

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HIGHWAYS AND TRANSPORTATION**

Call to Order: By **SEN. JERRY O'NEIL**, on February 6, 2001 at 3:00 P.M., in Room 317-A Capitol.

ROLL CALL

Members Present:

Sen. Arnie Mohl, Chairman (R)
Sen. Ric Holden, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Bob DePratu (R)
Sen. Dan Harrington (D)
Sen. Sam Kitzenberg (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Glenn Roush (D)

Members Excused: Sen. Dale Berry (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Marion Mood, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 318, 1/29/2001; SB 380,
2/2/2001; HJ 3, 1/24/2001
Executive Action: HB 18; HB 75; SB 267; SB 380;
HJ 3

HEARING ON SB 318

Sponsor: E.P. 'PETE' EKEGREN, SD 44, Choteau

Proponents: Dave Galt, Montana Department of Transportation

Bob Stephens, Montana Grain Growers' Assn.

Opponents: Barry "Spook" Stang, Montana Motor Carriers' Assn.

Opening Statement by Sponsor:

SEN. PETE EKEGREN, SD 44, Choteau, opened by saying that SB 318 seeks to remove the 40 mph speed limit for farm vehicles during harvest season.

Proponents' Testimony:

Dave Galt, Montana Department of Transportation, spoke to the issue of weight tolerance granted to farm vehicles during harvest. This tolerance allows a 20% weight increase per axle within a 50 mile radius from their fields, and he felt it made sense to remove the 40 mph speed limit as well. He also addressed the tire rating, weight per inch of tire width, and assured the committee these regulations remained in place as a safeguard.

Bob Stephens, Montana Grain Growers' Association, rose in support for SB 318 and advised the committee that there was a similar bill in the House of Representatives which would increase the weight tolerance for garbage trucks, increase the radius to 100 miles, and also eliminate the 40 mph speed limit.

Opponents' Testimony:

Barry "Spook" Stang, Montana Motor Carriers' Association, offered written testimony **EXHIBIT(his30a01)** and suggested to raise the weight tolerance from 7% to 10% across the board for all commercial vehicles in order to level the playing field. He mentioned the beet harvest in eastern Montana which is done during the winter months when there is less damage to the highways and reminded the committee that the grain haulers are on the roads during the summer when the pavement is the hottest and the roads rut the easiest.

Questions from Committee Members and Responses:

SEN. RIC HOLDEN referred to the 7% tolerance **Mr. Stang** mentioned and asked where the change in weight limit was written in the bill. **Barry Spang** replied he did not mention a change in weight limits but referred to the 20% tolerance per axle which gives the grain haulers an unfair advantage. **VICE CHAIRMAN RIC HOLDEN**

stated he did not think eliminating the 40 mph speed limit would made much difference in view of the kinds of vehicles this applied to. **Mr. Stang** replied that the bill gives a farm vehicle a weight limit of 670 pounds per inch of tire width. The 7% tolerance gives a regular truck about a 470 pound per square inch rating, and he felt it gives the farm truck more allowable weight and, with the increase in speed, it does more damage to the highways. **VICE CHAIRMAN HOLDEN** redirected his question to **Mr. Galt** and asked what he thought was being done with regards to weight. **Mr. Galt** first addressed the issue of weight tolerances and said that trucks are allowed a 7% tolerance before they are issued a citation. This applies to all trucks except garbage trucks which have a 10% tolerance. He added the 7% tolerance also applied to agricultural vehicles except during harvest time. During harvest time only, they are allowed a 20% tolerance within a 50 mile radius from the field, as long as they obey the 40 mph speed limit. He concluded that this bill only deals with eliminating the 40 mph speed limit whereas the second bill mentioned dealt with changes in the weight. **SEN. VICKI COCCHIARELLA** asked whether damage to highways was calculated by a weight and speed formula. **Mr. Galt** replied that the speed issue usually comes up during spring break-up, and that was why the department lowered the weight limits for trucks at that time as well as the speed. He said the issue of speed resulting in road damage could not be proved. **SEN. COCCHIARELLA** recounted damage to the interstate highway during the summer when it is hot, and asked whether there was evidence to support **Mr. Stang's** claim of more damage with regards to the higher tolerance for farm trucks. **Mr. Stang** replied that added weight at higher speeds does damage to the highways and suggested that was the reason for the restrictions on all other trucks. He also wondered how much over the standard 7% tolerance we could go before losing federal highway funds and repeated the same standard should apply to the entire trucking industry.

Closing by Sponsor:

SEN. EKEGREN closed by pointing out that SB 318 applied to a 50 mile radius only and not to the network of major highways.

HEARING ON SB 380

Sponsor: **SEN. WALTER McNUTT, SD 50, Sidney**

Proponents: **Barry "Spook" Stang, Montana Motor Carriers' Assn.
Dave Galt, Montana Department of Transportation
Dan Wirak, Mergenthaler Transfer & Storage Co.**

Opponents: **none**

Opening Statement by Sponsor:

SEN. WALTER McNUTT, SD 50, Sidney, introduced SB 380 by saying that his bill revised length restrictions on triple trailer trucks, making the overall length of the trailers 95 feet. In the past, the 95 feet limit had to include the tractor, and this added an extra financial burden on the companies trying to stay within legal limits on interstate hauls. The second part of SB 380 deals with revising the fee structure for triple trailer trucks.

Proponents' Testimony:

Barry "Spook" Stang, Montana Motor Carriers' Association, handed in written testimony **EXHIBIT** (his30a02) which included an illustration of commercial truck configurations.

Dave Galt, Montana Department of Transportation, stated that addressing the length issue was a good idea. It would not increase the length of the trucks by much but allowed more flexibility by enabling them to use different power units. He was not all that comfortable with the second issue because of the condition of the state's special revenue but admitted the current fee structure was not fair. It was enacted in 1989 and revised in 1993, but Schedule III fees for power units was left in place for triple trailers.

Dan Wirak, Mergenthaler Transfer & Storage, referred to the considerable difference in fees between triple trailers and Rocky Mountain doubles as shown on Exhibit (2). He stated that a set of triple trailers is more stable behind the tractor than a set of Rocky Mountain doubles because each box is shorter, resulting in a smaller turning radius. The weight is spread out more because of the extra axle, causing less damage to the roads. He then mentioned the difference in regulations between the states his company does business in, namely Idaho and Utah who make no distinction between triples and Rocky Mountain doubles with regards to fees. He stated that his dispatchers had to be extremely careful when running combinations out of those states because a triple pays almost twice the fee over a Rocky Mountain double in Montana, and they had to comply or get fined at the scales. He repeated that this was an unfair tax because both types of trucks pulled the same weight and almost the same volume. He then added it would save additional handling at the warehouse since, if they had freight for different destinations, they could load each into a separate trailer and drop off or pick up individual trailers at those points. He concurred with **Dave Galt** in that this was a fair bill and hoped it would pass.

Questions from Committee Members and Responses:

SEN. COCCHIARELLA asked **Dave Galt** for clarification of the fairness in the fee structure. **Dave Galt** explained that in 1989 charged these trucks the highest fee as allowed under Schedule III plus \$200 permit per unit. At that time, Schedule I and Schedule II were the same amount; Schedule I applied to the truck for 46,000 pounds and Schedule II on the trailers for the remaining weight, and that reduced the fee drastically. Schedule III was a much higher fee, and since very few carriers then had triples, the fee for those was set higher. In 1993, the department asked to have the GVW fee schedule changed and go to a power unit based fee structure. Schedules I and II were combined and the fees mitigated to reflect what these trucks should be paying. Schedule III for triples was left in place because no one wanted to deal with this issue, even though these fees were not justified in his opinion.

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SEN. JERRY O'NEIL asked what the maximum allowable length of a truck was. **Dave Galt** asked whether he meant a triple, and **SEN. O'NEIL** answered he meant the truck that pulled the trailer. **Dave Galt** explained that the department regulates single and combination units by either overall length on some units or trailer length on others, there is no limit for the tractor that pulls them. **SEN. O'NEIL** then referred to the truck in the illustration, and **Dave Galt** answered that under statute, a single unit in Montana was either 45 or 50 feet. **SEN. O'NEIL** then wondered if the truck was 45 feet long and a 95 foot trailer was added, would that not make for a 140 foot unit. **Dave Galt** replied single units are trucks. A truck tractor used to pull trailers was just a tractor, not a truck, and it had a fifth-wheel connection to hook up the trailers, and it is called a "cab over tractor". One of these, pulling a triple trailer, is allowed to be 105 feet long. If it was a conventional tractor, one with a longer nose, pulling this triple trailer, it could have a length of up to 110 feet. He repeated that this bill ignores the length combination of trailers and tractors and focuses only on the maximum allowable trailer length, and that remains at 95 feet. It allows more options with regards to the power units' wheel base. **SEN. O'NEIL** still wondered if it was not possible for a regular truck to pull a 95 foot trailer. **Dave Galt** referred him to the definition of a triple trailer truck which is a truck tractor-semitrailer-semitrailer-semitrailer, and this prohibits the use of a truck for pulling purposes. On the other hand, if you use a truck, you have to go truck-trailer-trailer.

Closing by Sponsor:

SEN. McNUTT closed on SB 380, saying it was a fair bill and long overdue.

HEARING ON HJ 3

Sponsor: REP. MICHELLE LEE, HD 26, Livingston

Proponents: Bill Kennedy, Yellowstone County Commissioner
Fran Warsol, State Director, United Transportation Union
Patti Keebler, Montana AFL-CIO
Russ Ritter, Montana Rail-Link, Washington Corporation
Kathy Deserly, self
Pat Keim, Burlington Northern & Sante Fe

Opponents: None

Opening Statement by Sponsor:

REP. MICHELLE LEE, HD 26, Livingston, opened by saying that HJ 3 was a joint resolution advocating an Amtrak route from Denver to Spokane which passes through southern and western Montana. Currently, a feasibility study is being done thanks to the efforts of both the Wyoming and Montana congressional delegations. She cited support from various businesses and Chambers of Commerce and offered **EXHIBIT (his30a03)**, comprised of copies of other communities' resolutions, a map, and population data. She also mentioned the some 8,000 signatures that had been collected during a petition drive.

Proponents' Testimony:

Bill Kennedy, Yellowstone County Commissioner, rose in support of HJ 3 and passed out a letter from the Yellowstone County Commissioners and their attached resolution **EXHIBIT (his30a04)**.

Fran Warsol, State Director, United Transportation Union, stated that this resolution provided people with another travel option which was also much safer than car travel. He further stated that Amtrak was energy efficient as well as environmentally friendly. Additional Amtrak service would provide roughly 60 more jobs at \$35,000 to \$60,000 per year, with health care and retirement benefits.

Patti Keebler, Montana AFL-CIO, said her organization has long supported a southern Amtrak route because it provided affordable transportation as well as well-paying jobs.

Russ Ritter, Montana Rail-Link, Washington Corp., stated his company operated rail service from roughly Sandpoint, Idaho to Billings and Huntley, and the suggested Amtrak route would fall primarily onto their rail line. He pointed to additional cost borne by his company to bring about 136 miles of curbs up to standard for high-speed passenger service. He mentioned this proposed service would also greatly benefit Montana's college students.

Kathy Deserly, self, stated that as a former Amtrak employee, she knew how difficult is for a lot of people to get to an Amtrak station with only the northern route in operation. In her experience in ticket sales, she found that many tourists stayed away because of the lack of rail service. She also mentioned the high airfares as well as the inconvenience of having to travel by bus to get to an airline hub to take advantage of lower fares.

EXHIBIT (his30a05)

Pat Keim, Burlington Northern & Sante Fe, also arose in favor of the resolution and said he was available for any questions.

Questions from Committee Members and Responses:

SEN. GLENN ROUSH asked for clarification of the word "development" on line 25 of the resolution. **REP. LEE** answered there were different phases of development, such as a feasibility study, and an engineering and operating study, and support of the proposal signaled to Congress that there was a need for the southern route. **SEN. ROUSH** wondered what this new route would do to the established northern route with regards to Congress' mandate that Amtrak be self-sufficient. **REP. LEE** replied that both Sen. Burns and Sen. Baucus as well as Amtrak itself have been very adamant in saying the Hi-Line will not be jeopardized by this in any way. Also, the southern route would attract new passengers and would not detract from the northern route. She addressed the self-sufficiency issue by saying that it was Amtrak's goal to become a nation-wide network, and that is why these so-called feeder routes are being added. **VICE CHAIRMAN HOLDEN** wondered what kind of commitment there was by the state of Montana to fund such a route. **Russ Ritter** answered there was no commitment on behalf of the state as far as he knew but referred the question to **REP. LEE** who said she was informed it was an 80/20 split regarding capital cost. This is assessed during the engineering and operating study and pertains to the cost of additional trackage and such. Amtrak is looking at this being a

system train versus a state-supported train which means that revenue would pay for the associated cost. There is a state commitment with the engineering and operating study but she was assured that as soon as the House Taxation Committee came up with an amount, private money would be put into that account. **VICE CHAIRMAN HOLDEN** wanted assurance that the state would not fund this study but private individuals. **REP. LEE** said this was correct. **SEN. O'NEIL** wondered how many passengers it would take for Amtrak to break even. **REP. LEE** replied this would be determined in the engineering and operating study. **SEN. ARNIE MOHL** wondered if approval of the study also meant approval of financing 20% of the cost. **REP. LEE** said it did not, and she added the 80/20 split she had talked about earlier was at least 4 years away. **SEN. MOHL** wanted to know if the percentage was 20% of the study or 20% of the cost associated with establishing the route. **REP. LEE** replied that the resolution did not include any funding but rather signaled support for another route. She went on to say that companion legislation deals with funding the engineering and operating study. The 20% co-payment would arise once that study was completed. **SEN. MOHL** asked if she knew what that 20% amounted to, and **REP. LEE** said no, not until the study is completed. **SEN. ROBERT DePRATU** felt in light of the problems with transportation in Montana, we needed to support this resolution. He also repeated that by passing this resolution, we are not committing to any funding. He then asked if any economic studies had been done that would indicate what this would do to help tourism, and whether these trains would also carry mail or other similar freight. **REP. LEE** answered that there were preliminary studies dealing with this, and she referred to the last page in her Exhibit (3). She stated that currently, there was the potential for 19 revenue cars. **VICE CHAIRMAN HOLDEN** remembered the animosity connected to Amtrak pulling out of the southern route years ago and wondered why Burlington-Northern was now in support of this project.

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Pat Keim answered that it had solely been Amtrak's decision. **VICE CHAIRMAN HOLDEN** asked what had changed economically since then to make a second route attractive to Burlington Northern (BNSF) now. **Pat Keim** replied that when Amtrak was created in 1972, the railroad companies which operated passenger service could and did turn over that portion of their service to Amtrak. This then gave Amtrak the right to operate its trains on their tracks. If this southern route is established, Amtrak would re-impose itself onto these rail lines, and Burlington Northern would like to work together with Amtrak to develop an operating system beneficial to both companies. She said they are doing this on the northern route already, and pointed out that this route had one of Amtrak's highest on-time performance and

occupancy percentages. Secondly, he said this would be an opportunity to reassert the importance of railroads because to most people, they were a nuisance at railroad crossings, for instance, and normally they do not give a thought to all the merchandise and products that are being shipped by rail. **VICE CHAIRMAN HOLDEN** asked whether **Mr. Keim's** employer realized any profits from Amtrak's operation other than the public relations aspect. **Pat Keim** replied this was the case but added they could receive a bonus if the trains retained a certain percentage of on-time performance because Burlington Northern was responsible for the dispatching. He pointed out this was not a great amount of money but certainly presented an incentive. He also referred to the higher maintenance cost associated with operating a passenger train, and Amtrak would absorb these costs. **SEN. ROUSH** asked if the present route from Denver to Laurel or Billings was a BNSF route to which **Pat Keim** replied that it was. **SEN. O'NEIL** wondered if the railroad would help fund this study, referring to the 20% co-payment. **Pat Keim** replied that he doubted that they would. **SEN. O'NEIL** asked whether he knew how much money this would be. **Pat Keim** answered he did not know.

Closing by Sponsor:

REP. LEE closed on HJ3 by reminding the committee that this was a resolution requested by our citizens, and referred again to the over 8,000 signatures collected.

CHAIRMAN MOHL proceeded to chair the meeting during executive action.

EXECUTIVE ACTION ON HB 18

Motion: **VICE CHAIRMAN HOLDEN** moved that **HB 18 BE CONCURRED IN.**

Discussion:

SEN. VICKI COCCHIARELLA repeated that she wanted the word "reduced" removed. **Connie Erickson** said it could be worded "reduced or increased speed limits", and this would retain the intent of the bill. **SEN. COCCHIARELLA** then asked if the committee could vote on this without having the actual amendment before them. **Connie Erickson** confirmed that the committee could and **SEN. COCCHIARELLA** requested that "reduced or increased" be added wherever appropriate.

Substitute Motion: **SEN. COCCHIARELLA** made a substitute motion that **AMENDMENT #HB001801.ace BE ADOPTED.**

Motion/Vote: SEN. MOHL moved that **AMENDMENT TO HB 18 BE ADOPTED.**
Motion carried 9-0, with SEN. BERRY excused.

Motion: SEN. COCCHIARELLA moved that **HB 18 BE CONCURRED IN AS AMENDED.**

Discussion:

SEN. ROUSH felt with passage of this bill there would be numerous requests to post changed speed limit signs and wondered who would pay for the signs, seeing there was no fiscal note attached.

SEN. DePRATU did not feel this would cause the perceived rush because of the considerations given when the new speed limits became law. He did feel this bill was needed, though. SEN. GERALD PEASE recounted an experience near Billings where the speed limit on the frontage road was set higher than that of the freeway. He felt passage of this bill would help speed up the process of revising the speed limits.

Motion/Vote: SEN. MOHL moved that **HB 18 BE CONCURRED IN AS AMENDED.** Motion carried 8-0, with SENS. DALE BERRY and DAN HARRINGTON excused.

SEN. COCCHIARELLA offered to carry HB 18 in the Senate.

Amendment #HB001801.ace was turned in to the secretary on the following morning. **EXHIBIT (his30a06)**

EXECUTIVE ACTION ON HB 75

Motion: SEN. ROUSH moved that **HB 75 BE CONCURRED IN.**

Discussion: none

Motion/Vote: SEN. MOHL moved that **HB 75 BE CONCURRED IN.** Motion failed 4-5 with Harrington, Holden, Mohl, and Roush voting aye.

Motion/Vote: SEN. PEASE moved that **HB 75 BE TABLED.** Motion carried 9-0, with SEN. BERRY excused.

EXECUTIVE ACTION ON SB 267

Motion: SEN. COCCHIARELLA moved that **SB 267 DO PASS.**

Discussion:

VICE CHAIRMAN HOLDEN voiced support for the bill, saying that in the past, all MIP violations were lumped together and put on a minor's record, and this bill would allow the non-driving violations to be sealed. **CHAIRMAN MOHL** admitted the bill was a good one but said he had a hard time voting for it since there was a fiscal note attached.

Motion/Vote: **SEN. MOHL** moved that **SB 267 DO PASS**. Motion carried 8-1 with Mohl voting no.

EXECUTIVE ACTION ON HJ 3

Motion: **VICE CHAIRMAN HOLDEN** moved that **HJ 3 BE CONCURRED IN**.

Discussion:

VICE CHAIRMAN HOLDEN felt this resolution should move forward to not only give credence to the people who took the time to sign the petition, but also to see if there would be a marked economic benefit to the state. It would be up to the next legislature to decide if they wanted to go forward or how to fund this project.

SEN. DePRATU concurred for all the same reasons.

Motion/Vote: **SEN. MOHL** moved that **HJ 3 BE CONCURRED IN**. Motion carried 9-0, with **SEN. BARRY** excused.

SEN. KEN MILLER had offered to carry HJ 3 in the Senate.

EXECUTIVE ACTION ON SB 380

Motion: **SEN. HOLDEN** moved that **SB 380 DO PASS**.

Discussion:

VICE CHAIRMAN HOLDEN said that as the trucking industry has evolved, trucks have become longer and safer, and he saw no reason for some of these to be burdened with higher fees and permits. **SEN. COCCHIARELLA** added that not only did triple trailer trucks pay more in fees but they were also assessed a \$200 permit fee. She also felt this was unfair, especially in light of the fact that here was better weight distribution and, therefore, less damage to the roads. Lastly, she suggested the interim study committee should take a look at the fee structure and maybe revise them. **SEN. DePRATU** stated we would take a burden off the trucking industry by them not having to juggle tractors. He concurred with **Mr. Wirak** with regards to being able

to drop off cargo in separate metropolitan areas if they were using the triples. **SEN. O'NEIL** stated that a longer truck would probably cause less damage to the highway.

Motion/Vote: **SEN. MOHL** moved that **SB 380 DO PASS**. **Motion carried 9-0**, with **SEN. BERRY** excused.

ADJOURNMENT

Adjournment: 4:50 P.M.

SEN. ARNIE MOHL, Chairman

MARION MOOD, Secretary

AM/MM

EXHIBIT (his30aad)