

SUB-COMMITTEE MINUTES
HB 762
NATURAL RESOURCES
MONTANA STATE SENATE

April 1, 1977

The Sub-Committee on HB 762 of the Natural Resources Committee was called to order at 10:00 a. m. in Room 405 of the State Capitol Building by Senator George Roskie. Members of the Sub-Committee are Senators Roskie and Jergeson. Senator Dover was also present and had some input.

Debbie Schmidt, Researcher with the Legislative Council, was also present. Committee was presented with a proposed bill. (See Attachment #1.) She stated that this was modeled after the Iowa Law.

Senator Roskie said, one portion which says that the Council will do certain things under Section 5, Page 3 - these are things I feel may probably be assigned to the Executive.

Senator Jergeson said, there is the possibility of this oversight committee being made up of the leadership of both the House and the Senate. They would come down and meet periodically before any emergency occurs to review plans and make suggestions. In case of an emergency this leadership group would be kept informed on a daily basis. I really think that the Governor's staff can handle collecting all the information and drafting the plans and what not. The oversight committee would be kept informed on what is happening and what is necessary.

Senator Roskie said, I do find some people that are perhaps more knowledgeable other than the leadership. Who serves on this oversight committee can be resolved. The crisis has been approaching with increased speed. The Legislature ought to be involved. Another thing, is the necessity of a lot of you folks in knowing how a curtailment plan will fit in with demands of other states. The producers and users have to be brought into the picture.

Senator Dover stated, we should take a little bit of time to see what suggestions these people here today would have.

Mr. Gene Phillips, representing Pacific Power and Light and Decker Coal Company, said, on Page 3, Section 5, information obtainable by Council should be changed to Governor.

Mr. Don Allen, Executive Director of Montana Petroleum Association, stated that he agreed with changing Council to Governor. It would read "The Governor shall obtain".

Mr. Jim Mockler, representing Montana Coal Council, said on Page 7, Section 9, is another delegation of authority that is not only unworkable but unconstitutional. The ultimate will either have to rest with the Governor or the Legislature.

Senator Roskie said, the Legislative Council has the power to revoke. The final authority in these sections has to be resolved.

Mr. Mockler added, I would certainly be against Section 9 in any way, shape, or form.

Debbie Schmidt informed the Committee that Section 9 was from the Washington Law.

Mr. Phillips said, if the Governor orders that an emergency exists the purpose of this section is to make that school district comply. It requires them to obey what the Governor says. Section 7 should probably be deleted.

Senator Jergeson stated, in a way I like that in there.

Mr. Mockler said, you are covered in Section 3. If that doesn't cover anybody in the State of Montana I don't know what would. He can direct any person which means everybody feasible.

Mr. Bob Gannon, of the Montana Power Company, also spoke briefly.

Mr. Peter Pauly, of the Montana Dakota Utilities, stated I don't think it delegates any specific authority.

Mr. Phillips added, on Page 6, sub-section 3, I would suggest to delete energy supply alert.

Senator Roskie asked, do you feel we have something to work with here.

Mr. Gannon said, it seems to me that what we have here is a good start on what the Senators have indicated their feeling was.

Senator Roskie stated, I do feel that Montana is not an island. The whole thing is tied together whether this is done through the Executive or the Council. The producers have to be brought in whether public or private utilities.

Senator Dover asked, would it be in order to just go through this and study it.

Mr. Allen stated, there are three questions we have to answer.

1. Determine what is an energy emergency;
2. How long it would last;
3. What ends it and the exact role of the Legislature.

Debbie Schmidt told the Committee, I have looked at five different states' emergency policies and basically they come under the broad police powers. Hawaii has a curtailment plan.

Senator Roskie stated, on Page 2, Section 6, what constitutes an energy emergency is defined.

Mr. Allen said, if you take the word eminent who is going to decide. Existing is fine.

Senator Roskie said, the difference is, this deals only with an alert and emergency. Maybe that needs to be addressed.

Senator Jergeson said, some reinsertion of an alert.

Senator Roskie stated, the difference is this deals only with emergency - 762 deals with an alert and emergency. Maybe that needs to be addressed.

Senator Dover said, we don't want the Governor to set up another organization where he has to take inventory and review and all that.

Senator Roskie read to the Committee Section 4 on Page 3. We need to deal with this approaching crisis. Maybe saying that when it appears within 30 days an alert will be declared. In that 30 days we have to bring in the Legislature. I don't view energy the same way I view other disasters.

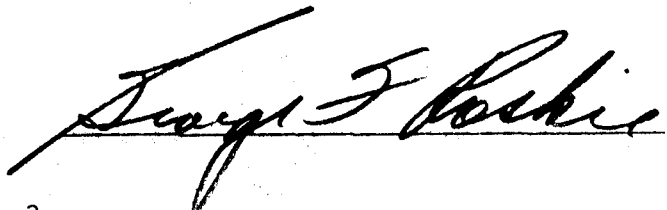
Mr. Allen said, why don't you give the Governor powers for an alert and if it goes to emergency there will be a special session to approve or disapprove of his emergency plan.

Senator Roskie said, figure out something like a 30-day alert in advance and then there kind of needs to be a cutoff.

Senator Dover said, if you call the Legislature in they would determine the length of this move.

Mr. Mockler said, I don't see any reason of what that emergency special session will address.

At this time, it was decided that the members of the Utility Companies would meet with Debbie Schmidt, Researcher for the Legislative Council, at 1:30 today in the Natural Resources Room of the House to work out proposals for this bill. These proposals would be subject to the sub-committee's approval. Debbie Schmidt informed the Committee Secretary that she would call her if and when needed.



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(Attachment #1.)

A BILL FOR AN ACT ENTITLED "AN ACT TO ESTABLISH NECESSARY EMERGENCY ENERGY POWERS FOR THE GOVERNOR; ESTABLISHING AN ENERGY POLICY COUNCIL; DEFINING CONDITIONS UNDER WHICH ENERGY EMERGENCY POWERS MAY BE EXERCISED; PROVIDING PENALTIES; PROVIDING A PERIOD OF EFFECTIVENESS; AND AMENDING SECTION 79-2501, R.C.M. 1947."

BE ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

(1) It is the intent of this act to:

(a) establish necessary planning, information gathering, energy emergency powers for the governor and define the conditions under which such powers are to be exercised;

(b) provide penalties for violations of this act.

Section 2. Definitions. As used in this act, the following definitions apply:

(1) "Energy facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means petroleum or other liquid fuels, natural or synthetic fuel gas, solid carbonaceous fuels, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public utility, political subdivision, municipal corporation, government agency,