

HOUSE NATURAL RESOURCES COMMITTEE MINUTES  
January 14, 1983

The House Natural Resources Committee convened on Friday, January 14, 1983, in Room 224K of the State Capitol, at 12:30 p.m., with Chairman Harper presiding and all members present except Rep. Bertelsen, who was excused. Chairman Harper opened the meeting to a hearing on HB 96.

HOUSE BILL 96

REPRESENTATIVE DAN YARDLEY, District 74, chief sponsor, said he had sponsored the bill at the request of the Department of Health and Environmental Sciences. He introduced the following proponent to explain the bill.

LARRY MITCHELL, Solid Waste Management Bureau, Department of Health and Environmental Sciences, said Montana has two laws which regulate the location, screening and licensing of wrecking yards: the Highway Department's Junkyards Along Roads Act and the Health Department's Motor Vehicle Recycling and Disposal Act. This bill would take wrecking facilities and solid waste disposal areas out of the Highway's definition of junk or junkyards and clarifies that these activities are and will remain regulated by the Health Department. So, Montana would then have one law which regulates the establishment and operation of wrecking facilities administered by the Department of Health, and one law which regulates other junkyards, as required by federal law, administered by the Highway Department. A copy of his testimony is Exhibit 1 of the minutes.

BILL ROMINE, representing wrecking yards, spoke next in support. He said the wrecking yards would prefer working with only one agency and as it is now two agencies are involved and a yard could get involved between two sets of rules and so have confusion and delay.

SAM HUBBARD, Department of Highways, spoke next in support. He said this would help to clarify the statutes.

REPRESENTATIVE YARDLEY in closing said this could almost be considered a housekeeping bill. This would separate the jurisdiction of the two agencies. He said he couldn't see where it would increase the requirements on the people involved.

During questioning by the committee, Rep. McBride asked if striking ~~the definition of graveyard from the definition of junkyards would~~ affect any other part of the statute. She was assured there was another statute citation of the term.

Chairman Harper closed the hearing on HB 96 and opened the meeting to a hearing on HB 98. Attached is the Visitors' Register, Exhibit 2.

HOUSE BILL 98

REPRESENTATIVE DAN YARDLEY, District 74, chief sponsor, said this bill was also requested by the Department of Health and Environmental Sciences. He read through the changes in the bill. He then introduced the following proponent.

LARRY D. MITCHELL, Solid Waste Management Bureau, Department of Health and Environmental Sciences, said this bill would clarify the definition of "junk vehicle" and verify that only motor vehicles may be considered junk vehicles. It would more clearly distinguish "old" (existed before July 1, 1973) and "new" wrecking facilities. A copy of his testimony is Exhibit 3 of the minutes. A copy of a suggested amendment is Exhibit 4 of the minutes. This amendment would protect the license of a facility established and licensed after July 1, 1973, which may become physically unscreenable due to new road construction.

BILL ROMINE, representing Wrecking Yards, said they wished to amend the bill. He said they would like to have the committee adopt the language in SB 55 in place of the language found in Section 3, page 4. A copy of his testimony is Exhibit 5 of the minutes. He said they support Mr. Mitchell's amendment but would like the additional language added to safeguard a previously licensed and screened yard. He said the amendment takes care of the question of what happens where there is a license issued as there is proper screening and then there is a change in the road, but it does not take care of a transfer or an accidental lapse in getting licensed.

During questioning by the Committee, Rep. Ream asked Mr. Mitchell how they felt about SB 55. Mr. Mitchell said they had appeared in support of the bill. Rep. Ream asked if the differences between the department and the wrecking yards were reconcilable and Mr. Mitchell said he thought so. Rep. Jensen asked about zoning and Mr. Mitchell said one of the criteria to becoming licensed is they must be approved by local zoning. Rep. Jensen asked if this precluded the use of land like hillsides and gullies that historically have been used for this purpose. Mr. Mitchell said yes for new facilities if they couldn't be screened.

Chairman Harper closed the hearing on HB 98 and Had Rep. Ream assume the chair for the following bill. Vice-Chairman Ream opened the meeting to a hearing on HB 118.

HOUSE BILL 118

REPRESENTATIVE HAL HARPER, District 30, said he and Rep. Donaldson were sponsoring HB 118 to remedy the problem of the closing of the Subdivision Bureau of the Department of Health and Environmental Sciences. This bill raises the maximum per lot fee chargeable under the Subdivision and Platting Act from \$30 to \$50.

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DON WILLEMS, State Department of Health and Environmental Sciences, spoke next in support. A copy of his testimony is Exhibit 7 of the minutes.

CHARLES LANDMAN, Montana Environmental Information Center, said they support the bill for the reasons mentioned.

ELIZABETH J. KNIGHT, Jefferson-Broadview Environmental Health Association, spoke next in support and a copy of her testimony is Exhibit 8 of the minutes.

WILLIAM BRUCK, Butte, representing self, urged the committee to pass the bill.

DENNIS REHBERG, Montana Association of Realtors, spoke as an opponent to the bill as it stands. He said they are not convinced this is the best approach to the problem. He said they have had several meetings with Dr. Drynen and are working on proposals that will be of help. He said it was a basic economic question. The problem stems from the review being funded by fees with a lot less subdividing so fewer fees coming in, but with a need by the department to continue a level of expertise. But raising the fee per lot will raise the cost of the home to the purchaser. He said they would not opt for a general fund appropriation as they wouldn't expect the city of Kalispell to foot the bill for subdivision review for the city of Sydney. He said their proposal is a general fund lot fee payback so the department wouldn't have highs and lows, and yet the consumer will pay in the end. He said they felt government review is necessary but the process could be streamlined.

REPRESENTATIVE HARPER closed. He said he hoped a compromise could be reached. He read survey results received from a questionnaire sent by the Montana Environmental Health Association to all local sanitarians and health officers in the 56 counties. A copy of this is Exhibit 9 of the minutes. He said results of this survey showed local officials are overwhelmingly in favor of the state being in charge of subdivision review.

During questions from the committee, Rep. Quilici asked why the previous Legislature had cut their funds. Mr. Willems responded it was because there was a reserve built up at that time. He said he was unaware of any other reason. Rep. Quilici asked if the Department expected to hire more FTEs if the fee was increased the answer expressed by DR. DRYNEN was no.

Rep. Fagg asked how big an average subdivision is. The reply was about 7 lots although it can vary from 1 to 400.

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Rep. Fagg asked the number of lots they were basing figures on. RAY HOFFMAN, Centralized Services, Dept. of Health, said basing it on 4,087 lots \$50 a lot would be adequate.

In response to another question Dr. Drynen said he had requested that this responsibility be placed in the Water Quality Bureau.

Rep. McBride asked how many FTEs worked on subdivision. STEVE PILCHER, Chief, Water Quality Bureau, said it was handled by four people from July to November, when it was transferred to the Water Quality Bureau two FTEs transferred with it. He said perhaps eight people work part time on it which makes an equivalent of four people, and this includes one secretary and three engineers. Rep. Brown mentioned that since the more technically trained people are in the Water Quality Bureau and they had assisted on technical things prior to the transfer, this move could streamline the process and he was in favor of it.

Rep. Fagg said at \$50 a lot times 4000 lots income would be \$200,000 and where does the money go in addition to supporting 4 FTEs.

Mr. Pilcher said part of this money goes to the counties - of the past \$167,116, \$76,834 went to the counties. He said the minimum to pay the counties is \$15 a lot and \$25 is what they are receiving. Mr. Hoffman also responded upon being requested that this money also includes money for supporting accounting personnel, for travel for the staff, for rental costs associated, for paying for the legal services. He said they must pay for every service they receive as there is no free gratis. Rep. Fagg said he would like to see a breakdown.

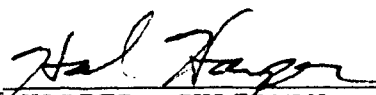
Vice-Chairman Ream closed the hearing on HB 118 and Chairman Harper resumed the chair and opened the meeting to an executive session.

EXECUTIVE SESSION

HOUSE BILL 96 Rep. Metcalf moved do pass. Motion carried unanimously with those present.

Meeting adjourned at 1:30 p.m.

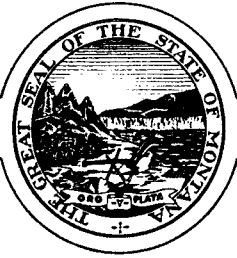
Respectfully submitted,

  
\_\_\_\_\_  
HAL HARPER, CHAIRMAN

Emelia A. Satre, Secretary

EX. 1

# DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

## STATE OF MONTANA

HELENA, MONTANA 59620

### FORTY-EIGHTH LEGISLATURE HOUSE BILL 96

Montana presently has two laws which regulate the location, screening and licensing of wrecking yards: the Highway Department's Junkyards Along Roads Act (Title 75, Chapter 15, Part 2, MCA) and the Health Department's Motor Vehicle Recycling and Disposal Act (Title 75, Chapter 10, Part 5, MCA). The Health Department's law is more restrictive in that it requires screening and licensing of all motor vehicle wrecking facilities. The Highway law is concerned only with those wrecking facilities and junkyards within 1000 feet of federal primary or interstate highways. The Health Department licenses all wrecking facilities but has no authority over junkyards which are not wrecking facilities. Federal law requires that the states control junkyards (including motor vehicle wrecking facilities) along federal primary or interstate highways or face a possible 10% reduction in federal highway aid. Except for the Health Department's lack of authority over non-wrecking facility junkyards, Title 75, Chapter 15, Part 2, MCA, could be repealed in its entirety without affecting the state's highway funding.

The next best solution is offered by this bill. It takes wrecking facilities and solid waste disposal areas out of the Highway's definition of junk or junkyards and clarifies that those activities are and will remain regulated under the existing authority of the Health Department. With the passage of this bill, it will be clear that Montana has one law which regulates the establishment and operation of wrecking facilities administered by the Department of Health, and one law which regulates other junkyards, as required by federal law, administered by the Highway Department. Solid waste disposal sites will continue to be regulated by the Department of Health under Title 75, Chapter 10, Part 2, MCA, 1979.

Submitted by,

A handwritten signature in cursive script that reads "Larry D. Mitchell".

Larry D. Mitchell  
Solid Waste Management Bureau  
Telephone: 449-2821

# VISITOR'S REGISTER

HOUSE

## NATURAL RESOURCES

COMMITTEE

BILL

HB 96

DATE 1/14/83

SPONSOR

YARDLEY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

*Exhibit 3*

# DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



TED SCHWINDEN, GOVERNOR

COGSWELL BUILDING

## STATE OF MONTANA

HELENA, MONTANA 59620

### FORTY-EIGHTH LEGISLATURE HOUSE BILL 98

The Motor Vehicle Recycling and Disposal Law is administered by the Department of Health and Environmental Sciences. It provides grants to local government to operate county junk vehicle collection and recycling programs. The law requires that all junk vehicles and wrecking yards be screened from public view. Wrecking yards are required to be licensed.

Obviously, a clear and concise definition of "junk vehicle" is an integral part of the law. This bill would clarify that definition by deleting a redundant phrase and verify that only motor vehicles may be considered junk vehicles. Non-self-propelled vehicles would be exempt from the definition.

Additional amendments are proposed to more clearly distinguish "old" wrecking facilities from "new" ones. Since the law makes certain screening requirement concessions for facilities in existence prior to enactment of the law on July 1, 1973, it is important that the distinction be made between the two.

Submitted by,

A handwritten signature in cursive script, reading "Larry D. Mitchell".

Larry D. Mitchell  
Solid Waste Management Bureau  
Telephone: 449-2821

AMENDMENT TO HB98 PROPOSED BY THE DEPARTMENT OF HEALTH  
AND ENVIRONMENTAL SCIENCES

Page 4, line 12.

Following: "view"

Insert: "on the date it is initially established or proposed to the  
department for licensure"

This amendment is necessary to protect the license of a facility  
established and licensed after July 1, 1973 which may become physically  
unscreenable due to subsequent public road construction or relocation.



Exhibit 2

NAME: B. H. Ramine DATE: 1-14-83

ADDRESS: Helena

PHONE: 442-2220

REPRESENTING WHOM? wrecking yards

APPEARING ON WHICH PROPOSAL: H.B. 98

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? x OPPOSE? \_\_\_\_\_

COMMENTS: The association does not oppose H.B. 98, but urges the committee to adopt the language found in S.B. 55 in place of the language found in Section 3, page 4. S.B. 55 more clearly represents the initial intention of the legislature when it first passed 75-10-504. It is necessary to retain the intent and purposes of 75-10-504, so that subsequent changes in Railways does not adversely affect a wrecking yard that originally complied with the law, but can no longer comply because of changes beyond the control of the owner of the yard.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

# VISITOR'S REGISTER

HOUSE NATURAL RESOURCES

COMMITTEE

BILL HB 98

DATE 1/14/83

SPONSOR      YARDLEY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

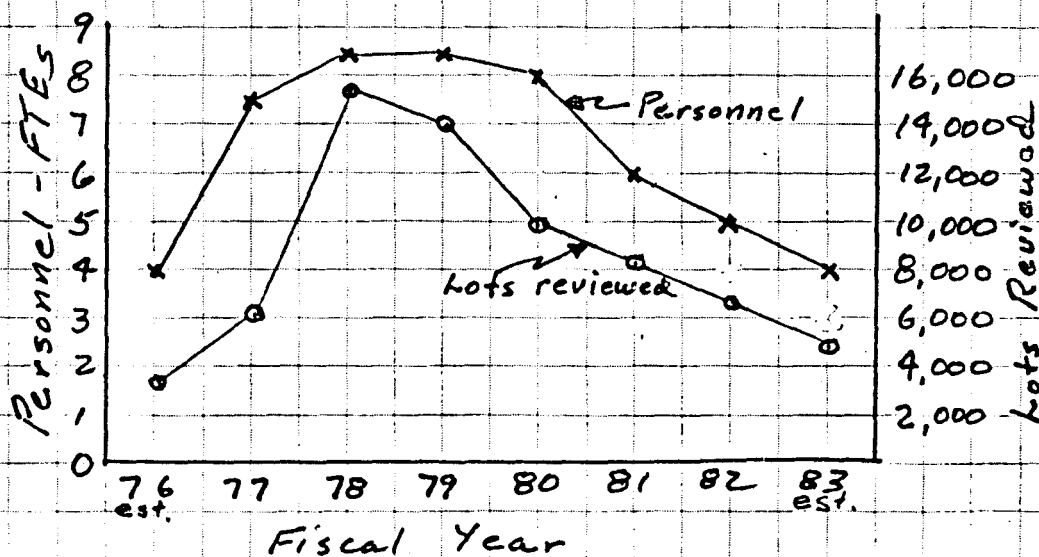
The Sanitation in Subdivisions Act was enacted in 1961. Prior to FY 76 the program was handled by the Division of Environmental Sanitation or the Water Quality Bureau (WQB) of the State Department of Health and Environmental Sciences (DHES). The program received general funds for its operation.

In FY 76 a separate Subdivision Bureau was established within the DHES. General funds of about \$65,000 a year were provided to assist in funding the Bureau from FY 76 to FY 79.

The 1975 legislature approved a \$15.00 per lot fee. The 1977 legislature approved a \$25.00 per lot fee with a minimum of \$10.00 per lot being returned to counties under contract. The 1981 legislature changed the fee to \$30.00 per lot with a minimum of \$15.00 per lot being returned to the counties under contract.

General funds for the program were eliminated from the budget by the 1979 legislature. A reserve of \$224,000 was present at the end of FY 79 in the earmarked revenue account. The reserve has now been depleted.

The subdivision program staffing and number of lots reviewed for the FY 76-83 period are shown below.



The subdivision program was returned to the WQB of the DHES in November, 1982. Two of the four subdivision personnel left the program at that time because of the funding problem. Several additional people on the WQB staff are also now involved with the subdivision program on a part-time basis. Not only are these personnel expected to continue to perform the high priority tasks associated with their positions, but they are also expected to review subdivision submittals in a timely manner. Some of their regular duties have been delayed and it is important that they be returned to their regular assignments as soon as possible.

Exhibit 8

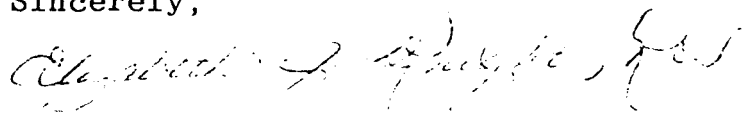
WRITTEN TESTIMONY IN SUPPORT OF HB 118

By: Elizabeth J. Knight, R.S.

Mr. Chairman and committee members, my name is Elizabeth Knight. I am currently employed as the Jefferson-Broadwater County Sanitarian and am president of the Montana Environmental Health Association. The Association and myself appreciate the opportunity to submit written testimony in support of HB 118 which allows for an increase in lot fees charged by the state for services rendered in the review of subdivisions. It should be evident in view of recent changes in the subdivision review process that the current thirty dollar review fee is in no way adequate to cover actual review costs.

We therefore urge this committee to recommend a do pass on HB 118 for a subdivision review fee increase.

Sincerely,



Elizabeth J. Knight, R.S.  
Broadwater-Jefferson County Sanitarian  
Box 622  
Boulder, MT 59632

EJK/bg

INTRODUCTION:

In early November, 1982, the Subdivision Bureau of the State Department of Health and Environmental Sciences was closed, due to lack of funding and the subdivision review responsibilities were placed in the Water Quality Bureau. At the same time, it was learned that legislation was being drafted to turn the entire review responsibilities for all subdivisions, both major and minor, over to local health departments. This legislation, evidently, is being developed by several legislators, and not by the State Department of Health and Environmental Sciences or local health departments.

Several local sanitarians and health departments envisioned numerous serious problems developing, should such legislation pass. Therefore, in order to get the feelings and input from local Sanitarians and Health Officers with regard to such legislation, the Montana Environmental Health Association sent a fairly detailed questionnaire to all local sanitarians and health officers in all fifty-six (56) counties in Montana concerning this legislation.

Responses were received from fifty-two (52) of the fifty-six (56) counties for a 93% return.

SURVEY RESULTS:

Below is a synopsis of the most pertinent questions asked and the responding results.

1. 52% of the counties currently review Certificates of Survey and minor subdivisions under contract with the State Department of Health and Environmental Sciences.

2. 75% of the counties regard the Subdivisions Bureau's assistance as being very important.
3. 73% of the counties felt that the State Subdivision Bureau having ultimate legal responsibility for administration of the Sanitation in Subdivision Act as being crucial.
4. 52% of the counties indicated they had no or limited access to an attorney for consultation on subdivision review matters.
5. 90% of the counties believe the current Sanitation in Subdivision Act is accomplishing its goals.
6. 96% of the counties believe the Act's goals are worthwhile.
7. 94% of the counties felt that there would be no method of insuring consistency in administering the Sanitation in Subdivision Act without the State Department of Health and Environmental Sciences being directly involved.
8. 88% of the counties indicated that they currently did not have adequate technical expertise for complete subdivision review without assistance.
9. 85% of the counties indicated they had no engineer nor access to an engineer for reviewing subdivisions having water and sewer systems designed by an engineer.
10. 83% of the counties indicated that they currently do not have the finances or personnel available to perform complete subdivision review.
11. 73% of the respondents indicated that their counties would not fund more personnel if subdivision activities increased, while another 23% indicated they did not know for sure.

12. 73% of the counties indicated that they foresee substantial problems should subdivision review be shifted entirely to local government responsibility.
13. 77% of the counties strongly oppose shifting all public health review of subdivisions and certificate of survey to local governments, while an additional 13% mildly oppose such action.
14. 60% of the respondents do not favor final approval authority for minor subdivisions.
15. 73% of the counties indicated a need to either retain a Subdivision Bureau or an agency within some other Bureau such as the Water Quality Bureau, while an additional 13% desired final approval for minor subdivisions placed at the local level, with State review and approval remaining at the State level.
16. Survey results showed the cost incurred by local taxpayers for subdivision review at the local level over and above current refund to local departments from the state ranged from \$3.00 to \$12.67 per hour or \$10.00 to \$50.00 per parcel.

#### CONCLUSIONS AND RECOMMENDATIONS:

From the above survey results, it can be concluded that a vast majority of counties, through their Health Officers and Sanitarians, feel that the subdivision review process and final subdivision approval is a function of State government and an area in which the State Department of Health and Environmental Sciences should be directly involved. The results show that, with current funding and the lack of available technical expertise in the form of engineering and legal resources at the local level, local health departments would be unable to perform proper and adequate total subdivision review functions.

However, several counties did desire final and total authority for review and approval of minor subdivisions only. Survey results indicated overwhelming that the current Sanitation in Subdivision Act is accomplishing its goals and that those goals are worthwhile. However, results indicate that there would be no method to insure consistency in administering the Act, without the State Department of Health and Environmental Sciences being directly involved, either through a Subdivision Bureau, as in the past, or through an adequately staffed section within some other bureau of the State Department of Health and Environmental Sciences, such as the Water Quality Bureau.

Therefore, based on the above survey results and conclusions, the Montana Environmental Health Association urges the 1983 Legislature to oppose legislation transferring total subdivision review and approval/denial functions under the Sanitation in Subdivision Act to local government entities. Further, it is strongly recommended that review fees per parcel be set at an adequate level to properly fund an adequate staff at the State level to provide final subdivision review and approval/denial functions, as well as properly offset the total review costs for minor subdivisions that may be incurred by local government and local taxpayers.



# VISITOR'S REGISTER

HOUSE                      NATURAL RESOURCES                      COMMITTEE

BILL HB 118

DATE 1/14/83

SPONSOR HARPER

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

away-

Hal

I have take notes, note  
the following:

HB-98 - AYE

HB-96 - AYE

I'll try to return shortly.

Thanks.

Dave Brown

# STANDING COMMITTEE REPORT

January 14, - 19 83

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 96

First white

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE LAW RELATING TO JUNKYARDS ALONG ROADS BY AMENDING THE PROVISIONS RELATING TO MOTOR VEHICLE GRAVEYARDS, MOTOR VEHICLE WRECKING FACILITIES, GARBAGE DUMPS, AND SANITARY LANDFILLS TO CONFORM TO THE APPLICABLE PROVISIONS OF TITLE 75, CHAPTER 10, MCA, AND BY CLARIFYING THE PROVISION ON ADDITIONAL SCREENING. AMENDING SECTIONS 75-15-203, 75-15-214, 75-15-222, AND 75-15-223, MCA. REPEALING SECTIONS 75-15-212 AND 75-15-213, MCA."

Respectfully report as follows: That HOUSE Bill No. 96

DO PASS

# STANDING COMMITTEE REPORT

January 19, 19 93

MR. CHAIRMAN:

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 98

First white

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE DISTINCTION BETWEEN STANDARDS APPLICABLE TO A NEW MOTOR VEHICLE WRECKING FACILITY AND THOSE APPLICABLE TO A MOTOR VEHICLE WRECKING FACILITY EXISTING PRIOR TO JULY 1, 1973; SIMPLIFYING THE DEFINITION OF JUNK VEHICLE; AMENDING SECTIONS 75-10-501, 75-10-503, AND 75-10-504, MCA."

Respectfully report as follows: That HOUSE 98 Bill No.

be amended in the first reading copy (white) as follows:

1. Page 4, line 12.

Following: "view"

Insert: "on the date it is initially established or proposed to the department for licensure. The prohibition concerning approval of a new motor vehicle wrecking facility or graveyard site does not apply to a facility site that was licensed as such at any time within the 12 months immediately preceding the date an application is made for licensure of such site"

AND AS AMENDED

DO PASS

# STANDING COMMITTEE REPORT

February 16, 1983

SPEAKER:  
MR. ....

We, your committee on NATURAL RESOURCES

having had under consideration HOUSE Bill No. 118

First Article of White

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE MAXIMUM PER LOT  
FEE CHARGEABLE FOR SUBDIVISION REVIEW: AMENDING SECTION 76-4-105,  
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 118

be amended as follows:

1. Page 1, line 14.  
Strike: "\$50"  
Insert: "\$45"

AND AS AMENDED  
DO PASS

~~XXXXXX~~  
~~DO PASS~~