

48TH LEGISLATIVE SESSION

MINUTES OF  
NATURAL RESOURCES COMMITTEE  
MONTANA STATE SENATE

March 2, 1983

A regularly scheduled meeting of the Senate Natural Resources Committee was called to order by Senator Harold L. Dover, Chairman, on Wednesday, March 2, 1983 at 1:00 p.m. in Room 405, State Capitol.

ROLL CALL: Roll was called, with all members of the committee being present.

HOUSE BILL 520: Chairman Dover opened the hearing and called on Representative Glenn Roush, District 13, sponsor of the bill. Rep. Roush stated this bill was requested by the Montana Coal Tax oversight committee, to clarify how the Montana Coal Board can handle grants in respect to population. They are responsible for administration of the coal severance tax, and the change would result in better distribution of the funds. The bill defines five distinct three-year periods to be considered, and establishes annual review for those on the priority list.

PROPOSERS: Chairman Dover called for further proposers. There were none.

OPPOSERS: Chairman called for opposers, there were none.

Senator Halligan inquired as to what was the problem with the previous wording? It was stated that some counties are getting grants on the 1972 population figures, which is not accurate as to present population. Rep. Roush stated members of the Coal Board were present to answer further questions. The oversight committee felt the board was doing the best job they could under present law, but that grants couldn't be justified to some areas under present population. Senator Halligan inquired as to whether there would be a way to simplify the language? Mr. Campbell of the Coal Board stated there had been much discussion, that the five periods of three years was necessary to determine three years prior for updating and projecting population figures. Senator Eck inquired whether all of the money for grants has been used? Mr. Campbell stated that \$35 Million was used for school projects, such as Colstrip, Hardin and Lame Deer. In FY 83 the board was given \$7 million for grants, they awarded \$5 million and the balance of \$2.4 Million went to the educational trust fund, so they had not granted all available monies. The next highest users of the grants were cities for water and sewer, fire trucks, and patrol vehicles. The smallest recipients were the counties.

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Senator Manning inquired as to what status McCone County has regarding this bill and whether it affected them. Mr. Campbell stated they are not projected to receive funding, however if the mining permits are filed and approved it would be through the period 83-86, and at that time they would be put on the priority list. Nothing could be projected until the permits are filed. There was no further discussion.

ACTION ON HOUSE BILL 520: Senator Keating moved that House Bill 520 be concurred in, vote was called, all voted 'aye' and motion carried.

HOUSE BILL 391: Chairman Dover called on Rep. Chris Stobie, House Dist. 23, who stated this bill was brought about when the Dept. of State Lands proposed adoption of rules to put cabin sites that are leased up for bid every five years. He then got signatures of 140 Senators and Representatives to ask the Dept. to hold back on their rulemaking until the matter could be addressed by the legislature. It asks that they establish the price of the lease by land value rather than by putting the cabin site lease up for bid. Many cabin owners have improvements they possibly could not move if they lost their land lease site. He felt the Dept. agreed with this bill.

PROPOSERS: Chairman Dover inquired if there were proponents. Dennis Hemmer, Commissioner of State Lands, spoke to the bill stating they have only one concern, and that was not to base the rental on the consumer price index as there is a great fluctuation in that. He would rather base the lease price on appraisal of the land, otherwise they agree with the bill.

There were no opponents to the bill.

Senator Lee inquired as to the reference to the consumer price index. Rep. Stobie stated it is page 3, line 21-25, Every fifth year it would be able to increase by the percentage of the consumer price index for the year. He suggested amending the bill on line 23, striking "by" and inserting up to a maximum of that percentage of increase, and that land values may not go up as fast as the CPI. Senator Keating suggested other ways of measuring land values, and rather than tie into the consumer price index, to allow the price to be set by the value of the land as it relates to the cabin sites. Mr. Hemmer stated value of land is determined by its location, ie. Flathead lake would be more valuable than a lot in a remote location. Senator Eck inquired if the Dept. still enters into such leases? Mr. Hemmer stated they do not handle many, these are existing. The subdivision requirements have made it difficult to lease sites. Mr. Hemmer suggested amendment to the bill, inserting "a percentage of the increase over the value of the land as shown by a qualified appraisal". Senator Lee inquired as to what the percentage would be? Mr. Hemmer stated it would have

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to be taken from the value of the land at the beginning of the lease and at the present, increase in lease would be related to increase of land value. Senator Keating noted the bill says it would increase every 5th year. It doesn't say an average for the period, and that could make a 40-50 CPI increase. He also noted the bill doesn't speak to a decrease in value of the lease, which also could happen. He suggested that on line 22, it state "which value may be increased or decreased every 5th year, based on the appraised value of the land." Senator Lee inquired if all leased lots would be appraised? Mr. Hemmer stated they would use a representative sample. Senator Eck suggested giving flexibility to the raising or lowering of the leases according to the CPI and that it did not necessarily have to be bound by that amount. Hearing was then closed and it was agreed to put the bill into subcommittee, Senators Lee and Keating were assigned to meet on HB 391 with Rep. Stobie, Mr. Hemmer and Howard Johnson of EQC.

HOUSE BILL 630: Chairman Dover called on Gene Donaldson, Helena Representative, sponsor of this bill. Rep. Donaldson stated two years ago there had been a bill brought to the legislature to change the designation of sheetflooding for the Helena Valley. Within a short time after that Helena Valley had a 500 year flood, which had considerable impact on the area. Because of that, another change is being requested for the Helena Valley. He stated there were persons present to speak to the bill.

PROPONENTS: Paul Spangler, Helena Civil Defense Director, stated the '81 flood has been studied and it doubled the area of the Helena valley subject to flooding, by sheetflooding. The established floodplain is along the creek. Under the proposed regulations, they would be able to tell people not to build basements in these areas, ask them to put in two feet of fill of suitable material, and give protection to homes being built.

Bob Decker, Lewis & Clark Co. Commissioner also spoke on behalf of the bill, and stated he also represented the City-County Planning Board in support of the bill. After the flood in '81 there was \$6 Million spent on flood clean up. Lewis and Clark Co. spent \$140,000 and the state spent most in this area. There were federal monies involved as well. The houses are already in the area and can't be moved, and in order to plan for growth, there is planning needed for development which would sustain sheetflooding.

There were no opponents to the bill.

Senator Story inquired what would be required of builders. Mr. Decker stated there would be two general requirements. That there be no basements and a certain amount of fill be

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HB 630 (cont.)

above the sheetflooding level. Rep. Donaldson pointed out that building shouldn't have been allowed in certain areas of the valley, but since it was changes need to be made to allow these people to be insured in the future. Senator Keating inquired which local government would be making the rules? Mr. Decker stated it would be the county. Senator Lee inquired if all money spent on clean-up was county and state funds? Mr. Spengler stated there was FEMA (Federal Emergency Management Assoc.) money used as well. Senator Story inquired as to whether most of the money spent by the county, the \$35,000 mentioned, was spent on the roads? Mr. Decker stated a great deal of it was.

ACTION ON HOUSE BILL 630: Senator Keating moved that House Bill 630 Be Concurred In, vote was called, all voted 'aye' and motion carried.

ACTION ON HOUSE JOINT RESOLUTION NO. 2: Requesting study of Tenneco plant at Wibaux. Senator Lee stated he felt the Environmental Quality Council should be involved in some way with the Coal Tax Oversight committee on this. They have developed a very extensive library and it would be useful information for this study. Senator Dover stated it would be needed to determine if the effect is environmental before they can become involved. Senator Shaw said he felt it was important to get the conversation going between the agencies involved, and not limit to local government services. Discussion continued; Senators felt the discussion at the first level was not intended to go deeply into environmental issues. Senator Van Valkenburg then moved that HJR 2 Be Concurred In, vote was called, all voted 'aye' and motion carried.


ACTION ON HOUSE JOINT RESOLUTION NO. 12: Opposing the Federal Administrations plan to sell federal lands. Senator Lee moved Not Be Concurred in for HJR 12. It was stated that during the meeting on this bill it was brought out that the bill refers to the Secretary of Agriculture's intentions to propose legislation to expand his authority. To say that the 48th legislature opposes legislation that the federal administration intends to propose to permit the sale of lands, when we don't know what they intend to do is premature, and for this reason the do not pass was suggested. Senator Van Valkenburg stated he believed the statement that the people in D. C. and Denver have scared the people by their comments, maybe their statements are trial balloons and perhaps they don't mean what they have said, however the bi-partisan support for the bill is an indication of how much the people have been scared with the proposal of selling federal lands. The legislature meets only every two years and there isn't that much chance to react, and this is the chance to do so. Senator Halligan stated he had thought Rep. Swift was going to present some amendments to the bill. Sen. Keating said perhaps the legislation should say we don't

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SJR 12 (cont.)

want the forest lands sold, however it would be allright to sell the "garbage" lands, however this bill says we oppose whatever they want to do. Senator Story said most of the poor land for agriculture is public land and most of the better land is already private. A great deal of what should be done on public land is being done on private land. If industry needs railroads, they should not be taking the areas such as the Gallatin Valley which is good range land, they should be along the railroad in Utah where there is not good agricultural land. These areas wouldn't put pressure on water systems. Senator Eck stated she felt this was an important enough bill that it needs some work, and perhaps the offensive language should be taken out. Senator Lee stated he would like to go on record in defending his motion, that he is not saying that he is endorsing wholesale selling of federal lands. Also to go on record as being against any type of legislation, whether by resolution or bill, that reacts to supposition. Senator Van Valkenburg stated that the only way to do it would be to re-write the entire bill. There was no further discussion. Vote was taken by roll call, motion Be Not Concurred passed 7 - 5.

ADJOURNMENT: There being no further business to come before the committee the meeting was duly adjourned at 2:45 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 3-2-83

NAME	PRESENT	ABSENT	EXCUSED
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	✓		

DATE \_\_\_\_\_

COMMITTEE ON

## NATURAL RESOURCES

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretariat)

Current Year Example for Section 2 of House Bill 520

- (a) 1978 - 1981
- (b) 1979 - 1982
- (c) 1980 - 1983 (current year)
- (d) 1981 - 1984
- (e) 1982 - 1985



DEPARTMENT OF STATE LANDS TESTIMONY ON HOUSE BILL 391

BEFORE THE SENATE NATURAL RESOURCE COMMITTEE

The Department of State Lands supports House Bill 391 as amended, as it gives the Department needed clarification with regard to cabin site leases. However, the Department does have a concern with basing rental increases on the Consumer Price Index. The Consumer Price Index may not accurately reflect land values. The Department would prefer to base increases on appraisal of the lands.

Statement by Paul Spengler, Lewis & Clark County Floodplain Administrator,  
On HB 630, Floodplain Management.

The 1981 Legislature deleted sheet flood (less than one foot of flooding) from the floodplain at the request of Lewis and Clark County because of public opposition in the county to floodplain management. The public was opposed to the inclusion of sheet flooding in the definition of a floodplain because the State Health Department Subdivision Review Bureau does not allow septic tanks in the floodplain. This would have prevented development in large areas of the Helena Valley, because this area has a amount of sheet flooding. The County Health Department does allow septic tanks in sheet flood areas.

A 1982 report on floodplain mitigation measures by the engineering firm of Morrison-Maierle recommended to the county commissioners that they have a floodplain management program in the sheet flood areas to prevent flooding of buildings constructed in the future. This would eliminate basements and buildings would be placed on two feet of suitable fill above the height of the 1975 flood (this data will not be available for the 1981 flood for two more years).

The county is unable to adopt floodplain management in the sheet flood areas because these areas are no longer part of the official floodplain. Allowing counties this option would be of great help in preventing the future flooding of newly constructed buildings. Lewis and Clark County is the only county in the State with extensive sheet flood areas.

# STANDING COMMITTEE REPORT

March 2

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MR. **PRESIDENT:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **520**

**Roush (Elliott)**

Respectfully report as follows: That **HOUSE** Bill No. **520**

**BE CONCURRED IN**  
**DOVER**

# STANDING COMMITTEE REPORT

March 2 19 83

MR. **PRESIDENT:**

We, your committee on **NATURAL RESOURCES**

having had under consideration **HOUSE** Bill No. **630**

**Donaldson (Fuller)**

Respectfully report as follows: That **HOUSE** Bill No. **630**

**BE CONCURRED IN**

**REPORT**

*H.C.*

# STANDING COMMITTEE REPORT

March 2 19 83

MR. **PRESIDENT:**

## NATURAL RESOURCES

We, your committee on .....

having had under consideration ..... **HOUSE JOINT RESOLUTION** Bill No. **2**

**Winslow (Dover)**

Respectfully report as follows: That ..... **HOUSE JOINT RESOLUTION** Bill No. **2**

**BE CONCURRED IN**  
**REPORT**

SENATE COMMITTEE SENATE NATURAL RESOURCES

Date 3-2-83 Bill No. HSR12 Time 2:20pm

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 Not Pass

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

# STANDING COMMITTEE REPORT

March 2 19 83

MR. .... **PRESIDENT:** .....

## NATURAL RESOURCES

We, your committee on .....

having had under consideration ..... **HOUSE JOINT RESOLUTION** Bill No. **12** .....

Respectfully report as follows: That ..... **HOUSE JOINT RESOLUTION** Bill No. **12** .....

NOT BE CONCURRED IN

~~DO PASS~~  
~~XXXXXX~~

*HC*