

March 23, 1977

The Natural Resources Committee convened at 8 a.m. in room 437 on March 23, 1977, with Chairman Sheldon presiding and all members present except for Reps. Hirsch and Huennekens who were excused for a hearing on the following bills:

SB 298 SENATOR FRANK HAZELBAKER, District 41, the chief sponsor of this bill, said the bill amends the Renewable Resource Development Program. He said the program was put under the Department of Administration with that department using the Department of Natural Resources' expertise. This bill would put the administrative duties under the Department of Natural Resources. He suggested an amendment to reword the language on page 3, lines 4 and 5, so local governments can also get grants. As it is now stated they can get loans and not grants. Exhibit 1 is a copy of this amendment.

ORRIN FERRIS, DNR, said they support the bill. He said they were involved in the processing so felt a better job could be done if handled by one agency. He said there was one minor problem--that of financing. The Department of Administration had been budgeted for the program while they had nothing budgeted for it. In regard to the amendment, he said they thought it was the intent of the bill to cover local government entities as well as state government entities and they expressed surprise that it wasn't so written -- they had been doing so.

Senator Hazelbaker said it would just be a matter of amending the budgeting bill to get the funds transferred for this to the Department of Natural Resources.

SB 381 SENATOR MARK ETCHART, Senate District 2, said he had the bill drawn up to make it possible for a farmer to use his own gravel pit. Rather than having the expense of a \$600 an acre bonding fee for reclamation, legitimate contractors will haul gravel for miles from a licensed pit. He said 75% of the gravel work is being done outside the law -- with no permit -- which would indicate the law isn't working. He said it was a hard bill to understand but a needed piece of legislation.

STEVE WILLIAMS, Anaconda Company, said they support the bill. He said it would permit a miner to take 10,000 cubic yards without coming under the opencut law which requires reclamation (a one time exemption for each mineral deposit). He said the question will be raised if this will lead to many small pit marks over a particular area -- he didn't think so. He said due to their investment they wouldn't just pull up and leave.

LEO BERRY, State Lands, said they opposed the bill for two reasons -- there would be administrative problems and the serious effect it would have on reclamation. He said they would have difficulty knowing who was operating in an area and how much material has been removed. He felt there would be many 9,000 cubic yard sites with 7 or 8 operators operating out of a single site and no one responsible for reclamation so the result would be many areas left unreclaimed. He said an additional minimum to 20,000 cubic yards is being considered for the open cut mining act. He said their department will make an attempt to respond more quickly. He said on page 1, line 12, the word "large" is new and should be

underlined in the bill. He passed for the committee to see a map of bentonite reserves to show how big an area they cover. This is exhibit 2 of the minutes.

Senator Etchart in closing said contractors are finding if they go into a small community they are still liable for a couple of years under the reclamation bond and there is no way the contractor can defend himself against local people illegally using the pit so rather than taking a chance on a fine, he hauls the material from a licensed pit.

He felt, also, that pits should be used until they are exhausted. The reclamation (putting top soil on) and then reopening of the pits he said wasn't good as the dirt spoils the gravel directly below and what might have been a good pit could end up being a poor one. He said the department does not have control over the pits now in the case of the small operators.

During questions from the committee Chairman Sheldon asked of Mr. Williams why the Anaconda Company was interested in small gravel pits. Mr. Williams responded they were interested in the bill because of two small phosphate mines in which they would like to have the 10,000 exemption on both -- they have used it up on one.

Mr. Berry said he didn't mind leaving the pit open but the contractor doesn't like to see their bond out. He said he would like to see the land owner take the contract himself and so be responsible for the reclaiming when the pit was exhausted. Mr. Berry also said the counties are exempt from the bonding provision -- the act is more flexible with municipalities than with individuals. In response to a question of whether there were guidelines as to the size of a pit -- Mr. Berry said no, they have never tried to regulate the actual mining. He expressed concern that under this bill 4 or 5 operators could remove 45 to 50 thousand cubic yards and still not come under the act. He felt it wasn't right to make something legal just because people are doing it illegally now.

Chairman Sheldon opened the meeting to executive session on the following bills:

SENATE JOINT RESOLUTION 4

Rep. Hurwitz reported for the subcommittee. He presented amendments, exhibit 3, and went through them with the committee.

Chairman Sheldon said the subcommittee seems to have addressed the problem very well. Rep. Quilici moved the amendments and they carried unanimously with Reps. Hirsch and Huennekens absent. Rep. Curtiss moved the bill as amended be concurred in and the motion carried unanimously with same absent.

SENATE JOINT RESOLUTION 42

Rep. Davis moved Be Concurred In. Rep. Nathe said certain amendments had been suggested by the proponents: Line 7, page 1, following "RESEARCH OF THE" to insert "ECONOMIC"; page 2, line 10, following "determine the", insert "economic"; and on page 2, line 20, strike "Western Governors' Energy Conference" and insert "Old West Regional Conference" and that the resolution should also be sent to the US Secretary of Agriculture and the

Montana congressional delegation.

Rep. Nathe moved these amendments and they carried unanimously with same absent as previous bill. Rep. Davis changed his motion to As Amended Be Concurred In and the motion carried unanimously with those present.

SENATE BILL 284

Rep. Harper moved the bill Be Not Concurred In. There was lengthy discussion by the committee. Rep. Hurwitz asked Rep. Nathe how this bill would affect range management. Rep. Nathe said he was no range management expert. He said there was a problem in getting a cover of native diverse grasses in 5 years. He said for example, the Green Needle Grass sets seed only every 7 to 8 years depending on soil and climatic conditions. He said the people at Swift Current probably know more about grass than anyone on the Great Plains and he had planned to check with them. He said he wasn't comfortable with the present law but he said he had a lot of unanswered questions concerning wheat grass. He said also needed is an equal amount of warm and cool season plants to have a balanced food source for the herbivores to graze on all season. At present he said the Knife River Coal Co. has only one warm season species out of 8 they are trying. He felt it necessary that people who understand range management be checking on this.

Rep. Hurwitz said the present law is really too restrictive but State Lands allows some flexibility (can use up to 49% introduced grasses) and HB 577 will allow even more flexibility.

Chairman Sheldon asked if the Range Practices Act does anything. Rep. Nathe said no. He added probably the best indicator that land is reclaimed is that it will support a native diverse system, but he questioned if that is technically possible within the time allowed. He also added that HB 577 is tied to the operators who would actually farm the land after it is reclaimed and permit introduced grasses on irrigated land. He said SB 284 leaves it open to the present owner and 95% are now the coal companies.

Rep. Burnett moved a substitute motion of do pass. He said the law needs more flexibility and time. He said cost of seed is excessive if available. He also said reclamation cover is needed.

Rep. Harper said the committee that worked on the first law sat and tried to hammer out what reclamation consists of and perhaps the time period that came out is a bit restrictive. But, he said, 5 years is only a minimum -- the land can be released any time that land is reclaimed. He said they had mounds of testimony that unless the vegetation was native diverse, you won't know that it is reclaimed.

Chairman Sheldon mentioned Glenrock, Wyoming. where reclamation was started in the 60s and the area was just opened for grazing.

Rep. Davis stressed that native greasses are more difficult to establish and that there is an urgent need for cover to hold the soil.

Rep. Nathe said he had been unaware of the degree of flexibility permitted under the old law. He asked just what serves as the impetus to bring this kind of bill in.

Rep. Curtiss said we do need to permit flexibility. She said if the bill passes she would like to see it amended to give the person actually living on the land the decision on what kind of cover they will have.

Rep. Metcalf said this language is already in HB 577 -- future use of land. He felt concern must be given to protect the future landowner. He said he favors HB 577 and since the House has passed it, he didn't feel this bill was needed. Rep. Bengtson said she agreed.

Rep. Davis questioned whether the coal companies wouldn't be as concerned with the value of the land as the private owner and want a good job of reclamation, also.

The question was called and a roll call vote taken. The Be Concurred In motion failed with Reps. Burnett, Cox, Curtiss, Davis, Ernst, Hurwitz voting yes. Reps. Hirsch and Huennekens had left votes to not concur. The motion then was Be Not Concurred In and Rep. Metcalf moved the secretary be instructed to reverse the votes. So this motion carries and SB 284 is recommended Be Not Concurred In.

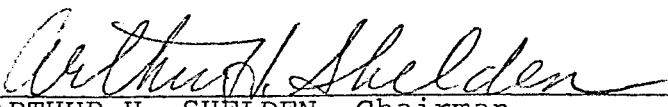
HOUSE JOINT RESOLUTION 90

Rep. Cox moved do pass. Rep. Curtiss seconded the motion. Motion carried unanimously with those present (absent were Hirsch, Huennekens and Hurwitz).

SENATE BILL 298

Rep. Burnett moved Be Concurred In as Amended. Rep. Bengtson mentioned the amendment recommended should not be included because it did not fit the title. Rep. Burnett changed his motion to Be Concurred In and the motion passed unanimously with those present (same absent as previous bill).

Meeting adjourned at 10 a.m.


ARTHUR H. SHELDEN, Chairman