

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on February 4, 1995, at
9:07 a.m.

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: Sen. Ric Holden (R)

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

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

Committee Business Summary:

Hearing: none
Executive Action: SB 129 DO PASS AS AMENDED
SB 159 TABLED
SB 181 DO PASS AS AMENDED
HB 48 CONCURRED IN
SB 183 TABLED

EXECUTIVE ACTION ON SB 129

Discussion:

CHAIRMAN LARRY TVEIT presented a letter to the Committee from a
group in Polson who were offering support for increasing the fine
in SB 129. (EXHIBIT # 1)

Motion:

SENATOR LINDA NELSON MOVED TO ADOPT AMENDMENTS NUMBER
SB012901.ACE. (EXHIBIT # 2)

Discussion:

SENATOR NELSON explained the amendments would help to target drivers speeding to the extent of creating a real safety factor while still going easy on drivers who speed moderately. She stated the feeling that something needed to be done, but that SB 129 probably would not pass without the amendments.

Connie Erickson explained the amendment (**EXHIBIT # 2**), in its entirety.

SENATOR CHUCK SWYSGOOD asked if there was a revised fiscal note? **SENATOR NELSON** answered no.

SENATOR BARRY STANG stated the fiscal impact would not change that much, as the current fiscal note showed that SB 129 would produce money and the amendments would simply reduce the amount. He referred to the assumptions on the original fiscal note that there would be fewer people violating with passage of SB 129 because the amount of the fines would be increased. He stated he would concur with the amendments as he had compassion for people traveling on the 55 mph highways which were probably safe for travel at 65 mph and felt these people should not be penalized for driving 65 mph. He maintained that the people who should be targeted were the drivers traveling at the higher speeds and the amendments would show that the state was not after the law-abiding citizens but was after the people who were a danger to the motoring public.

SENATOR MACK COLE stated he agreed with **SENATOR STANG** and stated he would support the amendments.

CHAIRMAN TVEIT explained that between 55 mph and 65 mph on the Primary roads would be the same \$5 fine and between 65-75 mph on the Interstate would also remain at a \$5 fine.

SENATOR ARNIE MOHL asked at what point the dollar amount determined whether the violation would appear on the person's driving record. **Attorney General Mazurek** replied that the fuel conservation limit violation, which this statute applied to, would not go on the driver's record. He said that if it was a basic rule citation or nighttime speeding, different statutes would apply and it would affect the driver's record.

SENATOR REINY JABS noted a driver would have to be traveling 85 mph to get a \$20 ticket. He commented that seemed pretty fast.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO AMEND SB 129 CARRIED WITH SENATOR SWYSGOOD VOTING NO AND SENATOR HOLDEN VOTING YES BY PROXY.

Motion:

SENATOR STANG MOVED SB 129 DO PASS AS AMENDED.

Discussion:

SENATOR SWYSGOOD asked for an explanation of the difference between current law and what SB 129 would do to change the basic rule. **Attorney General Mazurek** answered that under current law the basic rule statute was essentially not of much use in Montana except in limited jurisdictions. He said SB 129 would not change the current conditions taken into account for basic rule violations, and would add additional conditions. He read the language and explained that currently all of the factors listed had to be proven, as well as the fact that the driver drove so as to unduly or unreasonably endanger life, limb, or property and attested there was difficulty in proving that one factor in every circumstance. He said once you reached the point of proving endangerment of life, limb, or property you were probably violating the careless or reckless driving statute. He said that for all practical purposes the basic rule statute was not effective. He reported SB 129 would use all the same current factors plus the new ones, but would delete unreasonably endangering life, limb or property.

SENATOR SWYSGOOD asked for clarification that SB 129 would make it easier to apply the basic rule violation against someone traveling at 80 mph? **Attorney General Mazurek** explained that it was intended to be used for drivers who drove too fast for the conditions of the road.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO DO PASS SB 129 AS AMENDED CARRIED WITH SENATORS SWYSGOOD, AND MOHL VOTING NO. SENATOR HOLDEN VOTED NO BY PROXY.

EXECUTIVE ACTION ON HB 48Motion/Vote:

SENATOR LINDA NELSON'S MOTION THAT HB 48 BE CONCURRED IN CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 159Motion:

SENATOR LINDA NELSON MOVED SB 159 DO PASS.

Discussion:

SENATOR NELSON stated she wondered if the Bill should be amended to change the language of commercial activity to food vending machines because that was actually what was being addressed. She said commercial activity could create confusion as to the type of business which could be conducted. She maintained that the Bill must stay within the federal regulations which stated it could only be food vending machines. She asked for the Committee's thoughts.

Connie Erickson stated that the Bill read 'any commercial activity permitted by the Department must be in accordance with Title 23 of the Code of Federal Regulations'. She explained that the code of federal regulations currently stated 'the state may permit the placement of vending machines in existing or new safety rest areas located on the rights-of-way of the Interstate system for the purpose of dispensing food, drink or other articles as the state determines appropriate and desirable, except the dispensing of petroleum products'. She said that leaving SB 159 as it was presently drafted would only allow these vending machines and would also cover any future changes in the federal regulations.

SENATOR NELSON agreed it would be better not to amend SB 159.

SENATOR ARNIE MOHL said he had a problem with the portion of the fiscal note which stated fees would be collected to cover any incidental costs. He maintained that the State should be reimbursed for the incidental costs such as through rent on the machines.

SENATOR BARRY STANG said that in his District there were five rest areas from the Idaho border to the Garrison junction as well as at least a town every 20 miles. He stated that businesses in his area were concerned about investments they had made to pull people into their businesses. He said that as taxpayers they would be subsidizing a business which would have a better location than theirs. He maintained that the Bill would give the vendors a prime location and agreed with business owners who felt it was an unfair advantage to the vending machine owners. He said he could understand that other areas may not have as many rest areas or number of businesses.

SENATOR REINY JABS stated he agreed with SENATOR STANG that business people should be protected.

SENATOR CHUCK SWYSGOOD asked how the Department would determine who put the machines at the rest areas and asked if there would be a request for proposals? **Tom Barnard, Montana Department of Transportation**, replied that he thought that would be the way they would have to approach it.

SENATOR JABS asked if a fee would be charged? **Mr. Barnard** replied the intent was to generate some revenue to offset the cost of maintaining rest areas.

SENATOR MACK COLE asked if this had been done in other states? **Mr. Barnard** affirmed that quite a few other states allowed vending machines.

SENATOR COLE asked if the Department knew of any problems other states encountered? **Mr. Barnard** stated he had not heard of any.

SENATOR MOHL asked where the Bill addressed charging a fee? **Mr. Barnard** read the language on line 28 which stated 'the Department may enter into a lease agreement'.

SENATOR MOHL attested that there was no mention of a fee. **Mr. Barnard** explained the Department's intent for SB 159 had been to charge a fee.

SENATOR SWYSGOOD asked if a statement of intent would be needed to allow the Department to establish fees? **Mr. Erickson** stated the statement of intent read that the Department could adopt rules to implement their authority to enter into an agreement.

SENATOR GREG JERGESON stated he felt a lease agreement implied some consideration for the lease and also implied restrictions to whomever was willing to sign the contract.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION THAT SB 159 DO PASS FAILED 3-6 ON ROLL CALL VOTE #1. SENATORS TVEIT, SWYSGOOD, HOLDEN, STANG, MOHL, AND JABS VOTED NO. SENATORS NELSON, COLE, AND JERGESON VOTED YES.

Motion/Vote:

SENATOR SWYSGOOD'S MOTION TO TABLE SB 159 CARRIED 6-3 ON ROLL CALL VOTE #2. SENATORS TVEIT, SWYSGOOD, HOLDEN, STANG, MOHL AND JABS VOTED YES. SENATORS NELSON, COLE, AND JERGESON VOTED NO.

EXECUTIVE ACTION ON SB 181Motion:

SENATOR BARRY STANG MOVED TO AMEND SB 181 WITH AMENDMENTS
NUMBERED SB018101.ACE. (EXHIBIT # 3)

Discussion:

SENATOR JEFF WELDON explained the amendment would place language in the Bill that would limit the number of signs a business could have to two signs on one side of the road. He said the task force had felt this could be established with rules but had later concluded it should be put in statute.

SENATOR STANG asked if a sign on the business would count as one of the two signs described in SB 181? **Mr. Munger** replied it would not as the Department had no authority over on-premise signs.

SENATOR ARNIE MOHL asked if there were numerous businesses in the area and only two signs are allowed how would the Department determine who got the signs? **Mr. Munger** stated SB 181 only applied to unzoned commercial industrial areas and any qualifying activity would be allowed on a first come, first serve basis.

SENATOR MOHL clarified that he was referring to numerous businesses. **Mr. Munger** stated that each business could qualify for two off-premise signs on the same side of the road.

SENATOR MOHL asked how SB 181 would apply if an individual had businesses on both sides of the road. **Mr. Munger** stated the business could only qualify for two off-premise sign sites, both of which must be on the same side of the road. He said that if there was another business ½ mile down on the same side of the road, it could possibly qualify for two sign sites and so forth.

SENATOR STANG asked if SB 181 would allow double sided signs? **Mr. Munger** stated the signs could be two sided, as sign face and the amount of advertising was not the issue. He attested that the issue was the sign structure itself.

SENATOR CHUCK SWYSGOOD asked if SB 181 would affect signs constructed on the Interstate for businesses that currently paid the price to advertise? **Mr. Munger** stated SB 181 had nothing to do with logo signs. He said this was regarding outdoor advertising off the right-of-ways on private ground.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENT SB018101.ACE CARRIED UNANIMOUSLY.

Motion:

SENATOR STANG MOVED TO ADOPT AMENDMENT SB018102.ACE. (EXHIBIT # 4)

Discussion:

SENATOR SWYSGOOD asked why an immediate effective date was being asked for. SENATOR WELDON replied that he was concerned with the period of time between when the Governor signed the Bill and July 1, which could allow people to construct a rash of large signs which did not meet new size regulations.

SENATOR STANG asked if currently permitted businesses in the process of building a sign would be affected if the effective date was changed? Mr. Munger replied that if the Bill passed the Department would take the position that any application received before the effective date would be treated under existing law.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENTS SB018102.ACE CARRIED WITH SENATOR SWYSGOOD VOTING NO.

Discussion:

Connie Erickson stated that Mr. Lars Lithander with Frontier Outdoor Advertising had, in his testimony at the hearing, asked for an amendment. She asked them to look at page 3, lines 5-8, and said Mr. Lithander had wanted to reinsert the stricken language. She said his amendment would limit a business to two signs but allow them to be placed on either side of the highway. She reported that she had only drafted the amendment in order to be prepared in case the Committee wanted to consider it. (EXHIBIT # 5)

SENATOR STANG asked if this amendment would directly conflict with SEN. WELDON'S amendment? Ms. Erickson explained it would not; the restriction to one side of the highway came in the stricken section in the definition of the unzoned commercial

industrial area. She stated that the language which had been stricken made that definition apply to only one side of the highway so that **SENATOR WELDON'S** amendment would now say two signs on one side of the highway. She explained that by retaining current law, **SENATOR WELDON'S** amendment would allow two signs on both sides of the highway.

SENATOR SWYSGOOD clarified that amendment SB018103.ACE, which would have to be offered, would still restrict it to two signs but one could be located on one side and one sign on the other side.

Motion:

SENATOR SWYSGOOD MOVED TO ADOPT AMENDMENT SB018103.ACE. (EXHIBIT # 5)

Discussion:

SENATOR REINY JABS asked why the Department wanted to limit signs to one side of the highway? **Mr. Munger** stated it was just to make it more restrictive and maybe create less problems with looking at the scenery. He said he was not sure why the task force had made that decision and maintained that the Department took no position on which side of the road the signs were on. He said that if he could speak for the Industry, he thought both sides seemed very important to them because of the viewing of the signs.

SENATOR SWYSGOOD stated the amendment, SB018103.ACE, was a valid request. He said that a business on an Interstate highway that was restricted to signs only on one side of the highway may have a highway layout which would not allow them a visible sign for traffic from both directions. He explained that geographics could definitely affect their traffic flow if restricted to signs on one side of the road.

SENATOR STANG stated that if a business was located at an Interstate exit there was already a prohibition regarding signs being within a certain number of feet of an Interstate exit. He maintained that if this person owned a business on one side of the exit and unless there was a business on the other exit going the other direction, which would permit two more signs, he would not be permitted to put a sign on either side of the exit anyway. **Mr. Munger** commented there seemed to be some confusion, as the signs affected by this Bill were off-premise signs and were not necessarily advertising for the business. **Mr. Munger** agreed with **SENATOR STANG** about the restriction because there was a 500 foot setback requirement at the exits. He said SB 181 affected signs that were sold by advertising companies that may be advertising something in Dillon when the business was located in Great Falls. He said it was not so much advertising businesses at the

intersection or even nearby, but businesses a hundred miles down the road.

SENATOR STANG commented he felt it was fair to not only restrict the size of the signs but also to require the signs to be close to the business.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENT SB018103.ACE CARRIED 7-2 ON ROLL CALL VOTE #3.

SENATORS TVEIT, SWYSGOOD, HOLDEN, NELSON, COLE, MOHL AND JABS VOTED YES.

SENATORS STANG AND JERGESON VOTED NO.

Motion:

SENATOR JERGESON MOVED SB 181 DO PASS AS AMENDED.

Discussion :

SENATOR STANG stated he would like the record to reflect that when the Department was adopting their rules they needed to pay particular attention to the definition of a qualifying business. He maintained there was a lot of money to be made on signs, and it would not be that expensive to put up a tin shack and a sign that indicated it was a qualifying business. He said he thought the Department needed to pinpoint what a qualifying business was when they wrote the rules and regulations. He termed the source of the potential problem as coming from people who found a loop hole in the qualifying business definition.

CHAIRMAN TVEIT asked if **SENATOR STANG** would like to amend the statement of intent to give some direction? **SENATOR STANG** stated he just wanted it on the record.

SENATOR SWYSGOOD asked if real estate for sale signs would be affected by this legislation? **Mr. Munger** replied they would not be included in this legislation.

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SENATOR MOHL stated he had a problem with the 30 foot height restriction as it appeared there could be potential for a speed trap. He also asked if rules could be written regarding the removal of deteriorated signs? **SENATOR STANG** commented that when a billboard was nonconforming and the sign deteriorated the Department could send a notice giving 45 days to repair the sign. He said that at the end of the 45 days, if you had not fixed the

sign, the Department would give 15 days to remove the sign or they would come and remove it at the owner's expense. **Mr. Munger** stated that the rules on abandoned signs were a little hazy. He said **SENATOR STANG'S** statement was true if the Department was aware of the abandoned sign. He explained that another issue was that all signs had to be repermited every three years and that was really how the Department could tell if a sign had been abandoned. He said **SENATOR MOHL'S** statement was well taken, as he thought the Department should write something more specific in their rules regarding and defining abandoned signs.

SENATOR JABS asked if a nonconforming sign blew over could the owner reerect and repair it? **Mr. Munger** stated the 30/50 rule applied only to nonconforming signs, grandfathered signs that did not meet current requirements. He stated that legal conforming signs were not under the 30/50 rule and that rule stated that the owner of the sign could only repair the sign up to 30% of the value of the sign in any given year or if it were damaged or blown down, it could be reerected or repaired for no more than 50% of the value of the sign. He reported the problem with the 30/50 rule was that no one could agree on the value of the sign. It was an unenforced rule. He accounted that the rule resulted in many old signs not getting repaired because the owners feared that if they repaired the signs too much the Department would find them illegal. He said he thought the Department needed to visit with the Industry people regarding the 30/50 rule. As long as the Department was able to satisfy the Federal Highway Administration they should be able to make it a better situation to improve the signs.

SENATOR STANG asked, in regard to the 30 foot maximum height from the crest of the highway, what would happen in situations where the highway went through a cut and there was a 25 foot bluff? He said there was nothing in the language of the Bill which said 30 feet from the highway or 30 ft from the ground, and the described situation would not allow them to put a sign on a hill. **Mr. Munger** commented that where I-90 ran through Missoula's north side, all of the signs up on the cut would become nonconforming signs under this bill and the Department could not permit any more signs in that area.

SENATOR SWYSGOOD commented that was the problem with the Bill.

SENATOR STANG questioned whether the Bill could be amended to state that the sign could not be 30 feet above the roadway or 30 feet above existing ground and provide for the places where one side of the highway was higher than the other? He said SB 181 could be too restrictive in areas where there were a lot of hills or a dip in the road.

CHAIRMAN TVEIT asked why the limit had been made 30 feet when there were so many hills in Montana? **Mr. Munger** stated that was a good question and he could not speak for the task force, but he thought it became an issue of visuals that signs need not be

that high. He said there had been some concern that signs placed too high could become a safety issue when people were looking up to read them.

SENATOR STANG asked the sponsor if he would object to an amendment providing for 30 feet from ground level or 30 feet from the crest of the highway? **SENATOR WELDON** stated he believed some of the numbers were researched from other states, but he was not sure if the 30 foot limit was researched. He said he believed the concern expressed by scenic advocates was the visual impact of a sign that high. **John Waggoner, Billings member of the Task Force**, stated that when the 30 foot issue was addressed the task force had agreed on the limit because one of the primary concerns was that a sign which was too high was ineffectual anyway. He stated there was also some safety involved.

SENATOR SWYSGOOD stated that any one of the Committee members could think of a variance. It would not take much of a grade where the road was lower than the surrounding area that would cause a sign to become nonconforming because of the 30-foot limitation.

SENATOR GREG JERGESON commented that if a sign was too high it would not be seen.

SENATOR MACK COLE stated it appeared that the industry was not too upset about the 30 foot limitation and he thought maybe it was better left as it currently read.

SENATOR MOHL stated that if the signs were to be limited to the 30 foot height, in rolling country there would be signs down in the lower parts which would require larger poles which would create an added danger to the traveling public in instances when someone ran off the roadway. He said he did not feel anyone was going to put a sign at the top of a 30 foot cut.

SENATOR STANG asked **Ms. Erickson** if it would be difficult to conceptually draft the amendment stating 30 feet from existing ground? He affirmed the thought that the Industry would not put a sign at the top of a hill, but said that if there was a 25 foot hill they may want to put a sign at the 20 foot level of the hill. He said the amendment would allow the sign to be set on the ground and still build it to the 30 foot height. **Ms. Erickson** referred to page 3, line 24-27 as containing the height language, and noted current law as reading that the maximum height was 40 feet as measured from the ground or if the sign is attached to a structure as measured from the base of the sign itself. She recalled that the concern expressed in the testimony was in regard to the portion of language which stated 'attached to a structure as measured from the base of the sign itself'. She said it had been stated that in affect a sign could have 100 foot poles and then the sign would be measured 40 feet above that. She suggested it could read 'a maximum height of 30 feet as measured from the ground.' and not include the poles. **Mr.**

Munger drew a diagram and a brief discussion led to the suggestion that the language of the maximum height of the sign structure be left and the amendment would read 'or 30 feet as measured from the ground'.

Motion\Vote:

SENATOR STANG MOVED AMENDMENT SB018104.ACE TO SB 181 AND THE MOTION CARRIED UNANIMOUSLY. (EXHIBIT # 4A)

Vote:

SENATOR JERGESON RENEWED HIS MOTION THAT SB 181 DO PASS AS AMENDED AND THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 183

Motion:

SENATOR BARRY STANG MOVED TO AMEND SB 183 WITH AMENDMENTS NUMBERED SB018303.ACE.

Discussion:

SENATOR JEFF WELDON stated that during the hearing concerns had been expressed that the existing statement of intent was lacking. He explained that he had the goals of the feasibility study and incorporated them into this amendment for the statement of intent. He reported his main concern as making sure the Department's rules were compatible with other nationally adopted criteria for activities on the transportation system. He stated **Pat Saindon** of the Montana Department of Transportation had later told him the Department's intent was to include the 22 member advisory council, who helped with the feasibility study, in the drafting of the rules for the program. He affirmed the plan as making good sense. **SENATOR WELDON** encouraged the Committee to add a sentence to the amendments that the rules promulgated under this section be designed with the advice of the 22 member council.

SENATOR CHUCK SWYSGOOD stated statements of intent did not carry much weight once the legislation was in statute and rules were promulgated. He said that even though **SENATOR WELDON'S** suggestion was well intended, those people would likely be at the rulemaking hearings any way and he was not sure it would accomplish anything.

SENATOR GREG JERGESON stated he did not understand the controversy surrounding the Bill, as it merely gave the Department authority over the highway right-of-way. He asked if the Department had any authority outside the highway right-of-way? **Tom Barnard** stated the only jurisdiction granted to the Department which was outside of the right-of-way was under the outdoor advertising control laws.

SENATOR STANG stated there was nothing in the Bill prohibiting the Department from controls other than the right-of-way. He said the federal Wild and Scenic River Act has actually told landowners what they can do with their land. He said he did not mind the Department designating the highway scenic but did not want the Department telling the landowners what they could do with their land.

Connie Erickson commented that Myhre Advertising had requested an amendment adding language to the statement of intent and she had drafted that language for the Committee's informational convenience. **(EXHIBIT # 6)** She reported that the sponsor didn't have any problem including that language in the statement of intent and the Department had also drafted a similar amendment which included the Myhre language. She explained that the amendment would state an incorporated community may not be considered part of the scenic byway. However, the rules may provide for the inclusion of historical sites, visitors' centers, or other points of interest within an incorporated community as part of the scenic byway. She explained the amendment would mean that if the highway went through the town, the community itself would not be part of the scenic byway. She noted there were some national requirements for a scenic byway.

SENATOR STANG asked about unincorporated communities, were they going to be included or excluded? **Ms. Erickson** stated that the Commission must consult with appropriate local government authorities when considering designating what should be included in the program. In the case of unincorporated communities it would be the county as that would be the only local government authority.

CHAIRMAN TVEIT reminded the Committee there was a motion on the floor regarding the first statement of intent.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENT # SB018303.ACE CARRIED UNANIMOUSLY.

Motion:

SENATOR MACK COLE MOVED TO ADOPT THE AMENDMENTS NUMBERED SB018301.ACE. (EXHIBIT # 7)

Discussion:

SENATOR WELDON explained that the amendment SB018301.ACE, EXHIBIT 7, had four parts. He said it was the Department's intent to have the advisory council review applications from local governments for scenic highway designation once the program had developed rules. He state the amendment would add representatives from tourism, economic development, a county or municipality, and the general public to the advisory council. He explained the intent of the amendment was to broaden the advisory council to include other interests.

SENATOR REINY JABS asked if the number of members in the council would remain at 14? SENATOR WELDON replied it would.

CHAIRMAN TVEIT noted there were only eleven members named in the amendment. Ms. Erickson explained that the Department would have the ability to appoint the last three members.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION TO ADOPT AMENDMENTS NUMBERED SB018301.ACE CARRIED UNANIMOUSLY.

Discussion:

Connie Erickson explained that the feasibility study set out absolute requirements for a nomination, and the study stated that all nominated routes must have strong local support and commitment to a scenic byways and backways designation, and that each agency, entity, or government with jurisdictional responsibility for any roadway nominated shall approve the application. She stated that everyone involved would have to approve the nomination. She said the byways must be paved with an identifiable shoulder, so a gravel road could not be approved.

Motion:

SENATOR JERGESON MOVED ADOPTION OF SB 183 AS AMENDED.

Discussion:

SENATOR SWYSGOOD stated one problem with the Bill was that Interstates would seldom be designated as they were not very scenic, so the roads designated as byways would be Secondary and Primary highway systems. He maintained that currently his area was wrestling with the problems associated with a scenic byway designation by the Forest Service and Bureau of Land Management (BLM). He informed the Committee that if they had never been through a designation they were in for a treat. He said the ramifications to local governments were great and expressed that scenic byways had to be paved with a shoulder. He told of a former mining and logging road in his area which the Forest Service had designated and said the road went up over the top of the mountain. He reported the Forest Service had widened and paved their part of the road and then went to the county and asked them to pave their part. He stated that was a cost to local taxpayers.

SENATOR SWYSGOOD reported that in another part of his area the BLM had designated a road as a scenic byway that a golf cart could not get up when it rained. He said that once it was designated, people went up the road, got stuck, and somebody always had to go get them. He said there were many impacts that needed to be looked at when considering SB 181. He said these things needed consideration even though the intent was admirable. He said there was now talk about relocating county roads so that they came within conformance of federal law for access.

SENATOR SWYSGOOD stated another problem with the Bill was as it related to the transportation Industry. He said that even though the Bill may not be intended to have an adverse affect, there had already been instances of conflict regarding large trucks traversing scenic country. He reported having problems with the entire Bill and commented that he would not support it.

SENATOR STANG stated he was concerned about private property rights. He stated that if SB 181 passed out of Committee he would offer floor amendments to clarify the designation could not interfere with private property rights. He said he wanted to be sure the owners of the property along the byway were protected.

SENATOR SWYSGOOD remarked that **SENATOR STANG'S** concerns were correct and could be taken one step further. He said there would be highway dollars to help to pave a road, but after the initial paving the local taxpayers would be responsible for maintenance of the road. He stated it was more expensive to maintain a paved road than a gravel road.

SENATOR MOHL asked about the fiscal note designation for two Department FTE's being funded for approximately \$235,000 in 1995. He asked what would happen in 1997 and 2000; how would they be funded? He also asked how the counties and communities involved would be funded? **Pat Saindon** said it was felt the Department

could get a grant from the Federal Highway Administration. She said there were not two FTEs identified to develop the program; the figure was the equivalent of the time it would take for the Department to administer the program. She said they intended that would be done in increments, occurring at two levels, with no additional funds. She said **SENATOR SWYSGOOD** had spoken to Forest Service and BLM designations and the Department would have no control over those. She said the Department intended to address some of the problems involved when communities tried to designate roads as a way of eliminating commercial traffic on their roads. She reported that federal law did not allow the restriction of commercial traffic on a Primary System. She said that if a community came forward to propose designation of a road, there wasn't necessarily a set-aside of money for them to accomplish that. **Ms. Saindon** said they were primarily talking about signing, and the current consensus of advisory members and the Department was that there probably would be some joint funding of signing. She said that if they wanted turn offs, viewing sights, or other particular requests, those road improvements would be made at the time other improvements were made.

SENATOR MOHL asked who was going to estimate the cost of maintenance of the signs five years from now? **Pat Saindon** said she understood there would be a memorandum of agreement between the State and the local entities.

{Tape: 2; Side: B}

SENATOR MOHL asked if they would be passing an unfunded mandate down to the local entities? **Pat Saindon** stated that whoever was responsible for requesting designation of the road would be responsible for the financial backing.

SENATOR JABS asked if commercial trucks could be restricted and who did that? **Pat Saindon** stated federal law would not allow restriction of commercial traffic on a Primary System, even with scenic byway designation.

SENATOR JABS asked if Secondary highways or county roads could ban commercial traffic? **Ms. Saindon** stated part of the reason the Department was taking an aggressive approach to scenic byways legislation was to prevent restricted uses on the roadways. She said the intent of the proposed program and the recommendation from the Advisory Committee was there would not be restrictions on current uses of the system.

SENATOR JABS asked why **SENATOR SWYSGOOD** was so concerned? **Ms. Saindon** said his concern arose due to previous legislative sessions where groups had come to the Legislature requesting a roadway be designated scenic for the sole purpose of banning commercial traffic. She said the Department would, in turn, try

to do something about the legislation as federal law prohibited such restriction. She said they were asking the Legislature to consider letting the Department administer a scenic byways program that makes sense, was reasonable, and that all roads would have the same criteria.

Motion:

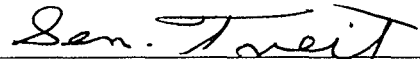
SENATOR COLE MADE A SUBSTITUTE MOTION TO TABLE SB 183.

Vote:

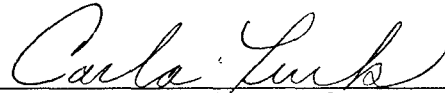
THE MOTION CARRIED 5-4 ON A ROLL CALL VOTE, # 4.
SENATORS TVEIT, SWYSGOOD, NELSON, COLE AND STANG VOTED YES.
SENATORS HOLDEN, MOHL, JERGESON AND JABS VOTED NO.

ADJOURNMENT

Adjournment: CHAIRMAN LARRY TVEIT adjourned the meeting at 11:20
a.m.



SENATOR LARRY TVEIT, Chairman



Carla Turk, Secretary

LT/cmt

SEN:1995
wp.rollcall.man
CS-09

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 6, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 181 (first reading copy -- white), respectfully report that SB 181 be amended as follows and as so amended do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Title, lines 5 and 6.

Strike: "REVISING" on line 5 through ";" on line 6

2. Title, line 8.

Strike: "75-15-103"

Insert: "75-15-111"

Following: "AN"

Insert: "IMMEDIATE"

3. Page 1, line 11.

Strike: "department of transportation"

Insert: "highway commission"

4. Page 1, line 18, through page 3, line 14.

Strike: Section 1 in its entirety

Insert: "Section 1. Section 75-15-111, MCA, is amended to read:

"75-15-111. Outdoor advertising prohibited in proximity to highway -- exceptions. (1) Outdoor advertising may not be erected or maintained ~~which~~ that is within 660 feet of the nearest edge of the right-of-way and ~~which~~ that is visible from any place on the main-traveled way of an interstate or primary system, except:

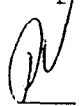
(a) directional and other official signs and notices, which signs and notices include but are not limited to signs and notices pertaining to natural wonders and scenic and historical attractions, as authorized or required by law;

(b) signs, displays, and devices advertising the sale or lease of property upon which they are located;

(c) signs, displays, and devices advertising activities conducted on the property upon which they are located;

(d) signs, displays, and devices located in areas ~~which~~ that are zoned industrial or commercial by a bona fide state, county, or local zoning authority;

(e) signs, displays, and devices located in unzoned commercial or industrial areas, which areas ~~shall~~ must be determined from actual land uses and by agreement between the department and the secretary and defined by rules adopted by the

 Amd. Coord.

SP Sec. of Senate

311319SC.SPV

commission. The exception granted by this subsection ~~shall is~~ limited to two signs and may not apply to signs, displays, and devices located within an unzoned area in which the commercial or industrial activity used in defining the area has ceased for a period of 9 months.

(f) signs or displays advertising the cultural exhibits of nonprofit historical or arts organizations if the signs or displays conform with the standards provided in Title 23, Code of Federal Regulations, section 750, subpart B; or

(g) signs that are consistent with the policy of this state and with the national policy set forth in 23 U.S.C. 131 and the regulations promulgated ~~thereunder~~ under 23 U.S.C. 131 and that are designed to provide information in the specific interest of the traveling public as provided in 60-5-504, 60-5-505, 60-5-511 through 60-5-513, and 60-5-519 through 60-5-521.

(2) Outdoor advertising authorized under subsections (1)(a), (1)(d), and (1)(e) of (1) of this section shall must conform with standards contained in and ~~shall must~~ bear permits required in rules ~~which that~~ that are adopted by the commission and this part.

(3) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of an interstate or primary highway outside of an urban area if ~~such the~~ outdoor advertising is or was erected with the purpose of its message being read from ~~such the~~ main-traveled way and visible from ~~such the~~ main-traveled way unless ~~such the~~ outdoor advertising meets the criteria of subsections (1)(a), (1)(b), or (1)(c) of (1) of this section. Should ~~such~~ If the outdoor advertising ~~meet~~ meets ~~said that~~ criteria, it ~~shall must~~ conform with standards contained in rules ~~which that~~ that are adopted by the commission and with this part."

5. Page 3, line 26.

Following: "highway"

Insert: "or 30 feet as measured from the ground"

6. Page 5, line 22.

Strike: "department"

Insert: "commission"

7. Page 6, line 7.

Strike: "July 1, 1995"

Insert: "on passage and approval"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 129 (first reading copy -- white), respectfully report that SB 129 be amended as follows and as so amended do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Page 3, lines 11 through 13:

Strike: "\$20" on line 11 through "no" on line 13

Insert: "as follows:

Miles per Hour Over Speed Limit	Fine
1 - 10	\$ 5
11 - 15	10
16 - 20	20
21 - 25	35
26 - 30	60
31 and over	80

(3) A"

Renumber: subsequent subsection

2. Page 3, line 13.


Following: "may"

Insert: "not"

Following: "imposed"

Insert: "for a conviction pursuant to subsection (2)"

-END-

 Amd. Coord.

ST Sec. of Senate

311255SC.SPV

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
February 6, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration HB 48 (third reading copy -- blue), respectfully report that HB 48 be concurred in.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

AV Amd. Coord.

SA Sec. of Senate

SEN. TVEIT
Senator Carrying Bill

311235SC.SPV

DATE 2-4-95 BILL NO. 58159 NUMBER 1

MOTION: Senator Nelson moved SB159
Do Pass

SEN:1995
wp:rlclvote.man
CS-11

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE
ROLL CALL VOTE

DATE 2-4-95 BILL NO. SB 181 NUMBER 3

MOTION: Senator Th. H. moved
Amendment # SB 018103. ACE

NAME	AYE	NO
LARRY TVEIT, CHAIRMAN	X	
CHUCK SWYSGOOD, VICE CHAIRMAN	X	
RIC HOLDEN	X	
LINDA NELSON	X	
MACK COLE	X	
BARRY "SPOOK" STANG		X
ARNIE MOHL	X	
GREG JERGESON		X
REINY JABS	X	

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE
ROLL CALL VOTE

DATE 2-11-95 BILL NO. SB 183 NUMBER 4

MOTION: Senator Cole made a Substitute
Motion to Table SB 183

NAME	AYE	NO
LARRY TVEIT, CHAIRMAN	X	
CHUCK SWYSGOOD, VICE CHAIRMAN	X	
RIC HOLDEN		X
LINDA NELSON	X	
MACK COLE	X	
BARRY "SPOOK" STANG	X	
ARNIE MOHL		X
GREG JERGESON		X
REINY JABS		X

SEN:1995
wp:rlclvote.man
CS-11

To the Senate Highways and Transportation Committee:

We, the undersigned, heartily agree with raising the fine for speeding. The Missoulian reported that the fine would be increased to \$20 for exceeding the speed limit up to 20 mph and then \$20 for each additional 5 mph. We suggest that the fine be \$30 for exceeding the speed limit 10 miles per hour and \$20 for each additional 5 miles per hour.

STANLEY PETERSEN, Stanley Petersen, 130 Clearview Dr. Polson
Albert E. Alexander Albert E. Alexander 143 Fair Meadows ^{Polson}
Hed E. H. Hed E. H. 1108 Bayview ^{Polson}

Sharon Fulton Sharon Fulton 223 Claffey Drive
Paddy R. Trustor Paddy R. Trustor 255 Clearview Drive
Ruth Hodges Ruth Hodges 8 14th Ave W

Rich. Cannan Rich. Cannan 507 4th Ave East, Polson
S. Newton S. Newton 700 Ponderilla Dr, Polson
Vivien L. Lambeth Vivien L. Lambeth ~~Box~~ Big Arm MT 59910
Jackie Ladder Jackie Ladder 507 4TH AVE. EAST, POLSON
Catherine Roat Catherine Roat 73 GILMAN LANE POLSON
Mita Swaps Mita Swaps Box 1032, Polson, MT

Elmer Kraft Elmer Kraft Box 1143, Polson
Ronald L. Kohler Ronald L. Kohler 5229 E. SHORE Polson, MT
Barbara J. Kohler Barbara J. Kohler 5229 E. SHORE POLSON MT
Callee Riley Callee Riley 510 6th Ave. East Polson
Sherry Loberg Sherry Loberg Box 204 Hot Springs, MT
Teresa Morigeau Teresa Morigeau 584 Kerr Dam Road, Polson, MT
Kristi Jore Kristi Jore Box 444, Ronan, MT
Jennifer Solma Jennifer Solma Hot Springs, MT

It took me less than an hour to get these signatures while doing errands in Polson. Six people asked for signatures would not sign. Two liked the present fine and four gave no reason. Some people, as you well know, will not sign anything. Quite a number of people who signed said that a \$5 fine was ridiculous. Some of these and others said that the speeding on Highway 93 was outrageous, particularly from people from Flathead County.

You must be taking safety into consideration when discussing this subject of controlling speeding. Last year, a young lady from Charlo was speeding on Highway 211, lost control of the car, crashed head on into a the car of an elderly couple doing a test drive of a dealer's new car. All three were killed. Multiply this by any number of similar happenings in the state. How many would not happen if a speeding fine really meant something? I think an appreciable percentage.

There might be a reason for more tolerance on freeways for speeding than on two lane roads. If someone loses control on a freeway from speeding it normally involves only one car with reduced chance of numerous casualties.

Stanley Petersen

Amendments to Senate Bill No. 129
First Reading Copy

Requested by Senator Nelson
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
January 28, 1995

1. Page 3, lines 11 through 13.
Strike: "\$20" on line 11 through "no" on line 13
Insert: "as follows:

Miles per Hour Over Speed Limit	Fine
1 - 10	\$ 5
11 - 15	10
16 - 20	20
21 - 25	35
26 - 30	60
31 and over	80

(3) A"
Renumber: subsequent subsection

2. Page 3, line 13.
Following: "may"
Insert: "not"
Following: "imposed"
Insert: "for a conviction pursuant to subsection (2)"

Amendments to Senate Bill No. 181
First Reading Copy

Requested by Senator Weldon
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
January 31, 1995

1. Title, line 8.

Following: "75-15-103,"

Insert: "75-15-111,"

2. Statement of intent, page 1, line 11.

Strike: "department of transportation"

Insert: "highway commission"

3. Page 3.

Following: line 14

Insert: "Section 2. Section 75-15-111, MCA, is amended to read:

"75-15-111. Outdoor advertising prohibited in proximity to highway -- exceptions. (1) Outdoor advertising may not be erected or maintained ~~which~~ that is within 660 feet of the nearest edge of the right-of-way and ~~which~~ that is visible from any place on the main-traveled way of an interstate or primary system, except:

(a) directional and other official signs and notices, which signs and notices include but are not limited to signs and notices pertaining to natural wonders and scenic and historical attractions, as authorized or required by law;

(b) signs, displays, and devices advertising the sale or lease of property upon which they are located;

(c) signs, displays, and devices advertising activities conducted on the property upon which they are located;

(d) signs, displays, and devices located in areas ~~which~~ that are zoned industrial or commercial by a bona fide state, county, or local zoning authority;

(e) signs, displays, and devices located in unzoned commercial or industrial areas, which areas ~~shall~~ must be determined from actual land uses and by agreement between the department and the secretary and defined by rules adopted by the commission. The exception granted by this subsection ~~shall~~ is limited to two signs and may not apply to signs, displays, and devices located within an unzoned area in which the commercial or industrial activity used in defining the area has ceased for a period of 9 months.

(f) signs or displays advertising the cultural exhibits of nonprofit historical or arts organizations if the signs or displays conform with the standards provided in Title 23, Code of Federal Regulations, section 750, subpart B; or

(g) signs that are consistent with the policy of this state and with the national policy set forth in 23 U.S.C. 131 and the

regulations promulgated ~~thereunder~~ under 23 U.S.C. 131 and that are designed to provide information in the specific interest of the traveling public as provided in 60-5-504, 60-5-505, 60-5-511 through 60-5-513, and 60-5-519 through 60-5-521.

(2) Outdoor advertising authorized under subsections ~~(1)(a), (1)(d), and (1)(e) of (1) of this section shall~~ must conform with standards contained in and ~~shall~~ must bear permits required in rules ~~which~~ that are adopted by the commission and this part.

(3) Outdoor advertising may not be erected or maintained beyond 660 feet of the nearest edge of the right-of-way of an interstate or primary highway outside of an urban area if ~~such~~ the outdoor advertising is or was erected with the purpose of its message being read from ~~such~~ the main-traveled way and visible from ~~such~~ the main-traveled way unless ~~such~~ the outdoor advertising meets the criteria of subsections ~~(1)(a), (1)(b), or (1)(c) of (1) of this section.~~ Should such If the outdoor advertising ~~meet~~ meets ~~said~~ that criteria, it ~~shall~~ must conform with standards contained in rules ~~which~~ that are adopted by the commission and with this part."

{Internal References to 75-15-111:

✓ 75-15-112 ✓ 75-15-113 ✓ 75-15-122 ✓ 75-15-122

✓ 75-15-123}

Renumber: subsequent sections

4. Page 5, line 22.

Strike: "department"

Insert: "commission"

Amendments to Senate Bill No. 181
First Reading Copy

Requested by Senator Weldon
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 3, 1995

1. Title, line 8.
Following: "AN"
Insert: "IMMEDIATE"

2. Page 6, line 7.
Strike: "July 1, 1995"
Insert: "on passage and approval"

Amendments to Senate Bill No. 181
First Reading Copy

Requested by Senator Stang
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 4, 1995

1. Page 3, line 26.

Following: "highway"

Insert: "or 30 feet as measured from the ground"

Amendments to Senate Bill No. 181
First Reading Copy

For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 3, 1995

1. Title, lines 5 and 6.

Strike: "REVISING" on line 5 through "ADVERTISING;" on line 6

2. Title, line 8.

Strike: "75-15-103,"

Following: "75-15-113"

Strike: ", "

3. Page 1, line 18 through page 3, line 14.

Strike: section 1 in its entirety

Renumber: subsequent sections

Amendments to Senate Bill No. 183
First Reading Copy

Requested by Senator Weldon
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 3, 1995

1. Page 1, lines 13 through 15.

Strike: "The" on line 13 through "program." on line 15

Insert: "The legislature intends that the scenic byways program provide all Montanans and guests to the state a quality system of scenic roadways. A goal of the program must be the promotion and enhancement of tourism and economic development in the state.

Rules promulgated under [section 2] must address:

- (1) compatibility with other important activities on Montana's transportation system;
- (2) local involvement in the application, planning, and management of scenic byways;
- (3) national scenic byway criteria;
- (4) route-specific management plans;
- (5) eligibility criteria for inclusion in the scenic byways program; and
- (6) a de-designation process for removing a route from the program.

The legislature intends that the scenic byways program developed under [section 2] follow the recommendations of the scenic byways feasibility study completed by the department of transportation with the assistance of the scenic byways advisory council."

Amendments to Senate Bill No. 183
First Reading Copy

Requested by Senator Weldon
For the Senate Committee on Highways and Transportation

Prepared by Connie Erickson
February 3, 1995

1. Page 3, line 21.

Following: "tourism"

Insert: "and economic development"

2. Page 4, line 7.

Following: "the"

Insert: "travel Montana office in the"

3. Page 4, line 14.

Strike: "and"

4. Page 4, line 15.

Following: "interior"

Insert: ";

(j) a county or a municipality; and

(k) the general public"

DATE 2-4-95

SENATE COMMITTEE ON HIGHWAYS

^{For Exes}
BILLS BEING HEARD TODAY: SB 129 SB 159 SB 181
SB 183 HB 48

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
PAT SANDOZ	MDT	183		
John Waggoner	NOSCO Outdoor	181		
Sue Kittle	EXPOSE OUTDOOR	181		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY