

February 23, 1977

The Natural Resources Committee convened on February 23, 1977, at 7:35 a.m. in room 437 with Chairman Sheldon presiding and all members present.

HOUSE JOINT RESOLUTION 70

Rep. Metcalf moved do pass and motion carried unanimously with those present (absent Reps. Nathe, Quilici, Hurwitz, Huennekens, Kessler).

Rep. Nathe came and mentioned he would like to have Montana references amended from the bill. The committee moved to reconsider the bill. Motion carried unanimously with those present (same absent except for Rep. Nathe). Rep. Nathe moved to amend on page 1, lines 10 and 11, following "to" to strike "the" and following "environment" to strike "of Montana" and following "that" to strike "her"; and on page 1, line 13, following "Canada" to insert "and the United States" and on page 1, line 14 to strike "Montana's" and insert "their respective" and following "which" to strike "Montana would have no control: and to insert "a joint control does not exist".

Rep. Nathe moved that the bill as so amended do pass. Motion carried unanimously with those present (absent same as above). The bill receives an AS AMENDED DO PASS recommendation from the committee.

HOUSE JOINT RESOLUTION 71

In discussion it was mentioned this should cover other kinds of solution mining also. Rep. Metcalf moved to amend by inserting "PRINCIPALLY" following "MINING OF" on line 7; and to do the same thing on line 11 and on line 11 and 12 to strike "an activity that is becoming increasingly common" and insert "a strong possibility"; and to strike "Environmental Quality Council" and insert "Bureau of Mines" on page 2, line 4. The feeling was that the Bureau of Mines would have more expertise to carry on the study.

The motion carried unanimously with those present (now absent Reps. Quilici and Huennekens). Rep. Cooney moved that House Joint Resolution as so amended do pass. Motion carried unanimously with those present (same absent).

Chairman Sheldon opened the meeting to a hearing on the following two bills:

HB 770 REP. HARPER, the bill's chief sponsor, said he sponsored the bill at the request of the Governor. The purpose of the bill is to provide a mechanism to designate cultural areas that are a concern to the entire state. The bill sets up a commission and criteria. He stressed that property rights must be protected. He also mentioned this could be the ounce of prevention that could forestall the need of a pound of cure. With the massive development occurring in many of our counties, he felt this bill is badly needed.

ROBERT LAHN, Governor's Office, spoke of the "very special jewels in our crown" which Montana should be designating and protecting. He said the proposed commission would have four members of the locality sensitive and responsive to the needs of that area. The bill would make available to cities and counties the ability to get the state agencies to cooperate and will make available the special kind of expertise familiar with the mechanism of how to do what needs to be done. He said their purpose is

not to block development consistent with the area, but to protect areas special to our state like the blue ribbon trout streams.

HAL PRICE, Planning Division of the Department of Community Affairs, spoke for the bill. He presented two papers the department had prepared. One was "The Areas of State Concern Act" which he said they had prepared before drafting the bill. This is exhibit 1. The other paper is a summary of House Bill 770 and is exhibit 2. He said members of the staff were there to answer any questions.

JIM BOYER, Montana Association of Planners, spoke next in support. He said planners are behind this bill because of the rapid economic and population growth that has occurred in many areas, which has caused overloading of schools and public services and deterioration of social and physical environments. And, he felt this was just the tip of the iceberg because of the energy developments being experienced in the state. He said we need to plan to prevent problems before they happen and not after the land use pattern is scattered and services planned haphazardly to provide for this pattern. He said many counties, unless they have coal tax money, do not have the finances to have a planning staff to interpret what is happening and to act. This bill would help resolve their problem as the state's expertise could be used. He had several amendments, which is exhibit 3 of the minutes, which would increase the number of people needed to designate a special area to 1% of the qualified electors. He said since the local area must do the implementing, they must be behind it or the designation would just be a pile of papers.

TOM KELLEY, Land Use Planner for Stillwater County, spoke in support. He said they have a potential of 121,000 acres subdivided and with only one county planner they are in need of more expertise to handle this kind of community impact. He felt this bill provides an intelligent way to share responsibility for this kind of planning. He said Stillwater County does not want to stop development but just to minimize the adverse impacts. He said they support the amendments of the Montana Assoc. of Planners.

ELLEN GARRITY, American Association of University Women, said their group urged passage of this bill. A copy of their testimony and suggested amendments is exhibit 4 of the minutes. Their amendments are to ensure local control.

BARBARA MARTIN, League of Women Voters, spoke next in support and a copy of her written testimony is exhibit 5 and part of the minutes.

BOB KIESLING, Environmental Information Center, spoke next in support. He said this is the third time this kind of legislation has been introduced and he felt the sponsors had done an excellent job of working out the wrinkles. He said while they don't feel this is the only answer, they do feel this kind of legislation is overdue.

CONRAD B. FREDRICKS, Sweet Grass County Preservation Association and Park County Legislative Association, was the first opponent speaker. He said this would impose another layer of planning in the state and also be a duplication of existing procedures. He didn't think local government should be forced into partnership with the state as this bill appears to do. He did feel it would take away some local control as it superimposed some state control over local land planning.

TOM WINSON, Montana Chamber of Commerce, spoke in opposition. He said at the Land Use Conference the overriding feeling was the need of local control. He said if people's property rights are taken away they should be compensated in some way. He said, if done on state level, decisions will be made by appointed officials; on local level, by elected officials. He said the Chamber of Commerce supports legislation that encourages good land use planning by using incentives.

WARD SHANAHAN, Dreyer Bros. Inc., spoke in opposition and a copy of his testimony is exhibit 6.

LESTER H. LOBLE, II, Montana Dakota Utilities, spoke next in opposition. He said on page 4, lines 16 to 23, where it talks about major resource development, it appears to have been taken from the Major Utility Siting Act. He spoke of people's rights to use their land as they wished.

PETER JACKSON, WETA, spoke in opposition. He said this would be a big pile of red tape. He said there is nothing in this bill that can't be accomplished by existing laws.

JOHN CLEMA, geologist from Missoula, representing self, opposed the bill. He felt the terms were nebulous and open to many different interpretations. He said section 17 is important to the development field and he said this bill would just add another layer of bureaucracy between them and the local people.

BOB GANNON, Montana Power, spoke in opposition. He said most subjects had been covered. He said the bill doesn't add any provision to law that the local government can't already do--just adds a superagency over the local planning group. He felt there should be a fiscal note connected with the bill as it will cost a bundle. He said there is no assurance the land owner's wishes will be considered as the process begins without his being included.

DON ALLEN, Montana Oil and Gas Association, spoke next in opposition. He said his main concern is something that could delay future oil and gas development. He asked who determines what is an irreplaceable cultural species; like dinosaurs--everything that is irreplaceable is not bad to have leave.

Also signing as opposing were: Laureen France, Montana Mining Association, and Tom Collins, Montana Association of Realtors.

In his rebuttal, Rep. Harper said the opponents do not like this kind of bill in any type or form. He said taking pieces out of context and attacking them is an old scare tactic. He stressed this is a local control bill. He asked the committee members to recall problems mentioned by their constituents while they were on the campaign trail. He felt this bill gives a glimmer of hope that the wishes of our constitution will be taken into consideration.

During questions it was mentioned there is a grandperson clause protecting prior use if a lawful right. Mr. Lahn said the cost would be a total of \$150,000 for the biennium, which money is already budgeted.

Also signing was Clarice Beck, AAUW, in support; Spike and Barbara Van Cleve, in opposition.

HB 689 REP. FRATES, the chief sponsor, said he was withdrawing his bill as he had learned there were companies already converting to other energy forms from natural gas because of the economic advantage.

Chairman Sheldon closed the hearing and opened it to executive session on the following bills:

HOUSE BILL 689

Rep. Metclaf moved that HB 689 be tabled. Motion carried unanimously with those present (absent were Quilici, Nathe, Harper, Bengtson, Kessler, Huennekens). House Bill 689 is TABLED.

HOUSE BILL 614

Rep. Burnett moved do not pass. Motion carried unanimously with those present (absent Nathe, Quilici, Curtiss, Kessler, Hirsch, Bengtson).

HOUSE BILL 717

Rep. Davis moved do not pass. Rep. Harper said a track 25 miles long will impact a lot of land and made a substitute motion of do pass. Rep. Bengtson said the PSC controls railroads, and since we have an export only policy we should be encouraging the railroads. Rep. Frates said his concern stemmed from when they put the highway right down the middle of the Yellowstone Valley. He said railroads can condemn land. He said he wants railroads but there should be some consideration about where they go. Rep. Davis said if it is existing track they will be covered by federal law and will be exempt; if they are connected with servicing a facility they would be covered by the impact statement.

A roll call vote was taken and voting yes were Reps. Sheldon, Harper, Cooney, Frates, Huennekens, Kessler, Metcalf; abstaining was Rep. Hirsch. Motion failed. The secretary was instructed to reverse the vote on Rep. Davis' motion of do not pass. This bill receives a committee recommendation of DO NOT PASS.

HOUSE JOINT RESOLUTION 83

Rep. Nathe moved do pass. Motion carried unanimously.

HOUSE BILL 604

Chairman Sheldon said the bill has returned to the original law except for four points: brings crushers, concentrators, tailings ponds, dams, leach dumps, conveyor belts and pipelines under the act; continued monitoring of the water; don't violate the confidentiality clause; includes solution mining. Reference to development has been deleted from the bill as they go from exploration to mining. Chairman Sheldon said there has been progress between the state and various companies in that the companies are trying to get along and to destroy an area as little as possible and to reclaim as well as possible. The four things left in attempt to address the concerns of the people in mining areas.

Chairman Sheldon asked Debbie Schmidt to go through the reworked bill, which has the amendments written in and which is exhibit 6 of the

minutes. She did this.

Rep. Metcalf moved the amendments. The motion carried unanimously.

Rep. Sheldon moved the bill as amended do pass. Motion carried-- voting no was Rep. Curtiss and abstaining were: Reps. Quilici, Burnett and Cox. HB 604 will receive an AS AMENDED DO PASS.

HBs 770 and 754 were to be checked into by Debbie Schmidt and proposed amendments brought the next day.

#### HOUSE BILL 753

Rep. Ernst moved do not pass. Rep. Davis said he had information on this from Gary Delano, head of the Bureau of Business Regulations. He said there is a federal law that is taking care of this. Most major appliances will be labeled by 1977 as to the amount of energy required to operate so House Bill 753 would be a duplication.

Rep. Ernst changed his motion to tabling the bill. Motion carried with Rep. Cooney voting no. Absent were Reps. Nathe, Quilici, Curtiss, Kessler.

#### HOUSE BILL 703

Rep. Huennekens moved do pass. Rep. Hurwitz moved a substitute motion of do not pass. He said a bill like this tends to polarize people.

Rep. Huennekens said the problem is the increased demand of a growing population for hunting and other outdoor sports. The private lands cannot take the whole burden--there are more and more closures of the land. He felt public lands should bear the burden.

Rep. Davis expressed a concern about the loss of revenue to school funds as opening the lands would lower the bids.

A roll call vote was taken: voting no on a Do Not Pass motion were: Sheldon, Cooney, Frates, Huennekens, Metcalf; abstaining was Kessler, and absent were Harper, Bengtson, Nathe. Motion carried.

#### HOUSE BILL 722

Rep. Hirsch went through his amendments, which are exhibit 7 of the minutes. There was an additional one on page 1, line 22 which reads, "and does not include governments of the United States, of the state of Montana or any of its political subdivisions". He said the amendments take the responsibility from the counties to do the search and places that burden on the surface owner. The surface owner can go in and quiet the title but he doesn't have to, in which case the situation remains the same. Rep. Hirsch moved the amendments be adopted-- the ones on the list and the one written here. Motion passed unanimously (absent were Metcalf, Quilici, Curtiss, Burnett, Nathe, Bengtson) with those present.

Rep. Hirsch moved as amended do pass.

Rep. Frates felt this was confiscatory and that it was opening a big

door. There was discussion as to just how long an heir would have to file. Rep. Hirsch said it was all right to go ahead and kill the bill and maybe the next session it could be introduced in the Senate.

A roll call vote was taken: voting no were Cooney, Frates, Cox, Ernst; absent were: Bengtson, Metcalf, Quilici, Burnett, Curtiss, Nathe. Motion carried.

HOUSE BILL 593

Rep. Huennekens moved do not pass. Chairman Sheldon asked Debbie Schmidt to speak. She said parts of this bill were put into HB 661 like limitations of who can participate at a hearing and utility load forecasting and streamlining amendments that will make the board respond more quickly. She said the status of the fertilizer plant remains the same as it presently is in the law.

Roll call vote was taken. Voting no on a Do Not Pass were: Quilici, Ernst; abstaining was Davis and absent were: Bengtson, Frates, Burnett, and Nathe.

Rep. Cox asked if the committee would be interested in a trip to the coal fields. There was interest, so Chairman Sheldon appointed her a committee of one to check this out.

Meeting adjourned at 11 a.m.

Respectfully submitted,

  
ARTHUR H. SHELDEN, Chairman