

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Lawrence Stimatz, on March 25, 1991, at

ROLL CALL

Members Present:

Lawrence Stimatz, Chairman (D)
Cecil Weeding, Vice Chairman (D)
John Jr. Anderson (R)
Esther Bengtson (D)
Don Bianchi (D)
Steve Doherty (D)
Lorents Grosfield (R)
Bob Hockett (D)
Thomas Keating (R)
John Jr. Kennedy (D)
Larry Tveit (R)

Members Excused: None.

Staff Present: Gail Kuntz (EQC).

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

Announcements/Discussion: There were no announcements.

HEARING ON HJR 31

Presentation and Opening Statement by Sponsor:

Representative Raney, District 82, stated that the resolution assigns the Environmental Quality Council the task of studying Montana's energy resources and energy use in order to develop a proposed state energy policy. Energy conservation is the main goal of the resolution, Raney said. Raney said he did not sign the fiscal note because he was unable to understand why an additional full time employee was needed at the Department of Natural Resources or additional staff for the Environmental Quality Council.

Proponents' Testimony:

Neva Hassanein, Northern Plains Resource Council, appeared in support of HJR 31 and stated she hoped the comprehensive energy policy discussed in the resolution could be established by the next legislative session.

Janet Ellis, testified in support of HJR 31. (EXHIBIT #1).

John Lahr, on behalf of Montana Power, told the committee that he felt the fiscal note was "nonsense." Lahr said he was very comfortable with EQC conducting a study. "It is important to have EQC conduct the study, Lahr said, because it allows the legislature to control the study."

Gene Phillips, Pacific Power & Light, testified in support of HJR 31.

John Alke, Montana Soil & Utilities Company, stated support for HJR 31.

Alan Davis, Department of Natural Resources and Conservation, told the committee that DNRC had talked to the resolution's sponsor and there would be "some adjustments made regarding the fiscal note."

Dan Elliot, Public Service Commission, stated that "the two-year study period would allow consensus to develop in what could be a very complicated area."

Opponents' Testimony:

There were no opponent's to the resolution.

Questions From Committee Members:

There were no questions from the committee.

Closing by Sponsor:

Representative Raney stated he was "pleased that the committee, environmental organizations and the public service commission are all able to work together" and asked for the resolution to be concurred in.

HEARING ON HB 485

Presentation and Opening Statement by Sponsor:

Representative Raney, District 82, stated HB 485 is designed to do "some cleanup work" on the Petroleum Tank Release and Compensation Fund established in the previous legislative session. The bill was requested by the petroleum board, Raney said.

Proponents' Testimony:

Jean Riley, Executive Director of the Petroleum Tank Release Compensation Board, stated that the bill addresses changes to Title 75, Chapter 11, Part 3. (EXHIBIT #1).

Frank Gessman, Department of Health and Environmental Sciences, testified in support of HB 485. (EXHIBIT #2 and 2a).

Rona Alexander, Montana Petroleum Marketer's Association, appeared in support of HB 485.

Chris Kaufman, Montana Environmental Information, stated that the MEIC were supporter's of HB 603 last session and favored changes made within HB 485.

Candace C. Mills, Mills Repair, Belgrade, submitted amendments to HB 485. (EXHIBIT #3).

Opponents' Testimony:

There were no opponents to HB 485.

Questions From Committee Members:

Senator Weeding asked Jean Riley why di minimus had been substituted for minimal?

Riley explained that di minimus concerned parts per million and the language change was done simply for consistency within the compensation fund organization.

Closing by Sponsor:

Representative Raney told the committee that HB 485 was one of his noncontroversial bills.

EXECUTIVE ACTION ON HJR 31

Motion:

Senator Bianchi moved that HJR 31 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Bianchi that HJR 31 BE CONCURRED IN carried unanimously.

EXECUTIVE ACTION ON HB 485

Motion:

Senator Bianchi moved that HB 485 BE CONCURRED IN.

Discussion:

Senator Keating asked if costs imposed on people were too high?

Jean Riley commented that the Board needs \$17,500 for assets rather than liquid assets as the cost of replacement tanks is not covered by the Board.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion that HB 485 BE CONCURRED IN carried unanimously.

HEARING ON HB 639

Presentation and Opening Statement by Sponsor:

Representative Hansen, District 57, presented HB 639 which would increase the cost for disposal of refuse and increase the fine to \$25.

Proponents' Testimony:

Mitzi Schwab, Department of Health and Environmental Sciences, testified in support of the bill. (EXHIBIT #1).

Kelly Logan, District Sanitarian, Richland and McCone County Health Departments, testified in support of HB 639. (EXHIBIT #2).

Opponents' Testimony:

There were no opponents' to HB 639.

Questions From Committee Members:

Senator Hockett suggested to Representative Hansen that perhaps the penalty wasn't high enough.

Representative Hansen replied that the \$25 amount was requested

as that was the amount authorized in the current programs.

Senator Hockett asked if there were problems with waste being disposed of improperly.

Representative Hansen stated that the Sanders County Sanitarian had reported waste being dumped in their gravel pit but said she wasn't sure the extent of improper dumping elsewhere in the state.

Senator Keating stated he didn't feel the \$25 fine paid to the county was enough.

Mitzi Schwab commented that health projects weren't always ranked as high as they should be.

Senator Bengtson asked who had the responsibility to file a complaint about improper dumping.

Schwab stated if complaints are received at the state office or through the local health department, fines are worked out with the individual responsible.

Senator Keating asked why the bill wasn't introduced to the local government or public health committees? Keating said he felt local health services should be a part of the program, "especially when there is a threat to the public health."

Representative Hansen stated that the bill was an important one for Missoula County since the 35,000 people who live outside the city limits use septic tanks.

Closing by Sponsor:

Representative Hansen asked that HB 639 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 639

Motion:

Senator Kennedy moved that HB 639 BE CONCURRED IN.

Discussion:

Senator Tveit asked if anyone truly felt the \$25 penalty fee would make a difference.

Senator Weeding commented that he would vote for the bill but wasn't sure if a \$25 assessment "will do any good." Weeding stated that what was really needed were penalties to keep those in violation from continuing to operate.

Amendments, Discussion, and Votes:

None.

Recommendation and Vote:

Motion by Senator Kennedy that HB 639 BE CONCURRED IN passed unanimously.

EXECUTIVE ACTION ON HB 607

Motion:

Senator Grosfield asked if the Department of Health and Environmental Sciences had concerns about negligible risk assessment.

Senator Weeding replied that DHES had stated that they would develop a health risk assessment.

Senator Grosfield moved that the language in the bill be changed to read: "based on a reasonable and practical health risk assessment."

Senator Weeding reminded the committee that the phrase "reasonable and practical health risk assessment" was included in the bill in parenthesis in existing language.

Senator Weeding told Stan Grace, NW Power Planning Council, that although he was concerned about reclamation and water quality, he was primarily concerned with the bigger picture such as the ozone layer and that ultimately, there would have to be some money appropriated toward those concerns.

Grays replied that NW Power Company had not been asked to speak for or against the resolution, but felt the Power Company would support the resolution and also noted he could "guarantee" that the company were interested in global energy concerns.

Senator Doherty asked Grays what other states had done regarding fuel conservation.

Grays stated that Idaho had not entirely implemented their conservation standards and that Washington had a program currently in place.

Senator Doherty moved that HB 607 BE CONCURRED IN.

Discussion:

Gail Kuntz, Environmental Quality Council, explained to the committee that the House Natural Resources committee requested a Statement of Intent within HB 607 to develop the term negligible risk. Kuntz stated that Senator Grosfield's amendments were

therefore no longer necessary in the resolution.

Senator Grosfield stated that he did not find the present language within the resolution was not "reasonable and practical" and would like to insert on line 7, before the word "risk" insert the words "reasonable and practical Health risk assessment."

Amendments, Discussion, and Votes:

Motion to adopt Senator Grosfield's amendment carried unanimously.

Recommendation and Vote:

Motion by Senator Doherty that HB 607 BE CONCURRED IN carried unanimously.

HEARING ON HJR 8

Presentation and Opening Statement by Sponsor:

Representative Kadas, District 55, told the committee that HJR 8 addressed the Northwest Power Act to look at energy conservation. In the late 1970's, nuclear power plants were built unnecessarily and now, no one can afford to use them. The Northwest Power Act Planning Commission continues to try and recognize the most cost effective resources. Kadas stated that the resolution emphasizes that conservation should be the first choice when it is most cost-effective.

Proponents' Testimony:

Jim Barngrover, Alternative Energy Resources Organization, (AERO) testified in support of HJR 8. Barngrover cited some of the energy policy mistakes that had been made previously including "disruption of aquifers and production of radio-active materials with half-lives of 25,000 years that no one knows how to contain or control." Barngrover noted that he has decreased his heating bills by half due to awareness of energy conservation.

John Alke, Montana Dakota Utilities, appeared in support of HJR 8 as it was when it passed the House of Representatives.

Gene Phillips, Pacific Power & Light, stated they supported the resolution as amended by the House.

Dan Elliot, Public Service Commission, stated support for HJR 8 as amended.

Neva Hassanein, Northern Plains Resource Council, told the committee that NPRC supports HJR 8 because it addresses conservation measures as an important alternative for the region.

Chris Kaufman, Montana Environmental Information Center, offered

support for the resolution, saying the "cheapest kind of energy is conservation."

Alan Davis, Department of Natural Resources and Conservation, appeared in support of the resolution and noted that DNRC had participated in the drafting of the amendment for the resolution.

Opponents' Testimony:

There were no opponents'.

Questions From Committee Members:

Senator Keating asked Dan Elliot what the phrase "environmental costs " meant.

Elliot stated that the phrase could be interpreted as a comparison between the environmental costs and the effect conservation has as compared, for example, to what a gas fired turbin might have.

Senator Keating asked Kaufman if she was sure that the cheapest form of energy is conservation?

Kaufman stated that conservation needs to be viewed "over the long run" in terms of no longer building power plants.

Senator Keating asked what the economic cost in a healthy environment would be?

Representative Kadas replied that if we, as consumers pay more than the lowest price of a particular resource, "we're wasting our dollar."

Senator Hockett asked Gene Phillips what sources of power are available as alternatives for PP&L as power demands increase?

Phillips stated that PP&L is a winter-peaking utility in the pacific northwest. In January 1989, PP&L merged with Utah Power and Light, a summer-peaking utility. The purpose of the merge was to allow access to energy exchanges between the two utility companies, Phillips said.

Closing by Sponsor:

Representative Kadas stated the reason for rate increases has been the "over-building of resources in the mid and late 1970's." Kadas said that there had been "a tendency to not take environmental costs into account when paying for a new resource. If there are environmental costs associated with a particular resource, they should be accounted for as part of the sum of using that resource, so that all resources are on a level playing field when selecting the one that is the most cost effective."

EXECUTIVE ACTION ON HJR 8

Motion:

Senator Bianchi made a motion that HJR 8 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

Senator Keating and Senator Tveit voted against the resolution.

Recommendation and Vote:

The motion by Senator Bianchi that HJR 8 BE CONCURRED IN passed.

EXECUTIVE ACTION ON HB 858

Motion:

Motion by Senator Keating that HB 858 BE NOT CONCURRED IN.

Discussion:

Senator Hockett asked Senator Keating to explain his opposition to the bill.

Senator Keating noted that the development of pamphlets for distribution was already being done.

Senator Doherty asked if the pamphlets were also distributed throughout schools.

Senator Bengtson commented that, yes, the literature was being distributed in schools.

Amendments, Discussion, and Votes:

Senator Bianchi stated he was impressed with the literature distributed during the hearing that noted products that are environmentally sound.

Senator Bianchi said he opposed Senator Keating's motion.

Senator Weeding stated he wasn't sure all the information truly was available to the public.

Senator Keating withdrew his motion that HB 858 BE NOT CONCURRED IN.

Senator Bianchi moved that HB 858 BE CONCURRED IN.

Recommendation and Vote:

Senators Tveit, Keating and Anderson opposed the motion.

Motion by Senator Bianchi that HB 858 BE CONCURRED IN carried.

EXECUTIVE ACTION ON HJR 36

Motion:

Motion by Senator Doherty that HJR 36 BE CONCURRED IN as amended by Senator Grosfield's proposed amendments.

Discussion:

Senator Doherty added that Senator Grosfield's amendments made the bill "do something."

Amendments, Discussion, and Votes:

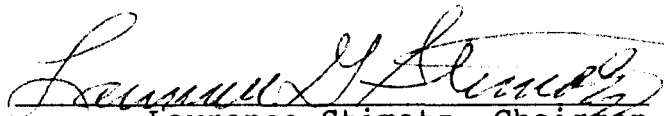
Senator Grosfield's amendments carried unanimously.

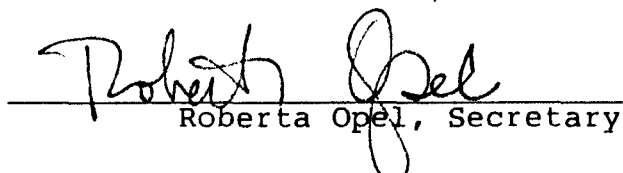
Recommendation and Vote:

Senator Doherty's motion that HJR 36 BE CONCURRED IN as amended carried unanimously.

ADJOURNMENT

ADJOURNMENT AT: 5:30 p.m.


Lawrence Stimatz, Chairman


Roberta Opel, Secretary

LS/ro

SENATE STANDING COMMITTEE REPORT

DATE

3-25-91

FILE NO.

HB 607

Page 1 of 1

March 26, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 607 (third reading copy -- blue), respectfully report that House Bill No. 607 be amended and as so amended be concurred in:

1. Page 2, line 7.

Following: "A"

Insert: "reasonable and practical health"

Signed:


Lawrence G. Stimatz, ChairmanMAR 3-26-91
And. Coord.SB 3-26 9:15
Sec. of Senate

SENATE

HB 607

DATE 3-25-91

COMMITTEE ON Natural Resources

VISITORS' REGISTER

[illegible]

SENATE STANDING COMMITTEE REPORT

REPORT OF THE
HOUSE OF REPRESENTATIVES

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration House Joint Resolution No. 1 (third reading, blue), respectfully report that same should be concurred in.

Samuel R. Hendon
Samuel R. Hendon, Chairman

Samuel R. Hendon
Samuel R. Hendon

Samuel R. Hendon
Samuel R. Hendon

OFFICE OF THE CLERK

SENATE READING COMMITTEE REPORT

Page 100
March 1904

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House bill No. 607 third reading copy, do hereby respectfully report that same bill No. 607 be amended and so amended be concurred in.

1. Page 1, line 1

Following: "A"

Insert: "reasonable and consistent with the"

Witness my hand and seal this 11th day of March, 1904.

And Concl.

Sec. of Senate

SENATE STAFFING COMMITTEE REPORT

For 1964
March 11, 1964

MR. PRESIDENT:

We, your committee on Federal Personnel, having had under consideration House Joint Resolution No. 10, after reading the same, respectfully request that House Joint Resolution No. 10 be amended and be recommended be considered for

1. Page 2, line 26.

Following: "to"

Insert: "clarify, amend, improve, and reorganize" and to

Following: "develop"

Strike: "and adopt"

Insert: "minimum"

2. Page 3, line 1.

Following: "procedures"

Insert: "that local resources be made to be"

3. Page 3, lines 4 and 5.

Strike: "there" on line 4 through "there" on line 5.

Insert: "as appropriate."

4. Page 3, line 6.

Following: "will be"

Insert: "be recommended to the Senate and House"

James H. Beane
Chairman of the Committee

John B. 26-4
and

SP 2/26/64
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
Back to Table of Contents

H.R. PRESIDENT:

We, your committee on Natural Resources, having had under consideration House Joint Resolution No. 1 (attached reading, 1st and 2nd readings), respectfully report that House Joint Resolution No. 1 be concurred in.

James H. [Signature]
James H. [Name]
[Title]

101-121
And Coord.

CP/10-121
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 1, 1901

HON. PRESIDENT:

Res. joint committee on National Economy having had under consideration House bill No. 282 (third reading copy) do respectfully report that it appears well to be so amended as to

Signed *Frederick H. Smith*
Frederick H. Smith, Chairman

Am. Coord.

W. J. 705
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

March 1, 1901

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 485 (third reading copy) do hereby respectfully report that House Bill No. 485 be concurred in.

Witness my hand

Frederick C. Murphy
Frederick C. Murphy, Chairman

441-5-16
Appl. Comd.

Sen. of Senate

SENATE STANDING COMMITTEE REPORT

Report of the
Committee on Natural Resources

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 602 (third reading copy) do hereby respectfully report that House Bill No. 602 be so amended

Approved

William H. Harrison
Chairman of the Committee on Natural Resources

Wm. H. Harrison
And. Coord.

Wm. H. Harrison
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Natural Resources, having had under consideration House Joint Resolution No. 3 (third reading, blue), respectfully report that House Joint Resolution No. 3 concurred in.

Lawrence H. Riebold
Lawrence H. Riebold, Chairman

John J. ...
Asst. Coord.

P. J. ...
Sec. of Senate

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Joint Resolution No. 36 (third reading copy - blue), respectfully report that House Joint Resolution No. 36 be amended and as so amended be concurred in:

1. Page 2, line 25.

Following: "to"

Insert: "clarify jurisdictions and responsibilities and to"

Following: "develop"

Strike: "and adopt"

Insert: "minimum"

2. Page 3, line 1.

Following: "procedures"

Insert: "that local governing bodies might adopt"

3. Page 3, lines 4 and 5.

Strike: "these" on line 4 through "planning" on line 5

Insert: ", as appropriate,"

4. Page 3, line 6.

Following: "wildfire"

Insert: "be recommended to the 53rd Legislature"

Signed: 

Lawrence G. Stimatz, Chairman

3-26-91
And. Coord.

SB 3/26 9:35
Sec. of Senate

SENATE
HJR 36

SENATE STANDING COMMITTEE REPORT

SENATE NATURAL RESOURCES

EXHIBIT NO. 1

DATE

3-25-91

FILE NO.

HB 607

Page 1 of 1

March 26, 1991

MR. PRESIDENT:

We, your committee on Natural Resources having had under consideration House Bill No. 607 (third reading copy -- blue), respectfully report that House Bill No. 607 be amended and as so amended be concurred in:

1. Page 2, line 7.

Following: "A"

Insert: "reasonable and practical health"

Signed:


Lawrence G. Stimatz, Chairman

Apr 3-26-91
And. Coord.

SB 3-26 9:15
Sec. of Senate

SENATE

HB 607

Montana Audubon Legislative Fund

Testimony on HJR 31

Senate Natural Resources Committee

March 25, 1991

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I testify today on behalf of the Montana Audubon Legislative Fund. The Audubon Fund is composed of nine Chapters of the National Audubon Society and represents 2,500 members throughout the state.

Audubon supports the intent of HJR 31. We feel recent study of energy resources and energy use in Montana is required in order to develop a state energy plan. We support an energy policy that is developed with long term goals in mind. Environmental costs are of immediate importance when developing an energy policy and we are pleased that Representative Raney's legislation addresses that issue.

We do feel, however, that energy conservation should not be considered as an option in the Pacific Northwest region to meet future demands for electricity. (lines 6 & 7 page 2)

We strongly support extensive study and development of the uses of renewable resources in the state of Montana. This piece of legislation would set up the framework for an energy policy based upon a wide variety of energy options.

Audubon recognizes the present need for a comprehensive energy bill now, but we also recognize the need to use current and accurate information.

We ask for your support of HJR 31. Thank you.

TESTIMONY
Petroleum Tank Release Compensation Board
Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) requested the proposed changes to Title 75 Chapter 11 Part 3. The Board is trying to clarify some issues which have come to light since this statute became effective in 1989. The following are the Board's reasons behind the proposed changes and some proposed amendments which should help to further clarify the issues.

A. Definition of petroleum or petroleum products, page 3 line 19-24.

The reason for this change is to clarify that mixtures of waste oil and waste water, or other mixtures with no commercial application are excluded, and that releases of mixtures of petroleum and hazardous substances which could result in hazardous waste also would be excluded.

B. Definition of petroleum storage tank, page 3 line 25 - page 4 line 22.

The Board would like a clarification from the Legislature as to whether or not abandoned or defunct tanks not in use at the time the law went into effect, April 13, 1989, should be covered. The original proposed language would exclude the defunct tanks. To date, the Board has paid in excess of \$46,000.00 on 11 abandoned tank sites. The amendment is how the House of Representatives felt that this issue should be handled.

C. Definition of release, page 5 line 3-7.

The Board feels that the definition of a release used by the Department of Health and Environmental Sciences (DHES) Underground Storage Tank Program better describes a release from a petroleum storage tank than the CECRA definition of a release. The CECRA definition includes a release from the abandonment or discarding of barrels, containers, and other closed receptacles which does not fit into the definition of a petroleum storage tank.

(over)

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES
UNDERGROUND STORAGE TANK PROGRAM
(406) 444-5970



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING

STATE OF MONTANA

FAX # (406) 444-2808

HELENA, MONTANA 59620

TESTIMONY
for the
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
before the
SENATE NATURAL RESOURCE COMMITTEE

HOUSE BILL 485
March 25, 1991

SENATE NATURAL RESOURCES

EXHIBIT NO. 2
DATE HB 485
BILL NO. 3-25-91

The Department of Health and Environmental Sciences supports the passage of House Bill 485.

The Department's Underground Storage Tank Program works closely with the Petroleum Tank Release Compensation Board. The changes mandated by House Bill 485 will enhance the Board's ability to effectively administer claims and provide reimbursement of eligible costs incurred during the cleanup and remediation of accidental petroleum releases from underground storage tanks and piping.

The Department urges the Committee to give House Bill 485 favorable consideration.

ROLL CALL
Natural Resources
COMMITTEE

DATE 3-25-91

52

LEGISLATIVE SESSION

| NAME | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| Senator Anderson | ✓ | | |
| Senator Bengtson | ✓ | | |
| Senator Bianchi | ✓ | | |
| Senator Doherty | ✓ | | |
| Senator Grosfield | ✓ | | |
| Senator Hockett | ✓ | | |
| Senator Keating | ✓ | | |
| Senator Kennedy | ✓ | | |
| Senator Tveit | ✓ | | |
| Vice Chairman, Weeding | ✓ | | |
| Chairman Stimatz | ✓ | | |
| | | | |
| | | | |
| | | | |
| | | | |

Each day attach to minutes.

DISTRICT SANITARIAN
RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

221 5th St. S.W. Sidney, MT 59270

Phone: 406 482-2207

MEMORANDUM

TO: Cecil F. Weeding

FROM: Kelly Logan, R.S. 

DATE: March 22, 1991

SUBJECT: HB 639 - Late fee for septic tank pumpers license.

Please support HB 639 which assesses a late fee for a license to clean septic tanks, cesspools, and privies. This bill would encourage timely renewal of septic tank pumper licenses and would enable the Department of Health to get complete licensing information to local departments earlier in the year.

We do have septic tank pumpers from out of state that operate in the area and occasionally local operators delay in obtaining their licenses. Current licensing information would help this department to determine which operators are in compliance with the law.

This bill will be heard in the Senate Natural Resource Committee on Monday, March 25, at 1:00 p.m.

DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

SENATE NATURAL RESOURCES

DATE

3-25-91

BILL NO.

HB 639

GOSSWELL BUILDING

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

FAX # (406) 444-2606

HELENA, MONTANA 59620

DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

TESTIMONY ON HOUSE BILL NO. 639

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE A LATE FEE FOR LATE RENEWAL OF A LICENSE TO ENGAGE IN THE BUSINESS OF CLEANING SEPTIC TANKS, CESSPOOLS, AND PRIVIES; TO ALLOCATE PROCEEDS FROM LATE FEES AND THE STATE'S SHARE OF ANNUAL LICENSE FEES TO FUND PROGRAMS TO ENFORCE THE LAWS REGULATING THE BUSINESS OF CLEANING SEPTIC TANKS, CESSPOOLS, AND PRIVIES; AMENDING SECTION 37-41-202, MCA."

The Food and Consumer Safety Bureau (FCSB) of the Department of Health and Environmental Sciences (DHES) has administrative and enforcement responsibility of Septic Tank, Cesspool and Privy Cleaners regulated through 37-41, MCA and ARM 16.14.

The Department is requesting amendment of section 37-41-202, MCA to provide authorization to assess a late fee penalty of \$25 when businesses cleaning septic tanks, cesspools and privies do not renew business license applications prior to expiration on a calendar year basis each December 31. In FY90 and FY91 90% of license renewals were delinquent prior to license renewal application. Approximately 15% of FY90 renewals were delinquent in July and 5% delinquent in November. Current program administration costs to complete the license application/renewal process for delinquent businesses through repeated renewal notices, communications, personnel time, etc. on a per applicant basis far exceeds the \$5 portion of the \$25 license the state currently receives. Implementation of a \$25 late fee assessment in FY90 with other licensed establishment programs administered by the FCSB has been successful in reducing delinquent license renewal applications by an estimated 50%.

Provision for deposit of the state portion of the license fee (\$5) and any assessed late fee penalties of \$25 into an account in the state special revenue account would assist program administration and enforcement funding from revenues generated by the program. The fund would be allowed to build during FY92 & FY93 as a program development funding source which would be requested through the next biennium budgeting process. The request will include provisions for program analysis with verification of actual waste disposal occurring at approved county locations and the ability to obtain compliance as necessary.

An immediate benefit to local health departments will be identification of licensed cleaners operating and disposing within local jurisdictions on a timely basis. The Department requests the Committee to favorably consider this bill and give it a "do pass" as written. Thank you.

Respectfully submitted,

Mitch Schwab, Chief

Food and Consumer Safety Bureau

Telephone: 444-2408

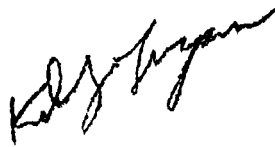
TO: MITZI SCHWAB
FOOD & CONSUMER SAFETY BUREAU

DISTRICT SANITARIAN
RICHLAND AND McCONE COUNTY HEALTH DEPARTMENTS

221 5th St. S.W. Sidney, MT 59270 Phone: 406 482-2207

MEMORANDUM

TO: Larry J. Tveit
FROM: Kelly Logan, R.S.
DATE: March 22, 1991



SUBJECT: HB 639 - Late fee for septic tank pumpers license.

Please support HB 639 which assesses a late fee for a license to clean septic tanks, cesspools, and privies. This bill would encourage timely renewal of septic tank pumper licenses and would enable the Department of Health to get complete licensing information to local departments earlier in the year.

In Richland County we do have septic tank pumpers from out of state that operate in the county and occasionally local operators delay in obtaining their licenses. Current licensing information would help this department to determine which operators are in compliance with the law.

This bill will be heard in the Senate Natural Resource Committee on Monday, March 25, at 1:00 p.m.

Testimony of Candace C. Mills
Mills Repair
Belgrade, Montana 388-4213

To be entered into the Record
Senate Natural Resources Committee
Honorable Larry Stimatz, Chairman
Hearing on HB0485
March 25, 1991

Mr. Chairman, members of the committee,

I would like to request an amendment to HB0485, to change the provision in the fund for a \$35,000 shared deductible for qualified expenses to a \$ 10,000 shared deductible for qualified expenses. Please refer to the proposed amendment which follows my testimony.

The federal and state governments adopted legislation requiring underground storage tank owners to show proof of financial responsibility for \$1,000,000.00. The Petroleum Tank Release Compensation Fund was set up to assist UST owners in complying with this new requirement. While the fund currently may be used to demonstrate financial responsibility for \$982,500, many small businesses are unable to demonstrate financial responsibility for the remaining 17,500.

The reasons many small businesses cannot meet this requirement include an inability to pass the financial test because of low net worth; an inability to obtain a letter of credit because of no security; an inability to obtain a letter of credit because of bank reluctance to make loans to this type of business (resulting from unresolved lender liability issues); and an inability to obtain insurance because none is available to owners who have not yet made the system upgrades required by 1998.

Also, there are problems associated with pledging \$17,500 as proof of responsibility for those who are able to come up with it; it would tie up available credit which is desperately needed to meet the technical requirements for leak detection, upgrades or closures for USTs. Also, many service stations will be needing that credit to upgrade equipment in order to meet new Clean Air requirements. Please refer to the enclosed letter from Mr. Doug Tillett, President, Valley Bank of Belgrade.

There seems to be some concern that a lower deductible would let UST owners "off the hook". This is not the case. Tank owners are being required to fund very costly leak detection systems, upgrades or replacement of UST systems, or closure of USTs even though they may be perfectly sound. Even if there were no deductible, tank owners would have a tremendous financial responsibility. However, the amount of \$10,000 shared deductible seems to be sufficient to eliminate the concern of tank owner responsibility, yet

remains within reach of smaller businesses and does not so severely tie up available credit.

Through HB0485, the Board asks for clarification of the intent of the legislature regarding funding cleanup of abandoned tank sites. The monies in the fund are collected at functioning gasoline stations, presumably stations that are complying with state and federal regulations. It would be quite ironic if the legislature decided to use this fund to clean up tank sites for which no one is taking responsibility, from which no monies are being collected and for which there is a federal trust fund established, and yet make it virtually useless to those smaller businesses striving to comply but unable to come up with the required proof of responsibility for the deductible amount.

If the deductible is not lowered at this time, many small businesses, like my own, will be in a state of non-compliance with the regulations simply for lack of ability to meet this proof of financial responsibility requirement. Fines could force otherwise sound businesses into bankruptcy. Please give this request serious consideration as you discuss HB0485.

Thank you for considering this amendment. I would be happy to answer any questions.

PROPOSED AMENDMENT TO HB0485

(Please refer to page 6 of HB0485, line 20, which is Section 2(4) of Section 75-11-302 MCA; regarding the shared deductible as exists in the Petroleum Tank Release Compensation Fund.)

HB0485, amended to read:

As of effective date of HB0485, for releases that are discovered and reported on or after effective date, the board shall reimburse an owner or operator for 50% of the first \$10,000 of eligible costs and 100% of subsequent eligible costs, up to a maximum total reimbursement of \$995,000.



Valley Bank

P.O. Box 106 • 406-388-4283
Belgrade, MT 59714

March 18, 1991

Senator Larry Stimatz
Chairman, Natural Resources Committee
Montana Senate
Helena, MT 59601

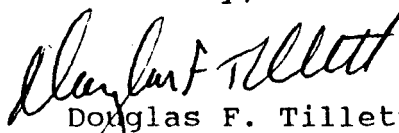
Dear Senator Stimatz:

Please accept this letter in support of amending language to House Bill 485 to allow for a lower deductible on the State Super Fund for the cleanup of contaminated sites. At the present level of \$17,500, many small operators are unable to provide a letter of credit to cover their share of potential clean-up projects. This burden not only limits their credit availability, which at times may be very marginal due to the smaller size of their operation, but also prohibits them from any longer range planning because of the large potential liability. I feel they certainly are not trying to avoid their responsibility, but realistically must realize the possibility of the failure of their business if called upon to provide a letter of credit of that magnitude.

Please consider a lower deductible limit as House Bill 485 is discussed.

Thank you for your time and understanding of this consequential situation.

Sincerely, .


Douglas F. Tillett
President

DFT/slf

CC: Candy Mills, Mills Repair

April 12, 1991

Bob Raney, Chairman
House Natural Resource Comm.
Capitol Station
Helena, Montana 59620

Dear Chmn. Raney:

Re: Your letter to me, dated April 11, 1991, on State of Montana letterhead.

If straight talk from a Montana taxpayer offends you, you and others of the preservation cult had best brace yourselves. My prediction is that you've just begun to feel the bite of main-stream Montana. Be also aware my testimony on April 8 was souly my own. While I doubt I damaged MVDC in any way, I spoke only for myself. I believe my contributions to Montana energy matters entitle me, and license me, to speak out. I further suggest that you have a responsibility to listen objectively.

As for my statement that you refused Rep. Clark's request for consideration of the MVDC proposal, I am sure Rep. Clark will refresh your memory. During the week of Feb. 11, the two of you discussed the MVDC proposal, to be sponsored by Clark and Sen. Koehnke, on the floor of the House. According to Clark, you flatly told him the matter had already been addressed by your Committee, that your HJR 31 was the preferred approach, and that no further consideration would be given in your Committee.

Regarding your statement that your proposal grew from hundreds of hours of work and that the MVDC proposal resulted one afternoon is ludicrous. I submit the MVDC proposal represents far more effort, and that effort represents the thinking of a broad-based, balanced and professional group of Montana taxpayers.

I shouldn't have to tell you the reason that SJR 28 came late was that another route for consideration was forced by your refusal of consideration.

I am astonished at the personal nature of the attacks in your letter. As a taxpayer, I have every right to express my interests and concerns. As a legislator, and as Chairman of the Natural Resources Committee, you have the responsibility to listen objectively and to respond politely and accountably. I object to your use of State of Montana stationery for such a disgraceful letter.

I expect an apology!

Sincerely,


Alan D. Evans