

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
49TH LEGISLATURE SPECIAL SESSION III

June 26, 1986

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson on June 26, 1986, at 2:50 p.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Driscoll, Rep. Jones, Rep. Peterson, and Rep. Smith, who were excused.

CONSIDERATION OF HOUSE BILL NO. 49: Rep. Tom Hannah, District 86, appeared as chief sponsor of the bill. He explained this bill has received considerable attention in the last couple of weeks, and wanted to give a clear overview of it. He further explained this is not something the industry came to him with, but rather that he stumbled into the fact that Exxon was in trouble. He presented two hand-outs; the first is an article from the Billings Gazette (EXHIBIT 1), and the other is a Statement of Intent (EXHIBIT 2). He explained there are several industries in Billings that contribute to the sulfur dioxide (SO<sub>2</sub>) pollution in the city and they are out of compliance with the state law. The federal standard of annual average ambient sulfur dioxide concentrations is 0.03 parts per million (ppm), and Montana's standard is 0.02 ppm. The reason for this bill is to change Montana's standards to 0.03 ppm to comply with the federal standards. He said Billings industries are creating .029 ppm sulfur dioxide, and this puts them under the federal standards. He said it is his belief if the Billings industries were forced to comply with the current state standards, they would have to make the decision of whether or not they could afford to spend the \$10 million to \$20 million to comply. This would put those industries in jeopardy. This bill addresses one particular area -- it will simply maintain the status quo. Research indicates that there are no health risks at the 0.03 ppm level. Under the bill, air quality in the Billings area will remain the same. He felt the state cannot afford to lose any of the industries in Billings.

PROPOSERS: Jim Van Arsdale, mayor of Billings, said the state of Montana adopts national building and fire codes. These codes address many life safety issues, and he finds them to be very adequate. He felt the city of Billings doesn't need any more restrictive clean air acts or any more road blocks put in businesses' way.

Dave Goss, representing the Billings Chamber of Commerce, spoke in support of the bill. He presented written testimony (EXHIBIT 3), which explained their reasons for supporting the bill.

Mike Micone, WETA, said they are organized to promote the economy of Montana, and encourage the industries in the state. He felt it was important that industries be made welcome in the state to promote economic efforts. He asked for support of the bill.

Don Ingels, Montana Chamber of Commerce, stated that Montana is very low in industry, and over-regulation is the reason. He urged the committee's support.

Henry Hubble, operations manager at the Billings Exxon Refinery, presented written testimony (EXHIBIT 4) which he read to the committee. He said they support HB 49 because they believe it achieves the best balance between ensuring the viability of the Billings economy and air quality.

Senator Larry Tveit, District 11, spoke in support of the bill. His concern is the anti-business climate of this state. He felt it was important to ask why this issue is brought up in this session. The Board of Health said this should be imposed November 6 of this year and the legislature doesn't meet again until January.

Martin Pergh, representing Cenex of Laurel, said they favor the passage of HB 49.

Robert VanDerVere, a lobbyist from Helena, said he believes in the federal standards on this issue. In a case like this, we should pass this bill.

John Lahr, Montana Power Company, said their problem is to meet Montana's standards, and they did not seek this remedy. This bill will preserve Billings and Yellowstone county's economy. The impact of this is important to Montana Power because of the possible loss of customers, like Exxon. Their combined total revenue from several Billings companies was \$10,700,000 in 1985. If the 270 employees of Exxon lost their jobs, there would be a further negative impact.

Carlton Grimm, Montana Power Company, said he is concerned about clean air. His plant in the Billings area was built in 1968 and it has twenty more years of economic life. It burns Rosebud coal, and they do not have any way to process that coal to cause lower emission rates on this unit. They do not have SO<sub>2</sub> control. There have been a number of economic studies of what it would take to comply with the standards, but they are going to cost. They don't have a figure, but they are looking at a couple of options. One of those options is flu gas scrubbers, which would cost \$30 million for installation. They have a corporate policy of complying with regulations and also an obligation to tell citizens what it will cost.

Ken Williams, Western Energy Co., said they believe Montana should not have standards that are more stringent than federal standards.

Rep. Bruce Simon, District 91, also appeared in support of the bill. He said he is a lifetime resident of Billings and wanted to address the sugar beet factory, which had shut down. Now they do have a sugar beet plant in Billings, and the operation is a little tenuous. It is an old plant. If those people are asked to go forth with the policy to comply with the state's standards, they will have to shut down again. The farmers will not have a crop. He ended by saying we are talking about preserving existing jobs and he urged the committee's support of this bill.

Janelle Fallan, executive director of Montana Petroleum Association, presented written testimony in support of HB 49 (EXHIBIT 5). She said SO<sub>2</sub> is odorless, and the residents will not be subjected to any rotten egg smells.

Rep. Jack Ramirez, District 87, also appeared as a proponent of the bill. He stated he grew up in Billings, and the refinery is an old one, which has paid taxes, provided jobs and has been a good citizen to the city. The existing businesses deserve to be treated better. He stated this same mistake was made seven years ago with the Anaconda Company. He asked for all residents of Billings to make this change in the code as it is very much needed.

Gene Pigeon, representing himself, stated he was present in support of the bill.

Larry Zink, Montana Sulphur and Chemical Co., Billings, said they are a resource recovery business and their business is pollution control. They support the change in this law. Industries compete in the major market places. That is not to say that without the passage of this bill they can't get along, because they can get along. A further margin of safety is provided in this bill, because the federal standards already have a standard of safety built in. The Montana regulation unnecessarily burdens the economy in Billings. He offered their support for this bill.

There were no further proponents present.

OPPONENTS: Hal Robbins, Air Quality Bureau, Department of Health and Environmental Sciences, presented written testimony in opposition to this bill (EXHIBIT 6), which explained in detail their reasons for objecting to the bill.

Rick Berg, rancher from Martinsdale, Montana, said he was representing himself as well as the Northern Plains Resource Council. He presented written testimony as EXHIBIT 7, asking the committee to vote against the bill. He said it is a bad idea and the wrong time to even discuss it.

Helen McKnight, testifying on behalf of the Montana Senior Citizens Association, presented written testimony strongly opposing the bill. See EXHIBIT 8.

Blake Wordal, executive director of the Montana Democratic Party, appeared in opposition to HB 49, and also presented written testimony (EXHIBIT 9) which stated his reasons for opposing the bill.

Russ Brown, Northern Plains Resource Council spoke in opposition to the bill, and presented written testimony as EXHIBIT 10.

George Ochenski, Montana Environmental Information Center, said this bill is being misused. Exxon did not ask for it. He presented a large box of files, which he explained came from when this issue was discussed by the Board of Health. For 100 years, this state has accommodated pollution from the Anaconda Company, and they shut down without a day's notice. He asked that the committee take up this issue in January and do it right, and also asked the committee to please table the bill.

Earl Thomas, executive director of the American Lung Association of Montana read a letter from Frank J. Davis, chairman of the Public Issues Committee of the American Cancer Society (EXHIBIT 11). Mr. Davis asked for postponement on this proposal until the next general session. Mr. Thomas also presented written testimony (EXHIBIT 12) from the American Lung Association, and stated this bill would have an adverse effect on breathing and lungs.

Gary Boe, representing the Missoula City-County Health Department, stated this is simply a bad environmental law. It sets a precedent that will haunt us for years to come. He told the committee they have some control over the environmental health of this state, and urged them to defeat this legislation.

Sandy Merdinger, League of Women Voters of Montana, stated they are opposing this because a session such as this does not give adequate public participation. She also presented written testimony as EXHIBIT 13.

James Phelps, Billings, said this session was not called to deal with this. The issue is too important to deal with in this short of time. Federal standards were always the lowest common denominator.

Richard Steffel, representing himself, stated he is not impressed with the haste this issue is being handled. He brought data that showed the extent in which the process was dealt with before, and said this is a technical issue that is very complex. In 1978, there was a lot of citizen participation, and now there isn't enough time for the experts in this area to be here. He asked the committee to find some answers to what it would mean to other existing industries in the rest of the state, before proceeding with the issue. Both the forestry and agriculture industries could suffer.

Scott Fraser, Yellowstone Valley Citizens Council, urged the committee to oppose HB 49. He said that using Exxon as the largest petroleum company, this threat of closing the Billings refinery is a smoke screen.

Rick Duncan, Lewis and Clark County Health Department submitted a letter from Robert R. Johnson, Health Officer, which he read to the committee (EXHIBIT 14). The letter expressed strong opposition to HB 49 because of its timing.

Chris Kersten, Yellowstone Basin Group Sierra Club, asked to be recorded in opposition to the bill.

Rep. Joan Miles, District 45, also spoke in opposition to the bill.

DISCUSSION ON HOUSE BILL NO. 49: Rep. Ream asked Rep. Hannah to explain section 2 of the bill. Rep. Hannah replied the legislature has to reinstate the department's rulemaking authority as a matter of legal procedure. Rep. Ream then asked if next week the Board of Health could change the standard back, to which Rep. Hannah replied yes. Rep. Ream asked if there would be problems with the hourly and twenty-four hour standards. Rep. Hannah replied the statement of intent takes care of that, and that it is not his intention to change the short-term standards.

Rep. Garcia asked Mr. Hubble a question which Rep. Driscoll had asked him to ask. He wanted to know if this passes, would Mr. Hubble guarantee that no jobs will be lost; could he make the promise to Montana. Mr. Hubble said there are no guarantees, that a refinery has to be profitable, and that he can't foresee the future.

Rep. Kadas asked Rep. Hannah why he can't wait until January like everyone else. Rep. Hannah replied that Exxon can't make any guarantees and neither can the Department of Health nor the Board of Health. It is his fear that a decision will be made about what will happen to these industries before that time.

Rep. Kadas said the department seems to bend over backwards for these kinds of situations on a year to year and decade to decade basis, and he asked Rep. Hannah if he didn't think there is that much flexibility in the next six months. Rep. Hannah said he didn't think it could wait. The Board of Health authorized standards and they want them enforced.

Rep. Moore said that Scott Fraser had made the statement that Exxon has never complied with standards in the last six months. She wondered as serious as this problem is, that this is not the time to bring it up. Rep. Hannah replied that he did not feel it could wait until January.

Rep. Asay said a long time ago there was a very obvious pollution problem in Billings, which recently hasn't been there. He wondered if there were any figures available on this problem. He was told they do air quality monitoring to determine the ambient air quality.

Rep. Grady asked George Ochenski if there is some economic loss to agriculture in the Billings area. Mr. Ochenski said he did not have those numbers. That is a fine example of what we would get into if we pursue this.

Rep. Grady addressed Mr. Hubble about the \$10 million to \$20 million that it would cost to comply with the state's standards, and felt it was quite a big fluctuation. Mr. Hubble replied that the rule setting hasn't been done as to how much cost will be involved. Rep. Grady asked how his company was expected to do this overnight. Mr. Hubble replied this has been an on-going process for a long time. The Board of Health has taken the position they are out of compliance.

Rep. Harp asked Dr. Drynan if there is any reason the Department of Health can't wait until January. Dr. Drynan said the Board of Health has directed the department to do this. The Board of Health is appointed by the Governor. Rep. Harp said we are just asking the board to wait six months to consider this, and he felt the Governor could wait until January. Dr. Drynan said the Governor can only express his wishes to the Board of Health, as he has no control over the board.

Rep. Miles asked Mr. Robbins if he was willing to start working now, and did he think he could get something in terms of proposed standards together by November or December. Mr. Robbins said they have been asked by the board to develop alternatives for Billings industries to comply with the standards.

Rep. Miles asked Mr. Robbins if they have used their power to enforce standards against Exxon. Mr. Robbins replied no.

Rep. Miles asked Mr. Hubble if he was still willing to make the 15 percent rollback, to which Mr. Hubble replied yes.

Rep. Miles asked Rep. Hannah what this bill is going to do. Rep. Hannah replied it is going to address a major problem with the annual ambient standard. It will not change the 24-hour and one-hour standards.

Rep. Miles asked Mr. Hubble if he has gotten the message that the legislature is concerned. Mr. Hubble replied yes. Rep. Miles then asked Mr. Robbins if he had gotten the message that the legislature is concerned about the industries in Billings. Mr. Robbins replied yes.

Rep. Miles then asked Dr. Drynan if the Board of Health has gotten the message. Dr. Drynan said it would be more appropriate if the committee would send a letter to the Board of Health making their requests.

Rep. Garcia asked Mrs. McKnight of the Senior Citizens Association, if her organization met on this bill to come out as opponents. Mrs. McKnight replied that they did have a meeting, where this issue was discussed, but they had not called a special meeting for it. Rep. Garcia then asked her if she was speaking in behalf of the organization or herself. Mrs. McKnight said they told her she was speaking for the organization. She explained they have organizers who run the office and they have board meetings throughout the state, who discuss and agree on certain things. Rep. Garcia said he was concerned as his district is 50 percent senior citizens.

Rep. Krueger asked Mr. Hubble if this committee does not take favorable action on this bill, and this bill is re-introduced in the next session, what detrimental effect will it have. Mr. Hubble said they have worked with the Board of Health, and unless there are enforcements applied, he doesn't see any problems at this time. Rep. Krueger then asked Mr. Hubble if this bill is passed, what plans does his company have in the next six months. Mr. Hubble replied they have planned 15 percent reduction anyway. Rep. Krueger also asked if this will have any drastic effect on his company in the next six months, to which Mr. Hubble replied no.

In closing, Rep. Hannah said he felt this is a good bill and asked the committee to take a serious look at it. He felt that the longer the legislature waits to deal with the problem, it increases the potential to add to the list of companies and jobs that will leave the state. All this bill does is freeze the current sulfur dioxide emissions. If this industry went down, there would be a \$1.4 million impact on schools. He felt the old plants could operate under the existing annual standards without harm, but now is the time to do some reasonable changing.

There being no further business to come before this committee, the hearing was adjourned at 5:00 p.m.



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Rep. Dennis Iverson, Chairman

MINUTES OF THE MEETING  
NATURAL RESOURCES COMMITTEE  
49TH LEGISLATURE SPECIAL SESSION III

June 27, 1986

The meeting of the Natural Resources Committee was called to order by Chairman Dennis Iverson on June 27, 1986, at 3:00 p.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

DISPOSITION OF HOUSE BILL NO. 49: Rep. Cobb made the motion of DO PASS, seconded by Rep. O'Hara.

Rep. Miles said there is absolutely no purpose in passing this bill, as it will affect the Billings area only. Passage of this bill will send this whole thing into flux. She urged the committee not to support it.

Rep. Raney said there is another way out, and reminded the committee that a suggestion had been made to send a letter to the Department of Health and not take enforcing action. He suggested to either table or kill the bill, and offer instructions to the Department of Health.

Rep. Ream said he agreed with Rep. Miles and with Rep. Raney, to send a letter to the Department of Health expressing concern.

Rep. Ream then made a substitute motion that the Chairman send such a letter, and to table HB 49. Chairman Iverson said he would like to separate the motions.

Rep. Ream moved to TABLE HB 49. The motion FAILED on a Roll Call Vote of 10 to 7. (See Roll Call Vote attached).

Rep. Raney said he would like to hear from some of the people voting no, and have them explain if they have the expertise or feel justified in changing the air standard in the short time spent on this bill.

Rep. Asay said his big problem is the significant change in putting that much more demand on industry in these difficult times. The biggest difficulty for industry is changing rules.

Rep. Garcia said he supports this bill because he thinks of it as a jobs bill. It is a budget item and it is proper to bring it out in this session.

Rep. Moore said the committee has heard that companies haven't complied in six years. She asked the committee to please wait and deal with it in January.



Rep. Driscoll said it doesn't matter what the committee does today as it doesn't have time to go through the process. They will just waste time on the floor.

Rep. Krueger said there was no established need for this bill; even the industry didn't testify to that degree. This bill has no effect on industry in the next six months, and this legislation is being adopted merely on a threat. He felt there was not enough available information.

Rep. Kadas said this bill is directed for November 4.

Rep. Asay asked the committee to try to be a little cautious on the side of industry. He said the sugar beet industry would be affected in the Yellowstone Valley, and they have a great impact on the valley.

Rep. Raney said the committee should be on the side of public health.

Rep. Miles said she didn't think the committee understood the bill.

Rep. Miles made the motion to amend the bill to include language that would include any part of the state which currently has areas that have existing industry out of compliance, such as Yellowstone county. Rep. Ream said he would support that. Rep. Miles said it should be worded so that it will include only the areas which are affected. People who want to send a message to Exxon can do so.

Rep. Driscoll said the motion will describe Yellowstone county without mentioning it.


Hugh Zackheim, Environmental Quality Council, read the sense of the motion as follows: Section c, page 1, line 24, annual average: 0.02 ppm annual average, not to be exceeded except that persons causing or contributing to ambient annual concentrations of sulfur dioxide that exceed 0.02 as of July 1, 1986, must be considered in compliance with this rule until July 1, 1987, if ambient concentrations do not exceed 0.03.

Rep. Kadas expressed concern about areas that might go out of compliance down the road.

Question was called for on Rep. Miles motion. Motion PASSED on a Roll Call Vote of 14 to 4. (Roll Call Vote attached).

The original motion by Rep. Cobb of DO PASS AS AMENDED was voted on and PASSED on a Roll Call Vote of 11 - 7. (Roll Call Vote attached).

There being no further business to come before this committee, the hearing was adjourned at 3:30 p.m.

  
Rep. Dennis Iverson, Chairman