

MINUTES OF THE MEETING OF THE NATURAL RESOURCES COMMITTEE
JANUARY 9, 1981

The House Natural Resources Committee convened in Room 437 of the Capitol Building on Friday, January 9, 1981, at 12:40 p.m. with Chairman Dennis Iverson presiding and sixteen members present (excused was Representative Audrey Roth and absent was Representative Vice-Chairman Burnett). Chairman Iverson opened the meeting to a hearing on HB 16.

HOUSE BILL 16 REP. JOE QUILICI, sponsor, introduced the bill. Rep. Quilici's testimony was written and is attached as Exhibit 1.

George Roskie, former Senator from Great Falls, Chairman of the interim Energy Forecasting Committee, was present to support the bill and to help answer any questions.

Rep. John Vincent of Bozeman and a member of the Energy Forecasting Committee was also present and spoke in support of the bill. He feels the bill would provide much needed information to the people and the State of Montana and that it relates to energy supply and demand.

Leo Berry, Director of the Montana Department of Natural Resources, spoke as a proponent. His written statement is attached as Exhibit 2.

The Montana Chapter of the Intermountain Oil Marketers Association was represented by John Braunbeck who spoke in opposition of the bill. His written testimony is attached as Exhibit 3.

The next opponent was Don Allen, representing the Montana Petroleum Association. Mr. Allen stated his concern in avoiding the establishment of yet another bureaucracy. In the event of a widespread energy crisis which would be due to a crude oil shortage everything will be handled by the Federal government. Most companies will use national guidelines and not state rules. This assures that everyone will share the shortage. Some of the data required by the bill is of a confidential nature and that confidentiality must be protected. Various parts of the bill are not acceptable to the Montana Petroleum Association such as prime supplier should read prime petroleum supplier; and, that this is Montana data only and not national or international. The Zip Code problem could be solved by using a system called the Standard Point Location Index or a suitable alternative.

Rep. Tom Asay read a telegram from the Beacon Carter Service, W&F Propane Company, Miles City, Montana, expressing opposition

to the bill. It is attached as Exhibit 4.

Tex Pate, President of the Montana Oil Marketers, said the jobbers are concerned. Jobbers distribute large amounts of petroleum products but do not store, so reporting is not required; this means the figures are not accurate.

Doug Alexander, the Bozeman representative of the Oil Marketers Association, said the lag time renders the reporting useless. Large amounts which are not being stored are therefore not accounted for.

Gary Nelson, the Regional Director for the Montana Oil Marketers, said the fuels have already been purchased. Therefore the information is useless as the product has been sold.

Rep. Quilici closed the bill by saying the oil industry apparently does not want any regulations. The information asked for is prepared and ready to be sent in for evaluation by the DNR. Stated again that this bill is not intended to be used for forecasting but that the monitoring is necessary.

Questions were then allowed by committee members. Rep. Nordtvedt asked if the number of barrels or gallons is part of the issue and could the Natural Resources Committee work out a solution. Tex Pate replied that the bulk of fuels in the State are in the pipeline and terminals and that the biggest jobbers sometimes would not have to report anyway.

Rep. Mueller asked John Braunbeck if Oil Marketers would go along with the bill if changes asked for could be made. Mr. Braunbeck said they are asking to participate by including some changes.

Rep. Harp asked who would have the authority to transfer the fuel. Rep. Quilici replied that is negotiable with the jobbers to get the fuel transferred where needed.

Rep. Harp asked Bill Gosnell, the Energy Administrator, who is going to administer this law or will this law be another layer of bureaucracy. Gosnell said to refer to Appendix G of the book Energy Forecasting: A Role for State Government?

Rep. Sales asked Bill Gosnell if we had had this plan in effect a few years ago would we have been able to stop the shortage of 1979. Gosnell replied we would have been able to at least prove that we had a shortage. We need figures to support our position to Federal authorities.

Rep. Harp inquired of Senator Roskie how this bill would tie in with the energy plan. Senator Roskie referred to the Energy

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Forecasting: A Role for State Government?

Rep. Asay asked if the industry has made any changes to try and help out in case of a crisis. Mr. Pate replied that the jobbers definitely work together without the help of the State. Mr. Allen stated that some changes are beyond industry control i.e. Iranian crisis, but that the industry tries to plan 12 months ahead.

Chairman Iverson closed the hearing on HB 16 and the meeting adjourned at 1:50 p.m.

Respectfully submitted,


DENNIS IVERSON, Chairman

Ellen Engstedt, Secretary

TESTIMONY FOR HB16

My name is Joe Quilici and I am appearing today as the vice chairman of the Interim Forecasting Committee. Our committee studied the question of whether the state should be given the authority to independently forecast energy supplies in Montana. Our committee studied this question for 18 months and arrived at the bill that is before you now. The bill was recommended by a unanimous vote of the committee.

The conclusion of the committee was that the state should not get into independent forecasting. What the bill does is allow the state to monitor petroleum supply and demand in order to better be able to anticipate energy shortages. On the electricity side, the bill provides only the capability of analyzing existing utility forecasts. The committee was quite clear in its resolution that the state will not be given the capability of independent forecasting.

The committee felt that rather than give the state independent forecasting capability, it would be much better to only allow for critical review of utility forecasts. The state would review the methodology and this review would speed up need requirement analysis for new facilities under the Facility Siting Act and also serve as a check of regional forecasts that will come out of the BPA under the Northwest Power Bill. The committee felt that critical review was the best way of assuring quality utility forecasts with the utilities continuing to do their own forecasting.

The committee spent considerable time investigating the state's response to the diesel shortage in 1979. It is clear that the major problem, aside from the lack of fuel, was the inability to determine the extent of the shortage.

In studying the information necessary to monitor the petroleum situation, the committee paid careful attention to the burden the reporting requirements put on the petroleum industry. We felt that our information requirements are only the essential information needed to accurately assess the petroleum situation and we have opted to use existing reporting mechanisms whenever possible.

The bill asks for reporting of three major categories of information. The first category is production and throughput of refineries in the state. The refineries already report this information to the Federal Department of Energy, which then aggregates the information and provides it to the state. There is unnecessary delay of a month or more in receiving this information. The bill requires the reports to come directly to the state so there is no delay.

The second category of information is for bulk storage facilities with capacity of 50,000 gallons or more to report monthly inventories. Inventories coupled with production constitute the supply of fuel available in the state. The 50,000 limit is designed to capture a significant portion of fuel, without every gas station in the state reporting. The industry burden amounts to reporting two or three numbers once a month to the state.

The final reporting requirement is for the primary petroleum suppliers in the state to report their first sale by zip code on a quarterly basis. This method is thought to be the best way to get local consumption information. No information on local consumption is presently available for diesel fuel. As was evidenced in 1979, the state is very susceptible to localized shortages. The state as a whole could have a minor shortfall, but some parts of the state could be out of fuel.

In addition, through the fuel set-aside program, the state has control of 5% of the gasoline and 4% of the diesel in the state, which can be transferred to areas of local shortages to help alleviate the problem.

However, without local information, there is no accurate way of knowing where to assign the fuel. For these reasons, it is very important to have local information.

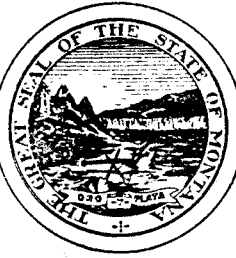
The first draft of the bill called for monthly reporting of sales, but industry wanted quarterly reporting. Obviously, monthly reporting gives better and more timely information to analyze, but quarterly will be adequate.

The bill gives information provided by industry statutory protection. The confidentiality section is very similar to that which protects other state records such as income tax returns.

When the Energy Supply Emergency Powers Act was passed by the Legislature, we made the state accountable for managing an energy shortage. This bill allows the state to monitor the energy situation in Montana to be better able to anticipate shortages. This monitoring will help the state respond more quickly to shortages to hopefully alleviate problems before they become unmanageable. This bill is not a forecasting bill, but rather a bill that will help the consumers of the state by allowing immediate response to an energy shortage in its formative stages.

EXHIBIT 2

DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION



Ted Schwinden, Governor

32 SOUTH EWING

STATE OF MONTANA

(406) 449-3712

HELENA, MONTANA 59601

January 9, 1981

Chairman and Members of the Committee:

As Director of the Montana Department of Natural Resources, I appreciate the opportunity to testify today in support of H.B. 16, the amendments to the Governor's Energy Supply Emergency Powers Act as proposed by the Interim Legislative Committee on Energy Forecasting.

The Emergency Powers Act directs the Governor to evaluate the extent and potential consequences of energy shortages and to take remedial action as necessary to protect the state. Although this statute provides broad executive authority for information-gathering, a subsection of the law exempts companies from reporting proprietary data. Because nearly all petroleum industry data is classified proprietary, the proposed amendments are needed to give the Governor authority to obtain necessary information while at the same time statutorily protect the confidentiality of the data for the oil companies.

Reliable energy data is an essential basis for informed decision-making in energy supply shortages. Accordingly, I recommend that this Committee give a "do-pass" to this bill.

MONTANA CHAPTER

INTERMOUNTAIN OIL MARKETERS ASSOCIATION

January 9, 1980

The Montana Chapter of the Intermountain Oil Marketers Association (IOMA) hereby presents written testimony on HB-16 which proposes to amend the governor's energy supply emergency powers to provide for regular monitoring of energy supplies and demand; to require submission of reports on petroleum supplies and consumption; and to provide for confidentiality of certain information submitted.

Montana IOMA wishes to state at the outset that a bill to allow state government the ability to formulate plans, institute emergency measures to reduce or allocate energy usage through a program of mandatory usage curtailment or allocation to eliminate or mitigate an energy shortage is needed. There is no doubt that shortages will occur in the Montana area. The only question is when.

HB-16 wishes to address Montana's emergency preparation stage with correct intent. However after extensive review, it has been determined that this bill appears to create complicated and expensive reporting requirements from all sectors of the petroleum industry. Montana IOMA believes that the proposed massive reporting procedures accomplish little toward solving or managing an energy emergency. Please consider that all the reporting procedures in the world will not address Montana's problems should Canada curtail crude oil exports. Concentration then must center on before, during and after an emergency. This bill does not accomplish that. The following is offered:

A. Lines 11 through 16 of page 5 require monthly reports to be submitted no later than 20 days after the last day of the month. Inherent reporting lag-times preclude efficient energy emergency preparations.

B. Lines 5 through 8 of page 7 caution against eliciting information already furnished by a person or political subdivision in this state to a federal, state, or local regulatory authority that is available for his study. To our knowledge, an inventory of already reported information has not been done at the state level. The problem, of course, is how can one

avoid duplication if it is unknown just what information is already submitted. As you know, Montana IOMA members are already inundated with required forms from both state and federal agencies.

C. Lines 10 through 13 set forth reporting of end-of-month inventory stock levels of finished petroleum products in custody by type of product and storage location. Montana IOMA assumes that the reason for accountability of inventory levels is the desire to know the available volumes that can be used if an emergency occurs. If this is indeed the case, the question of discretionary volumes comes into play. Discretionary volumes appear to be those volumes that state government wishes to transfer to another location. However the main problem with this reasoning is that during a shortage, and at a specific given point in time, no discretionary volumes are available in jobbers tanks. These volumes are committed to his customers. To transfer any volumes on such an inventory reporting basis merely transfers the emergency. Therefore, inventory monitoring by this specified reporting procedure is ineffectual because wholesale inventory levels change on an hourly basis.

D. Lines 16 through 19 define reporting obligation levels to include total bulk storage capacity of 50,000 gallons or more. Montana IOMA believes that numerous bulk plants will be required to report in addition to many retail and wholesale operations such as truck stops. Setting forth a volume limit of 50,000 gallons overlooks the problem of large bulk plant operators feeding directly from a pipeline terminal. For them, storage capacity is nonexistent. The net result is massive amounts of information required from small bulk plants.

E. Lines 2 through 3 outline collectable information. This includes the phrase, "...include but is not limited to:". Inclusive of the listed reporting requirements, this clause appears to give bureaucracy authority to require further information as desired. Montana IOMA does not agree with this reasoning.

F. Lines 12 through 15 stipulate disclosure requirements with respect to confidential information. The exception appears to be all items listed in subsection (2). Quite possibly, much of this material is designated confidential by many businesses and the federal government. The question is, what information is confidential and what is not. Also, penalties

for unauthorized release of this information are not stated in this bill.

Again, Montana IOMA wishes to state that we support the intent of this bill. Emergency planning is a necessity. However, we believe that the contents do not provide measures that will effectively address energy emergencies in Montana. Therefore, the following position has been taken:

Montana IOMA believes that the present HB-16 provides complicated and expensive reporting of information highly questionable in value. Further, the bill does not address the major issues of what Montana will do before, during and after an energy shortage. The intent of the bill appears to be a desire to monitor energy supply and demand sectors. However, we believe this bill does not meet this intent and therefore should be terminated.

If HB-16 is allowed to pass, the following amendments should be considered:

- A. Regular monitoring of proposed massive amounts of reported information should be changed to reflect the original intent of the governor's energy emergency supply powers. This implies "reporting of a reasonable nature" at the time an emergency strikes.
- B. Require the bureaucracy responsible for operation of emergency planning to determine, with industry input, what "reporting of a reasonable nature" is so that acceptable and workable procedures can be implemented.
- C. Reporting obligation levels cannot be established on a storage capacity basis. The result is misleading information and therefore unreliable. Consideration for reporting of all wholesale purchaser's without reference to an obligation level would satisfy this requirement in addition to bringing into play supplies of wholesale purchaser consumers who have discretionary volumes, with consideration for payback, to use in emergency situations.
- D. Prior to enactment, requirements for a state and federal inventory of reported information must be detailed to avoid conflict with lines 5 through 8 of page 7 which cautions against eliciting already reported information.
- E. Once "reporting of a reasonable nature" is determined, lag-times can be eliminated by

phone call procedures.

F. Prior to enactment, consideration must be given to what information will be considered confidential and what information is available for general use. Also, penalties for unauthorized informational release should be included in this bill and made well know to the information handlers.

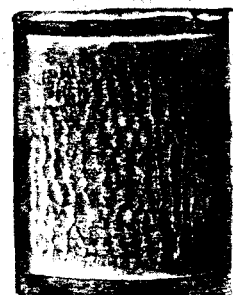
Montana IOMA thanks the Natural Resources Committee for allowing us the opportunity to present testimony. Much needs to be done in Montana's energy planning area. Montana IOMA members wish to participate in drafting a workable emergency energy plan that will satisfactorily honor the intent of HB-16.

EXHIBIT 4

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STATE HOUSE OF REPRESENTATIVES
CAPITAL BLDG
HELENA MT 59601
RE HOUSE BILL #16
PLEASE OPPOSE CREATES ADDITIONAL EXPENSE AND PAPERWORK FOR BOTH
ENERGY DISTRIBUTORS AND GOVERNMENT. BUT NO ADDITIONAL PRODUCT.
PRESENT STATE SET ASIDE IS WORKING KEEP IT IN EFFECT
BEACON CARTER SERVICE. W & F PROPANE CO, MILES CITY MONTANA 59301

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DRAFT

Statement of Intent for HB 16

HB 16 is intended to implement two of the recommendations of the interim Study Committee on Energy Forecasting, which are as follows:

- 1) That the Legislature sanction development, within state government, of a capability to review existing energy forecasts with limited data-gathering and analytical authority where gaps in existing forecasts occur, while minimizing government regulation;
- 2) That the Legislature enact a bill amending the Governor's energy supply emergency powers to provide for regular monitoring of energy supplies and demand and to require submission of reports on petroleum supplies and consumption while providing for confidentiality of company - specific data.

Through adoption of this bill, the Legislature intends to provide the state with the energy supply and demand information that it needs while avoiding the establishment of a costly and perhaps duplicative independent state forecasting program.