

48TH LEGISLATIVE SESSION

MINUTES OF
NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE

February 14, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order by Senator Harold L. Dover, Chairman, on Monday, February 14, 1983 at 12:30 p.m. in Room 405, State Capitol, Helena, MT.

ROLL CALL: Roll was called, a majority of committee members were present, Senator Lee was excused for another meeting.

HOUSE BILL 214: Chairman Dover opened the hearing, calling on Rep. Howe, Dist. 58. Rep. Howe stated this bill is at request of the Department of State Lands, to streamline reporting for operators and to allow one annual report for operators, rather than one report for each permit under strip and underground operations. He would ask them to speak on the bill.

PROPOSERS: Dennis Hemmer, Dept. of State Lands, spoke in favor of the bill, stating it would help because no single report summarizes the entire operation of those having more than one permit, and consolidated reports would give a summary of all activity. His testimony is attached, Exhibit '1'.

James Mockler, Montana Coal Council, stated they support House Bill 214 for the same reasons.

OPPOSERS: There were no opposers.

Senator Van Valkenburg inquired if this would hurt the public information? Mr. Hemmer stated the reports would be more understandable to the public by outlining all operations.

ACTION ON HOUSE BILL 214:

Senator Story moved that HB 214 Be Concurred In, vote was called, all voted aye and motion carried.

HOUSE BILL 287: Chairman Dover opened hearing and called on Rep. Hal Harper, sponsor. Rep. Harper stated the title of the bill explains it well, that it is to provide that the reclamation bond required by the opencut mining act may be greater than \$1,000 per acre if the Dept. of State Lands determines, in writing, that the cost exceeds \$1,000 per acre. He called on the representative of the Dept. of Lands to speak.

PROPOSERS: Dennis Hemmer, Dept. of State Lands, stated this bill is at their request, and based on past experience, the \$1,000 is not sufficient to reclaim areas if the operator defaults.

(HB 287) (cont.)

He cited some figures which are included in his testimony, attached as Exhibit '2'.

OPPONENTS: Jim Sewell, Montana Land Improvement Contractors Association, stated his concern is that granting sole discretion for setting the amount to the department, and perhaps the legislature should set a ceiling on the amount of the bond. No one else was present to speak on the bill.

Senator Van Valkenburg noted the bill says the bond is to be set by the Board, not the department, and the board is composed of five elected officials. Mr. Sewell said they would still like a ceiling amount.

Senator Etchart inquired as to what amount would be fair, Mr. Sewell said that if the department says it does go up to \$10,000 per acre sometimes, then that should be set as the upper limit, but the legislature should establish that and to assure the funds are used as intended on the bonds.

Senator Keating stated there must be valid reason for lifting the \$1,000 limit, and inquired as to experience which involved lifting that limit. Mr. Hemmer said one involved a gravel bed receiving a lot of water, cost on that was \$14,000 per acre, and they looked then at how many times the \$1,000 had been inadequate. In 85% of the cases, the \$1,000 was adequate.

Senator Halligan asked as to other instances, Mr. Hemmer said in Elliston they had a job that was \$20,000, and they did the best they could. This does not cover coal, as it is open ended under the hard rock laws.

Senator Dover inquired as to language on the coal operations, Mr. Hemmer said it is no less than \$200, no more than \$2,500 and in no case less than cost to reclaim. There was discussion as to what a bond would cost and how bonds are furnished, it was explained they can be surety or cash.

Rep. Harper then suggested that the limit be set at \$10,000 if this was causing a problem. The Board is responsible for assessing the costs and intent is that they don't go over actual cost of reclaiming. Hearing was then closed.

ACTION ON HOUSE BILL 287: Senator Story stated that in Park County property values in many instances would not cost over \$100 per acre, and that he could not see setting bonds that high for this type land and \$10,000 seems excessive.

Senator Van Valkenburg then moved that HB 287 Be Concurred In, vote was called, a majority voted 'aye', Senator Story voted 'no', Senator Lee was absent. Motion carried.

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ACTION ON SENATE BILL 275: Senator Keating stated he would recommend to the committee that SB 275 be passed as was amended previously, and moved that SB 275 Do Pass as Amended.

Senator Van Valkenburg stated Senator Keating had spoken during the hearing to the fact that this bill was removing the requirement that base line data not be obtained for alternate sites, and that he reads it as removing the requirement for consideration of alternate sites, which is different. He thinks it is now removing the whole idea of submitting alternate sites to the department for proposed facilities, and then only one site would be given to the department for consideration.

Senator Keating said that any company that is planning a facility will look at a number of sites, and they select sites based on public decision. Alternate sites that they have considered would be available to the department if they want, but the department couldn't require a base line study on alternate sites. The decision of how the site is located should be up to the operator, within the site selected.

Senator Eck stated that location of components within an area could make a difference on noise and water quality.

Senator Keating pointed out that many alternate sites are already on record, information has been compiled on them. If a site selection is determined by the department to cause too much damage, then they should turn down the permit. There is a need for sites to be placed near the source, such as with coal mines.

Senator Story pointed out that the actual need is determined by the public and the PSC, and that if there is no need shown there would be no facility.

Vote was then taken on the motion, that SB 275 Do Pass as amended on February 9, roll was taken, 7 voting 'aye', 4 voting 'no', 1 absent, motion carried.

ACTION ON SENATE BILL 283: Senator Halligan presented amendments to the bill, attached as Exhibit '1'. He asked Howard Johnson of EQC to explain the amendments. Mr. Johnson stated that amendments 1, 2 and 3 clarify the limit on tax credit. No. 4 prevents duplication of credit. No. 5 places a limit on the maximum. No. 7 enters the Dept. of Revenue to be rulemaking authority. Senator Halligan stated this includes the amendment that costs would not be more than 20% credit, for all owners of a solar system. He then moved the amendments presented. Vote was called on the amendments attached, all present voted 'aye' and motion carried.

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(SB 283 cont.)

Senator Halligan then moved that SB 283 Do Pass as amended. Senator Keating inquired as to what provision for solar credit was already in the law. Senator Mohar stated it had been \$125, but that was sunseted, this would carry over or replace that allowance. Senator Story pointed out that even with a reduction of the allowance, this would still be \$300,000 over the biennium, and this would be a large impact on budgets. Senator Mohar stated it does impact the general fund, but it is trying to give the industry a start. Committee members discussed the budget crunch, also noting that people are trying to cut back as well and this would help people with heating costs. After discussion that this bill would cause conservation and preservation of natural resources, it was suggested that a sunset provision be given to the bill.

Senator Story then moved that SB 283 Do Pass As amended, with a Sunset Provision that in four years this allowance end and that it revert back to \$125 credit allowance, and that a letter of intent also accompany the bill. Vote was called, roll was taken, vote was 7 'aye', 4 'no', 1 absent, motion carried.

ACTION ON SENATE BILL 291: Senator Eck moved that SB 291 Do Pass. There was a short discussion, Senator Shaw inquired as to a 30 day limit after the EIS, Senator Eck pointed out that applies with a different department doing the EIS. Vote was taken, a majority present voted 'aye', Senator Story and Shaw voted 'no', motion carried.

ACTION ON SENATE BILL 294: Senator Keating noted this is an irrigation bill. Senator Keating then moved Do Pass, SB 294, vote was called, all present voted 'aye', motion carried.

ACTION ON SENATE BILL 340: Examination of surveyors. Senator Keating moved Do Pass SB 340. Senator Mohar stated it seemed there was special interests protecting their business in this matter. Senator Etchart stated he believed self education was good, many times persons learn more. Senator Keating pointed out the bill only allows taking the exam, they can't be registered if they don't pass. Senator Mohar stated that the persons now get two years more education, he didn't think that all bad. Vote was called, a majority present voted 'aye', Senators Halligan and Mohar voted no, motion carried that SB 340 Do Pass.

ACTION ON SENATE BILL 350: Senator Tveit moved that SB 350 Do Pass. Senator Shaw stated there should be ID placed on the caps in the holes. Senator Mohar stated everyone had said the crews were doing a bad job plugging holes, this bill would help the situation. Vote was then called, a majority present voted 'aye', Senator Shaw voted 'no', motion carried, SB 350 Do Pass.

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ACTION ON SENATE BILL 356: Senator Mohar moved that SB 356 Do Pass without amendments, but with a statement of Intent attached. This dealt with the fact that a grantee could hold a patent, and most agreed that the grantee should be given a patent. Vote was called on the motion, a majority voted 'aye', Senator Story voted 'no', motion carried.

There being no further business to come before the committee the meeting was duly adjourned at 2:00 pm.



SENATOR HAROLD L. DOVER, CHAIRMAN
SENATE NATURAL RESOURCES COMMITTEE



Patricia Hatfield
Committee Secretary

ROLL CALL

SENATE NATURAL RESOURCES COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 2-14-83

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (D)	✓	<i>late - other bill</i>	
HALLIGAN, Mike (D)	✓		
KEATING, Thomas F. (R)	✓		
LEE, Gary P. (R)			✓
MANNING, Dave (D)	✓		
MOHAR, John (D)	✓		
SHAW, James N. (R)	✓		
STORY, Pete (R)	✓		
TVEIT, Larry J. (R)	✓		
VAN VALKENBURG, Fred (D)	✓		
ETCHART, Mark (R) Vice Chairman	✓		
DOVER, Harold L. (R) Chairman	✓		

DATE

COMMITTEE ON

VISITORS' REGISTER

[illegible]

WITNESS STATEMENT

#1
Nat. Res.

NAME Dennis Hemmer BILL No. 214/287
ADDRESS Helena DATE 2-14-83
WHOM DO YOU REPRESENT Dept of State Lands
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: prepared

711 p. 2
Nat. Res.
2-14-83

DEPARTMENT OF STATE LAND'S TESTIMONY ON HOUSE BILL 214

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

House Bill 214 is at the request of the Department of State Lands. The purpose of this bill is to streamline the annual report process for both the operator and the Department.

At the present time, an operator is required to submit an annual report for each permit containing specific information on its reclamation efforts and mining progress.

For those operators that have numerous permits for a single operation, this procedure can be very inefficient because no single report summarizes the entire operation. This procedure also presents problems for the Department because each annual report only represents a portion of the operation.

For example, one of the existing mines has four (4) permits. The annual reports for these areas are due on four (4) separate dates.

Annual reports submitted on each of these permits would be incomplete in themselves, but if the annual reports could be consolidated, one report would provide an accurate summary of all activities on the entire mine unit.

The Department of State Lands urges the committee to vote in favor of House Bill 214.

WITNESS STATEMENT

NAME James D. MacKler BILL No. 214
ADDRESS 2301 Colonial Dr. DATE 2/14
WHOM DO YOU REPRESENT Mt. Leal Council
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL #287

BEFORE THE SENATE NATURAL RESOURCES COMMITTEE

2
Nat. Res.
2-14-83

House Bill #287 is at the request of the Department of State Lands. The purpose of the bill is to give the department the authority to require a reclamation bond greater than \$1,000 per acre if the department finds, in writing, that the cost of restoring the disturbed land exceeds \$1,000 per acre.

Based on past experience, the department has learned that on many open cut mining operations a reclamation bond of \$1,000 per acre is not an adequate amount to satisfactorily reclaim the area if the operator defaults and the department is forced to use the bond to reclaim the area.

I have put together some figures based on the actual costs of reclamation. These figures incorporate such items as (1) cost of earth moving which includes backfilling, grading and topsoiling; (2) cost of equipment; (3) labor; (4) seeding; and (5) fencing. The figures indicate that the cost of reclamation may cost as much as \$10,000 per acre depending upon the individual operation.

If the department is allowed to require a realistic bond amount that more accurately reflects the cost of reclamation, I feel that the requirements of the Open Cut Act can be more effectively met.

The Department of State Lands urges the committee to vote in favor of HB 287.

WITNESS STATEMENT

71 5,
Net. Res.
2.14-83

NAME Jim Sewell BILL No. HB-287
ADDRESS 26 W 6th Avenue DATE 2-14-83
WHOM DO YOU REPRESENT Land Improvement Contractors Association
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

LICA opposes this bill as it gives the department unlimited authority to set the amount of the bond without any legislative direction as to the maximum amount.

STATEMENT OF INTENT

SENATE BILL NO. 356 [LC 1068/01]

It is the intent of this bill to allow the Department of Natural Resources to provide grants for projects concerned with energy conservation. The grant of rulemaking authority includes the power to establish criteria to be used in determining when a grant should be granted under the limitations of the act.

*Arrived
Passed*

1.9

PROPOSED AMENDMENTS TO INTRODUCED SENATE BILL 283

1. Title, line 9.
Following: "MCA"
Strike: "."
Insert: "; AND PROVIDING AN ^{APPLICABILITY} EFFECTIVE DATE."
2. Page 4, line 7.
Following: "equal to"
Strike: "60%"
Insert: "20%"
3. Page 4, line 9.
Following: "31."
Insert: "If the solar energy system is owned by more than one person or corporation, no more than an aggregate of 20% of the eligible costs may be claimed as a credit by all owners of the solar energy system."
4. Page 4, line 20.
Following: "COSTS" *small letters?*
Insert: "However, if a credit is claimed for energy conservation measures under this act, it may not also be claimed under Title 15, Chapter 32, part 1."
5. Page 5, line 16.
Following: "exceed"
Strike: "\$3,000"
Insert: "\$1,000"
6. Page ⁶, line 21.
Following: "owner-developer."
Insert: "If the owner-developer elects to forego the credit provided for in (section 3), but claims a federal energy tax credit for the solar energy system, the purchaser must reduce the state tax credit provided in (section 3) so that the effective credit for any taxable year does not exceed 20% of eligible costs."
7. Page 7, lines 9 through 14.
Strike: Lines 9 through 14 in their entirety.
Insert: "Section 11. Rulemaking. The Department of Revenue is authorized to make such rules and to require such facts and information to be reported as it may deem necessary to enforce the provisions of this act. The Department of Revenue may request technical advice from other departments when developing rules under this act."
8. Page 7.
Following: Line 16.
Insert: "Section 13, ^{Applicability}
~~Effective date.~~ This act applies to taxable years beginning after December 31, 1983 ^{and ending December 31, 1986.}"

STANDING COMMITTEE REPORT

February 14

REPORT

On your committee on

NATURAL RESOURCES

having had under consideration

HOUSE

Bill No. 287

Harper (Van Valkenburg)

Respectfully report as follows: That

HOUSE

Bill No. 287

BE CONCURRED IN
HEREBY

DC

STANDING COMMITTEE REPORT

January 19, 1954

We Your Committee on

NATURAL RESOURCES

Having had under consideration

HOUSE Bill No. **214**

Howe (Story)

Respectfully report as follows: That

HOUSE Bill No. **214**

**BE CONCURRED IN
REPASS**

H/c.

SENATE COMMITTEE SENATE NATURAL RESOURCES

Date 2-14-83 Senate Bill No. 275 Time 1:18

NAME	YES	NO
ECK, Dorothy (D)		✓
HALLIGAN, Mike (D)		✓
KEATING, Thomas F. (R)	✓	
LEE, Gary P. (R)	—	—
MANNING, Dave (D)	✓	
MOHAR, John (D)		✓
SHAW, James N. (R)	✓	
STORY, Pete (R)	✓	
TVEIT, Larry J. (R)	✓	
VAN VALKENBURG, Fred (D)		✓
ETCHART, Mark (R) Vice Chairman	✓	
DOVER, Harold L. (R) Chairman	✓	

Secretary

Patricia A. Hatfield

Chairman

Harold L. Dover

Motion: Do Pass as Amended.

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 14, 1955

WH. PRESIDENT

We, your committee on

NATURAL RESOURCES

having had under consideration

SENATE

Bill No. 275

Respectfully report as follows: That

SENATE

Bill No. 275

introduced bill, be amended as follows:

1. Page 4, line 15.

Strike: "proposed construction of"

Insert: "the acceptance of the application
under 75-20-216 (a) for"

2. Page 8, line 11.

Insert: "(iii) a statement explaining the need
for the facility, if a utility"

Repeal: all subsequent subsections

3. Page 15, line 21.

Following: "million"

Insert: "up to \$1 billion"

4. Page 21, line 19.

Strike: "all or a portion of"

99-2656 (continued)

J.C.

February 14

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STATE NATURAL RESOURCES

Public Bill 275

Page 2

3. Page 29, line 12.
Following: "facility"
Insert: ", if a utility."

AND AS SO AMENDED,
DO PASS

J.C.

SENATE COMMITTEE SENATE NATURAL RESOURCES

Date 2-14-83 Senate Bill No. 283 Time 1:40

NAME	YES	NO
ECK, Dorothy (D)	✓	
HALLIGAN, Mike (D)	✓	
KEATING, Thomas F. (R)		✓
LEE, Gary P. (R)	—	—
MANNING, Dave (D)	✓	
MOHAR, John (D)	✓	
SHAW, James N. (R)	✓	
STORY, Pete (R)	✓	
TVEIT, Larry J. (R)		✓
VAN VALKENBURG, Fred (D)	✓	
ETCHART, Mark (R) Vice Chairman		✓
DOVER, Harold L. (R) Chairman		✓

Secretary

Patricia A. Hatfield

Chairman

Harold L. Dover

Motion:

Do Pass as amended with sunset provision.

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 14, 1962

MINUTES OF THE COMMITTEE

We, your committee on

NATURAL RESOURCES

having had under consideration

SENATE

Bill No. 283

Respectfully report as follows: That

SENATE

Bill No. 283

introduced bill, be amended as follows:

1. Title, line 3.

Following: "MCA"

Strike: "

Insert: "; AND PROVIDING AN APPLICABILITY DATE."

2. Page 4, line 7.

Following: "equal to"

Strike: "600"

Insert: "200"

3. Page 4, line 9.

Following: "11."

Insert: "if the solar energy system is owned by more than one person or corporation, no more than an aggregate of 20% of the eligible costs may be claimed as a credit by all owners of the solar energy system."

XXXXXX

(Continued)

February 14 1983

Page 4, line 20

Following: "cost"

Insert: "However, if a credit is claimed for energy conservation measures under this act, it may not also be claimed under Title 15, Chapter 32, part 1."

5. Page 5, line 16.

Following: "exceed"

Strike: "\$3,000"

Insert: "\$1,000"

6. Page 6, line 21.

Following: "owner-developer."

Insert: "If the owner-developer elects to forego the credit provided for in [section 3], but claims a federal energy tax credit for the solar energy system, the purchaser must reduce the state tax credit provided in [section 3] so that the effective credit for any taxable year does not exceed 20% of eligible costs."

7. Page 7, lines 9 through 14.

Strike: section 11 in its entirety.

Insert: "Section 11. Rulemaking. The Department of Revenue is authorized to make such rules and to require such facts and information to be reported as it may deem necessary to enforce the provisions of this act. The Department of Revenue may request technical advice from other departments when developing rules under this act."

8. Page 7.

Following: line 16.

Insert: "Section 13. Applicability date. This act applies to taxable years beginning after December 31, 1982 and ending December 31, 1986."

And, as so amended,
DO PASS

STATE PUB. CO.
Helena, Mont.

SEN. HAROLD L. DOVER,

Chairman.

y/c.

STANDING COMMITTEE REPORT

FEBRUARY 1951

Mr. J. E. Smith

Of your committee on **NATURAL RESOURCES**

having had under consideration

SENATE

Bill No. **291**

Respectfully report as follows: That

SENATE

Bill No. **291**

DO PASS

H.C.

STANDING COMMITTEE REPORT

February 24, 1954

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **294**

Respectfully report as follows: That **SENATE** Bill No. **294**

DO PASS

H.C.

STANDING COMMITTEE REPORT

Feb. 15, 1945

We your committee on

NATURAL RESOURCES

having had under consideration

SENATE

Bill No. **340**

Respectfully report as follows: That

SENATE

Bill No. **340**

DO PASS

etc.

STANDING COMMITTEE REPORT

MR. SPEAKER:

We, your committee on **NATURAL RESOURCES**

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

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

DO PASS

H.C.

STANDING COMMITTEE REPORT

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE** Bill No. **356**

Respectfully report as follows: That **SENATE** Bill No. **356**

DO PASS

STATEMENT OF INTENT ATTACHED

STANDING COMMITTEE REPORT

February 14, 1967

RESOLUTION

We, your committee on

NATURAL RESOURCES

having had under consideration

Statement of Intent, SENATE

Bill No. **356**

Respectfully report as follows: That.....**Statement of Intent, SENATE**.....Bill No. **356**
be adopted.

STATEMENT OF INTENT RE: SB 356

It is the intent of this bill to allow the Department of Natural Resources to provide grants for projects concerned with energy conservation. The grant of rulemaking authority includes the power to establish criteria to be used in determining when a grant should be granted under the limitations of the act.

PC-BASE

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