

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRPERSON BOB RANEY**, on March 12, 1991, at 3:00 p.m.

#### **ROLL CALL**

##### **Members Present:**

Bob Raney, Chairman (D)  
Mark O'Keefe, Vice-Chairman (D)  
Beverly Barnhart (D)  
Vivian Brooke (D)  
Ben Cohen (D)  
Ed Dolezal (D)  
Russell Fagg (R)  
Mike Foster (R)  
Bob Gilbert (R)  
David Hoffman (R)  
Dick Knox (R)  
Bruce Measure (D)  
Tom Nelson (R)  
Bob Ream (D)  
Jim Southworth (D)  
Howard Toole (D)  
Dave Wanzenried (D)

**Members Absent:** Orval Ellison (R)

**Staff Present:** Gail Kuntz, Environmental Quality Council  
Paul Sihler, Environmental Quality Council  
Lisa Fairman, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

#### **HEARING ON SB 94**

##### **Presentation and Opening Statement by Sponsor:**

**SEN. THOMAS BECK, SD 24, Deer Lodge,** said the Environmental Quality Council (EQC) conducted a major study under SJR 22 to determine groundwater assessment options in Montana. No one knows how much groundwater exists and what is being done to it. It is virtually impossible to clean up pollutants if they enter groundwater. This bill would launch a groundwater monitoring program in the state. It is needed by agriculture, municipalities and all Montanans. The state must protect its groundwater.

**Technical Testimony:**

Dr. Edward T. Ruppel, Director and State Geologist for the Montana Bureau of Mines and Geology, said he already testified in support of SB 94. He distributed written testimony and a fact sheet on the bill prepared by the EQC. EXHIBIT 1-2

**Proponents' Testimony**

Susan Lenard, Montana Audubon Legislative Fund, urged support of SB 94. She said there is often a direct relationship between groundwater and surface water supplies, which effect the quality of riparian areas and aquatic environments.

Dennis Olson, Northern Plains Resource Council (NPRC), supported SB 94.

Jim Jensen, Montana Environmental Information Center (MEIC), supported SB 94. He said the EQC did an excellent job of bringing forth a bill that developed consensus and reduced potential for turf battles over the issue.

John Arrigo, Department of Health and Environmental Sciences (DHES), supported SB 94. He said DHES is beginning groundwater pollution prevention programs. Before local governments can implement these programs, they need basic groundwater information. The bill will enable the state to gather basic groundwater data needed for other programs.

**Opponents' Testimony:** None.

**Questions from Committee Members:** None.

**Closing by Sponsor:**

SEN. BECK thanked the committee for its consideration. He described SB 94 as enabling legislation.

**HEARING ON HB 718****Presentation and Opening Statement by Sponsor:**

REP. JIM ELLIOTT, HD 51 in Trout Creek, said HB 718 allows the Board of Health to set fee schedules to augment the water-to-discharge monitoring program of the Water Quality Bureau. Major discharges, such as a large municipal sewage plant, are visited only once per year. The bill will allow the Bureau to visit them twice per year. Mines currently are not visited at all or are visited haphazardly. The bill will ensure mines are visited at least once per year. There are 250 minor discharge permits statewide that are monitored 45 to 50 times per year by complaint. The bill will increase the possibility of visits to 100.

**Technical Testimony:** None.

**Proponents' Testimony:**

**Abe Horpestad, DHES Water Quality Bureau**, distributed prepared testimony, a set of amendments and a marked-up copy of the bill. **EXHIBITS 3-5** He said the fees would cover costs of processing permits and monitoring activities. The number and complexity of permits issued by the Water Quality Bureau has increased, while staff levels and funding remain the same. Entities obtaining permits from other state agencies were exempted from groundwater permitting rules because the Bureau did not have sufficient staff to fully implement the program. DHES says the Department of State Lands (DSL) is responsible for monitoring mines and DSL says DHES is responsible for monitoring the effects of large mines on water quality. The result is that mines have not been monitored. The suggested amendments are important. The bill stipulates that fees cannot exceed documented costs to the Department and the Board, and the fee schedule will be developed by the Board of Health through a public participation process.

**Stan Bradshaw, Montana Trout Unlimited**, supported HB 718.

**Steve Brown, Noranda Minerals**, submitted proposed amendments to the bill. **EXHIBIT 6** He said the immediate effective date of the bill may create problems for the agency because it would authorize collection of fees before the Board of Health develops rules. The first proposed amendment would strike the immediate effective date and have the law go into effect October 1. Assuming DHES can propose rules to the Board as soon as the bill passes, rules probably could be in place by the end of the summer, maybe September.

The second amendment would set up an appeals process for fee disputes, which would be resolved by the Board of Health. DHES could request applicants pay portions of fees that are not in dispute. The Committee also may want to consider a coordination clause regarding fees that would be collected by DSL under authority of HB 448. Noranda does not object to the concept of the bill, as long as there is a mechanism for the Board of Health to resolve fee disputes.

**Kim Wilson, Clark Fork Coalition**, urged support of HB 718. He concurred with Mr. Brown regarding coordination with HB 448.

**Opponents' Testimony:** None.

**Gary Langley, Montana Mining Association**, provided written testimony opposing HB 718. **EXHIBIT 7**

**Questions from Committee Members:**

**REP. TOOLE** asked if the bill would apply to DSL permits in which DHES is involved, such as mining permits. **Mr. Horpestad** said it

would apply to DSL permits in which DHES waived permitting authority but groundwater-quality standards remain. **REP. TOOLE** asked if DHES will receive part of the fee if it is required to become involved in a permit issue raised by another agency. **Mr. Horpestad** said yes, if DHES' involvement is mandated under the Montana Water Quality Act.

**REP. COHEN** asked **Mr. Horpestad** to comment on amendments proposed by **Mr. Brown**. **Mr. Horpestad** said he had no problem with the amendments.

**Closing by Sponsor:**

**REP. ELLIOTT** said he is amenable to the amendments. He urged support of the bill.

**HEARING ON SB 114**

**Presentation and Opening Statement by Sponsor:**

**SEN. CECIL WEEDING, SD 14 in Jordan**, said the bill calls for a referendum to be held on a proposed megalandfill upon the petition of 15 percent of the eligible voters of the county in which the landfill would be sited. It is part of a package of bills developed by the EQC dealing with solid waste management. Residents from potential landfill sites want input in the siting process. SB 114 responds to their concerns. If there were no referendum against the landfill, DHES could proceed with the siting process. If an initiative effort were successful, the issue would have to be on the ballot at the next general election.

**Proponents' Testimony:**

**Kay Blehm, Chairwoman of the Yellowstone Valley Citizens Council**, said her testimony is on behalf of the NPRC, which is composed of approximately 6,000 farm and ranch citizens statewide. She urged support of SB 114. A community's surface water, groundwater and transportation routes could be adversely affected by a megalandfill. SB 114 would ensure citizens of these communities have a voice in the siting of these facilities.

**Chris Kaufmann, MEIC**, concurred with **Ms. Blehm's** testimony. She said a problem exists in the bill's language. A landfill could be proposed within a quarter of a mile of another county. County residents could approve the project to gain economic advantages, while citizens in the adjoining county may be adversely affected by groundwater contamination. Eligible voters in a regional area should be allowed to vote on the issue. Water does not confine itself to county boundaries. Other than that, MEIC supports the concept of the bill.

**Ronee Hanson, Montana Senior Citizens Association**, supported SB 114.

Opponents' Testimony: None.

Questions from Committee Members:

REP. FAGG asked if a petition could be launched after a megalandfill proposal was approved and financial investments were made. SEN. WEEDING said no, not after a permit is granted. REP. FAGG asked if Lines 17-18 cover that. SEN. WEEDING said no. Code citations relate to the initiative process. It would have to be done prior to the granting of a permit. There is no retroactive language. REP. FAGG said it may be necessary to have legal counsel clarify the language.

REP. BROOKE asked if any concern was expressed at EQC meetings regarding outside influence on a local referendum. SEN. WEEDING said it was discussed and decided that outside influence couldn't be addressed in the bill. REP. BROOKE asked why. SEN. WEEDING said the group wasn't ingenious enough to come up with language to address it. The bill was a product of the Solid Waste Subcommittee, which he was not on. The full Council, which he is on, discussed the issue at length before drafting the bill. REP. BROOKE asked if the intent of the EQC and the bill is to have the referendum express the wishes of the local people of the county or region. SEN. WEEDING said yes. It would allow them the opportunity to say no. It is not an affirmative resolution.

REP. TOOLE asked SEN. WEEDING if he would object to the bill being coordinated with the Megalandfill Siting Act. SEN. WEEDING said no. The committee that developed the bill talked about making it part of the Act. He would have no problem coordinating it to provide a cutoff date.

REP. TOOLE asked if the group discussed constitutional problems that could arise if voters' deny a megalandfill proposal. SEN. WEEDING said yes. The committee wasn't sure the constitutional question would not be raised. That is why there is a separate Act. The opinion of the committee and its legal counsel was that it would not fall into the constitutional area. Others had different opinions.

REP. COHEN said 200,000 tons of solid waste is generated per year. He asked what size population the landfill would serve. SEN. WEEDING said the largest dump in Montana is in Billings. It handles 100,000 tons of refuse per year. A megalandfill would handle 200,000 tons per year. REP. COHEN said there are six waste sheds in Montana. He asked if it were possible for there to be only one landfill in a single waste shed because of increasing EPA regulations, for it to reach megalandfill size and for the state to be unable to locate one anywhere in the waste shed because no one would want it nearby. SEN. WEEDING said that is possible. REP. COHEN asked what happens then. SEN. WEEDING said the state either looks for someone to take its garbage, reduces the waste stream or disposes of it in another manner.

REP. BOB GILBERT asked SEN. WEEDING, in response to REP. TOOLE's concerns, if the main reason this issue was kept out of the megalandfill bill was because this bill raised the most concern about it being unconstitutional. SEN. WEEDING said yes.

**Closing by Sponsor:**

SEN. WEEDING said SB 114 adds an additional dimension to siting. It has nothing to do with the environment but deals with local desires.

**HEARING ON SB 402**

**Presentation and Opening Statement by Sponsor:**

SEN. BILL YELLOWTAIL, SD 50 in Wyola, said SB 402 is an Eastern Montana bill. The Pacific Northwest Electric Power and Conservation Planning Council, otherwise known as the Northwest Power Planning Council (NWPPC), studied energy needs of the Northwest region for the next decade and issued a draft plan. The plan says that even with moderate growth, the region will need an additional 2,000 megawatts of power by the turn of the century. NWPPC identified a range of possible energy sources, including conservation, nuclear plants in Washington state and Eastern Montana coal. The plan discusses the use of two major coal-fired generating plants in Eastern Montana. Eastern Montanans are excited over the possibility, especially given the area's lack of economic development and languishing coal market.

NWPPC's process calls for a series of public hearings throughout the Northwest in the Columbia River Basin, west of the mountains. Eastern Montanans are concerned about the impacts to their area. This bill would require NWPPC to hold public hearings outside of the council's normal range of effect, whenever there is proposed use of natural resources outside the Columbia River Basin.

Montana has two members on the NWPPC. This bill would require only the Montana delegation to hold public hearings and to request other members to participate. He wants to encourage the Council to get out to the far reaches of Eastern Montana. The bill is not directed at the Council's plan, but it encompasses it.

**Proponents' Testimony:**

Steve Charter, NPRC, supported SB 402. NPRC appreciated the opportunity to have input in the plan, but it needs to be broader. As it stands, NWPPC can pick and choose who to speak to. That is why NPRC supports this bill.

Ronee Hanson, Montana Senior Citizens Association, said the association supports SB 402 because it allows people to make decisions concerning their communities.

Mr. Jensen, MEIC, said it is time for the Council to get out to Eastern Montana communities to hear their concerns about resource acquisitions contemplated in the plan.

Opponents' Testimony: None.

Questions from Committee Members:

REP. FOSTER asked SEN. YELLOWTAIL if he visited with the Montana delegation of the NWPPC regarding this bill. SEN. YELLOWTAIL said no, but he met the Council's staff person at the Senate hearing. REP. FOSTER asked SEN. YELLOWTAIL if he had any input from the NWPPC as to its opinion on the bill. SEN. YELLOWTAIL said no. He is surprised no one from the Council attended this committee hearing. REP. FOSTER asked what the NWPPC said at the Senate hearing. SEN. YELLOWTAIL said the staff person appeared for information purposes. The representative didn't testify for or against the bill.

Terri Wilner, Administrator of the NWPPC's Montana office, let committee members know she was available to provide responses to questions the committee may have. REP. FOSTER asked Ms. Wilner if the NWPPC or Montana's members have any feelings about the bill. Ms. Wilner said no. REP. SOUTHWORTH asked if it would be a problem to move the hearing to Broadus. Ms. Wilner said no. But she noted that the deadline for comments on the plan is March 15. This bill came up quickly and the Council wasn't able to get anything scheduled.

SEN. YELLOWTAIL said he recognizes there is a comment deadline, but he believes it would be worthwhile for the Council to hold a hearing in Eastern Montana to inform those citizens. The Council has done a good job of distributing copies of the plan to various organizations and local government officials. It would be good to go a step further and hold a well-publicized hearing to allow Eastern Montanans to have their say.

REP. KNOX asked SEN. YELLOWTAIL if there were technical problems with the bill. SEN. YELLOWTAIL said yes. Technical notes identify problems with "whereas" sections. The Senate committee was urged to strike them but apparently did not do so. There are misinterpretations of federal law. He recommended the House committee eliminate the "whereas" sections. The intent is correct, but they are technically incorrect and not worth fussing over. He suggested to do that, strike line 10 on page 1, through line 7 on page 2 in its entirety.

REP. O'KEEFE referred to Page 2, Line 18. He said the bill requires the NWPPC to hold at least one public hearing in the geographic area. The language is loose. The Council could hold the hearing in Helena and be in the geographic area. He asked if there is a way to tighten up the language. SEN. YELLOWTAIL said he didn't want to tie the Council's hands too much. He trusts the Montana delegation to exercise good judgment. He doesn't know how

the language could be tightened.

**Closing by Sponsor:**

SEN. YELLOWTAIL said he will try to see that the Senate concurs with amendments if the committee eliminates the "whereas" sections.

**HEARING ON SB 225**

**Presentation and Opening Statement by Sponsor:**

SEN. DELWYN GAGE, SD 5 in Cut Bank, said that if a person is adversely affected by a rule of order by the Oil and Gas Commission, the person can apply for another hearing, which must be held within 10 days. This bill changes the law so that the application for another hearing could be considered at the next regularly scheduled meeting.

The other change is on the top of Page 2 of the bill. The law now states that the civil penalty for a misdemeanor is at least \$5,000. The bill would allow the board to assess a penalty of no more than \$10,000 for each violation.

**Proponents' Testimony:**

Doug Abelin, Northern Montana Oil and Gas, said the corrections would be very helpful.

Dee Rickman, Executive Secretary of the Montana Board of Oil and Gas, said the board requested and supports the bill.

**Opponents' Testimony:** None.

**Questions from Committee Members:**

REP. O'KEEFE asked SEN. GAGE if the bill would give the Board discretion to drop the civil penalty to \$5 per day if it wants. SEN. GAGE said yes. REP. O'KEEFE asked if it would be a problem to establish a minimum penalty. Ms. Rickman said she did not see a problem with that.

**Closing by Sponsor:**

SEN. GAGE said he had not talked to anyone who may be interested in carrying the bill. REP. O'KEEFE said he would see what the committee could do.

**HEARING ON SB 455**

**Presentation and Opening Statement by Sponsor:**

SEN. GENE THAYER, SD 19 in Great Falls, said SB 455 is similar to REP. FRANCIS BARDANOUVE's House bill, but it contains two



different provisions. The House bill would ensure a leaseholder has a first right of refusal if property is to be sold. It also contains language regarding appraisals. SB 455 was to contain the same language. There are situations in which the new purchaser can indiscriminately increase the cost of the lease when it is up for renewal.

Language in SB 455 is similar to existing law dealing with state land leases. It says the leaseholder can require documentation of a higher offer and have first right of refusal. If the leaseholder is unwilling or unable to meet the higher bid, the leaseholder can demand payment for improvements the leaseholder made to the property.

Situations like this have occurred. This is the kind of burden that can be placed upon leaseholders. It all stems from Glacier Park Co.'s failure to live up to its obligations to Burlington Northern when the company split off and shippers rights were supposed to be protected.

Another sale involves the balance of land in Montana and the land along the railroad in other states. It will be sold in one lump sum. Litigation is ongoing. It is essential that the issue be addressed. This bill is to be applied to situations in the future, no matter who the owner is. All parties will be subject to the bill. He doesn't believe it will affect any leases other than those involved with the railroad.

This is the only situation in which people made substantial investments in property they did not own. It was done because railroads had a policy for approximately 100 years to not sell the property. They leased it at reasonable prices. In recent years, railroads have been seeking returns on their investments. Railroads had never been a concern to people who made these investments. It is unfortunate that this has occurred, but it is going to occur again.

As long as owners are fair and reasonable about lease costs, they shouldn't worry about being unable to reach agreement with leaseholders. They can either continue the lease in a fair and reasonable manner or sell the property. Either way, SB 455 is more inclusive. The House bill is tied to another bill.

He admitted a conflict of interest. He has property caught in this type of situation. He knows of others in similar situations.

#### **Proponents' Testimony:**

**Lorna Frank, Montana Farm Bureau,** supported the bill.

**Carol Mosher, Montana Cattlemen,** supported the bill. She said these businesses have provided a fair service and deserve a fair shake.

Pam Langley, Montana Agricultural Business Association, Montana Grain Elevator Association, Montana Seed Trades Association and the Pacific Northwest Grain and Feed Association, was not present for the hearing but submitted written testimony. EXHIBIT 8

**Opponents' Testimony:**

Leo Berry, Burlington Northern Railroad, said there are legal and constitutional problems with this type of legislation that involve due process and impairment of contract. BN has fundamental concerns with the other bill, HB 233, but has agreed to live with it.

This bill goes a step further by inserting a new subsection on Page 2, Line 19, that provides leaseholders with additional rights. He believes SEN. THAYER's concerns are addressed by HB 233. Under that bill, the railroad may not sell or offer for sale any interest in the leased land, or dispossess the leaseholder without giving that leaseholder the right of first refusal. HB 233 addresses future sales.

BN tried to resolve as many problems as possible in the bill. Each time attempts are made to legislate additional provisions into the contracts, the legislation gets further away from something BN can live with. For that reason, BN opposes SB 455.

**Questions from Committee Members:**

REP. MEASURE asked if subsection 2 of Section 2 on Page 2 is the only addition to the bill originally offered by REP. BARDANOUVE. SEN. THAYER said he believes so. He did not check the bill against the House bill, but he believes it is essentially the same in other respects. Mr. Berry said he believes the section is the only substantive change to the original bill. Paul Sihler, EQC, said he would be happy to compare the two bills before executive action is taken.

**Closing by Sponsor:**

SEN. THAYER said he understands BN's opposition. He appreciates the effort BN has taken to remedy these problems. While Mr. Berry says the language in the House bill addresses leaseholder problems and the first right of refusal, it doesn't take into account what has already happened. The Legislature has an obligation to constituents to try to right wrongs that have been made.

**EXECUTIVE ACTION ON SB 165**

**Motion:** REP. MEASURE MOVED SB 165 BE CONCURRED IN.

**Discussion:** REP. O'KEEFE said Steve Marks talked about getting out of the district. DSL explained how it saw them getting out of the district. He asked if that provision exists anywhere in law.

Dennis Casey, DSL Commissioner, said he doesn't know. That was a legal opinion.

REP. O'KEEFE said his only concern with the bill is that landowners have a legitimate complaint that they may be taxed twice for fire protection. It is important that landowners have a way to get out the wildland fire protection with DSL. The committee needs something definite from DSL that will explain how the process works. Mr. Casey said he would check on it to see if it is in statute. REP. RANEY asked REP. O'KEEFE if he could satisfy his problem on the House floor if necessary. REP. O'KEEFE said he believed so. He is concerned about agricultural users.

Mr. Casey said DSL told stock growers that the agency will go to the Board of Land Commissioners and adopt rules to set the fee at \$22.17 per acre. That will give people the opportunity to go to the Board of Land Commissioners and through the appropriations process to make their desires known, if the fee needs to be changed in the future.

REP. FOSTER asked if stock growers are happy with the arrangement. Mr. Casey said yes.

Vote: SB 165 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 199

Motion: REP. O'KEEFE MOVED HB 199 DO NOT PASS.

Discussion: REP. FAGG said he would prefer to table the motion so that REP. GILBERT would have an option to discuss the issue further when he returns to the hearing.

Motion/Vote: REP. FAGG MADE A SUBSTITUTE MOTION THAT HB 199 BE TABLED. Motion carried 13-4, with Reps. Knox, Foster, Gilbert and Hoffman voting no.

EXECUTIVE ACTION ON HB 247

Motion: REP. O'KEEFE MOVED HB 247 DO NOT PASS.

Discussion: REP. O'KEEFE said the Taxation Committee distributed a funding mechanism for the conservation district to allow mills to be raised to fund the needs of the district.

REP. RANEY said that to do this, either the coal tax must be increased from 15 percent to 16 percent, or entities that presently get coal tax money will lose a little of it.

REP. O'KEEFE said that once this issue is opened up on the House floor, anyone can seek percentage increases through an amendment. The committee would have no control over it. The House, Senate Natural Resources Committee and full Senate would have a shot at it. There would no longer be a distribution mechanism that looks

like this for coal severance tax or Resource Indemnity Trust (RIT) money. To protect existing programs and avoid pork-barrel suicide, the bill should be killed.

**Motion/Vote:** REP. MEASURE MADE A SUBSTITUTE MOTION TO TABLE HB 247. Motion carried 13-3, with Reps. Knox, Foster and Hoffman voting no.

**EXECUTIVE ACTION ON HB 565**

**Motion:** REP. SOUTHWORTH MOVED HB 565 BE TABLED.

**Discussion:** REP. RANEY said the committee never held a hearing on this bill or HB 670. They are both by REP. FRITZ DAILY, who requested no hearings be held and that the bills be tabled.

**Vote:** HB 565 BE TABLED. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 670**

**Motion/Vote:** REP. O'KEEFE MOVED HB 670 BE TABLED. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 855**

**Motion:** REP. SOUTHWORTH MOVED HB 855 DO PASS.

**Discussion:** REP. FOSTER said that in its original form, HB 855 seemed unworkable. He asked for an explanation of the amendments and how they changed the bill. REP. O'KEEFE reviewed the amendments.

REP. FOSTER said the amendments improved the bill. The way it was set up, if products weren't available, other recycled material had to be purchased to meet percentages. He asked if the amendments fixed such problems. REP. O'KEEFE said yes, to the extent possible.

REP. RANEY spoke in opposition to the motion. He said HB 160 would phase in over the next six years the state's transition to recycled paper. The bill is designed to pressure the Department of Administration. The advisory committee is pressuring entities outside state government, such as universities. The bill says this is to be done now, regardless of the availability of products or the cost-effectiveness. HB 160 is the mechanism to do the things that are desired in this bill, but in a timely fashion and with lots of oversight.

REP. KNOX spoke in opposition to the bill for many of the reasons cited by REP. RANEY. Although the bill has been improved by the amendments, it still costs a lot of money. In view of the many needs, it would be irresponsible to pass the bill at this time.

**Motion/Vote:** REP. RANEY MADE A SUBSTITUTE MOTION THAT HB 855 BE

**TABLED.** Motion carried 13-4, with Reps. Cohen, Brooke, O'Keefe and Measure voting no.

**EXECUTIVE ACTION ON HB 906**

**REP. COHEN** said HB 906 will have to go to the Appropriations Committee if it is passed. He distributed amendments to the bill.  
**EXHIBIT 9-10**

**Motion:** **REP. COHEN** to moved to amend HB 906.

**Discussion:** **REP. COHEN** recommended the committee pass the bill as amended and send it to the Appropriations Committee. When the committee gets to his bill, he will recommend it be amended and sent to the Taxation Committee. He would like both bills to be kept alive and to not see either of them on the House floor yet.

There is a problem with the way timberland is taxed. That hasn't been addressed in Appropriations or Taxation. There is concern about finding money to do the productivity study to address the problem of timberland classification. One of the two bills may be the only source of funding for the study. The effective date of the extension services may have to be delayed until the problem is resolved.

**REP. RANEY** asked if a motion were made on the bill.

**Motion:** **REP. MEASURE MOVED HB 906 DO PASS.**

**Motion:** **REP. MEASURE** moved **REP. COHEN's** amendments to HB 906.  
**EXHIBIT 9**

**Discussion:** **REP. COHEN** said that when the program goes into effect, there will be 3 FTEs, rather than one. One each will be located at Flathead Valley Community College, the University of Montana and Montana State University. The idea is to get extension services in parts of the state where they are going to be needed.

**REP. RANEY** asked how the amendments affect the funding mechanisms in **REP. MARY ELLEN CONNELLY's** bill, which only provide enough money in Section 1 for 1 FTE. The money being raised in Section 2 is the money needed for 1 FTE. There would have to be significant amendments to this bill to compensate for that.

**REP. COHEN** said the fiscal note for **REP. CONNELLY's** bill shows \$160,000 for the program. Extension service figures for 3 FTEs, plus another \$31,000 for administration, would be less than the total funds available in this bill.

**Mr. Sihler** said the existing extension forester has a budget of \$52,000 to \$54,000. The bill with **REP. CONNELLY's** amendments and a second set of amendments that would limit the amount assessed to \$20,000 per company reduces the fiscal note somewhat. It

amounts to another \$100,000 to \$120,000 per year. The statement of intent indicates the intention to add a second extension forester, plus an administrator. The administrative position is not listed in the fiscal note. As was said, there are problems with the fiscal note. The \$120,000 is relative to the \$54,000 for the existing extension forester position.

**REP. COHEN** said No. 1 in the technical notes says the forestry extension currently receives \$54,000 through the federal Renewable Resources Extension Act. In fact, the current budget is \$84,000. According to the budget for 3 FTEs that extension forestry people gave to the Budget Office, there was enough money in this bill to do it. This throws all the money in together and allows it to be used as desired, as opposed to budgeting the money that is needed. Sufficient money is available not only to do it, but to also provide some money back, perhaps.

This has all the costs of administering the fund being paid by the General Fund and not the fee. There should be enough money to pay the cost of the state forester to administer the fund and to run the program. This shows a cost that doesn't have to be there because there is enough money being raised. All the money is going into an extension forestry fund without being broken out how it will be used. This is not a good fiscal note.

**REP. RANEY** suggested the committee approve **REP. COHEN** and **REP. CONNELLY's** amendments to the bill, then request a revised fiscal note. **REP. COHEN** said that is a good idea, but it will still have to go to the Appropriations Committee. **REP. O'KEEFE** said the committee should put the amendments on the bill if the bill is believed to be good in concept. Let the fiscal note arrive when the bill hits Appropriations. It can catch up to the bill. **REP. RANEY** said the committee can request the fiscal note when the bill is moved out of committee.

**REP. SOUTHWORTH** said the odds of the bill going anywhere in Appropriations are almost nil. **REP. RANEY** said not necessarily. Quite a few people are interested in extension forestry. Bills that don't raise any money are the ones without a prayer in Appropriations. This bill tends to raise some of the money to fund itself. It may be looked upon more favorably.

**REP. COHEN** said there are a lot of people with small timberlands who think they may have merchantable timber but are concerned about preserving other qualities of their woodlots. They need help from an extension forester, or someone, and they don't have enough timber values to go out and hire a forester to provide a management plan. That timber supply is going to be needed for the mills if they are to continue running, and that probably would not be at the level they are running at now.

**REP. MEASURE** said that close to 50 percent of the timber supply will come from small, private, non-industrial sources in the next two decades. The problem is that most of them are so small, that

the large mills won't approach them and they don't know how to market the timber themselves. They end up with an inexperienced logger who does a disastrous job. This is an important program.

**Vote:** Motion to approve REP. COHEN's amendments to HB 906 carried unanimously. EXHIBIT 9

REP. RANEY said the next vote is on REP. CONNELLY's amendments to limit the cost to any one landowner to \$20,000 per year. EXHIBIT 10. That may make it difficult when the bill gets to Appropriations, but it can be re-amended if desired.

**Motion/Vote:** REP. O'KEEFE moved approval of REP. CONNELLY's amendments to HB 906. EXHIBIT 10 Motion carried unanimously.

**Motion/Vote:** REP. O'KEEFE MOVED HB 906 DO PASS AS AMENDED. Motion carried unanimously.

REP. RANEY said a note will be sent with the bill to have it removed from the second reading board and sent to Appropriations, and to request a revised fiscal note.

#### **EXECUTIVE ACTION ON SB 18**

**Motion:** REP. O'KEEFE MOVED SB 18 BE CONCURRED IN.

**Motion:** REP. O'KEEFE moved to amend SB 18 on Page 5 to have Lines 18-23 reinstated in the bill, and to strike the word "were" and reinstate the word "are" on Line 18.

**Discussion:** REP. O'KEEFE said the reason he is moving the amendment is because he did not get a good answer on why the language was eliminated. The bill is probably OK. This is the one area with which he has a problem. This will provide time to pass the bill back to the Senate and have it reviewed in conference committee to ensure the committee wasn't hoodwinked into changing the definition of "a responsible person."

**Vote:** Motion to amend SB 18 carried unanimously.

**Motion:** REP. MEASURE moved to further amend SB 18 on Page 10, Lines 4-5. The words "caused by the well" were deleted and "for which he is responsible" was added, which cuts out the responsible party. He doesn't understand why that is. It seems that the language "caused by the well" refers to damage ensuing from the well.

**Discussion:** REP. GILBERT said that he looked at the language and thought it broadened it. Not only could it be caused by the well, but it also could be caused by driving a drilling rig into the drill site.

REP. MEASURE withdrew his amendment.

Motion/Vote: REP. BROOKE MOVED SB 18 BE CONCURRED IN AS AMENDED.  
Motion carried unanimously.

EXECUTIVE ACTION ON SJR 6

Motion: REP. COHEN MOVED SJR 6 DO PASS.

Discussion: REP. COHEN said that he reviewed recent Task Force minutes which indicated that the Task Force is moving toward a more uniform regulatory environment. A concern is that figures in the resolution do not coincide with the numbers that REP. QUILICI's subcommittee put into the appropriations bill. This committee can either wait to get figures from the LFA, or the resolution can be sent to Appropriations so they make sure numbers correspond.

REP. RANEY said he does not like the second "whereas." It seems it says the purpose of the forestry task force is to determine how many trees can be cut. It seems the word "maximize" is wrong. The right word is "sustainable." This is on Lines 10-12. REP. MEASURE responded that there is a "whereas" that talks about protecting conservation, other important resources, wildlife, recreation and scenic beauty. He doesn't think it means anything.

REP. RANEY said that if the forester (referring to Rep. Measure) is happy, then he is happy. If the committee passes the resolution, a note will be put on it to remove it from second reading and send it to Appropriations.

Vote: SJR 6 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 215, 216, SB 94

REP. RANEY said he had amendments to coordinate all three bills. EXHIBIT 11-13 The amendments remove RIT as a source of funding for these bills and make it metal mines license tax. These bills are about the groundwater monitoring and characterization program. It is a 20-year program that will be done in 5 percent of the state. Thousands of wells will be drilled over the 20-year period. Nearly every state is many years ahead of Montana in doing this.

A problem in siting new mines is that there is no background information to determine whether operators polluted Montana's waters. That is the purpose of this long-range plan. EQC had trouble trying to fund it and decided to try to use RIT money. RIT probably will not fly. The amendments remove RIT as the funding source and put in metal mines license tax. They also increase the tax.

Gail Kuntz, EQC, reviewed the amendments. She said money would not be taken from appropriations under Section 15-37-177, MCA. SB 94 creates the program. The amendments will make this a statutory appropriation. If SB 94 and HB 215 are passed and SB 94



contains a statutory appropriation, then the act to appropriate money is void. HB 216 would not be needed.

#### EXECUTIVE ACTION ON HB 215

Motion: REP. O'KEEFE moved to amend HB 215. EXHIBIT 11

Discussion: REP. RANEY reviewed the amendment.

REP. BROOKE asked if the change will be revenue neutral. Ms. Kuntz said yes. All the funds that currently get money from this tax will continue to get the same amount.

REP. GILBERT said it isn't going to fly. He said REP. RANEY was increasing a tax on hardrock mines. It will be opposed, then there will be a plan without funding. The smartest thing to do is to stick with RIT. REP. RANEY said that if the committee passes the bill, he will ask that it be returned to the House Taxation Committee.

REP. BROOKE asked for the total percentage tax-rate increase being sought. REP. RANEY said it is 0.16 percent on one kind of material and 0.14 percent on another kind.

Vote: Motion to amend HB 215 carried 13-4, with Reps. Knox, Foster, Gilbert and Hoffman voting no.

Motion/Vote: REP. O'KEEFE MOVED HB 215 DO PASS AS AMENDED. Motion carried 11-6, with Reps. Fagg, Foster, Gilbert, Hoffman, Knox and Nelson voting no.

#### EXECUTIVE ACTION ON HB 216

Motion: REP. O'KEEFE MOVED HB 216 DO PASS.

Motion: REP. O'KEEFE moved to amend HB 216. EXHIBIT 12

Discussion: REP. RANEY said the amendment coordinates the bill, HB 215, with SB 94, which is the program.

Vote: Motion to amend HB 216 carried 11-6, with Reps. Fagg, Foster, Gilbert, Hoffman, Knox and Nelson voting no.

Motion/Vote: REP. O'KEEFE MOVED HB 216 DO PASS AS AMENDED. Motion carried 11-6, with Reps. Fagg, Foster, Gilbert, Hoffman, Knox and Nelson voting no.

#### EXECUTIVE ACTION ON SB 94

Motion: REP. O'KEEFE MOVED SB 94 BE CONCURRED IN.

Motion/Vote: REP. O'KEEFE moved to amend SB 94. EXHIBIT 13  
Motion carried 11-6, with Reps. Fagg, Foster, Gilbert, Hoffman, Knox and Nelson voting no.

Motion/Vote: REP. O'KEEFE MOVED SB 94 BE CONCURRED IN AS AMENDED. Motion carried 11-6, with Reps. Fagg, Foster, Gilbert, Hoffman, Knox and Nelson voting no.

EXECUTIVE ACTION ON SB 283

Motion: SEN. O'KEEFE MOVED SB 283 BE CONCURRED IN.

Discussion: REP. GILBERT said the bill refers to two specific instances. One is the mine at Pony, where there have been some real problems, and the other is the mine at Lewistown, where there have been similar problems with the cyanide leach system getting onto property outside of the lease. Because of some holes in state law, the Department hasn't been able to do the enforcement it would like to do. In the interest of public health and safety, the committee should pass this bill.

Vote: SB 283 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 718

Motion: REP. O'KEEFE MOVED HB 718 DO PASS.

Motion/Vote: REP. O'KEEFE moved amendments to HB 718 by DHES. EXHIBIT 5 Motion carried unanimously.

Motion: REP. O'KEEFE moved amendments to HB 718 brought by Steve Brown. EXHIBIT 6

Discussion: REP. O'KEEFE said the Department was asked if the amendments fit with the bill. The Department responded that they do. They change the effective date of the bill. The title change is amendment No. 1.

Mr. Brown said the second amendment establishes a procedure for the repeal of the fee determination by the Department. Disputes probably will not occur in most cases. In some instances, fees are quite large. The applicant may dispute the amount of the fee. This bill creates an appeal mechanism that would have the Board of Health resolve the dispute.

REP. TOOLE asked about the change in the effective date. Mr. Brown said the bill as it reads now would be effective upon passage and approval. That means a permit application that came in could be assessed a fee immediately, even though no rules have been adopted by the Board of Health. If a dispute arises over the amount, how would the Board resolve it when it hasn't adopted rules? By deleting the immediate effective date, the date would be October 1. That should be sufficient time for rules to be adopted.

REP. O'KEEFE asked if an effective date is needed. It seems the Board couldn't start work on the rules until the date was

applicable. Mr. Brown said that is not the intent. REP. O'KEEFE said he understands. But it is not the Department's intent to charge fees if rules aren't in place.

REP. COHEN said the bill says the Board may adopt fee schedules. It doesn't say the Department can adopt fees. He doesn't see, even if the bill is effective upon passage and approval, how the Department can charge fees until the Board adopts a fee schedule. Mr. Brown said that is a reasonable interpretation of the bill. REP. COHEN said the Board authorizes the Department to assess the fees.

REP. O'KEEFE withdrew his motion to accept the amendments.

Motion: REP. O'KEEFE MOVED TO ACCEPT THE AMENDMENTS, LEAVING THE EFFECTIVE DATE AS IT WAS.

Discussion: REP. O'KEEFE said that on all other bills sent out of the committee with rule making authority, the committee has used an effective date on passage and approval. Resource agencies need immediate effectiveness to go to work on the rules.

REP. RANEY asked about a coordinating clause. Mr. Brown said he has no language addressing that. He recommended the committee pass the bill out of committee. If something needs to be coordinated, Noranda can work with DHES and get it amended in second reading or in the Senate.

REP. RANEY said he wants Mr. Sihler to draft amendments for the committee to review before action is taken. REP. GILBERT said he doesn't necessarily disagree with the effective date being upon passage and approval, but it seems that if a Department knew a bill was passed, signed by the governor and would take effect on July 1, there wouldn't be anything to impede that agency from starting to write the rules. He asked for a researcher to check into it. He cannot see anyone waiting until July 1 or October 1 to start writing rules.

REP. O'KEEFE withdrew all pending motions.

REP. RANEY said he wants to have the researcher contact the Department to see how the bills, effective date and coordinating clause work together. The committee will revisit the issue.

#### EXECUTIVE ACTION ON SB 114

Motion: REP. BROOKE MOVED SB 114 BE CONCURRED IN.

Motion: REP. TOOLE moved to amend SB 114 to allow voters 180 days after the filing of a permit application to get signatures certified by the local elections office.

Discussion: REP. WANZENRIED said that on Page 1, Line 17, the reference section of the statute includes a time table. REP.

TOOLE said this is an initiative to enact a law. No one would be empowered to do that until there was a permit application. Once pending, there would be a time frame. Something has to be tied to the filing of a permit to cut off the referendum at some point. REP. RANEY asked the purpose behind the 180 days. REP. TOOLE said an applicant is going to want to know if there will be a referendum during the permit process. He doesn't know if 180 days is the appropriate time, but a limit is needed. REP. RANEY said his understanding is that a referendum election would be held in conjunction with existing elections in the area so there wouldn't have to be a special election. REP. GILBERT said this would be to get signatures certified, then the election could be scheduled. He shares REP. TOOLE's concerns. The way this is written, the permit could be issued, contractors could be working, and someone could request a petition, get 15 percent of the signatures and vote it down after millions of dollars were invested in the project. That's unfair.

REP. RANEY clarified that if signatures have not been certified within 180 days, there would be no referendum.

Vote: Motion to amend SB 114 carried unanimously.

REP. FAGG said only one vote should be allowed on an issue. Otherwise, if one group doesn't like the outcome, it could decide to have another vote. That isn't appropriate.

Motion/Vote: REP. FAGG moved to amend SB 114 to provide for one election on any one landfill siting. Motion carried unanimously.

REP. TOOLE said a valid concern was raised about a landfill's location being next to another county line. He questioned the appropriateness of limiting election rights to people in the county in which the landfill would be located. It disenfranchises those who may be downstream or next door.

Motion: REP. TOOLE moved to amend SB 114 to say that the election must be held in the adjoining county or any county that has a bordering county line within five miles of the landfill.

Discussion: REP. RANEY said that cannot be done. That is what he tried to do with his gravel-pit siting bill. Court cases indicate a mileage factor cannot be set that would enable someone to prevent an operation from taking place. REP. TOOLE asked if it can be done by saying "affected counties." REP. RANEY said no.

REP. COHEN spoke against the bill. He said that as much as he understands people's concerns about out-of-state people coming in and creating a megalandfill to import refuse, the committee should look at the real concerns in Montana. There are going to be fewer landfills in the state. There was an attempt by REP. ELLIOTT to give a special permit to someone who would haul garbage from Sanders County to Missoula County. Conceivably, BFI's landfill could turn into a megalandfill as it takes refuse

from other areas. Montana could end up with six waste sheds and only six landfills. Each one could be a megalandfill. The problem is the state won't be able to site them. There have been plenty of referendums in which voters have not made the best decision. This bill is just mischief. The Legislature has already done enough to prevent out-of-state people from coming in and creating megalandfills. This bill may preclude a big landfill that will be needed for in-state refuse and could create terrible problems later.

**Motion:** REP. RANEY moved to amend SB 114 to change the language on Line 7 of Page 2 to add, "or 35,000 tons of incinerator ash."

**Discussion:** REP. RANEY said that will make the language identical to the Megalandfill Siting Act.

**Vote:** Motion carried unanimously.

REP. WANZENRIED referred to Page 2, Line 6. He said he isn't sure why the word "municipal" is included. Megalandfills are generic. The term "municipal" makes it sound like it is municipally operated. He asked if that term referred to the source of the solid waste. Mr. Sihler said the same issue arose in the Megalandfill Siting Act. The word "municipal" was taken out. Municipal solid waste is a standard term for solid waste coming from people's homes. The word can be removed if desired.

REP. RANEY said the section should be amended to be coordinated with the megalandfill definition in the Megalandfill Siting Act. Mr. Sihler thinks the word "municipal" was taken out of the Act, but he isn't sure.

**Motion/Vote:** REP. WANZENRIED moved to amend SB 114 to coordinate the definition of megalandfill in the bill with the definition in the Megalandfill Siting Act. Motion carried unanimously.

REP. BROOKE said she is concerned. There is no regulation regarding who can influence elections. Everyone has seen what has happened with initiatives in this state and what kind of money is available to influence elections. The bill's intent is good and it tries to address local control. Without a limit on spending or spending from out of state, she is concerned and will vote against the bill. REP. RANEY said that without the bill, there wouldn't be a local referendum and someone could just come in and site it. This bill gives local people the opportunity to turn down a megalandfill. Without this bill, they do not have that opportunity.

REP. FAGG said he likes the idea of a public vote, but he has discussed it with Mr. Jensen, who has some concerns about it. The committee should wait two years, and have the EQC look at it and put together a public referendum bill that will work. There are constitutional problems with this bill. REP. RANEY said he doesn't know how much more the bill will be looked at. It has

already been looked at for a long time. This is an EQC bill.

REP. GILBERT said he also has concerns with the bill. He thought it would be nice for people to vote on the issue, but he didn't realize at the time that it was unconstitutional. This bill will allow people in one county to restrict interstate commerce. Spending limits also would be unconstitutional because a person applying for the permit would be restricted from doing what is necessary to influence voters. That also involves interstate commerce. The whole thing is going to get the state in trouble.

REP. BROOKE said her effort would be to limit expenditures, which is already done in campaigns. That is constitutional. REP. GILBERT said such campaign limitations would affect interstate commerce. The other kind of campaigns do not. They influence elections or initiatives. REP. BROOKE said she researched the issue and determined it is constitutional to limit expenditures.

REP. TOOLE said there is a set of laws that has nothing to do with this that is the place to go if the desire is to regulate how people spend money on elections. There are real differences in the impact on interstate commerce when attempts are made to ban transportation through an area. That would have a hard time getting through the courts. This may or may not. He hasn't seen any memos from EQC saying this can't be done. In fact, the bill came from EQC. He supports it.

Mr. Sihler said EQC staff recognized there were potential constitutional and legal problems with the bill at the time it was considered. The bill on its face is not unconstitutional. But there is a potential problem if a megalandfill is approved at an existing site and someone comes in to site another megalandfill and it repeatedly fails by referendum. A pretty strong case could be made that the referendum was obstructing interstate commerce. That was the staff comment at the time EQC discussed the bill.

REP. MEASURE said the bill allows people to put a megalandfill in a spot that is beneficial to one county and detrimental to another. He asked who presently has authority to site a megalandfill. REP. RANEY said no one right now. HB 377 is halfway through the legislative process.

REP. COHEN said DHES has authority to site them now. REP. RANEY said DHES does not have the authority to site a megalandfill as defined here. REP. COHEN said DHES can site a landfill that is capable of taking the volume on an annual basis. The Department also has the expertise to do it. Voters may vote against the best site and approve some other site that will pollute their aquifer because they don't know better and they won't listen to technical arguments. That could happen. REP. RANEY said it could happen under existing law, but it couldn't happen under the Megalandfill Siting Act. REP. COHEN said this bill isn't going to prevent it from happening. It is just going to prevent use of the best technical resources to properly site a landfill.

REP. KNOX said he has more faith in the abilities and strength of local voters. He would not be uneasy with a referendum being in the hands of local voters. He supports the bill.

REP. GILBERT said the committee is missing the point. This vote is purely emotional. It has nothing to do with scientific research or environmental protection. The vote is taken before the landfill is sited or environmental assessments are done. It is a popularity vote. The question is whether the people want or do not want a landfill in their counties. It has nothing to do with environmental protection. If that is what was desired, the people would wait until a company spent \$35 million, had the site prepared and all the information gathered, and then say yes or no. REP. FOSTER said the compelling argument is the one about how one county could abuse another. Jefferson County voters could decide to put in a megalandfill behind the Capitol. He cannot support the bill.

REP. RANEY said REP. FOSTER's scenario is a stretch of the imagination. The process would not allow that to happen. The bill only discusses megalandfills. It is only good if the Megalandfill Siting Act passes. The Act would not allow indiscriminate siting.

Motion/Vote: REP. RANEY MOVED SB 114 BE CONCURRED IN AS AMENDED. Motion failed 8-9 on a roll call vote. EXHIBIT 14

Motion/Vote: REP. GILBERT MADE A SUBSTITUTE MOTION THAT SB 114 BE TABLED. Motion carried unanimously.

#### EXECUTIVE ACTION ON SB 402

Motion: REP. GILBERT MOVED SB 402 BE CONCURRED IN.

Discussion: REP. GILBERT said it is a good bill and should be approved.

Motion/Vote: REP. KNOX moved to amend SB 402 to strike all "whereas" clauses. Motion carried unanimously.

Motion/Vote: REP. RANEY MOVED SB 402 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

#### EXECUTIVE ACTION ON SB 225

Motion/Vote: REP. KNOX MOVED SB 225 BE CONCURRED IN. Motion carried 14-3, with Reps. Measure, Cohen and Raney voting no.

#### EXECUTIVE ACTION ON SB 455

Motion/Vote: REP. MEASURE MOVED SB 455 BE CONCURRED IN.

Discussion: REP. MEASURE said the House has its own bill in the Senate and a companion bill. The only thing the House bill misses

that this bill includes is in subsection 2, Page 2, Lines 19 through Page 3, Line 2. The House bill is scheduled to be heard later. He asked if the committee could insert a coordinating clause in SB 455 and delete everything other than SEN. THAYER's clause on Page 2, Line 19, through Page 3, Line 2. That way when it passes, he won't have the bill he wants. REP. RANEY disagreed. He said that if HB 233 doesn't pass in the Senate, the committee can take SB 455 off the table and move it. The Senate can put that language in HB 233. REP. MEASURE said that this bill is considerably more important than the companion bill. He hates to let this section go by without a bill such as this or HB 233 getting out of the Legislature.

REP. RANEY said no one in the committee is going to kill this bill. It doesn't seem like it would be much of a problem to put this bill on the table and wait to see what the Senate does with HB 233. He doesn't think anyone would object to pulling it off the table and moving it if the Senate tries to mess with HB 233.

Motion/Vote: REP. MEASURE MADE A SUBSTITUTE MOTION THAT SB 455 BE TABLED. Motion carried 14-3, with Reps. Knox, Gilbert and Foster voting no.

ADJOURNMENT

Adjournment: 6:30 p.m.



REP. BOB RANEY, Chairman



LISA FAIRMAN, Secretary

BR/lf



**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES COMMITTEE**

**ROLL CALL**

**DATE** 2/12/91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON		✓	
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	/		
REP. BEVERLY BARNHART	/		
REP. ED DOLEZAL	/		
REP. RUSSELL FAGG	/		
REP. MIKE FOSTER	/		
REP. DAVID HOFFMAN	/		
REP. DICK KNOX	/		
REP. BRUCE MEASURE	/		
REP. JIM SOUTHWORTH	/		
REP. HOWARD TOOLE	/		
REP. DAVE WANZENRIED	/		
REP. BOB RANEY, CHAIRMAN	/		

11110  
3-13-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 165 (third reading copy -- blue) be concurred  
in .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Fry

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 906 (first reading copy -- white) do pass as amended.

Signed: Bob Raney  
Bob Raney, Chairman

And, that such amendments read:

1. Page 1, line 14.

Following: "cut."

Insert: "The assessment may not exceed \$20,000 a year."

2. Page 5, line 3.

Following: "cut."

Insert: "The assessment may not exceed \$20,000 a year for each master fire hazard attachment."

3. Page 6, line 11.

Following: "university."

Insert: "The forestry services must be conducted at Montana state university, the university of Montana, and Flathead Valley community college."

CLERICAL

Bill No.

906



S / H Standing Committee

Natural Resources

(Chairman)

Bob Roney  
Roney



S / H Committee of the Whole

MER

(Legislative Council Staff)

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment #1, location:

" Page ① 3, line 14 "

An objection to these corrections may be registered by the Secretary of the Senate, the Chief Clerk of the House, or the sponsor by filing the objection in writing within 24 hours after receipt of this notice.

1133  
2-19-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 18 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. GILBERT

And, that such amendments read:

1. Page 5, line 18.

Following: "are"

Strike: "WERE"

Insert: "are"

Following: "is."

Insert: "and who is:

(a) a corporation, association, partnership, or other business organization with assets in excess of \$250,000; or

(b) if the business organization does not have assets in excess of \$250,000, a natural person with primary ownership in the business organization"

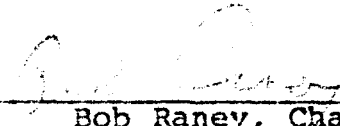
11:10  
3-13-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Joint Resolution 6 (third reading copy -- blue) be  
concurrent in .

Signed:   
Bob Raney, Chairman

Carried by: Rep. Cohen

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Natural Resources report that House Bill 215 (first reading copy -- white) do pass as amended .

Signed: Bob Raney  
Bob Raney, Chairman

And, that such amendments read:

1. Title, lines 5 and 6.

Following: "ACT" on line 5

Strike: "CHANGING THE NAME OF THE MONTANA RESOURCE INDEMNITY TRUST ACT"

Insert: "INCREASING THE RATE OF THE METAL MINE LICENSE TAX"

2. Title, lines 8 and 9.

Following: "SECTIONS" on line 8

Strike: "15-38-101, 15-38-102, AND 15-38-106"

Insert: "7-6-2225, 7-6-2226, 15-37-103, 15-37-117, AND 20-9-231"

3. Page 1, line 12 through page 3, line 16.

Following: line 11

Strike: sections 1 through 4 in their entirety

Insert: "Section 1. Section 15-37-103, MCA, is amended to read:

"15-37-103. Rate of tax. (1) The annual license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced shall be an amount computed on the gross value of product which may have been derived by the person from mining business, work, or operation within this state during the calendar year immediately preceding.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	<del>1.81%</del> 1.97% of the increment

(3) Gold, silver, or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery is taxed at

the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	<del>1.6%</del> 1.74% of the increment"

Section 2. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, ~~50%~~ 53.3% of total collections each year;

(b) to the state special revenue fund to the credit of a hard-rock mining impact trust account, ~~1.5%~~ 1.38% of total collections each year;

(c) to the state resource indemnity trust fund, ~~15.5%~~ 14.24% of total collections each year;

(d) to the state special revenue fund to the credit of the ground water assessment account, 8.1%;

(e) to the county in which the mine is located, ~~25%~~ 22.98% of total collections each year, to be allocated by the county commissioners as follows:

(i) not less than 40% to the county hard-rock mine trust reserve account established in 7-6-2225; and

(ii) all money not allocated to the account pursuant to subsection ~~(1)(d)~~ (1)(e)(i) to be further allocated as follows, except that more than one entity may share an allocation if a jurisdictional revenue disparity is identified pursuant to subsection (2):

(A) 33 1/3% is allocated to the county for planning or economic development activities;

(B) 33 1/3% is allocated to the elementary school districts within the county that have been affected by the development or operation of the metal mine; and

(C) 33 1/3% is allocated to the high school districts within the county that have been affected by the development or operation of the metal mine.

(2) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the county shall distribute the proceeds allocated under subsection ~~(1)(d)~~ (1)(e) in a manner similar to that provided for property tax sharing under Title 90, chapter 6, part 4.

(3) The department shall return to the county in which metals are produced the tax collections allocated under subsection ~~(1)(d)~~ (1)(e). The allocation to the county described by subsection ~~(1)(d)~~ (1)(e) is a statutory appropriation pursuant to 17-7-502."

Section 3. Section 7-6-2225, MCA, is amended to read:

"7-6-2225. County hard-rock mine trust reserve account --



March 13, 1991

Page 3 of 4

expenditure restrictions. (1) The governing body of a county receiving an allocation under 15-37-117~~(1)(d)~~ (1)(e) shall establish a county hard-rock mine trust reserve account.

(2) Money received by a county pursuant to 15-37-117 or 90-6-331 must remain in the account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all mining related activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsections (2)(a) or (2)(b) occur, the governing body of the county must allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county, and may use the remaining funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection

(2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the reserve account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account."

Section 4. Section 7-6-2226, MCA, is amended to read:

"7-6-2226. Metal mines tax reserve account. (1) The governing body of a county receiving tax collections under 15-37-117~~(1)(d)~~ (1)(e) may establish a metal mines tax reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose

March 13, 1991

Page 4 of 4

provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve account must be credited to the account."

Section 5. Section 20-9-231, MCA, is amended to read:

"20-9-231. Metal mines tax reserve account. (1) The governing body of a local school district receiving tax collections under 15-37-117~~(1)(d)~~ (1)(e) may establish a metal mines tax reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve account must be credited to the account.""

Renumber: subsequent sections

541141SC.HSF

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that House Bill 216 (first reading copy -- white) do pass as amended .

Signed: Bob Raney  
Bob Raney, Chairman

And, that such amendments read:

1. Page 1, line 13.

Strike: "[LC 787]"

Insert: "House Bill No. 215"

2. Page 1, line 15.

Strike: "[LC 785]"

Insert: "Senate Bill No. 94"

3. Page 1, line 17.

Following: line 16

Strike: "[LC 785] and [LC 787]"

Insert: "Senate Bill No. 94 and House Bill No. 215"

4. Page 1, line 18.

Following: "void."

Insert: "If Senate Bill No. 94 and House Bill No. 215 are passed and approved and if Senate Bill No. 94 contains a statutory appropriation, then [this act] is void."

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 94 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Raney  
Bob Raney, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "ACCOUNT;"

Insert: "ESTABLISHING A STATUTORY APPROPRIATION;"

2. Title, line 11.

Following: "PROGRAMS;"

Insert: "AMENDING SECTION 17-7-502, MCA;"

3. Page 4, lines 9 and 10.

Following: "year," on line 9

Strike: the remainder of line 9 through "assessment" on line 10

Insert: "there is statutorily appropriated, as provided in 17-7-502, 8.1% of the metal mine license"

4. Page 4, line 11.

Following: "by"

Strike: "[LC 787]"

Insert: "[House Bill No. 215]"

5. Page 9, line 9.

Following: line 8

Insert: "Section 8. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory

appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985; and [section 4].

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Renumber: subsequent sections

6. Page 9, line 18.

Strike: "[LC 787]"

Insert: "House Bill No. 215"

1:30  
3-13-91  
JDB


HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 283 (first reading copy -- white) be  
concurrent in .

Signed: \_\_\_\_\_

  
Bob Raney, Chairman

Carried by: Rep. DOLEZAL

11:15  
3-13-91  
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 402 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Raney  
Bob Raney, Chairman

And, that such amendments read:

1. Pages 1, line 10 through page 2, line 7.  
Strike: "line 10 on page 1 through line 7 on page 2 in their entirety"

Carried by: Rep. Gilbert

11:10  
3-13-91  
TDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that Senate Bill 225 (third reading copy -- blue) be concurred  
in .

Signed: Bob Raney  
Bob Raney, Chairman

Carried by: Rep. Knox



EXHIBIT 1  
DATE 3-12-91  
HB 199, 215, 216  
SB 94

Testimony  
concerning

**The Groundwater Characterization and  
Groundwater Monitoring Programs  
(SB 94; HB 199, 215, 216)**

Edward T. Ruppel  
Director and State Geologist  
Montana Bureau of Mines and Geology

Senate Bill 94 (with funding options from House Bill 199, or House Bills 215, and 216) proposes two programs for the protection and wise use of Montana groundwater, and suggest possible ways of funding these programs. Recognizing that groundwater is a critical resource for more than half of all Montana citizens, the Environmental Quality Council has carefully and thoughtfully designed the two groundwater programs to provide reliable and scientifically sound information on water quality, availability, and aquifer characteristics, information that is needed now to guide decisions on groundwater use. The groundwater programs address these needs systematically, provide for program guidance and oversight through a steering committee, and provide flexibility on that committee to accommodate both local and regional concerns.

The Bureau of Mines and Geology has been the principal source of groundwater information in Montana for many years, and with the support of past legislatures has established the Ground Water Information Center, with logs of more than 100,000 water wells and water quality data for more than 6,000 wells. Bureau hydrogeologists have completed hundreds of studies on saline seeps, coal hydrology, artificial recharge, hazardous substances, and other groundwater problems. Most of these studies have been site specific and problem-oriented, and although they do not in themselves permit characterization of groundwater resources, they do provide an excellent base for regional characterization.

The systematic, long-term groundwater appraisal and monitoring programs proposed by the Environmental Quality Council in SB 94 with funding options from HB 199, or HB 215, and 216, will provide for confident and cost-effective resource protection and use. Similar programs that have been completed in all of the states adjacent to Montana demonstrate how effective the Montana programs will be. The Bureau of Mines and Geology can only emphasize the need and recommendations as given in Section 1 of the Environmental Quality Council report to the 52nd Montana State Legislature, and strongly support the proposed programs.

Why is Ground Water Important?

Over half of Montana's people rely on ground water for their drinking water, including virtually all rural residents. Of over 2100 public water supply systems in Montana, all but 98 rely on ground water, including the communities of Circle, Columbus, Deer Lodge, Dillon, Gardiner, Geraldine, Hamilton, Hot Springs, Jordon, Kalispell, Livingston, Malta, Missoula, Plentywood, St. Ignatius, Scobey, Sidney, Townsend, and Wolf Point.

As surface water supplies are becoming fully appropriated in a number of basins, ground water use has been increasing for a variety of purposes, including drinking water, irrigation, stock water, industrial processes, and commercial uses.

In many areas ground water is so closely interconnected with surface water that the ground water supplies are essential to maintain both the quality and quantity of water in rivers and streams and to support aquatic ecosystems and riparian areas.

Ground water contamination incidents in Montana and elsewhere have increased dramatically in the last few years from a range of sources. Public perception of ground water importance, protection, and problems has increased proportionately, but our knowledge of this critical resource is sadly lacking.

Ground Water Information Deficiencies

-- Montana's ground water has not been systematically assessed -- many aquifers underlying large areas of the state have received little or no evaluation -- past ground water studies primarily have focused on site-specific investigation of pollution or supply depletion problems

-- Where ground water assessments have not been done, it is often impossible to determine why water levels are declining, whether an adequate supply of water is available, how proposed water withdrawals will affect existing wells and water rights, whether the water is safe to drink, or how new contaminant sources can be effectively designed and operated to prevent pollution from occurring

-- Neighboring states and provinces are developing and protecting their ground water resources based on assessment programs begun decades ago

Proposed 1991 Ground Water Assessment Programs

Two new ground water assessment programs will be proposed in the 1991 Legislature for the purpose of filling in the information gaps that currently hamper ground water protection, management, and development efforts. The proposed programs have the Environmental Quality Council's endorsement and the support of all major units of the state and federal government with duties related to ground water protection and management. The Montana Bureau of Mines and Geology would administer the programs, with oversight by an interagency committee composed of the major state agencies that have ground water responsibilities.

Ground Water Monitoring Program -- The goal of this program is to establish a long-term record of water-level changes and inorganic ground water chemistry through collection and analysis of information from a statewide network of 730 observation wells. The cost of this program is \$438,512 per biennium.

Ground Water Characterization Program -- The goal of this program is to systematically assess the hydrogeology and quality of the state's major aquifers. The state would be divided into approximately 21 multi-county ground water assessment areas for purposes of conducting the work in manageable units. Existing data would be compiled and integrated with new and updated ground water information to produce inventories of contaminant sources and to evaluate aquifer recharge-discharge patterns, flow direction, the effects of water withdrawal on ground water supply, and surface and ground water interactions. The assessments would be published as reports and maps and would be made available to interested citizens and agencies in computerized data bases and a geographic information system. The cost of this program is \$893,220 per biennium.

#### BENEFITS OF IMPROVED GROUND WATER INFORMATION

Water Quality Protection -- Improved ground water information would enhance efforts to identify the aquifers and areas where ground water is most vulnerable to contamination and areas where increased water development is most feasible

Efforts to protect ground water from all types of contaminant sources would be enhanced; agencies could evaluate site-specific, permit-related information within a broader hydrogeologic context than is currently available

Protection of Existing Water Rights -- Water users and government agencies would be able to assess the effects of new proposed water withdrawals on water supply availability with greater accuracy than is currently possible

Water Development -- Water well drilling can proceed with greater certainty and efficiency because information on depth, quality, and quantity would be known prior to well construction

Better ground water information will increase the timeliness and efficiency of permitting and regulatory procedures

New opportunities for ground water development will be identified

EXHIBIT 3  
DATE 3-12-91  
HB 718

HOUSE NATURAL RESOURCES COMMITTEE

MARCH 12, 1991

TESTIMONY ON HB 718--PERMITTING THE DHES TO COLLECT FEES AND ESTABLISHING A SPECIAL REVENUE ACCOUNT

PRESENTED BY ABE HORPESTAD

The Department of Health and Environmental Sciences supports HB 718. DHES permitting staff has been the same size for 15 years while the number of permits has increased and more importantly the complexity of the regulations and the permits has increased tremendously. The Department is not able to monitor or inspect all of these permit holders even once per year. In addition, the holders of valid operating permits from The Department of State Lands are exempt from DHES ground water permit requirements. Many of these operating permits are for large mines. At the present time there is no routine inspection or monitoring of these operations to assure compliance with the water quality requirements of state law.

This bill would allow the Board of Health and Environmental Sciences to adopt a fee schedule. This adoption would require public involvement and a public hearing.

In addition fees could be charged to cover the costs associated with appeals under the nondegradation provisions of state law.

Section 2 of the proposed legislation clearly limits the amount of any fee to the actual cost incurred by the Board and the Department.

The fiscal note assumes that all major dischargers and major mines would be inspected twice per year. Please note that in the process of developing a fee schedule the Board will be required to hold a public hearing. Because of this process the actual fiscal impact of this bill cannot be predicted.

As already mentioned, DHES supports the concepts in this bill but feels that the bill should be amended to clarify that any collected funds may be used to provide additional services, provide that any fees collected shall be collected in cooperation with any other fees that will be collected for the same operation, and that only operations or activities regulated as a result of the Montana Water Quality Act are subject to the provisions of this bill.

We have prepared amendments that would address these concerns and offer them for your consideration. We would be happy to answer any questions.

hb718

1 INTRODUCED BY

*Levi SE* BILL NO. *718*

2  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE  
5 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO COLLECT  
6 FEES TO OFFSET WATER QUALITY PROGRAM COSTS FOR ISSUING  
7 PERMITS AND MONITORING ACTIVITY; ESTABLISHING A WATER  
8 QUALITY SPECIAL REVENUE ACCOUNT INTO WHICH THE COLLECTED  
9 FEES ARE TO BE PAID; AND PROVIDING AN IMMEDIATE EFFECTIVE  
10 DATE."

## STATEMENT OF INTENT

11  
12  
13 A statement of intent is required for this bill because  
14 it authorizes the board of health and environmental sciences  
15 to adopt rules providing schedules for fees to be assessed  
16 to applicants for or holders of certain permits or licenses.  
17 The intent of this bill is to allow the department of health  
18 and environmental sciences to charge for its services in  
19 preparing and administering permits and for costs of  
20 monitoring sites to ensure compliance with permit conditions  
21 developed pursuant to Title 75, chapter 5, MCA. The board of  
22 health and environmental sciences shall develop fee  
23 schedules that result in revenues that do not exceed the  
24 documented costs of providing the services. *the log sheet*  
25 *150 M.T. 15 6.11*

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

2 NEW SECTION. Section 1. Fees authorized for cost

3 recovery. (1) The board may adopt fee schedules and  
4 authorize the department to assess a fee to recover a part  
5 or all of:

(a) the department's costs in reviewing an application  
~~for a state permit or license;~~

(b) the department's costs in processing ~~and~~ monitoring  
~~or certification~~ *an application for a permit or certificate*

a permit authorized by rule pursuant to 75-5-401;

(c) the department's costs in ~~monitoring~~ activity *reviewing an application for a state permit, certificate*

*undertaken pursuant to a state permit or license or in*  
*which activity is excluded by rule pursuant to 75-5-401*  
*from having to obtain a permit or certificate under Title*  
*75 (d) the board's and department's costs related to*

determinations pertaining to nondegradation of state waters  
pursuant to 75-5-303.

(2) The fee schedules may not result in the collection  
of revenues exceeding the board's and department's  
documented costs.

(3) Fees collected pursuant to this section must be  
deposited in the water quality special revenue account  
established in [section 2].

3 NEW SECTION. Section 2. Water quality special revenue

account. (1) There is a water quality special revenue  
account within the state special revenue fund established in

DRAFT

Proposed Amendments to House Bill 718  
Montana Department of Health and Environmental Sciences

Presented to  
House Natural Resources Committee  
February \_\_, 1991

1. Statement of Intent

Following: line 24 on page 1

Insert: " The legislature also intends that the fees collected pursuant to [section 1] may be used for increased effort by the Department of Health and Environmental Sciences in reviewing a permit, certificate, or license application and in monitoring activities that are under a permit, certificate, or license addressed by this bill. In addition, the legislature intends that the Board of Health and Environmental Sciences in developing its rules shall provide a mechanism for coordinating collection of fees when another state agency in addition to the Department of Health and Environmental Sciences requires a fee for an activity affected by this bill.

2. Page 2, lines 6 and 7.

Strike: subsection (a) in its entirety

Renumber: subsequent sections

3. Page 2, line 8

Following: "processing"

Insert: "an application for a permit or certificate"

4. Page 2, line 9

Following: "permit"

Insert: "or certificate"

5. Page 2, line 10.

Following: "in"

Insert: "reviewing an application for a state permit, certificate, or license or, in"

6. Page 2, line 11

Following: "permit"

Insert: ", certificate,"

7. Page 2, lines 11 through 13

Following: "license" on line 11

Strike: remainder of line 11 through line 13 in their entirety

Insert: ", which activity is excluded by rule pursuant to 75-5-401 from having to obtain a permit or certificate under Title 75, chapter 5;"

PROPOSED AMENDMENTS TO HB 718

House Bill 718 is hereby amended to read as follows:

1. Page: 1  
Line: 9  
Following: "AND PROVIDING AN"  
Strike: "IMMEDIATE EFFECTIVE DATE"  
Insert: "APPEAL PROCEDURE FOR RESOLUTION OF FEE DISPUTES"
2. Page: 2  
Following: Line 22  
Insert: "(4) The department shall notify an applicant for a state permit or license in writing of the amount of the fee to be assessed and the basis for the department's fee assessment under this section.  
(5) An applicant for a permit or license may appeal the department's fee assessment to the board within 20 days after receiving written notice of the department's fee determination under subsection (4). The appeal to the board must include a written statement detailing why the department's fee assessment is erroneous or excessive.  
(6) If part of the department's fee assessment is not in dispute in an appeal filed pursuant to subsection (5), the undisputed portion of the fee must be paid to the department upon written request of the department.  
(7) The contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, apply to any hearing before the board under this section."
3. Page: 3  
Lines: 11 and 12  
Strike: Section 4 in its entirety.



2301 Colonial Drive  
Helena, Montana 59601  
Phone (406) 443-7297

EXHIBIT 7  
DATE 3-12-91  
HB 718

## MEMORANDUM

TO: Montana House of Representatives, Natural Resources Committee

FROM: Gary Langley

RE: HB 718

The Montana Mining Association, which represents the hardrock industry in Montana, is opposed to HB 718. The Association is opposed to inspection or other special fees as matter of policy.

This position was reiterated last year by the Governor's Mine Permit Improvement Advisory Council, which was comprised of representatives of the mining industry, environmental groups and regulators. After more than a year of studying the mine permitting process, the Council concluded: "To ensure that the State's Hardrock Mine Permitting program is stable and has the resources necessary to meet its legal mandate in an efficient and effective manner, the State must maintain a strong financial commitment to the program through the general fund or existing mining related taxes."



0  
DATE 3-12-91  
SS  
HB 455

Senate Bill 455  
House Natural Resources Committee  
March 12, 1991

Mr. Chairman, members of the committee, for the record my name is Pam Langley and I represent the Montana Agricultural Business Association, the Montana Grain Elevator Association, the Montana Seed Trades Association and the Pacific Northwest Grain and Feed Association.

All four groups wholehearted support this legislation. I won't take up your time to go into the details as to why we support it--you know from the hearing January 23 on House Bill 233 sponsored by Rep. Francis Bardanoue that it is vital to us. Passage this session of House Bill 233 and the added protection in Senate Bill 455 is very important as the Glacier Park Company is already selling the land we lease out from under us.

The only difference between this legislation and House Bill 233 is an added section at the bottom of page 2, beginning on line 19. We support this additional language. It protects us from being outbid for our leases and for a new lessee to purchase our improvements should we not be able to meet the bid. The language was taken from existing law governing leasing of state lands.

While in the past, we leased from railroads who wanted our business, the scene is now changed. We are now leasing from real estate companies whose only interest is how much return they can realize from the dollar. And, we are caught. We made improvements on the leased land in a time when railroads would not sell us the land. Now, it is being leased or sold to the highest bidder and we must remove our improvements within 30 to 90 days.

Senate Bill 455 was introduced at the end of February after House Bill 233 had been in this committee for nearly a month and transmittal deadline was upon us. It passed the Senate 49-0 and we would urge you to also support this legislation.

Thank you for your time and attention.

Amendments to House Bill No. 906  
First Reading Copy

EXHIBIT 9  
DATE 3-12-91  
HB 906

Requested by Rep. Cohen  
For the Committee on Natural Resources

Prepared by Paul Sihler  
March 11, 1991

1. Page 6, line 11.

Following: "university."

Insert: "The forestry services must be conducted at Montana state  
university, the university of Montana, and Flathead Valley  
community college."

10  
DATE 3-12-91  
HB 906

Amendments to House Bill No. 906  
First Reading Copy

Requested by Rep. Connelly  
For the Committee on Natural Resources

Prepared by Paul Sihler  
March 5, 1991

1. Page 3, line 14.

Following: "cut."

Insert: "The assessment may not exceed \$20,000 a year."

2. Page 5, line 3.

Following: "cut."

Insert: "The assessment may not exceed \$20,000 a year for each  
master fire hazard attachment."

Amendments to House Bill No. 215  
First Reading Copy

EXHIBIT 11  
DATE 3-12-91  
HB 215

Requested by Rep. Raney  
For the Committee on Natural Resources

Prepared by Gail Kuntz  
February 18, 1991

1. Title, lines 5 and 6.

Following: "ACT" on line 5

Strike: "CHANGING THE NAME OF THE MONTANA RESOURCE INDEMNITY TRUST ACT"

Insert: "INCREASING THE RATE OF THE METAL MINE LICENSE TAX"

2. Title, lines 8 and 9.

Following: "SECTIONS" on line 8

Strike: "15-38-101, 15-38-102, AND 15-38-106"

Insert: "7-6-2225, 7-6-2226, 15-37-103, 15-37-117, AND 20-9-231"

3. Page 1, line 12 through page 3, line 16.

Following: line 11

Strike: sections 1 through 4 in their entirety

Insert: "'Section 1. Section 15-37-103, MCA, is amended to read:

"15-37-103. Rate of tax. (1) The annual license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced shall be an amount computed on the gross value of product which may have been derived by the person from mining business, work, or operation within this state during the calendar year immediately preceding.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	<del>1.81%</del> <u>1.97%</u> of the increment

(3) Gold, silver, or any platinum-group metal that is dore, bullion, or matte and that is shipped to a refinery is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	<del>1.6%</del> <u>1.74%</u> of the increment"

Section 2. Section 15-37-117, MCA, is amended to read:

"15-37-117. Disposition of metalliferous mines license taxes. (1) Metalliferous mines license taxes collected under the provisions of this part are allocated as follows:

(a) to the credit of the general fund of the state, 58%  
53.3% of total collections each year;

(b) to the state special revenue fund to the credit of a

and may use the remaining funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection

(2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the reserve account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account."

**Section 4.** Section 7-6-2226, MCA, is amended to read:

**"7-6-2226. Metal mines tax reserve account.** (1) The governing body of a county receiving tax collections under 15-37-117~~(1)(d)~~ (1)(e) may establish a metal mines tax reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve account must be credited to the account."

**Section 5.** Section 20-9-231, MCA, is amended to read:

**"20-9-231. Metal mines tax reserve account.** (1) The governing body of a local school district receiving tax collections under 15-37-117~~(1)(d)~~ (1)(e) may establish a metal mines tax reserve account to be used to hold the collections. The governing body may hold money in the account for any time period deemed appropriate by the governing body. Money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(2) Money may be expended from the account for any purpose provided by law.

(3) Money in the account must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve account must be credited to the account."

Amendments to House Bill 216  
First Reading Copy

EXHIBIT 12  
DATE 3-12-91  
HB 216

Requested by Rep. Raney  
For the Committee on Natural Resources

Prepared by Gail Kuntz  
March 9, 1991

1. Page 1, line 13.

Strike: "[LC 787]"

Insert: "House Bill No. 215"

2. Page 1, line 15.

Strike: "[LC 785]"

Insert: "Senate Bill No. 94"

3. Page 1, line 17.

Following: line 16

Strike: "[LC 785] and [LC 787]"

Insert: "Senate Bill No. 94 and House Bill No. 215"

4. Page 1, line 18.

Following: "void."

Insert: "If Senate Bill No. 94 and House Bill No. 215 are passed and approved and if Senate Bill No. 94 contains a statutory appropriation, then [this act] is void."

EXHIBIT 13  
DATE 3-12-91  
SB 94  
~~HB~~

Amendments to Senate Bill No. 94  
Third Reading Copy

Requested by Rep. Raney  
For the Committee on Natural Resources

Prepared by Gail Kuntz  
March 9, 1991

1. Title, line 8.  
Following: "ACCOUNT;"  
Insert: "ESTABLISHING A STATUTORY APPROPRIATION;"
2. Title, line 11.  
Following: "PROGRAMS;"  
Insert: "AMENDING SECTION 17-7-502, MCA;"
3. Page 4, lines 9 and 10.  
Following: "year," on line 9  
Strike: the remainder of line 9 through "assessment" on line 10  
Insert: "there is statutorily appropriated, as provided in 17-7-502, 8.1% of the metal mine license"
4. Page 4, line 11.  
Following: "by"  
Strike: "[LC 787]"  
Insert: "[House Bill No. 215]"
5. Page 9, line 9.  
Following: line 8  
Insert: "Section 8. Section 17-7-502, MCA, is amended to read:  
"17-7-502. Statutory appropriations -- definition --  
requisites for validity. (1) A statutory appropriation is an  
appropriation made by permanent law that authorizes spending by a  
state agency without the need for a biennial legislative  
appropriation or budget amendment.  
(2) Except as provided in subsection (4), to be effective,  
a statutory appropriation must comply with both of the following  
provisions:  
(a) The law containing the statutory authority must be  
listed in subsection (3).  
(b) The law or portion of the law making a statutory  
appropriation must specifically state that a statutory  
appropriation is made as provided in this section.  
(3) The following laws are the only laws containing  
statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203;  
10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-  
31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-  
1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-804; 19-8-  
504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-  
512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-  
111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206;  
61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313;

14  
DATE 3/12/91  
SB 114

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 3/12/91 BILL NO. SB 114 NUMBER 1

MOTION: SB 114 BE CONCURRED IN ~~DO PASS~~ AS Amended

REP. RANEY moved that SB 114 be concurred in as amended.

NAME	AYE	NO
REP. MARK O'KEEFE, VICE-CHAIRMAN	/	
REP. BOB GILBERT		/
REP. BEN COHEN		/
REP. ORVAL ELLISON	ABSENT	
REP. BOB REAM	/	
REP. TOM NELSON		/
REP. VIVIAN BROOKE		/
REP. BEVERLY BARNHART	/	
REP. ED DOLEZAL		/
REP. RUSSELL FAGG		/
REP. MIKE FOSTER		/
REP. DAVID HOFFMAN		/
REP. DICK KNOX	/	
REP. BRUCE MEASURE	/	
REP. JIM SOUTHWORTH	/	
REP. HOWARD TOOLE	/	
REP. DAVE WANZENRIED		/
REP. BOB RANEY, CHAIRMAN	/	
TOTAL	8	9

Do Pass failed

moved later to table

8 9



HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 94

DATE 3-12-91

SPONSOR(S) Sen. Beck - Ground Water monitoring programs

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marvin Miller	MRMG	✓	
Edward Ruppel	MRMG	✓	
Anna McMillen	DNRC		
John Luther	DNRC		
Susan Lenard	MT Audubon	X	
JOHN ARRIGO	DHES	✓	
Dennis Olson	NPRC	✓	
Jim Jensen	WETC	X	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. HB 718  
DATE 3-12-91 SPONSOR(S) Rep. Elliott - Water quality special rev. acct.  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Abe Horpestad Helen	Dept of Health	X	
Tom Hoggood	Mt. Assor. Realtors		✓
Steve Brown	Noranda	Support w/ Amend.	
John Fitzpatrick	Pegasus Gold	Amend	
Sen. Bradshaw	MTU	✓	
Kim Wilson	Clark Fork	✓	
Jim Jensen	MEIC	X	

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**HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER**

Natural Resources COMMITTEE BILL NO. SB 114  
 DATE 3-12-91 SPONSOR(S) Sen. Weeding - local referendum on megalandfill  
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Kay Blum	NPRC	X	
Ronnie Hanson	MS CA	X	
Chris Kaufman	MEIC	X	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO. SB 402

DATE 3-12-91

SPONSOR(S) Sen. Yellowstone - public hearings for NW  
Power planning committee

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
RONNE HANSON	MSCK	X	
Jim Jensen	MEIC	X	
Dennis Olsen	NPRC	X	
Steve Chertis	N.P.R.C.	X	
Terri Wilner	NW Power Planning		

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. SB 225  
DATE 3-12-91 SPONSOR(S) Sen Gage - Revise oil + gas board + penalties

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DOUG ABELIN	NORTH MONTANA OIL & GAS	L	
DEE RICKMAN	MT Board of Oil & Gas	✓	

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HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

## Natural Resources

**COMMITTEE**

BILL NO. SB 455

DATE 3-12-91

SPONSOR(S) Sen Thayer - first right of purchase on lease  
right away

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**PLEASE PRINT**

**PLEASE PRINT**

[illegible]

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