

February 10, 1979

The Natural Resources Committee of the House convened on February 19, 1979, at 10:30 a.m. in room 3 of the Capital Annex, with Chairman Sheldon presiding and eighteen members present (Rep. Huennekens was absent) to hear testimony on the following bills:

HOUSE BILL 816

REPRESENTATIVE HARRISON FAGG, District 63, the chief sponsor, said the bill basically came about five years ago when he came across some unreclaimed disturbed areas in an area that no one knew was being mined--the miners were working without permits. He said small miners are excluded from the effects of this bill. He said this would require a program to monitor air and water quality and quantity during and after exploration and mining. The bill states that revegetation should be primarily native and diverse, capable of self-regeneration.

CHARLES VAN HOOK, Environmental Information Center, spoke next in support and a copy of his testimony is exhibit 1 and part of the minutes.

MARY DONOHOE, Nye, Northern Plains Resource Council, spoke next in support and a copy of her testimony is exhibit 2 and part of the minutes.

JEFF RIMS, Cabinet Resource Group, spoke in support. He said due to the TriASARCO Mine planned for near Troy, they were very much interested in the reclamation part of this bill. He explained their soils and why they would be subject to a lot of leaching. He said if the native species were not retained there would be a lot of bare spots. He said as a senior in botany he had done a study on road cuts and one of the cuts was on similar soil that is found near the proposed mine. This cut is 30 years old and now has 75% native species and 25% introduced weeds. He also feared damage to the Bull River, which is now a pristine river. He added that western Montana has a lot of air inversions so the monitoring is very important.

MILES KEOCH, Stillwater Protective Association, spoke next in support. A copy of his testimony is exhibit 3 and part of the minutes.

LEO BERRY, State Lands, said he was present to answer questions.

WALLA HALL, League of Women Voters, spoke in support and a copy of her testimony is exhibit 4 and part of the minutes.

Jack Schmidt of Helena signed as supporting this bill.

STEVE WILLIAMS, Anaconda Copper, was the first opponent speaker and he introduced the following speaker.

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JOHN C. SPINBLER, Anaconda Copper Co., spoke next in opposition and a copy of her testimony is exhibit 5 and part of the minutes.

FRANK DUNKLE, Montana Mining Association, spoke next in opposition and a copy of his main points is exhibit 6 and part of the minutes.

GENE PHILLIPS, ASARCO, said they second the points made by the Anaconda Company. He said they are already at the proposed plant monitoring water quality, and they have applied for a discharge permit for waste water as they plan to use it in a closed circuit. He said they have applied for their operating permit from the Department of State Lands and they don't see why they should do more than they are already doing with the Department of Health.

During questions from the committee, Mr. Berry said diverse, native vegetation is language similar to the Strip Mining Act and 51% of the seeding mixture must be native and up to 49% can be introduced.

In closing Rep. Fagg said the problem addressed by this bill is not adequately covered by another law as the opponents have claimed. He said the water problem is not covered. He said we are looking at some major mining development and now before it starts is the time to get a handle on it--he said we don't want to see it stopped, just adverse effects controlled.

HOUSE BILL 329

REP. ARTHUR SHELDEN, District 22, (Vice-Chairman Harper had taken the chair), the chief sponsor, said this bill extends the energy supply alert and the governor's emergency energy powers for two more years.

GENE PHILLIPS, Pacific Power and Light, said they supported this bill two years ago and would urge the extension of the date.

CAROL L. KIRKLAND, Montana Petroleum Association, said they support the bill.

LES LOBLE, Montana Dakota Utilities, said they support the bill.

No questions from the committee. Rep. Sheldon said he closed and took back the chair.

HOUSE BILL 759

REPRESENTATIVE VERNER BERTELSEN, District 27, the chief sponsor, said this bill has to do with the removal of slash from our forests. There is a \$5 per thousand foot fee charged now to the owner or operator to insure the slash removal. This bill would raise it to \$7.50. This is needed as the state paid \$103,000 this past year for this while receiving only \$23,000 in fees. If the owner/operator does his own removal the fee

is refunded. In this bill ten percent would be withheld to pay for administrative costs. He felt these figures might be a little high and a compromise reached.

GERALD NEILS, Montana Logging Association, spoke in support. He said the Logging Association believes an increase is justified and the exact amount can be worked out between industry and regulatory agencies.

BOB HELDING, Wood Products Association, said he spoke as an amender. He said from the industries standpoint a raise from \$5 to \$6 would be in order and about 2 to 4% for administrative costs. He said they support the enforcement provision.

GORDON W. McGOWAN, Montana Railroad Association, said a number of representatives of the Department of Natural Resources of Missoula had planned to be there to testify. He said there had been a time misunderstanding.

Chairman Shelden said he would reopen the hearing on this bill when the witnesses arrived.

HOUSE BILL 823

REPRESENTATIVE HARRISON G. FAGG, District 63, the chief sponsor, said this piece of legislation would allow the cities and counties to work jointly with the utilities in getting existing utility lines underground. He said the utilities would come up with a price and if the costs were not feasible the city or county could let the project out on bids. The project would meet the utility specifications. He said he had found a great disparity in price between that quoted by the utility company and what he could get it done privately for. The cost of this would be borne partly by the utility company (lines underground would not deteriorate from the weather like when they are exposed) and partly by the landowner. He felt this was a real problem that needed to be addressed especially in the downtown areas. It would be a safety feature especially when there is a fire. The new subdivisions are undergrounding their utility lines. This would help in long range planning.

KEN HAAG, City of Billings, said the existing law does not work as it does not approach needs. Public safety would be a large portion of the reason to go underground with utility lines. He said he would like to point out that in present law the power company is using right-of-ways at no charge to them. The provision of letting a private bid is how we handle installing sewer lines and streets so not that much different to use here. He said the lines would need to be properly inspected.

DAVID HUNTER, City of Helena, said they had to pay 100% of the cost of undergrounding in their urban renewal area. He felt it should be paid by the utility company and the landowner. He felt we need underground utilities for safety reasons.

JIM HUGHES, Mountain Bell, spoke as an opponent. He said the cost of this should be borne by the people affected and not by other rate payers. He said they do try to underground all lines as they go in and this bill is then addressing the existing service lines. He said the cost of doing this in an alley for a short length is astronomical--much more reasonable if the line is longer. As far as the competitive bidding situation, he said they normally do their own work.

BOB GANNON, Montana Power Company, spoke as an opponent. He said the situation with Rep. Fagg in Billings resulted in a change of policy for their company and he didn't feel addressing it by legislation was needed. As far as cost allocation--is it fair that all consumers help pay for undergrounding in Billings or Helena? He said it could have a drastic effect on rate schedules and would cause a lack of uniformity in rate scheduling.

GENE PHILLIPS, Pacific Power and Light, spoke as an opponent. He said when outages occur they do have more difficulty in locating the problem when lines are underground. He said immediately when a fire occurs they cut the wires to keep it from being a safety problem. Another primary concern is the imposing of rates on all to benefit a few--the people deriving the benefit should pay.

LES LOBLE, Montana Dakota Utility and General Telephone of the Northwest, said they were in opposition.

During questions Chairman Shelden asked in the present state of the art what voltage is reasonable to put underground. Bob Quinn, Montana Power, responded that 25 volts work successfully. Mr. Quinn said since 1975 if there are five or more customers to a utility serving a new subdivision the service must go underground.

HOUSE JOINT RESOLUTION 30

REPRESENTATIVE VICKI JOHNSON, District 72, the bill's sponsor, said this is a simple resolution. She said the reason this was introduced was that the Public Service Commission has been trying to insure that residential customers get a fair shake as far as utility rates and this bill is just a statement of encouragement for the Public Service Commission.

REPRESENTATIVE KATHLEEN McBRIDE, said she had a short statement about some of her concerns. She said energy costs are skyrocketing--the cost of natural gas has more than doubled

in the last five years and electricity costs have also increased dramatically. She said this increase has had a particularly serious impact on people with low and fixed incomes. In 1974 energy costs consumed over 15% of a low income family's income. This percentage has increased to nearly 25% by some reports. She said this is true even though low income people consume less energy on a per capita basis than the rest of society. She said it is also true that at some level residential energy consumption becomes very inelastic. There is some basic quantity of energy that is required to maintain a household in a cold northern climate--conservation while extremely important can only go so far. She said for those reasons she supports HJR 30 as she wishes to publicly encourage the Public Service Commission to develop energy rate structures which reflect both the true cost of energy production and the needs of the citizens of Montana.

GAIL STOLTE, Human Resources Development Council, spoke in support and introduced the following testifiers.

MARLA MUSIC, representing the low income people from Great Falls, said they have difficulty meeting the rising utility expenses. She urged changes in the structure of the utility rates.

TERESA CLAYBURN, Great Falls, said in some months half her income goes for heating her home. She felt the PSC could help minimize her utility bills.

GENE CHEVRAL, Montana Power to the People, felt utility rates should be kept to a reasonable cost as it is a necessity of living.

GEORGE MARTEL, Great Falls, hoped the PSC could do something to keep the high cost of living under control.

SANNA PORTE, Environmental Information Center, said they endorse this bill as they are concerned about energy conservation.

DENNIS LOPACH, Montana Power Company, spoke as an opponent. He said they are sympathetic but do not believe this is the way to solve the problem. He said they favor energy stamps. Their biggest concern with this approach is that it reduces the rates below the actual cost of providing service and this could cause problems for all classes of customers.

GENE PHILLIPS, Pacific Power and Light, spoke in opposition. He said this would be the wrong economical message to the people who are using our product.

LES LOBLE, Montana Dakota Utilities, said the PSC is continually reviewing rate structures and how they affect the customers and the rate of return to the capital investment. There are classes paying more than the residential customers. He felt the intent of the sponsors that this not be a mandate should be clearly stated in the bill. The PSC has powers to make regulations and the

results could be exactly the opposite of what the sponsors hope for.

Rep. Spilker asked of Ms. Stoltz how the bill addresses itself to rates. Ms. Stoltz said the bill does not direct itself to rates. Rep. Curtiss asked what directive the PSC now has and the response was to try to set the rates as low as possible. Rep. McBride said the resolution is not a mandate to the PSC but a suggestion.

HOUSE BILL 759 (CONTINUED)

Since the witnesses expected from Missoula had arrived Chairman Shelden reopened the hearing on this bill.

GARETH MOON, Forestry Division, Missoula, DNR&C, said they requested this bill to meet a real need. When timber is cut 2/3 to 3/4 of the timber is left in the forest as waste and at present there is no way to utilize this waste. This waste or slash creates a very high fire risk and has to be taken care of. Laws were passed in the 30s to apply to this and now a bond of \$5 a thousand board feet is taken from the landowner to assure that it is taken care of. The big operators post a bond while the small operators pay \$5 every time they take 1000 board feet to the sawmill. The sawmill operator does the collecting. Then if the landowner or operator clears the slash the money is refunded less 2% which is used to pay for inspections. If the state does the clearing they keep the fee. The state cannot do it for that fee and that is why they wish to raise it to \$7.50 and the administrative costs (inspections) from 2% to 10%. He said these charges are based on actual cost records. Mr. Moon passed in suggested amendments which are exhibit 7 and part of the minutes. He said two other gentlemen with him, Randy Mosley and Gary Spaeth, would be glad to answer any questions as he would.

RANDY MOSLEY, Forestry Division, DNR&C, said it costs them \$7.50 per thousand board feet to reduce the fire hazard to an acceptable level. He said it costs the state more to do it than private industry as they have to bring their equipment into the area while the private industry would have theirs there. He said they feel the program should be self-supporting and that is why they wish to increase the administrative fee. He said in the last years people from other programs have worked doing this since the finances weren't there and he said this is hurting the other programs and so this shouldn't continue. The money generated by this raise will just enable them to break even. He said if the cost is less than the amount charged it is returned to the paying operator.

GARY SPAETH, attorney for the Department of Forestry, said at times they have had difficulty with defaults where the sawmill

was to hold the money, problems of delays to help their own cash flows. The amendments deal with this problem. He said the wording is taken directly from the wording of the Montana income tax penalty division.

BOB HELDING, Wood Products Association, said he disagrees with some of the conclusions and thinks the fees should be lower than what is requested.

Mr. Moon said in response to a question that 52% of the timber is coming from state and private lands so it creates a bigger fire hazard. He said landowners are getting six to seven times as much for their timber so should be able to pay a little more.

HOUSE BILL 2

REPRESENTATIVE JOHN VINCENT, District 78, the chief sponsor, said a lot of people are present today who have spent a lot of time working on this bill. He said this is the Montana Beverage Container Reuse and Recycling Act. Seventy percent of the people in Montana approve of the concept of this type of legislation. There are significant and long range benefits. It doesn't discriminate against aluminum cans--it is a unique bill--not like any other bill. He said they have tried to accommodate concerns expressed during the past session. It is an idea whose time has come. He introduced the following proponent who he said would put the rest of the presentation together.

BOB RASMUSSEN, Montana for Deposit Legislation, discussed the proposed act. A summary of this act is exhibit 8 and part of the minutes. He then introduced the following proponents.

PATRICIA HIGGINS, Montana Small Business Association, Legislative Committee, spoke next in support. She said financial incentives would expand existing small businesses, and would also aid sheltered workshops.

Bob Rasmussen read excerpts from letters from various groups supporting this bill and copies of these are exhibit 9 and part of the minutes.

JOHN KRIGGER, Helena, spoke in support. He said aluminum is indispensable to us--used in airplanes and lightweight cars--we use a great quantity of it. This bill will aid greatly in the recycling of it--it will pay to dig it up and also to see what we are using now doesn't go to waste.

WILBUR REHMAN, ex-retail grocer, said he feels this is a bill that retailers can live with. He said he strongly supports the bill.

DONNA RAY HOLMAN, Circle K Manager, Helena, spoke in support of the bill.

BEVERLY MAGLEY read a letter from Bob Decker, Lewis and Clark County Commissioner, endorsing the bill. It was mentioned that the landfill operations would drop if a deposit system was initiated.

MIKE MALES, Montana Deposit Legislation, went through a chart he had put on the wall. This chart indicated the advantages to the consumers were: save \$3 million a year for those who do return bottles, provides for citizen participation. Disadvantages were: must store and return containers and it will cost \$3 million a year for those who do not return. Advantages for the taxpayer would be: citizen activated rather than a government funded program and it would reduce solid waste disposal and litter control taxes by \$170,000 a year. Disadvantages to the taxpayer would be: slight administrative costs for information and enforcing the act (1977 estimate \$35,000/year). Advantages to the retailer would be: gain of \$3 million/year in handling charges (rather than losing \$180,000/year as at present for handling returnables--benefit \$6,000/retailer/year at 1¢ a container. Disadvantages to the retailer is they must handle, store 50 to 100% more bottles and some cans (cost: \$3,094/retailer/year). Advantages to distributors are: gain aluminum cans and \$300 to 500,000 year in unclaimed deposits after paying handling charges. Disadvantages to distributors are they must handle 50 to 100% more bottles and must verify redemption center billing. Advantages to the recyclers are they would get 200 to 300% more aluminum and have the option to become redemption centers and receive aluminum free and handling charges or the option for bulk handling from distributors and the reinforcement of aluminum on the market. Disadvantages to the recyclers are: they may not want to become redemption centers due to the center's labor intensity, accounting and verification requirements and frontend deposit money needed. He emphasized this bill will reduce beverage container litter: litter is down 83% in Oregon, 77% in Vermont and 76% in Maine. The bill will not raise beverage prices as the prices are comparable in deposit and nondeposit states, nor will it reduce beverage sales, again comparable. He said there is a gentleman present, Tim Rawlings, from Michigan who knows first hand about this type of legislation having lived in a deposit state.

Information handed out by the proponents of this bill include:

- "Issue, Deposit Legislation and Labor" Exhibit 10 of the minutes
- "Deposit Legislation and the Montana Beverage Container and Reuse and Recycling Act" Exhibit 11 of the minutes.
- "Issue: Deposit Legislation a Cost Analysis" Exhibit 12 of the minutes.
- "Issue: Deposit Legislation and Energy" Exhibit 13 of the minutes
- "Issue: Deposit Legislation and Litter" Exhibit 14 of the minutes
- "Issue: Deposit Legislation and Material Resources" Exhibit 15 of the minutes.
- "A Grocer Speaks for Passage of a Bottle Bill" Exhibit 16 of the minutes.

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Information handed in by proponents who wished to speak but unable to because of the time limit were:

Curt Johnson, Montana Student Lobby, exhibit 17

Ronald Pogue, Alternative Energy Resources Organization, ex. 18

Eva Spaulding, League of Women Voters, exhibit 19

A list of those who endorsed the bill is exhibit 20.

ROGER TIPPY, Montana Beer Wholesalers Association, was the first opponent speaker and a copy of his testimony is exhibit 21.

MARK RITCHELL, Montana Recycling, spoke in opposition. He said he had two major concerns. At present they buy aluminum by the bulk and this would change that. He was not sure that the 2¢ handling fee would cover the cost. He felt it would cost too much.

BILL DIMICH, Montana Soft Drink Association, Bozeman, Exhibit 21 of the minutes is a copy called "Facts About Forced Deposits" which he passed to the committee members.

MIKE CHAFFIN, Flathead Industry of Kalispell, said this is the third time for this bill and that it is getting better, but still has serious problems. He said distributors like Millers won't change their containers and when you can't recycle them or take them to the dump what do you do with them--have to hire somebody to dispose of them.

TIM DEVINE, Pacific Hyde and Fur, Great Falls, spoke in opposition saying they are Montana's largest recyclers. Last year they shipped out 3,700,000 pounds of aluminum beer cans. He said it would be impossible for them to handle this on a 2¢ a piece basis and compete on the labor market.

JOE CROSSWHITE, Columbia Falls, WETA, spoke in opposition. He said they want the plant in Columbia Falls to continue and he felt this bill could do away with the use of aluminum cans. He felt this would raise prices.

ED SHEEHY, Jr., Montana Food Distributors Association, said this bill would be a burden on the 450 grocers in the state of Montana --counting, sorting, finding storage space for these cans. He said the big factor will be the labor costs--they would need to hire extra employees.

ALFRED F. DOUGHERTY, US Brewers Association, passed out a statement. A copy of this is exhibit 22. He spoke in opposition.

JIM WYLDER, President of Great Falls Coca-cola Bottling Company, spoke next in opposition. A copy of his testimony is exhibit 23.

Also presented was testimony from John M. Morgan, President of the Coca-cola Bottling Company of Missoula, which is exhibit 24 and part of the minutes.

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Also signing as opposing the bill were:

Tom Faines, Montana State Food Dist. Assn.

Margaret Pelcher, MT State Food Dist. Assn.

Rosie Marie Strope, Montana Chamber

John Pellegrini, Montana Soft Drink Association

Don Harrington, Exhibit 25

Harri Rafferty, Great Falls Coca-Cola Bottling Co.

Mrs. Frances Jorgenson, Great Falls Coca-Cola Bottling Co.

Frances M. Wylder, Great Falls Coca-Cola Bottling Co.

Russ Lassey, Pepsi-Cola Bottling Co. of Great Falls

A statement from Rep. Morris Udall on federal deposit legislation had been presented by an opponent and a copy is exhibit 26.

During questions from the committee, Tim Rawlings of Michigan said their legislation has been in effect for about three months and people are getting used to it--the storage problem seems to have been taken care of. He said things seem to be running very smoothly.

In closing Rep. Vincent asked the committee to take a close look at the list of endorsements handed to them. He reminded them that 74% of the Montana people support the concept of this bill.

HOUSE BILL 790

REPRESENTATIVE ANDREA HEMSTAD, District 40, the chief sponsor, said this is a bill to study the bottle bill concept. She felt it needed looking into on all fronts and there should be an interim committee set up to do this, to travel to the states where they have this legislation and study it in depth.

ROGER TIPPY, Beer Wholesalers Association, spoke in support of the bill. He said since this bill keeps coming up each year there is a need for an interim study on the matter.

AL DOUGHERTY, US Brewers, said he supports the bill but felt it should be amended to include all solid wastes.

ED SHEEY, Jr., Montana Food Distributors Association, spoke in support.

EVA SPAULDING, speaking for self, spoke in opposition. She said she didn't want to see her money wasted on a study by an interim committee. Sometimes there is too much study and not enough action. She said by looking over the testimony of the previous bill and by asking a few questions you could probably make up your mind in an adequate way with enough information. Information has been given on previous bottle bill legislation also. She felt we didn't need any more studies.

RUSS LASSEY, Pepsi Cola Bottling Company, spoke in opposition. He said there should be an amendment to control travel to other states. He mentioned an experiment conducted by the EPA at Malmstrom Air Force Base on mandatory deposits that wasn't too satisfactory. A copy of his testimony is exhibit 27.

SANNA PORTE, Montana for Deposit Legislation, felt this study would be a waste of time and money as they have spent innumerable hours researching this in the past six or seven months.

MIKE MALES, Montana Deposit Legislation, said the study they have done has been much more concentrated than a four day visit to a state with bottle legislation could be. If we accept this bill it would mean two more years of land filling valuable resources and then if history is any teacher the study would be largely ignored anyway. He said they would be glad to cooperate if the bill passes.

ROBERT RASMUSSEN, Montana for Deposit Legislation, said this bill would have a delaying effect and would increase the number of nonrecyclable bottles in Montana.

GARY MATTSON, EIC, said he is very impressed with the work of the Montana for Deposit Legislation people. He opposed the bill.

LOREN GUNDERSON said going to another study will probably not turn in that much new knowledge.

In closing Rep. Hemstad said she would not oppose any amendments. She said recycling is an important subject and the legislature should take time for an interim study of it. Action should be taken by the legislature rather than by an initiative.

HOUSE BILL 735

REPRESENTATIVE ANN MARY DUSSAULT, District 95, the chief sponsor, said this is an act to revise the laws relating to antiquities.

KEN KORTE, State Historic Preservation Officer, spoke and a copy of his testimony is exhibit 28 and exhibit 29 of the minutes.

DONALD KERNS, Developer for the City of Helena, said this would have a big effect on individual localities that are involved in saving historic buildings or sites. He said this bill will make it easier for local people to receive federal grants in their historic preservation efforts. He said restoring an old building can be very expensive and they need all the help they can get.

CLARENCE KUMMER, Butte-Silver Bow Arts Foundation, showed pictures of the old Clark Building which his group is restoring. He said they lost \$24,000 in grants simply because the office was not properly staffed. He said they plan to make a cultural art center of the building.

STUART LEWIN, Diamond S. Ranch Hotel, Boulder, said they were in the middle of putting together a project that will cost between one and two million dollars and to do that they have to go through the state to get that money. He said this bill will help all.

J. D. HOLMES, Montana Institute of Arts Foundation, said there is a definite need of a State Antiquities Act.

DR. LARRY LAHREN, archaeologist, said this would provide a very important resource in terms of archeology. He said he couldn't see anything in it that would cause bureaucrats problems.

WILLIAM MELTON, Curator of the University of Montana, spoke in favor of the bill.

LYNN F. OLUND, archaeologist from Mineral Research Center, Butte, spoke in favor of the bill and a copy of her testimony is exhibit 30.

JEAN BOEY, Anaconda, spoke in support. She said through this individual property owners get federal funding and tax breaks for recycling existing historic buildings. She said a lot of our buildings that should have been saved have gone down the drain because they did not receive this help.

Rep. Dussault said Mr. James Hughes of Mountain Bell had a suggested amendment and a copy of this is exhibit 31.

Also signing as favoring the bill was Jack Boley of Anaconda, Patti Bell of Helena and Diane Vanke, Montana Highway Department.

Meeting adjourned at 2:45 p.m.

Respectfully submitted,


ARTHUR H. SHELDEN, Chairman

Emelia A. Satre, Sec.