

January 19, 1977

The Natural Resources Committee met in room 437, January 19, 1977, at 10 a.m., with Chairman Shelden presiding and all members present except Reps Quilici and Metcalf who were absent and Reps. Hirsch and Huennekens who were excused. The committee considered HB 48.

REP. HARPER moved the adoption of the amendments which the subcommittee had approved. He went through the amendments which were:

1. Amend page 2, section 1, line 6, to strike "state" and insert "educational programs of the state".
2. Amend page 3, section 2, lines 9 through 11, following "institutions" to strike ", or the other worthy purposes they may have" and insert "benefiting therefrom".
3. Amend page 3, section 2, lines 14 through 18, following "management" to strike these lines in their entirety.

Rep. Harper said the amendments were to make certain that the interpretation is exact and any decision made either monetary or nonmonetary will be to the advantage of the educational program of the state.

REP. BENGTSON suggested inserting "educationally" between "benefiting" and "therefrom". After discussion it was decided this might not be for the best as the bill deals with all state lands--other institutions as well as school.

Rep. Bengtson seconded the motion to adopt the subcommittee amendments. Rep. Harper amended his motion to call for a division into three categories. Chairman Shelden called for a roll call vote on amendment number 1. Voting no were: Reps. Burnett, Cox, Curtiss, Davis, Ernst, Hurwitz and Nathe. Absent were Reps. Hirsch, Huennekens, Metcalf and Quilici. The motion failed.

Rep. Harper withdrew the other two amendments.

The committee now discussed the bill.

REP. NATHE, who was a member of the subcommittee on HB 48 and in opposition to the bill, stated his reasons for opposing the bill. He said legal aspects seem to be in conflict with the 1889 Enabling Act. He felt the big point that should be made is that the school trust lands do not belong to the state of Montana--we only own a patent title to them; they are set aside for the financial support of the common schools. He said there are supreme court statutes which say if the states do not utilize the lands in the proper manner the federal government has the right to take the lands back. He said the thrust of this legislation is to implement the Natural Areas Act. He said he was not against setting aside natural areas but felt this was not the way to do it. He said the state legislature could designate a natural area on any state owned land; or the group could bid on a lease and it could be approved by the State Land Board and so not be in conflict with the Enabling Act. He also mentioned that the leasee is liable and must maintain the leased land.

Rep. Hurwitz moved that HB 48 do not pass. This was seconded by Rep. Burnett.

Reps. Frates and Kessler urged consideration of the nonmonetary values for education that could be present on these lands.

Rep. Davis said this is true but not the main issue--that criteria was being set for the Land Board to follow and this could confuse them and also make them subject to pressure groups.

REP. METCALF, the chairman of the subcommittee, came. He apologized for being late--he had missed the announcement of the meeting. He said currently there are uses of this land that are nonmonetary. This law merely brings existing and current practices into the law. He said there are some uses of the land that are benefits that would be higher than a monetary use. He said in the subcommittee hearings on this bill it was discussed thoroughly. He moved a substitute motion that the bill receive a do pass. Rep. Cooney seconded the motion.

REP. HARPER said the reason we are considering this bill is because the former attorney general lifted the word "disposition" out of the Enabling Act and equated any thing done with the land as a final disposition of that land. The question is what is support of the schools--could be a higher value from a non-monetary use. Under present law it cannot be the primary use.

(Reps. Hirsch and Huennekens came.)

REP. BENGSTON questioned whether school land wasn't already being used for nonmonetary educational uses. She cited examples near Billings. She felt this bill was unnecessary.

REP. HUENNEKENS said the land Rep. Bengtson is referring to is federal land--and federal land of the type and quality that can be used is not available to all schools. He said we are not binding the Land Board--only requiring them to consider the nonmonetary.

The question was called and a roll vote was taken--voting no were Bengtson, Burnett, Cox, Curtiss, Davis, Ernst, Hirsch, Hurwitz, Nathe, (absent was Quilici). Rep. Harper moved that the vote be reversed for the prior motion and so the motion of do not pass carried as Rep. Harper's motion carried.

Chairman Shelden suggested dividing the committee into subcommittees to study the governor's "Montana Energy Advisory Council Report, Jan. 1977." The committee favored the suggestion. Chairman Shelden said if any member wanted to be placed on a certain part of the study to let him know.

Meeting adjourned at 11:05 a.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

SUBCOMMITTEE ON HB 48

Chairman Metcalf called the meeting to order at 10:50 a.m. on Jan. 12, 1977, in room 437 with Reps. Harper and Nathe (other members of the subcommittee) present. Also present were researchers Debbie Schmidt and Doug Lowney and Pete Jackson.

Chairman Metcalf said this meeting was to explore the kind of information needed and to put Debbie and the other researchers to work to find it. Below are listed some of the questions raised and comments.

1. What is the amount of state trust lands currently in nonmonetary type of use?
2. What nonmonetary uses might the leased land be used for? A concern of Rep. Curtiss--if bill goes through what would prevent an environmental group from locking up a piece of land so the state can't develop it.
3. What part of the public land is leased and what kind of land is not leased? School forest lands have permits; state school sections that have been deforested--some are used for grazing but some are idle. The reason they are open to the public--more consolidated and so easier to police.
4. How much of the public land is closed to the public? Mr. Jackson said an indepth study was made in 1967 and found only a small amount of land was closed. Debbie said a more recent study had been done on 300 leases.
5. Who has control of the state lands? If it has been leased the lessee--he has full control of who can go on it, also has full responsibility for the care of it and is liable--except there is a statute that says he isn't liable if someone is there for a recreational purpose.
6. The amount of money needed to manage state forests as opposed to what it costs to manage the leased land. The Land Board has 6 field people to cover 5.5 million acres; the Forest Service has 200 full time and 200 part time summer people to maintain their area.
7. Putting the word "nonmonetary" in would not necessarily require every leasee to let the public on his land.

Some of the committee felt the responsibility should be shared if more than one use was permitted on the leased land.

Debbie said she didn't envision this bill would require the Land Board to allow blanket permission to the public.

8. The State Land Board can do what they want--usually follows the recommendations of the Land Commissioner. Land is leased for a certain time limit which is prescribed by law. How much does the monetary value have to do with the decisions of the State Land Board? What kind of information do they take into account? What kind of criteria would we want them to use?

9. Are there natural areas outside of the state (school?) lands? There are 92 delegated under the states forests and F & G have a few areas. Possibility of checking the costs of managing this area was suggested. Mr. Jackson suggested that Bob Ross, who wrote the first Natural Areas Act, could come and talk to the group.

10. What is the difference between public and trust land? Debbie explained the difference is that school trust lands were granted by the federal government to support the public schools. The money gained from them ~~go~~ and can only go to support the schools, while the money gained from public lands (the state bought up mortgages on homesteads during the depression and this is part of what is public land) can go to any state project. The state does not own fee simple on school lands.

This bill deals with all public state lands.

11. Bidding--another nonmonetary interest could compete when the lease is up for bids.

12. On the coal issue--if located beneath school trust lands. Only the coal lease goes to the trust fund. The severance tax goes to the impacted area and other purposes.

13. Are the schools going to loose money? Mr. Harper didn't feel this was too pressing a problem. Mr. Metcalf mentioned while they might loose money they would gain other values.

14. Will there be a lot of pressure put on the State Land Board by special interests?

Meeting adjourned at 11:45 a.m.

Respectfully submitted,

Jerald L. Metcalf

Emelia A. Satre, Sec.