



TRANSPORTATION INTERIM COMMITTEE 67th Montana Legislature

SENATE MEMBERS

Duane Ankney
Mike Fox
Diane Sands
Gordon Vance

HOUSE MEMBERS

Neil Duram
Dave Fern
Denley Loge
Rynalea Whiteman Pena

COMMITTEE STAFF

Travis Brown - Research Analyst
Joe Carroll - Attorney
Kathy Sangray - Secretary

MINUTES LOG

January 27, 2022
Room 152
Helena, Montana

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MEMBERS PRESENT:

Sen. Diane Sands, Chair (D)
Sen. Gordon Vance, Vice-Chair (R)
Sen. Duane Ankney (R)
Rep. Neil Duram (R)
Rep. Dave Fern (D)
Sen. Mike Fox (D)
Rep. Denley Loge (R)

MEMBERS EXCUSED:

Rep. Rynalea Whiteman Pena (R)

MEMBERS ABSENT:

STAFF PRESENT:

Travis Brown, Research Analyst
Joe Carroll, Attorney
Kathy Sangray, Secretary

AGENDA ([Attachment 1](#))

VISITORS' LIST ([Attachment 2](#))

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

- 08:59:48 Sen. Gordon Vance called the meeting to order at 8:59 AM. The committee secretary took roll.
- 09:01:07 Travis Brown, the Research Analyst, reviewed the 2021-22 Draft TIC Workplan Timeline.
- 09:02:16 Sen. Vance summarized what he said.

Meeting Overview

HJ 10 Study of Autonomous Vehicles

- 09:02:50 Mr. Brown explained the “Policies and Regulatory Framework Available at the Federal Level”.
Autonomous vehicles and the regulatory framework and guidance available at the federal level. [Exhibit 1](#).
- 09:06:08 Rep. Whiteman Pena has arrived.
- 09:07:02 Joe Carroll addressed the “Liability issues relating to Autonomous Vehicles”.
[Exhibit 2](#).
- 09:12:26 Jackie Lenmark, Uniform Law Commission, introduced Libby Snyder, who is the expert on the Uniform Law Commission’s Proposed Legislation”.
- 09:13:37 Libby Snyder, Legislative Counsel from the Uniform Law Commission, gave a PowerPoint presentation about the “Uniform Automated Operation of Vehicles Act”. [Exhibit 3](#)
- 09:24:40 Jackie Lenmark noted that the Montana Law is one of the positive features of the act.

Public Comments

- 09:25:42 Al Smith, Montana Trial Lawyers Associations, expressed support for the bill.
- 09:28:00 John MacDonald, Alliance for Automotive Innovation, provided a handout, about autonomous and automated vehicles.

Questions from the Committee

- 09:31:32 Rep. Duram asked Ms. Snyder about Automated Driving Provider decisions. If the automated driving system makes all the decisions, how does the Automated Driving Provider determine the right of way if we blame the driver who takes fewer decisions? Is there a checklist or format that the Automated Driving Provider uses to determine if the right of way has been violated?
- 09:32:26 Ms. Snyder said the Automated Driving System Developers would make those decisions and it will consider Montana law, but we provide guidelines for the people writing the code.
- 09:34:24 Rep. Duram was concerned about the series of decisions made by the Automated Driving Providers.
- 09:34:44 Ms. Snyder explained who is responsible for violations of the rules of the road.
- 09:36:20 Rep. Duram requires documentation of records of what decisions are made or not made and by whom.
- 09:36:35 Sen. Sands asked Mr. Carroll about liability issues, whether current laws cover autonomous vehicles, and who is the responsible party.
- 09:37:17 Mr. Carroll explained the law and the mandatory vehicle liability coverage.

09:38:12 Sen. Sands asked Mr. Carroll if we were to adopt some language saying that it will be some apportionment of responsibility that will be helpful to the court but not definitive, will the court have to do a finding of fact and make a decision.

09:38:38 Mr. Carroll explained that it all depends on the policy decision made by the Legislature.

09:39:40 Sen. Sands asked Ms. Snyder how other states approach liability and what is the Uniform Law Commission?

09:39:50 According to Ms. Snyder, following the rules of the road is outside the scope of the act; however, the act provides instances when you can determine who will be liable for violations of the rules of the road.

09:40:40 Rep. Fern asked Ms. Snyder if there is any real-world application of statutes adopted by other states to the Uniform Law Commission. Commissioners' code does not include testing.

09:41:24 Ms. Snyder said there are no real-world applications just yet in other states. Other states are laying out a framework for testing.

09:42:34 Rep. Fern asked Ms. Snyder how far the autonomous industry is from releasing a product that will test in the real world.

09:43:00 Ms. Snyder does not know when testing will be finished and when the deployment of autonomous vehicles will happen.

09:44:00 Rep. Loge asked Ms. Snyder about testing for livestock and wildlife along the highway, how autonomous vehicles will respond.

09:45:13 Ms. Snyder said: The issue here is system development, an element of unpredictability, and the hope is that system developers are considering the safest possible response regarding livestock platooning.

09:46:38 Rep. Duram asked Mr. Carroll to investigate who makes decisions that are overloaded. Does Montana Code address it, or does it fall under federal law? Is it possible for the state to allow an investigator to examine only autonomous vehicles and to look into the black box?

09:47:40 Mr. Carroll will conduct research and report back to the Chair.

09:47:47 Sen. Sands asked Mr. MacDonald to comment on timing and liability on the fleet and commercial vehicles.

09:48:39 Mr. MacDonald said autonomous vehicles, such as level 4 or 5 vehicles, are still several years away from being deployed in Montana. There are still concerns about icing, snow, wild animals, and livestock. It is imperative to assign liability. Until the technology is ready for deployment, we are advised not to rush into any plans.

09:51:05 Representative Whiteman Pena commented that we need everything in place before autonomous vehicles can be used in Montana.

Agency Update - DOJ Motor Vehicle Division

09:54:00 Ms. Laurie Bakrie, Montana Vehicle Division Administrator, presented a PowerPoint presentation of Vehicle Services Updates.

09:57:40 Rep. Duram asked if any comparisons of numbers of transactions for 2019 or 2020 were available.

09:57:49 Ms. Bakrie explained and continued with the presentation.

10:08:56 Sen. Sands asked if there was a problem getting kids through drivers' education.

10:09:42 Ms. Bakrie said there is less backlog. American Automobile Association (AAA) has an online system.

- 10:10:30 Sen. Sands asked about the relationship with American Automobile Association (AAA) is it a contract or a partnership?
- 10:10:55 Ms. Bakri explained the American Automobile Association's (AAA) contract.
- 10:11:30 Sen. Sands asked how they are paid or how are they compensated for their services.
- 10:11:40 Ms. Bakri explained how American Automobile Association (AAA) is paid.
- 10:12:17 Rep. Fern asked Ms. Bakri about the range of expenditures in the Regulatory Framework Policy and whether they are prepared for the possibility of underfunding.
- 10:12:55 Ms. Bakri is prepared for the Regulatory Framework Policy. Some of the new services will contribute to paying for the replacement, they will apply for a loan from the board of investment and have some other ideas about how to raise more funds.

Office of Public Instruction

- 10:14:14 Dwight Nelson, Director of Traffic Education Director at the Office of Public Instruction, presented the Montana Drive program.
- 10:17:10 Bruce Kubler explained how to obtain a license and training for school bus drivers following the new standards.
- 10:17:50 Dwayne Williams, Montana Trucking Association explained the process of obtaining a commercial driver's license.
- 10:22:30 Tara Ballenger on behalf of the Superintendent of the Office of Public Instruction.

Questions from the Committee

- 10:23:07 Rep. Fern asked Joe Carroll to supply the statute so that the committee could find out if administrative statutes changes are needed to help responsible policymakers with this process.
- 10:24:02 Sen. Sands asked Mr. Nelson about third-party testing. There is a shortage of people in all fields to do this job. Is it your assumption that with the proposed changes in the requirements, districts will be sending people to be trained at the Training Center in Lewiston, will they pay for it, or is it up to the individual to pay for training to obtain licensure?
- 10:25:08 Mr. Nelson discussed Commercial Driving License and school bus driver training.
- 10:26:50 Sen. Sands asked about taking someone out of school for two weeks to attend training during the school year.
- 10:27:37 Mr. Nelson is currently trying to figure out when will be the best time to have people attend the program. In the meantime, he is planning 9 weeks of training for school bus drivers, which will be held over the weekends or during breaks.
- 10:28:24 Bruce Kubler explained that the training would be for the new drivers.
- 10:28:56 Sen. Sands appreciates the clarifications regarding the shortage.
- 10:29:04 Rep. Loge asked Mr. Williams if people are unaware that the option exists and the third-party tester.
- 10:29:50 Mr. Williams said it is not well advertised, and third-party testing is discouraged by federal regulations.
- 10:30:25 Senator Vance asked about the shortage of drivers, how it could be resolved, and what impact it had.
- 10:31:00 Mr. Williams needs administrative rules changed and may need a bill in the next session to move the process forward.

10:31:20 Rep. Vance advised that the administrative rules should be dealt with by both the executive branch at the Department of Justice and the Office of Public Instruction.

Infrastructure Investment and Jobs Act

10:32:00 Director Malcolm Long, Montana Department of Transportation, thanked the Committee and introduced Rob Stapley, who discussed the Infrastructure Investment and Jobs Act.

Questions from the Committee

10:41:37 Rep. Loge broadband, what plans do you have to develop guidelines for interstate highways right away?

10:42:08 Director Long said that the regulations are being drafted and getting feedback. They will be reviewed by the governor, and sent to the Secretary of State, so they will be ready by the summer construction season.

10:43:16 Senator Sands asked Director Long about priorities and matching funds; there are a limited number of funds available. What are the priorities of the Department and the Governor's Office? How are you planning to ask for additional resources in terms of appropriations that are needed? What are your top priorities?

10:44:46 Director Long said the department plans constantly; the main priorities are bridges and working with the leagues of cities and towns and the metropolitan planning areas to see what we can do with MACo regarding discretionary bridge funding and additional urban discretionary funding.

10:46:12 Sen. Sands asked if we could get a proposal for the budget development that shows how the money will be used so that we can get in-depth information, so we can support it.

10:48:00 Director Long said the Department of Transportation would communicate with the Committee. Planning, building, and maintaining are all important aspects of the transportation department's work.

Bike Safety & Registration/Licensing

10:50:41 Travis Brown introduced Bike Registration. [Exhibit 4](#)

10:55:23 Carol Strizich, the Multimodal Planning Bureau Chief at the Montana Department of Transportation, provided an overview of General Safety Measures and Additional Funding Sources with a focus on bicycle safety.

11:08:31 John Juras presented General Bike Safety and Bike Safety Education, Chairman of the Bike Walk Montana Legislative Committee. [Exhibit 5](#)

11:20:49 Public Comment None.

Questions from the Committee

11:21:43 Rep. Fern asked Mr. Carroll or Travis Brown to check the Hawaii statute 2.64.18 model, the Montana funding formula on how is allocated to make a fair comparison.

11:23:19 Travis Brown will research that and report back to the next meeting.

11:23:29 Rep. Duram asked Carol Strizich for her email address so that they can follow up and mentioned pedestrian fatality accident statistics on the slide.

11:24:24 Ms. Strizich agreed that pedestrians should be protected against injuries and that users of the roadways should work together and learn the road rules. We all

- have a role to play in understanding what those laws are for the transportation network to be as safe as possible.
- 11:25:52 Rep Fern asked Ms. Strizich asked if the Coordinator position was filled.
- 11:26:18 Ms. Strizich said the position has been filled and applications are being reviewed.
- 11:26:55 Sen. Vance asked Director Long to give his Agency Director's Update now.

Montana Department of Transportation - Update

- 11:27:40 Director Long, MDOT, provided an agency update.

Questions from the Committee

- 11:33:55 Sen. Sands inquired about the Montana Department of Transportation's staffing shortage.
- 11:34:26 Director Long stated that there is a shortage of snowplow drivers in some areas (Bozeman and Kalispell).
- 11:38:05 Sen. Sands asked about the state budget, the lack of competitiveness in state government, and whether he would make salaries for state employees more competitive.
- 11:38:55 Director Long is working with the budget office to make wages more competitive.
- 11:40:42 Sen. Sands said the budget process has already begun, and it is never too early to share budgetary concerns.
- 11:41:07 Rep. Loge inquired about bundled bridge projects. Does the contract require them to open the road if they are not working?
- 11:41:56 Director Long addressed complaints about work zones and kept the public and contractors safe.
- 11:43:30 Sen. Vance thanked Dir. Long for his intervention.
- 11:43:46 Rep. Fern asked about the impact of inflation and the supply of essential construction materials (sand, gravel, and steel).
- 11:44:00 Director Long discussed supply shortages due to bids and inflation, but they are trying to be flexible and make it work.
- 11:46:16 Rep. Fern asked Director Long whether there had been any observations on the acquisitions and prices of Montana real estate with the state of the market.
- 11:46:36 Director Long said prices have increased immediately, expectations are high, and a shortage of appraisers is affecting us.
- 11:47:52 Rep. Duram expressed appreciation for the department's customer service attitude.
- 11:48:41 Director Long thanked Laurie as well.
- 11:49:24 Rep. Whiteman Pena asked about fencing along the highway to prevent fire damage.
- 11:49:42 Directors Long drafted an emergency bid for contractors, we relit the contract, and they are working on it. 38 miles of fencing need to be repaired.
- 11:51:15 Rep. Whiteman Pena asked whether the Montana Department of Transportation contacted the northern Cheyenne tribe reservation about fencing along the highway. Taro should be involved.
- 11:52:12 Director Long thanked Sen. Ankney and Sen. Keene for their efforts in LED lighting and intersection maintenance.
- 11:53:16 Sen. Vance called lunch break and checked the budget and work plan.

Lunch (reconvene at 12:59 PM)

Electric Vehicle Fees

- 12:59:55 Trevor Graff, Legislative Services overview of the taxing structure for electric vehicles.
- 13:00:53 Chris Puyear, from Northwest Energy, discussed the electric vehicle landscape, public and commercial charging stations, as well as electric vehicle fuel taxes.
- 13:10:35 Joann Loehr, the Motor Vehicle Division of the Department of Justice, explained the handout on Motor Vehicle registration fees. [Exhibit 6](#)

Public Comments

- 13:14:25 Doug Hardy, Montana Electric Cooperatives Association is available to answer questions.
- 13:15:00 John MacDonald, from the Alliance for Automotive Innovation, is available for questions.
- 13:19:14 SK Rossi, representing Tesla, is available for questions and wants to work with the Committee on the fee structure.

Questions from the Committee

- 13:20:09 Rep. Fern asked Mr. Puyear about his comment related to the inability to markup wholesale electricity at a retail outlet, we have to expand the ability to recharge the vehicles. Do you have any thoughts on how the business plan would work without markup?
- 13:21:35 Mr. Puyear emphasized that the legislature was ultimately responsible for addressing that policy question; there is one exception where commercial charging stations could resell electricity at a markup.
- 13:22:42 Rep. Fern asked SK Rossi the same question.
- 13:23:04 According to Ms. Rossi, the Committee should direct any question regarding charging stations to Tesla.
- 13:23:35 Sen. Sands asked Northwest Energy whether the infrastructure bill would include funding for the expansion of electric vehicle recharging stations in Montana. We don't know who will fund this.
- 13:24:35 Mr. Puyear said the Department of Environmental Quality would have to answer questions but grant funds could be obtained from them. He cannot respond to your question.
- 13:25:10 Sen. Sands suggested asking the Department of Environmental Quality or the Department of Transportation to handle and administer funds.
- 13:25:36 Sen. Ankney asked how much and what they are charging now.
- 13:26:00 Sen. Vance mentioned that in the last meeting someone from the Department of Environmental Quality said that this time people may not have to pay at all.
- 13:26:24 Representative Loge provided more details, stating Tesla provides power charging with the cost of the car, that the registration fee for electric vehicles should be calculated based on power usage and compared to a fuel tax. Those are some of his ideas.
- 13:27:53 Sen. Ankney mentioned a charging station in Miles City, which he will investigate.
- 13:28:18 Rep. Fern commented that it may be a multiphase process. First, check out the registration fee to regain some lost dollars. After that, work on charging stations to provide equity for out-of-state travelers. This will give us more information to begin the process.

- 13:30:18 Trevor Graff clarified that charging costs are determined by the time spent on the charger, not by the amount spent on electricity. The Federal Energy Regulatory Commission has not clarified this.
- 13:32:27 Sen. Vance asked Travis to get clarification on Sen. Sands' question for next time.
- 13:32:44 Se. Ankney asked for the states that are charging per kilowatt-hour rather than as a service, to circumvent the law.

Bridge and Road Safety and Accountability Act Update

- 13:33:21 Erik Bryson introduced Kelly Lynch, Executive Director Designate of the Montana League of Cities and Towns, and Co-Vice Chair of the Montana Infrastructure and Coalition. She presented Bridge and Road Safety and Accountability Act (BARSAA) allocations to local governments. [Exhibit 7](#)
- 13:39:14 Eric Bryson explained how the gas tax differs from the Bridge and Road Safety and Accountability Act (BARSAA), which is a funding mechanism.

Public Comment

- 13:45:20 Todd Young is a member of the Valley County Road Department from Glasco, Montana. Bridge and Road Safety and Accountability Act (BARSAA) money are appreciated in Northeast Montana, but the grant process is time-consuming for small counties. The red tape needs to be removed and it will be extremely helpful if it is treated similarly to gas tax money or a special fuel tax, which they are receiving now.

Questions from the Committee

- 13:47:28 Rep. Fern asked Ms. Lynch if she supported the consolidation of two sources: The Bridge and Road Safety and Accountability Act (BARSAA) and the regular tax.
- 13:48:12 Ms. Lynch said that there are no problems with distribution. The statute has different formulas, depending on sales. Our problem is that there are hoops to jump through. We use the same source; we just must go through the process.
- 13:49:10 Sen. Sands asked what the argument was for separating the fund, gas tax, and Bridge and Road Safety and Accountability Act (BARSAA).
- 13:49:50 Sen. Ankney referred to gas tax because it follows federal guidelines and the money can be used by towns and cities. The federal money has limits, while other funding is more flexible.
- 13:51:00 Sen. Sands, why are there so many regulations on state money?
- 13:51:21 Sen. Ankney was unable to answer the questions.
- 13:52:05 Eric Bryson referred to the Traditional Gas Tax in Montana Code Annotated and suggested combining the tax used for regular repair and maintenance for cities and counties with the Bridge and Road Safety and Accountability Act (BARSAA) to reduce red tape.
- 13:54:02 Ms. Lynch agreed with Mr. Bryson.
- 13:54:20 Sen. Ankney said counties had to buy into the gas tax.
- 13:55:08 Sen. Sands, what is the purpose of combining the two, simplifying the process, or leaving it as it is?
- 13:55:46 Rep. Loge discussed the need for counties to be accountable, not just for jobs, but also for getting their work done.
- 13:56:26 Rep. Fern, nobody looks at the Bridge and Road Safety and Accountability Act (BARSAA) website. Accountability measures were put in place for public trust

and it works. Look at simplifying the process and get the model to endorse to simplify.

Public Comment

13:58:08 David Smith, Executive Director of the Montana Contractors Association handing out information about "Trip".

Committee Work Session

14:00:15 Sen. Sands commented that handouts need to be received in advance. She agreed that BARSAA regulation should be relaxed.

14:02:00 Rep. Loge discussed the need to update billboard regulations and put them on agenda for the next meeting.

14:03:34 Sen. Sands proposed a work plan and topics for the next meeting.

14:04:37 Sen. Vance should prioritize electric vehicles over autonomous vehicles.

14:05:10 Sen. Sands believes that electric vehicles should be given top priority in the budget, as well as infrastructure issues, how we handle all the money, what additional funds will be required, the greatest revenue source, and learn how money flows.

14:06:05 Sen. Vance mentioned that the next meeting will take place on March 22nd.

ADJOURNMENT

14:06:47 Sen. Vance adjourned the meeting at 2:06 p.m.