

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BOB RANEY**, on March 27, 1991, at 12:24 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)
Orval Ellison (R)
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)

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

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

EXECUTIVE ACTION ON HB 971

Motion: REP. COHEN MOVED HB 971 DO PASS.

Motion: REP. COHEN moved to amend HB 971. EXHIBIT 1

Discussion: REP. COHEN said that in many places in the bill, references to "wildlife" were changed to "wildlife habitat." He reviewed the amendments. EXHIBIT 1

He noted there was no time to prepare technical amendments from the Department of Revenue, but the agency has said they parallel the technical amendments put on HB 476. He suggested he move those amendments first and the second set of amendments will be conceptual to instruct Gail Kuntz, Environmental Quality Council,

to make the changes.

CHAIRMAN RANEY said the first vote will be on the amendments in **EXHIBIT 1**. There were 15 amendments. A 16th amendment was added to include "habitat" on Page 17, Line 9.

Vote: Motion to amend HB 971 carried unanimously.

Discussion: **REP. COHEN** said technical amendments from the Department of Revenue (DR) are identical to those put on HB 476. When HB 971 was written, severance tax language was the same as in HB 476. Department amendments were put on it to correct it. That is what these amendments will do.

Motion/Vote: **REP. COHEN** moved to adopt Department of Revenue amendments. Motion carried unanimously.

Discussion: **REP. WANZENRIED** submitted and reviewed amendments to HB 971. He said the effect of amendment No. 1 is to delete wildlife viewing from recreation. **EXHIBIT 2**

Motion: **REP. WANZENRIED** moved to amend HB 971. **EXHIBIT 2**

Discussion: **REP. COHEN** said Janet Ellis from the Audubon Society worked closely with him and Stan Bradshaw from Trout Unlimited to draft the bill. It was Ms. Ellis' request to include wildlife language. He asked if the committee could vote on each amendment separately. **REP. WANZENRIED** agreed. **CHAIRMAN RANEY** said the motion being voted upon is amendment No. 1, which basically will strike "wildlife viewing" to make it "wildlife."

Vote: Motion to adopt **REP. WANZENRIED's** amendment No. 1 carried 15-3, with **REPS. O'KEEFE, COHEN** and **BARNHART** voting no.

Discussion: **CHAIRMAN RANEY** said the second amendment strikes subsection (e).

REP. COHEN said old growth forest is near and dear to his heart because little is left in Montana. The recognition of wildlife habitat will also recognize the need for old growth forest. This language is perceived by the industry as being inflammatory.

Vote: Motion to adopt **REP. WANZENRIED's** amendment No. 2 carried 17-1, with **REP. COHEN** voting no.

Motion: **REP. COHEN** MOVED HB 971 DO PASS AS AMENDED.

Discussion: **REP. BARNHART** asked what would happen if all three bills pass. **CHAIRMAN RANEY** said it is all right if all three pass. At some point, all three will not pass. The bills do not conflict with each other, so they may all pass or fail.

REP. BARNHART asked if the sponsors of the three bills got together. **REP. MEASURE** said yes, they met briefly. His bill is

probably the least pretentious for industry. REP. DOLEZAL's bill is probably the least pretentious from an environmental standpoint. REP. MEASURE said he had planned to make a motion to table his own bill after incorporating into in most of REP. COHEN's bill. He didn't know if REP. DOLEZAL could do that. He also had other amendments to offer that are unrestrictive and not mandatory Best Management Practices (BMPs). There is nothing in his bill that is not in REP. COHEN's bill already. REP. COHEN's bill is substantially more restrictive than his.

CHAIRMAN RANEY asked REP. MEASURE if he intends to move to table his bill if this motion passes, and if he will move a "do pass" on his bill if the motion fails. REP. MEASURE said yes.

REP. COHEN said the vast majority of landowners who want to harvest timber on their land will notify the Department of State Lands (DSL), which they are required to do now. DSL must contact them within 10 days, which they also are required to do now. Onsite consultations are at the discretion of DSL. The landowner cannot refuse one. As long as the landowner is abiding by BMPs, in 99 percent of the cases, this bill will have no impact on logging operations. It will charge a \$1 per 1,000 board-feet severance tax for administration of this and to fund the extension forestry program.

Vote: HB 971 DO PASS AS AMENDED. Motion failed 8-10. EXHIBIT 3

EXECUTIVE ACTION ON HB 984

Motion: REP. MEASURE MOVED HB 984 DO PASS.

Motion: REP. MEASURE moved to amend HB 984.

Discussion: REP. MEASURE said he wants to reduce the severance tax from 75 cents per 1,000 board-feet to 50 cents per 1,000 board-feet; to put a two-year sunset on the severance tax; and to apply the proceeds of the severance tax to the forest management practices act, and to studying and implementing a productivity tax on forest lands. It takes about \$300,000 to do that.

REP. COHEN said a productivity base for taxing timberlands is the base for establishing the assessed value on property tax. There is no way to tax forest lands separately from other property based on productivity. That would be a property tax. He would support the amendment to use severance tax to establish a productivity base for taxing timberlands, but he doesn't know of a way to tax timberlands to support this program. REP. MEASURE said that is probably something he will have to come back to the Legislature for, to see if it can be refunded.

REP. REAM asked how much revenue would be generated with the severance tax at 50 cents. REP. MEASURE said it generates about \$600,000 each year. REP. REAM asked about the sunset of the severance tax. REP. MEASURE said it will sunset after the

productivity tax is implemented. REP. REAM asked if some of the revenue were going to be used for other purposes. REP. MEASURE said the other purpose was to fund the Forest Management Practices Act. REP. REAM asked how it could sunset then. REP. MEASURE said another tax would have to be implemented to fund it or the program would end.

Ms. Kuntz asked REP. MEASURE if the amount of money intended for administration of the act involves DSL and the Department of Revenue. REP. MEASURE said yes, both departments are involved. The sunset period will have to be three years because the study takes three years.

REP. COHEN said the fiscal notes shows about 1.2 billion board-feet of timber is harvested each year. He wouldn't be surprised if the number dropped in 1990 and 1991, unless the housing market picks up. At 1.2 billion board-feet and 50 cents per 1,000 board-feet, the tax will generate about \$600,000. The productivity study, according to the Department of Revenue, costs about \$340,000 a year for three years. During that three-year period, about \$260,000 would be left for the Department to administer this act. He isn't sure that much is needed. REP. MEASURE said no, but it would be adequate.

CHAIRMAN RANEY clarified the motion. He said the amendments would reduce the severance tax from 75 cents to 50 cents per 1,000 board-feet; put a three-year sunset on the severance tax; and apply the proceeds to the forest management plan and to implement the productivity tax on forest lands.

Vote: Motion to amend HB 984 carried unanimously.

Motion: REP. MEASURE MOVED HB 984 DO PASS AS AMENDED.

Discussion: REP. TOOLE asked REP. MEASURE to summarize what the bill does compared to REP. COHEN's bill. REP. MEASURE said REP. COHEN's bill addressed several areas besides forest management. The committee should provide a vehicle for industry and environmental concerns to address bad practices as well as good practices. It addresses some of the same things that REP. REAM's bill addresses, such as stream-side management zones, coordinating air quality and collecting tax to fund it. Some penalties are included for violation of mandatory BMPs.

Vote: HB 984 DO PASS AS AMENDED. Motion failed 8-10. EXHIBIT 4

EXECUTIVE ACTION ON HB 991

Motion: REP. DOLEZAL MOVED HB 991 DO PASS.

Motion: REP. DOLEZAL moved to amend HB 991.

Discussion: REP. DOLEZAL said he hopes HB 991 will address the effects of clear-cutting. He wanted to amend Line 19 on Page 1 to

strike the word "prohibit" and enter the word "study," and to delete Section 3, Lines 1 through 3, on Page 3. He said Section 4 may need a technical amendment to address sections the rules will apply to. Since there is no prohibition, there is no need for enforcement, injunctions and penalties. He wanted to strike sections 5 through 9 on Page 5. To ensure the study would be funded and the money would not be lost in some other account, he wanted to change the word "enforcement" on Line 7 of Section 9, regarding the forest practices enforcement account, to the word "research." He wanted to amend Line 24 on Page 5 to establish a severance tax to fund the study and to change it from 15 cents to 5 cents, which will generate about \$50,000 per year. He would leave it up to the Legislative Council to make any other necessary technical amendments. What is left in the bill is a study for the effects of clear-cutting, with a 5 cent severance tax.

REP. GILBERT asked who will conduct the study. REP. DOLEZAL said it will be determined by the State Land Board.

CHAIRMAN RANEY said there is a problem with the statement of intent on Line 18. He asked if it were true that rules adopted by the board study the practice of clear-cutting. A section also will be needed to provide for the DSL to do the study. REP. DOLEZAL said the amendments were prepared hastily. CHAIRMAN RANEY asked if he wanted the researcher to adopt the language in the statement of intent to reflect what is needed. This would be a conceptual amendment. REP. DOLEZAL said yes. He suggested he get together with Ms. Kuntz to come up with acceptable amendments. CHAIRMAN RANEY said it will be too late. REP. HOFFMAN said the conceptual amendments are fine and the committee understands them.

REP. COHEN said he is concerned that the 5 cents per 1,000 board-feet will not generate enough money for the Department of Revenue to put the severance tax in place. Brian Smith, Department of Revenue, said it will cost about \$140,000 to start up the severance tax.

CHAIRMAN RANEY asked REP. DOLEZAL if he wanted to strike the proposed reduction of the tax from 15 cents to five cents and to go to the floor with what is found to be the proper amount. REP. DOLEZAL agreed.

CHAIRMAN RANEY said that portion of the amendment is gone. The severance tax will not be reduced. It will remain at 15 cents. He clarified the motion, saying the amendment now will conceptually amend the statement of intent to study clear-cutting, instead of prohibiting clear-cutting; it will delete sections 3 and 5-8; Section 9 will be changed to reflect a forest practices "research" account, instead of a forest practices "enforcement" account; technical amendments will be added to make it all work; and a section will be added to direct DSL to do the study.

REP. GILBERT said the first year's money will be used up just setting up a study. Perhaps the state of Washington could be asked for copies of their studies.

REP. MEASURE said pertinent information is not available. A few eastern Washington forests resemble a few sites in western Montana; but as a whole, they don't compare because of the different moisture levels.

CHAIRMAN RANEY asked REP. MEASURE if he were aware of any studies on the effects of clear cutting. REP. MEASURE said lots of studies have been done, but they are not pertinent to how forest management is affected.

REP. COHEN said the state forester and the Flathead Basin Commission are studying water quality in the Flathead Basin. Results show increases in sedimentation from forest practices in the drainages being studied. National, state and private forests are being studied. It would be better to financially assist ongoing studies than to set up another one.

Vote: Motion to amend HB 991 carried 16-2, with REPS. GILBERT and FOSTER voting no.

Motion/Vote: REP. DOLEZAL MOVED HB 991 DO PASS AS AMENDED. Motion failed 5-13. EXHIBIT 5

Motion/Vote: REP. REAM MOVED THAT HB 991, HB 984, AND HB 971 BE TABLED. Motion carried 13-5, with REPS. COHEN, WANZENRIED, SOUTHWORTH, MEASURE and DOLEZAL voting no.

ADJOURNMENT

Adjournment: 1:35 p.m.



REP. BOB RANEY, Chairman



LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 5/27/91

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	/		

Amendments to House Bill No. 971
First Reading Copy

Requested by Rep. Cohen
For the Committee on Natural Resources

Prepared by Gail Kuntz
March 27, 1991

1. Page 3, line 13.
Following: "wildlife"
Insert: "habitat"
2. Page 3, line 22.
Following: "wildlife"
Insert: "habitat"
3. Page 9, line 1.
Following: "wildlife"
Insert: "habitat"
4. Page 12, line 5.
Following: "wildlife"
Insert: "habitat"
5. Page 12, line 18.
Following: "wildlife"
Insert: "habitat"
6. Page 13, line 6.
Following: "(a)"
Strike: "nine-tenths of"
7. Page 13, line 7.
Following: "[section 14]"
Insert: "after the allocation to the forestry extension service
account provided for in [section 26]"
8. Page 13, line 12.
Following: "by"
Insert: ": (a)"
9. Page 13, line 15.
Following: "forestry"
Insert: "; and
(b) the department of revenue to administer [sections 14
through 26]"
10. Page 14, line 9.
Following: "wildlife"
Insert: "habitat"
11. Page 17, line 16.
Following: "is"

Strike: "\$1.50"
Insert: "\$1.00"

12. Page 25, line 18.
Following: "(a)"
Strike: "one-tenth"
Insert: "\$400,000 per biennium"

13. Page 26, line 11.
Following: "(1)"
Strike: "one-tenth"
Insert: "\$400,000 per biennium"

14. Page 26, line 13.
Following: "[section 25]"
Strike: "."
Insert: "; and"

15. Page 26, line 14.
Following: "(2)"
Strike: "nine-tenths"
Insert: "the remainder"
10.

16. Page 17, line 9.
Following: "wildlife"
Insert: "habitat"

Amendments to House Bill No. 971
First Reading Copy

Requested by Rep. Wanzenried
For the Committee on Natural Resources

Prepared by Gail Kuntz
March 27, 1991

1. Pages 5 and 6.

Following: "hunting," on page 5, line 25.

Insert: "and"

Following: "skiing"

Strike: the remainder of line 25 through "viewing" on page 6,
line 1.

2. Page 10, lines 1 through 3.

Strike: subsection (e) in its entirety

Renumber: subsequent subsections

EXHIBIT 3
DATE 3/27/91
HB 971

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 3/27/91 BILL NO. 4B971 NUMBER 1

MOTION: Do pass as amended

NAME	AYE	NO
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	/	
TOTAL	8	10

failed

EXHIBIT 4
DATE 3/27/91
HB 984

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 3/27/91 BILL NO. HB 984 NUMBER 1

MOTION: _____

Do pass as amended

NAME	AYE	NO
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	✓	
TOTAL	9	10

failed

EXHIBIT 3
DATE 3/27/91
HB 991

HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 3/27/91 BILL NO. HB 991 NUMBER 1

MOTION: Do pass as amended

NAME	AYE	NO
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		✓
TOTAL	5	13

failed