

NATURAL RESOURCES COMMITTEE MINUTES  
March 7, 1983

The House Natural Resources Committee convened on March 7, 1983, at 12:30 p.m., in Room 224K of the State Capitol, with Chairman Hal Harper presiding and all members present except Reps. Jensen, excused, Quillici and Nordtvedt, absent. Chairman Harper opened the meeting to a hearing on SB 101, which had been scheduled for a hearing on March 2, but no one had been present to speak on the bill.

SENATE BILL 101

SENATOR CARROLL GRAHAM, District 29, chief sponsor, said this is an act to revise and clarify the laws relating to health, the environment and natural resources. He said it is a bill put in at the request of the code commissioner. He went through the bill explaining the changes.

There were no other proponents and no opponents.

Questions were asked by the committee.

Rep. Curtiss asked concerning the two-day fishing license language on page 9, section 6, subsection (1) - will this be a problem if the other bill dealing with fishing licenses passes. The researcher, John Carter, is going to check this out.

Chairman Harper closed the hearing on this bill and opened the hearing on SB 369.

SENATE BILL 369

SENATOR CARROLL GRAHAM, District 29, chief sponsor, said this is a very simple bill as it just deletes the language seen on page 4, line 20, that the department may not issue any additional permit to an operator who has repeatedly been in noncompliance or violation of this part. He said as time goes on most companies have violations and as the law stands today, even if they are making progress at cleaning up that violation and the State Lands Department is satisfied at their progress, they cannot be issued another permit and are supposed to be shut down until all the work on the cleanup is completed.

DENNIS HEMMER, State Lands, spoke in support and a copy of his testimony is Exhibit 1.

BONNIE TIPPY, Montana Coal Council, spoke in support. She said this is really a duplication as the department has the right in other parts of the law to shut down someone who is willfully violating the reclamation laws.

KENNETH WILLIAMS, Butte, Western Energy, said they support the bill. He said the 1979 language that was added to the existing act was redundant. He said he felt there is adequate protection in other parts of the act. A copy of his testimony is Ex. 2.

Senator Graham closed.

Questions were asked by the committee.

Chairman Williams closed the hearing on this bill and opened the hearing on Senate Bill 356.

SENATE BILL 356

SENATOR JOHN MOHAR, District 11, said this is an act to clarify project eligibility for grants and loans from the alternative energy research development and demonstration account, and provides for including research, development and demonstration of energy conservation and removes the prohibition on private ownership and control of research information. He said this bill would include conservation in the grants part of the program but not in the loans part. He said it was felt that many of the education type of things would be better run under a two year program. He said the funds to cover a project would all come from one grant period. He said it was also felt that by the state claiming all rights to patents we were restricting some good alternative energy projects. This bill would allow patents coming through the program to be owned by the individual.

BOB ROBINSON, Department of Natural Resources and Conservation, said he had been administrator of the Energy Division shortly after the 1981 session when this program came under quite a bit of criticism. He said they stopped the program temporarily at that time to examine the goals of the program. He said as a result of this study a number of suggestions and changes were put into play. A key one was to allow renewable energy and conservation to interrelate. He said this could further help us to decrease our dependence on fossil fuels. He said the loan program is not necessary in conservation as the banks don't seem to have the reluctance to support conservation that they do renewable energy. He said the bill would encourage inventors who don't want to come to the state because they would lose their ownership of the invention. He said the bill would allow them to run the department more efficiently.

JAMES B. McNAIRY, AERO (Alternative Energy Resources Organization), spoke next in support. He said it is a good idea to add conservation to the grant program. He said it is the single most cost effective area. He said they support the idea of extending the department's authority for having a project last longer than one year. He differed on the need of having conservation loans and felt it should be under both parts. To receive the grant or loan one would need to produce an innovative new type

of material or machinery that will hike conservation. He mentioned the air to air heat exchanger which has come to be needed in homes with super insulation and as a result has problems with indoor air quality. He said there are people in Montana that could have come up with the idea and have applied to the department for a grant and then would need financial backing - he felt such backing should be available for innovative projects like this.

DON REED, Environmental Information Center, spoke in support. He said he concurred with Mr. McNairy's testimony.

KAREN STRICKLER, League of Women Voters, said they wished to go on record as favoring the bill. She said it makes good sense to include conservation projects.

REPRESENTATIVE DAVE BROWN, District 83, said he was a strong proponent of the bill. He said he had amendments (Exhibit 3) for the committee to consider. He said two years ago he started talking with Senator Towe about the need of including coal research. He said what these amendments do is allow for research in the general area of more efficient uses of coal.

VIC DEJONG, Butte, MSE, said he was a proponent of adding innovative nonrenewable resource technology to this program. He said the majority of the energy that is used to run Montana will still come from the nonrenewable resources like coal. He felt some investment in this field would be desirable as this resource should be managed so as to extend the life of the resource. He felt the energy base of the program could well be broadened and so permit the DNRC to participate in and encourage new technology to accomplish this. A couple of promising possibilities is fuel cells and magnetic separation.

SENATOR MOHAR in closing said the intent of the bill was to extend the flexibility of the program to include conservation projects. He said he likes the bill as it is written now. He said Mr. McNairy's suggestion of including conservation in the loan part of the program is understandable but he felt that would be one of the things done under Initiative 95. Loans should be obtainable for this through that avenue. He said he would rather not have that in this bill. He said the main thing they will have is educational projects and then some new and innovative studies, and so the grant part would be just fine. He said he hoped they would resist Rep. Brown's amendments as they go beyond the scope of what the Department is willing to do. He said advanced technology of this kind has been traditionally funded by the federal government and industry itself and he felt that is the right place for it.

Questions were asked by the committee.

Rep. Curtiss asked what percent of the money was anticipated to be used for conservation projects. Mr. Robinson responded 30 to 40 percent as 60 percent is going into the commercial loans, and grants for conservation would be part of the remainder.

Rep. Hand asked Mr. DeJong about the removal of the pyrite from the coal. Mr. DeJong said the technology to do that magnetically is not there today.

Rep. Bertelsen said his concern with Rep. Brown's amendments is that it could apply to large projects and take a major portion of the available money. Mr. Robinson said their guidelines say no single project can take more than 10 percent of the money. He said his major concern is that he doesn't have the staff to evaluate applications that would come under this category. Rep. Brown said he knew the concern there is MHD. He said under the present structure there is not enough money for that and it is not the intent of his amendment. He questioned Mr. Robinson about not having adequate staff to properly assess or review coal projects. Mr. Robinson said he has three technical energy experts - one in solar, one in wind and one in biomass and that they share the work.

In response to a question Mr. Robinson said one of the real positive results of their program has been the increased awareness in Montana of renewable energy. People are trying to implement renewable devices on their own. He said they can't take all the credit but some of it as he said a number of the grants have opened up development that is very positive. He stated examples as the windmills in Livingston and the geothermal at Warm Springs as having caused a lot of positive information to be generated.

#### SENATE BILL 350

SENATOR LARRY A. TVEIT, District 27, chief sponsor, said this bill alters the requirements for plugging seismic shot holes and requires the Board of Oil and Gas Conservation to adopt rules governing geophysical exploration. He explained that seismic crews hired by oil companies drill holes, 4 to 8 to a mile, and place an explosive charge at the bottom of the hole. Trucks with sensitive instruments then check as these explosives are set off in a sequence. Bentonite and hole cuttings are usually used to plug these holes. He said improvements are needed here so that a better job of

plugging the holes is done. He said they went before the Oil and Gas Commission and asked for some changes. He said they had several meetings and they came up with some better methods. Some parts of these rules need to go through the Legislature and, he said, that is why he is here. He said page 2, lines 7 through 11, has new language and says the exploration crews must drive vehicles with visible identification numbers and also the commission is to designate areas where this activity is not allowed. He said one of their problems is that the hole is not properly plugged from the bottom on up. Page 3 states a material specified by the board is to be used for plugging the holes. He said bentonite seems to help seal off the hole better. He said the bill was worked out with both the Oil and Gas Commission and landowners.

DON ALLEN, Montana Oil and Gas Commission, said the bill is a result of many meetings. He said they were trying to work out the problems involved in seismic exploration. He said the result is a series of rules some of which couldn't be adopted without a change in the law. He said they would like to go on record as supporting the legislation.

SENATOR TVEIT in closing said we need laws like this to protect the surface and ground water. He said there are several areas in our state where we know there is salt in the soil. If they aren't careful when they drill there is a good chance this hole could let salt water come in with good, fresh water. If the holes are left unplugged or plugged incorrectly, it could cause contamination of our ground water.

Questions were asked by the committee.

Rep. Hand asked if in 30 days the hole might be in bad shape. Senator Tveit said there are new rules in the making one of which is that the holes need to be plugged from the bottom up. He said redrilling of the holes is impossible and in the case of a cave-in when the explosive goes off they do have problems filling from the bottom up. He said he hoped this problem could be worked around by using the right amount of explosives which could plug the holes immediately and protect them properly from the bottom up.

Rep. Bertelsen asked about additional cost. Senator Tveit said bentonite would cost only \$4 to \$5 more a hole and he felt the oil people wouldn't mind doing this to have a better relationship with the farmers.

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

EXECUTIVE SESSION

SENATE BILL 350 Rep. Mueller moved BE CONCURRED IN. This motion carried unanimously with those present. Absent at this time were Reps. Metcalf, Jensen, Quilici, Nordtveit, Ream.

SENATE BILL 369 Rep. Mueller moved BE CONCURRED IN. This motion carried unanimously with those present. Absent were the same as for the above bill.

SENATE BILL 356 Rep. Addy moved BE CONCURRED IN.  
Rep. Brown moved his amendments which are Exhibit 3 of the minutes. He said one of his main reasons for the amendments is to help to save the federal fuel cells program, and there is no other vehicle that would enable them to have a study. He said as far as Mr. Robinson's objection because of lack of staff expertise, he felt if the staff were able to look at wind and solar technology they could also cover this. He said this could also be kept in mind when they hired their next person to get one with expertise in this area.

Rep. Addy mentioned they would be moving the program from renewable resources to nonrenewable energy technology. He feared this addition could swallow up the renewable energy aspect of the program and so the program would be lost.

Rep. Brown said he felt this was a valid concern, just as the addition of the conservation aspect is. He said some choices will have to be made as to what limit they will fund. He said with each addition there is less for everybody. He said the coal industry has been backward in working on these kinds of technology as all they want to do is sell the coal.

Rep. Asay said he favored the amendment. He said we should be working toward more efficient ways to use our coal. He asked if some wording could be included that would encourage company or industry participation in seeking these better ways.

Rep. Curtiss said she supported the amendments. She said we do have a tremendous volume of coal and we should make the most efficient use of it.

Rep. McBride said she had some concerns. She said she agreed with Rep. Brown that we do need to look at these technologies and the state should have some kind of research into coal in general. She said this particular program was started to look

at alternative renewable energies and particularly energy alternatives that would be available when the coal was gone. She said if we don't look at the initial purpose, we might lose sight of what this is all about. One of its initial purposes was to create a new industry and help it get on its feet. She said this program has gone through a lot of scrutiny since the last session. She asked the committee to look at the purpose of the bill before going counter to the entire program.

Rep. Hand said he supported the amendments as he said the funds have come from coal.

Rep. Harper asked how many grants would this addition generate this coming year. Rep. Brown said only one he knew of. Rep. Harper said he had a concern since the program at present is aimed at small people and small projects, how could they hope to compete with these professional people. Rep. Brown said his concept with the amendments is that there would be the processor and he didn't feel there would be that many applications that would come in to the program.

Rep. Ream said the title would need to be amended and would we need to have another hearing on the bill. Rep. Brown said they did have a couple of witnesses but it would change the scope of the bill.

Rep. McBride asked if the amendments are just limited to coal, not nuclear or other. Rep. Brown said they were thinking about oil and gas and coal. He said they planned to ask the EQC to look into this area. He thanked the committee for their time.

Chairman Harper said there is a strong point of fairness in Rep. Brown's argument as the funds come from coal.

The question was called and a roll call vote was taken to see if Rep. Brown's amendments would be added. The motion failed with 10 voting no, 6 yes (Asay, Brown, Curtiss, Hand, Iverson, Neuman), and 3 absent (Jensen, Nordtvedt, Quilici).

A voice call vote was taken on Rep. Addy's motion to BE CONCURRED IN and this motion carried unanimously with all present with the same absent as the above vote.

SENATE BILL 161      Rep. Brown moved to amend on page 3, line 11, following "b) to insert "a representative of the holder of a license issued for the Flathead project under the Federal Power Act and another one

of whom must be". He said the license owner for the dam on the lake is a major participator in Flathead activity and should be included on the commission.

Rep. Ream said he had no problem with adding that individual but only to the place added. He suggested it be added on page 4, line 2 to say that we have five exofficio members including this individual. We would then be earmarking one of the four the governor can appoint. He said the license holder does have a commercial interest and should be in the same group in the bill as the BPA and the Corp of Engineers.

Rep. Brown first disagreed saying he needed to be able to make a direct contribution. After discussion in which it was brought out that these members do make direct input, he said this was fine as long as they will be directly involved.

Rep. Brown's amendment as amended by Rep. Ream carried with Rep. Curtiss opposed.

Rep. Ream said he would like to add an amendment to add a member of the Legislature.

Rep. Brown felt the commission should be kept to the Flathead area. He said the Legislator could be from that area. He said he hesitated on this amendment. Rep. Ream said he had discussed it with Senator Turnage and had his consent.

Rep. Iverson said it really doesn't matter as the EQC is designated as one of the members, and there will be members of the Legislature there that are on the council for the EQC.

Rep. Ream withdrew his amendment and moved the bill AS AMENDED BE CONCURRED IN. This motion carried with Rep. Curtiss voting no and absent were Reps. Jensen, Nordtvedt and Quilici.

Meeting adjourned at 2:10 p.m.

Respectfully submitted,

  
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HAL HARPER, Chairman

Emelia A. Satre, Sec.



# VISITOR'S REGISTER

HOUSE                      NATURAL RESOURCES                      COMMITTEE

BILL SB 369

DATE 3/7/83

SPONSOR      SENATOR GRAHAM

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Ex. 1

DEPARTMENT OF STATE LANDS TESTIMONY ON SENATE BILL 369

BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE

The Department of State Lands supports Senate Bill 369. The language which this bill seeks to repeal was contained in the Montana Strip and Underground Mine Reclamation Act as passed in 1973. In 1979 amendments were made to the act in order to comply with the federal Surface Mining Control and Reclamation Act. At that time, section 82-4-227(12) was added. This language accomplishes the same basic purpose but is more specific and easier to interpret and enforce. A copy of this language is attached. Therefore, the department is in favor of passage of this bill.

(12) The department may not issue a strip- or underground-coal-mining permit or major revision to any applicant which it finds, after an opportunity for hearing, owns or controls any strip or underground-coal-mining operation which has demonstrated a pattern of willful violations of Public Law 95-87, as amended, or any state law required by Public Law 95-87, as amended, of such a nature and duration and with such resulting irreparable damage to the environment to indicate an intent not to comply with the provisions of this part.

2/11/83

## TESTIMONY OF KEN WILLIAMS

## WESTERN ENERGY COMPANY

RE: SB 369

Mr. Chairman, Members of the Committee, my name is Kenneth Williams of Butte, Montana representing Western Energy Company.

Western Energy would like to express support for Senate Bill 369. In 1979, the Montana Strip and Underground Mine Reclamation Act was amended to allow the Department of State Lands to secure Federal approval to regulate coal mining in Montana. At that time, language was added to the Act in Section 3 of 82-4-251 to allow the Department to suspend or revoke an operator's mining permit if he has exhibited a pattern of violations. Additionally, Section 4 provides that should a permit be suspended or revoked, an operator may not receive additional permits until he complies with all orders and conditions regarding the first permit. Such language was sufficient for Federal regulatory approval.

Unfortunately, in 1979, redundant and unnecessary language from the earlier Act was left untouched in Section 4. Senate Bill 369 proposes to delete the redundant language. Western feels there is adequate protection against bad operators in the remainder of the Act. Western Energy Company urges this Committee to recommend passage of Senate Bill 369.

# VISITOR'S REGISTER

HOUSE

## NATURAL RESOURCES

COMMITTEE

BILL SB 356

DATE 3/7/83

SPONSOR SENATOR MOHAR

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

*Brown*

*Ex. 3*

PROPOSED AMENDMENTS TO SB 356

1. Page 1, line 20.  
Following: "conservation"  
Insert: ", of new technologies that enhance the efficient use of nonrenewable energy sources,"
2. Page 2, line 2.  
Following: "energy"  
Insert: "and new technologies that enhance the efficient use of nonrenewable energy"
3. Page 4, line 9.  
Following: "conservation"  
Insert: "and new technologies that enhance the efficient use of nonrenewable energy"
4. Page 4, line 11.  
Following: "sources"  
Insert: "and new technologies that enhance the efficient use of nonrenewable energy sources"
5. Page 5, line 20.  
Following: "sources"  
Insert: ", new technologies that enhance the efficient use of nonrenewable energy sources,"

WITNESS STATEMENT

Name Vic DeLong Committee On Mat. Resumes  
Address 3450 Rt. Ann Butte Date 2-7-83  
Representing MSE Support ✓  
Bill No. SB 356 Oppose \_\_\_\_\_  
Amend ✓

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

# VISITOR'S REGISTER

HOUSE

## NATURAL RESOURCES

COMMITTEE

**BILL**                      **SB 350**

DATE 3/7/83

SPONSOR SENATOR TVEIT

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



# STANDING COMMITTEE REPORT

March 7, 19 83

MR. ~~SPEAKER~~:

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **350**

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color

**A BILL FOR AN ACT ENTITLED: "AN ACT ALTERING THE REQUIREMENTS FOR  
PLUGGING SEISMIC SHOT HOLES; REQUIRING THE BOARD OF OIL AND GAS  
CONSERVATION TO ADOPT RULES GOVERNING GEOPHYSICAL EXPLORATION;  
AMENDING SECTIONS 82-1-101 AND 82-1-104, MCA; AND PROVIDING AN  
IMMEDIATE EFFECTIVE DATE."**

Respectfully report as follows: That **SENATE** Bill No. **350**

**BE CONCURRED IN**

**~~XXXX~~  
DO PASS**

# STANDING COMMITTEE REPORT

March 7,

19 83

**SPEAKER:**

MR. ....

**NATURAL RESOURCES**

We, your committee on .....

**SENATE**

**356**

having had under consideration ..... Bill No. ....

third reading copy (blue)

**A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY PROJECT ELIGIBILITY FOR GRANTS AND LOANS FROM THE ALTERNATIVE ENERGY RESEARCH DEVELOPMENT AND DEMONSTRATION ACCOUNT; TO PROVIDE FOR RESEARCH, DEVELOPMENT, AND DEMONSTRATION OF ENERGY CONSERVATION; TO REMOVE THE PROHIBITION ON PRIVATE OWNERSHIP AND CONTROL OF RESEARCH INFORMATION; AMENDING SECTIONS 90-4-101 THROUGH 90-4-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."**

**SENATE**

**356**

Respectfully report as follows: That..... Bill No. ....

**BE CONCURRED IN**

**DO PASS**

# STANDING COMMITTEE REPORT

March 7, 19 83

MR. **SPEAKER:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **369**  
third reading copy (blue)

A BILL FOR AN ACT ENTITLED: "AN ACT TO DELETE THE REQUIREMENT  
THAT ADDITIONAL STRIP- AND UNDERGROUND-MINING PERMITS MAY NOT BE  
ISSUED TO AN OPERATOR WHO HAS REPEATEDLY VIOLATED STATE RECLAMATION  
LAWS; AMENDING SECTION 82-4-251, MCA."

Respectfully report as follows: That **SENATE** Bill No. **369**

BE CONCURRED IN

~~XXXX~~  
DO PASS