

HOUSE BILL 617

IN THE HOUSE

February 6, 1979	Introduced and referred to Committee on Natural Resources.
February 19, 1979	Committee recommend bill, as amended.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass. Considered correctly engrossed.
February 23, 1979	Third reading, passed.

IN THE SENATE

February 23, 1979	Introduced and referred to Committee on Natural Resources.
March 15, 1979	Committee recommend bill, not concurred.

IN THE HOUSE

March 16, 1979	Returned from Senate, not concurred.
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1 *House* BILL NO. *617*
 2 INTRODUCED BY *Baeth Sheldon White*
 3 *Dennis Hager Kelly*

4 A BILL FOR AN ACT ENTITLED: "THE MONTANA SCENIC RESOURCES
 5 ACT; ESTABLISHING A MECHANISM FOR THE NOMINATION AND
 6 DESIGNATION OF SCENIC CORRIDORS; ESTABLISHING CRITERIA FOR
 7 DESIGNATION; ESTABLISHING GUIDELINES FOR ACTIVITIES WITHIN
 8 DESIGNATED CORRIDORS; AUTHORIZING THE ADOPTION OF RULES TO
 9 IMPLEMENT THE ACT."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Legislative findings and statement of
 13 purpose. (1) The legislature finds that the growth in urban
 14 populations and leisure time has created a commensurate
 15 growth in demand by vacationers and tourists for Montana's
 16 scenic resources. Tourism has become one of Montana's most
 17 important industries and has a major effect on the state's
 18 economy. In order to encourage the continued viability and
 19 growth of this industry and its related economic benefits to
 20 the state, it is necessary to protect and preserve Montana's
 21 scenic and natural resources, especially as they relate to
 22 transportation corridors utilized by tourists and
 23 vacationers.

24 (2) It is therefore the purpose of [this act] to
 25 provide a mechanism for the identification and designation

1 of scenic corridors and roads within the state and to
 2 encourage the protection and enhancement of scenic resources
 3 within such designated areas.

4 Section 2. Definitions. For purposes of [this act],
 5 the following definitions apply unless otherwise indicated:

6 (1) "Board" means the board of natural resources and
 7 conservation;

8 (2) "Commission" means the highway commission;

9 (3) "Department" means the department of natural
 10 resources and conservation;

11 (4) "Scenic corridor" or "designated scenic corridor"
 12 means an area of the state satisfying the criteria set forth
 13 in [section 3] and designated by the board pursuant to the
 14 provisions of [sections 4 and 5].

15 Section 3. Criteria for designation of scenic
 16 corridors. An area may qualify for designation as a scenic
 17 corridor if it contains or lies along an existing or
 18 proposed transportation corridor and satisfies one or more
 19 of the following criteria:

20 (1) The area possesses scenic, historic, or cultural
 21 qualities of local or state significance. Scenic features
 22 may include bodies of water, unusual geological formations,
 23 outstanding scenic vistas, exceptional pastoral scenes, or
 24 notable urban views.

25 (2) The area provides an interesting variety of

1 terrain, landscape types, or land-use activities.

2 (3) The transportation corridor provides opportunities
3 for the development of roadside rest and recreation areas,
4 scenic overlooks, and other complementary facilities.

5 (4) The corridor provides access to or links between
6 existing or proposed parks or other public recreation areas.

7 Section 4. Procedures for nomination of scenic
8 corridors. (1) Nominations of areas for designation as
9 scenic corridors may be submitted to the board:

10 (a) by the department or by the commission;

11 (b) by a local governing body having jurisdiction over
12 the nominated area; or

13 (c) by petition of 10% or 25 of the registered voters
14 in the county or counties in which the nominated area is
15 located, whichever number is smaller; or 10% or 25 of the
16 landowners of the nominated area, whichever number is
17 smaller.

18 (2) If a nominated area lies within the jurisdiction
19 of more than one local governing body, each one must agree
20 to a joint nomination under (1)(b). Nominations shall be
21 submitted pursuant to ordinance or resolution adopted by the
22 local governing body following public notice and hearing.
23 Proceedings of the local governing body to consider
24 nomination of scenic corridors may be initiated by the local
25 governing body or by petition of residents or landowners in

1 the nominated area.

2 (3) Nominations shall include the following
3 information:

4 (a) a map identifying the nominated area;

5 (b) a description of the nominated area, including
6 descriptions of the scenic, cultural, or historic qualities
7 of the area or other factors that qualify the area for
8 designation as a scenic corridor;

9 (c) a description of the existing transportation
10 facilities in the nominated area;

11 (d) a narrative explanation of the reasons why the
12 nominated area merits designation as a scenic corridor.

13 Section 5. Procedures for designation of a scenic
14 corridor. (1) Within 60 days after submission of a
15 nomination pursuant to [section 4], the department shall
16 hold a public hearing in each county in which the nominated
17 area is located. The department shall publish notice of the
18 hearing at least once each week for 2 successive weeks
19 immediately preceding the date of the hearing in a
20 newspaper of general circulation in the area affected by the
21 nomination.

22 (2) Within 30 days following the public hearing, the
23 board shall initiate rulemaking proceedings pursuant to the
24 rulemaking provisions of the Montana Administrative
25 Procedure Act. The board shall, within 120 days following

1 receipt of a nomination, either adopt a rule designating the
2 nominated area as a scenic corridor or reject the
3 nomination.

4 (3) The board's decision must be based on the
5 recommendations of the department and the commission and on
6 comments received at public hearings. The board shall
7 designate a nominated area as a scenic corridor if it finds
8 that:

9 (a) the nomination was submitted in compliance with
10 [this act];

11 (b) the nominated area satisfies the criteria set
12 forth in [section 3];

13 (c) designation of the area will further the purposes
14 of [this act]; and

15 (d) the benefits of designating the area will outweigh
16 any adverse social, environmental, or economic impacts that
17 might result from designation.

18 (4) If the board denies designation of a nominated
19 area, that area is ineligible for renomination for a period
20 of 6 months following the board's decision.

21 Section 6. Requirements of state and local government
22 concerning designated areas. (1) Within an area designated
23 as a scenic corridor pursuant to [this act], all projects
24 and activities of state and local government shall be, to
25 the greatest practical extent, planned, designed, and

1 conducted in such a way as to preserve those scenic,
2 cultural, and historic qualities of the area that prompted
3 its designation.

4 (2) In considering state agency activities or permit
5 applications for private activities within designated scenic
6 corridors, each agency shall consider the effects of such
7 proposed activities on the scenic quality of the corridor
8 and include an assessment of such effects in any
9 environmental impact statement prepared by the agency
10 pursuant to the Montana Environmental Policy Act.
11 Furthermore, the agency shall include and shall encourage
12 the permit applicant to include all practicable mitigative
13 measures in the planning and conduct of the proposed
14 activities in order to minimize adverse impacts on the
15 scenic qualities of the corridor.

16 (3) In planning and designing highway construction
17 projects within designated scenic corridors, including
18 location, design, or improvement of new or existing highway
19 facilities, the commission and the department of highways
20 shall, to the fullest extent possible, assure that such
21 projects are compatible with the purposes for which the area
22 was designated. To this end, highway construction projects
23 within designated scenic corridors shall place primary
24 emphasis on:

25 (a) moderate traffic speed designs;

1 (b) provision of roadside rest, recreation, and other
2 complementary facilities;

3 (c) provision of bicycle paths and footpaths;

4 (d) compatibility with other outdoor recreation,
5 aesthetic, and conservation objectives in the area;

6 (e) avoiding disturbance of wilderness areas, fish,
7 wildlife, and nature preserves and public park or recreation
8 areas or the impairment of features of scenic, geological,
9 cultural, or historic interest;

10 (f) two-lane rather than four-lane construction unless
11 the commission finds that considerations of public safety
12 indicate that there is no feasible and prudent alternative
13 to four-lane construction;

14 (4) The commission shall assign highest priority to
15 highways within designated scenic corridors for the
16 acquisition and allocation of funds pursuant to 23 U.S.C.
17 319 for the purpose of developing roadside rest and
18 recreation areas and for the acquisition of scenic easements
19 and other appropriate interests for the preservation and
20 enhancement of scenic beauty adjacent to such roads.

21 (5) The commission shall assign highest priority to
22 highways within designated scenic corridors for the
23 acquisition and allocation of funds pursuant to section 141
24 of the Federal Aid Highway Act of 1978 (PL 95-599) for the
25 purpose of developing bicycle paths and pedestrian walkways

1 adjacent to such highways.

2 (6) The commission may adopt such rules as it
3 considers appropriate to carry out the purposes of this
4 section.

5 (7) In order to avoid adverse impacts on areas that
6 have been nominated for designation pursuant to [section 4],
7 state agencies shall, to the greatest extent practicable,
8 avoid actions that would violate the provisions of this
9 section pending the decision of the board on the
10 designation.

11 Section 7. Board to adopt guidelines and rules. The
12 board may establish guidelines to aid the public in
13 nominating areas for designation as scenic corridors and to
14 guide state and local agencies in planning and conducting
15 activities within designated scenic corridors so as to
16 preserve and enhance the scenic qualities of such areas. The
17 board may adopt such rules as it considers appropriate
18 carry out the purposes of [this act].

19 Section 8. Revocation of designation. (1) The
20 revocation of scenic corridor designation may be undertaken
21 only if the following criteria are satisfied:

22 (a) The area has experienced significant changes in
23 those scenic, historic, or cultural characteristics that
24 prompted its designation as a scenic corridor.

25 (b) The extent of these changes are such that the

1 criteria for designation of a scenic corridor as set forth
2 in [section 3] are no longer satisfied.

3 (c) It has been demonstrated by the persons or
4 agencies recommending the revocation of scenic corridor
5 designation that restoration of the area to a condition
6 approximating that which existed at the time of designation
7 is not feasible, prudent, or desirable and that the social,
8 economic, and environmental benefits that will result from
9 revocation of the designation outweigh the benefits of
10 retaining the designation.

11 (2) Procedures for recommending revocation of scenic
12 corridor designation and for revoking such designation must
13 comply with the provisions of [sections 4 and 5].

-End-

Approved by Committee
on Natural Resources

HOUSE BILL NO. 617

INTRODUCED BY BAETH, SHELDEN, UMDE, BENNETT, HARPER, KEEDY

A BILL FOR AN ACT ENTITLED: "THE MONTANA SCENIC RESOURCES ACT" ESTABLISHING A MECHANISM FOR THE NOMINATION AND DESIGNATION OF SCENIC CORRIDORS; ESTABLISHING CRITERIA FOR DESIGNATION; ESTABLISHING GUIDELINES FOR ACTIVITIES WITHIN DESIGNATED CORRIDORS; AUTHORIZING THE ADOPTION OF RULES TO IMPLEMENT THE ACT."

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of scenic corridors and roads within the state and to encourage the protection and enhancement of scenic resources within such designated areas.

Section 2. Definitions. For purposes of [this act], the following definitions apply unless otherwise indicated:

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Section 3. Criteria for designation of scenic corridors. An area may qualify for designation as a scenic corridor if it contains or lies along an existing or proposed transportation corridor and satisfies one or more of the following criteria:

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1 terrain, landscape types, or land-use activities.

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14 voters in the county or counties in which the nominated area
15 is located, whichever number is smaller; or 10% or 25 of the
16 landowners of the nominated area, whichever number is
17 smaller.

18 (2) If a nominated area lies within the jurisdiction
19 of more than one local governing body, each one must agree
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18 hearing at least once each week for 2 successive weeks
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20 newspaper of general circulation in the area affected by the
21 nomination.

22 (2) Within 30 days following the public hearing, the
23 board shall initiate rulemaking proceedings pursuant to the
24 rulemaking provisions of the Montana Administrative
25 Procedure Act. The board shall, within 120 days following

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19 area, that area is ineligible for renomination for a period
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4 (2) In considering state-agency activities or-permit
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19 ESTABLISHMENT OF ANY NEW PERMIT PROGRAM NOT AUTHORIZED BY
20 THE PROVISIONS OF OTHER STATUTES.

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4 prompted its designation as a scenic corridor.

5 (b) The extent of these changes are such that the
6 criteria for designation of a scenic corridor as set forth
7 in [section 3] are no longer satisfied.

8 (c) It has been demonstrated by the persons or
9 agencies recommending the revocation of scenic corridor
10 designation that restoration of the area to a condition
11 approximating that which existed at the time of designation
12 is not feasible, prudent, or desirable and that the social,
13 economic, and environmental benefits that will result from
14 revocation of the designation outweigh the benefits of
15 retaining the designation.

16 (2) Procedures for recommending revocation of scenic
17 corridor designation and for revoking such designation must
18 comply with the provisions of [sections 4 and 5].

-End-