stated she agreed with **CHAIRMAN WEEDING's** interpretation. **SEN. SWYSGOOD**, however, disagreed. He said HB 541 provides that "income derived by the authority from ownership or operation" is exempt. He said that the language would indicate that a shortliner operating under the authority would also be exempt. He stated since shortline operators are profit making entities they should be taxed.

Mary Nielsen explained that in the event the railroad authority acquired a branch line, that line would be a county authority, and counties cannot be taxed. She said a shortline operator would certainly pay taxes, and she added a county authority would want to recruit an operator and could possibly adjust that operator's tax burden at the county level.

SEN. SWYSGOOD said he was not sure the bill's language reflected the stated intent of HB 541 since the county would contract with a short line operator but would retain control over that branch line. He cited HB 541 which reads "or control of property are exempt from taxation". He stated counties could be exempt from taxes, but added an operator hauling grain for profit should be subject to the same taxation as other railroads.

Rep. Nelson asked if changing the phrase cited by **SEN. SWYSGOOD** to "or control of property may be exempt from taxation" would

address **SEN. SWYSGOOD's** concerns. She stated she was open to amendments.

CHAIRMAN WEEDING asked **Tom Gomez** to evaluate that section of HB 541 and provide the Committee with a legal interpretation of that language.

CHAIRMAN WEEDING asked if the Sioux Line was distinct from what the contemplated branchlines in the four counties. **Rep. Nelson** replied the Sioux Line is currently distinct because it is not abandoned.

CHAIRMAN WEEDING asked whether a rail authority had been created on the Sioux line, or if BN were still operating it. **Mary Nielsen** replied that particular section has been leased from the Sioux Line and is operating as a shortline authority. She added the operator is doing what HB 541 would enable counties to do.

CHAIRMAN WEEDING asked which four counties would be directly affected by HB 541. **Rep. Nelson** replied Sheridan, Daniels, Valley and Roosevelt counties.

SEN. SWYSGOOD asked approximately how much money would be raised by six mills. **Rep. Nelson** responded a mill in Sheridan County is worth about \$12,000 but added the amount would differ in other counties.

Closing by Sponsor:

Rep. Nelson said she had supporting testimony to enter from the four counties in her area (Exhibits #3, #4, #5, #6). She then read from the letter written by the Sheridan county commissioners (Exhibit #3). She emphasized that HB 541 addresses an issue of local control and affects only those counties which have abandoned or about to be abandoned railroad lines. She stated if those counties want to help themselves by taxing themselves she did not see how the state could forbid them to do that.

HEARING ON SENATE BILL 373

SEN. STANG and **SEN. SWYSGOOD** requested that the record reflect their objection to rehearing SB 373 which **CHAIRMAN WEEDING** had agreed to at the request of the sponsor and the Department of Justice.

Opening Statement by Sponsor:

SEN. BECK, Senate District 24, explained that SB 373 is a clean-up bill. He said the Department of Justice would clarify the provisions of SB 373 dealing with the lien laws and the alterations required to make the process of filing liens more palatable to the banking industry. He stated SB 373 would increase a fee from \$4 to \$5 to make it coincide with other fees which are currently being assessed. He admonished the Department of Justice to keep their explanations of SB 373 short.

Proponents' Testimony:

Peter Funk, Department of Justice, emphasized that SB 373 would enable better public service in the areas of both lien filing and dealer regulation. He said prior to 1991 security interests pertaining to motor-vehicles, snowmobiles, boats and off-highway vehicles were filed with the Department of Justice. He said this practice created a variety of problems for Montana's financial community. As a result, **Peter Funk** said the law was changed in 1991 to require that security interests involving transfers of ownership be filed with the county treasurers and perfected at the time of delivery. He explained, however, the collateral lien filing language adopted in 1991 did not provide that the title must accompany a collateral lien filing. **Peter Funk** said SB 373 would correct that omission, and added this change is necessary because the department is statutorily required to file security interests by placing them on the face of the vehicle's title or certificate of ownership.

Peter Funk said SB 373 also contains clean-up language distinguishing between voluntary and involuntary interests. He explained his department has to monitor a variety of involuntary interests pertaining to motor vehicles, and in 99 percent of such cases there is not a title on file for such vehicles. **Peter Funk** said in these cases an involuntary change cannot be noted on the title as is legally required. He stated SB 373 would address this problem by distinguishing between voluntary and involuntary security interests and by making it clear that the existing requirement, that the interest be filed on vehicle titles, applies only to voluntary security interests.

Peter Funk said section four of SB 373 would raise the title transfer fee for off-highway vehicles from \$4 to \$5. According to **Peter Funk**, HB 712 raised the title transfer fees for motor-vehicles, snowmobiles and boats but inadvertently omitted off-highway vehicles in 1989. He said this omission was unfortunate since HB 712's intent was to make the file transfer fees uniform. He stated raising this fee would make title transfer fees consistent and bring some uniformity to the operations of county treasurers and the Department of Justice. He said the fiscal note reflects that the Department of Justice is already charging the \$5 fee, so SB 373 would have no fiscal impact.

According to **Peter Funk**, SB 373 also clarified the Department of Justice's responsibilities in regulating "dealers". He explained that the department regulates a wide variety of dealers of motor-vehicles and things related to motor-vehicles like motorcycles, trailers, and mobile homes. He said SB 373 would amend the definition of "broker" so that it does not conflict with the definition of "motor-vehicle dealer" and clarify that mobile home sellers are regulated by the department unless they are real estate agents. **Peter Funk** stated the people who sell mobile homes are attempting to force the Department of Justice to license all real estate agents in the state. He added according to current statutory language the mobile home dealers have a good

argument. He stated it is unjustified to force the real estate community to have not only real estate licenses but also licenses from the Department of Justice to sell mobile homes.

Peter Funk said current statute does not specify that bonds required to purchase untitled vehicles must be issued by a bonding company licensed to do business in Montana. He stated SB 373 would correct that omission and ensure that the companies issuing these bonds are licensed by the state auditor's office. **Peter Funk** concluded that the Department of Justice can live without the passage of SB 373, but asserted SB 373 is not a question of his department's life; it is, instead, the lives of the committee members' constituents which would be made a little bit easier with the passage of SB 373.

Bill Leary, Montana Bankers Association, stated the Department of Justice has studied, restudied and restructured SB 373 to clarify a particular problem which many institutions have relative to the perfection of liens. He stated his organization supports SB 373 for this reason if none other. He said part of government's obligation is to structure legislation to direct people to those agencies that grant vehicle licenses. Speaking for himself, **Bill Leary** stated SB 373 would also clarify and eliminate the dual obligation for licensing for the same function and on that ground deserves the Committee's study, consideration, merit and support.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SEN. SWYSGOOD asked what problems the banks were having under the current system. **Bill Leary** replied that the banks have worked toward the centralization of liens for years. He said the banking community hoped that liens could be perfected by filing with the Department of Justice in this particular case. He added that involving the local treasurers in the process might create another problem, but concluded that bankers lives would be made easier if they could be certain a lien filed on a vehicle would go to a specified place.

SEN. SWYSGOOD asked if the banking community was concerned about the speed in which liens are perfected under current conditions. **Bill Leary** responded he did not believe that speed was as important a question as it had been previously. He stated a few years ago speed was a concern because significant delays were caused when liens filed with the county treasurers had to go to Deerlodge, but that situation had been improved.

SEN. MCCLERNAN commented that he did not understand how the issues addressed by SB 373 could be construed as public policy. He said the Department of State Lands is authorized by statute to issue mining companies permits to create great big open pits or strip mines. He added if the Departments of Justice and

Transportation are not allowed to resolve these issues by administrative rules a big problem exists. He urged both departments to attempt to get the authority to resolve these types of issues interdepartmentally.

CHAIRMAN WEEDING stated **SEN. MCCLERNAN's** was a valid observation.

Closing by Sponsor:

CHAIRMAN WEEDING asked if the Committee would consent to close the hearing on SB 373 without **SEN. BECK** at **SEN. BECK's** request. The Committee gave its consent and the hearing was closed.

HEARING ON HOUSE BILL 530

Opening Statement by Sponsor:

Rep. Spring, House District 77, stated HB 530 would correct the unfair business advantage created by a law adopted in 1991 which enabled companies to obtain special permits to operate truck, trailer, trailer configurations on routes they had operated on prior to 1987. **Rep. Spring** explained the version of HB 530 the Committee had before it was more restrictive than the law passed in 1991; the House amended HB 530 on the floor to allow only the hauling of talc ore between Hammond, Madison, and Three Forks, Montana. He said HB 530 would "level the playing field" by requiring any company currently hauling gravel or any commodity other than talc ore to drop the second trailer on their trucks.

CHAIRMAN WEEDING informed the Committee that former Sen. **Jerry Noble,** who had been a member of the Highways Committee for several sessions, had called him. **CHAIRMAN WEEDING** said **Jerry** had not been aware of today's hearing on HB 530 and neither he nor the representatives of the Bozeman companies who felt the current law was unfair, **Bill Ogle** and **Rich Allison** were able to attend. **CHAIRMAN WEEDING** stated these three individuals had requested the opportunity to speak on HB 530. He said if the Committee had no objection, the testimony of those present could be given at this meeting and the hearing on HB 530 would be continued next week.

Proponents' Testimony:

Dave Galt, Administrator, Motor-Vehicle Division, DOT, said DOT is in support of HB 530 because the current law creates an unfair business advantage by allowing only one carrier to operate a particular equipment configuration and because the issue addressed by HB 530 needs to be resolved. He distributed a diagram of three vehicle configurations (Exhibit #7) and informed the Committee that the truck, trailer, trailer combination on the bottom of the sheet was the vehicle configuration in question. He stated the other two combinations are currently allowed on any highway in Montana if they do not exceed 95 feet in length. He explained that the truck, trailer, trailer combination had not been defined in statute before 1987. According to **Dave Galt,** in 1987 this configuration was included in the definition of a

"triple combination" in the same law which authorized triple combinations to operate on Montana's interstates. He stated prior to 1987 the truck, trailer, trailer configuration had never been an issue and the fact that certain commodity carriers had been using the combinations for more than 15 years on primary and secondary highways in southwest Montana had escaped notice.

Dave Galt stated the director of DOT in 1987 did not enforce the truck, trailer, trailer inclusion in the triple definition, which would have allowed this configuration to operate only on the interstate. He said other carriers began requesting permission to operate with this combination off of the interstate in 1989. **Dave Galt** said in the fall of 1990 he had informed the carriers using these combinations off of the interstate system that the law must either be followed or changed, and in 1991 legislation was adopted which authorized only those carriers who were in operation prior to 1987 to continue to operate on Montana's primary and secondary roads. He added that the legislation required the qualifying carriers to file affidavits showing the routes they had operated on prior to 1987. He said one carrier had submitted an affidavit showing prior operation on about one third of all Montana's highways.

Dave Galt stated after the 1991 session he was informed that this carrier had expanded operations and created a disadvantage for other carriers by hauling gravel in their area using this vehicle configuration. He stated the truck, trailer, trailer combination is neither longer nor heavier than any other vehicle combinations currently allowed to operate on secondary roads. He said he did not have any accident data on this configuration because it represents such a small segment of the truck population. He suggested the Committee ask the motor-carrier operating this configuration about the company's accident record.

Opponents' Testimony:

Tim Hokanson, Vice President, A.M. Welles, Inc. stated he would be a proponent of HB 530 if it had not been amended in the House. He then read from prepared testimony which included illustrations of different truck configurations to which he referred (Exhibit #8).

William Carrier, Distribution Coordinator, Luzenac America, spoke from prepared testimony (Exhibit #9), and urged the Committee to amend HB 530 to "level the playing field". He stated the current version of HB 530 would be a large detriment to Luzenac America and its ability to do the same business in Montana. He emphasized that truck, trailer, trailer combination is a safe one and has served his company very well.

Informational Testimony:

Rep. Galvin, House District 40, spoke to the intent of the legislation which was adopted in 1991. He submitted a copy of the minutes and the committee report from the House hearing on that bill for inclusion in the record (Exhibit #10). He stated

he had been a member of the House Highways committee that had considered the bill and said that Committee saw fit to allow A.G. Welles to continue using the truck, trailer, trailer configuration from the talc mine to the mill in Three Forks, but had restricted any further use of that equipment. Rep. Galvin said other companies feel that this permission created an unfair business advantage and have argued that they too should be able to use the truck, trailer, trailer configuration. Rep. Galvin said the Committee had resisted expanding the use of this configuration in 1991 because of the potential damage such an expansion would cause to the secondary roads. According to Rep. Galvin, this equipment demonstrates a rigidity between the truck itself and the box. He said this type of construction pushes instead of pivots when it goes around a curve causing the roadway to rise on the high side. He stated the Committee had made an exception for A.G. Welles to use their equipment until it wore out with the understanding that the company would then replace it with another configuration.

John Manzer, Business Representative, Teamsters Union, stated he was not sure if he was an opponent or a proponent of the amended version of HB 530. He stated the Teamsters Union believes the unfair business advantage created in the Bozeman area should be rectified. He emphasized that the Teamsters do not believe the use of this configuration should be expanded and had testified in support of eliminating the current grandfather clause in the law. He stated that although triple units have a safe record on the interstate, there are studies that indicate that the safety record would be drastically altered if triples were allowed on secondary and county roads.

George Paul, Montana Farmers Union, said his organization wished no harm to any of the businesses involved and did not really want to oppose HB 530. He stated, however, the Montana Farmers Union strongly opposes any legislation which would allow the use of triples to expand onto two lane roads in Montana.

Pat Keim, Burlington Northern Railroad (BN), said he was unsure whether he was an opponent or a proponent to HB 530, but stated the railroad industry is always concerned about the size of trucks and combination of trucks operating on Montana roads. He stated the Committee had already heard testimony on HB 541 regarding the preservation of railroad branch lines and railroad operations. He added his 25 year experience with the railroad indicated that every time a larger truck or more combinations of trucks were allowed on the highway systems rail operations are directly and negatively affected. He stated the Committee should also take seriously the condition and potential deterioration of Montana's highways due to increased truck travel. He stated he objected to rectifying the current unfair business advantage by opening up all the roads in the state to truck, trailer, trailer combinations.

Questions From Committee Members and Responses:

SEN. SWYSGOOD asked if truck, trailer, trailers were allowed to operate on all roads in Montana prior to 1987. **Dave Galt** responded they could run on all roads prior to 1987 if the carrier had the proper permit. He added, however, he was not sure how many carriers had actually used equipment with this particular configuration.

SEN. SWYSGOOD admitted he had carried the bill allowing triples to operate in Montana in the House in 1987. He stated this particular configuration was "caught up in that legislation", although it was not intended at the time. He added he did not even know the truck, trailer, trailer configuration was being used until a few years after 1987. Referring to the illustrations included in **Tim Hokanson's** testimony (Exhibit #8), **SEN. SWYSGOOD** stated the categorization of various vehicle configurations into "singles", "doubles" and "triples" was confusing. He explained a semi-tractor, trailer, trailer is considered a "double", and a truck with a trailer is considered a "single". **Dave Galt** replied a truck with a trailer is considered to be neither a "double" or a "single but a truck with a trailer. **SEN. SWYSGOOD** asked if adding one trailer to a truck and a trailer would make it a "triple" under current law. **Dave Galt** replied yes.

SEN. SWYSGOOD asked if **Rep. Galvin's** testimony that trucks with this configuration push when they go around a corner instead of pivoting was correct. **Dave Galt** responded he was not acquainted with that argument. **SEN. SWYSGOOD** asked if complaints had been made about this kind of damage to the roads in the fifteen years this configuration had been operated. **Dave Galt** replied not to his knowledge.

SEN. MCCLERNAN asked what the maximum length was of vehicles allowed to operate on secondary roads. **Dave Galt** said 95 feet with a permit. He added the configurations currently allowed on secondary roads are a truck and trailer, a truck tractor and trailer, and a semi-trailer and trailer. He stated only A.M. Welles can currently operate a truck, trailer, trailer because that company was "grandfathered that permission".

SEN. MCCLERNAN asked what the length of "triples" operating on the interstate could be. **Dave Galt** replied they could be 105 or 110 feet depending on what type of truck or tractor a carrier was operating. He added, however, DOT did not advocate allowing configurations of 105 or 110 feet in length to operate on any road other than interstate. He stated the truck, trailer, trailer combinations would be limited to 95 feet in length.

SEN. MCCLERNAN said he could sympathize with both sides of the dilemma this issue presented. He stated, however, a triple had passed him by Twin Bridges last summer and it scared the hell out of him. He stated he was concerned about the possible expansion of "triples" onto secondary roads.

SEN. TVEIT asked when triple trailers were allowed on the interstate. **Dave Galt** replied triples were authorized on a temporary basis in 1987 and were given permanent status for travel only on Montana's interstate system in 1989. **SEN. TVEIT** asked if "triples" could operate prior to 1987. **Dave Galt** replied prior to 1987 equipment could be 95 feet long and carriers could pull two trailers behind their trucks. He said the 1987 law defined a "triple" as a truck, trailer, trailer which has three cargo units or as a truck-tractor, trailer, trailer or semi-trailer, trailer, trailer with three cargo units.

SEN. TVEIT asked if HB 530 contained two parts, one which would allow the custom combiners to continue to operate their equipment on secondary roads in Montana and one which would allow carriers to operate "triples" on any road in the state. **Dave Galt** replied he did not agree with **SEN. TVEIT's** interpretation. He said the current version of HB 530 would allow custom cutters to continue to drive their three axle grain truck and pull their combine and their header trailer. He said the current version would also allow whoever was operating prior to 1987 to continue operating their truck, trailer, trailer configuration if they only haul talc on those roads on which they had operated prior to 1987. He explained that the House Committee had considered amending section out of HB 530 which would have restricted truck, trailer, trailers to the interstate in Montana. He stated he had warned the House Committee that such an action would put a stop to the operations of both custom cutters and A.M. Welles.

CHAIRMAN WEEDING asked when the exemption for talc haulers was adopted. **Dave Galt** replied that paragraph six was adopted in 1987 and the talc exemption was passed in 1991. **CHAIRMAN WEEDING** asked if there were no pertinent legislation prior to 1987. **Dave Galt** replied that from 1987 to 1991 nobody paid any attention to the talc haulers.

CHAIRMAN WEEDING asked what conditions were incorporated into the 1991 legislation. **Dave Galt** said DOT may issue special permits under subsection six for vehicle combinations consisting of a truck, trailer, trailer if the vehicle combination's overall length inclusive of front and rear bumpers is no more than 95 feet. He said persons, firms or corporations applying for this special permit must have operated the truck, trailer, trailer combination before July 1, 1987 and are restricted to the specified routes those vehicles operated on before 1987. He stated the law also requires that those applying for such a permit file an affidavit with DOT designating the routes on which their vehicles had operated.

CHAIRMAN WEEDING asked how many miles DOT had expected those routes to encompass in 1991. **Dave Galt** stated in 1991 DOT was under the impression that truck, trailer, trailers were exclusively used to haul talc ore from the mines to the processing center. He stated the testimony before the Committee in 1991 had supported that interpretation, and DOT had not been

aware that the operation of this configuration was more extensive or that the configuration was being used to haul gravel. He said only when the first affidavit was submitted which covered many more routes than expected and people started phoning in complaints did they realize the extent of A.M. Welles' operation.

SEN. TVEIT asked if these configurations were only used to haul talc. **Dave Galt** replied the bill in 1991 contained nothing that limited the use of these configurations to hauling talc ore. He added, however, the use was limited to specific routes.

CHAIRMAN WEEDING asked **Tim Hokanson** if he testified in 1991. **Tim Hokanson** replied he had attended the hearing but did not actually testify.

CHAIRMAN WEEDING stated he, like **Dave Galt**, had received the impression at the hearing in 1991 that the truck, trailer, trailer configuration was exclusively used to haul talc ore between the mines and the mill in Three Forks. He said he did not recall any mention ever being made of gravel or other commodities, and asked **Tim Hokanson** if he remembered his company making any other representation before the Committee in 1991.

SEN. TVEIT asked if talc was specifically mentioned in HB 530. **CHAIRMAN WEEDING** said the amendments currently on HB 530 specifically mention that product.

SEN. SWYSGOOD asked if the House had stricken the language in the current law because it was believed that allowing only one carrier to operate this vehicle configuration grants that carrier and unfair competitive advantage. **Dave Galt** replied that was the argument that had resulted in striking of the language.

SEN. SWYSGOOD asked if these vehicle configurations are desirable because they are lighter than a tractor, trailer, trailer combination which can currently operate legally under permit on secondary roads. **Dave Galt** stated he could not answer the question and suggested that **SEN. SWYSGOOD** direct that question to Pioneer Ready Mix.

SEN. SWYSGOOD stated he wished a representative of Pioneer Ready Mix were present. **CHAIRMAN WEEDING** stated **SEN. SWYSGOOD** could ask that question at the continuation of the hearing on HB 530. He added it would be appreciated if those people present could also attend the next hearing on HB 530. **Tim Hokanson** stated he was willing to attend.

SEN. SWYSGOOD said he would appreciate it if all concerned parties would attend the continuation of the hearing on HB 530 so that all parties would be represented and there could be appropriate questions and appropriate answers.

CHAIRMAN WEEDING stated the hearing on HB 530 would be suspended until Thursday, March 25, 1993.

ADJOURNMENT

Adjournment: 5:04 p.m.



SENATOR CECIL WEEDING, Chair



BETH E. SATRE, Secretary

CW/bes

ROLL CALL

SENATE COMMITTEE HIGHWAYS & TRANSPORT. DATE MARCH 16, 1953

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CECIL WEEDING, CHAIR	X		
SENATOR BETTY BRUSKI-MYUS, V-CHAIR	X		
SENATOR DARYL TOELDS	X		
SENATOR JOHN HARP		X	
SENATOR FRANCIS KOEHNKE	X		
SENATOR JACK "DOC" REBA			X
SENATOR LARRY TVELT	X		
SENATOR CHARLES SYWSOOD	X		
SENATOR BARRY "SPOOK" STANG	X		
SENATOR HENRY MCCLERNAN	X		

F08

Attach to each day's minutes

— Association for Branch Line Equality —

EXHIBIT NO. 1
DATE March 16, 1993
HB 541

BEFORE THE SENATE COMMITTEE...RE- H.B.541....March 23rd.1993
FOR THE RECORD, MY NAME IS MARY NIELSEN OF PLENTYWOOD. I AM HERE
ASK YOUR SUPPORT OF THIS BILL ON BEHALF OF A BRANCH LINE ASSOCIATION
IN NORTHEAST MONTANA.

THE ASSOCIATION FOR BRANCH LINE EQUALITY WAS FORMED IN 1982 AS THE
ELEVATORS ON THE LINE ANTICIPATED THE POSSIBILITY OF THE LINE BEING
ABANDONED AT SOME TIME. PRESENTLY WE HAVE LOST 48 MILES OF THE 148.6
MILE LINE, AND FARMERS ARE ALREADY HAVING TO MOVE THEIR GRAIN OVER
50 MILES OF HIGHWAY TO A GRAIN FACILITY WHETHER THEY GO SOUTH TO
THE MAIN LINE OR EAST TO SCOBEY. SMALLER ELEVATORS HAVE ALREADY CLOSED
THEIR DOORS.

THREE YEARS AGO, PRODUCERS, WITH THE SUPPORT OF ELEVATORS, RURAL
RESIDENTS, AND MANY OTHERS, MADE A REAL EFFORT TO GET THE INTERSTATE
COMMERCE COMMISSION TO SAVE THEIR ROADS BY KEEPING RAIL SERVICE TO
THE AREA. A JUDGE RULED IN THEIR FAVOR, BUT THE ICC REVERSED THE
DECISION AND THE APPELLATE COURT UPHELD THEIR RULING.

THIS IS WHY WE NEED THE PASSAGE OF HB541. IT IS YET ANOTHER ATTEMPT
TO MAKE IT POSSIBLE FOR COUNTIES AND COMMUNITIES TO HELP THEMSELVES.
THERE IS NO QUESTION IN MY MIND-- AND I SERVED AS NATIONAL AND STATE
TRANSPORTATION CHAIR FOR 14 YEARS- THAT THE MAJOR RAILROADS ARE
GRADUALLY BECOMING MAIN LINE SERVICE ONLY. IN MANY OTHER STATES
SHORT LINE OPERATORS (small rail operations, sometimes run with fewer
staff which makes them able to run a profitable business) ARE ALREADY
SERVING RURAL COMMUNITIES, MAKING IT POSSIBLE FOR THE BRANCH LINE
ELEVATORS TO COMPETE WITH THE MAIN LINE TERMINALS.

PRESENTLY, THIS SITUATION IS ONLY OF IMMEDIATE CONCERN TO THE FOUR
NORTHEASTERN COUNTIES, BUT SINCE THERE ARE OVER 520 MILES OF BRANCH
LINES IN THE STATE, IT COULD WELL BENEFIT OTHER COUNTIES ALSO.

THE PRESENT LAW MAKES IT DIFFICULT TO FORM A RAIL AUTHORITY WHICH
COULD WORK WITH A SHORT LINE OPERATOR IF NECESSARY.

HB 541 MAKES IT POSSIBLE FOR COUNTIES AND COMMUNITIES TO HELP
THEMSELVES IF THEY SO DESIRE.

WE NEED TO KEEP THE TRAFFIC OFF OF THE ROADS AND ON THE RAILS AS
MUCH AS POSSIBLE. NOT ONLY FOR THE BENEFIT OF THE COMMUNITIES
INVOLVED, BUT BECAUSE IT IS INFINITELY MORE EFFICIENT TO MOVE BULK
COMMODITIES BY RAIL. IT IS ALSO ENVIRONMENTALLY BETTER. FIGURES

IN 1983, SEN. MARK ANDREWS OF NORTH DAKOTA WAS CONCERNED ABOUT THE BRANCH LINES IN HIS STATE. IN A STATEMENT BEFORE THE CONGREE HE SAID, "COMPETITION BRINGS LOW RATES, IMPROVED SERVICE, MAXIMUM EFFICIENCY AND ADEQUACY OF EQUIPMENT. THE ABSENCE OF COMPETITION ALWAYS LEADS TO THE OPPRESSION OF THE PUBLIC."

THE MC CARTY FARMS CASE HAS PROVEN THAT... WE NEED TO STAFF THE RAIL DIVISION TO CONTINUE TO SUPPORT THAT CASE, AND TO ASSIST OUR STATES PRODUCERS WHEN NECESSARY.

PLEASE PASS THIS BILL AND ALLOW THE COUNTY COMMISSIONERS THE FREEDOM TO HELP THEMSELVES IF IT BECOMES NECESSARY.

THE COUNTY COMMISSIONERS ALL SENT LETTERS OF SUPPORT.. THEY WERE HERE TWO WEEKS AGO. THIS IS MY THIRD 1000 mile ROUND TRIP BECAUSE I BELIEVE THAT REP. NELSON IS TRYING TO HELP COUNTIES HELP THEMSELVES.

SENATE HIGHWAYS

EXHIBIT NO. 2

DATE March 16, 1993

BILL NO. HB 541

NAME Norm Anderson

ADDRESS Great Falls

HOME PHONE 457-7044 WORK PHONE 727-4960

REPRESENTING Houston Grain Growers Assn. & West Citizens

APPEARING ON WHICH PROPOSAL? Freight Rate Assn. HB 541

DO YOU: SUPPORT OPPOSE AMEND

COMMENTS:

Commendable effort ~~by~~ at self help
by small ~~area~~ area. They have been very
frustrated by the inability of the DOT
Rail Division ^{to assist} because of the understaffing
of the Rail Division. If this bill is successful
it poses no financial liability to the state but if a
grain hauling branch line is saved as a result, the
Highway Dept. will save money. The problem to do
is the Ophren branch. In ~~the next few years~~ ^{the next few years} other
grain hauling branch lines are likely to face similar
problems and should have this option available.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F11

OFFICE OF THE

County Commissioners

SHERIDAN COUNTY
100 W. LAUREL AVENUE
PLENTYWOOD, MONTANA
59254
(406) 765-1660

March 11, 1993

SENATE HIGHWAYS

EXHIBIT NO. 3

DATE March 16, 1993

BILL NO. HB 541

Representative Linda Nelson
Capitol Station
Helena, MT 59620

RE: House Bill 541

Dear Rep. Nelson:

Sheridan County has two main methods of transportation.- rail and roadway. We have 1625 miles of roads. Approximately 85 miles of these roads are county paved and maintained. Approximately 90 miles of these roads are paved state secondaries. The vast majority of these roads, 1450 miles, are gravel.

Sheridan County is also on a Burlington Northern rail branch line that extends through Daniels and Valley Counties to the north and west, and connects to the mainline rail in Roosevelt County to the south. The top 48 miles of the branch line running from the town of Scobey in Daniels County to the town of Opheim in Valley County have now been abandoned.

We need the rail system as our already overburdened road system could not sustain the additional traffic it would incur if we lost our capacity to ship by rail.

House Bill 541's creation of a "rail authority" would provide us with the method we would need to make arrangements with a short line rail operator. In the event of an abandonment of this rail branch line, the rail authority would attempt to locate and hire a short line rail operator to run this rail branch line.

Please do not look at this bill as a "special interest" project for eastern Montana. The concept would work anywhere. We have no hidden agenda - it is vital we retain the ability to ship by rail.

Rep. Linda Nelson
March 11, 1993
Page 2

The benefits from retaining rail shipping capabilities also benefit our highway system in reducing major wear and tear on the roadways. We need to preserve BOTH rail and highway systems.

We commissioners of Sheridan County hope that you will give House Bill 541 you most careful consideration and vote in its favor.

Thank you.

SHERIDAN COUNTY BOARD OF COMMISSIONERS

C S Holje

C. S. HOLJE, Chairman

Robert Friedrich

ROBERT FRIEDRICH

Gordon C. Kampen

GORDON C. KAMPEN

12/11/93



COUNTY OF ROOSEVELT
OFFICE OF
COUNTY COMMISSIONERS
WOLF POINT, MONTANA 59201

SENATE HIGHWAYS

EXHIBIT NO. 4

DATE March 16, 1993

BILL NO. HB 541

TO: Representative Linda Nelson
House District 19

Re: House Bill 541

Linda,

Sorry we will not be able to attend the hearing on H.B. 541, Monday, at 3:00 p.m., but we are in support of this legislation.

It has been brought to our attention that Burlington Northern is considering abandonment of the line from Bainville to Scobey.

This bill will allow us the option of keeping this line open through operation of a short line operator or possibly by other means.

We appreciate your efforts & support and ask the committees support.

Thank you,

James K. Halverson
James K. Halverson, Chairman

Lee Matejovsky
Elyse "Lee" Matejovsky, Member

Post-It™ brand fax transmittal memo 7671		# of pages ▶
To	<u>Linda</u>	From
Co.		<u>Roos Co Comm</u>
Dept.		Phone #
Fax #	<u>444-4105</u>	Fax #
		<u>653-2416</u>

DANIELS COUNTY

◆
SCOBAY, MONTANA 59263

March 10, 1993

SENATE HIGHWAYS

EXHIBIT NO. 5

DATE March 16, 1993

BILL NO. HB 541

Representative Linda Nelson
Senator John Brenden
Senator Mike Halligan
State Capitol
Helena, MT 59620

We urge your support for House Bill 541 authorizing counties
to create rail authorities.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
Daniels County, Montana

C. W. Tande by or

By C. William Tande, Chairman

Luverne Nieskens

By Luverne Nieskens, Commissioner

Dallas Pete Hagfeldt

By Dallas (Pete) Hagfeldt, Commissioner

Valley County

501 Court Square
Glasgow, Montana 59230

Phone: (406) 228-8221
FAX: (406) 228-9027

SENATE HIGHWAYS

EXHIBIT NO. 6

DATE March 16, 1993

BILL NO. HB 541

MEMO

TO: HIGHWAYS & TRANSPORTATION COMMITTEE

FROM: VALLEY COUNTY COMMISSIONERS

DATE: MARCH 16, 1993

RE: HB 541 - RAILROAD AUTHORITY

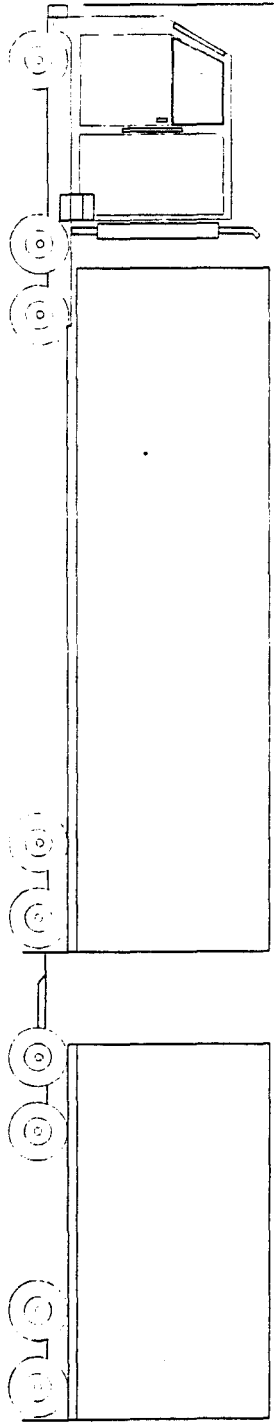
We would like to go on record in support of House Bill 541.

It seems to be the trend of the railroad companies to discontinue rail service first in one community and then another. We realize this is a unique bill because at the present time there are only approximately twenty counties throughout Montana that have or may have an abandoned railroad. However, if there were one in the County such as we have in Valley County, the Commissioners could establish a Railroad Authority on the recommendation of the people. This would preserve the rail service to a community or an entire county.

The good point of this bill is that a county could have a joint resolution with a neighboring county or counties to expand the rail service. The boundaries can be expanded or property can be exempt.

At the present time there is no law allowing for a Rail Authority, and we feel one is needed.

95'



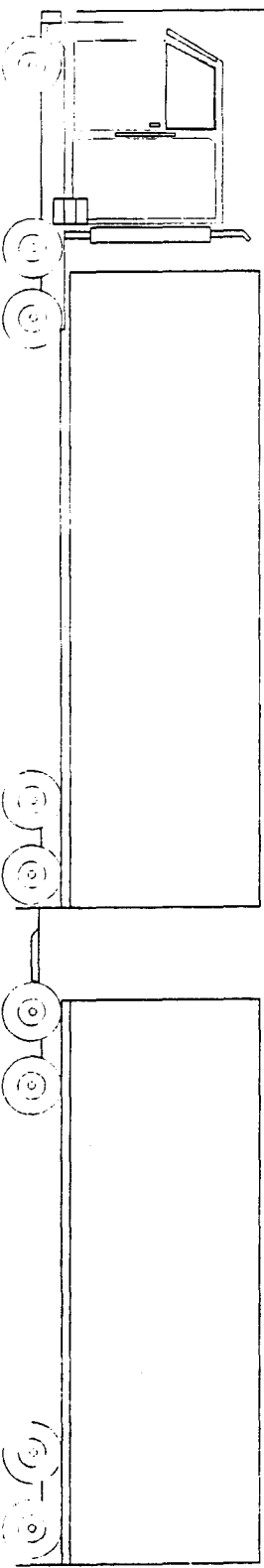
SENATE HIGHWAYS

EXHIBIT NO. 7

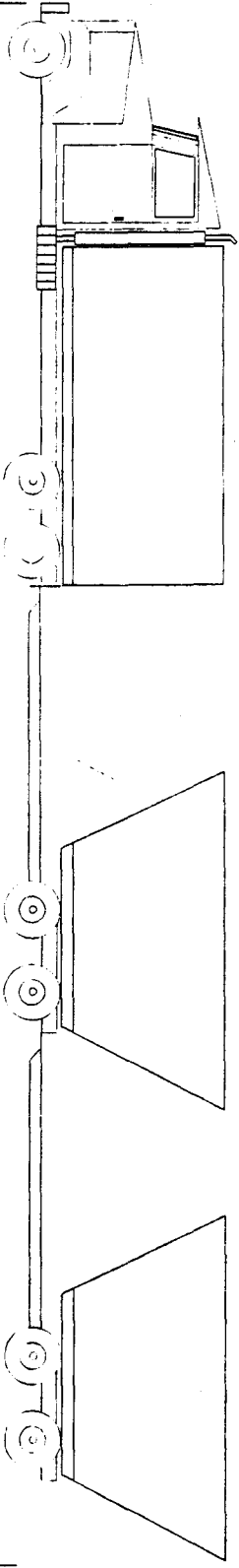
DATE March 16, 1993

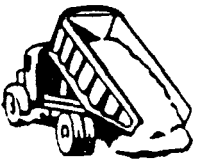
BILL NO. HB 530

95'

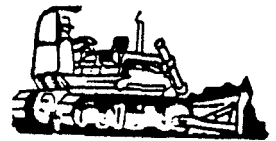


95'





A.M. Welles, Inc.



Hauling • Mining • Construction
P.O. Box 8
Norris, Montana 59745

SENATE HIGHWAYS

EXHIBIT NO. 8
DATE March 16, 1993
BILL NO. HB 530

March 16, 1993

Mr. Chairman and members of the Committee:

I would like to start by giving you some background information. A. M. Welles is a trucking and construction firm based out of Norris, Montana. We have 50 full-time employees and up to 100 Montanans employed during peak seasons. Our annual payroll is approximately \$1.4 million. In 1992, state withholding taxes collected totaled \$60,600. Worker's Compensation taxes paid were over \$154,000. State fuel taxes paid totaled \$72,000. GVW, special permits and licensing fees paid were over \$70,000. This represents annual state revenue collected totalling over \$356,600.

A. M. Welles currently operates 12 units in a truck (power unit)-trailer-trailer combination hauling talc, rock, sand, gravel, coal and other similar materials and have done so since 1974. We operate on various local state and federal highways, primarily in, but not confined to southwest Montana as established before 1987. We estimate our fleet miles driven at 1.2 million miles per year. Since 1974 we have had only one DOT reportable accident, and that was a non-injury accident with no citation given. This is a safety record we are very proud of. I feel it is attributable to qualified drivers, well-maintained equipment, and a vehicle combination that has proven itself for the past 19 years to be safe, cost efficient, and economically advantageous for Montana businesses to remain competitive with other states.

Drawings have been given to you that I hope will explain our view of these combinations. Under current licensing procedure a tractor (power unit)-trailer (Figure A) is considered a single trailer unit. A truck (power unit)-trailer (Figure B) is also considered a single trailer unit and is licensed as such. A tractor (power unit)-trailer-trailer (Figure C) is licensed as a double unit and allowed to operate on all Montana roads with permits. Now, this is where the current wording differs from common sense. A truck (power unit)-trailer-trailer (Figure D) is for some reason considered a triple unit instead of a double unit. We feel it should be licensed and operated under the same considerations as the tractor-powered double unit (Figure C).

A tractor (power unit)-trailer-trailer-trailer (Figure F) is licensed as a triple unit as it should be, but I don't feel our configuration (truck (power unit)-trailer-trailer) is comparable with this. The differences that I see are in the number of trailers, (two trailers vs. three) and the number of pivot points, (two pintle hitches vs. two pintle hitches and three fifth wheels). Another comparison I would like to make is with the configuration that our competition pulls. The truck (power unit)-dolly semitrailer (Figure E), which is licensed as a double, should be considered essentially the same as our truck (power-unit)-trailer-trailer combination (Figure D) for licensing purposes. Both are truck-powered units, both have two pivot points, and on both the entire trailered weight is pulled by a pintle hitch. The only differences lie in the areas of economics and versatility. Economically there is a 2-3 ton difference in tare weight. Therefore the truck (power unit)-trailer-trailer unit (Figure D) enjoys a pay load advantage. There is also a lower maintenance and upkeep cost to the pup trailers. In the area of versatility, we have the option of unhooking the back trailer for weather, traffic or various other conditions that may arise. The truck (power unit)-dolly semitrailer unit (Figure E) does not have that option. Our units are maneuverable, can be backed up substantial distances and have only slightly more off-tracking in a corner than does a standard 40 foot flat bed trailer. This current wording and licensing procedure eliminates the possibility for a truck-powered combination unit to be licensed as a double (i.e. there are only singles and triples, no doubles in truck powered units. Notice page 4 of the drawings, by adding only one trailer, figure B changed from a single unit to a triple unit as shown in figure D.) A tractor powered combination is the only unit that enjoys the double unit classification. In essence, we feel the real factor to be considered here is not whether to allow this truck (power unit)-trailer-trailer to operate with special permission as a triple on Montana Highways but, more fairly, to reclassify it as a double unit thus allowing it to operate under established double unit conditions.

It has also come to our attention that some people both in the private sector and in the legislature feel we took unfair advantage by being one of the very few that fell under the grandfather clause enacted in 1991. It was never our intention to gain that advantage, we were merely trying to save our investment and business. We have no problem whatsoever with opening this area up to competition. We feel that the state as a whole would be better able to compete in these industry-related areas with other states if this were changed.

It is our desire to have this configuration reclassified as doubles, state wide for everybody or, at the very least, that anyone be permitted to operate this configuration on all Montana highways with proper permits. Further restrictions on this configuration, as proposed by this bill would have a significant and detrimental effect on our business. We have based our rates and our contracts in good faith on our ability to legally haul the tonage per load that we are currently capable of with these units. We have a substantial capital investment in these units, approximately \$1.5 million and we feel that since the state has allowed us to operate in this manner for the past 19 years impending restrictions would be unfair. The cost for us to re-equip to a different configuration would be staggering and render us much less efficient. In closing, I hope I have showed the truck (power unit)-trailer-trailer configuration to be a safe, efficient, economical, versatile and reliable method to transport a variety of products in the state of Montana. Thank you for your time.

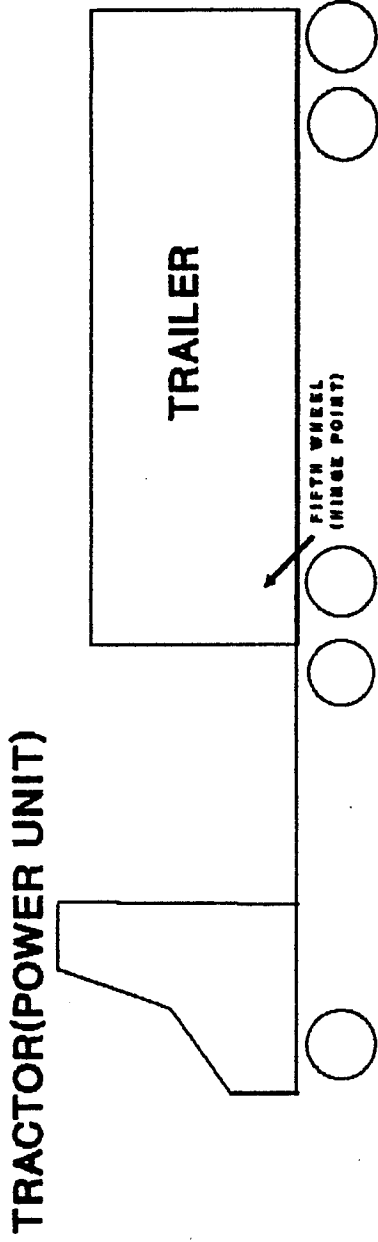
Sincerely,

Tim Hokanson
Vice President

EXHIBIT 8
DATE 3/16/93
KB 530

SINGLE TRAILER UNIT

FIGURE A



SINGLE TRAILER UNIT

FIGURE B

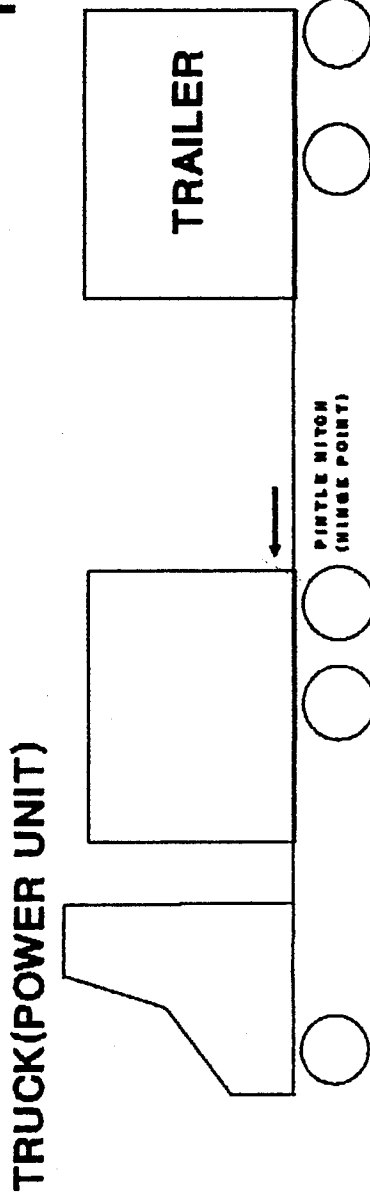
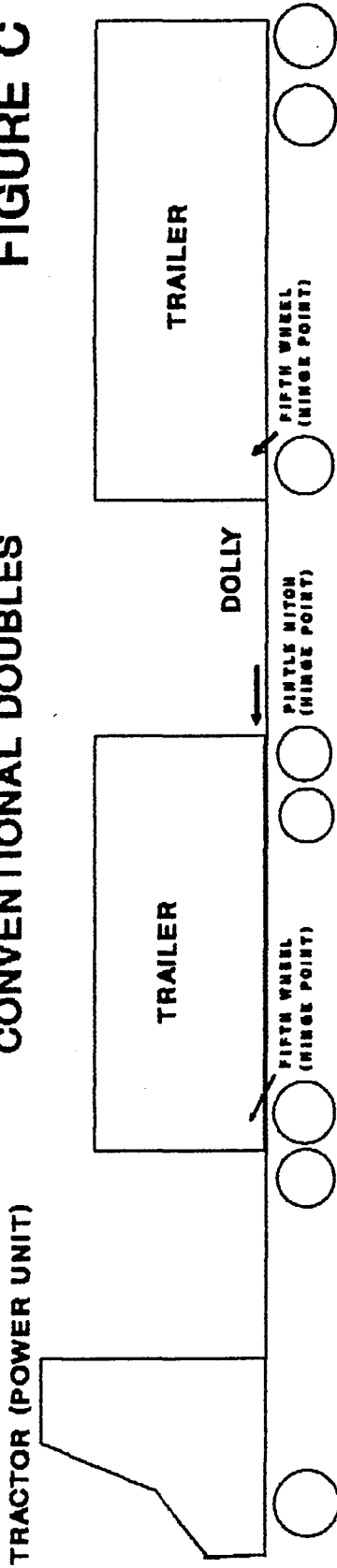


EXHIBIT 8
DATE 3/16/93
K0530

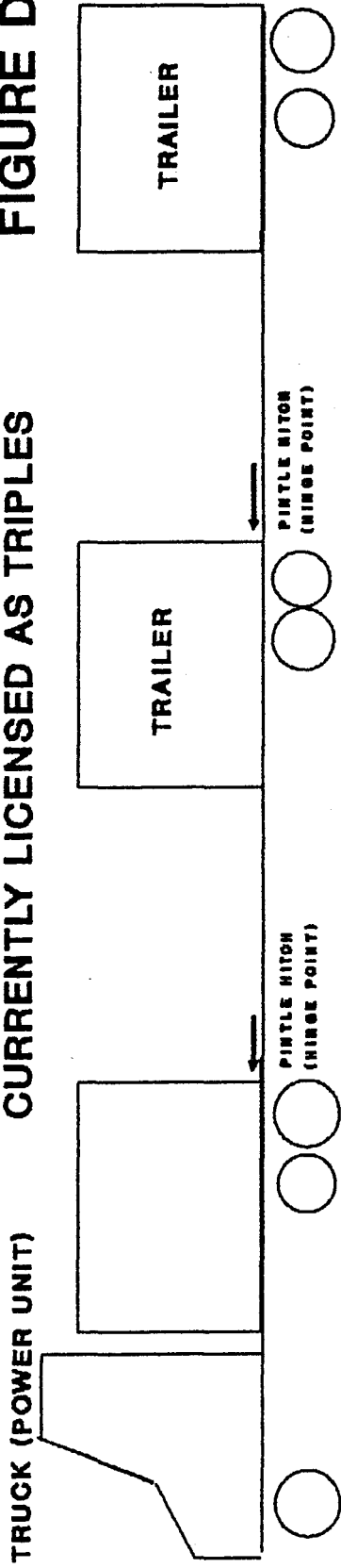
CONVENTIONAL DOUBLES

FIGURE C



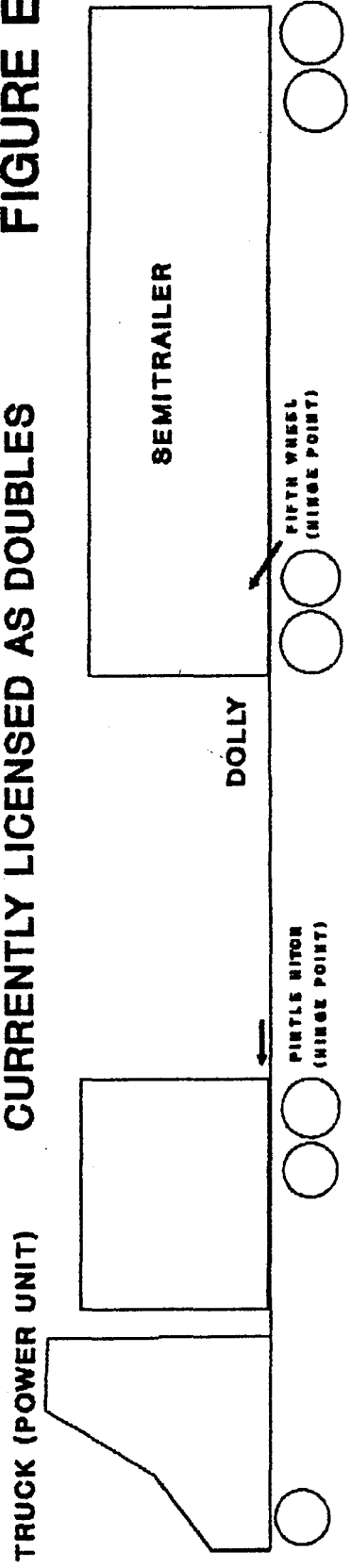
CURRENTLY LICENSED AS TRIPLES

FIGURE D



CURRENTLY LICENSED AS DOUBLES

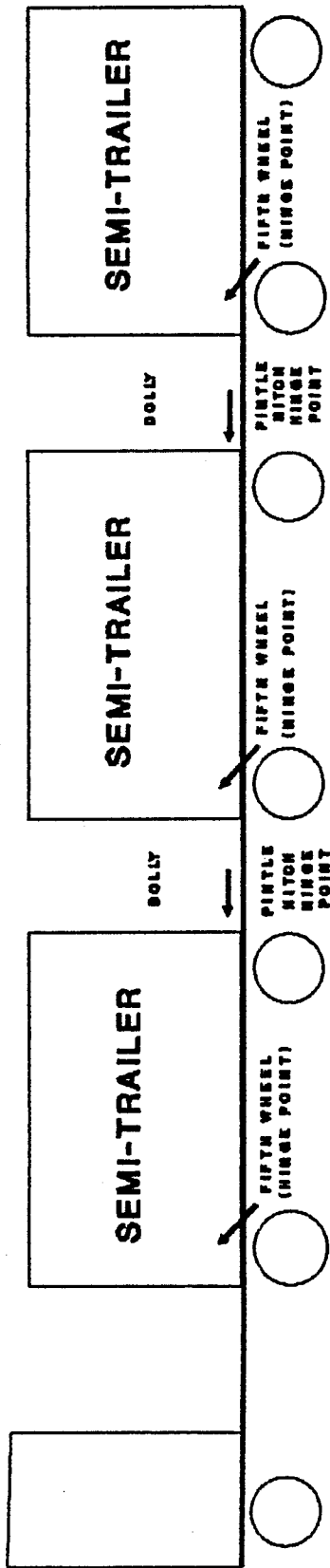
FIGURE E



LICENSED AS TRIPLES

FIGURE F

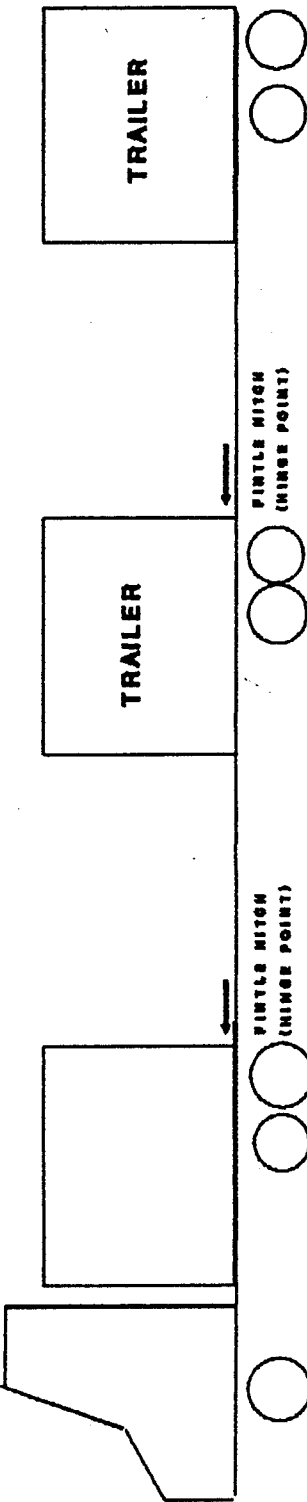
TRACTOR (POWER UNIT)



CURRENTLY LICENSED AS TRIPLES

FIGURE D

TRUCK (POWER UNIT)



License 8

DATE 3/16/93

X 1 KC 530

FIGURE B

TRUCK (POWER UNIT) CURRENTLY LICENSED AS SINGLES

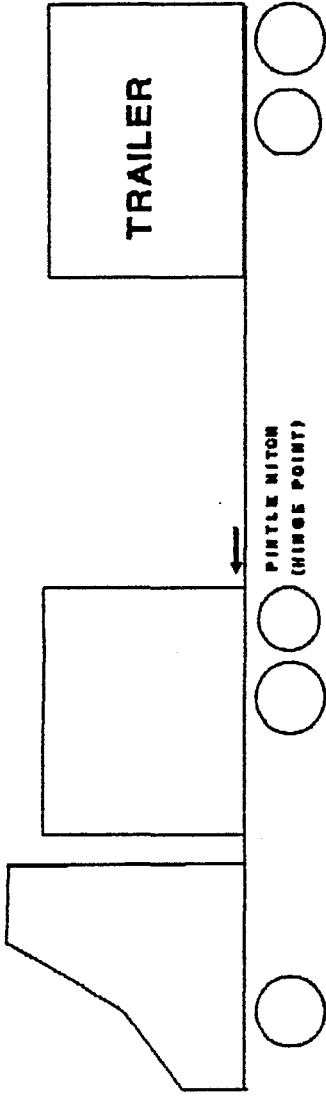
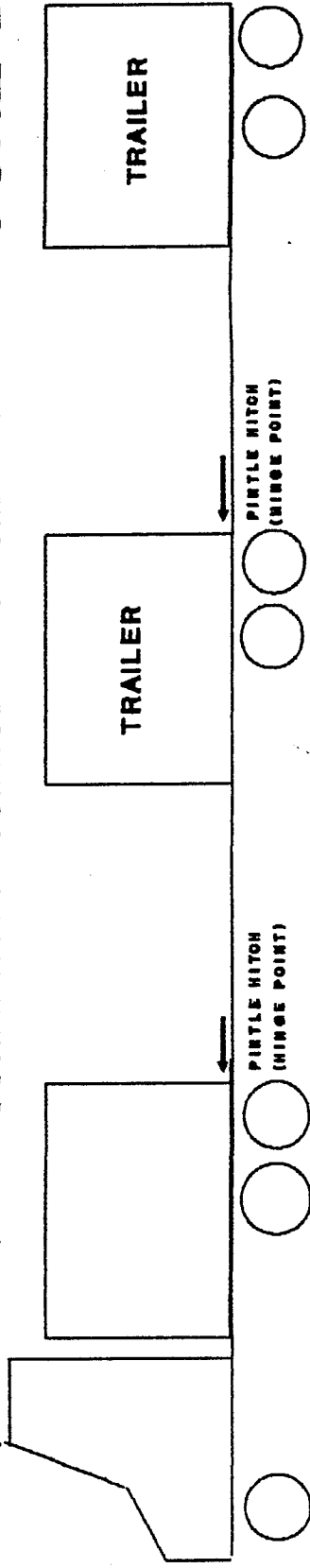


FIGURE D

TRUCK (POWER UNIT) CURRENTLY LICENSED AS TRIPLES



Luzenac America



Luzenac America, Inc.
Western Talc Operations
767 Old Yellowstone Trail
Three Forks, Montana 59752-9313
(406) 285-3271
FAX (406) 285-3323

March 16, 1993

SENATE HIGHWAYS

EXHIBIT NO. 9

DATE February 16, 1993

BILL NO. HB 530

Senator Swysgood, Chairman
Senate Transportation Committee

Re: House Bill No. 530

House Bill No. 530 was originally drafted, preventing the operation of truck-trailer-trailer combinations on two lane highways within the state of Montana. This legislation was a major concern to Luzenac America, Inc. since A.M. Welles, Inc. is the sole contractor for hauling crude ore from our mines to Three Forks. The truck-trailer-trailer combination is currently being used. This bill was amended on the House floor allowing Welles to haul talc. The amended bill was passed.

The inclusion of the language allowing for "talc transport" provided assurance that hauling costs for talc would not escalate due to the change in the law. While talc processing does represent the largest portion of Luzenac's annual production, other key extracted minerals are still impacted by this bill. 20,000 tons of chlorite are mined near Silver Star and must be transported to Three Forks. The products made from chlorite are part of our core business. An inevitable hauling cost increase to this material places chlorite products at risk to be lost to out of state producers.

Another new segment of our business is the sales of decorative or landscaping rock. Decorative rock, dolomite, is produced from a portion of the overburden removed to expose our talc ore body. This new endeavor is emerging as a "mom and pop" business within the walls of our company. A small segment of the work force, two to six employees, at our Yellowstone Mine were allowed to explore the market potential of this enterprise. Over the past two years, sales of decorative rock have been generated throughout Montana and parts of California, Oregon and Washington to landscaper and small retail chains. A commitment has been made by a large west coast discount chain to purchase bagged landscape rock this summer.

This business is certainly at risk, however, since transportation represents as much as 80% of the cost. The pricing to all of these customers has been based on Welles hauling this material, all or part of the way, in the truck-trailer-trailer combination. The loss of this business would undoubtedly result in the loss of two to six jobs.

I urge this committee to consider the impact of this bill in its present form. An amendment must be added to assure that Montana businesses and jobs are not jeopardized.

Sincerely,

William Carrier
Distribution Coordinator

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
 House Bill 530
 Representative Gilbert

February 20, 1993 2:50 pm
 Page 1 of 1

Mr. Chairman: I move to amend House Bill 530 (second reading copy -- yellow).

Signed: B. A. Gilbert
 Representative Gilbert

And, that such amendments to House Bill 530 read as follows:

1. Title, line 8..

Following: "HIGHWAYS;"

Insert: "ALLOWING THE DEPARTMENT OF TRANSPORTATION TO ISSUE SPECIAL PERMITS FOR TRUCK-TRAILER-TRAILER COMBINATIONS TO CERTAIN OTHER OPERATORS ON CERTAIN OTHER HIGHWAYS;"

2. Page 6, line 13.

Following: "~~1987~~"

Insert: "(8) The department of transportation may issue special permits under subsection (6) for vehicle combinations that consist of a truck-trailer-trailer if:

(a) the vehicle combination's overall length inclusive of front and rear bumpers is not more than 95 feet; and

(b) the person, firm, or corporation applying for the permit:

(i) restricts truck-trailer-trailer operations authorized by the permit to the hauling of talc ore; *only*

(ii) operated the truck-trailer-trailer combination before July 1, 1987;

(iii) restricts the truck-trailer-trailer operations authorized by the permit to the specified routes that those vehicles used before July 1, 1987; and

(iv) provides the department of transportation with an affidavit confirming the routes used before July 1, 1987, for truck-trailer-trailer operations"

-END-

ADOPT

units. He said they have put on about 15 million miles without an accident involving these triple units. Approximately 13 million of these miles were on highway U.S. 287, which is one of the oldest highways in the state. If they were forced to discontinue the use of these units, it would cause a severe financial burden. It would cost \$40,000 per unit or \$640,000 to convert to a truck-dolly semi-trailer unit drawing number two. Which would be about 10% less efficient, and in his opinion, would not be as safe. This 10% loss in legal payload would result in a \$125,000 loss in annual revenue. If they don't make the capital investment of buying the trailers, and dropped one trailer, their efficiency would have a decrease of about 25%. This would result in an annual revenue loss of approximately \$330,000. He felt that their units were inadvertently dropped in the passage of the triple's bill. EXHIBIT 2 and EXHIBIT 3

Bill Carrier, Cyprus Industrial Minerals, said they own and operate three mines and one mill in Montana. Cyprus Industries is the world's largest producer of talc ore and finished talc products. Cyprus Industries employs 175 people within the state. A.M. Welles is the sole contractor providing transportation services for talc ore from the mines to the mill in Three Forks. Welles has been able to be a competitively priced service, due to the specific equipment configuration that were purchased and operated. Welles has legally operated this equipment since 1974. If Welles is prohibited from operating this existing fleet of trucks, Welles income would be greatly decreased due to reduced tonnage haul per trip or a major capital expenditure made to purchase the equipment needed to haul the present tonnage. Either situation would require cost recovery in the form of higher freight rates passed on to Cyprus. Cyprus establishes pricing to their customers based on the accumulation of costs throughout all phases of operation and production. Any cost increases to Cyprus for which they have no control, would be passed on to the customers. Higher costs would place Cyprus at a competitive disadvantage to other out-of-state producers. Any loss in business would result in the loss of Montana jobs. The accident frequency of Welles' fleet of equipment, especially the truck trailer-trailer combination, provides further evidence that these units are safe and an economical means for enhancing Montana's competitive position in that national and worldwide market place. EXHIBIT 4

Stuart Doggett, Montana Mining Association, supported SB 297.

Opponents' Testimony: None

Questions From Committee Members:

REP. LARSON asked if this bill only applies for the four firms in Montana. SEN. NOBLE said there are four firms that have these configuration of units. He said in reading further into the bill, if the truck trailer-trailer would have been taken out of the law to allow the four firms to operate, this bill wouldn't be

EXHIBIT 10
3/16/93
HB 530

HOUSE HIGHWAYS & TRANSPORTATION COMMITTEE

March 13, 1991

Page 4 of 16

needed, but it was after the cut-off date and the title would have had to be changed and it was too late. He said it will have to wait until the next time to do it. REP. LARSON said if these truck-trailer-trailers were taken out of the bill, they can be replaced under the terms of this bill. SEN. NOBLE said the equipment can be replaced under the terms of this bill, but the operations are limited to the routes that had been banned previous to 1987.

CHAIRMAN STANG asked if these configurations are the same as the Rocky Mountain doubles. Mr. Havdahl said no. The Rocky Mountain double is a tractor trailer-trailer. The configuration in this bill and as he understands, it is a truck-body, when two trailers are hooked together. He said these units are about 95 feet, smaller than the triples that are 110 feet.

REP. GALVIN asked if these units stay on their designated routes or do they run on the interstates. SEN. NOBLE said they do run some on the interstate. REP. GALVIN asked if these routes will be expanded. SEN. NOBLE said no. The units are bound to their designated routes they had prior to 1987.

REP. ELLIS asked if this bill just deals with configuration and not with weight. SEN. NOBLE said that is correct.

CHAIRMAN STANG asked how does the weight configuration on these trailers differ from the triple trailers. The argument regarding the triple trailers was the fact that they actually handled less weight per trailer than doubles or longer trailers. How does the GVW division look at the weight configuration and the potential damage to the roads with these trailers. Mr. Gilmore said they are all evaluated under the bridge formula. The weight allowed is established that way. These trailers aren't as long as the triples, they are a short box and the triples are allowed to 110 feet, these are a maximum of 95 feet. The tongue length on these are greater than the triples. CHAIRMAN STANG asked if the GVW has looked at a different way of doing this without taking truck trailer-trailer out, and without restricting their routes to certain places in case a mine might be developed elsewhere. Mr. Gilmore said that currently, there are ways they could haul as much of a load as the trailer-trailer units haul. The problem is, these people have invested money and are into this type of system. It would be a great capital expenditure to change.

Closing by Sponsor:

SEN. NOBLE said that Dave Galt from the GVW division testified in the Senate Committee, and he does not have a problem with this bill. He said that Mr. Galt helped him in drafting the bill because GVW is tired of writing special permits. He said this is a very expensive situation for these four firms to change over. Their safety record is good and they employ a number of people in Montana. He urged the committee to concur on SB 297.

NAME William S. Carrier

ADDRESS 308 4th Ave E. Three Forks

HOME PHONE 285-3154 WORK PHONE 285 3271

REPRESENTING LUZEUAC AMERICA

APPEARING ON WHICH PROPOSAL? H.B 530

DO YOU: SUPPORT _____ OPPOSE _____ AMEND X

COMMENTS:

Allow for other mineral commodity
to be hauled in truck - trailer - train
combinations

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 16 March 1993

SENATE COMMITTEE ON Highways & Transportation

BILLS BEING HEARD TODAY: SB 373, HB 336, HB 530, HB 541

Name	Representing	Bill No.	Check One	
			Support	Oppose
Flida Brammer	Broadwater Co Treas	HB 336	X	
✓	✓	HB 373	X	
Tim Hokanson	AM Welles Inc	HB 530		X
Bill Cunnei	LUZENAAC AMERICA	HB 530		X
DAVE GALT	MUT	HB 530	X	
Peter Funk	Dept. of Justice	SB 373	X	
Mary Nelson	A.B.L.E	HB 541	X	
Viggo Anderson	ILGGA & ILCFRA	HB 541	X	
Bill LEARY	MT. BANKERS ASSN	SB 373	X	
Carl Harrington	Montana Treasurers Assn	HB 336 HB 373	✓	
Dean Roberts	Mont. Ven. Div	HB 373 HB 376	✓	
George Paul	FARMERS UNION	HB 541	X	
Sen. John C. Brenden		HB 541	✓	
John Hange	Teamsters	HB 530	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY