

January 10, 1977

The Natural Resources Committee met on January 10 at 10 a.m. in Room 437 with Chairman Shelden presiding and all members present except for Rep. Burnett who was excused.

Chairman Shelden opened the meeting to a hearing on HB 48.

REP. BRADLEY, the bill's sponsor, said this bill offered clarifying language to the Multiple Use Act and put multiple use language into the Development Account Provision. The words monetary and nonmonetary are added on page 1 and directs the state to manage state lands in the best long term interest--which is not necessarily monetary.

SARAH IGNATIUS, Northern Plains Resource Council, spoke in support of the bill. A written copy of her testimony is exhibit 1.

MONS TEIGEN, Montana Stockgrowers Assn., was the first opponent speaker. He said they only oppose one word "nonmonetary." Nonmonetary returns he felt would not be in keeping with either the Enabling Act or the constitution of the state of Montana. He said there were many court cases that hold that any disposition is the same as selling--compensation would have to be made for land to be set aside. He asked that care be taken to avoid any erosion of the Enabling Act.

MAURICE J. HICKEY, Montana Education Assn., spoke in opposition. He said his group have opposed any attempt to get into the nonmonetary aspect of school lands. A written copy of his testimony is exhibit 2.

LEO BERRY, Commissioner of State Lands, spoke in opposition. A copy of his written testimony is exhibit 3.

FORREST H. BOLES, Montana Chamber of Commerce, spoke in opposition. A copy of his testimony is exhibit 4.

PETER JACKSON, a rancher who had worked with State Lands, said they had worked on this problem a long time. He said he favored multiple use of the trust lands if a way could be worked out so that the users would pay a permit charge; then the money gained could go toward keeping up that land. He emphasized that school lands are not public lands but trust lands.

BOB BIGGERSTAFF, Montana Association of Conservation Districts and Montana Association of State Cooperative Grazing Districts, the following opponent speaker, said he agreed with the previous opponents. He said his group favored multiple use but not the nonmonetary values portion of the bill.

Chairman Shelden recognized Rep. Bradley for a short rebuttal.

REP. BRADLEY stated that several bodies of law were under discussion: the Constitution which says that state lands shall be managed according to the law --and that law is set by the legislature; the State

Enabling Act--the federal government rightly puts strings on school trust land so that if it is sold full market value shall be obtained; and the Natural Areas Act which permits the state to set aside certain parcels of state land that should be protected. Attorney General Woodahl made a decision regarding this act and trust lands--the trust fund must be compensated full value by the state.

Rep. Bradley said she opposed Mr. Teigen's suggestion that the word "nonmonetary" be deleted as that is the heart of the bill. She said she did not feel that the bill would be inconsistent with the Enabling Act as the bill is not trying to dispose of state lands, but leaves them right where they are now--with State Lands. The bill just deals with management decisions. She said as far as the law requiring a maximum income from these trust lands--it doesn't and we don't get that now from the leases. She said it was not her intent to erode the Enabling Act. Nor, she said, is the bill's intent to erode revenue for education. She mentioned an island near Kalispell which could have exceptional educational value and the neighboring people so wished to utilize it--at present it is being used to graze a few cattle and this use could continue with the other. She also mentioned Crown Butte near Great Falls which is a patch of untouched prairie. She said the court cases mentioned by Mr. Barry involved a transfer of land from one agency to another which her bill would not do. She assured the members that this bill would not affect all the school lands--only certain pieces with exceptional value. Rep. Bradley said that Mr. Teigen hadn't always been on the other side of the fence. In 1964 when Commissioner of State Lands he had written a letter to then Attorney General Forrest Anderson asking of the possibility of exchanging state land for a historic site, a buffalo jump. The response was that such a bill could be introduced and should stand any constitutional objection. These letters are exhibits 5 and 6. Exhibit 7 is a copy of chapter 70 of the codes which gives to the State Board of Land Commissioners permission to acquire tracts which have exceptional values.

The Environmental Quality Council summary of the bill is exhibit 8.

During questions from the committee Rep. Huennekens asked if most of the case law didn't basically apply to a use that was preemptive to the use the land has now. He also asked if neighboring states--Oregon, Wyoming and Idaho--didn't permit nonmonetary public use of their state lands. He mentioned that Arizona had a court decision in the past month that permits public use of school lands. He also asked how come general use of the state trust lands without compensation is permitted in timber land but not on grazing land. Mr. Berry said grazing land is leased with the leasee responsible for the leased land; timber land is under permits and handled by the Division of Forestry. Rep. Quilici asked how much this could decrease the school education fund. Rep. Bradley said this would be hard to determine as frequently the present use can continue alongside the nonmonetary use--there would be added educational benefits. Mr. Berry also said this would be hard to determine--could be high or nothing.

Chairman Sheldon closed the hearing on HB 48 and opened it to a consideration of HB 16.

HOUSE BILL 16 Chairman Sheldon requested Debbie Schmidt, Legislative Council researcher, to read the proposed amendment. It was to amend on page 3, section 5, line 12, following "any", to strike "state park, recreational area, monument, or historical site" and insert "land or property under control of the commission".

Rep. Harper moved that HB 16 be so amended. This was seconded by Rep. Bengtson. Motion carried unanimously except for Rep. Burnett who was excused.

Rep. Huennekens moved that HB 16 as so amended do pass. This was seconded by Rep. Quilici. Motion carried unanimously (Rep. Burnett excused).

Chairman Sheldon announced that Thursday at 7 p.m. in the Highway Auditorium Mr. Bill Christianson would have a report on Energy Conservation. He urged all members to attend.

Meeting adjourned at 11:35 a.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

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