

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By **CHAIRMAN SHIELL ANDERSON**, on February 15, 1995, at 3:20 p.m.

ROLL CALL

Members Present:

Rep. Shiell Anderson, Chairman (R)
Rep. Rick Jore, Vice Chairman (Majority) (R)
Rep. Patrick G. Galvin, Vice Chairman (Minority) (D)
Rep. Joe Barnett (R)
Rep. Matt Brainard (R)
Rep. Robert C. Clark (R)
Rep. Charles R. Devaney (R)
Rep. Marian W. Hanson (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Linda McCulloch (D)
Rep. Daniel W. McGee (R)
Rep. Jeanette S. McKee (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Joe Tropila (D)
Rep. Jack Wells (R)

Members Excused: Rep. Dore Schwinden (D)

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Patti Borneman, Substitute Secretary

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

Committee Business Summary:

Hearing:	HJR 23, SB 96, HB 192
Executive Action:	HJR 23 DO PASS
	HB 192 DO PASS AS AMENDED
	HB 249 DO PASS AS AMENDED
	HB 254 TABLED
	HB 396 DO PASS
	SB 96 BE CONCURRED IN

HEARING ON HJR 23

Tape 1 - Side A

Opening Statement by Sponsor:

REP. BOB CLARK, House District 8, said this resolution asks the state's blessing in setting up a railroad museum in Harlowton. He said that the old Milwaukee Depot has been restored by volunteers, funded by private donations, and much of the work has already been done to establish a railroad museum in the depot.

Proponents' Testimony:

REP. WILLIAM RYAN offered his support. REP. JOE TROPILA offered his.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DON LARSON said that he likes the idea of a Montana railroad museum but tends to think as Livingston as a major railroad town. He wondered if there might be competition between towns that share a meaningful railroad history. He wondered if a "turf battle" might occur if the legislature designated one site as the Montana Railroad Museum and Research Center. He mentioned that Havre is also a railroad town. He asked if there wasn't already a railroad museum in Livingston.

CHAIRMAN ANDERSON said there is a museum there but it's not a railroad museum.

REP. DON LARSON directed his question to REP. BOB CLARK and asked if he thought other towns might want to bid for this designation.

REP. CLARK replied that he didn't think that would happen, and even if it did, he wouldn't have a problem with this effort being endorsed by the state. He said that the Milwaukee is the primary railroad in the Harlowton area. He asked which railroad is associated with Livingston, and REP. GALVIN replied that it was the Northern Pacific. REP. CLARK said he didn't have a problem with REP. LARSON'S concerns.

REP. TROPILA asked what the research center would do.

REP. CLARK responded that he wasn't sure but thought they would conduct historical research and possibly genealogy of the area.

REP. MCGEE said records management was a part of the bill and in light of the fact that "it's been virtually impossible" to locate historical railroad records, he asked if there were railroad records that existed.

REP. CLARK said he didn't know, but could give him the name of the person in Harlowton who would know.

REP. LARSON asked the sponsor what the route of the first railroad into Montana was and if it went through Harlowton.

REP. CLARK said he believed it went down the Great Northern route.

REP. GALVIN said it was the Northern Pacific that was the first railroad to cross Montana, but didn't know if it was the first to enter the state.

REP. CLARK said the Milwaukee Railroad was not the first railroad.

CHAIRMAN ANDERSON asked if the proposed Montana Railroad Museum and Research Center "is in the making" or if it now exists.

REP. CLARK answered that they are now in the process of establishing the museum. He said the research will focus on railroad history.

CHAIRMAN ANDERSON asked who the "they" are.

REP. CLARK replied that "they" are the residents of Harlowton who are involved with and working on the museum.

Closing by Sponsor:

REP. CLARK thanked the chairman and the committee for considering the resolution.

HEARING ON SB 96

Opening Statement by Sponsor:

SEN. MIKE FOSTER, Townsend, Senate District 20, said that this bill has had an interesting history. After much deliberation, the Montana Department of Transportation (MDT) has dropped their opposition to the bill, so he asked the people of Neihart not to come all the way to Helena to testify, since he didn't expect any opposition.

SEN. FOSTER said the bill would enable local governments to request a speed study from the MDT with the goal of reducing the speed limit, and would prohibit the department from raising the speed limit using the study results as justification. He said it was a "common sense bill" and they worked hard to reach consensus with the Department.

REP. ROD MARSHALL said he had a fax from the City of Bozeman stating that the City of Bozeman, the MDT and the Senate have all agreed to approve HB 254, SB 96, and HB 249.

CHAIRMAN ANDERSON said they would go on record in support of these bills.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. GALVIN referred to a letter to Timothy Reardon at the Montana Department of Transportation from Hank Honeywell, Federal Highway Administration, and read from the fourth paragraph where FHWA would seek repayment of the Federal-aid funds spent on a project if an arbitrary speed zone is reached without an engineering study. He wanted to know if this would affect the sponsor's bill. **EXHIBIT 1**

SEN. FOSTER said he didn't think so and believed the Department considered this when they dropped their opposition. He said they addressed the issue of having to conduct a speed study before they could change the speed limit. He said the MDT director said there has to be other mechanisms to change the speed limit. He said they would not be limited to how speed limits are changed.

REP. ROGER SOMERVILLE asked the sponsor if section 61-8-310 was eliminated and referred to HB 254.

SEN. FOSTER said there used to be some amendments to that section in the original bill, but they have been eliminated, so that part of the bill is struck. He said whatever is in statute now remains.

Closing by Sponsor:

SEN. FOSTER said he knew that there had been talk of mixing this bill in with some others. He strongly urged the committee not to seriously consider doing that. He said it should be a stand-alone bill and what that bill said would become law, but if it should get mixed in with other bills, "then I think we're going to have some problems."

REP. GALVIN asked if he wasn't specifying Neihart.

SEN. FOSTER said whatever community falls into the effective date of the bill would be affected. He said he'd appreciate their consideration of the bill and thanked the committee.

EXECUTIVE ACTION ON SB 96

Motion: **REP. DON LARSON** MOVED THAT SB 96 BE CONCURRED IN.

Discussion: **CHAIRMAN ANDERSON** asked the committee if they wanted to take executive action on this bill at this time. He said he thought it would be good to consider the three traffic speed bills together.

Motion/Vote: **REP. DON LARSON** MOVED THAT SB 96 BE CONCURRED IN.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HJR 23

Motion: **REP. LINDA MCCULLOCH** MOVED THAT HJR 23 DO PASS.

Discussion: **REP. GALVIN** only wanted to say that it's a good idea.

REP. LARSON said he would vote against the resolution and while he thinks it's a good idea to start a railroad museum in Harlowton, he's uneasy about the Legislature designating a place "the" Montana Railroad Museum and Research Center. He said other places in the state share a rich railroad history with Harlowton, and he doesn't think the Legislature should prefer one location over another.

CHAIRMAN ANDERSON said he would vote against it because he thinks they should have more of a hearing and involve the communities more in the decisionmaking process. He said he didn't know if they should reward an area that couldn't keep their railroad over those that are going strong.

REP. JOE BARNETT said he will also vote against the resolution. He said the Union Pacific and the Northern Pacific crossed the state first and thinks West Yellowstone might be more appropriate and would receive more tourist traffic. He agreed that there should be a larger hearing and more input from other communities.

REP. BILL RYAN said that the bill only designates the museum's name and doesn't prevent other communities from establishing a similar facility. He said he didn't think the bill would mean that Harlowton could be the only spot for a railroad museum. He fully supported it.

REP. BRAINARD asked REP. CLARK if it was important to call it the Montana Railroad Museum and asked if the Milwaukee Road Museum could be an alternative name. REP. CLARK answered that the intention was to have the title as stated in the resolution. He said the Harlowton museum would represent other railroads in the state.

REP. GALVIN asked if they could change "the" museum to "a" museum.

REP. CLARK said he preferred the wording be left as is. He said the other communities have had the opportunity to ask for this designation and they haven't come forward.

Motion: REP. LARSON moved to amend HJR 23 by striking "the Montana", substituting "a". He said that Harlowton would still be free to say "the Montana Railroad Museum," but the Legislature wouldn't be designating it as such.

REP. WELLS suggested they call it the Central Montana Railroad Museum.

CHAIRMAN ANDERSON said they were still considering REP. LARSON'S amendment. REP. LARSON said the title would have to be changed as well to read "The site of a railroad museum and research center."

Discussion: CHAIRMAN ANDERSON read the amendment and recognized REP. MCGEE. He asked REP. LARSON if his amendment should fail, would he be in favor of the "Central concept?"

REP. WELLS commented that he was serious about his suggestion.

REP. LARSON said he wouldn't have a problem with that, but he doesn't want to exclude other towns that also have a rich railroad history.

Vote: A voice vote was taken. The motion passed with REPS. CLARK, DEVANEY, WELLS, BRAINARD, RYAN, MCGEE voting no.

CHAIRMAN ANDERSON said they were now discussing the resolution as amended, to read as follows: "...the site of a railroad museum and research center."

Motion: REP. JACK WELLS moved to adopt an amendment reading "...designating Harlowton as the future site of the Central Montana Railroad Museum and Research Center."

Discussion: REP. GALVIN said he thought a Central Montana Railroad already existed.

Tape 1 - Side B

REP. GALVIN thought they might get into trouble with the name, Central Montana Railroad Museum.

Motion: CHAIRMAN ANDERSON said they have a motion by REP. WELLS to change it to the Central [Montana] Railroad Museum and Research Center.

Discussion: REP. WELLS in reference to REP. GALVIN'S concern, asked if the Central Montana Railroad is called a railroad or railway. He said he didn't know.

REP. SOMERVILLE said that the name of the railroad is the Central Montana Rail, Inc.

REP. CLARK said there was a railroad called the Jawbone Railroad prior to the Milwaukee, so doesn't think the name should be tied to the actual railroad and would still like the name to be as stated on the original resolution.

Connie Erickson asked if the second amendment would add the word "Central" and put "Montana" back in.

REP. SOMERVILLE said that Great Falls has the Montana State Fair and no one else can use that name. He said that if they use Montana in the name, they may set a precedent that might give them future problems.

REP. LARSON reiterated his concern whether the Legislature should designate one spot as "the" Montana Railroad Museum. He said Harlowton could be encouraged to develop "a" museum.

Vote: Roll call vote was taken. The motion failed 7-9 with REPS. BRAINARD, CLARK, DEVANEY, HANSON, MCGEE, RYAN and WELLS voting yes.

Motion: REP. LARSON MOVED THAT HJR 23 AS AMENDED DO PASS.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HB 396

Motion: REP. MARIAN HANSON MOVED THAT HB 396 DO PASS.

Discussion: REP. LARSON said he favors the bill and said it's generous of the utility companies to absorb half the cost of the move. He said if he had it his way, he'd make the mover absorb the entire cost of the move.

REP. RYAN urged the committee to support the bill.

REP. SOMERVILLE said it was a very fair bill.

Vote: A voice vote was taken. The motion carried unanimously.

EXECUTIVE ACTION ON HB 254

Motion: REP. JOE BARNETT MOVED THAT HB 254 DO PASS.

Discussion: REP. BRAINARD asked if there were any amendments. CHAIRMAN ANDERSON said he wasn't aware of any. REP. BRAINARD said he wished to amend page 1, line 20 (b) by striking "including dust".

REP. MARSHALL said "This is the one bill that the Department of Highways just said they will not go for."

Motion: CHAIRMAN ANDERSON MOVED TO TABLE HB 254.

Vote: Voice vote was taken. The motion to table carried 10-7.

EXECUTIVE ACTION ON HB 249

Motion: REP. MARSHALL MOVED THAT HB 249 DO PASS.

Discussion: REP. LARSON said he supported the bill but was interested in an amendment to include skateboarding in the regulations.

Connie Erickson said she prepared a set of amendments for the Department; skateboarding was discussed, but no amendments were requested to include it.

REP. LARSON said he felt skateboarding should be included in the bill because it's an activity like rollerblading. The amendment would include changing the title on line 5, after "regulate" insert "skateboarding and", and on line 22, after "sliding" include "skateboarding and". He said skateboarding is a special kind of activity and is more dangerous than rollerblading because the skateboarder is not "fixed to that rolling vehicle or that rolling piece of equipment." He said that skateboarding is noisier and it's difficult to hear oncoming traffic. He said the bill reads that the local government "may" regulate, and doesn't say they must regulate such activities. He said in some urban areas, it's a real problem.

REP. MARSHALL said rollerblading is not allowed on main streets, but only on streets that are designated for rollerblading. He said that's why the word "may" is in there.

REP. BARNETT asked about the amendment and the use of the word "and" and said a comma would suffice.

REP. LARSON said the word "and" would be used in the title where it stipulates "skateboarding and rollerblading on city streets." Committee members discussed the use of the word "and" on line 22.

REP. MCGEE said rather than create a long "laundry list" of items for this bill, the phrase "or other amusements" could be used.

CHAIRMAN ANDERSON agreed that this might be a good alternative. He said that having a list of specific activities would limit them.

REP. GALVIN said he thought they put skiing in it.

REP. LINDA MCCULLOCH asked **Ms. Erickson** if leaving out the items would affect the legality of the law. She responded that it wouldn't pose a problem. She said that particular section of law was quite old and referred to Title 7 that regulates cities and counties. "Generally you do get a laundry list of things that cities and counties are allowed or not allowed to do."

CHAIRMAN ANDERSON said he wished to proceed with **REP. LARSON'S** amendment. **REP. LARSON** said he was going to suggest language, "including but not limited to," but said they could go ahead with the vote.

Vote: A voice vote was taken. The motion carried 16-2 with **REPS. MCCULLOCH** and **RYAN** voting no. The motion carried.

Discussion: **REP. SOMERVILLE** proposed an amendment to modify line 23 and 24 "for having a tendency to frighten animals."

CHAIRMAN ANDERSON cautioned the committee on "exercising too much latitude when addressing parts of the bill that the sponsor had no intention of addressing."

REP. HANSON opposed the amendment and cited the Bucking Horse sale in Miles City.

Motion: **REP. SOMERVILLE WITHDREW HIS AMENDMENT.**

Discussion: **CHAIRMAN ANDERSON** directed a question to Tim Reardon and asked about the letter from the FHWA. **EXHIBIT 1**

Tim Reardon, Chief Counsel for the Montana Department of Transportation explained that MDT provided a copy of SB 96 to the administrator of FHWA and asked what, if any, impact it would have. The FHWA response was this letter.

CHAIRMAN ANDERSON asked if a copy of **REP. MARSHALL'S** bill was provided to FHWA, and he replied that he did not know, but said they participated in a meeting that was held with the City of Bozeman, which resulted in the amendments for HB 249.

REP. GALVIN asked about the section in the letter that reads "This includes adhering to the MUTCD and the traffic control, in this case, speed zoning, that was in place for that project. The speed zone signing cannot be revised unless an engineering or traffic study, in accordance with the MUTCD, is made. If an

arbitrary speed zone is established without the aid of an engineering study, we would consider it a breach of the project agreement and FHWA would seek repayment of the federal aid funds expended on that project." He said he asked **SEN. FOSTER** about this on SB 96 and asked if the passage of SB 96 would be affected by that statement.

Mr. Reardon said he didn't believe so. He said what the bill does is provide that if a local authority makes that request, the highway commission can't raise the speed.

REP. GALVIN asked if the FHWA would seek repayment and was told they would not.

REP. MCGEE cited earlier testimony on another bill, that there was concern about the department's liability if they didn't raise the speed limit from traffic studies recommendations. He asked if there might be potential liability if the bill passed.

Mr. Reardon said that they would still have the engineering and traffic study.

Tape 2 - Side A

Connie Erickson asked the committee to look at page 3, lines 1-4 of the bill and explained the new language that is underlined would be removed by the amendments. Specifically, on line 4, "stricken 80%," will go back in; it'll say "80% rounded down to the nearest whole number evenly divisible by five of the limit that would be set on the basis of the engineering and traffic investigation required in this subsection but not less than," and then it would read 15 miles an hour." She said the stricken language would put that back in. She said it would add another subsection under (d) that would read "if warranted by the engineering and traffic investigation a local authority may adopt variable speed limits to adapt to traffic conditions by time of day provided that the variable limits comply with 61-8-206." She said these amendments would provide for a local area to adopt specific traffic limits depending upon situations such as the location of a daycare center that might have certain daytime safety considerations. It would give a local authority a little more flexibility.

REP. DON LARSON spoke in favor of the amendments, explaining that they have the approval of the Federal Highway Administration which will ensure continued federal funding and addresses some of **REP. EWER'S** concerns relating to increased local authority to establish variable speed limits. He urged adoption of the amendment.

CHAIRMAN ANDERSON asked **REP. MARSHALL** if, as sponsor, he had any comments on the amendment.

REP. MARSHALL said he would go along with the amendment.

REP. BRAINARD asked REP. CLARK, based on his experience, whether variable speed limits through the day are effective.

REP. CLARK responded that he is only familiar with school zones that have reduced speed limits during the day, but thought enforcement was the key to make speed limits of any kind work.

Vote: The motion to adopt the amendments carried unanimously.

Motion/Vote: REP. LARSON MOVED THAT HB 249 DO PASS AS AMENDED. The motion carried 17 - 1 with REP. SOMERVILLE voting no.

CHAIRMAN ANDERSON said he had a bill to present and turned the meeting over to VICE CHAIRMAN RICK JORE.

HEARING ON HB 192

Opening Statement by Sponsor:

REP. HAL HARPER said this bill has already been before the Natural Resources Committee, and the reason it is being brought before this committee is because the last part of the bill deals with license plates. The bill is the result of work done in the interim by the Water Policy Committee and the Department of Natural Resources which found that the best water use decisions are made by local people at the local level. "They are the ones that are making their living off the land ... the ones that depend on that water and the resources around them." The best way to solve problems and manage water resources is to get local people together in what is being called watershed workgroups. These "consensus groups" come together to work out problems. The first part of the bill pertains to the Department's involvement in the watershed workgroups to provide assistance when requested. Also in the first part of the bill, which was rewritten in subcommittee, it says that before any state or federal agency undertakes any activity that's going to affect the water that has been requested, the agency must work with the local group to be sure that the local people are the "ones that drive the process. Nothing is handed down in this bill. If the local people don't want it, they don't have to have it."

REP. HARPER said the state water plan can be changed and vetoed by the Board of Natural Resources. He said the bill would provide for local watershed groups to have their ideas included in the state water plan and the bill would take out the Board of Natural Resource's ability to change that. The director of the Department would still be involved since he has to sign off on it along with the Governor. He said there are many people willing to work on these watershed workgroups but it takes money to facilitate these meetings and a funding mechanism is needed. They came up with a specialized license plate on water resources with either "Montana, the Last Best Place" or "Montana Water, Good to the last drop," but stated that there were two votes against the

plate in the Natural Resource Commission specifically because they didn't like "Montana, the Last Best Place."

REP. HARPER stated that the slogan could be determined by a school contest, and that the need they are addressing is funding for the workgroups. He said he'd buy one because they can be beautiful and support a good cause. They would contribute to water education and awareness.

Proponents' Testimony:

Mark Simonich, Director, Department of Natural Resources and Conservation (DNRC) submitted written testimony. **EXHIBIT 2** He added that the "core behind this whole bill" is to stop having state government drive the state water planning process and "get it into local people's hands."

Mary Ellen Wolf, program director, Montana Watercourse, Montana State University, Bozeman, stated her support of this bill because it is an outgrowth of her work which includes water rights workshops at the local level for citizens. They have been offering pilot workshops called "Know Your Watersheds" where they work with groups to plan educational meetings to address local needs. She's learned in workshops that have taken place in the Bitterroot, Musselshell, Sun River and Yellowstone watershed areas that "there is a hunger and thirst for...more information and education." She said these workshops serve as a "catalyst" to pull together community interests and "focus attention on shared problems and common interests." She said the Bitterroot group, which calls itself the Water Forum as a result of one of their workshops, is seeking funds from private foundations and businesses because they have identified some common interests, one of which is agricultural open space. They want to do more educational programs, but don't have the resources. She said the license plate would both support the work of the watershed groups and would provide needed funding. She gave an example of one of many similar situations where in Havre the superintendent of a wastewater treatment plant joined with a third grade teacher and put on a day-long water festival. They brought in local resource experts and educated 200 children on water quality. The teachers were so enthused, they wanted this project to continue and asked about continued funding. Other projects that benefitted from the initial program were a public education campaign in Gallatin County to create a local water quality district, a Blackfoot Land Owners Water Education Project, and Missoula Educators Water Resource Guide. She encouraged the committee to give this bill their full support.

John Etgen, Native American Water Education Coordinator, Project WET Montana said that there is another community that has an "expressed need for the efforts generated from these license plates." He said he puts on teacher education workshops on all seven Indian reservations. Project WET stands for Water Education for Teachers. Despite the work they're doing, he's seen further

requests for teacher education that cannot be fulfilled by his program. He wanted the committee to consider the Native American community as one that could also benefit from water education funding.

Dean Robinson, State Motor Vehicle Division said he was present to answer any questions they might have.

Opponents' Testimony:

Cort Harrington, Montana County Treasurers' Association said it was difficult to oppose a bill that might have a significant amount of merit apart from the license plate issue, but said it was the license plate issue on which he was testifying. He said there are already too many specialized license plates and several requests via bills for still more. He thinks it will continue to be a problem and the county treasurers wish to urge the committee not to authorize issuance of another special license plate.

Informational Testimony: None

Tape 2 - Side B

Questions From Committee Members and Responses:

REP. DAN MCGEE asked REP. HARPER if they are considering the approval of the license plate and that was affirmed by the vice chairman.

REP. PAT GALVIN asked the sponsor if he'd be adverse to a sticker or label to stick on the windshield of a car rather than a license plate.

REP. HARPER responded that since they need to raise these funds in a voluntary fashion, the license plates would be more viable than a sticker, but said he was open to any suggestions they have.

REP. JACK WELLS stated that the water education portion of the bill has already been approved by the Natural Resource Committee, and asked if the highways committee didn't approve the license plate as a funding source, what alternatives would they have.

REP. HARPER said that if the committee wanted to take the option of not approving funding through license plates, they could strike it out of the bill. He said it would leave them in a situation where the bill was saying they are encouraging all these good things to happen, but saying they're not going to provide for funding.

REP. MARIAN HANSON asked Mr. Simonich if this legislation is tied to the county Soil Conservation Service (SCS) groups. Mr. Simonich said that the conservation districts were very involved with DNRC in drafting the bill. Considering their workload, they

didn't want this bill to become a mandate on the conservation districts, so they kept them out of the bill. But they are considered part of the local government that would be involved with the local groups. He said they worked as a subcommittee to work on the bill and it was determined that the conservation districts would be involved whenever it was appropriate.

REP. HANSON asked if it was possible to put some money into their budget to fund this project.

Mr. Simonich replied that in a recent meeting with SCS, they requested an increase of \$100,000 for their regular work so he didn't feel that they could be given this project to oversee as well.

REP. JOE BARNETT asked **REP. HARPER** about the slogan proposed for the license, "The Last Best Place," and asked if they gave any thought to "Montana, A River Runs Through It."

REP. HARPER said that was a good idea, but added that the Governor or school districts could have a lot of fun with this project coming up with a slogan.

REP. BARNETT asked if they considered a voluntary check-off on income tax as a source of funding.

REP. HARPER said they did not consider this since the check-off for education for agriculture did not generate much revenue.

REP. DON LARSON said he doesn't like special license plates and usually votes against them. However, in his involvement with the Upper Clark Fork Basin Water Plan he's learned the importance of water plans so would make an exception with this bill. He asked why they didn't consider a fee on water craft.

REP. HARPER asked in turn if he meant a fee on recreational users and outfitters and **REP. LARSON** said he meant any water craft such as jet skis and motor boats. He didn't think it would raise the same level of revenue, but wondered why they didn't consider it.

REP. HARPER said that they wanted it to be a voluntary option rather than an imposed fee.

Closing by Sponsor:

REP. HARPER referred to **Mr. Harrington's** testimony and said in all due respect for the county treasurers "they work for us" and said this particular license plate has a specific purpose that will "come back many times over in terms of an awareness of water use, better planning, and better water education."

EXECUTIVE ACTION ON HB 192

Motion: REP. DON LARSON MOVED THAT HB 192 DO PASS.

Discussion: REP. LARSON said he was very aware of the importance of the water planning groups and mentioned the Upper Clark Fork Basin and SB 144. He said that water planning is imperative in Montana and while he doesn't like special license plates, they "add an air of distinction to Montana automobiles." He said there are about thirty specialized license plates in Montana, most of which do not contribute to a project with this kind of potential. He recommended they add one more license plate and fund this very worthy water planning project.

VICE CHAIRMAN JORE asked if they have the ability as a committee to kill this bill even if they object to just one specific part of it, and received an affirmative answer from several members of the committee.

REP. LARSON said they discussed this in the Judiciary Committee where they had a similar situation, and found in Rules that they do have the ability to kill it.

VICE CHAIRMAN JORE wanted the committee to be aware that the bill in its entirety was in their hands.

REP. MATT BRAINARD said that the local water planning groups were a good idea, but took exception to the funding source proposed. He said there were many different water users, and there could be other options considered such as a check-off on a fishing license. He objected to the license plate.

REP. BILL RYAN said that in the two terms he's served, they have approved specialized license plates and stressed that it's voluntary and not coming out of the Highway Department's budget at all. He said the contributors would be supporters of the quality of watersheds and he would be proud to have one on his truck and urged a do pass vote.

REP. LINDA MCCULLOCH said because it's a voluntary program, it's fine.

REP. BOB CLARK said he also has been through two sessions considering special license plates on this committee. In 1991, the Department said they were overloaded on special plates and the committee killed those bills and hasn't passed another license plate request since 1991. However, he agreed with REP. LARSON that license plates are not the way to fund a natural resource project, but agreed that water users should be the ones funding it. He said he appreciated REP. HARPER'S efforts, but thinks the funding should come directly from the water users, such as floating and boating, and added they would probably raise more money from boat license fees.

Motion: **REP. CLARK** moved an amendment to strike all reference to special license plates from the bill beginning with the title on line 10 through lines 13, then beginning with section 5 and continuing through the remainder of the bill. He suggested the funding come from water users instead.

Discussion: **REP. LARSON** objected to the amendment because he said the "fundamental flaw in **REP. CLARK'S** argument is who uses the water... we all use the water." He said it was appropriate to let people voluntarily support the water study groups with this funding mechanism. In the interest of time prior to transmittal, he suggested they put a sunset of two years on the bill at which time they'd research other funding sources.

REP. HANSON asked again how the conservation districts could be utilized as a funding source. She said when the conservation districts get into a bind for money they go to the county commissioners for help. She said if the water was so important to everyone, then everyone in the county should pay. She suggested that \$500 times 50 counties would generate \$25,000 which is more than the \$20,000 mentioned in the bill. She thinks there may be some other funding sources not yet explored. She favored **REP. CLARK'S** amendment.

REP. WELLS said he supported the amendment and that water is a big problem that will continue to be a problem and will get worse in the future. He agreed that everyone uses water, and thinks they're trying to solve the problem with "a tiny, narrow view of things by getting a special license plate." He said he wasn't sure it should be voluntary and referred to the proponents' testimony where they stressed the need for education. He wondered if this should come out of the state education budget. He doesn't want to see another specialized license and said "it's getting to the point where you can't recognize a Montana license plate anyway."

REP. RYAN said he wanted to bring the attention back to the project and told the committee they are talking about "fees and taxes vs a voluntary way to fund it." He said if they want to consider fees and taxes, they should send the bill to Taxation. He stressed that it's being proposed as voluntary and to keep this in mind.

REP. ROD MARSHALL said he felt strongly that the way it was originally presented is the way they should consider it. He is aware of the voters' trust in them that they would not pass more taxes and fees. He likes the voluntary aspect and it would be wrong to change it.

REP. LARSON said that if the bill was passed without a funding source, it would be something like a "unfunded mandate," and explained to the committee that the watershed groups are made up of volunteers at the local level operating in a cooperative fashion. The requested funding is only to aid in organizing the

meetings, mailings to the members, and is very minor in scale. This is a very nice, ongoing source of funding for them, rather than having to beg from the county commissioners or the SCS. He cited the Upper Clark Fork Basin Study, which will come before the committee soon, which is a pilot program that will be followed by many others statewide. He said an ongoing planning function for the next decade is needed and believes the license plates will provide a reliable source of funding. He spoke against the amendment.

VICE CHAIRMAN JORE spoke in favor of the amendment. He thinks the watershed groups have the opportunity to volunteer their own funds in their own groups. To pass the bill as it is would be a kind of unfunded mandate to the county treasurers.

REP. CLARK said to refute a couple of points made; in terms of taxes and fees, there wouldn't be a huge increase, but county treasurers are working at taxpayer expense and it would still be a burden for them. He said if they pass the bill without funding, by the time it reaches the House floor they could amend a different funding source into it. He asked support for the amendment to strike the license plate as a funding source.

Tape 3 - Side A

Vote: Roll call vote was taken. The amendment failed on a tie vote of 9-9.

Motion: **REP. CLARK** moved a second amendment that would strike subsection (2) of section 7 and would change language in subsection (3) to read "Except as provided for in section 2, "Once each month the county treasurer shall transfer to the state treasurer for deposit in the state general fund in a proprietary fund for appropriation by the legislature to these projects."

Discussion: **REP. CLARK** said this amendment would specify that the funds be deposited into a proprietary fund rather than a special revenue fund, and not be earmarked so the watershed groups would then be required to request funding each legislative session.

Connie Erickson clarified how this amendment would read. She asked if it was intended that the initial application and manufacturing fee of \$22.50 would go to the prison industries proprietary fund to pay for the plate's manufacturing.

REP. CLARK agreed and said the \$20 donation would then go into the state general fund in a proprietary fund for appropriation. He said on line 28, page 6, they have to strike the language that puts the funds into the Department of Natural Resources and Conservation budget, so they'd strike line 29 beginning with the word "the" and replace with "state general fund in a proprietary account."

REP. LARSON commented that the amendment might be intended to make the watershed groups come before the legislature every session and "justify their existence and ask for the money" and wondered if there might be a better way.

REP. CLARK said the amendment was intended to prevent an earmarked fund and special revenue account.

REP. LARSON said he would endorse the amendment and had no problem with it. The legislature would have the opportunity to evaluate the funding mechanism after the first two years.

Vote: A voice vote was taken and the second amendment was approved unanimously.

Motion: **REP. HANSON** MOVED THAT HB 192 DO PASS AS AMENDED.

Discussion: **REP. ROGER SOMERVILLE** said that the proposed slogan, "Montana, the Last Best Place" was unacceptable to him and he would rather see a different slogan in the bill.

REP. BARNETT asked about the legality of using the slogan "A River Runs Through It."

REP. RYAN said that the slogan does not need to be decided at this time or by the committee.

REP. LARSON said the discussion over what the slogan should be could be debated "'til the cows come home." Someone said they liked that for the license plate, "'til the cows come home."

VICE CHAIRMAN JORE called the meeting to order and **REP. LARSON** said he spoke against the amendment and liked the way the bill reads. He said that "Montana, the Last Best Place" has been incorporated into state advertising and if they do anything, they should make it generic and request or require the Governor to conduct a contest through the schools.

Motion: **REP. SOMERVILLE** withdrew his amendment and made a substitute motion to have the Department of Natural Resources conduct a contest to determine the slogan.

Discussion: **REP. LARSON** asked if **REP. SOMERVILLE** was suggesting a conceptual amendment and to allow **Ms. Erickson** to fix it. **REP. SOMERVILLE** explained that the bill as written specifies "Montana, the Last Best Place" as the slogan to be used on the plates.

REP. CLARK cited Section 5 where the bill states that the Department shall design, manufacture and issue the plates with the "Last Best Place" slogan, so they have to strike that slogan or "that's what you're going to end up with." He said they could leave "Montana" and then add "the Treasure State," a popular slogan that was once put on license plates and agreed with

REP. GALVIN that it would be a good slogan. He said if they want schools to have a slogan contest, they have to strike that out of the bill.

Motion: **REP. SOMERVILLE** moved a conceptual amendment that would strike any reference to "Montana, the Last Best Place" as the selected slogan for the plate, and insert that the governor would designate a program to name the plate.

Ms. Erickson said that they could leave it up to DNRC. If they want to conduct a statewide contest among schools or have the Board name the plate, then that's how it would be named. "Montana, the Last Best Place," or any other suggested name could be the result. She thought they should leave it up to DNRC.

Vote: A voice vote was taken and the amendment carried unanimously.

Discussion: **REP. CLARK** said that the same language from his amendment regarding proprietary funding be added to page 5, line 27. **Ms. Erickson** disagreed because she said that language refers to the purpose of the donation, not the allocation of funds.


Motion/Vote: **REP. HANSON** MOVED THAT HB 192 DO PASS AS AMENDED. Voice vote was taken and the motion carried 16 - 2 with REPS. JORE AND CLARK voting no.

ADJOURNMENT

Adjournment: 5:30 p.m.



REP. SHIELL ANDERSON, Chairman



PATTI BORNEMAN, Substitute Secretary

SA/pb

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL

DATE 02-15-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Jeanette McKee <i>late</i>	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden			✓
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	✓		



HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that **House Joint Resolution 23** (first reading copy -- white) **do pass as amended.**

Signed: *Shiell W. Anderson*
Shiell Anderson, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "THE MONTANA"

Insert: "A"

2. Page 1, line 19.

Strike: the second "the Montana"

Insert: "a"

- END -

Committee Vote:
Yes 18, No 0.

401021SC.Hdh



HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 192 (first reading copy -- white) do pass as amended.

Signed: 
Shiell Anderson, Chair

And, that such amendments read:

1. Title, line 11.

Strike: "AND STATE SPECIAL REVENUE ACCOUNT"

2. Page 5, line 1.

Strike: "'MONTANA - THE LAST BEST PLACE'"

Insert: "Special"

3. Page 5, lines 2, 7, 14, and 22.

Page 6, line 8.

Strike: "'MONTANA - THE LAST BEST PLACE'"

Insert: "the special"

4. Page 5, line 4.

Strike: "with the slogan 'MONTANA - THE LAST BEST PLACE',"

5. Page 5, lines 9 and 16.

Strike: "'MONTANA - THE LAST BEST PLACE'"

Insert: "special"

Committee Vote:

Yes 16, No 2.

401118SC.Hdh

6. Page 5, lines 17 and 18.

Following: "for"

Strike: "MONTANA - THE LAST BEST PLACE"

Insert: "the special"

Following: "of"

Strike: "MONTANA - THE LAST BEST PLACE"

Insert: "the special"

7. Page 5, line 30 through page 6, line 4.

Following: "~~Once~~" on line 30

Strike: remainder of line 30 through "ONCE" on page 6, line 4

Insert: "Once"

8. Page 6, line 10.

Strike: "MONTANA - THE LAST BEST PLACE"

Insert: "special"

Following: "received"

Insert: ", for deposit in an account in the proprietary fund for
appropriation by the legislature to support statewide and
local water resources education and activities of local
watershed work groups"

9. Page 6, lines 11 through 14.

Strike: subsection (4) in its entirety

10. Page 6, lines 16, 17 and 18, 19, and 21.

Strike: "MONTANA - THE LAST BEST PLACE"

Insert: "special"

11. Page 6, line 28.

Strike: "distribute"

Insert: "deposit"

12. Page 6, line 29.

Strike: "to the department of natural resources and conservation"

Insert: "in an account in the proprietary fund"

13. Page 9, line 10.

Strike: "MONTANA - THE LAST BEST PLACE"

Insert: "the special"

14. Page 12, lines 1 through 5.
Strike: section 11 in its entirety
Renumber: subsequent sections

15. Page 12, lines 7 and 8 and line 9.
Strike: "AND 11"

16. Page 12, line 15.
Strike: "12,"

-END-



HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that **House Bill 396** (first reading copy -- white) **do pass**.

Signed: *Shiell W. Anderson*
Shiell Anderson, Chair

Committee Vote:
Yes 17, No 0.

401023SC.Hdh



HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Highways and Transportation report that House Bill 249 (first reading copy -- white) do pass as amended.

Signed: 
Shiell Anderson, Chair

And, that such amendments read:

1. Title, line 5.

Following: "REGULATE"

Insert: "SKATEBOARDING AND"

2. Title, lines 6 and 7.

Strike: "REDUCE" on line 6 through "FACILITY" on line 7

Insert: "ADOPT VARIABLE SPEED LIMITS TO ADAPT TO TRAFFIC
CONDITIONS"

3. Page 1, line 22.

Following: "sliding,"

Insert: "skateboarding,"

4. Page 3, line 1 and 2.

Strike: "a" on line 1 through "37-9-101," on line 2

5. Page 3, line 3.

Strike: "1"

Following: "~~or~~"

Insert: "or"

Committee Vote:

Yes 17, No 1.

401025SC.Hdh

6. Page 3, lines 3 and 4.

Strike: "a" on line 3 through "facility" on line 4

7. Page 3, line 5.

Following: "25"

Insert: "80%, rounded down to the nearest whole number evenly
divisible by 5, of the limit that would be set on the basis
of an engineering and traffic investigation, but not less
than"

8. Page 3, line 6.

Following: "."

Insert: "If warranted by an engineering and traffic
investigation, a local authority may adopt variable speed
limits to adapt to traffic conditions by time of day,
provided that the variable limits comply with the provisions
of 61-8-206."

-END-



HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 96** (third reading copy -- blue) be concurred in.

Signed: Shiell P. Anderson
Shiell Anderson, Chair

Carried by: Rep. Masolo

Committee Vote:
Yes 17, No 0.

401018SC.Hdh

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Highways

DATE 2/15/95 BILL NO. HJ 23 NUMBER

MOTION: Rep. Larson moved to adopt Rep. Wells'
amendment.

NAME	AYE	NO
Rep. Shiell Anderson, Chairman		✓
Rep. Rick Jore, Vice Chairman, Majority		✓
Rep. Pat Galvin, Vice Chairman, Minority		✓
Rep. Joe Barnett		✓
Rep. Matt Brainard	✓	
Rep. Bob Clark	✓	
Rep. Charles Devaney	✓	
Rep. Marian Hanson	✓	
Rep. Don Larson		✓
Rep. Rod Marshall		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Jeanette McKee		
Rep. Bill Ryan	✓	
Rep. Dore Schwinden		
Rep. Roger Somerville		✓
Rep. Joe Tropila		✓
Rep. Jack Wells	✓	

Absent (late)

Excused

7

9

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Highways

DATE 3/15/95 BILL NO. 192 NUMBER 413

MOTION: Charles Amendment - fails

NAME	AYE	NO
Rep. Shiell Anderson, Chairman	✓	
Rep. Rick Jore, Vice Chairman, Majority	✓	
Rep. Pat Galvin, Vice Chairman, Minority		✓
Rep. Joe Barnett	✓	
Rep. Matt Brainard	✓	
Rep. Bob Clark	✓	
Rep. Charles Devaney	✓	
Rep. Marian Hanson	✓	
Rep. Don Larson		✓
Rep. Rod Marshall		✓
Rep. Linda McCulloch		✓
Rep. Daniel McGee	✓	
Rep. Jeanette McKee		✓
Rep. Bill Ryan		✓
Rep. Dore Schwinden		✓
Rep. Roger Somerville		✓
Rep. Joe Tropila		✓
Rep. Jack Wells	✓	

proxy-Jore

proxy - Galvin

9

9

HOUSE OF REPRESENTATIVES

ABSENTEE VOTE

Date 2-15-95

Mr. Chairman/Mr. Speaker:

I, the undersigned member, hereby vote absentee on:

HB Bill No. 192

Representative David Anderson voting w/Rep Clark
(aye or no)

Get out Calvin has my notes on all
notes before the highway + transportation
committee this day Feb. 15, 1995
The Schuler


EXHIBIT 1

DATE 2/15/95

SB 96

HB 249

FILE
301 South Park Street
Room 448
Helena, Montana 59626


U.S. Department
of Transportation
Federal Highway
Administration
Montana Division

RECEIVED
MONTANA DEPARTMENT
OF TRANSPORTATION

FEB 02 1995
LEGAL SERVICES

February 2, 1995

013.1

Mr. Timothy W. Reardon
Chief Counsel
Montana Department of Transportation
Helena, Montana 59620

Dear Mr. Reardon:

Subject: Speed Limit Legislation

Your letter of January 31 requested our position on the possible impacts on Federal-aid funding due to recent proposals being considered in the Montana Legislature.

Based upon our review of the matter, we consider the current proposals to have significant effects on Federal-aid funding in Montana.

The references below basically require Federal-aid projects to be built in compliance with certain standards, one of which is the MUTCD. For speed zone signing, this means that an engineering and traffic study must be done, except where national required maximum speed limits (65 mph Interstate, 55 mph other roads) must be adhered to. Without this engineering study, it cannot be determined whether the signing meets the requirements of the MUTCD. Accordingly, FHWA cannot participate in the project. So, if a proposed project is to go through an area where an arbitrary speed limit has been set, FHWA could not participate in it unless an engineering study was made and speed limits were properly set. This, of course, can be a significant restriction on where MDT can program Federal-aid funds.

After a project is underway/complete, the regulations relating to the State-Federal Project Agreement serve as an enforcement tool to make sure the project is maintained by the State to the standards to which it was built. This includes adhering to the MUTCD and the traffic control, in this case speed zoning, that was in-place for that project. The speed zone signing cannot be revised unless an engineering and traffic study, in accordance with the MUTCD, is made. If an arbitrary speed zone is established, without the aid of an engineering study, we would consider it a breach of the Project Agreement, and FHWA would seek repayment of the Federal-aid

funds expended on that project.

References from Federal law, regulation, and policies that we have relied are as follows:

1. 23 U.S.C. Section 109(d): "On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways."
2. 23 CFR Part 630, Subpart C - Project Agreements: Under Paragraph 630.303(b), "Project agreements, and modifications of and amendments thereto, shall evidence acceptance by the State highway agency of: (1) Conditions to payment of Federal funds as prescribed by Federal statutes and regulations;...."
3. 23 CFR Part 630, Appendix A: Paragraph 10, Parking Regulation and Traffic Control, "The State highway agency will not permit any changes to be made in the provisions for parking regulations and traffic control as contained in the agreement between the State and the local unit of Government referred to in the paragraph on "Additional Provisions," without the prior approval of the Federal Highway Administration, unless the State determines, and the Division Administrator concurs, that the local unit of Government has a functioning traffic engineering unit with the demonstrated ability to apply and maintain sound traffic operations and control.", and Paragraph 11, Signing and Marking, "The State highway agency will not install, or permit to be installed, any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration pursuant to 23 U.S.C. 109(d) or the State's Certificate as applicable."
4. 23 CFR Part 655, Subpart F - Traffic Control Devices on Federal-aid and Other Streets and Highways:

Paragraph 655.601, Purpose:

"To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the following references that are approved by the FHWA for application on Federal-aid projects: (a) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1988, as of March 1989...."

Paragraph 655.603, Standards:

"(a) National MUTCD. The MUTCD approved by the Federal

EXHIBIT 1

DATE 2-15-95

SB 96

HB 249

Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The national MUTCD is specifically approved by the FHWA for application on any highway project in which Federal highway funds participate ...", and "(d)(2) New or reconstructed highways. Federal-aid projects for the construction, reconstruction, resurfacing, restoration, or rehabilitation of streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either temporary or permanent, are installed and functioning properly. Both temporary and permanent devices shall conform to the MUTCD." and "(d)(3) Construction area activities. All traffic control devices installed in construction areas using Federal-aid funds shall conform to the MUTCD...."

5. Manual on Uniform Traffic Control Devices, 1988 Edition, Section 2B-10, Speed Limit Sign:

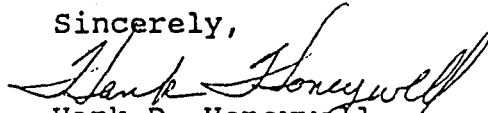
"The Speed Limit sign shall display the limit established by law, or by regulation, after an engineering and traffic investigation has been made in accordance with established traffic engineering practices. The speed limits shown shall be in multiples of 5 miles per hour.

In order to determine the proper numerical value for a speed zone on the basis of an engineering and traffic investigation the following factors should be considered:

1. Road surface characteristics, shoulder condition, grade, alignment and sight distance.
2. The 85-percentile speed and pace speed.
3. Roadside development and culture, and roadside friction.
4. Safe speed for curves or hazardous locations within the zone.
5. Parking practices and pedestrian activity.
6. Reported accident experience for a recent 12-month period." (underlining added for emphasis)

I hope this clarifies our position on Federal requirements for setting speed limits on Federal-aid projects, past and proposed.

Sincerely,


Hank D. Honeywell
Division Administrator

cc: HES-08 (Schertz)
cc: HRC-08 (Rippley)

...tion of this chapter for which signs are required may not be ... against an alleged violator if at the time and place of the alleged ... an official sign is not in proper position and sufficiently legible to be ... by an ordinarily observant person. Whenever a particular section does not state the signs are required, the section is effective even though no signs are erected or in place.

History: En. Sec. 33, Ch. 263, L. 1955; R.C.M. 1947, 32-2136; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 338, L. 1991.

Cross-References

"Authorized emergency vehicles" defined, 61-1-119.

61-8-202. Department of transportation to adopt sign manual. The department of transportation shall adopt a manual for a uniform system of traffic-control devices consistent with this chapter for use upon highways within the state. This uniform system shall correlate with and so far as possible conform to the manual on uniform traffic control devices, as amended.

History: En. Sec. 30, Ch. 263, L. 1955; amd. Sec. 1, Ch. 241, L. 1959; amd. Sec. 52, Ch. 316, L. 1974; R.C.M. 1947, 32-2133; amd. Sec. 1, Ch. 37, L. 1981; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

General powers of Department of license, 61-5-110.
Transportation, 60-2-201.

61-8-203. Department of transportation to sign all state highways. (1) The department of transportation shall place and maintain traffic-control devices, conforming to its manual and specifications, upon all state highways it considers necessary to indicate and to carry out this chapter and chapter 9 or to regulate, warn, or guide traffic.

(2) A local authority may not place or maintain a traffic-control device upon a highway under the jurisdiction of the department except by the latter's permission.

(3) Only the department may erect and maintain these traffic-control devices conforming to its manual and specifications on a controlled-access highway or controlled-access facility. The erection of a sign, marker, or emblem on a controlled-access facility or controlled-access highway by any other public authority, or agent, or by a private individual, firm, or corporation is unlawful and a misdemeanor and punishable as provided in 61-8-712.

(4) The erection or maintenance of a sign, marker, emblem, or traffic-control device on a state highway except a controlled-access highway or controlled-access facility, is subject to the rules and specifications the department adopts and publishes in the interest of public safety and convenience.

History: En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 316, L. 1974; R.C.M. 1947, 32-2134(a) thru (d), amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

Classification of offenses, 45-1-201.
"Misdemeanor" defined, 45-2-101.

General powers of Department of Transportation, 60-2-201.

Maintenance agreements with local governments, 60-2-204.

Vocational-technical center signs — location — specifications, 60-2-216.

Control of access, Title 60, ch. 5, part 1.
Erection of signs, 61-8-704.

Penalty for erection of unauthorized sign, 61-8-712.

61-8-204. Reward for information on injury to or removal of sign or marker. Upon conviction under the provisions of 61-8-713, any person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person shall be paid a reward from the state highway account in the state special revenue fund in the sum of \$100.

History: En. Sec. 2, Ch. 184, L. 1965; R.C.M. 1947, 32-2134.2; amd. Sec. 1, Ch. 277, L. 1983.

Fund structure, 17-2-102.

Cross-References

Rewards for apprehension of criminals, 7-32-2301.

61-8-205. Posting of penalties along highways. The department of transportation shall post notices of 61-8-713, and the penalties provided for, at locations designated by the department.

History: En. Sec. 3, Ch. 184, L. 1965; amd. Sec. 54, Ch. 316, L. 1974; R.C.M. 1947, 32-2134.3; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

General powers of Department of Transportation, 60-2-201.

61-8-206. Local traffic-control devices. Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

History: En. Sec. 32, Ch. 263, L. 1955; R.C.M. 1947, 32-2135.

Powers of local authorities to regulate traffic, 61-12-101.

Cross-References

Municipal regulation of trafficways and public grounds, 7-14-4102.

61-8-207. Traffic-control signal legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop" or exhibiting different colored lights successively one at a time or with arrows, the following colors only must be used and the terms and lights must indicate and apply to drivers of vehicles and pedestrians as follows:

(1) green alone or "Go";

(a) Vehicular traffic facing the signal may proceed straight through or turn left or right unless a sign at the place prohibits either turn. But vehicular traffic, including vehicles turning right or left, must yield the right-of-way to other vehicles, and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) yellow alone or "Caution" when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is warned that the red or "Stop" signal will be exhibited immediately thereafter and vehicular traffic may not enter the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signals are advised that there is insufficient time to cross the roadway, and a pedestrian then starting to cross shall yield the right-of-way to all vehicles.

§ 109. Standards

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

authority of section 110(a) of the Federal-Aid Highway Act of 1956, or section 108(a) of title 23 of the United States Code shall be deemed to provide for actual construction of a road on such rights-of-way within a period of seven years following the fiscal year in which such request was made.

Study of Advance Acquisition of Rights-of-Way

Pub.L. 89-574, § 10, Sept. 13, 1966, 80 Stat. 769, as amended by Pub.L. 97-449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, directed the Secretary of Transportation to make a full and complete investigation and study of the advance acquisition of rights-of-way for future construction of highways on the Federal-aid highway systems, with particular reference to the provision of adequate time for the removal and disposal of improvements located on rights-of-way and the relocation of affected individuals, businesses, institutions, and organizations, the tax status of such property after acquisition and before its use for highway purposes, and the methods for financing advance rights-of-way acquisition by both the State governments and the Federal Government, including the possible creation of revolving funds for such purpose. The Secretary was required to submit a report of results of such study to Congress not later than July 1, 1967, together with his recommendations.

LIBRARY REFERENCES

Administrative Law
Revolving funds, see 23 C.F.R. § 130.401 et seq.
American Digest System
Highway funds, see Highways ¶99¼.

Encyclopedias
Federal aid for highways, see C.J.S. Highways § 176.

WESTLAW ELECTRONIC RESEARCH

Highways cases: 200k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

1. Persons entitled to maintain action
Environmental protective organization
had standing to challenge Federal Highway Administration regulation allowing federal funding of acquisition of right-of-

other categories of projects. The FHWA Division Administrator shall also assure that energy efficiency is a basic objective in the design and construction of projects.

(b) The FHWA issuance of an authorization to proceed with the work on any phase of a highway project, including those under certification acceptance and secondary road plan, shall be in response to a request from the SHA. Authorization can be given only after applicable prerequisite requirements of Federal laws, and implementing regulations and directives have been satisfied, e.g., A-95 clearinghouse review and standards as prescribed by 23 U.S.C. 109.

(c) Authorizations to proceed subsequent to program approval for non-highway public mass transit projects are issued by the Urban Mass Transportation Administrator in accordance with 23 CFR part 810 (FHPM 6-3-4).

(d) The initial authorization to proceed with a phase of work shall be based on an approved item providing for that phase of work in a current program.

(e) Projects in urbanized areas can be authorized only after the responsible public officials or jurisdictions in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project.

(f) Authorization to proceed with a project may be given for a complete phase or phases of work, or a portion of a phase of work. Additional authorizations within the same phase(s) of work do not require further programming, if such authorizations are within the scope of the programmed project and provide for a timely completion of the project.

(g) Federal funds shall not participate in costs incurred prior to the date of authorization to proceed.

(h) Authorization to proceed with work shall be deemed a contractual obligation of the Federal Government under 23 U.S.C. 106 and shall require the appropriate funds be available for the full Federal share of the cost of work authorized except as follows:

- (1) Advance construction projects.
- (2) Bond issue projects.

(3) The preliminary studies portion of the PE and ROW phase(s) (including hardship acquisition and protective buying) through the location stage (i.e., from the end of system planning through the selection of a particular location), when an SHA requests authorization with obligation of funds. The written notice to an SHA approving its request will contain the following statement: "Authorization to proceed shall not constitute any commitment of Federal funds, nor shall it be construed as creating in any manner any obligation on the part of the Federal Government to provide Federal funds for the undertaking." When a project has received an authorization as permitted above, subsequent authorizations beyond the location stage shall not be given until appropriate available funds have been obligated to cover the previous authorization.

(4) Where a State lacks either Federal funds or obligational authority, the approval to underfinance work may be given, but only with the understanding that the dollar amount of Federal aid participation is limited to the amount committed at the time of fund obligation or the legal pro rata, whichever is less.

(5) In special cases where the Federal Highway Administrator determines it to be in the best interest of the Federal-aid highway program.

(i) No project shall be authorized that will result in the severance or destruction of an existing major route for non-motorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

(34 FR 34461, Aug. 4, 1978, as amended at 44 FR 46835, Aug. 9, 1979; 45 FR 58037, Aug. 29, 1980; 47 FR 47239, Oct. 25, 1982)

Subpart B—Plans, Specifications, and Estimates

AUTHORITY: 23 U.S.C. 106, 315; 49 CFR 1.48(b).

SOURCE: 43 FR 58564, Dec. 15, 1978, unless otherwise noted.

§ 630.201 Purpose.

The purpose of this subpart is to prescribe Federal Highway Administration (FHWA) procedures relating to the

preparation, submission, and approval of plans, specifications and estimates (PS&E), and supporting documents for Federal-aid projects.

§ 630.203 Applicability.

The provisions of this regulation apply to all highway construction projects financed in whole or in part with Federal-aid highway funds and to be undertaken by a State or political subdivision, except for projects carried out pursuant to 23 U.S.C. 117 relative to certification acceptance or a secondary road plan.

§ 630.205 Preparation, submission, and approval.

(a) The contents and number of copies of the PS&E assembly shall be determined by the FHWA.

(b) Plans and specifications shall describe the location and design features and the construction requirements in sufficient detail to facilitate the construction, the contract control and the estimation of construction costs of the project. The estimate shall reflect the anticipated cost of the project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the State and FHWA and to permit an effective review and comparison of the bids received.

(c) PS&E assemblies for Federal-aid highway projects shall be submitted to the FHWA for approval.

(d) The State highway agency (SHA) shall be advised of approval of the PS&E by the FHWA.

(e) No project or part thereof for actual construction shall be advertised for contract nor work commenced by force account until the PS&E has been approved by the FHWA and the SHA has been so notified.

Subpart C—Project Agreements

§ 630.301 Purpose.

The purpose of the regulations in this subpart is to prescribe the form and procedures for the preparation and execution of the project agreement required by 23 U.S.C. 110(a) for Federal-aid projects, except for forest highway projects pursuant to 23 U.S.C. 204, and for nonhighway public mass transit

projects pursuant to 23 U.S.C. 103(e)(4), 142(a)(2), and 142(c).

(39 FR 35348, Oct. 1, 1974)

§ 630.302 Definitions.

(a) The term *bond issue project* means a project authorized pursuant to 23 U.S.C. 122.

(b) The term *calendar day* means each day shown on the calendar but, if another definition is set forth in the State contract specifications, that definition will apply.

(c) The term *certification acceptance project* means a project which is constructed under the terms of a State Certification as authorized by 23 U.S.C. 117 and 23 CFR part 640.

(d) The term *contract time* means the number of workdays or calendar days specified in a contract for completion of the contract work. The term includes authorized time extensions.

(e) The term *Division Administrator* means the chief Federal Highway Administration (FHWA) officer assigned to conduct FHWA business in a particular State, the District of Columbia, or the Commonwealth of Puerto Rico.

(f) The term *Federal-aid highway project* means a project, other than an HP&R project, funded in whole or in part, with sums apportioned pursuant to Title 23, United States Code and section 203(d) of the Highway Safety Act of 1973.

(g) The term *highway planning and research project* (HP&R) means a project funded pursuant to 23 U.S.C. 307(c) and 104(f).

(h) The term *incentive/disincentive for early completion*, as used in this subpart, describes a contract provision which compensates the contractor a certain amount of money for each day identified critical work is completed ahead of schedule and assesses a deduction for each day the contractor overruns the incentive/disincentive time. Its use is primarily intended for those critical projects where traffic inconvenience and delays are to be held to a minimum. The amounts are based upon estimates of such items as traffic safety, traffic maintenance, and road user delay costs.

(i) The term *liquidated damages* means the daily amount set forth in the contract to be deducted from the contract

price to cover additional costs incurred by a State highway agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of all daily amounts deducted under the terms of a particular contract.

(j) The term *State highway agency* has the same meaning as that given for *State highway department* in 23 U.S.C. 101.

(k) The word *workday* means a calendar day during which construction operations could proceed for a major part of a shift, normally excluding Saturdays, Sundays, and State-recognized legal holidays.

[39 FR 3348, Oct. 1, 1974, as amended at 40 FR 64191, Feb. 12, 1975; 40 FR 55639, Dec. 1, 1975; 52 FR 31390, Aug. 20, 1987]

§ 630.303 Policy.

(a) The State highway agency shall prepare a project agreement for each Federal-aid highway, and highway planning and research project eligible for Federal-aid funding. An original agreement shall be prepared on FHWA Form PR-2 (appendix A), and amendments to or modification of such original agreement shall be prepared on FHWA Form PR-2A (appendix B). Agreements for projects under the National Cooperative Highway Research Program (NCHRP) shall be prepared on FHWA Form PR-2.1 (appendix C).

(b) Project agreements, and modifications of and amendments thereto, shall evidence acceptance by the State highway agency of:

(1) Conditions to payment of Federal funds as prescribed by Federal statutes and regulations; and

(2) The amount of Federal funds obligated.

[39 FR 3348, Oct. 1, 1974]

§ 630.304 Preparation of agreement.

(a) The purposes of the Form PR-2 are:

(1) To cover the various types of projects and kinds of work to be undertaken;

(2) To indicate the effective date governing reimbursement of the Federal share of eligible items of cost;

(3) To show the total amount of Federal funds obligated and under agreement for the project; and

(4) To set forth any special provisions relating to the project.

(b) The Division Administrator pursuant to his delegated authority shall on behalf of FHWA execute the project agreement of modification or amendment thereof when he is satisfied that the agreement, or modification or amendment thereof, is properly prepared and not at variance with any statutory or regulatory requirements pursuant to Federal laws.

(c) The Form PR-2 shall be utilized as follows:

(1) All information normally required for proper preparation of Form PR-2 can be placed on the first page of the form. All signatures will appear on that page in the spaces provided. Separate project agreements will be prepared for each successive improvement or independent class of work subject to Federal funding that is not to be performed contemporaneously with other work, between the same termini.

(2) Provisions 1 through 20 of Form PR-2 contain special provisions to apply to agreements for individual projects. The special provisions which apply to a particular project will be governed by the project identification determined in accordance with vol. 6, chap. 3, section 2 of the Federal-Aid Highway Program Manual. Those special provisions applicable to a particular project become automatically incorporated in the project agreement by means of such project identification.

(3) Space is provided on Form PR-2 for listing additional provisions applicable to a particular project. If necessary, attachments to Form PR-2 may be made. This space will also be utilized as follows:

(i) When Federal funds are to participate in the cost of constructing a toll facility, to reference the agreement required by 23 U.S.C. 129;

(ii) When a Federal agency is to undertake a Federal-aid project, to reference the agreement between the State and such Federal agency required by 23 U.S.C. 132, and to set forth the amount of the State deposit or payment to such Federal agency.

(iii) When a State is to undertake federally financed or assisted work on public lands highways (23 U.S.C. 209) or defense access highways (23 U.S.C. 210), to reference the applicable section of Title 23, United States Code.

(iv) When there is an agreement between the State and a local unit of Government with provisions for parking regulations and traffic control.

(4) For HP&R project, no entry will be made in the space labeled "COUNTRY." For all other projects, the country or counties in which the project is located will be shown.

(5) The space labeled "PROJECT TERMINI" is for identifying the location of projects by termini, such as "three miles east of Excell to four miles west of Clark." The U.S., State, or county route number, if any, shall be shown, or indication given that the project is located on a county or local road. Engineering stations may not be used. Special Highway Planning and Research Projects shall be identified in this space by project type (National Pooled Fund Studies (NPFS)) or (Intra-Regional Cooperative Studies (IRCS)) and title of the study.

(6) The spaces under the heading "EFFECTIVE DATE OF AUTHORIZATION" will be utilized to show the date subsequent to which any item of cost set forth in the spaces specifically labeled under the heading "PROJECT CLASSIFICATION OR PHASE OF WORK" is eligible for Federal participation.

(7) The space labeled "OTHER" under the heading "PROJECT CLASSIFICATION OR PHASE OF WORK" will be used to set forth a project classification or class of work not specifically labeled in the spaces immediately above "OTHER."

(8) In the space labeled "APPROXIMATE LENGTH (Miles)" the length of preliminary engineering and construction work will be shown to the nearest tenth of a mile.

(9) In the space labeled "ESTIMATED TOTAL COST OF PROJECT" the sum of the estimated costs for all project classifications or classes of work set forth above in the agreement as applicable to the particular project will be entered. For construction work, the amount entered will be based on

the contract price plus contingencies and/or the force account estimates approved by the Division Administrator.

(10) In the space labeled "FEDERAL FUNDS" the sum of the Federal funds for all project classifications or classes of work as applicable to the particular project will be entered. For bond issue projects and projects to be constructed in advance of apportionments pursuant to 23 U.S.C. 115, the amount entered will be based on an estimate of Federal funds to be subsequently apportioned. Any portion of a project being retained in a "programmed only" status shall not be included in a project agreement.

(d) The original agreement and one copy thereof will be executed by the proper officer of the State highway agency and forwarded to the Division Administrator for review and execution. The Division Administrator will retain the original agreement as part of the project status records. One executed copy will be returned to the State highway agency. When required by the regional office, a conforming copy will be sent to that office.

(e) HP&R agreements will be prepared and executed when the State has been authorized to proceed with the HP&R work program in whole or in part. If the agreement covers only part of the work program, it shall be amended at the time or times when the State is authorized to proceed with the remaining part or parts. Agreement for Special Highway Planning and Research projects will be prepared and executed separately from the annual HP&R agreements.

(Approved by the Office of Management and Budget under control number 2125-0529)

[39 FR 3348, Oct. 1, 1974, as amended at 40 FR 55639, Dec. 1, 1975; 41 FR 33253, Aug. 9, 1976; 42 FR 33008, Aug. 20, 1984]

§ 630.305 Agreement provisions regarding overruns in contract time.

(a) Each State highway agency (SHA) shall establish specific liquidated damages rates applicable to projects in that State. The rates may be project specific or may be in the form of a table or schedule developed for a range of project costs and/or project types. These rates shall, as a minimum, be established to cover the estimated average daily construction engineering

EXHIBIT
DATE 2-15-95
LOB 96 HD 249

(CE) costs associated with the type of work encountered on the project. The amounts shall be assessed by means of deductions, for each calendar day or workday overrun in contract time, from payments otherwise due to the contractor for performance in accordance with the contract terms.

(b) The rates established shall be subject to FHWA approval either on a project-by-project basis, in the case of project-specific rates, or on a periodic basis after initial approval where a rate table or schedule is used. In the latter case, the SHA shall periodically review its cost data to ascertain if the rate table/schedule closely approximates, at a minimum, the actual average daily CE costs associated with the type and size of the projects in the State. Where rate schedules or other means are already included in the SHA specifications or standard special provisions, verification by the SHA that the amounts are adequate shall be submitted to the FHWA for review and approval. After initial approval by the FHWA of the rates, the SHA shall review the rates at least every 2 years and provide updated rates, when necessary, for FHWA approval. If updated rates are not warranted, justification of this fact is to be sent to the FHWA for review and acceptance.

(c) The SHA may, with FHWA concurrence, include additional amounts as liquidated damages in each contract to cover other anticipated costs of project related delays or inconveniences to the SHA or the public. Costs resulting from winter shutdowns, retaining detours for an extended time, additional demurrage, or similar costs as well as road user delay costs may be included.

(d) In addition to the liquidated damages provisions, the SHA may also include incentive/disincentive for early completion provisions in the contract. The incentive/disincentive amounts shall be shown separately from the liquidated damages amounts.

(e) When there has been an overrun in contract time, the following principles shall apply in determining the cost of a project that is eligible for Federal-aid reimbursement:

(1) A proportional share, as used in this section, is the ratio of the final

contract construction costs eligible for Federal participation to the final total contract construction costs of the project.

(2) Where CE costs are claimed as a participating item based upon actual expenses incurred or where CE costs are not claimed as a participating item, and where the liquidated damages rates cover only CE expenses, the total CE costs for the project shall be reduced by the assessed liquidated damages amounts prior to figuring any Federal pro rata share payable. If the amount of liquidated damages assessed is more than the actual CE totals for the project, a proportional share of the excess shall be deducted from the federally participating contract construction cost before determining the final Federal share.

(3) Where the SHA is being reimbursed for CE costs on the basis of an approved percentage of the participating construction cost, the total contract construction amount that would be eligible for Federal participation shall be reduced by a proportional share of the total liquidated damages amounts assessed on the project.

(4) Where liquidated damages include extra anticipated non-CE costs due to contractor caused delays, the amount assessed shall be used to pay for the actual non-CE expenses incurred by the SHA, and, if a Federal participating item(s) is involved, to reduce the Federal share payable for that item(s). If the amount assessed is more than the actual expenses incurred by the SHA, a proportional share of the excess shall be deducted from the federally participating contract construction cost of the project before the Federal share is figured.

(f) When provisions for incentive/disincentive for early completion are used in the contract, a proportion of the increased project costs due to any incentive payments to the contractor shall be added to the federally participating contract construction cost before calculating the Federal share. When the disincentive provision is applicable, a proportion of the amount assessed the contractor shall be deducted from the federally participating contract construction cost before the Federal share calculation. Proportions are to be calculated.

underruns of previously estimated costs, no additional support is required. The final voucher will be submitted for that purpose.

(b) If the modification is for the purpose of revising the estimated total cost of the project and the application of Federal funds to cover changed conditions not provided for by change order approved by the Division Administrator, the reason therefor shall be forth in the space headed "Other reasons."

[39 FR 33348, Oct. 1, 1974, as amended at 40 FR 53640, Dec. 1, 1975]

culated in the same manner as set forth in paragraph (e)(1) of this section.

[52 FR 31390, Aug. 20, 1987]

§ 630.306 Modification of original agreement.

(a) Form PR-2A (appendix B) shall be used for all amendments to or modifications of the original project agreement. Ordinarily, such modification will be needed only to increase the amount of Federal funds to cover approved changes. At the final voucher stage where modification is necessary only to provide for normal overruns or

In the event the visibility of a STOP sign or a YIELD sign at any location is restricted, the sign shall be located as specified, and a Stop Ahead sign (sec. 2C-15) or a Yield Ahead sign (sec. 2C-16) shall be erected in advance of the STOP or YIELD sign.

Figures 2-2, 2-7a, 2-7b, and 2-7c (pages 2A-10 and 2D-16 to 2D-18) show typical STOP and YIELD sign installations.

2B-10 Speed Limit Sign (R2-1)

The Speed Limit sign shall display the limit established by law, or by regulation, after an engineering and traffic investigation has been made in accordance with established traffic engineering practices. The speed limits shown shall be in multiples of 5 miles per hour.

In order to determine the proper numerical value for a speed zone on the basis of an engineering and traffic investigation the following factors should be considered:

1. Road surface characteristics, shoulder condition, grade, alignment and sight distance.
2. The 85-percentile speed and pace speed.
3. Roadside development and culture, and roadside friction.
4. Safe speed for curves or hazardous locations within the zone.
5. Parking practices and pedestrian activity.
6. Reported accident experience for a recent 12-month period.

Two types of speed limit signs may be used: One to designate passenger car speeds including any nighttime information or minimum speed limit that might apply, and the other to show any special speed limits for buses and trucks. No more than three speed limits should be displayed on any one speed limit sign or assembly. Where a special speed limit applies to trucks or other vehicles, the legend TRUCKS 40, or such similar message as is appropriate, shall be shown below the standard



R2-1
24" x 30"



R2-2
24" x 24"

message or on a separate plate (R2-2). When used independently, the Truck Speed sign should carry a reference to SPEED or MPH.

Minimum speeds shall be displayed only in combination with the posted speed limit (sec. 2B-12).

Advisory Speed signs are treated under section 2C-35.

The standard Speed Limit sign shall be 24 × 30 inches. On expressways the sign should be at least 36 × 48 inches, with 48 × 60 inches prescribed for use on freeways.

2B-11 Night Speed Sign (R2-3)

Where different speed limits are prescribed for day and night, both the limits shall be posted. This may be done in either of two ways:

1. Immediately below the standard Speed Limit sign (R2-1) or combined with it, a Night Speed sign (R2-3) carrying the legend NIGHT 45 (or other suitable numerical limit) may be erected. In this case the numerals in the Night Speed sign and only the words SPEED LIMIT in the standard sign, should be reflectorized. As a special but logical exception to the general color scheme, the Night Speed sign should have its legend in white upon a black background.

2. A changeable message sign may be used, so that only the appropriate regulation is visible at a given time. The sign may have interchangeable panels, or reflectorization of the nighttime speed superimposed over the unreflectorized numerals of the daytime speed, to permit only the nighttime speed to become legible in the beam of motor-vehicle headlamps at night.



R2-3
24" x 24"

2B-12 Minimum Speed Sign (R2-4)

Where an engineering and traffic investigation shows that slow speeds on a highway consistently impede the normal and reasonable movement of traffic, signs may be used to post a minimum legal speed. Driving slower than the minimum limit is illegal except when necessary for safe operation or in compliance with the law. The minimum speed shall be displayed only in combination with the posted speed limit, and if desired, these two signs may be combined (R2-4a). The Minimum Speed sign shall have a standard, and minimum, size of 24 × 30 inches.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Highways & Transportation COMMITTEE

BILL NO. HB 192

DATE 2/15/95 SPONSOR(S) Rep. Harper

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Cort Harrison	Mont County Treas Ass		X
Mar. Ellen Wolfe	Montana Watercourse	X	
John E Etgen	Project WET Montana	X	
MARK Simonich	DNR C	X	
JACK STULTS	DNR C	X	
Dean Roberts	Deputy Justice		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

TESTIMONY OF THE
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
ON HOUSE BILL 192

BEFORE THE HOUSE HIGHWAY AND TRANSPORTATION COMMITTEE

February 15, 1995

A bill for an act entitled: "An Act authorizing state agencies to cooperate with, and to assist local watershed work groups; encouraging local citizens, organizations, and governments to form watershed work groups; removing board approval from the state water plan; creating a special license plate and special state revenue account to fund statewide and local water resource education and activities of local watershed work groups; amending section 85-1-203, MCA; and providing an effective date."

My name is Mark Simonich. I am the Director of the Department of Natural Resources and Conservation.

The Department strongly supports HB 192. This bill accomplishes three primary goals. First, and most importantly, it encourages local residents, organizations, and government to form local watershed work groups for solving local water issues. Second, it changes the role of the Board of Natural Resources and Conservation from approval to advisory in the state water planning process. Third, the bill authorizes creation of a special license plate with the revenues used to support activities of local watershed work groups and water education.

The first purpose is to increase local control over watershed management decisions by encouraging local citizens, organizations, and governments to form local watershed work groups. Many of you are familiar with the Upper Clark Fork River Basin Steering Committee, created by the 1991 Legislature, which is a successful example of this approach to water planning and management. HB 192 recognizes and encourages the formation of watershed work groups without the need for special legislation. The bill requests state agencies and conservation districts to work with these work groups before pursuing an action affecting a basin. Also, the bill authorizes state agencies and conservation districts to provide technical and financial assistance, but only upon request by a local watershed work group. The intent of this legislation is to increase the success and opportunity for basin residents to resolve their own watershed issues.

The second purpose is to implement a recommendation of the State Water Plan Evaluation Work Group to change the role of the Board of Natural Resources and Conservation from approval to advisory. A committee of eight individuals, who served as members of the Governor's State Water Plan Advisory Council, met over the last year to examine the state water planning process. The Work Group recommended changing the Board's role to parallel that of the Legislative Water Policy Committee. The reason is that once a broad-based group of water users and interests (the State Water Plan Advisory Council or a watershed council) reach consensus on resolving a water issue or developing a plan, it does not make sense to allow another political entity, such as the Board, to affect those decisions. The Department director will retain the authority to provide appropriate state input as part of council deliberations. This action leaves the decision-making authority with the affected interests and water users that developed the state and watershed plans. At its December 14, 1994 meeting, the Board of Natural Resources and Conservation supported this change in authority.

The third primary provision of HB 192 creates a special license plate. Revenue generated by the plate would support activities of local watershed work groups as well as watershed and statewide water education initiatives and activities. The obvious advantage to this revenue source is that it is a voluntary expenditure by citizens and does not place additional demands on general funds. This would be the first special license plate that "passes through" most of the revenues to the private sector. There is an initial application and manufacturing fee of \$2.50, and \$3.00 of the initial \$20.00 donation will be deposited into the respective country general fund. However, the \$20.00 donation collected for the annual renewal of registration will be deposited into the water education and watershed work group account.