

HOUSE NATURAL RESOURCES COMMITTEE MINUTES
March 4, 1983

The House Natural Resources Committee convened at 12:30 p.m., March 4, 1983, in Room 224K of the State Capitol with Chairman Harper presiding and all members present except Reps. Fagg, McBride and Quilici, who were excused. Chairman Harper opened the meeting to a hearing on SB 321.

SENATE BILL 321

SENATOR JEAN TURNAGE, District 13, chief sponsor, said the bill is at the request of the Department of Natural Resources and Conservation. He said the bill seeks to clarify the existing procedure for development of small-scale hydroelectric sites so they can be developed without risk of forfeiture of federal licenses, permits or exemptions.

LEO BERRY, Director, Department of Natural Resources and Conservation, spoke in support. He said of the dams and projects built in the late 30s and early 40s, three primarily have hydroelectric potential. He said FERC requires that government entities must maintain a property interest in the project and development of the project, and he said this has led to a lot of hybrid contracts where the city just lends its name. He said application can be made in the state's name and then leased out to a private developer. This would further define it so that if the federal government decides we cannot lease, the state can develop the project. Also, if no bids are received, the state can go ahead and develop the site. Mr. Berry said it is time some of these sites were developed.

There were no opponents.

SENATOR TURNAGE closed.

Questions were asked by the committee.

Rep. Addy asked why it is important to the federal government that the state maintain an interest. Mr. Berry said he didn't know. He said perhaps it cuts down on speculation.

Rep. Bertelsen asked if applications of the hybrid nature had been made in Montana. Mr. Berry said several had.

Senator Turnage said Lake County has several potential sites, and some private individuals went to the city of Kalispell. He said the potential developers had no intention of using this for the city of Kalispell and this is an abuse.

Chairman Harper closed the hearing on this bill and opened the hearing on SB 148.

SENATE BILL 148

SENATOR MATT HIMSL, District 9, chief sponsor, said he was chairman of the Legislative Audit Committee that requested this bill. He said the bill would reestablish the Board of Oil and Gas Conservation. A copy of his testimony is Exhibit 1 of the minutes.

JERRY FOSTER, Department of Revenue, spoke in support. He said they have no problem with the bill. He said he understands that it takes a full time FTE to handle the tax so they would appreciate if one would be transferred from DNRC or a new one hired. He said they can handle the postage.

DEE RICKMAN, Executive Secretary, Board of Oil and Gas, said she would be happy to answer any questions and they do support the bill.

SENATOR HIMSL closed. He said he was not aware that this would cause much burden. He suggested taking it up with the Appropriation Subcommittee that covers this area. He said he would be glad to talk with them.

Questions were asked by the committee.

Mr. Foster responded to a question that the Department of Revenue administers the Gross Proceeds Tax and audits it and then sends it to the counties.

Rep. Hand asked about the 25% civil penalty. Senator Himsl said if they pay when they are supposed to there is no civil penalty.

Chairman Harper closed the hearing on this bill and opened the meeting to an executive session.

EXECUTIVE SESSION

SENATE BILL 148 Rep. Metcalf moved BE CONCURRED IN.
 Rep. Hand said he had trouble with the 25%.
 Rep. Nordvedt suggested leaving the penalty
at 10% and 1% a month interest. Rep. Addy opposed the suggestion.
He said what was the excuse for not paying. He said 25% is not
out of line. He said for a reasonable cause the penalty is
excused. Rep. Hand said the penalty is already fairly steep.
Rep. Addy reminded him that you aren't looking at 25% penalty
if you can't pay but only if you don't pay.

The question was called and the motion carried with all present voting yes except Rep. Hand who voted no. Absent were Reps.

Fagg, McBride, Quilici and Neuman. Rep. Addy will carry the bill.

SENATE BILL 321 Rep. Hand moved BE CONCURRED IN.
This motion carried unanimously with all present.
Absent were Reps. Fagg, McBride and Quilici.
Rep. Mueller will carry the bill on the floor.

SENATE BILL 118 Rep. Jensen moved amendment #1 (Exhibit 2).
This motion carried unanimously with all
present (absent now were Reps. Fagg, McBride,
Quilici, Brown and Curtiss).

Rep. Addy moved amendments #2 and #3 from Exhibit 2. This motion carried with Reps. Mueller, Iverson, Hand and Neuman opposed and the same absent as the previous vote.

Rep. Mueller moved BE NOT CONCURRED IN. He said the \$80,000 being asked for would only result in a complete duplication. He said he had worked for 30 years in the federal forest service and knew what had to be done. He said there are laws and procedures on the books that the federal government must adhere to.

Rep. Neuman said there was testimony that the government had sold 500 acres around Miles City. He asked how this could happen. Rep. Mueller said it was probably BLM land and he was not sure of their procedure.

Rep. Jensen said he opposed the motion. He said there is language in the bill to exclude duplication of hearings.

Rep. Metcalf said he agrees there should not be any duplication but if we don't pass the bill there will be no procedure on the books if it is needed.

Rep. Ream asked if the procedures for BLM weren't different than those for the Forest Service. Rep. Mueller said he couldn't answer that. He said the Forest Service is well covered.

Rep. Curtiss said regardless of whether we pass the bill which would permit the state to hold a hearing, she doubted that it would make much difference. She said we won't know in advance how much expenditures we are letting ourselves in for.

Rep. Jensen said he might be a little paranoid but he said the public should know what the government is doing. He said the BLM plans are shrouded in secrecy and if they know there is going to be a public hearing with the press present it might make a difference. He felt it was a legitimate thing for the state to do.

Rep. Mueller said if for no other reason we should kill the legislation due to lack of funds - why should we spend one nickel of state money on something nice to do when it doesn't look like we are going to have enough money to take care of people. He said we had to watch our priorities.

Rep. Mueller added that with the Forest Service if the county fathers object to the sale or exchange of land 9 out of 10 times the objection rules and the deal is dead. He said he knows the Forest Service was responsive to the local county fathers.

Chairman Harper said the local people should have an opportunity for input. He said he doesn't know enough about the BLM agency and the magnitude of this.

Rep. Jensen said at least we would get a public exposure of the secrecy and try to bring decisions out from behind closed doors.

Rep. Bergene said she was unable to get her reading done. The feeling of the committee was the same - that they would like more time on this subject so Rep. Mueller changed his motion to that the bill be TABLED for the time being. This motion carried with all present voting yes except Rep. Ream who voted no and absent were Reps. McBride, Fagg and Quilici.

SENATE BILL 67 Rep. Jensen moved BE NOT CONCURRED IN. He said there is controversy surrounding foreign coal leases. He said the question of foreign domination of our natural resources has been a long and black chapter in our history. He said he felt uncomfortable about Japan getting control of our coal.

Rep. Nordtvedt said he has a Datsun and a Mazda and we need to balance our trade. He said this could be an excellent tool to add to our efforts to open up trade barriers in Japan. He said everybody benefits from free trade. He said besides they would be taking the coal and burning it elsewhere.

Rep. Asay said the fact is they can buy private and federal coal now. He asked if we were some sort of purist.

Rep. Mueller said since they can lease private and federal land they might skip over the state section, if it happens to fall between, and so deprive the state of Montana from some income and the use of the product and leave it with an uneconomic situation. He said it makes good sense. National trade must be a two-way street. He said we are burying our head in the coal.

Rep. Jensen said the question philosophically is whether we want to encourage Montana to become an industrialized state or to remain an agricultural state. He said this would be one more domino down. He said eastern Utah has become heavily industrialized and he would hate to see the state of Montana allow that same sort of thing to happen for a short term financial interest.

John Carter, Researcher, was asked to explain what present law does in this area. Mr. Carter said under existing law the only foreign business organization prevented from doing business is a corporation and there are ways to circumvent that, for instance, forming limited partnerships. He said the bill is actually tighter than existing law. Mr. Carter said right now an individual from a foreign country could come in with their own money to bid on leases.

The question was called and the motion failed with Reps. Veleber, Jensen and Ream voting yes and absent were Reps. Fagg, McBride and Quilici.

Rep. Jensen moved to reverse the vote and this motion carried and so SB 67 receives a BE CONCURRED IN recommendation.

Meeting adjourned at 1:35 p.m.

Respectfully submitted,



HAL HARPER, CHAIRMAN

Emelia A. Satre, Sec.

MEMORANDUM:

TO: HOUSE NATURAL RESOURCES COMMITTEE MEMBERS

FROM: JOHN CARTER

RE: BILL SUMMARIES FOR SBs 148 and 321

DATE: March 4, 1983

SB 148
Hims1

This bill seeks to reestablish the Board of Oil and Gas Conservation for a period of six years. The bill would also:

- increase the penalty for failure to timely file production statements from 10% to 25% of the amount due in severance taxes;
- require the Board to impose measures on producers and operators that would prevent damage to surrounding land and subsurface strata;
- require the Board to adopt rules under the Administrative Procedure Act to establish the amount to be collected under the Privilege and License Tax; and
- require the Department of Revenue to collect the Privilege and License Tax.

SB 321
Turnage

This bill seeks to clarify the existing procedure for development of small-scale hydroelectric sites so that same can be developed without risk of forfeiture of federal licenses, permits, or exemptions.

HOUSE NATURAL RESOURCES

COMMITTEE

DATE 3/4

[illegible]

FORM CS-33

VISITOR'S REGISTER

HOUSE NATURAL RESOURCES COMMITTEE

BILL SB 148

DATE 3/4

SPONSOR HIMSL

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Senate Bill 148 would re-establish the Board of Oil and Gas Conservation, Department of Natural Resources and Conservation created by 215-3303, with existing statutory authority and rules.

The bill requires (on page 8) that "measures be taken to prevent contamination or damage to surrounding land or underground strata caused by drilling operations and production, including but not limited to regulating the disposal of salt water and oil field wastes".

On page 9 the language is changed to invoke the provisions of the Administrative Procedure Act --

On page 10 it calls for the Department of Revenue to collect both the severance tax and the producers license tax assessment instead of one being collected by the Department of Natural Resources and further producer reports are to be made to the Department of Revenue and the Board as well as the state treasurer.

On page 7 the penalty for delinquent filing of the severance tax is changed from 10% to 25% -- the same as the late filing penalty for the privilege and license tax assessment (page 13).

The audit found that the producer's tax in 1982 had an income of \$409,000 and a delinquency of only \$632 with the 25% penalty while the Oil and Gas Severance tax produced a total of \$53,000,000 in 1982 but had a delinquency of \$147,000 with the 10% penalty --

it was apparent that the higher penalty had effect on the tax collection.

I ask for your support of the committee action in re-establishing the Board of Oil and Gas Conservation.

SUGGESTED AMENDMENTS TO SB 118
March 4, 1983

1. Page 2, following line 4.

Insert: "(3) If a hearing ~~agency~~ will be conducted by a federal agency on the proposed sale or transfer of federal land within the state, the commissioner shall require the attendance of a representative of the department of state lands for the purposes of fulfilling the requirements of [section 3]."

Renumber

2. Page 2, line 13.

Following: "and"

Insert: "in the nearest metropolitan area (Billings, Great Falls, Missoula, Havre, Bozeman, Kalispell, Butte) if requested by 15 or more people and it"

3. Statement of Intent, line 11.

Following: "one"

Insert: "regional"

Following: "newspaper"

Strike: "generally"

STANDING COMMITTEE REPORT

March 4,

19 83

SPEAKER:

MR.

NATURAL RESOURCES

We, your committee on

SENATE

148

having had under consideration Bill No.

third reading copy (blue)

color

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE BOARD OF OIL AND GAS CONSERVATION UNDER EXISTING STATUTORY AUTHORITY AND RULES; TRANSFERRING COLLECTION OF THE OIL AND GAS PRODUCERS PRIVILEGE AND LICENSE TAX FROM THE BOARD TO THE DEPARTMENT OF REVENUE; PROVIDING UNIFORM PENALTIES; PROVIDING THAT THE PRIVILEGE AND LICENSE TAX RATESETTING IS SUBJECT TO THE MONTANA ADMINISTRATIVE PROCEDURE SET; CLARIFYING THE BOARD'S REGULATORY AUTHORITY; AMENDING SECTIONS 2-8-103, 15-36-107, 82-11-111, 82-11-131 THROUGH 82-11-133, MCA; AND PROVIDING AN EFFECTIVE DATE."

SENATE

148

Respectfully report as follows: That Bill No.

BE CONCURRED IN

XXX-XX
DO PASS

STANDING COMMITTEE REPORT

March 4,

19 83

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **321**

third reading copy (blue)
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A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE PROCEDURE FOR DEVELOPMENT OF HYDROELECTRIC POWER GENERATION AT APPROPRIATE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION WATER PROJECTS TO AVOID FORFEITURE OF ANY NECESSARY FEDERAL LICENSE, PERMIT OR EXEMPTION; AMENDING SECTION 85-1-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **SENATE** Bill No. **321**

BE CONCURRED IN

~~XXXXXX~~
DO PASS