

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN JIM PETERSON**, on February 16, 2005 at 3:00 P.M., in Room 152 Capitol.

ROLL CALL

Members Present:

Rep. Jim Peterson, Chairman (R)
Rep. Christopher Harris, Vice Chairman (D)
Rep. John (Jack) W. Ross, Vice Chairman (R)
Rep. Debby Barrett (R)
Rep. Norma Bixby (D)
Rep. Dee L. Brown (R)
Rep. Paul Clark (D)
Rep. Sue Dickenson (D)
Rep. George Everett (R)
Rep. Kevin T. Furey (D)
Rep. Ralph Heinert (R)
Rep. Llew Jones (R)
Rep. Mike Jopek (D)
Rep. Carol Lambert (R)
Rep. Rick Maedje (R)
Rep. Veronica Small-Eastman (D)
Rep. David E. Wanzenried (D)

Members Excused: None.

Members Absent: Rep. Gail Gutsche (D)

Staff Present: Joe Kolman, Legislative Branch
Debra Polhemus, Committee Secretary

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 353, 2/8/2005; HB 581, 2/8/2005;
HB 582, 2/8/2005; HB 470,
1/28/2005; HB 591, 2/11/2005
Executive Action: HJ 9; HJ 18; HB 606; HB 360; HB
546; HB 568; HB 608; HB 612;
HB 428; HB 429

HEARING ON HB 353

Opening Statement by Sponsor:

00:02:36 REP. DAVID WANZENRIED (D), HD 97, opened the
hearing on HB 353, Procedure for access to
landlocked property.

[EXHIBIT\(nah38a01\)](#)

Proponents' Testimony:

00:07:01 Matt Brainard, Florence

[EXHIBIT\(nah38a02\)](#)

[EXHIBIT\(nah38a03\)](#)

[EXHIBIT\(nah38a04\)](#)

00:15:36 Jim Chaffin, Missoula

00:16:34 Mike Collins

Opponents' Testimony:

00:17:35 John Bloomquist, Montana Stockgrowers Association

00:21:16 John Youngberg, Montana Farm Bureau Federation

00:21:56 Charleen Schuster, Rancher, Garfield County

00:24:08 L. Harold Blattie, Montana Association of Counties

00:25:29 Mike Murphy, Montana Water Resources Association

00:26:14 Carl Sielstad, Fergus County Commissioner

00:26:32 Marianne Roose, Lincoln County Commissioner

00:27:02 Robert Goffena, Musselshaw County Commissioner

Informational Testimony: None.

Questions from Committee Members and Responses:

00:27:32 REP. ROSS

00:28:26 REP. CLARK

Closing by Sponsor:

00:29:45 REP. DAVID WANZENRIED (D), HD 97 closed the
hearing on HB 353.

HEARING ON HB 470

Opening Statement by Sponsor:

00:30:39 **REP. PAUL CLARK (D), HD 13**, opened the hearing on
HB 470, Applicants to pay costs of certain
environmental impact statements.

Proponents' Testimony:

00:34:37 Tom Livers, Department of Environmental Quality
EXHIBIT (nah38a05)

00:45:39 Don Allen, Western Environmental Trade Association

00:47:05 Bud Clinch, Executive Director, Montana Coal
Council

00:48:01 Ed Bartlett, Golden Sunlight Mine

00:48:27 Anne Hedges, Montana Environmental Information
Center

00:49:21 Don Quander, Attorney, representing Smurfitt-Stone
Container

00:50:51 Kris Thomas, Gallatin County, Montanans Against
Toxic Burning

00:52:13 Denise Hayman, Bozeman resident

00:52:35 Jack Stults, Division Administrator, Department of
Natural Resources and Conservation

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

None.

Closing by Sponsor:

00:54:06 **REP. PAUL CLARK (D), HD 13** closed the hearing on
HB 470.

HEARING ON HB 582

Opening Statement by Sponsor:

00:56:26 **REP. GAIL GUTSCHE (D), HD 99**, opened the hearing
on **HB 582**, No permit for facility disposing of
polyvinyl chloride through incineration.

EXHIBIT (nah38a06)

Proponents' Testimony:

01:00:55 Alexandra Gormen, Women's Voices for the Earth
[EXHIBIT \(nah38a07\)](#)
[EXHIBIT \(nah38a08\)](#)
[EXHIBIT \(nah38a09\)](#)
 01:04:52 Dori Gilels, Women's Voices for the Earth
[EXHIBIT \(nah38a10\)](#)
 01:08:21 Kierstin Lange, Bitterroot Valley, Coalition for
 the Operation of a Safe Lab
[EXHIBIT \(nah38a11\)](#)
 01:10:42 Will Snodgrass, Missoula resident
 01:12:02 Denise Hayman, Bozeman School District Trustee
 01:13:25 Kris Thomas, Gallatin County, Montanans Against
 Toxic Burning
 01:14:09 Linda Smith, Missoula resident
[EXHIBIT \(nah38a12\)](#)
 01:16:06 Bryony Schwan, Women's Voices for the Earth
[EXHIBIT \(nah38a13\)](#)
[EXHIBIT \(nah38a14\)](#)
 01:18:00 Wade Sikorski
 01:19:22 Darrell Geist
 01:20:33 Tony Tweedale, Montana Cheer
[EXHIBIT \(nah38a15\)](#)
 01:22:31 Judy Smith, Missoula

Opponents' Testimony:

01:23:49 Leif Griffin, Environmental Manager, Smurfit-Stone
 Container Enterprises, Inc., Missoula
[EXHIBIT \(nah38a16\)](#)
[EXHIBIT \(nah38a17\)](#)
 01:30:29 Don Serba, 32-year employee of Smurfit-Stone
 Container Enterprises, Inc.
 01:34:17 Ellen Engstedt, Montana Wood Products Association
 01:35:58 Don Allen, Western Environmental Trade Association
 01:36:45 Don Quander, Attorney

Informational Testimony:

01:38:19 Don Vidrine, Air Management Bureau, Department of
 Environmental Quality

Questions from Committee Members and Responses:

01:41:16 REP. CLARK
 01:46:00 REP. HARRIS
 01:55:23 REP. HEINERT
 02:01:22 REP. EVERETT
 02:04:03 REP. CLARK
 02:06:41 REP. HEINERT

Closing by Sponsor:

02:08:53 **REP. GAIL GUTSCHE (D)**, HD 99, closed the hearing on HB 582.

02:12:29 Break

02:33:01 Resume

HEARING ON HB 591

Opening Statement by Sponsor:

02:33:34 **REP. MIKE JOPEK (D)**, HD 4, opened the hearing on HB 591, Clarify applicability of local zoning regulations to sand and gravel operations.

Proponents' Testimony:

02:34:49 Cary Hegreberg, Montana Contractors Association
[EXHIBIT \(nah38a18\)](#)

02:36:47 Alrich Hale, General Manager, JTL Group, Kalispell

02:37:10 Joe Brenneman, Flathead County Commissioner

02:37:40 Leo Zwemke, General Manager, Empire Sand and Gravel, Billings

02:38:08 John Auslim, Yellowstone County Commissioner

02:38:39 Jim Reno, Yellowstone County Commissioner

02:39:47 Steve Welch, Department of Environmental Quality

02:40:50 Jerry Nix, Flathead County

[EXHIBIT \(nah38a19\)](#)

02:41:35 Eric Griffin, Director of Public Works, Lewis & Clark County

02:41:52 David Hadden, Bigfork

02:42:30 L. Harold Blattie, Montana Association of Counties

02:42:48 Anne Hedges, Montana Environmental Information Center

02:42:59 Glenn Oppel, Montana Association of Realtors

[EXHIBIT \(nah38a20\)](#) [Letters](#)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

02:43:45 **REP. BROWN**

Closing by Sponsor:

02:45:11 **REP. MIKE JOPEK (D)**, HD 4 closed the hearing on HB 591.

HEARING ON HB 581

Opening Statement by Sponsor:

02:46:59 **REP. GAIL GUTSCHE (D), HD 99**, opened the hearing
on **HB 581**, Revise air quality laws.

Proponents' Testimony:

02:48:23 Don Vidrine, Department of Environmental Quality
02:50:52 Kris Thomas, Gallatin County, Montanans Against
Toxic Burning
02:51:53 Wade Sikorski, Gallatin County
02:52:35 Anne Hedges, Montana Environmental Information
Center

Opponents' Testimony:

02:55:27 Don Quander, Billings, Montana Industrial Clean
Air Act Coalition
02:59:47 Don Allen, Western Environmental Trade Association

Informational Testimony: None.

Questions from Committee Members and Responses:

03:01:43 **REP. HEINERT**
03:06:36 **REP. BARRETT**
03:07:09 **REP. CLARK**
03:17:12 **CHAIRMAN PETERSON**

Closing by Sponsor:

03:18:34 **REP. GAIL GUTSCHE (D), HD 99**, closed the hearing
on **HB 581**.

03:20:06 Break
03:29:59 Resume

EXECUTIVE ACTION ON HB 581

03:31:03 Motion: REP. GUTSCHE moved that HB 581 DO PASS.

Discussion:

03:31:16 REP. BARRETT
03:32:09 CHAIRMAN PETERSON
03:33:58 REP. CLARK
03:34:09 REP. HARRIS
03:35:20 REP. GUTSCHE
03:35:42 REP. BROWN
03:36:00 REP. DICKENSON
03:37:39 REP. ROSS
03:38:10 REP. HARRIS
03:39:25 REP. CLARK
03:41:23 CHAIRMAN PETERSON

03:42:46 Motion/Vote: REP. GUTSCHE moved that HB 581 BE
 AMENDED. Motion carried by voice vote.

03:43:30 Motion/Vote: REP. GUTSCHE moved that HB 581 DO
 PASS AS AMENDED. Motion failed 9-9 by roll call
 vote with REPS. BIXBY, CLARK, DICKENSON, FUREY,
 GUTSCHE, HARRIS, JOPEK, SMALL-EASTMAN, and
 WANZENRIED voting aye and REPS. FUREY and
 WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HJ9

03:45:36 Motion: REP. BARRETT moved that HJ 9 DO PASS.

03:46:23 Motion: REP. BARRETT moved that HJ 9 BE AMENDED.
[EXHIBIT](#) (nah38a21)

Discussion:

03:46:57 REP. JOPEK
03:48:31 REP. HEINERT

03:50:58 Vote: Motion carried by voice vote with REPS.
 GUTSCHE and JOPEK voting no.

03:51:42 Motion: REP. BARRETT moved that HJ 9 DO PASS AS
 AMENDED.

03:51:54 Motion: REP. CLARK moved that HJ 9 BE AMENDED.
 Motion carried by voice vote with REP. GUTSCHE
 voting no.

03:53:06 Motion: REP. BARRETT moved that HJ 9 DO PASS AS AMENDED.

Discussion:
03:53:15 REP. JOPEK

03:53:44 Motion: REP. JOPEK moved that HJ 9 BE AMENDED.
Motion carried by voice vote with REP. GUTSCHE voting no.

03:54:26 Motion: REP. BARRETT moved that HJ 9 DO PASS AS AMENDED.

Discussion:
03:54:36 REP. CLARK
03:56:28 REP. BARRETT
03:57:28 REP. HARRIS
03:58:26 REP. MAEDJE
03:59:18 REP. BROWN
03:59:50 REP. CLARK
04:01:10 REP. JOPEK

04:02:23 Vote: Motion carried 12-6 by roll call vote with REPS. BIXBY, FUREY, GUTSCHE, HARRIS, WANZENRIED, and SMALL-EASTMAN voting no and REPS. FUREY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 606

04:04:53 Motion: REP. GUTSCHE moved that HB 606 DO PASS.

04:05:03 Motion: REP. BROWN moved that HB 606 BE AMENDED.
[EXHIBIT](#) (nah38a22)

Discussion:
04:05:17 REP. BROWN
04:06:07 REP. GUTSCHE

04:06:29 Vote: Motion carried by voice vote.

04:06:50 Motion: REP. GUTSCHE moved that HB 606 DO PASS AS AMENDED.

Discussion:
04:07:13 REP. GUTSCHE
04:07:47 REP. ROSS
04:08:39 REP. BROWN

04:09:04 Vote: Motion carried 16-2 by voice vote with REPS. BARRETT and EVERETT voting no and REPS. WANZENRIED and FUREY voting by proxy.

EXECUTIVE ACTION ON HB 360

04:10:36 Motion: REP. BROWN moved that HB 360 DO PASS.

04:10:47 Motion: REP. BROWN moved that HB 360 BE AMENDED.

04:11:38 Vote: Motion carried 13-3 by voice vote with REPS. BIXBY, CLARK, and HARRIS voting no.

04:12:22 Motion: REP. BROWN moved that HB 360 DO PASS AS AMENDED.

Discussion:

04:12:30 REP. CLARK

04:12:40 REP. HARRIS

04:13:14 Substitute Motion/Vote: REP. HARRIS made a substitute motion that HB 360 BE TABLED. Substitute motion carried by voice vote with REPS. BROWN, JOPEK and EVERETT voting no and REPS. FUREY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 568

04:14:51 Motion: REP. BROWN moved that 568 DO PASS.

04:15:22 Substitute Motion/Vote: REP. DICKENSON made a substitute motion that HB 568 BE TABLED. Substitute motion carried 10-8 by roll call vote with REPS. BARRETT, BROWN, EVERETT, HEINERT, JONES, JOPEK, LAMBERT, and PETERSON voting no and REPS. WANZENRIED and FUREY voting by proxy.

EXECUTIVE ACTION ON HB 608

04:17:37 Motion: REP. CLARK moved that HB 608 DO PASS.

04:18:07 Motion: REP. BROWN moved that HB 608 BE AMENDED.

04:18:59 Vote: Motion carried 12-4 by voice vote with REPS. BIXBY, CLARK, GUTSCHE, and HARRIS voting no.

04:19:28 Motion: REP. CLARK moved that HB 608 DO PASS AS AMENDED.

Discussion:

04:19:38 REP. JOPEK
 04:20:09 REP. EVERETT
 04:20:50 REP. CLARK
 04:22:20 REP. HEINERT
 04:22:51 REP. BROWN
 04:23:05 REP. BARRETT
 04:23:56 REP. HARRIS
 04:24:38 REP. ROSS
 04:25:29 CHAIRMAN PETERSON

04:26:58 Substitute Motion/Vote: REP. BROWN made a substitute motion that HB 608 BE TABLED. Substitute motion carried 13-5 by voice vote with REPS. BARRETT, EVERETT, JONES, MAEDJE, and PETERSON voting no and REPS. WANZENRIED and FUREY voting by proxy.

EXECUTIVE ACTION ON HB 546

04:29:40 Motion: REP. MAEDJE moved that HB 546 DO PASS.

Discussion:

04:29:55 REP. MAEDJE
 04:30:38 REP. HARRIS
 04:31:09 REP. CLARK

04:31:37 Vote: Motion failed 5-13 by roll call vote with REPS. BROWN, HEINERT, LAMBERT, MAEDJE, and PETERSON voting aye and REPS. WANZENRIED and FUREY voting by proxy.

04:32:36 Motion/Vote: REP. PETERSON moved that HB 546 BE TABLED AND THE VOTE REVERSED. Motion carried by voice vote.

EXECUTIVE ACTION ON HB 612

04:33:49 Motion: REP. MAEDJE moved that HB 612 DO PASS.

04:33:59 Motion/Vote: REP. MAEDJE moved that HB 612 BE AMENDED. Motion carried by voice vote.

04:35:54 Motion: REP. MAEDJE moved that HB 612 DO PASS AS AMENDED.

Discussion:

04:36:03 REP. CLARK
04:36:33 REP. HARRIS

04:36:57 **Vote:** Motion carried unanimously by voice vote with REPS. FUREY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HJ 18

04:38:19 **Motion:** REP. BARRETT moved that HJ 18 DO PASS.

04:38:31 **Motion:** REP. JOPEK moved that HJ 18 BE AMENDED.
[EXHIBIT \(nah38a23\)](#)

Discussion:
04:40:07 REP. JOPEK

04:42:15 REP. BARRETT requested to segregate SECTION 2 from the Amendment Vote, which was done without objection.

Discussion:
04:43:16 REP. MAEDJE
04:43:39 REP. JOPEK

04:44:26 **Vote:** Motion carried by voice vote with REP. LAMBERT voting no.

04:45:59 **Motion:** REP. JOPEK moved that HJ 18 BE AMENDED to include SECTION 2.

Discussion:
04:46:56 REP. CLARK
04:47:28 REP. HARRIS
04:49:10 REP. JOPEK

04:50:09 **Vote:** Motion carried by voice vote.

04:50:30 **Motion:** REP. BARRETT moved that HJ 18 DO PASS AS AMENDED.

Discussion:
04:50:50 REP. DICKENSON
04:51:01 REP. GUTSCHE
04:51:24 REP. CLARK
04:51:54 REP. EVERETT

04:53:55 Vote: Motion carried 11-7 by roll call vote with REPS. BIXBY, CLARK, DICKENSON, FUREY, GUTSCHE, ROSS, and WANZENRIED voting no and REPS. FUREY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 428

04:54:54 Motion: REP. GUTSCHE moved that HB 428 DO PASS.

04:55:35 Motion: REP. GUTSCHE moved that HB 428 BE AMENDED.

EXHIBIT (nah38a24)

_____ Discussion:
04:57:09 REP. GUTSCHE

04:57:40 Vote: Motion carried by voice vote.

04:57:51 Motion: REP. GUTSCHE moved that HB 428 DO PASS AS AMENDED.

_____ Discussion:
04:58:01 REP. BARRETT
04:59:04 REP. GUTSCHE
04:59:36 REP. BARRETT
05:00:59 CHAIRMAN PETERSON
05:01:22 REP. HEINERT
05:01:44 REP. JOPEK

05:02:02 Vote: Motion carried 15-3 by roll call vote with REP. BROWN, REP. EVERETT, and REP. ROSS voting no and REP. FUREY and WANZENRIED voting by proxy.

EXECUTIVE ACTION ON HB 429

05:04:07 Motion: REP. GUTSCHE moved that HB 429 DO PASS.

05:04:17 Motion: REP. GUTSCHE moved that HB 429 BE AMENDED.

EXHIBIT (nah38a25)

_____ Discussion:
05:04:34 REP. GUTSCHE

05:06:27 Vote: Motion carried by voice vote with REPS. BARRETT and MAEDJE voting no.

05:06:46 **Motion:** REP. GUTSCHE moved that HB 429 DO PASS AS
 AMENDED.

Discussion:

05:07:48 **REP. CLARK**
05:09:01 **CHAIRMAN PETERSON**
05:09:22 **REP. GUTSCHE**
05:10:19 **REP. MAEDJE**
05:10:46 **REP. HARRIS**
05:11:22 **REP. DICKENSON**
05:12:00 **REP. JOPEK**
05:12:51 **REP. GUTSCHE**
05:13:58 **REP. JONES**
05:14:24 **REP. HARRIS**
05:14:54 **REP. GUTSCHE**
05:15:06 **REP. MAEDJE**
05:15:50 **REP. HARRIS**
05:16:33 **REP. CLARK**
05:18:04 **REP. BROWN**

05:18:31 **Vote:** Motion carried 12-6 by roll call vote with
 REP. BARRETT, REP. BROWN, REP. EVERETT, REP.
 MAEDJE, REP. PETERSON, and REP. ROSS voting no and
 REPS. FUREY and WANZENRIED voting by proxy.

05:20:18

ADJOURNMENT

Adjournment: 8:30 P.M.

REP. JIM PETERSON, Chairman

DEBRA POLHEMUS, Secretary

JP/dp

Additional Exhibits:

EXHIBIT ([nah38aad0.PDF](#))