

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 6, 1987

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on February 6, 1987, at 1:00 a.m., in Room 312 of the State Capitol.

ROLL CALL: All committee members were present with the exception of Rep. Peterson who was excused.

HOUSE JOINT RESOLUTION NO. 19: Rep. Miles, District 45, stated HJR 19 is a resolution to recognize the beginning of the second annual Governor's Cup 500 Sled Dog Race which starts on Sunday, February 8. She stated this resolution is co-sponsored, as noted, by all Representatives and Senators who have districts along the route the teams will be racing on. This is the second annual event, and is the longest sled dog race in the lower 48 states, being 500 miles and a five day trip. Rep. Miles stated this year the first woman will be racing in the Governor's Cup. Her name is Laurie Beckstrom. With that, Rep. Miles introduced Mr. Dave Armstrong, who is head of the Montana Mountain Musers Club, to talk about the upcoming event.

PROPONENTS: David Armstrong, a Helena resident, commented he is a musher and will be running in the race. He stated he is also the secretary/treasurer for the Montana Mountain Musers Club, who has been sponsoring and organizing the race and has spent a tremendous amount of time doing so. They will have racers from Minnesota, Colorado, Oregon, Montana and Wyoming and perhaps other states as well. He stated he wanted to take this opportunity to thank the committee and Rep. Miles for sponsoring the Resolution and he asked for the committee's support in the passage of HJR 19.

LINWOOD FIEDLER, a musher, introduced his lead dog, Ifter, and commented she is one of the unsung heroes in a race like this. He stated, Ifter is one of his lead dogs. When you feel your opponent is getting too close, he simply puts her up front, and away she goes. However, he merely wanted to point out to the committee, that many other states have been able to capitalize on the sport of dog mushing. The media is becoming aware of how they can bring it to the livingrooms of people which then becomes a community or a state involvement. Minnesota and Alaska, particularly, have capitalized on the sport which has brought in tourism. he felt this would also be of great benefit to the State of

Montana regarding tourism. He thanked the committee for letting them testify and for allowing him to bring one of his sled dogs with him. He urged the committee to give this a good recommendation and hoped everyone would be able to make it to the start of the race.

JOHN PATTON, from Grand Marias, Minnesota, stated he represented the John Beargrease Sled Dog Marathon. He stated it use to be the longest sled dog race in the lower 48 at 400 miles, but has been overtaken by the Governor's Cup in Montana. This Beargrease is run on some of the most rugged country on the Northshore of Lake Superior. He stated they have received tremendous attention from around the world and throughout their race, have received hundreds of calls, day and night, 24 hours a day, from people and media who want to know what is going on with their race. He stated that cannot compare to what we have in Montana, where some of the greatest country in the world is. He stated he has trained here and raced here last year and there is nothing like Montana mountains to race dogs in. He stated he has raced in Alaska, across Canada, and throughout the lower 48 but nowhere do they have the scenery, trails, or the whole situation that Montana does. He stated he has never raced anywhere before where he can see for miles ahead of him and miles behind him. He can look across canyons. Below him, he can time his competitors and can look up and across to see how far behind he is. There is a wonderful set of volunteers, with several hundred helping with the race; plus the race will receive a lot of attention from around the country with people wanting to know what is going on here. He congratulated the people of Montana on this fine event, the tremendous future it has, and the fact that it is actually being considered to be made an official part of the State Legislature.

MARK O'KEEFE, stated he wears two hats today. One is that he is the official race director for the event; however, he came to speak rather as an elected representative of the Helena Citizens Committee, which is an advisory group to our City Commission. He stated last week at their City Commission meeting, they passed a proclamation which supported HJR 19 for the citizens of Helena. He stated they believed the race and things like HJR 19 go a long way in promoting a positive image of Helena and Montana. Not only locally, but through the use of the national press and media. They also thought it was a great way to cure "cabin fever" here in February. It is a good chance for the people to get out and see this event and participate as a family. It was also the only way that Helena citizens were going to get to see Speaker of the House Marks go out on our honorary first sled at 2:00 p.m. on Sunday, from the front steps of the Capitol. The citizens of Helena are thankful for considering this

resolution and the time and effort put into supporting the race.

NO OPPONENTS:

REP. ROTH asked Mr. O'Keefe how they were going to get out of Helena without any snow.

MR. O'KEEFE stated that has been a very popular question of late. He stated they were going to run them on runners. Basically the teams were aware that they were going to have a ceremonial start, and they would run them out on plastic runners which are a lot like no wax skis that can be replaced on the sleds. Once they get to the county courthouse the dogs will be re-boxed, the mushers will be refreshed, then they will be taken up to Park Lake for an official re-start late Sunday afternoon. They figure they have 482 miles of good to excellent trail and the only bad trail they do have is downtown Helena.

In closing, Rep. Miles stated she would like to thank the committee and the participants who were there, particularly Ifter. She stated she could probably speak for everyone, in wishing all the participants speed, safe travel, and may the best team win.

HEARING CLOSED ON HJR 19.

EXECUTIVE SESSION:

HOUSE JOINT RESOLUTION NO. 19: Rep. Miles moved HJR 19 DO PASS. Question being called, the motion CARRIED unanimously.

Researcher Hugh Zackheim passed out a packet of amendments for various bills stating not all the bills had offered amendments. He asked the committee to keep them in case all the bills were not covered that day.

HOUSE BILL NO 397: Rep. Cobb moved HB 39 DO PASS, and he also moved the amendment to HB 397. (Exhibit 4). Rep. Cobb offered the committee to vote on the amendments one at a time. Chairman Jones felt they could vote on them all at the same time. Rep. Cobb then explained what his amendments did. He stressed the fact that public notice was and should be a very important requirement when dealing with such major construction.

REP. MILES felt his ideas were fairly good in terms of providing notice. She asked if he could explain how it will help in terms of any public participation when siting these lines, and if they have any objection to it. She understood

that there is still no participation or environmental assessment they can partake in and if they did not like where the line was going, the property would be condemned anyway.

REP. COBB stated testimony showed when anybody wanted to build one, they always found a need for it. It was not unnecessary, so there is always a need for the lines. He stated he did not have public involvement in his amendment. He basically has landowner involvement and by giving that notice, he felt they could get organized in time. They can get a lawyer if necessary, and try to get organized thus making it easier in court regarding eminent domain. He felt if you do not give them notice a mile down the road, they may just lease up the land and get the easement. Then south of you they may also get the easement putting you in the middle. It is then too late to do anything about it. If they do, in fact, get the notice, they may have a chance to get organized.

REP. MEYERS asked Rep. Cobb what made 115 kilovolts the magic number.

REP. COBB stated he felt 115 would have less problems than 161, on some of the sitings, and about half of them would be exempt anyway.

REP. MEYERS stated if they adopt it, with the 115 kilovolt limitation, did that mean anything less than 115 kilovolts is not subject to the review process.

REP. COBB stated that was partially correct. However, if they are below 69 now, there is no review. If they are below 115, there will be no review, except for the notice requirement.

REP. MEYERS stated he was opposed to the amendment. He was concerned about the landowners who may be affected by the power lines, and by not having a review process, makes it detrimental.

REP. HARP stated he felt what Rep. Cobb was trying to do was establish some middle ground for the landowners, in trying to give them the adequate notice they might require to be more aware of what was going on. Most people are concerned with the major transmission lines and he stated 161 could be considered major. The review process would be necessary; however, he felt 115 was not a major transmission line and as stated in the amendment, they are required to be given notice. Then they would have a chance to be more involved.

REP. ASAY stated in the event there is some very obvious fiscal impact to an agricultural landowner, was this compensated for and do they have to go through a court proceeding. He also questioned if there still is not some protection to the landowner in this area.

REP. COBB stated you are still compensated. You can still argue over what the compensation should be, as in this case, even if they did not have a Major Facility Siting Act. In many cases, even though they do have the act now, this still is not protecting some of the landowners like it should for what they may be compensated. He stated they are still to be compensated for the values, and that is when the landowner is suppose to go in and argue a higher value. The judges do make the final determination.

Question was then called on Rep. Cobb's amendments 1-3. A roll call vote was taken. The motion CARRIED 14-2.

Rep. Cobb moved HB 397 DO PASS AS AMENDED.

QUESTIONS (OR DISCUSSION) ON HOUSE BILL 397: Rep. Cohen who was against the bill as amended, stated it still did not take into consideration the landowner and where these power lines may go. He felt they could just come in, establish eminent domain, and the people would have no idea what was happening.

REP. KADAS agreed with Rep. Harp in stating the power company's attitude has improved in the last couple of years. Particularly Montana Power who has been a much more responsible corporation. He felt they have done some very good things and are listening a lot more than they have in the past. One of the reasons that has happened is they have changed their corporate attitude. One of the other reasons is because they have laws like this and they have, in a way, been forced, or nudged, into being a more responsible corporate citizen. He felt by passing this bill, they are moving in the wrong direction and did not feel it was a great hindrance on the company to do this. It requires them to do more than they have done in the past. The public benefit from that action, he felt, as shown by some of the cases in the past where center lines have been moved and all parties affected are a lot better off, and happier, except for the power company. He felt the overall benefits to society bring about a positive flow.

REP KADAS moved 397 DO NOT PASS. He commended Montana Power for the improvements they have made. However, he felt they were probably moving in the wrong direction by encouraging them to this extent.

REP. MILES supported the motion stating she would remind the committee that in 1979, the same proposal was before the Legislature and was rejected. She felt, for some of the same reasons, they should probably reject it also. She felt when you are talking about 100, 115, or even 161, you are talking about fairly long distances and felt there must be some review of that corridor before this could be done.

REP. MEYERS supported the motion stating he felt this was not a case of harassing a corporation thus, making them leave the state. In their case, the power company was the only one who builds the power lines and they will still be building them even though there is some oversight. The benefit that will accrue to the individual, if they continue to have that oversight, will be a great benefit.

REP. SIMON spoke against the motion stating the department talked about the environmental impacts and indicated they are not that great. Secondly, he felt they should decide who they are really laying the burden on. They talk about making Montana Power jump through hoops, but eventually, who ends up paying for this -- the consumers. It seemed on the end of that line, all of us end up paying the costs of the operations of Montana Power. It has been established that they are becoming a better corporate citizen and have become more responsible. He felt it should give them that much more flexibility to do away with some of the regulations they do not feel are necessary any longer. If they do not, they are just adding to the burden of the ratepayer because they pay for all of the costs that Montana Power incurs in going through all the hoops.

REP. ADDY also spoke against the motion stating he agreed with Rep. Simon in that the consumers pay for this, instate and outside the state. The consumer is paying for this procedure. He asked is it more fair that the consumers pay for those costs, or is it more fair that the landowner has all of those costs imposed on him. That being the landowner who is having the line put up on his property. Someone has to pay. It would be nice if no one had to pay but unfortunately, such is not the case. He felt the Major Facility Siting Act draws a line, right now, in the right place. We should just leave it right where it is.

REP. COBB closed on his amendments.

Question was then called on the DO NOT PASS motion of HB 397. A roll call vote was taken. The motion FAILED on a 9-9 tie vote.

REP. JONES stated they were now back to the original DO PASS motion.

REP. KADAS stated there has been some confusion over the rules. He informed the committee he thinks the rule states, "if you cannot come out with a positive vote either way, the bill will stay in committee". He questioned if anyone knew if this was correct.

REP. JONES stated as far as he knew, that was correct unless it was taken out on the floor of the House. He stated they were going to be determining a final ruling on that sometime that day and he would get the decision from Speaker Marks.

REP. KADAS then withdrew his DO NOT PASS MOTION.

CHAIRMAN JONES stated they were back to the original DO PASS motion.

REP. SMITH moved to simply reverse the vote. That would fail also on a 9-9 tie vote. The committee agreed to reverse the vote and let it sit in committee until a ruling could be determined by Speaker Marks.

HOUSE BILL NO. 370: Rep. Cobb stated the bill was worked on in a subcommittee appointed by Chairman Jones and consisting of Reps. Asay, Harper, and himself. HB 370 dealt with the open mines to allow the Department of State Lands to let a person who has a permit for an open mine have another small mine temporarily. There was some concern discussed in the subcommittee that they do not let anybody that has a permit already, go in and open another opencut mine right away. What the No. 4 amendment does, which is the main amendment, states that the Department of State Lands may refuse to allow the operator to operate an opencut mine under this law. If at the time of notification by the operator to the department, the operator has a pattern of violations or is in current violation of this part of the reclamation and would also allow the department to require additional bond if they thought so on this temporary mine. He stated the 5th amendment addresses Rep. Raney's concerns about water degradation. In talking with DSL, they stated strike "potential significant" and just make it consistent with state law which would be when they have an open mine, they have to be in compliance with state laws in all the water qualifications. They cannot be in degradation of the water, except by state law.

REP. ASAY moved HB 370 DO PASS. Rep. Asay also moved a DO PASS on Rep. Cobb's amendments. (Exhibit 2).

Question being called, the motion CARRIED unanimously. Rep. Harp then moved HB 370 DO PASS AS AMENDED. Question was then called. The motion CARRIED unanimously. (Exhibit 3).

See Standing Committee Report also, attached with amendments.

HOUSE BILL NO. 534: Rep. Miles stated she would appreciate if they could wait until her alternative proposal came out. She stated it has not been assigned a bill number yet. Her bill would deal with much the very same subject and she stated she would appreciate considering the alternative.

REP. JONES stated they could postpone action on HB 534. However, he asked her how long it would be until she would get her bill. She stated as soon as it came up, she would sign it, but she has no idea when it would be done.

REP. JONES stated it was up to the committee on what they wanted to do.

REP. KADAS stated he would prefer to see both bills before any final action was taken on HB 534.

REP. ROTH stated HB 534 was a significant bill. He felt the other bill probably would not make a great amount of difference in how the committee was going to vote and felt the committee should take action on HB 534.

REP. COHEN stated he has offered some extensive amendments to the bill. They are included in the packet of amendments. (Exhibit 6). He would like to support Rep. Miles proposal. They should wait and see her bill because it is trying to find a solution by using different alternatives addressing the same problem. It seemed we would all benefit from taking a little bit of extra time in having a chance to discuss the entire matter in detail.

REP. RUSSELL also agreed with Rep. Miles. She felt it would be best for the committee to wait to see her proposal before taking final action.

CHAIRMAN JONES stated they would delay taking any action on HB 534 until Rep. Miles' proposal could be seen. They would not wait longer than Wednesday, February 11 of next week.

HOUSE BILL NO. 404: Rep. Harp moved HB 404 DO PASS. He also moved the amendment offered by the Department of Natural Resources found in the packet of amendments. (Exhibit 5). He explained the clock does not start until the commencement of the non-contested case proceeding. He stated that was a requirement DNRC asked for. He had no problem with the offered amendment.

REP. RANEY had a question regarding one of the power company representatives who had stated that it would not hurt them

too much if they made it 60 days or even 90 days. He asked Rep. Harp if he had talked to the power company about this.

REP. HARP stated he would just as soon leave it at 60 days mainly because it coincides with the corridor. He felt it was a compromise with what they did with DNRC, stating it was time to let the power companies win one.

Question being called on the amendment, the motion CARRIED unanimously.

REP. HARP moved HB 404 DO PASS AS AMENDED.

Question being called, the motion CARRIED unanimously.

HOUSE BILL NO. 358: Chairman Jones stated that Rep. Bardanoue has suggested amendments which are included in the packet. (Exhibit 1).

REP. HARP moved HB 358 DO PASS. He also moved the amendments to HB 358 DO PASS as well.

Question being called on the amendment, the motion CARRIED unanimously.

REP. SMITH moved HB 358 DO PASS AS AMENDED. Question was then called. The motion CARRIED with Reps. Simon and Raney voting NO.

HOUSE BILL NO. 453: Rep. Harp moved HB 453 DO PASS. Rep. Addy moved to amend HB 453 on page 2, lines 16 and 17, striking "represent" and inserting "serve as an ombudsman for". He would leave this up to Hugh to draft the exact language.

REP. ADDY stated that "represent" implies an awful lot more and he stated when he has a client who has a problem, he is "representing" them, and to say they are going to "represent" these people might be dragging the state right into litigation. A duty to defend someone in litigation or a duty to prosecute a claim for someone in litigation, makes this a concern. He felt they are saying the same thing they intended to say but more clearly with this language.

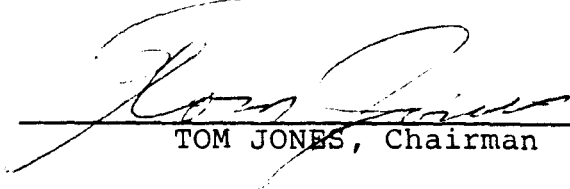
REP. ROTH stated if they did take that part out, it would read "represent in all matters concerning the management and regulation of the level of the lake", and asked Rep. Addy if he felt the language would indicate that they could be brought into litigation.

REP. ADDY stated when you say "all matters concerning the management, that is the whole ballgame. Rep. Roth agreed.

Question was then called on the amendment. The motion CARRIED unanimously.

REP. ADDY then moved HB 453 DO PASS AS AMENDED. Question being called, the motion CARRIED with Reps. Miles, Harper, and Simon voting NO.

ADJOURNMENT: There being no further business to come before the committee, the hearing was adjourned at 2:40 p.m.



TOM JONES, Chairman

STANDING COMMITTEE REPORT

FEBRUARY 9

19 37

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 404

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

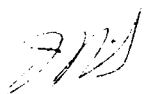
Chairman

"AN ACT TO PROVIDE A TIME LIMIT FOR THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO REACH A DECISION ON CENTERLINE LOCATION; AMENDING SECTION 75-26-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

1. Page 1, lines 19 and 20.

Strike: "submission" on line 19 through "department" on line 20

Insert: "the commencement of a noncontested case proceeding"



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DAILY ROLL CALL

NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 6, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	✓		
CLYDE SMITH, VICE CHAIRMAN	✓		
KELLY ADDY	/		
TOM ASAY	✓		
JOHN COBB	✓		
BEN COHEN	✓		
ED GRADY	✓		
JOHN HARP	/		
HAL HARPER	✓		
MIKE KADAS	✓		
AL MEYERS	✓		
JOAN MILES	✓		
MARY LOU PETERSON			✓
BOB RANEY	✓		
RANDE ROTH	✓		
ANGELA RUSSELL	✓		
BRUCE SIMON	✓		
BILL STRIZICH	✓		
STAFF: EQC HUGH ZACKHEIM			

STANDING COMMITTEE REPORT

FEBRUARY 10

19 37

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 453

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

Chairman

"AN ACT TO AUTHORIZE THE DEPARTMENT OF COMMERCE TO REPRESENT THE TOURISM INDUSTRY, RECREATIONISTS, AND OTHER INTERESTED PERSONS IN MATTERS CONCERNING THE MANAGEMENT OF THE LEVEL OF FLATHEAD LAKE; AMENDING SECTION 90-1-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

1. Page 2, lines 16 and 17.

Strike: "represent"

Insert: "serve as an ombudsman for"

Following: "industry"

Strike: " " " "

Insert: "and"

Following: "recreationists"

Strike: " " " " on line 16 through "persons" on line 17

" " " "

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STANDING COMMITTEE REPORT

FEBRUARY 10

19 87

Mr. Speaker: We, the committee on NATURAL RESOURCES

report HB 358

do pass
 do not pass

be concurred in
 be not concurred in

as amended
 statement of intent attached

REP. TOM JONES

Chairman

1. Title, lines 5 through 7.

Following: "FO"

Strike: lines 5 through 7 in their entirety

Insert: "CLARIFY EXISTING LAW REGARDING STATE-OWNED WATER PROJECTS TO SPECIFY THAT ADMINISTRATIVE COSTS ARE DISTINCT FROM OPERATION AND MAINTENANCE COSTS, THAT PROJECT WATER USERS ARE ONLY BILLED FOR REIMBURSEMENT OF OPERATION AND MAINTENANCE COSTS, AND THAT THE DEPARTMENT MAY UTILIZE STATE GRANTS AS REIMBURSEMENT FOR PUBLIC BENEFITS TO BE DERIVED FROM THE PROJECT; TO ALLOW THESE GRANTS TO BE FACTORED INTO THE REQUIRED ESTIMATE OF PROJECT COSTS MADE PRIOR TO CONSTRUCTION; AND TO ALLOW THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO CONSIDER WATER USERS' ABILITY TO REPAY PROJECT CONSTRUCTION AND REHABILITATION COSTS; AMENDING SECTIONS 85-1-102, 85-1-206, AND 85-1-207, MCA."

2. Page 6, lines 11 and 12.

Strike: "the" on line 11 through "expenses;" on line 12

3. Page 6, lines 16 and 17.

Strike: "administrative" on line 16 through "the" on line 17

4. Page 8.

Following: line 10

Insert: "NEW SECTION. Section 4. Extension of authority. Any existing authority of the board of natural resources and conservation to make rules on the subject of the provisions of this act is extended to the provisions of this act."


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ROLL CALL VOTE

NATURAL RESOURCES

COMMITTEE

TIME:

DATE FEB. 6, 198

BILL NO. HR 397

~~NUMBER~~ 210

NAME	AYE	NAY
TOM JONES, CHAIRMAN		X
CLYDE SMITH, VICE CHAIRMAN		X
KELLY ADDY	X	
TOM ASAY		X
JOHN COBB		X
BEN COHEN	X	
ED GRADY		X
JOHN HARP		X
HAL HARPER	X	
MIKE KADAS	X	
AL MEYERS	X	
JOAN MILES	X	
MARY LOU PETERSON		X
BOB RANEY	X	
RANDE ROTH		X
ANGELA RUSSELL	X	
BRUCE SIMON		X
BILL STRIZICH	X	
STAFF: HUGH ZACKHEIM		

TALLY

9

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Secretary

Chairman

MOTION: Rep. Kadas moved HB 39 DO NOT PASS. Question was then called, a roll call vote was taken, the motion failed on a 9-9 tie vote. Rep. Kadas withdrew his motion, and Rep. Smith moved to simply reverse the vote, and let it sit in committee, until a ruling by Speaker Marks on deciding what to do with tie votes came up. The motion to reverse the vote carried unanimously.

ROLL CALL VOTE

NATURAL RESOURCES

COMMITTEE

DATE 2/6/87

BILL NO. HB 397

TIME NUMBER 1:45

NAME	AYE	NAY
TOM JONES, CHAIRMAN	X	
CLYDE SMITH, VICE CHAIRMAN	X	
KELLY ADDY	X	
TOM ASAY	X	
JOHN COBB	X	
BEN COHEN		X
ED GRADY		
JOHN HARP	X	
HAL HARPER	X	
MIKE KADAS	X	
AL MEYERS		X
JOAN MILES	X	
MARY LOU PETERSON		
BOB RANEY	X	
RANDE ROTH	X	
ANGELA RUSSELL	X	
BRUCE SIMON	X	
BILL STRIZICH	X	
STAFF: HUGH ZACKHEIM		

TALLY

(Grady - absent)

14 2

Lisa Routh
Secretary

Chairman

MOTION: Rep. Cobb moved to amend HB 397. Question being called,
a roll call vote was taken. The motion carried 14 to 2. Rep.
Grady was absent. Rep. Peterson was also absent.

Amendments to HB 370
Representative Cobb

1. Page 5, line 22

Strike: "An"

Insert: "(a) Except as provided in or conditioned under subsections (2) (b) and (2) (c), an"

2. Page 6, line 1

Strike: "(a)"

Insert: "(i)"

3. Page 6, line 3

Strike: "(b)"

Insert: "(ii)"

4. Page 6, following line 11

Insert: "(b) The department may refuse to allow the operator to operate an opencut mine under subsection (2) (a) if, at the time of notification by the operator to the department, the operator has a pattern of violations or is in current violation of this part or rules adopted under this part or provisions of a contract for reclamation."

(c) The department may require an additional bond as a condition for the operation of an opencut mine under subsection (2) (a)."

5. Page 12, line 3

Following: "protection"

Insert: ", consistent with state law,"

Strike: "potential significant"

BILL NO. 358
INTRODUCED BY Radanow
AMENDMENTS BY REQUEST OF THE LEGISLATIVE
FINANCE COMMITTEE

1. In HF 358, the introduced white copy, strike everything in the title and insert:

"AN ACT TO CLARIFY EXISTING LAW REGARDING STATE OWNED WATER PROJECTS THAT ADMINISTRATIVE COSTS ARE DISTINCT FROM OPERATION AND MAINTENANCE COSTS, AND THAT PROJECT WATER USERS ARE ONLY ELIGIBLE FOR REIMBURSEMENT OF OPERATION AND MAINTENANCE COSTS; AND THAT THE DEPARTMENT MAY UTILIZE STATE GRANTS AS REIMBURSEMENT FOR PUBLIC BENEFITS TO BE DERIVED FROM THE PROJECT; AND TO ALLOW THESE GRANTS TO BE FACTORED INTO THE REQUIRED ESTIMATE OF PROJECT COSTS MADE PRIOR TO CONSTRUCTION; AND TO ALLOW DEPARTMENT CONSIDERATION OF WATER USERS ABILITY TO REPAY PROJECT CONSTRUCTION (INCLUDING REHABILITATION) COSTS; AND AMENDING SECTIONS 85-1-102, 85-1-206 AND 85-1-207 MCA".

2. Page 6, line 11.
Strike, "the"
3. Page 6, line 12.
Strike: "administrative expenses,"
4. Page 6, line 16.
Strike: "administrative costs,".
5. Page 6, line 17.
Strike: "the"

HB 397
Rep. Cobb

AMOUNT (4)
DATE 2-6-87
-B-397

HOUSE BILL NO. 397 - TRANSMISSION LINE THRESHOLD

INTRODUCED BILL

1. Page 1, line 7.

Following: "ACT"

Insert: "PROVIDING FOR NOTICE BY PUBLICATION;"

2. Page 4, line 12.

Following: "69"

Strike: "161"

Insert: "115"

3. Page 5.

Following: line 14.

Insert: "NEW SECTION. Section 2. When a person plans to construct an electric transmission line or associated facilities of a design capacity of more than 69 kilovolts and up to and including 115 kilovolts which is more than 10 miles in length, public notice shall be provided to persons residing in the area in which any portion of the electric transmission facility may be located. This notice shall be made no fewer than 180 days prior to the commencement of construction by publication of a summary describing the transmission facility and the proposed location of the facility in those newspapers that will substantially inform those persons of the construction."

Remember: Subsequent sections

~~4. Page 5, line 15.~~

~~Following: "Section"~~

~~Strike: "2"~~

~~Insert: "3"~~

~~5. Page 5, line 19.~~

~~Following: "Section"~~

~~Strike: "3"~~

~~Insert: "4"~~

STATEMENT OF INTENT HB 370

A statement of intent is required for this bill to provide guidelines on rules that must be adopted by the board of land commissioners under the provisions of section 7, which amends 82-4-441. Currently, 82-4-441, MCA, requires the imposition of a penalty regardless of the seriousness of a violation. A waiver of penalty provision would allow the department of state lands to serve a notice of noncompliance, informing the operator of violations of the act on contract, without imposing a fine for minor violation.

It is anticipated that the rules would set forth those instances where a violation would not result in a fine. Under the amendment to section 82-4-441, a fine may be waived if the violation does not represent potential harm to public health, public safety, or the environment and does not impair the administration of the Opencut Mining Act. The adopted rules will set forth a mechanism through which the department may exercise its discretion in waiving a penalty. Also, the rules will set forth, within the guidelines of the statute, those violations that do not warrant the imposition of a fine. In establishing these rules, the department shall consider:

- (1) whether the violation is inadvertent or unavoidable or results from an emergency situation;
- (2) whether the violation will significantly alter or hinder reclamation or the approved reclaimed use;
- (3) whether there has been a history of violations by the operator;
- (4) whether the operator has shown good faith in rectifying the violation; and
- (5) other pertinent factors relating to the seriousness of the violation.

AMENDMENTS TO HB 534

1. Title, lines 4 and 5.
Following: "ACT"
Strike: "DIRECTING THE AMENDMENT OF RULE 16.8.820, ADMINISTRATIVE RULES OF MONTANA,"
Insert: "ALLOWING COUNTIES"
2. Title, line 8.
Following: "DIOXIDE"
Insert: PROVIDING PROCEDURES FOR COUNTIES TO ADOPT FEDERAL STANDARDS; AMENDING SECTION 75-2-301, MCA;"
3. Page 1, line 12 through line 7, on page 2:
Following: line 11
Strike: section 1 in its entirety.
Insert: "NEW SECTION. Section 1. (1) Notwithstanding the provisions of 75-2-301, the governing body of a county may adopt, through the procedures of 7-5-103 through 7-5-107, an ordinance providing for adoption of the federal annual average and 24-hour average standards for ambient air quality for sulfur dioxide. The governing body may repeal the ordinance at any time by use of the same procedures.
(2) The board and department shall enforce, under the provisions of this chapter and rules adopted under it, the ordinance adopting federal sulfur dioxide standards under subsection (1).

Section 2. Section 75-2-301, MCA, is amended to read:
"(1) Except as provided in [section 1],

75-2-301. Local air pollution control programs. (1) A municipality or county may establish a local air pollution control program on being petitioned by 15% of the qualified electors in its jurisdiction and, if the program is consistent with this chapter and is approved by the board after a public hearing conducted under 75-2-111, may thereafter administer in its jurisdiction the air pollution control program which:

(a) provides by ordinance or local law for requirements compatible with, more stringent, or more extensive than those imposed by 75-2-203, 75-2-212, and 75-2-402 and rules issued under these sections;

(b) provides for the enforcement of these requirements by appropriate administrative and judicial process; and

(c) provides for administrative organization, staff, financial, and other resources necessary to effectively and efficiently carry out its program.

(2) If the board finds that the location, character, or extent of particular concentrations of population, air contaminant sources, or geographic, topographic, or meteorological considerations or any combination of these are such as to make impracticable the maintenance of appropriate levels of air quality without an areawide air pollution control program, the board may determine the boundaries within which the program is necessary and require it as the only acceptable alternative to direct state administration.

(3) If the board has reason to believe that an air pollution control program in force under this section is inadequate to prevent and control air pollution in the jurisdiction to which the program relates or that the program is being administered in a manner inconsistent with this chapter, the board shall, on notice, conduct a hearing on the matter.

EXHIBIT (5)
DATE 2-6-87
HB 404

Amendment to HB 404
Proposed by Larry Fasbender, DNRC

1. Page 1, line 19
Strike: "submission" on line 19 through "department" on line 20
Insert: "the commencement of a noncontested case proceeding"

Rep. Cobb
Amendment to HB 534

1. Title, line 8.

Following: "DIOXIDE;"

Insert: "DIRECTING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ESTABLISH A PENALTY FOR SOURCES CONTRIBUTING TO SPECIFIED AMBIENT ANNUAL SULFUR DIOXIDE CONCENTRATIONS; AMENDING 75-2-413;"

AND 24-HOUR

2. Page 1, line 25.

Following: "exceeded"

Insert: "; however, penalties may be levied by the department if the annual average exceeds 0.02 parts per million"

or if the 24-hour average exceeds 0.10 parts per million

3. Page 2.

Following: line 5

Insert: "Section 2. Section 75-2-413 is amended to read:

"75-2-413. Civil penalties — out-of-state litigants — effect of action. (1) Any person who violates any provision of this chapter or any rule enforced thereunder or any order or permit made or issued pursuant thereto and after notice thereof has been given by the department shall be subject to a civil penalty not to exceed \$10,000. Each day of violation shall constitute a separate violation. The department may institute and maintain in the name of the state any enforcement proceedings hereunder. Upon request of the department, the attorney general or the county attorney of the county in which the violation shall petition the district court to impose, assess, and recover the civil penalty. The civil penalty is in lieu of the criminal penalty provided for in 75-2-412.

(2) (a) Action under subsection (1) of this section is not a bar to enforcement of this chapter or of a rule, order, or permit made or issued under it by injunction or other appropriate civil remedies.

(b) An action under subsection (1) or to enforce this chapter or a rule, order, or permit made or issued under it may be brought in the district court of any county where a violation occurs or is threatened if the defendant cannot be located in Montana.

(3) Moneys Except as provided in subsection (7), moneys collected hereunder shall be deposited in the state general fund.

(4) The board shall adopt rules to establish a system of penalties for major industrial sources of sulfur dioxide when concentrations of sulfur dioxide in the ambient air exceed 0.02 parts per million but do not exceed 0.03 parts per million

(5) The penalties must be charged to each major industrial source in proportion to its relative contribution of sulfur dioxide.

(6) The sum of the penalties charged shall be equal to the costs incurred by the department in monitoring ambient sulfur dioxide, plus the cost of conducting a study of the effects of annual ambient sulfur dioxide concentrations on human health and the environment.

(7) The penalties collected under subsections (4) through (6) must be credited to the department, which shall use these funds to monitor sulfur dioxide and to conduct a study of the effects of annual ambient sulfur dioxide concentrations on human health and the environment."

0.11 ppm but do not exceed 0.1 ppm on a 24-hour average

Remember: subsequent sections

(6)

2-6-87

534

(4) If, after the hearing, the board determines that the program is inadequate to prevent and control air pollution in the jurisdiction to which it relates or that it is not accomplishing the purposes of this chapter, it shall require that necessary corrective measures be taken within a reasonable time, not to exceed 60 days.

(5) If the jurisdiction fails to take these measures within the time required, the department shall administer within such jurisdiction all of the provisions of this chapter. The department's control program supersedes all municipal or county air pollution laws, rules, ordinances, and requirements in the affected jurisdiction. The cost of the program shall be a charge on the municipality or county.

(6) If the board finds that the control of a particular air contaminant source because of its complexity or magnitude is beyond the reasonable capability of the local jurisdiction or may be more efficiently and economically performed at the state level, it may direct the department to assume and retain control over that air contaminant source. No charge may be assessed against the jurisdiction therefor. Findings made under this subsection may be either on the basis of the nature of the sources involved or on the basis of their relationship to the size of the communities in which they are located.

(7) A jurisdiction in which the department administers its air pollution control program under subsection (5) of this section may, with the approval

of the board, establish or resume an air pollution control program which meets the requirements of subsection (1) of this section.

(8) A municipality or county may administer all or part of its air pollution control program in cooperation with one or more municipalities or counties of this state or of other states. " "

Renumber: subsequent section.

4. Page 2.

Following: line 11.

Insert: "NEW SECTION. Section 4. Codification instruction. Section 1 is intended to be codified as an integral part of Title 75, chapter 2, part 3, and the provisions of Title 75, chapter 2, part 3, apply to section 1."

Renumber: subsequent section.

VISITORS' REGISTER

NATURAL RESOURCE COMMITTEE

BILL NO. HR 19

DATE FEB. 6, 1987

SPONSOR MILES

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Simon Hill			
Jerry Wenzel	Ct. Falls Public Schools		
Michael Button	Vaughn Elementary		
JOHN PATTEN	JOHN BEARGREASE SLED DOG MARATHON		
Ron Ogden	Race Marshal / Ros. Cup 500		
LARIE BECKSTROM	Gov. Cup 500 mile sled dog RACE!		
Charles W Metzger	Gov Cup 500 mi sled dog Asst. Race Marshall		
Dave Armstrong	Gov Cup 500 sled dog Race Musher		
Vicky Stiller	Gov. Cup sled dog race		
Jack Bechtel	Atlantic tennis coaches		
Shirley Spitzgubler	Sand Coulee, MT		
John	Gov. Cup 500		
Kathleen Butler	Helena		
George H. Michael	Cowdrey Colo		
LICHAUD	at Gov. Cup 500		
George Michael	Cowdrey CO		
MARK Stake	EVERGREEN COLORADO	✓	✓
May Coulter	Helena	✓	
Art Wittich	MPC BUTTE		
Sharon Redish	Helena		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.