

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON HIGHWAYS & TRANSPORTATION**

**Call to Order:** By **CHAIRMAN ARNIE MOHL**, on February 4, 1997, at  
3:15 pm, in ROOM 410

**ROLL CALL**

**Members Present:**

Sen. Arnie A. Mohl, Chairman (R)  
Sen. Mack Cole, Vice Chairman (R)  
Sen. Larry Baer (R)  
Sen. Bob DePratu (R)  
Sen. John R. Hertel (R)  
Sen. Ric Holden (R)  
Sen. Reiny Jabs (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 Services Division  
Phoebe Kenny, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None  
Executive Action: SB 64 AND SB 188

**HEARING ON SJR**

**Sponsor:** SENATE HIGHWAYS AND TRANSPORTATION COMMITTEE

***{Tape: 1; Side: A}***

**Informational Testimony:** Gary Gillmore, Department of  
Transportation, this is a Joint Resolution to urge Congress, the  
President, and other Congressional delegations to enact new  
Federal Highway Legislation, to consider our best interests. As  
you are aware the ISTEA expires in September. New authorizing  
legislation will have to be enacted. Some of the things happening  
back there will greatly reduce our funding, as well as several  
western states. Basically this stresses the importance of the  
transportation industry and infrastructure, especially with

regards to the western rural states which have many miles of highway and few people to support them.

EXECUTIVE ACTION ON SB 64

Amendments: SB006401.ACE

Motion: SENATOR RIC HOLDEN MOVED SB 64 DO PASS.

Motion: SENATOR HOLDEN MOVED TO AMEND SB 64.

Discussion:

SENATOR GREG JERGESON, I have been pondering this issue for quite a long time. I have not prepared an amendment but have received a map which shows the traffic volumes through-out the state. I understand and appreciate the concern of a lot of motorists that when they are out on a highway where there is not a lot of other traffic, a speed limit does not make a great deal of sense. There are certain highways in the State of Montana where the traffic volume is such that perhaps a speed limit based on traffic volume might make some sense. I didn't prepare amendments because I wanted to see if there would be any interest in this committee for this concept. If there is no interest then we may not waste the drafters time.

SENATOR RIC HOLDEN, you can see the amendment (EXHIBIT 1), establishes a speed limit in the State of Montana for 80 miles an hour on two lanes and interstates. Would you say that an 80 miles an hour speed limit in the lower 48 states would be unique?

Colonel Craig Reap, MT Highway Patrol, I believe 75 miles an hour is the fastest speed limit in the states.

SENATOR HOLDEN, Montanans have individualism that runs strong in this state. The sponsor has made it clear, that he intends to attempt to take this piece of legislation to the floor of the Senate for passage. His bill is drafted for 65 miles per hour on two lanes and 75 miles an hour on the interstate. If we amend the bill and give it a Do Not Pass recommendation, at least we wouldn't be discussing 65 miles per hour on the floor. If you look at the membership on this committee, everyone of us is a rural Senator. You don't get very many opportunities to tailor legislation to fit our rural districts. We have the votes in this committee to kill this bill. If we kill this bill, have we really accomplished what we need to do for our rural constituents? The issue is not going to die in my opinion, the department will be back next session trying to establish a speed limit. There will always be a segment of Montana citizens that will demand a speed limit. I think we should amend the bill today, and discuss the bill on the floor on our terms.

**SENATOR LINDA NELSON**, I agree that we need some kind of numerical number in the State of Montana. I think it is hard on the Highway Patrol to answer questions on how fast is too fast. I do have amendments drafted that are similar to **SENATOR HOLDEN'S** except that my fines are steeper. I feel if we set a numerical limit and set it generously high that if they go faster than that, they need to be stopped and told that is too fast.

**SENATOR BARRY "SPOOK" STANG**, I, too, would agree that a numerical limit would make the Highway Patrolmen's job easier and if we kill this bill I would support some other legislation that is coming through. I think that the numerical limit in this amendment could fit eastern Montana very well, I think that speeds of eighty miles an hour on some roads would be very dangerous. I might be able to support 80 miles an hour and 70 miles an hour.

**SENATOR HOLDEN**, **SENATOR STANG** makes a good point. We have current statutes that would take care of Western Montana in that regard. Statute 61-8-309 which is titled the "Establishment of Special Speed Zones". Essentially what that says is if the Department of Transportation determines upon a basis of an engineering or traffic investigation that a speed limit set by 61-8-303 is greater or less than is reasonable or safe under the conditions found to exist, the commission may set a reasonable and safe speed limit for that location.

**SENATOR STANG**, then the Highway Department could go out and set a speed limit anywhere they want to right now. I think we need to give them some guidelines about where we want them to start. I see a problem with 80 miles an hour on some of the highways in my area. I think that young drivers and out-of-state motorists should have set limits that they know.

**SENATOR NELSON**, my amendment is 80 and 75, so I am right in between.

**SENATOR JERGESON**, I believe that amendments would be offered in attempt to improve the bill so that the committee could vote in favor of the bill. I don't know that there is any utility in amending a bill that the committee intends to kill in any case. I think it is a violation of what I think should be a concept of Senatorial courtesy, that we would try to amend the bill to be an anathema to what the sponsor wanted. If you don't want what the sponsor wanted then kill the bill, but don't try and amend it so that it is so egregiously changed that the sponsor couldn't tolerate it.

**SENATOR HOLDEN**, whatever speed limit you have anywhere, doesn't say that is how fast you go. The speed limit is really how fast you can go, the road conditions should determine how fast you do go. You could have a hundred mile an hour speed limit but you shouldn't under certain conditions be going that fast. I think to keep the uniqueness of Montana you almost have to stay with 80

miles an hour, to reach a comprise with the extreme ends of people who support the bill. Part of the speed limit problem in our state right now is the fact that no one knows how fast they should be going.

**Vote:** The amendment **PASSED** by Roll Call Vote. (5 to 3)

**MOTION:** SENATOR HOLDEN, moved the **NIGHT TIME SPEED LIMIT AMENDMENT. (EXHIBIT 2)**

**Discussion:** SENATOR HOLDEN, I think that if we are going to address the speed limit issue we should address it in its entirety. This would include night time speed limits as well as day time. The current limit is 55 miles per hour at night. Trying to find a Montana citizen who abides by that is difficult. I think we shouldn't have laws on the books that are never adhered to. We need to find something that people can live with and that they respect. So 65 miles per hour is what this amendment says, for interstates and two lanes. With the modern technology of our automobiles today there are times when you can drive safely at 65 miles per hour at night.

SENATOR JERGESON, I believe if you check the Constitution of the State of Montana relating to the passage of bills in the legislature there is language that says the legislature cannot change provisions of the bill that change the intent stated in the title. There is nothing in the title related to the night time speed limit and this amendment would clearly change the intent stated in the title and the intent of the sponsor and should not be adopted.

SENATOR STANG, this is an amendment that intrigues me. Is there any safety standards out there regarding to night time driving.

Gary Gillmore, we could probably find something but I don't have it right now.

SENATOR HOLDEN, I did talk to SENATOR CRIPPEN before I came today, he introduced the bill and handed it out to the committee, he left it up to us to discuss the merits of this piece of legislation and to amend it as we felt it needed to be. When you talk about the title of the bill there is no doubt that this bill was brought before the legislature to deal with speed limits and enhancing public safety of public roadways, I think it is only rational that when you are talking about enhancing public safety you would be talking about night time speed limits.

Connie Erickson, I think that if you were to use this as a substitute for the bill, if you were to strike the references to the day time speed limit and just put something on the night time speed limit then you would be in violation. By adding a night time speed limit to the current bill I'm not sure it changes its original purpose, but I would be happy to check with Greg Petesch to see.

**SENATOR JERGESON**, ultimately it would be a matter for the rules committee to decide. A rule of thumb that I was taught was you can amend a bill to do less than what is stated in the title, but you do start to run afoul if you amend a bill to do more than what was stated. By bringing in a whole new section of law and the night time speed limits I think you are doing more than what was included in the original purpose of the bill.

**SENATOR BAER**, this is a grey area, I suggest we vote and let **Greg Petesch** decide if it has gone to far.

**SENATOR MOHL**, I would agree with **SENATOR BAER** and if it is wrong then we can take it off.

**SENATOR NELSON**, I probably won't support this because there is so much wildlife on the road. I think that 65 is just to fast.

**SENATOR STANG**, I am curious about how much this is going to cost us?

**John Blacker**, it wouldn't change the fiscal note for us because the stock pile of signs have a certain shelf life of ten years. And we actually had those signs refurbished so we can use the blanks to make new signs.

**Connie Erickson**, I stand corrected Senator Jergeson was correct. Putting in the nighttime speed limit section would be reasonably germane to the bill but because the title says enhancing the public safety on public highways it would be difficult argue that raising the speed limit is enhancing public safety. Had the bill said regulating or revising speed limits we would be fine.

**SENATOR HOLDEN**, I will withdraw my amendment.

*{Tape: 1; Side: 2}*

**SENATOR COLE**, I would like to make a motion of **Do Not Pass As Amended**. The reason why I am making this motion is it appears that there is really little agreement on where we should be going as far as where our speed limits are concerned. One of the things that I have a real worry about is whenever you do put a speed limit in, regardless of what the miles per hour are you tend to have people go that limit and if the road conditions are not up to that there are always those people that say the limit said we could drive 65. I think we should try what we have for another two years and take a good look at it. There has been so much conflict on whether deaths went up or down. I don't think we have seen our speed limit increasing that much since the time that 65 went off the books. I do think that we need to help the Highway Patrol in whatever way we can, so there can be greater education, for those who come from out-of-state. One other reason that I feel we should put a Do Not Pass As Amended is the number of people that have written to me and called me have said lets not put more rules on, give us a chance to show we are "reasonable

and prudent". I don't feel that it is time to put a speed limit on.

**SENATOR BOB DEPRATU**, I would have to agree with Senator Cole in this great state for this particular type of issue, one size does not fit all. I don't at this time see a way to make one numerical limit fit all. I think we are going to create problems, in areas 65 may be too fast, I think that "reasonable and prudent" has real merit. I agree we need to do a lot more to educate people coming into the state.

**SENATOR JERGESON**, why are you making a Do Not Pass As Amended motion rather than a motion to lay on the table.

**CHAIRMAN MOHL**, if you put it on the table it comes out with out the amendment.

**SENATOR NELSON**, if we have a speed limit of 80 miles per hour but the conditions aren't right and somebody is going 65, you can still ticket them with basic rule can't you?

**Colonel Reap**, Yes that is correct.

**SENATOR STANG**, I have always maintained that if we do not put a numerical speed limit in place that we need to do something with our definition of basic rule. I think that if we don't put a numerical speed limit on, we are having our Highway Patrolmen spend a lot of time in court. If they are spending their time in court their presence on the highway isn't making these people, who are going at excessive speeds, think twice about it. What would your opinion be if we brought in a bill to change the definition of basic rule to keep our Highway Patrolmen from spending all their time in court.

**CHAIRMAN MOHL**, I have already talked to **Col. Reap** about it and I am all for defining the basic rule. No one seems to understand it. We should take as much question out of it as possible.

**SENATOR STANG**, I think that there is a bill draft that we could do that with.

**SENATOR COLE**, I would work with that. I have done a little checking and it seems that most people that have been picked up have been from out-of-state.

**SENATOR LARRY BAER**, I spent over eight months campaigning and I talked with many people, and one of the major issues was the speed limit. I would say 8 out 10 people did not want to return to a numerical speed limit. This appears to be what Montanans want. At least they want to try it for another couple years and see how it works out. If we have to, we can always change it later.

**SENATOR REINY JABS**, personally in my area it is 2 to 1 in favor of a speed limit. I drive a Lincoln Town car which is the heaviest car on the road. Going 80 miles an hour I don't feel safe in that big car, and I see kids passing me in these Ranger pickups. Those pick ups aren't made to go that fast. To me at 80 miles an hour we don't have a speed limit.

**SENATOR JERGESON**, we have doctored up a bill that clearly has to be unacceptable to the sponsor and we have amended it and now we are going to pass the motion Do Not Pass As Amended so the amendments are stuck on the bill in case the sponsor tries to blast the bill out of committee. I haven't seen this kind of maneuver happen around here very often. I think it is inappropriate. I think the sponsor ought to have the opportunity to argue his bill as he introduced it, if this committee doesn't want the bill to pass. I probably wouldn't vote for it in its introduced form, I think that **SENATOR NELSON** and I were prepared to offer some suggestions to actually improve the bill in the idea of getting its passage secured. We have amended it because we don't like it, and now we aren't even going to give the sponsor the courtesy to make a motion on a clean bill, if he tries to bring it to the floor. I will **MOVE THAT THIS BILL BE LAID ON THE TABLE**.

Vote: The **MOTION FAILED BY ROLL CALL VOTE. (5 to 4).**

**SENATOR BAER**, This committee did not reject **SENATOR JERGESON'S** proposal. We never said that we were not interested in what he had to say. We did not say that we rejected **SENATOR NELSON'S** amendment, she withdrew it voluntarily. I would like to have heard it myself. I personally resent an allegation that we have acted improperly in this committee. I don't like it. I think we are very conscientious, we are trying to do our jobs.

**SENATOR MACK COLE**, I, too, object to the remarks of **SENATOR JERGESON**, that I am trying to do something that he doesn't approve of. I am strictly looking at this as a bill that I don't feel is advantages to the people of Montana. It is a bill that I think we have done the proper thing with. That is why we are here as a committee to make a decision on this bill. Whether we vote to do not pass as amended or some other motion, that is why we are here.

**CHAIRMAN MOHL**, I, too, resent that. **SENATOR JERGESON** the other day we passed out a bill of **SENATOR MAHLUM'S**, and we amended that without his consent. You were right there with us, you voted with us. This is no different. I don't think you were in line making those kind of remarks.

**SENATOR JERGESON**, we amended that bill and passed it out. The motives for what is going on here today were described by **SENATOR HOLDEN** when he offered his amendments. That was to doctor this bill up because of the fear that the sponsor might try to bring the bill out. I am suggesting that we have not shown courtesy to

the sponsor of the bill when we do these kind of things. I am sorry that you resent my comments Mr. Chairman.

**CHAIRMAN MOHL**, we are following the rules. I would like to speak on the motion. I agree with **SENATOR COLE'S** motion because to put a speed limit of 75, 85 or 95, people will drive it. It is a proven fact. If you go down the highway with a speed limit, you will drive that speed. It is tough to put a speed limit on every road we have in Montana. I have found on highway 93 that since the speed limit has gone off the congestion is not there. The cars have spread out. You talk about speed limits, there should be a minimum speed limit. You take a car driving along the lake at 25 miles per hour with 15 cars piled up behind it, that causes accidents. In our part of the country you can drive 20 or 30 miles without a passing zone. We have dropped in fatalities since 1979. I would say if you checked there are probably 40 percent more cars on the road yet are fatalities have gone down. Why punish the people of Montana. They are careful drivers. As far as the kids in pickups, they will drive fast, a speed limit won't change that. The people are telling us, we don't need you to tell us how to drive. We don't need a speed limit.

**Vote:** the motion to **DO NOT PASS AS AMENDED CARRIED**. Roll Call Vote. (7 to 3)

**EXECUTIVE ACTION ON SB 188**

**Amendments:** sb018801.alk

**Motion:** **SENATOR STANG** MOVED DO PASS ON SB 188.

**Motion:** **SENATOR MOHL** MOVED THE AMENDMENT. (EXHIBIT 3)

**Discussion:** **Ronna Alexander**, I was supposed to offer this the other day when we were discussing the bill and I completely forgot. Basically it is just a courtesy situation. The director is the head of the department. So it makes more sense to say that the director will authorize the seizure or his designee. Secondly because fuel tax is not a separate division, it will avoid confusion to have the administrator of those divisions authorizing it.

**Vote:** The motion to **AMEND SB 188 CARRIED UNANIMOUSLY**.

**Motion:** **SENATOR STANG** moved SB 188 AS AMENDED.

**Discussion:** **SENATOR HOLDEN**, on the fiscal note is that total \$10,925, is that expected to be an increase in revenue.

**SENATOR MOHL**, yes.

**Vote:** the motion that **SB 188 DO PASS AS AMENDED CARRIED UNANIMOUSLY**.



Motion/Vote: SENATOR STANG, I would make the motion TO DO A COMMITTEE BILL ON THE SENATE JOINT RESOLUTION. That gives the committee permission to draft the bill as a committee bill and then be presented just like any other bill. The motion PASSED UNANIMOUSLY.

ADJOURNMENT

Adjournment: 4:30 PM

  
SEN. ARNIE MOHL, Chairman

  
PHOEBE KENNY, Secretary

AM/PK