

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on January 26, 1995, at
1:00 p.m.

ROLL CALL

Members Present:

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

Members Excused: None

Members Absent: None

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

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

Committee Business Summary:

Hearing: SB 160, SB 49

HEARING ON SB 160

Opening Statement by Sponsor:

SENATOR LINDA NELSON, SD 49, Medicine Lake, stated that SB 160 was a simple and harmless bill which would give the Department of Transportation the flexibility to set speed limits when they were doing construction, surveying, minor repairs, etc. She explained that a few years ago she had supported SENATOR TVEIT'S bill to make the speed limit 35 mph, however, she felt there were occasions, such as crews not even working on the roads, when the Department of Transportation should have the discretion to set the limit. SENATOR NELSON requested a do pass recommendation from the committee.

Proponents' Testimony:

Tom Barnard, Chief Engineer, Department of Transportation, read his written testimony, (EXHIBIT 1).

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

SENATOR CHUCK SWYSGOOD made reference to a bill which had been heard in Committee the previous week, relating to problems the town of Neihart had experienced, and noted that SB 160 would allow the Department to post different speeds suitable for traffic condition, construction repairs, or survey projects. He asked if SB 160 would apply in a case where the Department decided that conditions warranted something other than what the survey showed? Mr. Barnard replied that the principle behind SB 160 was the same principle the Department had opposed SB 96. He contended that the bill would set an arbitrary speed from what currently existed in law, and maintained that the Department would like the ability to set a realistic speed limit based on the construction and maintenance work flow. He reported that in areas where the arbitrary 35 mph is posted, but inappropriate for the conditions, drivers tend to ignore it.

SENATOR SWYSGOOD asked if the same thing could be said to exist in Neihart? Mr. Barnard responded that the public in Neihart were not complying with the speed zone because they did not believe it was realistic.

SENATOR SWYSGOOD questioned whether the Department could set a speed lower than 35 mph if they thought it was appropriate. Mr. Barnard stated that was correct.

SENATOR SWYSGOOD reiterated the question as to whether the same would apply in the city of Neihart? Mr. Barnard stated the same could happen in the town of Neihart.

SENATOR RIC HOLDEN asked Mr. Barnard if he had experimented and found 45 mph better than 35 mph. Mr. Barnard stated that the Department had experimented in the case of the chip coat on the interstate.

SENATOR HOLDEN asked where the faster speed limit would be used? Mr. Barnard stated that a specific example would be on the four lane interstate. He explained that there were sometimes conditions where the pavement had been disturbed in some manner which did not require active construction, and in those instances it was just unrealistic to expect people to travel at 35 mph. He

further explained that because of the disturbed pavement, the normal speed limit of 65 mph was probably not appropriate.

SENATOR ARNIE MOHL queried as to whether SB 160 addressed temporary speed controls, while the bill relating to Neihart had addressed permanent speed controls. **Mr. Barnard** stated that was correct.

Closing by Sponsor: **SENATOR NELSON** simply stated that she closed.

HEARING ON SB 129

Opening Statement by Sponsor:

SENATOR BARRY STANG, SD 36, St. Regis, stated that SB 129 did two things; it helped define the Montana, so-called, basic rule and would raise the fuel conservation fine from \$5.00 to \$20.00. He stated an awareness of the high number of people living in rural areas of the state, but noted that Montana's speeding fine had become a joke with the rest of the country and was now obsolete. He claimed it cost more to write the ticket than was actually collected. **SENATOR STANG** pointed out the fact that people were looking for efficiency in government, and didn't feel it made sense to do inefficient things such as write \$5.00 tickets when it cost around \$20.00 to process them. He handed out (**EXHIBIT # 2**) and referred to the section "Ticket Fines from \$200 to \$5.00". He explained that the handout showed fines ranging from Connecticut's \$200 to Montana's puny \$5.00 and noted the fines in the states surrounding Montana. He proposed Montana raise the fine to \$20.00; and contended it would still be the lowest speeding fine in the United States, but said it would at least be realistic. He pointed out that highway patrol officers would testify as to how it affected them in their job and stated that opponents would testify that it was their god given right to speed in Montana. He maintained that speeders could still speed, but said it would cost a little bit more.

Proponents' Testimony:

Joe Mazurek, Attorney General, Montana Department of Justice, thanked **SENATOR STANG** for carrying the Bill, and stated that the legislation was long overdue. He testified that law enforcement officers, particularly the Highway Patrol had a deadly serious job where they put their lives at risk every day. He attested that unfortunately the \$5 ticket had become a joke and the Officers were the victims of what he considered a very cruel joke. **Attorney General Mazurek** reported that there had been a number of Highway Patrol Officers involved in shooting incidents recently and said it would be naive to think that sort of

incidence would not happen again. He stated it was difficult for Highway Patrol Officers to risk their lives everyday to enforce a \$5.00 ticket, and contended that such a small fine sent a signal that Montana was not very serious about speeding fines. **Attorney General Mazurek** stated that the Highway Patrol Officers were the ones who picked up the pieces after accidents occurred and they knew that the faster drivers traveled, the more likely it was that there would be a fatality or serious injury. **Attorney General Mazurek** reported that last year excessive speed was noted in nearly 45% of the state's 202 fatal accidents. He maintained that statistics weren't the point, human lives and injury to human lives were. He testified that every 10 miles an hour a driver exceeds 50 miles an hour, the chance of death or serious injury doubled. He explained that if a person traveled 80 miles an hour the chances of death or serious injury are four times greater than at 60 miles an hour.

Attorney General Mazurek identified the Bill as attempting to consider the fact that most Montanans drive at or reasonably near the speed limit, while it tried to target excessive speeders. He stated that with passage of the Bill, the fine would be increased to \$20 for the first 20 miles over the limit and then rose substantially at the rate of \$5.00 for five miles an hour above that. He reported that the fine for traveling at 100 mph on the interstate would be \$80.00. **Attorney General Mazurek** insisted Montana's current speed limit had no deterrent effect whatsoever, and that SB 129 would benefit drivers who put their own lives at risk as well as the rest of the people on the highway.

Attorney General Mazurek stated that as the chief law enforcement officer in Montana he took exception to the fact that some people had suggested SB 129 was a tax increase and should be killed. He identified this as a time when energies were being focused on getting tougher on crime, increased punishments, and victim's bills. He contended that Montana's speeding fine had been the same for twenty years and inflation had gone up more than 200%, so \$20.00 would be as nominal now as \$5.00 was in 1974. He reiterated that SB 129 was not a punitive measure and that points would not accumulate on an offenders driving record.

Attorney General Mazurek called attention to the proposed change in the basic rule statute and stated that **John Connor**, chief of county prosecuting services and former county attorney, would explain to the Committee why the present basic rule statute was essentially unenforceable. He identified SB 129 as cleaning up the statute so it would work in appropriate cases. He further explained that basic rule was not a workable tool for high speed on dry pavement, but was intended for unusual conditions where drivers needed to slow down.

Leo Giacometto, representing the Governor's Office, stated Governor Racicot's support for SB 129. He pointed out that drivers who did not speed were paying to administer the \$5 fine

to the drivers who did speed. He urged the committee's support in the interest of fairness.

Colonel Craig Reap, Administrator of the Montana Highway Patrol, stated that the only exception to the \$5 ticket was the few counties in Montana which had judges who allowed the use of the basic rule for speeding. He further testified that such use caused confusion among officers and the public. **Colonel Reap** contended that people who were aware of which counties allowed the use of the basic rule slowed down upon entering the county and speeded up upon leaving, much the way tourists did when they traveled through Montana. He reported that the \$5 ticket made the Highway Patrol Officer's job more difficult, as they were subjected to a lack of respect because the implication was that it was a futile situation and the officers were foolish for trying to enforce this law. He maintained that this type of public contact had a detrimental effect on the entire traffic safety program.

Colonel Reap informed the Committee that in 1993 27% of the fatalities in Montana had involved one vehicle running off the road. He said that for whatever reason, the driver was distracted, lost control of the vehicle, it went off the road. He continued that by the time the driver was able to regain control, the vehicle was in a broadside slide situation which often led to the vehicle rolling, ejecting the driver and passengers or crushing them inside. He maintained that had these vehicles been traveling at the legal speed, some of those people would be alive today. He said the past twenty years had seen a decline in traffic fatalities in Montana. He identified the highest number of fatalities, 395, had occurred in 1972, and reported an average of just under 200 deaths per year for the last five years. He contended that there seemed to be a plateau, where new effective tools were needed to keep the decline in motion.

Cy Siefert, who taught 55 Alive Mature Driving, described his program as a class for drivers 55 or older and said its' purpose was to teach enrollees to deal with physical changes that took place as a person aged. **Mr. Siefert** stated that he had polled the students of his class and 100% had voted to raise the fine, but they had felt \$20 was still a joke. He contended that his students did not appreciate paying administrative fees for the \$5 fine, as they felt it unfair to have to for pay for the people who speed.

Bob Stephenson, Helena area resident, explained he and his wife had always viewed the Highway Patrol as their protection on the highway and would support them in any way possible. He stated he also represented **Montana Transportation Project AERO (Alternative Energy Resources Organization)**. He said their organization was involved in widespread investigation and transportation policy in the state, and the \$5 fine was foremost in that. He explained that AERO wanted those who used services to be the ones who paid

for them. He maintained that it was absolutely clear that those who were being ticketed were not paying and those who were driving legally, or not driving at all, were paying for the people who speed.

Mary Pat Murphy, Highway Patrol Officer, Great Falls, stated that a large part of her job involved education, which was called Safety Talks. She noted that each time she had gone to a Safety Talk whether it was for a service organization, the military, driver's education, Girls and Boys State or all the way down to kindergarten, she sensed an extreme disregard for the daytime speed limit. She said it was her belief that directly behind that, was a disrespect for other laws and law enforcement. She reported the most common question asked during Safety Talks was how fast a person could go and still receive a \$5 ticket. She reported having to answer in a vague manner, as the law was written vaguely.

Ms. Murphy stated that existing law did not provide a good, concrete definition regarding basic rule. She maintained that because definition was lacking, there was difficulty for enforcement. She said that in many instances a ticketed party could appear and have their fine reduced to \$5.00 without anyone having considered the circumstances, such as a person driving 95 mph in heavy traffic on wet roads versus a person driving 70 mph on a dry surface with no one else on the road. She asked the committee to give law enforcement something concrete to enforce and instruct.

John Stuart, Highway Patrol Officer, Butte, testified that the futile act of trying to enforce an unenforceable law had taken its toll on morale. He reiterated previous testimony.

Tom Barnard, Chief Engineer, Department of Transportation, read his written testimony. (EXHIBIT 3)

John Connor, prosecutor with the Attorney General's Office, explained that part of his responsibility was to provide training and trial assistance to attorneys in areas of criminal law. He identified part of that responsibility as appearing on behalf of the Montana County Attorney's Association representing Montana's 56 county attorneys supporting SB 129. He reported the current basic rule statute as unworkable, and as a criminal statute, the state would be obligated to prove each of the elements beyond a reasonable doubt. He said the prosecutor must prove the speed and weight of the vehicle, amount of traffic, brake conditions, grade and width of the road and things of that nature. He identified SB 129 as redrafting the law to clarify the elements the prosecution must prove.

Opponents' Testimony:

Dave Brown, a citizen from Butte, stated he was a former, seven term legislator who had fought this legislation for 14 years. He explained that in the 70's when Congress passed the 55 mph law, the western states fought it on the grounds of State's Rights. He testified that Congress tied the 55 mph speed limit to highway funding, and had Montana not complied, it would have lost massive funding for our highways. He reported that in the 80's, Congress had responded to immense pressure and raised the speed limit on interstates. **Mr. Brown** related that Montana had initially responded to the federal mandate by saying that if the speed limit was a violation of fuel conservation, Montana would create a \$5 fuel conservation fine. He identified these as the steps of how the \$5 ticket came into existence, and not as a joke on law enforcement. He stated that he had always wanted to see the breakdown regarding the cost of processing a ticket, as he contended that \$20 seemed outrageous. He attested that the Patrol was already out doing its' job and he could not see that it could cost \$20 to process that one piece of paper and suggested there may be other inefficiencies in the Department which warranted investigation. He testified that he did not feel this was a joking issue or that the \$5 was a joke and urged Committee members to check with their constituents before voting. He remarked that he felt a large number of people considered the \$5 ticket a badge of honor regarding their State's Rights. **Mr. Brown** referred to previous testimony regarding fines in other states and confirmed that states such as Pennsylvania did have strict laws against speeding, but chose not to enforce them. He reported having driven in Pennsylvania where the average speed in the slow lane was 75 mph and 80-85 mph in the left lane and enforcement was not taking place. He maintained that situations such as these were worse than Montana's, where an effort was being made to enforce the law.

Mr. Brown suggested the speeding issue may not be the sole source of disrespect for law enforcement and encouraged the law enforcement officers not to let the \$5 issue decide whether they were proud of their jobs. He acknowledged the extraordinarily good work being done by law enforcement communities and the education system in regard to programs such as DARE, which developed a healthy respect and friendship for law enforcement. **Mr. Brown** verbalized that the Patrol should take credit for the good work they are doing, realize that people respect them for all the good things they do and stand proud in their jobs. He insisted that the situation of issuing a \$5 ticket shouldn't tear down the morale, as was testified to.

Questions From Committee Members and Responses:

SENATOR NELSON asked about the cost of issuing the ticket and asked if subsidization was taking place in regard to issuing tickets to speeders? She asked what it cost to issue each ticket

and wondered if the figures stated earlier had indeed considered the officer's salary and other costs incurred on their job, for the period of time it took to write that ticket? She expressed need for clarification as to how the cost of issuing a ticket was figured. **Colonel Reap** replied that the cost of writing the citation had been figured two different ways over the years. He described the first as simply figuring the actual cost of the time it took an officer to write the ticket and process it through headquarters. He identified the total estimated time as 30 minutes, fifteen minutes for road handling and fifteen for processing within the system. He stated that **SENATOR TERRY KLAMPE** had requested an alternate estimation process. He stated that the result of that request had been for them to take the entire Highway Patrol budget, subtract the non-traffic officers salaries, subtract the percentage of traffic control (just under 50%), divide that figure by the number of violations and arriving at \$26.85 per violation, which **SENATOR KLAMPE** had used in his bill draft. He explained that the \$26.85 figure included all violations and not just the \$5.00 violations, as that would be extremely difficult to separate.

SENATOR LINDA NELSON asked if a person could actually travel across the State of Montana at 100 mph and get only one \$5.00 ticket, was that the result of a shortage of officers or was it illegal to give a person more than one ticket in a certain period of time? **Colonel Reap** stated it was a combination of those things. He explained that a person could only be issued one speeding fine at a time but could be picked up more than once in a day. He contended that if there were more officers out there, then more citations could be given.

SENATOR SWYSGOOD referred to (EXHIBIT 2) when he asked if the amount of those fine reflected the cost of a basic rule fine or a fuel conservation fine? He noted the amount listed for Nevada as \$45 and stated that he knew for a fact the fuel conservation fine in Nevada was \$15. **SENATOR STANG** stated (EXHIBIT 2) was an article copied out of the Mony Magazine reporting the average fine for speeding and that the State of Nevada may well have the \$15.00 fuel conservation fine. He further explained that 90% of the time a speeder in Montana ended up with a \$5 fine and as a result that amount appeared in the article. **SENATOR STANG** referred to Mr. Brown's previous reference to the Pennsylvania Turnpike and noted the article warned to watch the 55 mph speed limit in that area.

SENATOR SWYSGOOD asked if the \$5 fine was related to a conservation ticket speed limit? He asked for verification to the fact that Montana had no daytime speed limit before the federal government made Montana adhere to the 55 mph speed limit? **Colonel Reap** verified that as correct.

SENATOR SWYSGOOD speculated that in the days of no daytime speed limit the basic rule had been the means of penalty for speeding and asked for verification? **Colonel Reap** stated that if the

conditions in the basic rule law were violated then that would have been used.

SENATOR SWYSGOOD queried as to whether the same scenarios that had allowed the basic rule to be implemented at the time there was no daytime speed limit would still apply today, under the same conditions. **Colonel Reap** stated that was correct and added that because the state now had a speeding bill it had become more difficult, over the years, to combine the speeding bill with the basic rule. He attributed that fact as due to the fact that the speeding bill was considered the avenue to enforce the speed limit, not basic rule.

SENATOR SWYSGOOD stated he had heard an awful lot about what a joke the \$5 ticket was. He expressed his belief that the ticket was not a joke but a defiant gesture toward the mandate passed down from Congress which required the State to enforce a daytime speed limit or lose highway funding. He stated that whether the mandates were right or wrong, which by their own perspective were arguable, he was more concerned with the inference of blackmail associated with these types of federal mandates. He expressed his fear that the perspective would be lost, in relation to the reason for the \$5 ticket having been placed on the books, in regard to fuel conservation fine, and having evolved through time into something more than the state had previous to the implementation of the 55 mph speed limit. He stated that he appreciated **Colonel Reap's** candor in addressing the question.

SENATOR HOLDEN stated he was sure the \$5 ticket cost more than \$5 to issue and asked **Attorney General Mazurek** if he agreed that the 55 mph speed limit was a federal mandate that Montana had found to be ridiculous?

Attorney General Mazurek replied that he agreed it was a federal mandate but added that if Montana's Legislature had considered it ridiculous it would not have been enacted. He stated that he appeared before the Committee as a public citizen and identified the issue to be one of public safety. He testified that when the speed limit was enacted traffic fatalities dropped 50% and now Montana's average speed was creeping back up.

SENATOR HOLDEN asked again if **Attorney General Mazurek** thought Montanans had felt it was ridiculous? **Attorney General Mazurek** explained that he felt Montana had originally thumbed its' nose at the mandate but he felt people now recognize that it saved lives and believed the majority of Montanans would support SB 129. He said the intent of the Bill was not to target people driving relatively close to the speed limit, but targeted those who thought they had a license to drive as fast as they wanted. He reiterated that this was a public safety issue and that Montanans weren't willing to accept 200 deaths a year.

SENATOR HOLDEN asked if **Attorney General Mazurek** felt eastern Montanans would disproportionately pay for SB 129. **Attorney General Mazurek** stated he did not.

SENATOR MOHL asked how much leeway was given before a person was pulled over and ticketed. **Colonel Reap** replied there was no hard and fast policy, and it was left up to each individual officer. He stated that they had figured an average and publicly told people the Highway Patrol would allow between 5 and 7 miles an hour for speedometer error.

SENATOR MOHL asked if the passage of SB 129 would mean the Highway Patrol's tightening up on how much leeway was given drivers. **Colonel Reap** stated there was no anticipated change and referred to the fiscal note which reflected a reduction in violations, because drivers would be more attentive to the law.

SENATOR MOHL stated he had spoken to some patrol officers who liked the \$5 ticket because they could pull someone over without that person becoming offensive and they had expressed concerns that if the ticket was increased people they pulled over would not be so friendly. **SENATOR MOHL** added that 55 mph in a state the size of Montana was ridiculous, as not many people had that much time to drive across Montana. **Colonel Reap** stated that the officers were entitled to their own opinion and there was a time when that opinion was the consensus. He claimed the officers were intelligent and it would be easy for him to spend time with the officers to share with them the big picture of safety and they could be persuaded to agree with lower speeds and a larger fine.

SENATOR MACK COLE asked if secondary roads were designed for 60 mph and inquired if the passage of SB 129 would bring about a push to raise the 55 mph roads to 60 mph? **Tom Barnard** stated that the design varied on the interstate from between 50 mph and 70 mph. He stated that wherever it was possible, the road was designed for 70 mph and the secondary system typically was designed for 50 to 60 mph. He said he did not anticipate a push for a higher speed limit, as anytime something was designed for higher speed the cost would be greater.

SENATOR SWYSGOOD asked for a clarification of the staggered increases in the Bill? He asked if this would still constitute a conservation ticket and the basic rule or would the basic rule not apply and the person would get a ticket which did not go on their license? **Attorney General Mazurek** stated that he was correct, it would be \$20 for the first 20 mph over the speed limit and from that point it would go up \$20 for 5 mph above that. He also clarified that the money went to the general fund and the fiscal note showed allocation of those funds. He reassured the Committee that raising money was not the issue, as money from all fines went to the General Fund.

SEN. SWYSGOOD asked if there had been an error made on the first fiscal note in regard to the state's allocation being 27.8 because he noted the allocation was 44.8 on the revised fiscal note, and he could see no other changes? **SENATOR STANG** stated that he had been surprised by the revised fiscal note and he assumed there had been an error in the percentage of distribution on the first fiscal note. He added that he had not requested a revised fiscal note, so it must have been a case of error on the first.

SENATOR REINY JABS asked clarification of earlier comments regarding giving people a \$5 fine because it was too difficult to charge them with basic rule or reckless driving. **Colonel Reap** replied that the \$5 fine would not be substituted for reckless driving but he had seen basic rule violations be reduced to \$5. **SENATOR JABS** asked if a person traveling 75 or 80 mph could be charged with reckless driving? **Colonel Reap** stated they could and explained the difference between reckless driving and basic rule was that reckless driving conditions involved a willful and wanton disregard for life and property. He ascertained that reckless driving conditions are a lot more serious. He clarified that basic rule would be when someone traveled down an icy roadway at speeds in excess of the conditions of the roadway, without proper tires and brakes.

SENATOR NELSON asked where the problem would lie, if a road was designed for 60 mph and a person drove 65 or 70 mph, would the road deteriorate? **Tom Barnard** stated the problem was, each road was designed with a vertical curve for specific speeds and if a road was designed for 60 mph a person traveling at that speed could see something in the road and stop in time. He continued that if a person was traveling more than 60 mph, chances were they would not be able to stop in time. He explained that there were also horizontal curves which created a centrifugal force when applied against the automobile, which was offset by the slope of the curve. He contended that if the design speed was exceeded there would be a tendency to go off the road.

SENATOR SWYSGOOD expressed that he was intrigued by the design and speed theory since many of the Montana roadways were in worse shape back in the days before the daytime speed limit. **Tom Barnard** stated that drivers would slow down under those conditions, as they would recognize it was unsafe to travel at 55 or 60 mph.

CHAIRMAN TVEIT recounted earlier comments regarding the cost of writing the \$5 ticket and related that it had been estimated that it took an officer 15 minutes to write the ticket. He commented that during those 15 minutes the officer's flashing lights did more to slow down traffic than anything else. He characterized the officer as having to be out on the road whether or not he was writing a \$5 ticket, and contended that time should not be figured into the cost of writing the ticket. He asked if anyone cared to comment?

Colonel Reap stated he wouldn't disagree and that when they were faced with coming up with a figure it was extremely difficult. He contended that he usually responded with some of the same comment the Chairman had made. He compared the difficulty of coming up with a figure to that of knowing how effective they were in saving lives and preventing accidents. He explained that when asked to come up with a figure, the only approach they had was to begin with their budget figures.

Closing by Sponsor:

SENATOR STANG thanked everyone for a good hearing and having stuck to the issues. He commented that before there was a daytime speed limit, the speed limit was termed as reasonable and prudent. He explained that during the period of no daytime limit, if a person traveled at a speed that was not considered reasonable and prudent they were given a ticket which was worse than today's \$5. He clarified that the fiscal note had been updated and stated that SB 129 proposed \$20 for each five miles per hour over 85. He said the Bill was not punitive and stated that the original bill had combined basic rule with speeding. He contended that he did not think that would work and had refused to carry a bill which would have placed the violation on a person's driving record. He explained that he did not feel this belonged on a driving record and expressed thoughts that it would have been nothing more than a way for insurance companies to make more money.

SENATOR STANG specified that the first intent of SB 129 was safety and the other point was one of respect. He expressed the need to teach respect for teachers, elders, and the law as important and as an item he often received correspondence on. He commented that often times our disrespect for a law, that \$5 is a joke and not too much to pay, then our children may lose that respect. He admitted not always obeying the speed limit and hoped he did not get caught but would willingly pay the fine if he were caught. He claimed inflation had eaten up the \$5 speeding fine. He agreed with the symbolism of voting against a federal mandate but stated the time had come to raise the fine, as inflation had eaten up the \$5. He stressed that the Senators had a job to do, a budget to balance and were required to act as responsible citizens and \$10 to \$15 was not unreasonable.

SENATOR STANG asked the Committee not to lose sight of the second part of the Bill, the basic rule element of SB 129. He requested that if they desired to kill the Bill because of the speeding fine, that they work the fine to a figure they could all live with and take a serious look at the basic rule portion so that it would work in all fifty-six counties.

CHAIRMAN TVEIT stated he had received a fax from Kalispell in opposition to SB 129. He offered it for the record. (EXHIBIT 4)

CHAIRMAN TVEIT declared the hearing on SB 129 closed.

EXECUTIVE ACTION ON SB 104

Motion: SENATOR NELSON MOVED TO ADOPT AMENDMENTS IN EXHIBIT #5.

Discussion: Pat Saindon, Department of Transportation, stated the amendments were on page 5. She referred to the hearing on SB 104 when SENATOR STANG had requested line 16 specify the rules that would be used to operate the Commission and that the rules be set statutorily so they had taken "by rule' out. She said there had been testimony stating concerns of the agricultural community, so the Department had added that the Commission would take all reasonable steps to insure the integrity and viability of the agricultural and rural transportation related needs. She explained that the Contractor's Association, Montana Motor Carriers and the Highway User's Organization had concerns about line 27 and that they had wanted to insert the word 'federal' so the Commission could authorize the transfer of federal funds between qualified programs which were more in line with federal regulations.

SENATOR SWYSGOOD stated he still had a problem with line 27 and the ability to transfer between qualified programs. He expressed concern that while they had eliminate the transfer of state gasoline tax dollars to programs which would include rail or highway transit programs, the federal funds which would be matched by those tax dollars, for construction, could still be transferred. Pat Saindon stated she was a little confused, as the federal Intermodal Surface Transportation Efficiency Act (ISTEA) regulation allowed the transfer of some federal funds between the highway and transit programs for use both ways. She stated that for example, in Missoula, Federal Congestion Mitigation Air Quality (CMAQ) dollars had been moved to the transit program and at that point they took on the characteristics of the other program. She explained that if highway dollars were transferred to transit, then they took on the requirements of the transit dollars. She contended that what happened was that, then the local community had to match those dollars with local clean dollars, the couldn't match them with federal dollars. She explained that if transit dollars were transferred to the highway side of the program then they would take on the characteristics of the highway program. she clarified that State dollars could not be used because these were statutorily set and could only be used for highway purposes.

SENATOR MOHL asked if federal highway dollars could be transferred to transit programs? Pat Saindon stated that the law allowed State governments the transfer of federal dollars in appropriate categories. She referred again to Missoula where the state of Montana had already transferred CMAQ dollars. She identified CMAQ dollars as those used to mitigate air quality problems and stated that the local community of Missoula chose to spend some of those CMAQ dollars on the purchase of fuel

efficient buses. She reported that the Montana Department of Transportation had agreed with Missoula that they could transfer those funds and put them into the purchase of buses, as opposed to doing something else which mitigated air quality problems. She said CMAQ had to be used on projects which showed that they would mitigate air quality problems and the community could prove that low emissions buses would accomplish this requirement. She stated that with the transfer of CMAQ dollars, the local transit authority had to raise the money to match those federal dollars.

SENATOR MOHL asked if the money could be transferred to rail also? **Pat Saindon** stated it could not because ISTEA funds transit and highways. She explained that the only way ISTEA monies could be used for rails would be for rail passenger and there were not enough dollars which came into Montana, to ever fund rail passenger service. She stated that AMTRAK was not included and Montana had no other rail passenger service and the monies could not be used for freight rail purposes. She explained that the Department was asking that the authority be given to the Commission to make, as opposed to the State of Montana Department of Transportation. She maintained that the Department would like the Commission to make these decisions rather than the Department staff.

SENATOR MOHL stated, now that the Commission was the Department of Transportation and would now be the Department of ALL Transportation. He questioned if the word 'transit' should be clarified.

CHAIRMAN TVEIT stated that the name would be changed to the Commission on Transportation but there would be no overlap between the Department of Transportation and the Commission.

Pat Saindon stated that the Department of Transportation combined all the modes of transportation in one department and the Highway Commission had always been separate with their only authority has been over highway projects and no authority over anything else going on in the Department. She explained that these decisions were being handled by the Department staff, but the Department would like to rename the Highway Commission the Transportation Commission and expand their duties and responsibilities to handle other transportation issues.

Vote: The motion to **ADOPT AMENDMENTS TO SB 104** passed.

Motion/Vote: SEN. NELSON MOVED SB 104 DO PASS AS AMENDED. THE MOTION CARRIED WITH SENATOR SWYSGOOD OPPOSED. SENATOR JERGESON voted yes on amendments and the motion on the bill as amended per proxy.

EXECUTIVE ACTION ON SB 160


Motion/Vote: SENATOR JABS MOVED SB 160 DO PASS. THE MOTION CARRIED UNANIMOUSLY. SENATOR JERGESON voted yes per proxy.

ADJOURNMENT

Adjournment: The meeting adjourned the meeting at 2:46 p.m.



SENATOR LARRY TVEIT, Chairman



CARLA TURK, Secretary

LJT/cmt

MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE

ROLL CALL

DATE 1-26-95

NAME	PRESENT	ABSENT	EXCUSED
MACK COLE	X		
RIC HOLDEN	X		
REINY JABS	X		
GREG JERGESON	X		
ARNIE MOHL	X		
LINDA NELSON	X		
BARRY "SPOOK" STANG	X		
CHUCK SWYSGOOD, VICE CHAIRMAN	X		
LARRY TVEIT, CHAIRMAN	X		

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 27, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 104 (first reading copy -- white), respectfully report that SB 104 be amended as follows and as so amended do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

That such amendments read:

1. Page 5, line 15.
Strike: "and"

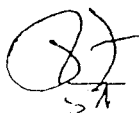
2. Page 5, line 16.
Strike: ", by rule,"

3. Page 5, line 16.
Following: "section"
Insert: "; and

(c) take all reasonable steps to ensure the integrity and viability of agricultural and rural transportation and related needs"

4. Page 5, line 27.
Following: "of"
Insert: "federal"

-END-


Amd. Coord.
27
Sec. of Senate

231234SC.SRF


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 26, 1995

MR. PRESIDENT:

We, your committee on Highways and Transportation having had under consideration SB 160 (first reading copy -- white), respectfully report that SB 160 do pass.

Signed: Sen. Tveit
Senator Larry Tveit, Chair

 Amd. Coord.
SP Sec. of Senate

221548SC.SRF

Testimony of Thomas J. Barnard, P. E.
Chief Engineer, Montana Department of Transportation

Senate Bill 160

Mr. Chairman and members of the Committee. For the record my name is Tom Barnard. I am the Chief Engineer with the Montana Department of Transportation. I am here in support of Senate Bill 160.

Current law states that the speed limit will be 35 mph on a highway under construction or repair or on a highway being surveyed. Very simply, current law gives the Department no authority to establish a reasonable speed zone zone in a area under construction or where our maintenance personnel are working or where a survey is being conducted. It limits us to 35 mph. Thirty five miles per hour may be overly restrictive in lots of cases in rural areas and at the same time may not be restrictive enough on projects within developed areas.

Let me cite a couple of examples where it is often overly restrictive. Often in rural areas there are some physical conditions within the limits of a construction project which requires that drivers slow down somewhat. For instance, sections of the pavement may be missing or new culverts may have been installed across the road and there is a bump across the roadway. Yet at the same time there is no construction activity taking place at that time. If there is no construction activity, then often 45 mph would be more

realistic.

At 45 mph the drivers would be able to see in advance bumps, such as at the culvert installation, and slow down for them whereas legal daytime speeds of 55 or 65 mph they could not. Another example is where we put down what is called a seal and cover or many of you may refer to it as a chip coat. We shoot asphalt on the road and then put small rock chips on top of it. For several days after a chip coat is applied there are loose rock. Even though we sweep the roadway right away traffic causes additional rocks to come loose. These rocks break windshields.

Current law restricts us to 35 mph even on the 4-lane interstate. What we find is that after pilot cars are removed that some drivers try to drive at 35 mph in the driving lane but end up getting passed by many other drivers who feel that 35 is totally unreasonable. These passing maneuvers cause a lot of broken windshields. We have experimented and found that if in fact we were allowed to establish the speed limit at 45 mph under these conditions then we would reduce the number of vehicles which pass therefore eliminating a lot of broken windshields.

The opposite may be true in some developed areas. Thirty five miles per hour in a developed area such as in street construction where we have curb, gutter, sidewalks, and

EXHIBIT 1

DATE 1-26-95

SB 160

underground electrical work may be excessive. It may be appropriate to establish a 25 mph speed zone.

I am sure one of the questions is how would we go about, if this bill is passed, determining what the proper speed zone is. The proper speed zone for any construction area, maintenance work zone or survey area would be established with the concurrence of our traffic engineers. These people have had many years of experience in dealing with speed zones. Speed zones would not be arbitrarily set by any Department employee. The speed zones, if other than 35 mph, would have to be set by our traffic engineers who have experience in these matters. This bill is very simple and straightforward. We would encourage your support.

Thank you and I would be glad to answer any questions you may have.

DEPARTMENT OF JUSTICE
Senate Bill 129: Speeding Fines/Violations

Background

Speed on Montana's highways is governed by the so-called "basic rule" -- which requires motorists to drive "at a rate of speed no greater than is reasonable and proper under the conditions existing at the point of operation," taking several considerations into account. Violation of the basic rule is a misdemeanor, punishable by fines or imprisonment, and results in points against the offender's driving record.

Montana's fuel conservation speed limit creates an exception to the basic rule for daytime speeding violations when no hazardous conditions exist. It sets a \$5 fine for violations. A violation of the conservation limit is not a misdemeanor, nor is it recorded on the driving record.

Effects of excess speed

National studies have shown that speed is the most significant factor in the physical forces involved in crashes. Higher speeds increase:

- the distance a vehicle travels during the period of time (estimated at 2.5 seconds) it takes a driver to react to a perceived danger.
- the total stopping distance necessary to halt a vehicle in response to potential dangers.
- the speed at which a vehicle will hit an obstacle if the driver cannot stop the vehicle.
- the severity of a crash. The chances of death and serious injury double with every 10 mph a motorist is traveling over 50 mph.
- the variance of speeds at which different drivers are traveling on the same stretch of highway at the same time. Speed variance is closely related to many other types of hazardous traffic violations, such as unsafe lane changing and following too closely.

Historical trends have always linked speed with highway fatalities. The annual highway death toll climbed steadily for the first 75 years of the automobile's history. In 1972, 395 people died on Montana's highways -- the highest number on record. In 1974, when the federally mandated speed limit was imposed, the average speed dropped to 1962 levels and Montana fatalities fell to 299. Nationally, fatalities dropped by almost 20 percent.

Enforcement Concerns

To be effective, traffic laws must be enforced with enough severity to deter unsafe driving practices. The \$5 fine provides no deterrent for most motorists, many of whom joke about having extra \$5 bills available to allow them to quickly cross the state.

Senate Bill 129 Provisions

SB 129 increases the minimum highway speeding fine to \$20 for drivers who are exceeding the speed limit by up to 20 mph. The fine increases by \$20 for every additional 5 mph a driver is traveling above the speed limit. The following chart outlines the fines that would be in effect on the interstate and on secondary highways.

<u>55 MPH</u>	<u>Fine</u>	<u>65 MPH</u>
56-75mph	\$20	66-85mph
76-80mph	\$40	86-90mph
81-85mph	\$60	91-95mph
86-90mph	\$80	96-100mph
91+ mph	\$100	100+

Violations would not be recorded on the driving record.

Basic Rule

SB 129 also changes the wording of the basic rule law (61-8-303) to clarify that any unsafe driving practice specified in the statute is a violation. The law's current wording causes confusion both for law enforcement officers and the public. SB 129 would eliminate this confusion and allow for a more consistent enforcement program statewide.

Finally, while SB 129 clarifies that the fuel conservation limits are the statewide speed limits, it also clarifies that motorists can be cited for traveling at speeds unsafe for conditions even if they are traveling below the fuel conservation limit.

TICKET FINES: FROM \$200 TO \$5

Here's what the average ticket costs if you get caught driving up to 15 mph over the limit. The fines range from Connecticut's stiff \$200 down to Montana's puny \$5.

STATE	AVERAGE FINE	COMMENTS, INCLUDING SPEED-TRAP LOCATIONS
CONNECTICUT	\$200	State speed limit: 55 mph; red alert at I-95 near Westport.
MASSACHUSETTS	170 ¹	Monitor your speedometer in Hubbardston and Uxbridge.
WASHINGTON	165	Cool it on 65-mph I-5 near Kelso, close to the Oregon border.
MISSISSIPPI	150	Strict enforcement; nonresidents must pay fines on the spot.
OREGON	145	You'll pay \$329 for going 76 to 85 in a 65-mph zone.
UTAH	145	Hard-to-detect photo radar is used to identify speeders.
CALIFORNIA	140	Police are ticket-happy in Alpine County, south of Lake Tahoe.
NEW HAMPSHIRE	130	Take it easy in Hampton Beach, Hudson and Merrimack.
MISSOURI	125	Stay light on the pedal going 65 on I-44 west near St. Louis.
NEW MEXICO	125	Police on the prowl on 65-mph I-25 from Las Vegas, N.M. up to Colorado
SOUTH CAROLINA	110	Be on guard if you're taking 55-mph S.C. 46 to Hilton Head.
FLORIDA	103 ¹	Counties such as Hillsborough, Pasco and Pinellas add a \$12.50 fee.
ARKANSAS	100	Speed limits strictly enforced on 65-mph I-55 to Tennessee
KENTUCKY	100	Starting July 15, a \$12.50 fee will be added to each ticket.
OHIO	100	Unmarked patrol cars, mostly Camaros, haunt 65-mph I-90.
PENNSYLVANIA	100	State speed limit: 55; watch it on the Pennsylvania Turnpike.
RHODE ISLAND	100	Another 55-mph-limit state; keep eyes peeled in Pawtucket.
TEXAS	100	Strict enforcement in Harris County, including Houston.
WISCONSIN	100	Out-of-state speeders may have to pay cash on the spot.
IOWA	90	Be careful on 65-mph I-35 around Des Moines.
SOUTH DAKOTA	90	Police seldom hide to entrap speeders.
ALABAMA	85	Watch it if you're driving 55-mph U.S. 280 near Dadeville.
HAWAII	85	Another state where some visitors must pay cash immediately
INDIANA	85	Keep it to 55 mph on U.S. 31, north of Indianapolis.
LOUISIANA	85	Speeders alert: Lake Charles is crawling with cops.
NEBRASKA	80	Don't top the 65-mph limit on I-80 between Lincoln and Omaha.
ILLINOIS	75	Lincolland tourists: Stay below 65 on U.S. 55 near Springfield.
MAINE	75	Nine speed limit changes on U.S. 1 from Scarborough to Saco
IDAHO	70	Don't fall for the trap at 55-mph U.S. 20 near Idaho Falls.
MINNESOTA	70	Police seldom hide here to catch speeders.
NEW JERSEY	70	55 mph is tops on state roads; look out on the Turnpike.
NEW YORK	70	Also 55 max; Long Island's N.Y. 27 to Montauk is a danger zone.
OKLAHOMA	70	Don't exceed 65 mph on I-35 from Ardmore up to Oklahoma City.
COLORADO	65	I-70 speeders over 65 mph get nabbed on either side of Denver.
WASHINGTON, D.C.	65	Use of radar detectors is prohibited.
NORTH CAROLINA	65	Don't go over 55 on N.C. 17 from New Bern to Elizabeth City.
ARIZONA	60	Like Utah, high-tech photo radar is used to nail speeders.
MARYLAND	60	Be careful on 55-mph I-68 near Frostburg.
VIRGINIA	60	Radar detectors prohibited; watch your speed on 65-mph I-95.
MICHIGAN	55	Cops stop and search cars on 65-mph I-94 west of Kalamazoo.
WYOMING	55	Smoky alert: 55-mph U.S. 287 between Lander and Rawlins
WEST VIRGINIA	50	Cool it near Charleston on 55-mph U.S. 19 to Fayetteville.
ALASKA	48 ¹	Out-of-state speeders may have to pay cash on the spot.
VERMONT	48 ¹	This state hands out very few tickets: just 2,000 in 1992.
GEORGIA	45	Stay cautious on 65-mph I-75, north of Atlanta.
NEVADA	45	Don't play the odds on 55-mph Nev. 50 west of Ely, toward Reno.
DELAWARE	40	Another 55-mph state; I-495 near Wilmington is a hot spot.
KANSAS	35	Court costs additional; entrapments are rare.
NORTH DAKOTA	30	Police rarely hide when they want to nab speeders.
TENNESSEE	25	Avoid a fine on 65-mph I-24 from Nashville to Chattanooga.
MONTANA	5	\$5 fine by day; \$70 at night, when speeding is more dangerous.

¹Peak limit is used when a highway has more than one speed limit. ²Assumes driver exceeds speed limit by 12 mph
Source: October 1993 National Motorists Association survey; American Automobile Association; state officials

Testimony of Thomas J. Barnard, P.E.
Chief Engineer, Montana Department of Transportation
Supporting SB 129.

Mr. Chairman, Members of the Committee, for the record my name is Tom Barnard, I'm the chief Engineer with the Montana Department of Transportation. I am here in support of SB 129. The reason we are here is our concern for having the safest possible highway system. The support of the Department of Transportation is based on the following:

The highest design speed for the interstate system is 70 mph. Design speed is the speed at which the average driver can safely negotiate a section of highway. What this says is that anytime someone exceeds 70 mph they are driving in excess of what the highway was designed for. On the primary system, even though some of them are designed for 70 mph, the many are only designed for speeds in the range of 60 mph.

Another reason is that the 15% of the drivers who operate recklessly in fact cost the Department a considerable amount in terms of damages to highway facilities. When they loose control of vehicles they often damage signs, guardrails, or other physical improvements. These are often the drivers who do not report the accident and we are unable to collect the cost of the damages.

Also when traffic control signs are in place but are not

enforced, drivers become apathetic toward signing in general. This apathy carries over into other areas, such as developed areas, where it is important that they comply with the signing that exists. A \$5.00 fine is insufficient to create respect for signs.

Thank you for your consideration.

SENATE HIGHWAYS

EXHIBIT NO. 4DATE 1/26BILL NO. SB 129

Vern Cornell
2354 North Mission Drive
Kalispell, MT 59901

January 20, 1995

FACSIMILE TRANSMISSION: 1-900-225-1600

LEGISLATURE
State of Montana

RE: Speed Limit Fine

I understand that a bill has been introduced to increase the speed limit fine from \$5.00 to over \$20.00, or should I say extort more money from us Montana tax paying citizens.

I've lived in Montana all my life and I have enjoyed the freedom of being able to drive at a reasonable speed on our interstates and not be unfairly penalized by paying a high fine and having my insurance company extort more money for my premium.

In this time of wanting to cut taxes and getting government off our back, what is wrong with you people? Our speed limit law in Montana is one of our last real freedoms that other states do not enjoy and I'm not interested in losing it. Get out of my back pocket and out of my life and I will take care of myself - please!

Thank you for your consideration and time in this matter.

CONCERNED MONTANANS

Vern Cornell
Echo Morrison
Julie Darling
Susan Palmer
Pete Beck
Colin P. Bradley

Cathy Jackson
Ginger J. Maxwell
Rosanne Kristine Rose
Daniel R. Hart
Jina M. Clark

Please deliver this letter to Room 410-1
by 1pm in regards to SB129.
Thank you.

AMENDMENT TO SENATE BILL 104 (Introduced Copy)

1. Page 5, line 16.
Following: "establish"
Strike: ", by rule,"
2. Page 5, line 17.
Insert: "(c) take all reasonable steps to ensure the integrity and viability of agricultural and rural transportation related needs."
3. Page 5, line 27.
Following: "of"
Insert: "federal"

Amendments to Senate Bill No. 104
First Reading Copy

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

Prepared by Connie Erickson
January 26, 1995

1. Page 5, line 15.
Strike: "and"

2. Page 5, line 16.
Strike: ", by rule,"

3. Page 5, line 16.
Following: "section"
Insert: "; and

(c) take all reasonable steps to ensure the integrity and
viability of agricultural and rural transportation and related
needs"

4. Page 5, line 27.
Following: "of"
Insert: "federal"

DATE 1-26-95

SENATE COMMITTEE ON Highway

BILLS BEING HEARD TODAY: SB 129 SB160

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Craig Reap	MHP	SB-129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bob Stevens	AERO	"	<input type="checkbox"/>	<input type="checkbox"/>
Mary Pat MURPHY	MHP	"	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Connor	MT. County Attys Assn	SB129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JOHN STEWART	MHP	129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Curt Lingen	MT MOTOR CARRIERS ASSN	129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DAVE Brown	self		<input type="checkbox"/>	<input checked="" type="checkbox"/>
C. Seifert		129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomas J. Bernard	Coaches Office	129	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Thomas J. Bernard	Dept of Transport	129 #160	<input checked="" type="checkbox"/>	<input type="checkbox"/>

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY