

SENATE BILL 506

IN THE SENATE

February 14, 1979	Introduced and referred to Committee on Natural Resources.
February 20, 1979	Committee recommend bill, as amended.
February 21, 1979	Printed and plced on members' desks.
February 22, 1979	Second reading, as amended.
February 23, 1979	Considered correctly engrossed. On motion, rules suspended. Bill placed on Calendar for Third reading this day. Third reading, passed.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Natural Resources.
March 19, 1979	Committee recommend bill, not concurred.
March 20, 1979	Report adopted.

IN THE SENATE

March 21, 1979	Returned from House, not concurred.
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1 *Senate* BILL NO. *506*
 2 INTRODUCED BY *Natural Resources Committee*
 3 *Etchant Manly Lusk's Chairman*
 4 *Lockery Study* A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA *Law*

5 ENVIRONMENTAL POLICY ACT TO SPECIFY THAT THE ACT DOES NOT
 6 EXPAND THE SUBSTANTIVE DECISIONMAKING AUTHORITY OF STATE
 7 AGENCIES; DELETING THE REQUIREMENT THAT AN ENVIRONMENTAL
 8 IMPACT STATEMENT BE PREPARED ON RULES AND LEGISLATION;
 9 AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW
 10 LEGISLATION AND ADVISE THE LEGISLATURE OF POTENTIAL
 11 ENVIRONMENTAL IMPACTS; REQUIRING STATE AGENCIES TO HOLD A
 12 PUBLIC HEARING ON A PROPOSED RULE UNDER THE MONTANA
 13 ADMINISTRATIVE PROCEDURE ACT WHEN IT HAS BEEN DETERMINED
 14 THAT THE PROPOSED RULE WOULD CONSTITUTE A MAJOR STATE ACTION
 15 HAVING A SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT; AND
 16 AMENDING SECTION 75-1-201, MCA."

17
 18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 19 Section 1. Section 75-1-201, MCA, is amended to read:
 20 "75-1-201. General directions -- environmental impact
 21 statements. (1) The legislature authorizes and directs that,
 22 to the fullest extent possible:
 23 ~~(a)~~ the policies, regulations, and laws of the
 24 state shall be interpreted and administered in accordance
 25 with the policies set forth in this chapter;

1 ~~(2)(b)~~ all agencies of the state shall:
 2 ~~(i)~~ utilize a systematic, interdisciplinary
 3 approach which will insure the integrated use of the natural
 4 and social sciences and the environmental design arts in
 5 planning and in decisionmaking which may have an impact on
 6 man's environment;
 7 ~~(ii)~~ identify and develop methods and procedures
 8 which will insure that presently unquantified environmental
 9 amenities and values may be given appropriate consideration
 10 in decisionmaking along with economic and technical
 11 considerations;
 12 ~~(iii)~~ include in every recommendation or report on
 13 proposals for projects, programs, ~~regulations~~ and other
 14 major actions of state government significantly affecting
 15 the quality of the human environment, excluding legislation
 16 and rules adopted under the Montana Administrative Procedure
 17 Act a detailed statement on:
 18 ~~(A)~~ the environmental impact of the proposed action
 19 as it relates to the authority of an agency to make a final
 20 decision under the express provisions of the statutes
 21 governing the agency;
 22 ~~(B)~~ any adverse environmental effects which cannot
 23 be avoided should the proposal be implemented;
 24 ~~(C)~~ alternatives to the proposed action that the
 25 agency has been given the express authority to consider in

1 the statutes governing the agency:

2 ~~(iv)(D)~~ the relationship between local short-term uses
3 of man's environment and the maintenance and enhancement of
4 long-term productivity; and

5 ~~(v)(E)~~ any irreversible and irretrievable commitments
6 of resources which would be involved in the proposed action
7 should it be implemented;

8 ~~(v)(iv)~~ study, develop, and describe appropriate
9 alternatives to recommend courses of action in any proposal
10 which involves unresolved conflicts concerning alternative
11 uses of available resources;

12 ~~(v)(v)~~ recognize the national and long-range character
13 of environmental problems and, where consistent with the
14 policies of the state, lend appropriate support to
15 initiatives, resolutions, and programs designed to maximize
16 national cooperation in anticipating and preventing a
17 decline in the quality of mankind's world environment;

18 ~~(v)(vi)~~ make available to counties, municipalities,
19 institutions, and individuals advice and information useful
20 in restoring, maintaining, and enhancing the quality of the
21 environment;

22 ~~(v)(vii)~~ initiate and utilize ecological information in
23 the planning and development of resource-oriented projects;
24 and

25 ~~(v)(viii)~~ assist the environmental quality council

1 established by 5-16-101; and

2 ~~(ix) adopt procedural rules concerning the circulation,~~
3 ~~content, review, and receipt of comments on environmental~~
4 ~~impact statements prepared under this section; and~~

5 ~~(x) make a final decision on an action for which an~~
6 ~~environmental impact statement has been prepared based only~~
7 ~~on the express decisionmaking authority granted to the~~
8 ~~agency under the specific statute administered by the~~
9 ~~agency;~~

10 ~~(z)(c)~~ prior to making any detailed statement as
11 provided in subsection ~~(z)(c)~~ ~~(1)(b)(iii)~~, the responsible
12 state official shall consult with and obtain the comments of
13 any state agency which has jurisdiction by law or special
14 expertise with respect to any environmental impact involved.
15 Copies of such statement and the comments and views of the
16 appropriate state, federal, and local agencies which are
17 authorized to develop and enforce environmental standards
18 shall be made available to the governor, the environmental
19 quality council, and the public and shall accompany the
20 proposal through the existing agency review processes.

21 ~~(2) Nothing in this section requires an agency to~~
22 ~~prepare an environmental impact statement on rules proposed~~
23 ~~for adoption under the Montana Administrative Procedure Act.~~
24 ~~However, when a proposed rule does, in the opinion of the~~
25 ~~agency, constitute a major state action having a significant~~

1 impact on the human environment, the agency shall schedule a
2 public hearing on the proposed rule under the provisions of
3 the Montana Administrative Procedure Act. In scheduling a
4 hearing, the agency shall prepare a written description and
5 justification for the proposed rule and make this
6 information available to the governor, the environmental
7 quality council, persons who have requested an opportunity
8 to comment on environmental impact statements, other
9 affected state and federal agencies as described in this
10 section, the administrative code committee, and any other
11 interested person.

12 (3) Nothing in this section requires a state agency to
13 prepare an environmental impact statement on legislation
14 proposed by an agency. The environmental quality council
15 shall review all legislation introduced and make
16 recommendations consistent with the policies established in
17 this section to the committees of the legislature."

-End-

1 SENATE BILL NO. 506

2 INTRODUCED BY NATURAL RESOURCES COMMITTEE - ROSKIE, CHAIRMAN

3 ETCHART, MANLEY, DOVER, LOCKREM, STORY, LOWE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA

6 ENVIRONMENTAL POLICY ACT TO SPECIFY THAT THE ACT DOES NOT

7 EXPAND THE SUBSTANTIVE DECISIONMAKING AUTHORITY OF STATE

8 AGENCIES; DELETING THE REQUIREMENT THAT AN ENVIRONMENTAL

9 IMPACT STATEMENT BE PREPARED ON RULES AND LEGISLATION;

10 AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW

11 LEGISLATION AND ADVISE THE LEGISLATURE OF POTENTIAL

12 ENVIRONMENTAL IMPACTS; REQUIRING STATE AGENCIES TO HOLD A

13 PUBLIC HEARING ON A PROPOSED RULE UNDER THE MONTANA

14 ADMINISTRATIVE PROCEDURE ACT WHEN IT HAS BEEN DETERMINED

15 THAT THE PROPOSED RULE WOULD CONSTITUTE A MAJOR STATE ACTION

16 HAVING A SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT; AND

17 AMENDING SECTION 75-1-201, MCA."

18

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

20 Section 1. Section 75-1-201, MCA, is amended to read:

21 "75-1-201. General directions -- environmental impact

22 statements. ~~It~~ The legislature authorizes and directs that,

23 to the fullest extent possible:

24 ~~(1)~~ the policies, regulations, and laws of the

25 state shall be interpreted and administered in accordance

1 with the policies set forth in this chapter;

2 ~~(2)~~ all agencies of the state shall:

3 ~~(A)~~ utilize a systematic, interdisciplinary

4 approach which will insure the integrated use of the natural

5 and social sciences and the environmental design arts in

6 planning and in decisionmaking which may have an impact on

7 man's environment;

8 ~~(B)~~ identify and develop methods and procedures

9 which will insure that presently unquantified environmental

10 amenities and values may be given appropriate consideration

11 in decisionmaking along with economic and technical

12 considerations;

13 ~~(C)~~ include in every recommendation or report

14 on proposals for projects, programs, ~~legislation~~ and other

15 major actions of state government significantly affecting

16 the quality of the human environment, excluding legislation

17 and rules adopted under the Montana Administrative Procedure

18 Act, a detailed statement on:

19 ~~(1)~~ the environmental impact of the proposed

20 action as it relates to the authority of an agency to make a

21 final decision under the express provisions of the statutes

22 governing the agency;

23 ~~(2)~~ any adverse environmental effects which

24 cannot be avoided should the proposal be implemented;

25 ~~(3)~~ alternatives to the proposed action ~~that~~

1 the agency has been given the express authority to consider
2 in the statutes governing the agency:

3 (v)(B)(IV) the relationship between local short-term
4 uses of man's environment and the maintenance and
5 enhancement of long-term productivity; and

6 (v)(E)(IV) any irreversible and irretrievable
7 commitments of resources which would be involved in the
8 proposed action should it be implemented;

9 (VI) THE ECONOMIC COSTS AND BENEFITS;

10 (VII) THE EFFECTS ON LOCAL AND STATE SERVICES;

11 (VIII) THE EFFECTS ON AGRICULTURE; AND

12 (IX) THE EFFECTS ON PUBLIC HEALTH AND SAFETY;

13 (d)(v)(D) study, develop, and describe appropriate
14 alternatives to recommend courses of action in any proposal
15 which involves unresolved conflicts concerning alternative
16 uses of available resources;

17 (e)(v)(E) recognize the national and long-range
18 character of environmental problems and, where consistent
19 with the policies of the state, lend appropriate support to
20 initiatives, resolutions, and programs designed to maximize
21 national cooperation in anticipating and preventing a
22 decline in the quality of mankind's world environment;

23 (f)(v)(E) make available to counties, municipalities,
24 institutions, and individuals advice and information useful
25 in restoring, maintaining, and enhancing the quality of the

1 environment;

2 (g)(v)(G) initiate and utilize ecological information
3 in the planning and development of resource-oriented
4 projects; and

5 (h)(v)(H) assist the environmental quality council
6 established by 5-16-101; and

7 (i)(I) adopt procedural rules concerning the
8 circulation, content, review, and receipt of comments on
9 environmental impact statements prepared under this section;
10 and

11 (j)(J) make a final decision on an action for which an
12 environmental impact statement has been prepared based only
13 on the express decisionmaking authority granted to the
14 agency under the specific statute administered by the
15 agency;

16 (k)(k)(k) prior to making any detailed statement as
17 provided in subsection (2)(e) (k)(k)(k)(k) (2)(k), the
18 responsible state official shall consult with and obtain the
19 comments of any state agency which has jurisdiction by law
20 or special expertise with respect to any environmental
21 impact involved. Copies of such statement and the comments
22 and views of the appropriate state, federal, and local
23 agencies which are authorized to develop and enforce
24 environmental standards shall be made available to the
25 governor, the environmental quality council, and the public

1 and shall accompany the proposal through the existing agency
2 review processes.

3 ~~12+(4) Nothing NOTHING in this section requires an~~
4 ~~agency to prepare an environmental impact statement on rules~~
5 ~~proposed for adoption under the Montana Administrative~~
6 ~~Procedure Act. However, when a proposed rule does, in the~~
7 ~~opinion of the agency, constitute a major state action~~
8 ~~having a significant impact on the human environment, the~~
9 ~~agency shall schedule a public hearing on the proposed rule~~
10 ~~under the provisions of the Montana Administrative Procedure~~
11 ~~Act. In scheduling a hearing, the agency shall prepare a~~
12 ~~written description and justification for the proposed rule~~
13 ~~and make this information available to the governor, the~~
14 ~~environmental quality council, persons who have requested an~~
15 ~~opportunity to comment on environmental impact statements,~~
16 ~~other affected state and federal agencies as described in~~
17 ~~this section, the administrative code committee, and any~~
18 ~~other interested person.~~

19 ~~13+(5) Nothing NOTHING in this section requires a~~
20 ~~state agency to prepare an environmental impact statement on~~
21 ~~legislation proposed by an agency. The environmental quality~~
22 ~~council shall review all legislation introduced and make~~
23 ~~recommendations consistent with the policies established in~~
24 ~~this section to the committees of the legislature."~~

-End-

SENATE BILL NO. 506

INTRODUCED BY NATURAL RESOURCES COMMITTEE - ROSKIE, CHAIRMAN
 ETCHART, MANLEY, DOVER, LOCKREM, STORY, LOWE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE MONTANA ENVIRONMENTAL POLICY ACT TO SPECIFY THAT THE ACT DOES NOT EXPAND THE SUBSTANTIVE DECISIONMAKING AUTHORITY OF STATE AGENCIES; DELETING THE REQUIREMENT THAT AN ENVIRONMENTAL IMPACT STATEMENT BE PREPARED ON RULES AND LEGISLATION; AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW LEGISLATION AND ADVISE THE LEGISLATURE OF POTENTIAL ENVIRONMENTAL IMPACTS; REQUIRING STATE AGENCIES TO HOLD A PUBLIC HEARING ON A PROPOSED RULE UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT WHEN IT HAS BEEN DETERMINED THAT THE PROPOSED RULE WOULD CONSTITUTE A MAJOR STATE ACTION HAVING A SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT; AND AMENDING SECTION 75-1-201, MCA."

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

Section 1. Section 75-1-201, MCA, is amended to read:

"75-1-201. General directions -- environmental impact statements. ~~(1)~~ The legislature authorizes and directs that, to the fullest extent possible:

~~(1)~~ the policies, regulations, and laws of the state shall be interpreted and administered in accordance

with the policies set forth in this chapter;

~~(2)~~ all agencies of the state shall:

~~(A)~~ utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

~~(B)~~ identify and develop methods and procedures which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

~~(C)~~ include in every recommendation or report on proposals for projects, programs, legislation, and other major actions of state government significantly affecting the quality of the human environment, excluding legislation and rules adopted under the Montana Administrative Procedure Act, a detailed statement on:

~~(1)~~ the environmental impact of the proposed action as it relates to the authority of an agency to make a final decision under the express provisions of the statutes governing the agency **SCOPE AND EXTENT OF THE PROPOSED ACTION;**

~~(2)~~ any adverse environmental effects which cannot be avoided should the proposal be implemented;

1 ~~(+) (I)~~ alternatives to the proposed action ~~that~~
 2 ~~the agency has been given the express authority to consider~~
 3 ~~in the statutes governing the agency;~~

4 ~~(+) (IV)~~ the relationship between local short-term
 5 uses of man's environment and the maintenance and
 6 enhancement of long-term productivity; and

7 ~~(+) (V)~~ any irreversible and irretrievable
 8 commitments of resources which would be involved in the
 9 proposed action should it be implemented;

10 ~~(VI) THE ECONOMIC COSTS AND BENEFITS;~~

11 ~~(VII) THE EFFECTS ON LOCAL AND STATE SERVICES;~~

12 ~~(VIII) THE EFFECTS ON AGRICULTURE; AND~~

13 ~~(IX) THE EFFECTS ON PUBLIC HEALTH AND SAFETY;~~

14 ~~(+) (D)~~ study, develop, and describe appropriate
 15 alternatives to recommend courses of action in any proposal
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 17 uses of available resources;

18 ~~(+) (E)~~ recognize the national and long-range
 19 character of environmental problems and, where consistent
 20 with the policies of the state, lend appropriate support to
 21 initiatives, resolutions, and programs designed to maximize
 22 national cooperation in anticipating and preventing a
 23 decline in the quality of mankind's world environment;

24 ~~(+) (F)~~ make available to counties, municipalities,
 25 institutions, and individuals advice and information useful

1 in restoring, maintaining, and enhancing the quality of the
 2 environment;

3 ~~(+) (G)~~ initiate and utilize ecological information
 4 in the planning and development of resource-oriented
 5 projects; and

6 ~~(+) (H)~~ assist the environmental quality council
 7 established by 5-16-101; and

8 ~~(+) (I) adopt procedural rules concerning the~~
 9 ~~circulation, contents, review, and receipt of comments on~~
 10 ~~environmental impact statements prepared under this section;~~
 11 ~~and~~

12 ~~(+) (J) make a final decision on an action for which an~~
 13 ~~environmental impact statement has been prepared based only~~
 14 ~~on the express decisionmaking authority granted to the~~
 15 ~~agency under the specific statute administered by the~~
 16 ~~agency;~~

17 ~~(+) (K)~~ prior to making any detailed statement as
 18 provided in subsection ~~(+) (L)~~ ~~(2)(C)~~, the
 19 responsible state official shall consult with and obtain the
 20 comments of any state agency which has jurisdiction by law
 21 or special expertise with respect to any environmental
 22 impact involved. Copies of such statement and the comments
 23 and views of the appropriate state, federal, and local
 24 agencies which are authorized to develop and enforce
 25 environmental standards shall be made available to the

1 governor, the environmental quality council, and the public
2 and shall accompany the proposal through the existing agency
3 review processes.

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16 ~~opportunity to comment on environmental impact statements,~~
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18 ~~this section, the administrative code committee, and any~~
19 ~~other interested person.~~

20 ~~§3(5) Nothing NOTHING in this section requires a~~
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23 ~~council shall review all legislation introduced and make~~
24 ~~recommendations consistent with the policies established in~~
25 ~~this section to the committees of the legislature."~~