

MINUTES OF THE MEETING
SENATE NATURAL RESOURCES COMMITTEE
MONTANA STATE SENATE
February 13, 1985

The seventh meeting of the Senate Natural Resources Committee was called to order at 12:35 p.m., February 13, 1985, by Chairman Dorothy Eck in Room 405, State Capitol Building.

ROLL CALL: All members of the Senate Natural Resources Committee were present.

CONSIDERATION OF HB96: Representative Holliday, sponsor of HB96, opened the hearing by stating HB96 is a self-explanatory piece of legislation that establishes the time period for when an operator must pay interest on delinquent royalty payments. Representative Holliday submitted testimony supporting the extension of the time limit from 60 days to 120 days (Exhibit 1).

PROPOSERS: Senator Stimatz removed himself from the committee for purposes of testifying. Senator Stimatz explained that HB96 shortens from 180 days to 120 days the time an oil and gas operator has to pay royalties to the royalty owner before the oil and gas operator must start paying interest. Senator Stimatz stated the oil and gas companies do not oppose this bill.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Shaw questioned the use of 31-1-107 on page 2, line 3. Representative Holliday explained this was a reference to the Montana Code Annotated, (MCA), and the maximum rate of interest allowed is the prime interest rate established in New York City.

Senator Gage stated he is concerned about the 120 limit because, on occasion, 120 days will not be sufficient. An example of this is when division orders are not received within the 120-day limit. Representative Holliday stated this case would come under the exemptions provided on page 2, lines 16-21, and felt this would not be a problem.

Chairman Eck questioned Representative Holliday as to whether the title of the bill accurately reflects the bill's purpose. Senator Holliday pointed out that it does, and noted the "180 days" is easy to read as "100-days." Mr. Bob Thompson stated that, in his opinion, the title of the bill generally reflects the bill's purpose.

There being no further questions from the committee, the hearing on HB96 was closed.

CONSIDERATION OF HB258: Due to the absence of Representative Cohen, sponsor of HB258, Senator Harding opened the hearing. Senator Harding explained SB258 adds an ex officio member to the Flathead Basin Commission. This will increase the number of members from 15 to 16. HB258 provides that the ex officio member must be the Director of the Department of Health and Environmental Sciences or his designee.

PROPOSERS: Mr. George Ochenski, representing the Environmental Information Center, supports HB258. Mr. Ochenski feels the passage of this bill will help coordinate agency activities.

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Mohar asked how often the Flathead Basin Commission meets. Mr. Ochenski replied the Commission is just getting started and has not had an opportunity to determine a set schedule of meetings. Senator Gage stated it was his understanding the Commission met twice last year.

Upon question from Senator Tveit, Mr. Ochenski stated the Director of Health and Environmental Sciences is desired for membership because the Department would then know the Commission's concerns as they relate to health issues in the Flathead Basin.

Chairman Eck stated one of the major concerns of the Commission is water quality. Chairman Eck believes the Commission feels the Department is not as sensitive to the issue of water quality as it should be.

Senator Gage asked about the status of an ex officio member. Mr. Ochenski stated this enables the Director to send someone in his place if he could not attend the meeting. Senator Shaw did not understand why ex officio was used, since an ex officio officer is an officer who cannot vote. Chairman Eck explained that when a member of the administration becomes involved with a group of local people, he usually serves as an ex officio member. Senator Gage pointed out the same is not true for the staff person on the Commission from the Governor's office. Chairman Eck feels both of these should be ex officio members.

Senator Fuller stated the use of capital letters to replace lowercase letters for the subsection numbers throughout was inappropriate.

Representative Cohen, sponsor of the bill, was allowed to present HB258. Representative Cohen stated the bill was introduced because of the confusion that arose when messages were sent between the Commission and the Department of Health and Environmental Sciences. Representative Cohen feels it is important the Department be represented on the Commission, since it has been actively involved in the Commission's activities.

Senator Mohar asked Representative Cohen if he was aware of what the appropriations committee did with the Flathead Valley Project. Representative Cohen replied the budget had received a 10 percent cut.

There being no further questions from the committee, the hearing on SB258 was closed.

CONSIDERATION OF HB178: Senator Hager, co-sponsor of HB178, presented the bill to the committee. Senator Hager explained HB178 will give the State authority to set up hazardous waste collection facilities and to use necessary funding for those facilities from the Resource Indemnity Trust Fund. Senator Hager feels it is easier to deal with the State on these matters than with the federal government.

PROPOSERS: Mr. George Ochenski, representing the Environmental Information Center, testified that recent changes in federal regulations regarding the dumping of hazardous waste will affect Montana. The federal legislation has recently reclassified hazardous waste generators from 1,000 kilos of waste per month to 100 kilos of waste per month. This means waste which could have previously been dumped in a landfill will need to be disposed of at a hazardous waste dumping site. Mr. Ochenski stated the federal regulations will go into effect in 1986, so Montana will have to make provisions for hazardous waste collection sites before that time. SB258 is one bill in a package of bills to be introduced which will give Montana the facilities to handle this type of waste correctly. Mr. Ochenski stated the result of not having hazardous waste collection available will be "midnight dumping."

There being no further proponents and no opponents, the hearing was opened to questions from the committee.

Senator Gage questioned about how the State would build and generate the facility. For example, would the State create

the facility and then let a public or private organization operate the facility or would it permit a private citizen to build his own facility subject to State approval. Senator Hager replied that either way would be acceptable. Senator Gage inquired whether the fees would be set by the individual or the State. Mr. Ochenski replied that, to the best of his knowledge, the fees would be set by an across the board schedule, such that fees would be the same whether the facility was privately owned or state owned.

Mr. Duane Robertson stated these operations would be regulated by the State, and since the fees charged would not cover all costs of operation, the facilities would be subsidized by the State.

Mr. Duane Robertson, representing the Department of Health and Environmental Sciences, was allowed to testify as a proponent of SB178.

Mr. Robertson stated HB178 was introduced because of recent changes made by Congress regarding hazardous waste disposal. Mr. Robertson stated the new regulations will include waste materials from service stations, automobile dealerships, dry cleaners and certain types of laboratories. Under the new federal regulations, landfills will no longer be able to accept these types of wastes. Mr. Robertson stated that unless the people of Montana want to individually bear the expense of shipping these wastes to out-of-state facilities, the State must provide hazardous waste collection facilities. Mr. Robertson feels if the State is allowed to set up transfer stations and a collection program, the waste will be stored in containers designed for this purpose and disposed of properly.

There being no further proponents or opponents, the hearing was re-opened to questions from the committee.

Upon question from Senator Christiaens, Mr. Robertson stated that one transfer station would be set up for the state. At that point, waste would be collected, stored and then transferred by semi-truck to out-of-state facilities. Mr. Robertson informed Senator Christiaens federal moneys would be available to run the facility, but he was not aware as to what the exact amount would be. Mr. Robertson also informed the committee Montana would have to consider building its own disposal system for hazardous waste sometime in the future.

Senator Fuller informed the committee the money used from the Legacy Program will be put back into the program if it is

determined the system cannot be set up. The money from the Legacy Program will be used only for construction of the system and not operation.

Upon question from Senator Halligan, Mr. Robertson explained the fee schedule will be based on the amount of hazardous waste disposed of as well as the degree to which the waste is deemed to be hazardous.

Upon question from Senator Gage, Mr. Robertson stated the fees collected will also be returned to the Legacy Program.

Mr. Robertson stated one of the waste materials from service stations that is now hazardous is used oil. In the past, used oil was used to suppress dust on dirt roads; however, Mr. Robertson believes this use will soon be prohibited. Mr. Robertson also stated prohibiting the use of old oil will mostly affect commercial businesses rather than ranchers.

Upon question from Senator Weeding, Mr. Robertson stated that farm chemical containers would be exempt from hazardous waste laws, unless they still contain chemicals.

Mr. Robertson informed Senator Tveit it would be three or four years until Montana has the need to construct a hazardous waste disposal unit.

Mr. Robertson explained to the committee that if the Legacy Program does not get established, they will be forced to work with private individuals who have to ship hazardous waste out of state to set up a transfer station.

Representative Hager closed the hearing by reminding the committee that hazardous waste does not in any way include nuclear waste.

FURTHER CONSIDERATION OF HB96: Several persons wishing to testify on HB96 were unaware the meeting started at 12:30 p.m. Accordingly, Chairman Eck reopened the hearing on HB96.

PROPONENTS: Mr. Jerome Anderson, representing Shell Oil, feels the language used in the House of Representatives is confusing. Mr. Anderson suggested amending page 2, line 21, of HB96. Chairman Eck informed Mr. Anderson Representative Holliday had already proposed this amendment to the committee.

Mr. Darwin VanDeGraaff, representing the Montana Petroleum Association, agrees with the House amendments and feels HB96 will provide for timely payments of royalties.

There being no further proponents to HB96, the hearing was opened to opponents.

Mr. Pat Melby, representing the Montana Oil and Gas Association, stated that occasionally, the royalty owner cannot be determined. Mr. Melby is not convinced subsection (4) provides for this exception. Mr. Melby is concerned royalties will not be paid in a timely fashion if the developer is not certain about to whom the royalties are to be paid. Mr. Melby submitted proposed amendments (Exhibit 2).

There being no further opponents, the hearing was opened to questions from the committee.

Upon question from Senator Shaw, Mr. Melby stated this situation occurs quite frequently. Senator Gage added it happens more with gas exploration than with oil exploration.

There being no further questions from the committee, the hearing on HB96 was closed.

ACTION ON SB273: Senator Christiaens moved that SB273 DO PASS. The motion carried.

FURTHER CONSIDERATION OF SB272: Mr. Pete Gross, who was unable to attend the hearing on SB272, offered to answer any questions the committee had regarding the development of water projects. The hearing was opened to questions from the committee.

Upon questions from the committee as to whether anyone would actually develop these water projects if given the authority, Mr. Gross stated he has applied for licenses to develop four state-owned water projects. Mr. Gross stated there are another 40 projects in Montana that have potential for development. Mr. Gross stated he had written answers to some of Senator Gage's questions and submitted these answers to the committee (Exhibit 3). Senator Gage asked when these projects would be eligible for the federal tax credit. Mr. Gross explained the tax credit will be available for all projects licensed in 1985. The projects must then be completed and producing electricity by the last day of 1988. Mr. Gross stated the major problem is that it can take up to one year to obtain a license. Upon question from Senator Gage, Mr. Gross stated the royalties to the State from these projects would be paid at a fair market value that would probably be six to twelve percent of the gross proceeds, but this royalty would not be the only source of revenue from these projects.

Senator Anderson stated it is his belief the passage of SB272 would have a bad effect on projects currently in the mill. Pete Gross stated no one has offered to develop these projects,

and persons in the private sector do not want to see the State get into the power generation business. Mr. Gross stated it was not his intention to take away State-controlled projects from the State.

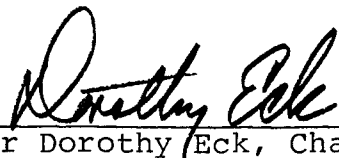
ACTION ON SB272: Senator Halligan moved that SB272 DO PASS. The motion carried.

FURTHER CONSIDERATION OF SB264: Senator Tveit feels the Department of State Lands has other remedies available, other than assessing a penalty. Senator Mohar stated the lease could not be revoked, because in most cases, the problem is not with the lessee. Senator Tveit inquired as to who would let the public know this law was in effect. Senator Mohar stated the law was already in effect and passage of the bill would merely provide the Department with the authority to assess a penalty for failure to comply. Senator Daniels inquired about who would determine what the "fair market value" was in determining the penalty.

ACTION ON SB264: Senator Shaw moved that SB264 DO NOT PASS. The motion carried with Senators Eck, Christiaens and Mohar voting in opposition.

FURTHER CONSIDERATION OF SB277: Chairman Eck stated that although most of the testimony from the proponents to the bill asked the bill be narrowed down, it was the Governor's intention to keep the scope of SB277 as broad as possible. Chairman Eck feels the bill could be amended so each legislative session puts a new section in the bill to give direction to the types of proposals they would like to make appropriations for in the next session. Chairman Eck stated that whatever the committee decided, it should try to keep the bill as broad as possible.

There being no further business to come before the meeting, the meeting was adjourned at 2:33 p.m.



Senator Dorothy Eck, Chairman

ROLL CALL

Natural Resources

COMMITTEE

48th LEGISLATIVE SESSION -- 1985

Date 021385

STATE
SEAT
#

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
WHEELING, Cecil	✓		
MOHAR, John	✓		
DANIELS, M. K.	✓		
FULLER, David	✓		
CHRISTIAENS, Chris	✓		
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.

021385

VISITORS' REGISTER

(Please leave prepared statement with Secretary)

LADD PETROLEUM CORPORATION

1004 Division Street
P.O. Box 31238
Billings, MT 59107-1238
Telephone (406) 245-8444

JAN 23 REC'D

January 22, 1985

Mr. D. Van De Graaff
Montana Petroleum Association
2030 - 11th Avenue, Suite 23
Helena, MT 59601

Re: House Bill No. 96

Dear Van:

This letter is written in protest of HB No. 96 which in its present form would require that interest be paid on royalties that are not paid within sixty (60) days of marketing.

In our normal course of business, the sixty (60) days is unfair where new crude oil is discovered and marketed. I would like to review with you the procedure that we must follow in the typical case where new crude oil production is established.

1. In this day and age, there are usually several companies that have a working interest within the spaced unit for a given well. Some may join in the drilling and others may farmout. Farmout Agreements provide that the drilling parties may request an assignment from the non-drilling parties after it has been determined that the well is capable of commercial production.

Testing will usually last two to three weeks before it is declared an "oil well", and a completion report is filed with the state. The testing period may take longer if the production is marginal.

2. It usually takes a minimum of two (2) weeks to receive an assignment from non-drilling parties, and the document must then be sent for recording in the county records.
3. After the assignment(s) are recorded, we bring our abstract up to date. This usually takes the abstract company about two (2) weeks.
4. Upon receipt of the updated abstract, we immediately request a Division Order Title Opinion from our attorney. This may take two (2) weeks or so depending upon the complexity of the ownership.

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 1

DATE 02/13/85

BILL NO. HB 96

5. When we receive the Division Order Title Opinion, we satisfy any outstanding title requirements, verify addresses and prepare an address list for the crude purchaser. If there were title requirements, we must obtain a Final Division Order Title Opinion from our attorney.
6. The Final Division Order Title Opinion and the address list are then sent to the crude purchaser who prepares and submits Division Orders to the individual mineral or royalty owners. There are some cases where title is questionable, and all Division Orders must be returned before the crude purchaser will disburse funds.
7. There are also some cases where estates must be probated to determine the rightful heirs, but the time frame on this would be up to the family's attorney. There are times when a probate proceeding may take six (6) months to a year, and I assume that this would be exempt from the proposed Bill.

It should also be stated that we have no desire to delay the procedure set forth above because in most cases we also receive no revenue until the Division Order is signed. I feel that 120 days would be more realistic in this Bill.

Thank you for your consideration.

Respectfully,

LADD PETROLEUM CORPORATION



James H. Kerr
Division Landman

Note: I have 20 years experience as an Oil and Gas Landman.

JHK:s1

cc Senator Tom Keating
Mr. Bill Vaughey, Jr.

W. M. VAUGHEY, JR.

P.O. BOX 46

HAVRE, MONTANA 59501-0046

(406) 265-5421

January 31, 1985

The Honorable Gay Holliday
Montana State House of Representatives
Capitol Station
Helena, MT 59620

RE: HB 96 relating to timeliness of royalty payments after marketing
of oil and gas

Dear Representative Holliday:

I am an independent gas and oil producer with offices in Havre since 1968.

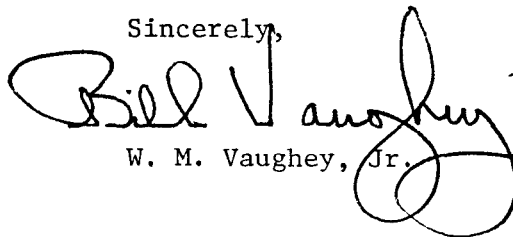
Although we have not met, I was in the gallery when your measure, HB 96, as amended, passed the House unanimously.

I write to heartily endorse this measure to the Senate Taxation Committee which will next consider it.

HB 96, as amended, seems to me to be an excellent mix of fairness to both the land-owners and to the independent producer or major oil company which operates a given oil or gas well.

Ultimately, I hope this measure in the form in which it now passes to the Senate will be signed into law.

Sincerely,



W. M. Vaughey, Jr.

WMV/aks

cc: Senate Taxation Committee

Gary Meland, President,
Montana Land & Mineral Owners Association

Norman Nelson, President
Northeast Montana Land & Mineral Owners Association

DAMSON OIL CORPORATION
P. O. BOX 4391
HOUSTON TEXAS 77210

PAGE 1

CHECK NO.- 0071095
CHECK DATE- 11/25/84
TAX ID - 81-6001399

Rec'd 3/7/85

7115918 MUSSELSHELL CO OF MONTANA
C/O BOARD OF COUNTY COMMISSION
ROUNDUP MT 59072

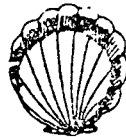
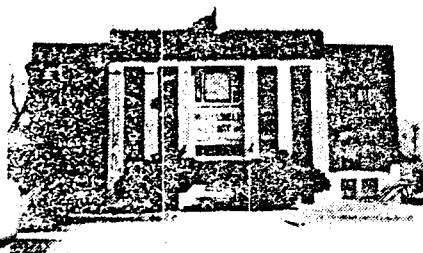
PRODUCT CODES

1 OIL T1	6 CONDENSATE T
2 OIL T2	7 CONDENSATE T
3 OIL T3	8 HEAVY OIL T
4 PLT PROD-WPT WTHHLD	G GAS
5 CONDENSATE T1	P PLANT PRODUCE
	C CASINGHEAD G

PLEASE RETAIN STATEMENT F
INCOME TAXES. DUPLICATES
CANNOT BE FURNISHED.

NOTE: FOR EACH PROPERTY, THE LINE SHOWING SALE DATE REPRESENTS PROPERTY TO
* ALL LINES HAVING AN ASTERISK REPRESENT THE OWNERS SHARE OF THE PROPERTY VALUE
THE SUM OF ALL ASTERISKS WILL EQUAL THE CHECK AMOUNT.

SALE P PRICE/ DATE C MCF/BBL	VOLUME	GROSS VALUE	TAXES	DEDUCTS	NET VALUE
MT-001-34-01-000 R	KEG COULEE TYLER UNIT (WELLS 4 RI	.06250000			
0184 1 28.85	508.13-	14,657.06-	891.15-	.00	13,765.91
	31.75-	916.06-	.00	.00	916.06-
0184 1 28.65	508.13	14,657.06	923.50	.00	13,733.56
	31.75	916.07	.00	.00	916.07
0284 1 28.74	410.30-	11,792.20-	775.93-	.00	11,016.27
	25.64-	737.00-	.00	.00	737.00-
0284 1 28.74	410.30	11,792.20	743.00	.00	11,049.20
	25.64	737.01	.00	.00	737.01
0384 1 28.71	399.67-	11,474.72-	755.03-	.00	10,719.69-
	24.97-	717.16-	.00	.00	717.16-
0384 1 28.71	399.67	11,474.72	723.00	.00	10,751.72
	24.97	717.17	.00	.00	717.17
0384 1 28.72	374.49	10,757.16	677.78	.00	10,079.38
	23.40	672.33	.00	.00	672.33
			CHECK TOTAL		672.33



County of Musselshell

ROUNDUP, MONTANA

BOARD OF COUNTY COMMISSIONERS

JACK ELLIS
ROY W. McCAFFREE
HERSHEL M. ROBBINS

FRANCIS L. DAWSON
Clerk & Recorder
WARREN SMITH
Assessor
CLINTON J. MOORE
Treasurer
BRIAN NEIDHARDT
Sheriff
JOHN L. PRATT
County Attorney
ALICE JOHNSON
Clerk of Court
JOHN RAE
Coroner
IRVING DODDS
Public Administrator
EVELYN HATTERSCHEID
Justice of the Peace

January 10, 1985

TO: Honorable chairman and committee on Business and Labor

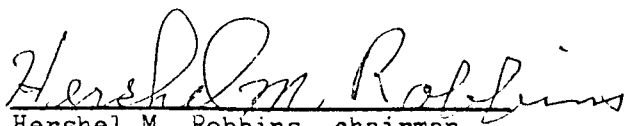
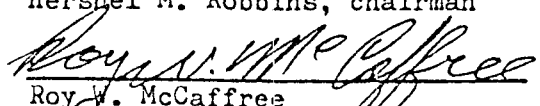
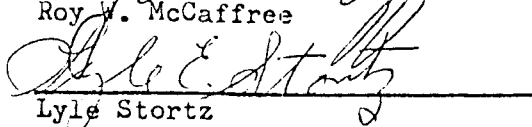
SUBJECT: House Bill # 96--" an act to decrease from 180 days to 60 days the number of days after marketing of oil and gas that an operator must pay royalties to a royalty owner before incurring interest on the unpaid royalties; amending section 82-10-103 MCA".

We, the Musselshell County Commissioners, do hereby give you our backing and full support on the above captioned bill or as amended for the following reasons: HB 96

The oil companies are presently entitled to defer royalty payments for their benefit and to the detriment of state, county, city and other owners in the way of interest earned and lost.

Federal freezes and cutbacks are placing an ever increasing burden on the states, counties and cities.

Sincerely,


Hershel M. Robbins, chairman

Roy W. McCaffree

Lyle Stortz

Proposed amendments to HB 96

Page 2, line 18, following "kind":

Strike: ", "

Insert: "or"

Page 2, line 21, following "payments":

Strike: "."

Insert: "or whenever distribution of royalty payments would be affected by communitization, unitization, or the outcome of a proceeding before a state or federal regulatory agency or court."

SENATE NATURAL RESOURCES COMMITTEE

EXHIBIT NO. 2

DATE 02/13/85

BILL NO. HB 96

Testimony of J. PETER GROSS
P. O. Box 261
Pony, MT 59747
(406) 685-3558

President, Montana Small Hydroelectric Association
Vice-President, Northwest Small Hydroelectric Association
Member, National Hydroelectric Association
.....

RESPONSE TO QUESTIONS BY SENATE NATURAL RESOURCES COMMITTEE
PERTAINING TO S.B. 272:

Question 1: How do federal tax incentives affect these projects?

A: Eleven (11) percent Federal Energy Tax credit is available through the end of 1985. Additionally, ACRS and investment credit are available to any new business.

Question 2: Are there state tax incentives?

A: None exist for hydropower projects.

Question 3: What are the costs of proposed projects?

A: Costs range from approximately \$400,000 to \$2 million, all monies being private capital.

Question 4: Will the State cost-share these projects?

A: No, the State will not invest in the hydro retrofit; however, it will receive royalties for the use of the dams.

Question 5: Will the State receive any other compensation?

A: Yes, the State will receive an energy generation tax on all power produced, as well as corporate income and property taxes.

Question 6: What is the buy-back or avoided cost rate?

A: Contracts subject to public service regulation and new avoided cost hearings are taking place this spring. Old contracts were available up to \$0.071/kwh and fully leveled for thirty-five (35) years.

Question 7: What royalties would the State receive?

A: Royalties would be set by the State at fair market rates. It has been proposed to allocate a portion to the project and its users with the remainder going to a general water project fund.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 3
DATE 021385
SB272

page 2. RESPONSES (continued).

.....
Question 8: How many sites are owned by DNRC and is there a need for this legislation?

A: There are twenty-three (23) DNRC-owned dams and a total of forty (40) DNRC water projects. None of these projects can be developed by the private sector or corresponding irrigation districts.

Question 9: Is the State and the water user protected by this bill?

A: Yes, existing water rights protect the historic releases, and a DNRC contract with the private hydro developer would further protect the State's interests.


Question 10: Is the State and water user currently protected?

A: No. FERC license holders have power of condemnation over the dams and the water.

Question 11: Why does the private developer or irrigation district need to hold the FERC license?

A: The power sales contract must be held by the license holder according to FERC.

Respectfully submitted,

• 
J. Peter Gross

STANDING COMMITTEE REPORT

FEBRUARY 13, 1983

MR. PRESIDENT

We, your committee on NATURAL RESOURCES
having had under consideration SENATE BILL No. 272
FIRST reading copy (WHITE)
color

ELIGIBILITY AND LICENSE FOR HYDROPOWER DEVELOPMENT ON STATE PROJECTS

Respectfully report as follows: That SENATE BILL No. 272

DO PASS

~~XXXXXXXXXX~~
~~DO NOT PASS~~

SENATOR DOROTHY BCK

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 13, 1985

MR. PRESIDENT

We, your committee on **NATURAL RESOURCES**

having had under consideration **SENATE BILL** No. **273**

FIRST reading copy (**WHITE**)
color

ESTABLISH CONTRACT REQUIREMENTS FOR STATE WATER PROJECTS

Respectfully report as follows: That **SENATE BILL** No. **273**

DO PASS

~~DO NOT PASS~~

Senator Dorothy Eck

Chairman.

STANDING COMMITTEE REPORT

FEBRUARY 13, 1985

MR. PRESIDENT

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL No. 264

FIRST reading copy (WHITE)
color

TO PROVIDE PENALTY FOR FAILURE TO OBTAIN EASEMENT ON STATE LANDS

Respectfully report as follows: That SENATE BILL No. 264

~~XXXXXX~~

DO NOT PASS

Senator Dorothy Eek,

Chairman.