

MINUTES OF THE MEETING
NATURAL RESOURCES
MONTANA STATE SENATE

March 24, 1977

The thirtieth meeting of the Natural Resources Committee was called to order by Senator Elmer Flynn, Chairman, at 9:30 a. m on the above date in Room 405 of the State Capitol Building.

ROLL CALL: Upon roll call all members were present except Senator Smith. Mr. Larry Weinberg, of the Legislative Council, was also present.

CONSIDERATION OF HB 762: An Act to establish necessary energy supply alert and emergency powers for the Governor; defining conditions under which such powers are to be exercised.

Representative Bradley, of District 77, and Chief Sponsor of HB 762, stated that this bill establishes certain energy emergency powers to be exercised by the Governor of Montana. Amendments in working redraft were distributed to Committee members and explained. (See Attachment #1.) She stated that she realizes this gives very sweeping and broad powers to the Governor. I think this could be one of the important parts of the energy packet considered by the Legislature this session.

Mr. Robert Lohn, Staff Attorney for the Governor appearing on behalf of the Governor, said that they support this bill strongly. We are in a situation socially where there is a reasonable possibility that there will not be enough electrical energy to go around this summer. Essentially, the bill provides for three classes of powers. One, the power in the Governor's office to grant information. Two, the power to grant specific information in a time of crisis. Three, the power to take some kind of action, whatever seems to be necessary. The powers are broad enough to do it. The energy picture is extraordinarily complex. This is a bill which we regret that we have to ask for but in light of what we are faced with this summer it is reasonable and necessary.

Mr. Lester H. Loble, II, representing the Montana-Dakota Utilities Company, stated that they are in support of this bill and with what Mr. Vaughn has said.

Mr. Gene Phillips, representing the Pacific Power and Light Co., said that they support this bill also. Our first curtailment plan was in Oregon in 1975. We would file a similar curtailment plan if this bill should become law. We feel that this bill is necessary and we look forward to working with the Governor's staff in implementing it.

Mr. Don Allen, representing the Montana Petroleum Association, stated that they support this bill. We are really faced with a different kind of drought in Montana in regard to our crude oil. There will be a short supply in Montana of petroleum products. We feel it is necessary to have this type of bill passed with the amendments submitted.

Representative Bill Hand, of District 82 in Dillon, Montana, stated that this bill actually came from the urgent pleas of rural electrics that we have in my area. This is not a bureaucrats bill. This is to avoid a blackout like that which happened in New York when the power failed. The Governor will not use this responsibility with a big club.

Mr. William H. Coldiron, representing the Montana Power Company, said we support this bill as passed by the House plus some of the amendments offered here today. We think this is a necessary bill. We are faced with a shortage this year with our own operations. We have curtailed our own operation by 10%. We think this is a bill that is going to be used fairly promptly. This is not something new for us. We have been at it a long time. One thing in the bill that bothers us very much is Section 4 in the amended bill that has been handed to you by Representative Bradley, providing that the Governor can get information on a continuing basis. They don't need to have a new bureaucracy in the Governor's office to get this information. Another thing that bothers us is that the Governor has said look only at the needs of Montana. If this is the policy of the Governor's office - what happens in the Pacific Northwest is none of our business. I have some amendments that I would like to offer if the other amendments are adopted. (See Attachment #2.) Whether we have enough crude oil in the State of Montana is actually an international problem.

Mr. Rod Hanson, representing the Montana Associated Utilities, also stated his support for this bill.

Mr. Jim Mockler, representing the Montana Coal Council, stated that the coal industry has a neutral position. We would request that the Committee amend Page 2, the definition of an energy facility. With this amendment we would support this bill.

Mr. Peter Jackson, representing the Western Environmental Trade Association, stated they're in support of this bill because of a possibility of an energy shortage and an emergency situation. It is a huge responsibility to be placed on anyone and it should be placed in the hands of the Governor. It is important that you have someone to make an instantaneous decision.

There were no opponents to this bill.

Representative Bradley, stated that she has done a lot of careful

thinking about where the power should rest and decided it should rest with one individual and the only place to put it is with the Governor.

Senator Devine asked, doesn't the Governor have all emergency powers.

Mr. Lohn replied, that arguably there is some common law power of the fact that he is Governor but it is not at all clear. I don't see how we could make it under existing laws.

Senator Devine wondered, has fiscal note been requested on this.

Mr. Lohn said, we could conceivably use as many people as you could afford. As far as decision making, we will do the best we can with what we have.

Senator Devine asked, doesn't the Feds keep a running inventory of these types of things.

Mr. Lohn replied, the Feds within Montana don't have curtailment powers.

Representative Bradley said, an extremely important part of this would be to protect companies from being sued.

Senator Manley wondered, if a coal company said they have to produce twice as much coal - these are things I am concerned about.

Mr. Phillips asked, may I respond - we are subject to Federal regulations. If the Governor wanted an EIS on state level we would have to have a Federal.

Representative Bradley said, on Page 8 - Sub (b) your concerns are legitimate. I just can't see that that would happen.

Senator Roskie asked, what's the trigger. Do we have an emergency right now.

Mr. Phillips said, the Washington Bill is incorporated in this. This is Washington and Oregon's statutes. In Washington there is one man there and he orders that determination.

Representative Bradley said, it would be pretty much the Governor's decision.

Senator Roskie wondered, do we wait until the reservoirs run dry.

Representative Bradley answered, that decision will rest with the Governor.

Senator Roskie asked, do you wait until it is too late.

Mr. Lohn said, that's a tough question. It is very broad language. Right now we just don't know.

Senator Dover said, then you tell us we should try to alleviate this problem. This bothers me. I wonder if this isn't a final step for the Governor to take over our utility companies. This is a step in the door to let them have the whole thing. This is bad news.

Senator Galt wondered, would there be time between the energy supply alert and the emergency energy powers to have a special session.

Representative Bradley said, they could do that at any time.

Senator Galt said, it would certainly relieve the Governor of making the decision.

Representative Bradley stated, if he feels he cannot make the decision alone he can call the Legislature in.

Senator Galt asked, you would resist putting the Legislature between the Governor and the final decision.

Representative Bradley said, yes I think I would. These decisions may have to be taken very rapidly.

Senator Galt said, would the Governor's office resist that.

Mr. Lohn replied, if you would like to write yourselves in we would be happy about that too.

CONSIDERATION OF HB 204: An Act to establish an office of energy and resource policy within the Governor's office.

Representative Mike Meloy, of District 29 in Helena, and Chief Sponsor of HB 204, said that the people who would be doing the job as outlined in HB 204, are probably working in a nebulous state. HB 204 provides some guides under which that office will continue and gives that office some power. I have discussed the bill with the Governor's office and there are some proposed amendments that I have agreed to and have made copies for members of the Committee. (See Attachment #3.)

Darlene Grove, representing the League of Women Voters, stated that they support this bill as a means to coordinate energy information and make it more accessible to the public. We appreciate the commitment of our present Governor to continue an energy office and feel this bill will support his position. (See Attachment #4.)

Mrs. Grove also suggested that an amendment be inserted on Page 2, Line 13. (See Attachment #4.)

Senator Devine said, we have sent a lot of bills to the House to try to eliminate duplication. We have a bill here to create another \$28,000 job. Don't we have a lot of expertise in these offices now.

Representative Meloy said, we are going to have an expert coordinating the experts.

Mr. Lohn added, this in effect would be Bill Christensen's office. We feel we can do it within the existing staff.

Senator Devine, is this general fund money.

Representative Meloy said, it is already budgeted for.

DISPOSITION OF HB 484: HB 484 was previously passed out of Committee on March 17, 1977. Mr. Larry Weinberg explained that the word "advisory" was missed in a few places and a few additional amendments had to be put in. He explained these additions. At this time motion was made by Senator Roskie and seconded by Senator Dover that these additional amendments be accepted. Motion carried unanimously.

DISPOSITION OF HB 558: Motion was made by Senator Dover and seconded by Senator Manley that HB 558 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:00 a.m.

Elmer Flynn

SENATOR ELMER FLYNN, CHAIRMAN

ROLL CALL

NATURAL RESOURCES COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/24/77

4B 204
BILL 4B 763

SENATE Natural Resources COMMITTEE
VISITORS' REGISTER

DATE 3/24/27

NAME: 1. Robert Collier DATE: 39 Mar 11

DATE: 24 Mar 77

ADDRESS: Rm 216

PHONE: 311

REPRESENTING WHOM? Governor

APPEARING ON WHICH PROPOSAL: 762/204

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: Lester H. Loble, II DATE: 3/24/77

ADDRESS: 716 Power, Helena, MT

PHONE: 442 0070

REPRESENTING WHOM? Montana-Dakota Utilities Co

APPEARING ON WHICH PROPOSAL: HB 262

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: Amend §1, p2, line 22 of
"Working redraft II"

before the word "generating"

Add: "producing,"

NAME: Gene Phillips DATE: 3/24/77

ADDRESS: Box 759 Kalispell

PHONE: 755-6644

REPRESENTING WHOM? Pacific Power & Light

APPEARING ON WHICH PROPOSAL: HB 762

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

NAME: Dr. Allen DATE: 3/20/01

ADDRESS: Box 1398 Billings, MT

PHONE: 202-538771

REPRESENTING WHOM? Monty Pet. Assoc.

APPEARING ON WHICH PROPOSAL: 113-762

DO YOU: SUPPORT? ✓ AMEND? as amended OPPOSE?

COMMENTS: _____

NAME: Bill Hand, Rep. Dist 82 DATE: 3/24/77

ADDRESS: Capitol - Helena, Mt. 59601

PHONE: 443-2709

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HB 762

DO YOU: SUPPORT? u/s AMEND? _____ OPPOSE? _____

COMMENTS: _____

NAME: William H. Goldin DATE: 3/21/11

ADDRESS: 116 Broadway

PHONE: 723-5421

REPRESENTING WHOM? The Mountain Power Co.

APPEARING ON WHICH PROPOSAL: HB 762

COMMENTS: _____

NAME: John Alexander DATE: 3-22-77

DATE: 3-24-77

ADDRESS: Watfield, Ont.

PHONE: 467-2526

REPRESENTING WHOM? Montana Associated Utilities

APPEARING ON WHICH PROPOSAL: 1813 762

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENTS:

NAME: Peter Jackson DATE: 3-25

DATE: 3-25

ADDRESS: Kelso

PHONE: 443-5541

REPRESENTING WHOM? Weta

APPEARING ON WHICH PROPOSAL: SB 762

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: *(Leave blank if no comments are present.)*

NAME: Mary Ellen Connelly DATE: 3/24/77

ADDRESS: Whitefish, Montana Box 214

PHONE: 755-8197

REPRESENTING WHOM? Montana Federation of Women's Clubs

APPEARING ON WHICH PROPOSAL: H.B. 204

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: We are concerned that the citizen's advisory council may be discontinued. We feel it is very important to have citizen input. Perhaps, as a practical matter this committee could be included as part of the energy office, but reduced to a smaller number, somewhere in the area of 15 to 20 members. I served on the Montana Energy Advisory Council and feel we are only beginning the study of ways to combat the potential energy crisis.

NAME: Barlene Groce DATE: 3/24

ADDRESS: 100 Meadow Drive

PHONE: 442-1488

REPRESENTING WHOM? League of Women Voters

APPEARING ON WHICH PROPOSAL: HB 204

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: Attached

STANDING COMMITTEE REPORT

March 24 1977

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 558

Respectfully report as follows: That HOUSE Bill No. 553,

BE CONCURRED IN

DO PASS
~~XXXXXX~~

STATE PUB. CO.
Helena, Mont.

D. J. Smith, Chairman

Chairman.

WORKING
REDRAFT II

HOUSE BILL NO. 762

INTRODUCED BY BRADLEY, SOUTH

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH NECESSARY
5 ENERGY SUPPLY ALLEGI^S AND EMERGENCY POWERS FOR THE GOVERNOR;
6 DEFINING CONDITIONS UNDER WHICH SUCH POWERS ARE TO BE
7 EXERCISED; PROVIDING PENALTIES; ¹ AND AMENDING SECTION ~~PROVIDING AN IMMEDIATE EFFECTIVE~~
8 ~~DATE,~~
9 79-2501, R.C.M. 1947."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Legislative findings and intent. (1) The
12 legislature finds that energy in various forms is
13 increasingly subject to possible shortages and supply
14 disruptions, to the point that there may be foreseen an
15 emergency situation, and that without the ability to
16 gather information, formulate plans, and
17 institute appropriate emergency measures to reduce or
18 allocate the usage of energy through a program of mandatory
19 usage curtailment or allocation, a severe impact on the
20 health, safety, and general welfare of our state's citizens
21 may occur. The prevention or mitigation of the effects of
22 such energy shortages or disruptions is necessary for
23 preservation of the public health and welfare of the
24 citizens of this state.

25 (1) It is the intent of this act to:
26 (a) establish necessary planning, information gathering,
27 energy SUPPLY ALLEGI^S AND

(Attachment #2.)

H.B. 762, ESTABLISHING ENERGY SUPPLY ALERT AND EMERGENCY POWERS FOR THE GOVERNOR

(1) Amend Section 2 by adding new subsections 5 and 6 as follows:

(5) "Energy emergency" means an existing or imminent domestic, regional or national shortage of energy which will result in a curtailment of essential services or production of essential goods, or the disruption of significant sectors of the economy unless action is taken to conserve or limit the use of the energy form involved, and the allocation of available energy supplies among users.

(6) "Energy alert" means a condition of energy supply on a national, regional, state or local basis which foreseeably will affect significantly the availability of essential energy supplies within the ensuing 90-day period unless action is taken under [Section 6] to reduce energy usage by state agencies and political subdivisions."

(2) Amend Section 4, Subsection 1 to read as follows:

"Section 4. Information obtainable by governor. (1) ~~On-a-continuing-basis, the~~ The governor may obtain all information from energy resource producers, suppliers, public agencies, consumers ~~doing-business-within-Montana~~ and from political subdivisions in this state as necessary for him to determine the need for supply alerts and energy emergency declarations. Such information may include but is not limited to:

- (a) sales volumes by customer classifications
- (b) forecasts of energy resource requirements for the particular type of energy involved for a future period not to exceed one year
- (c) inventory of energy resources and reserves available for use in meeting a shortage in a particular energy source.

(3) Amend Section 6, Subsection 1 to read as follows:

"(1) The governor may upon finding that an energy alert condition exists, declare the same for a period of not longer than 90 days, setting forth the reasons therefor. Such declaration may be renewed for 90-day periods thereafter upon a finding that the energy alert condition will continue for such further period."

(4) Amend Section 7, Subsection (4)(a) by adding thereto the following:

"(a) ***; provided, that in so doing the governor shall impose controls, quotas, or curtailments according to the nature of the end use to be made of the energy."

(5) Amend Section 7, Subsection (8), by adding thereto the following:

"(8) ***, or unless impossibility of compliance is a direct result of an order of the governor."

(Attachment #3.)

HOUSE BILL NO. 204

INTRODUCED BY MELOY, BRADLEY, HUENNEKENS, PALMER,

SHELDEN, VINCENT, METCALF, ESTENSON, CODNEY, HARPER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH AN OFFICE OF ENERGY AND RESOURCE POLICY WITHIN THE GOVERNOR'S OFFICE."

7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Findings and purposes. The legislature

10 finds that the state needs a set of guiding policies on the

11 use and development of energy resources; that the

12 conservation and most efficient utilization of currently

13 available energy is a goal as important as any other in the

14 formulation of the state's energy policies; that state

15 government needs a center for long-range planning and

16 assessment of energy problems in future years; and that the

17 governor's office is the best place from which to coordinate

18 various energy-related activities of the executive

19 branch of state government. The purposes of this act are to

20 establish an energy and resource policy office directly

21 under the governor to replace the stiff support heretofore

22 furnished the Montana energy advisory council and to charter

23 this office to recommend energy conservation techniques and

24 other appropriate energy policies to the state.

25

1 energy advisory committee administrative establishment may

2 be continued by the governor upon the following conditions:

3 (1) the director of the office of energy and resource

4 policy or a person designated by the director may call and

5 shall chair meetings of the council;

6 (2) the departments of community affairs, health and

7 environmental sciences, natural resources and conservation,

8 public service regulation, state lands, and such other

9 agencies as the governor may designate shall each appoint

10 one representative to the council; the governor shall

11 designate the agency responsible for administering the state

12 building code under chapter 21, title 69, to appoint a

13 representative to the council; and

14 (3) the council shall assist the director of the

15 office of energy and resource policy in the discharge of his

16 ~~functions under this act.~~

17 Section 3. Energy and resource policy office --

18 establishment -- director -- term -- staff. (1) There is an

19 energy and resource policy office within the office of the

20 governor.

21 (2) The head of the energy and resource policy office

22 is a director appointed by the governor to serve at the

23 governor's pleasure. The appointment is subject to

24 confirmation by the senate ~~unless the lieutenant governor~~25 ~~is appointed in which case no confirmation is necessary.~~

LEAGUE OF WOMEN VOTERS OF MONTANA

1100 AVENUE B, N.W., GREAT FALLS, MONTANA 59404

Testimony on House Bill 808
March 14, 1977

We support this bill as a means to coordinate energy information and make it more accessible to the public. As a citizens group, we appreciate this effort to provide a central repository within state government for energy and resources related research carried on in all of the state. We appreciate the commitment of our present governor to continue an energy office and feel this bill will support his position.

The League of Women Voters believes that conservation should be the keystone of government policy and without responsive measures, we are very happy to note that conservation is recognized as "a goal as important as any other in the formulation of the state's energy policies;" (Section 1). Also that energy conservation is specifically addressed in section 8, subsections 8 and 10.

In addition, we have strong feelings about participation for citizen participation in the decision making process. This is something that is not specified in HB 808. Too often the citizens is in a position of reacting to a decision, when his input could have been more beneficial to the deliberations leading to the decision.

We suggest the following amendment be inserted on p. 8, line 11:
the governor shall designate 6 citizens to represent the following interests: small business, industry, agriculture, environmental groups, the business community and a citizen.