

**MINUTES**

**MONTANA SENATE  
57th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN DALE MAHLUM**, on March 20, 2001 at 4:15 P.M., in Room 335 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Dale Mahlum, Chairman (R)  
Sen. John C. Bohlinger, Vice Chairman (R)  
Sen. Bill Glaser (R)  
Sen. Don Hargrove (R)  
Sen. Ken Miller (R)  
Sen. Emily Stonington (D)  
Sen. Ken Toole (D)

**Members Excused:** Sen. Chris Christiaens (D)  
Sen. John Cobb (R)  
Sen. Jim Elliott (D)  
Sen. Duane Grimes (R)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Mary Gay Wells, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HJR 24, 3/1/2001  
HJR 31, 3/1/2001  
HB 408, 3/1/2001

Executive Action: HJR 24 BC  
HB 408 BC

**{Tape : 1; Side : A; Approx. Time Counter : 0}**

**HEARING ON HJR 24**

**Sponsor: REP. DAVID WANZENRIED, HD 68, MISSOULA**

**Proponents: Linda Stoll, MT Assoc. of Planners  
Peggy Trenk, MT Assoc. of Realtors  
Hal Fossum, City Planner, Helena**

**Opponents: None**

**Opening Statement by Sponsor:**

**REP. DAVID WANZANRIED, HD 68, MISSOULA.** This resolution calls for a study of city annexation and to develop a guiding policy on annexation and to generate recommendations based on the study's findings. Every session there are bills on annexation laws and nothing very productive comes out of these bills. Policies need to be decided to allow the cities to grow and to protect the property owners outside the city limits.

**Proponents' Testimony:**

**Linda Stoll, MT Assoc. of Planners.** Every session the legislature is riddled with annexation bills and most of them don't pass. The fact that there are so many ways to annex, it is indicative of the fact that these annexation policies have not been looked at cohesively. The Association of Planners is in strong support of the bill. She had a couple of suggested amendments **EXHIBIT(los63a01)**. They wanted to include "relevant economic analyses." They also wanted to have the Growth Policy Forum of the Montana Consensus Council as a part of the study team.

**Peggy Trenk, MT Assoc. of Realtors.** They have members who have discussed annexation procedures and all have different issues and questions. They hope this resolution will be passed.

**Hal Fossum, City Planner, Helena.** There is broad support for this bill. Whatever side of the annexation questions that a person stands on, there will be many opportunities to come together and work out a good process for all. The proposed amendments of the economic analysis are very important. Forty percent of all population growth has been within the largest six cities and 70% of all population growth has been in those counties. The function of the cities as economic drivers is increasing. This bill can clear up many of the issues in the way cities should go. Currently, most cities tend to take the path of least resistance. They wait until people come individually and ask to be annexed and hooked up to city services. This

usually results in the most expensive and least efficient possible way of annexation. His one concern is these issues are framed before the legislature as "Missoula issues" but they are statewide issues.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**CHAIRMAN DALE MAHLUM** realizes that there is a lot of controversy over annexation in his city/county of Missoula. He wondered if this resolution could come up with something concrete in two years and would be of help to Missoula. **REP. WANZENRIED** was not sure if it would be that great of help to Missoula, but it would bring together the parties that are on different sides of this issue. The delegation that came over and testified in the House Local Government Committee on annexation bills, wants this done as a last resort. This resolution would bring in better legislation.

**Closing by Sponsor:**

**REP. WANZENRIED** closed.

**HEARING ON HB 408**

**Sponsor:** **REP. TRUDI SCHMIDT, HD 42, GREAT FALLS**

**Proponents:** **Deborah Kottel, Representing Cascade County Commissioners**

**Peggy Beltrone, Cascade County Commissioner**

**Don Henen, Cascade County Surveyor**

**Eric Griffin, Director, Public Works, Lewis & Clark County and MT Assoc. of County Road Supervisors**

**Jane Jelinski, MT Assoc. of Counties (MACO)**

**Jack Holstrum, Attorney, MACO**

**Charles Brooks, City of Billings**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**REP. TRUDI SCHMIDT, HD 42, GREAT FALLS.** House Bill 408 is attempting to do one thing. That is to clarify current policy with a definition of what an obstruction is on a county road.

New language describes an obstruction as a rock or a fallen tree. It does not mean snow or ice.

**Proponents' Testimony:**

**Deborah Kottel, Representing Cascade County Commissioners.** She handed out a statute on general provisions related to bridges **EXHIBIT (1os63a02)**. In 1965 all bills dealing with roads were codified into one bill. She drew the committee's attention to the backside of the exhibit and said that was how the law used to look. Removal of Obstructions and Repair of Bridges was the original law. It was clear that obstruction meant the removal of a fallen tree, a rock slide across the road, etc. Later, the two sections were severed from one another. Removal of obstructions from county roads was put into a separate section. The repair of bridges was put into another section. That, in itself, might not have caused confusion except 7-14-2103 described duties of county commissioners. Subsection 4 states county commissioners may determine the level and scope of maintenance on a county road under their jurisdiction. Later in the statute, it states, "it shall."

Therefore, if the word "obstruction" is defined as the word "maintenance," the statute conflicts. Historically, they have never been thought to be the same. For the last 65 years the word "maintenance" has meant to be ice and snow removal and general maintenance of the road whereas "obstruction" has meant a permanent-type object. Recently, that has been called into question. Someone has said that snow is an obstruction and the counties must remove snow. Snow cannot be removed equally among all county roads. Commissioners make those decisions of priority. This bill asks for the same level of maintenance that has been done for the last 65 years. It will clarify the language of obstruction and maintenance and it will save the counties money, time, etc.

**Peggy Beltrone, Cascade County Commissioner.** She had a handout entitled Cascade County Road Issues **EXHIBIT (1os63a03)**. She drew their attention to the 954 miles of maintained gravel roads and 251 miles of paved maintained roads. There are 267 miles of non-maintained gravel roads. Many factors go into the decisions of what roads will or will not be maintained. She supported the bill.

**Don Henen, Cascade County Surveyor.** There are roads that they do not maintain. They have been asked to remove snow on roads they do not maintain. Financially, it is impossible. Equipment is limited as well as manpower. He asked for the committee's support.

**Eric Griffin, Director, Public Works, Lewis & Clark County and MT Assoc. of County Road Supervisors.** House Bill 408 helps local governments define duties and responsibilities related to county roads. He stands in support of the bill.

**Jane Jelinski, MT Assoc. of Counties.** MACO supports the bill. She related a true story of a woman who called and requested removal of snow on her road. Her house was at the top of a mountain at the end of a mud road. This lady felt it was the county's duty to remove snow. Ms. Jelinski was in favor of the bill.

**Jack Holstrum, Attorney, MT Assoc. of Counties.** Since there were no definitive definition in law concerning the word "obstruction," it was necessary to have the statute changed. There have been rulings by judges and even the Montana Supreme Court. He had done research across the country as well. This legislation would take the question out of what the words "construction" and "maintenance" mean and the courts would not have to enter into the discussion.

**Charles Brooks, City of Billings.** He agreed with previous statements and stood in support of the bill.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses: None**

**Closing by Sponsor:**

REP. SCHMIDT closed.

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**HEARING ON HJR 31**

**Sponsor: REP. TRUDI SCHMIDT, HD 42, GREAT FALLS**

**Proponents: None**

**Opponents: None**

**Opening Statement by Sponsor:**

**REP. TRUDI SCHMIDT, HD 42, GREAT FALLS.** This resolution would encourage the Department of Public Health and Human Services to

work with other agencies in examining the problem of teen use of alcohol and drugs while driving or riding in a motor vehicle. It would also encourage the Department to report any findings or recommendations to the Children, Families, Health, and Human Services Interim Committee. She had been on that Committee in the past interim and felt this resolution would be of great help. She had received information from a man in Maryland who had become concerned with teens driving while drinking and doing drugs. His group, called Aluminum Anonymous, had estimated an average of 800 beer cans and beer bottles were thrown alongside the Montana highways per mile. He wanted to show the correlation between rising teen accidents in vehicles and teen drinking. Other states are passing this same kind of resolution. His hope is that all states would join in.

**Questions from Committee Members and Responses:**

**SEN. EMILY STONINGTON** asked if it were the understanding of the sponsor that the study would be rated. If this resolution is just encouraging the Department to do a study, it would probably just be referred to the Department. **REP. SCHMIDT** thought that would be so.

**SEN. STONINGTON** said there was nothing that the legislature would rate. It wouldn't be done as an interim study. **REP. SCHMIDT** replied yes.

**SEN. DON HARGROVE** wanted to add/subtract to the resolution. His idea was to take out "the driving or riding in a motor vehicle." A recent study had shown that in Montana, the biggest single identified expense is substance abuse. Corrections, broken homes, health problems, family service problems and welfare problems are all associated with drug abuse. In 1995, he had tried to get a study similar to this resolution. He asked if his idea would be accepted and would it fit the title of the bill. **REP. SCHMIDT** inquired which lines was he looking at.

**SEN. HARGROVE** indicated the lines with motor vehicles. He wanted to include drug use anywhere as well as in a motor vehicle.

**REP. SCHMIDT** was agreeable.

**Leanne Kurtz** offered that she felt changing the language somewhat to include drug use in general would be possible. She then offered to make an amendment.

**SEN. KEN MILLER** felt that there is so much going on with different groups studying this and that. He wondered if this resolution would not be a duplication of another or several other

studies. **REP. SCHMIDT** said that whatever was appropriate would be fine.

**Closing by Sponsor:**

**REP. SCHMIDT** closed.

**EXECUTIVE ACTION ON HJR 24**

**Motion/Vote:** **SEN. BOHLINGER** moved that **HJR 24 BE CONCURRED IN.**  
**Motion carried 5-1 with Miller voting no. Sen. Bohlinger will carry the bill.**

**EXECUTIVE ACTION ON HB 408**

**Motion/Vote:** **SEN. STONINGTON** moved that **HB 408 BE CONCURRED IN.**  
**Motion carried 6-0. Sen. Mahlum will carry the bill.**

**Senator Glaser was not present at the time of voting.**

**ADJOURNMENT**

Adjournment: 5:15 P.M.

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SEN. DALE MAHLUM, Chairman

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MARY GAY WELLS, Secretary

DM/MW

**EXHIBIT (1os63aad)**