

March 16, 1979

The House Natural Resources Committee convened in room 3 of the Capital Annex, on March 16, 1979, at 12 p.m., with Chairman Shelden presiding and eighteen members present (Rep. Huennekens was excused) for a hearing on the following bills:

SENATE BILL 506

SENATOR GEORGE F. ROSKIE, District 21, the chief sponsor, said there has been much discussion on just what the MEPA act did or did not do. He left with the committee correspondence to Senator Hager and Rep. Scully from Governor Judge expressing his support of legislation that would clarify the scope, intent and purpose of the Montana Environmental Policy Act. The packet of correspondence also included Steve Brown's proposals to amend MEPA. This packet is exhibit 1 of the minutes. He said the correspondence obligates us to keep this matter alive until the questions can be resolved. He said there are two bills dealing with MEPA this session, and his bill is in the same form as the one introduced in the 1977 session. He asked the committee to work with the bill and make such changes as they felt necessary. He mentioned Mr. Barry and Mr. North of State Lands were present to represent agencies.

WILLA HALL, League of Women Voters, read testimony in opposition to the bill and a copy of this testimony is exhibit 2 and part of the minutes.

FLETCHER NEWBY, former Director of EQC, said passage of this bill would erode the promise of the constitution that we have an inalienable right to a clean environment. He recommended a do not concur.

BILL MACKAY, JR., Northern Plains Resource Council, spoke next in opposition and a copy of his testimony is exhibit 3 and part of the minutes. He also read testimony from JACK HEYNEMAN, Stillwater Protective Association, opposing the bill and a copy of this testimony is exhibit 4 and part of the minutes.

BILL BISHOP, Polson, representing self, spoke in opposition and a copy of his testimony is exhibit 5 and part of the minutes.

JIM MURRY, Montana AFL-CIO, spoke next in opposition and a copy of his testimony is exhibit 6 and part of the minutes.

STEVE PERLMUTTER, representing self, worked for three years as staff attorney of the EQC. He said the bill violates constitutional directives that the legislature must provide for the protection of Montana's environment. MEPA is the only state law which directs agencies to utilize a broad "interdisciplinary approach" in coordinating and improving agency activities. This bill would make MEPA self-contradictory by prohibiting such an approach. He said the EIS process has great potential benefits to the public and the legislature and this bill would make that process meaningless.

MIKE MELOY, representing self, said he had worked many hours with Senator Roskie both having served on the EQC. He said regardless of how you feel about environmental impact statements, if state agencies have developed this information they ought to be able to consider it. If you don't want them to consider it, don't have them gather it--limit what they have to do under an impact statement. He said the committee in passing HB 742 recommended state agencies consider information they have gathered, and this bill would do just the opposite so he felt it should have a be not concurred in committee recommendation.

GAIL STOLTZ, Mt. Human Resources Development Councils Directors Association, spoke in opposition and a copy of her testimony is exhibit 7 of the minutes.

EILEEN SHORE, representing self, worked for the EQC for a year and a half as researcher and attorney. She felt this bill is contrary to the entire intent of MEPA. The purpose is clear: the state should consider the environmental impact of any proposed action "to the fullest extent possible." She said this bill would result is saying "to the least extent possible."

During questions from the committee, Mr. Meloy said the way this bill is written an agency is to look at all the broad categories but make a decision only on their specific part. Rep. Scully asked why the act couldn't be amended to delegate that authority or to allow that delegation of authority. Mr. Meloy said an alternative would be to amend each agency section to give them authority to make a decision or to leave MEPA as it is and hope the court will construe it to give them that authority. Rep. Curtiss asked how many EISs a year and how much they cost. Mr. Terry Carmody, present director of the EQC, said there were 10 in 1976. Rep. Harper asked Mr. Carmody how he felt about this bill. Mr. Carmody responded as an employee of a group of legislators he will do what he is told by them to do. It was mentioned the cost of the EIS is charged as a fee to the applicant and also an EIS is not written unless there is a major project.

In closing Senator Roskie said there are some basic philosophical differences. He didn't feel laws should be made in courts. He said many EISs have been prepared and then just put in a drawer. The intent of 506 is to make them more definitive and so a better tool. He felt the bill would direct the agencies in the way they should be directed. Deal with decision making authority of the agencies rather than broaden MEPA.

Chairman Sheldon left to attend a hearing in the Senate and Vice Chairman Harper took the chair.

SENATE BILL 368

SENATOR MATT HIMSL, District 8, the chief sponsor, said this is an act to require counties to distribute forest reserve funds to municipalities within the county according to population. A copy of his testimony is exhibit 8 and part of the minutes. Also included in this exhibit is a breakdown by county of the national forest receipts, each counties share, and what this would amount to for each city in the county. Another sheet he passed to the committee members was a summary of the roads the forest reserve funds would be used on. This is also part of exhibit 8.

NORMA E. HAPP, Mayor of Kalispell, spoke in support of the bill.

HAROLD GUTHRIE, Mayor of Livingstone, mentioned the logging trucks make use of their streets to get to the mills, forest workers' families make use of the streets and he felt the county forgets that the cities are a part of the county.

WILLIAM WHEELER, registered Civil Engineer and Land Surveyor from Kalispell, spoke next in support representing self and a copy of his testimony is exhibit 9 and part of the minutes.

EDMUND P. SEDIVY, JR., Mayor of Bozeman, said the city of Bozeman strongly supports the bill. He felt this would only be fair and this financial assistance to the cities and towns segment of local government is desperately needed.

LARRY HEGGEN, City of Missoula--League of Cities, said these monies are intended as "in lieu" of federal taxes. He asked the committee to remember that the impact of federal programs effects cities very severally and they receive no form of "in lieu" of taxes.

RAY THRAILKILL, Mayor of Hamilton and Vice President of the League of Cities, said many funds are distributed to counties that do not reach the cities and towns. He said this bill would furnish much needed funds for streets.

JACK HARWOOD, Town of Plains, spoke in support and a copy of his testimony is exhibit 10 of the minutes.

MARIE McALEAR, Twin Bridges, spoke in support and a copy of her testimony is exhibit 11 and part of the minutes.

DAN MIZNER, Montana Cities and Towns, spoke in support saying timber may not grow in cities yet natural resources belong to everybody and the cities are a part of the county.

Also signing as supporting the bill were:

Harry Larson, Plains  
Kenneth W. Frethin, Boulder  
George H. Christensen, Boulder  
Harvey Kusegard, Circle

MIKE STEPHEN, Montana Association of Counties, was the first opponent speaker. He said by federal law revenues from forests are returned to the states for counties. Timber related consequences are county related and timber lands are not found within city limits. Revenues are necessary for county roads and schools. He said this money is all being used--31 counties rely on this money to come in and wish it were more. He passed to the committee members a copy of "News from the Forest Service" which indicated the amounts different counties were estimated to receive. This is exhibit 12 of the minutes.

FRANK GUAY, Flathead County, said the law has been on the books for a long time and he does not believe that it permits this type of thing. He said townships do not receive any of this fund either. Counties worked hard to get the 25% based on the gross proceeds rather than the net--and they received no help in this effort from the League of Cities and Towns. He said there is a lack of information between the counties and the cities. He said there are instances where they have cooperated in drainage and developing streets and he felt this could and should be expanded. He mentioned the city of Kalispell uses the county jail for their criminals at a greatly reduced rate.

JOHN MUSTER, Commissioner from Sanders County, said they get about a million dollars (timber prices right now are high) and 30% of that goes to the state school foundation and about \$600,000 for labor costs--and so there is no surplus--no money being wasted. He said they chose to go for tax relief as they felt the taxpayer needed a break. He said this bill would cause them to cut their road service 40 to 50%. The money is intended for federal timber impacts (they have five major mills in their county) and not for filling potholes in cities. He said there isn't a single federal tree in those cities.

JOY I. NASH, Commissioner from Gallatin County, opposed the bill saying this would greatly increase county taxes. This money is needed by the county for road improvements and bridges that timber trucks use.

ELMER L. CYR, Mineral County, said he couldn't see how the towns in their county could use the amount of money they would get on their streets. He said it is a sad situation when two local forms of government should be at each other for the funding one already has and is using. He said they do things for the city like oil laying at cost. Deer Lodge and Butte are an example of a combined city-county government. He felt this type of cooperative agreements are needed--some already in the law enforcement area and this should be developed in other areas also.

BILL BRINKEL, Stillwater County, said they oppose the bill.

PAUL CONKLIN, Commissioner, spoke in opposition.

Signing as opposing, unable to speak because of lack of time were:

Franklin Steyaert, Cascade County Commissioner  
Tom Beck, Powell County Commissioners, exhibit 13  
George W. Wells, Sanders Co., exhibit 14.  
W. V. Thibodeau, Missoula County, exhibit 15.  
L. W. Fasbender, Cascade County  
Robert Barlue, Fergus County  
Dale Skaalure, Chouteau County Commissioner, exhibit 16.  
Kenneth A. Coulter, Brusett, County Commissioner, exhibit 17.  
Neuman Raymond, Powell County, exhibit 18.

Chairman Sheldon returned and resumed the chair.

In closing Senator Himsl said he agrees with the comment that we should work together. He said the bill is not contrary to law as the law says public roads of the county and this should include city streets as they are within the county limits. Senator Himsl said residents of the city do not pay a county road tax although they do pay a bridge tax. However, a lot of the population in cities are in the suburbs and so are paying a county road tax but drive on city streets to work in the towns. He hoped the committee members would review this all objectively and he would trust in their judgement.

During questions Rep. Scully asked what the overall impact would be on the county level. Mr. Stephens replied \$4.2 million.

#### HOUSE JOINT RESOLUTION 51

REPRESENTATIVE VERNER L. BERTELSEN, District 27, the bill's sponsor, said this bill deals with bentonite of which Montana has some sizeable deposits. He felt there are areas the legislature should be informed on: work now in progress, adequacy of taxation and reclamation problems (the clay like material lies close to the surface so little top soil and it could present a reclamation problem). He said this industry will grow and expand as there are many uses for it. He handed to the committee members copies of a report prepared by the Environmental Quality Council titled "Report on Bentonite Mining in Montana, Reclamation and Taxation." A copy of this is exhibit 19 of the minutes.

During questions Rep. Thoft asked if we need a different set of reclamation laws to deal with bentonite. Rep. Bertelsen said it is covered by the Open Cut Mining Act but he would feel more comfortable if we had some additional legislation included in the law. He said it is different than either mineral or coal mining. Mr. Leo Berry, State Lands, responded to a question on reclamation that there is a lack of topsoil and it becomes impenetrable for roots or water. Rep. Johnston said the material comes from volcanic ash.

Meeting adjourned at 2:10 p.m.

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Respectfully submitted,

  
ARTHUR H. SHELDEN, Chairman

Emelia A. Satre, Sec.