

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: By DICK KNOX, CHAIRMAN, on January 22, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Dick Knox, Chairman (R)
Rep. Rolph Tunby, Vice Chairman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Russ Fagg (R)
Rep. Gary Feland (R)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Hal Harper (D)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Howard Toole (D)
Rep. Doug Wagner (R)

Members Excused: None

Members Absent: None

Staff Present: Todd Everts, Environmental Quality Council
Michael Kakuk, Environmental Quality Council
Roberta Opel, Committee Secretary

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

Committee Business Summary:

Hearing: HB 171, SB 67
Executive Action: SB 67, HB 64, HB 150

HEARING ON HB 171

Opening Statement by Sponsor:

REP. MARIAN HANSON, HD 100, Ashland, stated she was carrying the legislation on behalf of the Montana Department of State Lands (DSL). The legislation would change state guidelines to comply with federal guidelines for coal and uranium mining. She added this bill amends the current Montana law in three (3) areas:

prospecting, applicant violator system, and operations on federal lands. She noted DSL would also present an amendment to the legislation.

Proponents' Testimony:

Bonnie Lovelace, Chief, Coal and Uranium Bureau, Department of State Lands (DSL), presented specifics in support of HB 171 and the amendments to the legislation. EXHIBITS 1 and 2

Jim Mockler, Montana Coal Council, noted the Council's support for HB 171 and the amendment. He issued a word of caution on prohibition of mining in national forests, stating he hoped Montana would continue to adopt the liability for the federal government and not accept the liability for Montana.

Dennis Olson, Northern Plains Resource Council, stated the Council's support of the legislation. He expressed concerns with the amendments for pages 19 and 20, and asked that the words "major revision" be retained in the legislation.

Opponents' Testimony: None.

Closing by Sponsor:

REP. HANSON closed on HB 171 and asked for the committee's support of the legislation and the amendment.

HEARING ON SB 67

Opening Statement by Sponsor:

SEN. WILLIAM "BILL" YELLOWTAIL, SD 50, Wyola, stated the intent of the SB 67 is to maintain the current authority of the Department of Health and Environmental Sciences (DHES) dealing with solid waste management and the collection of solid waste management fees.

Proponents' Testimony:

Peggy Likens, Program Manager, Keep Montana Clean & Beautiful, stated the coalition supports the overall intent of SB 67, but asked the committee to consider striking Subsection 9, lines 4-7, which requires the state to become a clearinghouse for "information on waste reduction and reuse, recycling technology and markets, composting, and household hazardous waste disposal, including chemical compatibility". She noted that various governmental agencies and private organizations provide these services throughout the state. EXHIBIT 3

Opponents' Testimony: None.

Questions From Committee Members and Responses:

In response to a question from REP. RANEY, Chris Kaufmann, Solid Waste Program, stated the clearinghouse section of the legislation was added due to the number of calls received by the Department. She stated DHES staff are frequently contacted on environmental issues due to the expertise of staff, materials received by the department, and their knowledge of resources in Montana. She stated the elimination of the clearinghouse language would not result in a dollar savings to the program.

Closing by Sponsor:

SEN. YELLOWTAIL closed on SB 67 and asked for the committee's support of the legislation with the clearinghouse language.

EXECUTIVE ACTION ON SB 67

Motion/Vote: REP. HAL HARPER MOVED SB 67 BE CONCURRED IN.
Motion carried unanimously.

EXECUTIVE ACTION ON HB 64

Motion: REP. ROLPH TUNBY moved the amendments to HB 64.
EXHIBIT 4

Discussion: Paul Sihler, legal counsel, EQC, explained the amendments to the committee. He noted the amendment list contained those previously passed by the committee. He stated the \$5.00 per ton fee could be subject to a constitutional challenge.

Motion: REP. BOB RANEY moved to amend the amendments, Page 2, Section 1, Paragraph 2: deleting "an incinerator that burns solid waste or".

Discussion: The committee discussed the impact of REP RANEY'S amendment on Montana counties, the \$5.00 per ton fee and its implementation date, and statewide incineration and landfill facilities.

Vote: REP. BOB GILBERT called for the question on REP. RANEY'S amendment. REPS. HAL HARPER and RANEY resisted the call for the question. After debate, REP. GILBERT withdrew the call for the question on the motion.

Discussion: Michael Kakuk, EQC Staff, explained the current status of the legislation as amended and responded to questions from the committee. The committee continued to discuss the amendments at length, including the effective date of the legislation.

CHAIRMAN KNOX stated action on HB 64 would be deferred until Monday, allowing staff and council an opportunity to prepare the new amendments.

EXECUTIVE ACTION ON HB 150

Motion: REP. MIKE FOSTER MOVED HB 150 DO PASS.

Motion: REP. FOSTER moved to incorporate the amendment language suggested by Bob Marks.


Discussion: The committee discussed the proposed amendment to the bill, Page 2, line 10, amending the bill so that a fire district could be reduced as well as be created or dissolved. The committee discussed the ramifications of the proposed amendment and current law.

Vote: TO INCORPORATE MARKS AMENDMENT LANGUAGE. The motion failed.

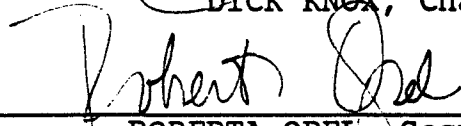
Vote: HB 150 DO PASS. The motion carried unanimously.

ADJOURNMENT

Adjournment: The meeting was adjourned at 4:47 pm.



DICK KNOX, Chairman



ROBERTA OPEL, Secretary



GAYLE CARPENTER, Transcriber

HOUSE OF REPRESENTATIVES

Natural Resources COMMITTEE

BILL NO.

ROLL CALL

DATE

1/22/93

NAME	PRESENT	ABSENT	EXCUSED
Jody Bird	✓		
Vivian Brooke	✓		
Rugg Fagg	✓		
Gary Feland	✓		
Mike Foster	✓		
Bob Gilbert	✓		
Hal Harper	✓		
Scott Orr	✓		
Bob Raney	✓		
Dore Schwinden	✓		
Jay Stovall	✓		
Emily Swanson	✓		
Howard Toole	✓		
Doug Wagner	✓		
Rolph Tunby, Vice Chairman	✓		
Dick Knox, Chairman	✓		

HOUSE STANDING COMMITTEE REPORT

January 22, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that House Bill 150 (first reading copy -- white) do pass .

Signed: _____
Dick Knox, Chair

(Unanimous)

HOUSE STANDING COMMITTEE REPORT

January 22, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report
that Senate Bill 67 (third reading copy -- blue) be concurred
in .

Signed: _____
Dick Knox, Chair

Carried by: Rep. Raney

(Unanimous)

EXHIBIT 1
DATE 1-22-93
HB 171

*Exec
on
Wed* 1/22/93

TESTIMONY OF BONNIE LOVELACE
CHIEF, COAL AND URANIUM BUREAU
DEPARTMENT OF STATE LANDS
ON
HB171

House Natural Resources Committee, January 22, 1993

The Montana Strip and Underground Mine Reclamation Act (MSUMRA) is the regulatory authority for prospecting and mining of coal and uranium. Through the Department of State Lands, Montana administers its regulatory program on private, state and federal lands. There is also a federal statute regulating coal mining, and Montana's program must be as effective as the Federal program in both its statute and regulations.

The Office of Surface Mining, which is the federal agency that oversees state regulatory programs, has notified the Department that the Montana act is less effective than the federal law in three respects. HB171 cures those defects. The Legislative Council has also made many non-substantive style amendments. The Department's proposed amendments and the reasons for those amendments are as follows:

1. Prospecting - (Page 7, lines 5 and 6, and page 12, line 20 through page 13, line 9.) The current definition of the term "prospecting" in the Montana law is not as broad as the federal definition because it does not include most environmental data gathering activities, such as the drilling of test wells and overburden sampling. The amendment at page 7, lines 5 and 6 brings the statute into compliance with the federal statute. The amendment at page 12, line 20 through page 13, line 9 inserts procedures and reclamation requirements that are the same as the federal law.
2. Applicant Violator System - (Page 19, lines 16 and 17) As a result of extended litigation and settlements between environmental interest groups and the Office of Surface Mining, that agency has developed an extensive computerized database for tracking coal mine violators nationwide and federal regulations have been adopted requiring the filing of detailed ownership and control information for the system. The system is intended to block an operator from violating the law in one state and moving to another and obtaining a permit. The federal rules also apply this prohibition to operators who are controlled by or under common control with an operator who is in violation of an environmental protection law. The Montana statute applies only to the operations owned or controlled by the applicant. The amendment at page 19, lines 16 and 17 brings the Montana statute into compliance with the federal rules.

3. Mining on Federal Lands within National Forests, National Parks, and other Federal Reserves. (Page 20, line 15) The federal law prohibits mining on most federal and private lands within federal reservations, such as national forests. The state law limits that prohibition to private lands within these reserves. The amendment at page 20, line 15 applies the state law to federal lands with these reserves as well.

It has recently been brought to the Department's attention that certain language currently contained in 82-4-227(11) differs from the federal language in that it applies the applicant violator provisions to permit revisions, which do not add acreage to permit areas, and does not apply the system to permit amendments, which do add acreage to permit areas. The federal law does just the opposite. The attached amendment would bring the state statute into compliance with the federal law. The amendments also make the change to 82-4-227(12), which contains the same defect.

The Department respectfully requests the committee to approve HB171 with the Department's proposed amendments.

DEPARTMENT OF STATE LANDS'

PROPOSED AMENDMENTS

TO HOUSE BILL 171
(Introduced Bill)

1. Page 19, line 23.
Following: "or"
Strike: "major revision"
Insert: "amendment, other than an incidental boundary
revision,"
2. Page 20, line 3.
Following: "or"
Strike: "major revision"
Insert: "amendment, other than an incidental boundary
revision,"

- END -

KEEP MONTANA CLEAN & BEAUTIFUL, INC. A statewide, non-profit educational organization

P.O. Box 5925
406/443-6242

Helena MT 59604
FAX: 406/443-7474

Chairman Knox and Members of the Natural Resources Committee:

I am Peggy Likens, Program Manager for Keep Montana Clean & Beautiful, an organization of whose members include recyclers, landfill operators, grocers, the beverage industry, and other groups. I also serve as a member of the Montana Solid Waste Planning Advisory Committee that is working on the state's master solid waste plan. I am here today because, while I support the overall intent of Senate Bill 67, I ask you to consider striking Subsection 9 (lines 4 through 7) of the bill. Subsection 9 would require the state to become a clearinghouse for:

"information on waste reduction and reuse, recycling technology and markets, composting, and household hazardous waste disposal, including chemical compatibility."

It is the view of Keep Montana Clean and Beautiful that this expenditure of taxpayer money is not needed, simply because there are already governmental agencies and private organizations that provide this service throughout the state.

For example, the Federal government operates seven hotlines (six are free 800 numbers). They include:

National Response Center (to report hazardous spills, releases) Hotline	800-535-0202
General Clearinghouse (order publications, request specialized information)	800-458-5886
Small Business Ombudsman's Hotline	800-368-5888
Solid & Hazardous Waste	800-424-9346
Toxic Substances Control Act Hotline	800-424-9065
Pesticide Service Center Hotline	800-858-7378
Asbestos Technical Info. & Referral Hotline	202-554-1404

In Montana, there are numerous groups that are active in providing information to the community. Our organization, Keep Montana Clean & Beautiful has been supplying information and promoting recycling for more than 4 years. We have subscriptions to the major solid waste journals and a CD ROM subscription to the "Applied Science and Technology" index to assist in guiding us to the right article or publication to answer a particular question. In the last year, I've answered about 800 questions, and if I've ever been stumped, I've never had any doubt where to get information.

(over)

The Montana Environmental Information Center operated an 800 number for the last year and is now forming a community recycling association that will be a clearinghouse of information in addition to lobbying.

The Montana State University Extension Service has been very active in coordinating the "Montana Waste Education Coalition," a coalition formed to "develop, coordinate and implement integrated solid waste management for Montanans." I won't give you the entire list of participants, but a sample so that you will know that the groups are spread throughout Montana. They include: Alternative Energy Resource Organization (AERO), Beartooth RC&D, Big Horn County Health Department, Bozeman Recycling Coalition, Bitterroot Greens Party, Recycle Montana in Missoula, Citizens for Recycling in Miles City, League of Women Voters in Great Falls, Council, National Center for Appropriate Technology (Butte), and Trash in Transit in Ennis. and representatives from the EPA.

Keep Montana Clean & Beautiful worked with the Extension Service to develop and print six fact sheets on most of the topics suggested for a state clearinghouse. These fact sheets are available through the 50 Extension Offices statewide.

As a cooperative effort of the Montana Association of Counties, the Montana League of Cities and Towns, the Montana Department of Health & Environmental Sciences Solid Waste Program and the Montana State University Extension Service, the Solid Waste Institute of Montana (SWIM) program has been established. The purpose of SWIM is to provide long-term continuing education and certification opportunities for Montana landfill operators. SWIM is coordinated and managed at the Montana State University as part of the existing solid waste education program of the MSU Extension Service.

The point is is that there are numerous groups already providing information on the total range of solid waste options -- waste reduction, reuse, recycling, composting, incineration, and landfilling.

The committee is right on target for recognizing that citizens and waste professionals need good information about solid waste. But I would suggest that another clearinghouse is not needed -- that citizens' and waste professionals questions can already be answered by existing services. Perhaps a better use of scarce state resources would be to build better relationships with these existing organizations; and if funds are available, offer small grants or contracts to provide any gaps in services.

Keep Montana Clean and Beautiful offers its support for S.B. 67, but respectfully requests that you strike Subsection 9 of the Bill.

Solid Waste MANAGEMENT

MT 9119 (HR)

Waste Reduction — Pre-Cycle

EXHIBIT 3

DATE 1-22-93

SB 67

(2 of 2)

by
by Michael P. Vogel, Ed.D.

Montana State University Extension Service Housing Specialist

Americans produce a lot of trash. Consumers throw out about four pounds of garbage every day, which adds up to about 160 million tons per year for the nation. What do we do with all this garbage? Once deposited at curbside or in a dumpster, about 80 percent of Americans' garbage is picked up, hauled to a landfill for disposal, covered with a layer of dirt or plastic, and forgotten by those who generated it.

Unfortunately, landfills have become a very controversial resting place for our solid waste. Old landfills and dumps are likely to leak contaminants into precious groundwater. New landfills are very costly to construct and difficult to site



Elements of Source Reduction

According to the EPA, source reduction activities fall into five basic categories:

- Product reuse
- Reduced materials volume
- Reduced toxicity of products
- Increased product lifetime
- Decreased consumption

Product Reuse. An example of product reuse is the reusable shopping bag. Rather than taking a bag from the store after each trip, a reusable bag could be used several times. Using reusable

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are conserved and pollution avoided when materials are recycled, reused or reduced.

Increased Product Lifetime. Products with longer lifetimes can be used instead of short-lived alternatives that are designed to be discarded at the end



Amendments to House Bill No. 64
First Reading Copy

Requested by Rep. Tunby
For the Committee on Natural Resources

Prepared by Paul Sihler
January 21, 1993

1. Title, lines 5 through 7.
Following: "ACT"
Strike: "DELAYING THE EFFECTIVE DATE OF THE LAW ESTABLISHING A
SOLID WASTE MANAGEMENT FEE ON WASTE GENERATED OUT OF STATE;"
2. Title, line 10.
Following: "MONTANA;"
Strike: "AND"
Following: "SECTIONS"
Insert: "75-10-118,"
3. Title, line 11.
Following: "75-10-204"
Insert: ", "
4. Title, lines 11 and 12.
Following: "MCA"
Strike: ", AND SECTION 8, CHAPTER 398, LAWS OF 1991"
Insert: "; AND PROVIDING EFFECTIVE DATES"
5. Page 1, line 18.
Following: "department"
Insert: ", pursuant to 75-10-118(1), charge a quarterly fee of \$5
per ton on solid waste imported to Montana for disposal in a
solid waste management facility that receives more than
25,000 tons of solid waste annually. However, for a solid
waste management facility that receives less than 25,000
tons of solid waste annually, the department shall"
6. Page 1, line 21.
Following: the first "Montana"
Insert: ", pursuant to 75-10-204(8)"
- ⑦ Page 1, line 23.
Following: "on the"
Insert: "justifiable"
8. Page 1, line 24.
Following: the first "the"
Strike: "state"
Insert: "department"
9. Page 2, lines 1 through 8.
Strike: "This" on line 1 through "." on line 8

10. Page 2, lines 11 through 14.
Strike: section 1 in its entirety.
Insert:

"Section 1. Section 75-10-118, MCA, is amended to read:

"75-10-118. (Effective July 1, 1993) Solid waste management fee -- out-of-state waste. (1) Except as provided in subsection (2), A person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and to rules adopted under 75-10-221 shall pay to the department a quarterly fee of \$5 for each ton of solid waste generated outside Montana and incinerated or disposed of at the facility.

(2) A person who owns an incinerator that burns solid waste or a solid waste disposal facility that is licensed pursuant to 75-10-221 and that receives less than 25,000 tons of solid waste annually shall pay the department a quarterly fee for each ton of solid waste generated outside Montana. The amount of the fee must be determined by the department pursuant to 75-10-204(8).

(2)(3) All fees must be deposited in the solid waste management account provided for in 75-10-117."

{Internal References to 75-10-118:

x 75-10-104 (2) x 75-10-105 x 75-10-116 x 75-10-117

11. Page 3, line 21.
Following: "on the"
Insert: "justifiable"

12. Page 3, line 22.
Strike: "state"
Insert: "department"

13. Page 3, line 24.
Following: "rules"
Strike: ":",
Insert: "must be adopted by August 1, 1993."

14. Page 3, line 25 and Page 4, line 1.
Strike: subsections (a) and (b) in their entirety.

15. Page 5.
Following: Line 1
Insert:

"NEW SECTION. Section 4. {standard} Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications."

— NEW SECTION. Section 5. {standard} Effective date.
[Section 2 and this section] are effective on passage and approval."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources

COMMITTEE

BILL NO.

HB 171

DATE 1/22/93

SPONSOR(S)

Hanson

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>John North</u>	<u>State Lands</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Bonnie Lovelace</u>	<u>State Lands</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Gary Armstrong</u>	<u>State Lands</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jim Mockler</u>	<u>Mt. Coal Council</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Dennis Olson</u>	<u>NPRC</u>	<input checked="" type="checkbox"/> w/ Amend	<input type="checkbox"/>
<u>Ralph Smith</u>	<u>Land Farm, Inc</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Jon Dilliard</u>	<u>DHES / SHWB</u>	<input type="checkbox"/>	<input type="checkbox"/>

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE ^{Senate} BILL NO. 67
DATE 1/22 SPONSOR(S) Sen. Yellowtail

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Peggy Jenkins	Keep Montana Clean + Beautiful	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Michael	MND	<input type="checkbox"/>	<input type="checkbox"/>
Ralph Smith	Land Farm, Inc.	<input type="checkbox"/>	<input type="checkbox"/>
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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resource COMMITTEE

BILL NO. 64

DATE 1/22 SPONSOR(S) REP. GRADY

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
J.B. Mitchell	Fallon Co	✓	

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