

Decision Tool for the SJR 26 Study of the Movement of Oversize Loads  
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 For the Revenue and Transportation Interim Committee  
 July 2014

Senate Joint Resolution No. 26 requested a study of the movement of oversize loads and asked the assigned interim committee to identify "impediments in Montana law that preclude or discourage transporting oversize loads" and "options to remove or mitigate the impediments to efficiently and in a cost-effective manner transport oversize and other loads through Montana."

This decision tool summarizes testimony received as part of the study and provides options and consideration to assist committee members in deciding whether to issue findings, make recommendations, and/or request draft legislation. The committee heard comments on a range of concerns related to the movement of oversize loads. This tool focuses on those with a clear statutory component.

**Oversize Load Corridors**

- Should there be oversize load corridors in Montana?

**Background**

At the December meeting, the Montana Department of Transportation (MDT) provided the committee with a [legal opinion](#) indicating that MDT does not have the authority to charge special fees for oversize loads traveling on specific routes to finance utility relocation on those routes.

**Testimony**

The committee received comments from industry representatives and from individuals that reside in areas through which oversize loads often travel.

Recommendation	Received From
MDT should designate specific routes, based on current and projected demand, where oversize loads will be accommodated. Utilities should be permanently relocated on these routes.	Barry "Spook" Stang, Motor Carriers of Montana ( <a href="#">letter</a> )
The Legislature should establish a process that directs MDT to identify the preferred "corridors of commerce," pay for the necessary upgrades to accommodate the anticipated oversize loads, then charge appropriate fees in the future that will allow the agency to recapture its investment.	Barry "Spook" Stang, Motor Carriers of Montana ( <a href="#">letter</a> )
MDT should have a mechanism to identify corridors of commerce. This would entail permanent relocation of utilities and putting traffic signals on rotating bases.	Cary Hegreberg, Montana Contractors Association

Recommendation	Received From
The committee should consider the creation of enhanced transportation corridors north to Alberta and east to the Bakken. Power lines should be raised and traffic signals should be put on rotating bases. This development should be done with economic development dollars and a fee should be added to the 32J permit to cover the costs.	Steve Nelson, Owner of Bonner Property Development, Missoula
An alternative to the above recommendation is to create a funding mechanism for a private company to recover its costs if it develops route enhancements independently.	Steve Nelson, Owner of Bonner Property Development, Missoula
Oversize load corridors through Augusta and Choteau exist by default already. MDT should be given money to build turnouts on U.S. Highway 287.	Nancy Thornton, Choteau
If the state establishes an oversize load corridor, the corridor should not include Highway 200 near the Blackfoot River.	Susan Estep, Missoula
Request legislation to direct MDT to identify and designate preferred state and federal roadways to serve as corridors to transport oversize loads throughout the state. The legislation should appropriate money to fund necessary upgrades. Fees associated with any permit system should be commensurate with the cost of administration.	Glenn Oppel, Montana Chamber of Commerce ( <a href="#">letter</a> )

**Considerations**

If the committee is considering requesting legislation to establish oversize load corridors, the following should be considered:

- What entity should establish the corridors (Legislature, Department of Transportation)?
- How should the corridors be funded?
  - If state funds are used to establish the corridors, are permit fees raised to cover the costs? If so, how much would permit fees need to increase to cover the cost of establishing corridors?
- What roads should be included in the corridors?

**Options**

1. Request draft legislation to allow the establishment of oversize load corridors. Specify which entity identifies roads to include on the corridor and who pays for infrastructure improvements on the corridor.
2. Allow private entities to establish oversize load corridors and recover costs from other users.
3. Continue with the current system in which a mover works with MDT to identify a route and address any physical impediments.

## **Local Government Permits**

- Should local governments be allowed to issue oversize load permits?

### **Background**

The city of Missoula requires an oversize vehicle to obtain a permit from the city to move through the city on U.S. Highway 93. The permit fee is \$309 for an oversize and overweight vehicle. At the request of the committee, staff attorney Jaret Coles prepared a [legal opinion](#) which concluded that Missoula is likely legally prohibited from enacting a local ordinance that requires certain oversize loads on U.S. Highway 93 to pay a fee and obtain a permit. Missoula’s city attorney also provided the committee with a [legal analysis](#) supporting the city’s position that it can require an oversize permit. The committee also received a [letter](#) from Missoula Mayor Jon Engen explaining that the oversize permits allow the city to recover costs associated with the oversize loads.

### **Testimony**

Representatives from the city of Missoula did not offer recommendations for the study. However, one might conclude that these representatives, by providing information on the reasons for creating the permit and an analysis of the legal authority to do so, are in favor of allowing local government oversize permits. Other testimony on the topic is summarized in the table that follows.

<b>Recommendation</b>	<b>Received From</b>
Request legislation to prohibit local governments from issuing additional oversize load permits.	Cary Hegreberg, Montana Contractors Association
Clarify in statute that local jurisdictions have no authority to impose a separate permit or fee for oversize loads moving solely on state or federal roadways.	Barry “Spook” Stang, Motor Carriers of Montana ( <a href="#">letter</a> )
Local governments should be allowed to issue oversize load permits.	Susan Estep, Missoula
Prohibiting a local government from enacting an oversize permit is not the way to address this issue. Address local government concerns with a state regulation or with oversize load corridors. Local governments should be able to recover costs related to oversize loads.	Alec Hansen, League of Cities and Towns
Include in legislation to establish oversize corridors a provision that local jurisdictions do not have the authority to impose a separate permit process and/or fee for oversize loads transported solely on state or federal roadways.	Glenn Oppel, Montana Chamber of Commerce ( <a href="#">letter</a> )

### **Considerations**

The following questions may help committee members think about whether to take any action related to local government oversize load permits.

There are two main considerations related to local government oversize permits:

- Should Montana law authorize local governments to issue oversize permits?
- Does Montana law authorize local governments to issue oversize permits?

In addition, the committee might consider whether differing legal analyses on the topic of local government oversize permits indicate that Montana statute is unclear or could be clarified.

### Options

1. Depending on the committee’s answers to the above two questions, the committee may wish to request draft legislation to reflect the committee position.
2. If the committee thinks the statute is clear and /or there is no interest in changing Montana law, the committee could make a finding to that effect.

### 10-Minute Rule

- Should the rule that traffic cannot be delayed by an oversize load more than 10 minutes be changed?

### Background

Administrative Rule [18.8.1101](#)(6) addresses the movement of houses, buildings, extremely heavy machinery, and other large and unusual objects. These are the types of moves that require the 32J permit. Subsection (6) of the rule provides that “The permittee shall not delay traffic in excess of 10 minutes. The applicant shall make every possible effort to keep other traffic moving at all times.”

### Testimony

Those providing comments on the 10-minute rule stated that construction delays are routinely 15 minutes or longer.

Recommendation	Received From
Revise the 10-minute traffic delay rule	Cary Hegreberg, Montana Contractors Association
Extend the timeframes for delaying traffic to at least match those granted construction projects	Barry “Spook” Stang, Motor Carriers of Montana ( <a href="#">letter</a> )

### Considerations

- What is an acceptable amount of time for a delay?
- Are there specific locations where delays frequently occur?
- Who is affected by delays?
- Are there other ways to mitigate delays (turnouts, improved traffic plans)?

### Options

1. Write a letter to MDT, requesting revision of the 10-minute traffic delay rule.
2. Request legislation to specify a different amount of time for which traffic can be delayed. (This would require MDT to repeal the 10-minute rule as it would conflict with statute.)
3. If the committee does not wish to revise the 10-minute rule, include in the final report a finding about why the 10-minute rule should remain in place.

## Online, Self-Executing Permitting for Oversize Loads

- Should Montana offer online, self-executing permitting for large oversize loads?

### Background

The online permitting system used by the Texas Department of Motor Vehicles has been discussed as a model system in which the mover can enter vehicle specifications and quickly receive the permit and turn-by-turn route directions. Texas does offer online permitting; however, super heavy loads are required to submit applications and loading diagrams 6 to 8 weeks before the permit is required unless an existing preapproved route is on file.<sup>1</sup>

The Montana Department of Transportation also offers online permitting for vehicles that exceed legal dimensions. Permitting for large oversize loads, however, requires detailed discussions with MDT's Motor Carrier Division.

Recommendation	Received From
Give MDT the authority to identify routes on which oversize loads can travel and predetermine configurations that can safely move on those routes. Offer web-based self-executing permits.	Cary Hegreberg, Montana Contractors Association
Montana oversize load permitting should be similar to the system used in Texas.	James McCord, Bay Montana
Online permitting with a GIS-based mapping system to provide turn-by-turn directions.	Glenn Oppel, Montana Chamber of Commerce ( <a href="#">letter</a> )

### Considerations

- How much would it cost to implement a self-executing permit system?
- What monitoring would be required by MDT staff to assure accessible routes remain accessible?
- How does the work involved in determining whether an oversize load of specified dimensions and configuration can travel a given route compare with the work involved in identifying every point along a route that could obstruct a load and the mitigation necessary for loads of different dimensions and weight configurations?
- Would an online, self-executing permit system be more time-efficient and cost-efficient for movers of oversize loads?

### Options

1. If the committee is interested in a system that allows for self-executing permits, ask MDT for a cost estimate.
2. Request legislation to require self-executing permits for oversize loads. Consider whether to include an appropriation.
3. If the committee does not wish to require a self-executing permit system, include a finding to that effect in the final report.

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<sup>1</sup> "Super Heavy Single-Trip Permits," Texas Department of Motor Vehicles, available from <http://txdmv.gov/oversize-weight-permits/super-heavy-single-trip>, accessed July 9, 2014.

## **Other**

In addition to the recommendations discussed above, the following two recommendations were made by one stakeholder and were not discussed in detail. The committee could request more information about these recommendations if there is interest.

- Barry “Spook” Stang of the Motor Carriers of Montana recommended requiring power companies to build power lines at a greater height when constructing new lines or reconstructing existing lines.
  - Section [69-4-201](#), MCA, provides that the National Electrical Safety Code standards govern all construction involving wires for power, heat, light, telephone, telegraph, or signal transmission or reception.
- In a [letter](#) to the committee, Glenn Oppel of the Montana Chamber of Commerce suggested that the committee look into requiring local governments to consider the transportation of oversize loads in any capital improvement plan or growth policy.