

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
61st LEGISLATURE - REGULAR SESSION**

COMMITTEE ON NATURAL RESOURCES

Call to Order: Chairman Mike Milburn, on March 27, 2009 at 3:00 P.M., in Room 472 Capitol

ROLL CALL

Members Present:

Rep. Mike Milburn, Chairman (R)
Rep. Gordon R. Hendrick, Vice Chairman (R)
Rep. JP Pomnichowski, Vice Chairman (D)
Rep. Tony Belcourt (D)
Rep. Gerald Bennett (R)
Rep. Anders Blewett (D)
Rep. Jill Cohenour (D)
Rep. Sue Dickenson (D)
Rep. Betsy Hands (D)
Rep. Brian Hoven (R)
Rep. Mike Menahan (D)
Rep. Scott Mendenhall (R)
Rep. Michele Reinhart (D)
Rep. Kendall Van Dyk (D)
Rep. Chas Vincent (R)
Rep. Wendy Warburton (R)

Members Excused: Rep. Tom McGillvray (R)
Rep. Mike Miller (R)

Members Absent: None

Staff Present: Shirley Chovanak, Committee Secretary
Joe Kolman, Legislative Branch

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 678, 3/27/2009; HB 665, 3/27/2009;
SB 22, 3/27/2009

Executive Action: SB 22; SB 131; HB 669; SB 62; SB 71;
SB 97; SB 392; SB 396; SB 427; HB 678;
SB 94; SJ 21; SB 206; HB 665

00:00:01 Chairman Milburn

HEARING ON HB 678**Opening Statement by Sponsor:**

00:01:52 Rep. JP Pomnichowski (D), HD 63, opened the hearing on
HB 678, Revise opencut mining laws.

Proponents' Testimony:

00:15:07 Jean Riley, Homeowner/Resident, Eastgate II, East
Helena

00:17:41 Carol Lee-Roark, Gateway Open-cut Action Mining Group
EXHIBIT (nah68a01)

00:22:38 Anne Hedges, Montana Environmental Information Center

00:26:31 Robert LaRue, Rancher, Gallatin County

Opponents' Testimony:

00:29:23 Cary Hegreberg, Montana Contractors Association (MCA)

00:34:57 Paul Thompson, Engineer, Gillen Construction

00:42:54 Harold Blattie, Montana Association of Counties

EXHIBIT (nah68a02)

00:47:28 Jerry Bowser, Environment Manager, Old Castle Materials

00:51:29 Robert Warren, Schellinger Company, Columbia Falls

00:53:18 Ron Pikes, Pine Construction, Bozeman

00:55:11 Steve Wade, MCA

Informational Testimony:

00:58:41 Judy Hanson, Permitting and Compliance Division,
Department of Environmental Quality (DEQ)

Questions from Committee Members and Responses:

01:00:25 Rep. Belcourt

01:00:44 Ms. Hanson

01:01:00 Rep. Belcourt

01:01:09 Ms. Hanson

01:01:35 Rep. Belcourt
01:01:45 Ms. Hanson
01:02:03 Rep. Cohenour
01:03:09 Mr. Hegreberg
01:04:47 Rep. Cohenour
01:05:04 Mr. Hegreberg
01:05:45 Rep. Cohenour
01:05:54 Mr. Hegreberg
01:06:43 Rep. Cohenour
01:07:34 Mr. Wade
01:08:08 Rep. Cohenour
01:08:34 Mr. Bowser
01:08:54 Rep. Cohenour
01:09:04 Ms. Hedges
01:09:47 Rep. Cohenour
01:10:11 Mr. Wade
01:11:04 Rep. Cohenour
01:11:22 Mr. Wade
01:11:29 Rep. Dickenson
01:12:15 Rep. Pomnichowski
01:16:20 Rep. Dickenson
01:16:27 Rep. Pomnichowski
01:16:37 Joe Kolman, Legislative Services Division
01:17:10 Rep. Hoven
01:17:49 Mr. Hegreberg
01:18:55 Rep. Hoven
01:19:22 Mr. Hegreberg
01:20:27 Rep. Hands
01:20:59 Mr. Hegreberg
01:21:35 Rep. Hands
01:21:52 Rep. Cohenour
01:23:28 Mr. Hegreberg
01:25:51 Rep. Cohenour
01:26:29 Mr. Hegreberg
01:26:40 Rep. Cohenour
01:27:05 Mr. Hegreberg
01:27:14 Chairman Milburn
01:27:37 Rep. Pomnichowski
01:27:38 Chairman Milburn
01:28:49 Rep. Pomnichowski
01:28:57 Chairman Milburn
01:29:02 Rep. Pomnichowski
01:31:05 Rep. Cohenour
01:31:13 Rep. Pomnichowski
01:31:22 Rep. Cohenour
01:31:31 Rep. Pomnichowski
01:32:03 Rep. Cohenour
01:32:12 Ms. Hanson
01:32:53 Rep. Cohenour
01:33:03 Mr. Wade

01:33:41 Rep. Cohenour
01:34:01 Chairman Milburn
01:34:55 Mr. Kolman
01:37:40 Rep. Cohenour
01:37:50 Mr. Kolman
01:38:14 Rep. Cohenour
01:38:31 Mr. Kolman
01:39:21 Chairman Milburn
01:39:30 Rep. Reinhart
01:39:52 Chairman Milburn
01:40:08 Rep. Pomnichowski
01:41:50 Chairman Milburn

Closing by Sponsor:

01:41:59 Rep. Pomnichowski
01:44:05 Chairman Milburn

HEARING ON SB 22

Opening Statement by Sponsor:

01:44:17 Sen. Terry Murphy (R), SD 39, opened the hearing on SB 22, Create Water policy committee.

Proponents' Testimony:

01:46:48 Krista Lee Evans, Association of Gallatin Agriculture Irrigators; Senior Water Rights Coalition
01:47:35 Mike Murphy, Montana Water Resources Association
01:48:17 Robert Johnson, Montana AFL-CIO
01:48:35 Holly Franz, PPL Montana, Inc.
01:49:26 Ronda Wiggers, Montana Water Well Drillers Association
01:49:44 Mark Aagenes, Montana Trout Unlimited
01:50:11 Rep. Cohenour, HD 78, East Helena

Opponents' Testimony: None

Informational Testimony:

01:51:10 John Tubbs, DEQ
01:51:40 Ms. Hanson

Questions from Committee Members and Responses:

01:52:05 Rep. Mendenhall
01:52:30 Sen. Murphy

01:53:16 Rep. Cohenour
01:54:42 Rep. Dickenson
01:54:56 Sen. Murphy
01:55:05 Rep. Hands
01:55:34 Sen. Murphy
01:57:11 Rep. Vincent
01:57:31 Sen. Murphy
01:58:14 Rep. Vincent
01:58:13 Sen. Murphy

Closing by Sponsor:

01:58:24 Sen. Murphy

HEARING ON HB 665

Opening Statement by Sponsor:

01:59:20 Rep. Wayne Stahl (R), HD 35, opened the hearing on
HB 665, Revise water discharge laws.

[EXHIBIT \(nah68a03\)](#)

Proponents' Testimony:

02:00:32 Mr. Aagenes

Opponents' Testimony:

02:01:25 Tim Davis, Montana Smart Growth Coalition
02:03:18 Jenny Chambers, Chief, Water Protection Bureau, DEQ
02:04:56 Darryl James, Representative, City of Missoula
02:05:19 Jim Jensen, Montana Environmental Information Center

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

02:07:08 Rep. Stahl

02:11:04 Break
02:31:49 Reconvene

02:31:51 Rep. Pomnichowski
02:32:10 Ms. Kolman
02:32:54 Rep. Pomnichowski
02:33:05 Mr. Kolman

02:33:12 Rep. Pomnichowski
02:33:16 Mr. Kolman
02:33:29 Chairman Milburn

EXECUTIVE ACTION ON HB 669

02:34:00 **Motion:** Rep. Vincent moved that **HB 669 DO PASS.**
EXHIBIT (nah68a04)

Discussion:

02:35:34 Rep. Pomnichowski
02:35:47 Rep. Vincent
02:36:05 Rep. Pomnichowski
02:36:15 Mr. Kolman
02:36:28 Rep. Hands
02:37:24 Rep. Vincent
02:37:49 Rep. Menahan
02:38:18 Rep. Vincent
02:38:49 Rep. Hoven
02:39:02 Rep. Vincent
02:39:18 Chairman Milburn
02:39:24 Rep. Cohenour

02:40:29 **Vote:** Motion carried unanimously by voice vote with
Reps. McGillvray, Miller, Reinhart, and Bennett voting
by proxy.

EXECUTIVE ACTION ON SB 131

02:40:31 **Motion:** Rep. Pomnichowski moved that **SB 131 BE**
CONCURRED IN AS AMENDED.

Discussion:

02:41:40 Rep. Vincent
02:43:08 Rep. Cohenour
02:44:41 Mr. Kolman
02:45:17 Rep. Hoven

02:45:53 **Motion:** Rep. Vincent moved that **SB 131 BE CONCEPTUALLY**
AMENDED.

Discussion:

02:46:12 Mr. Kolman
02:46:35 Rep. Dickenson

02:47:05 Rep. Vincent

02:47:40 **Vote:** Motion carried 17-1 by voice vote with Rep. Cohenour voting no. Reps. McGillvray, Miller, Reinhart, and Bennett voted by proxy.

Discussion:

02:48:21 Rep. Dickenson

02:49:31 Rep. Vincent

02:49:46 Rep. Pomnichowski

02:50:19 **Motion/Vote:** Rep. Pomnichowski moved that **SB 131 BE CONCURRED IN AS AMENDED**. Motion carried 11-7 by voice vote with Chairman Milburn and Reps. Mendenhall, Warburton, Hoven, Miller, McGillvray, and Hendrick voting no. Reps. Bennett, McGillvray, Miller, and Reinhart voted by proxy. Rep. Vincent will carry the bill in the House.

EXECUTIVE ACTION ON SB 94

02:51:41 **Motion:** Rep. Pomnichowski moved that **SB 94 BE CONCURRED IN**.

02:53:11 Rep. Cohenour

02:54:20 Rep. Mendenhall

02:56:39 Rep. Pomnichowski

02:58:25 Rep. Cohenour

02:59:42 Rep. Mendenhall

03:00:11 Rep. Vincent

03:00:31 Rep. Dickenson

03:01:43 Rep. Van Dyk

03:03:29 Rep. Hoven

03:04:29 Rep. Pomnichowski

03:06:56 Rep. Vincent

03:07:34 Rep. Cohenour

03:08:56 Chairman Milburn

03:10:00 **Vote:** Motion failed 9-9 by roll call vote with Reps. Pomnichowski, Van Dyk, Reinhart, Hands, Blewett, Cohenour, Dickenson, Belcourt, and Menahan voting aye. Reps. Bennett, McGillvray, Miller, and Reinhart voted by proxy.

EXECUTIVE ACTION ON SB 62

03:11:00 **Motion:** Rep. Pomnichowski moved that **SB 62 BE CONCURRED IN.**

03:11:52 Mr. Kolman

03:13:10 **Vote:** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy. Rep. Cohenour will carry the bill in the House.

EXECUTIVE ACTION ON SB 71

03:13:35 **Motion:** Rep. Pomnichowski moved that **SB 71 BE CONCURRED IN.**

03:14:51 Rep. Cohenour

03:15:05 **Vote:** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy. Rep. Hands will carry the bill in the House.

EXECUTIVE ACTION ON SB 97

03:15:38 **Motion:** Rep. Pomnichowski moved that **SB 97 BE CONCURRED IN.**

03:16:02 Mr. Kolman

03:18:22 Rep. Cohenour

03:18:31 Rep. Dickenson

03:19:42 Rep. Hoven

03:19:51 Rep. Dickenson

03:22:02 **Vote:** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy. Rep. Dickenson will carry the bill in the House.

EXECUTIVE ACTION ON SB 206

03:22:20 **Motion:** Rep. Hendrick moved that **SB 206 BE CONCURRED IN.**

03:22:43 Rep. Dickenson

03:25:49 **Substitute Motion/Vote:** Rep. Mendenhall moved that **SB 206 BE TABLED**. Motion carried 15-3 by voice vote with Reps. Warburton, Vincent, and Hendrick voting no. Reps. Bennett, McGillvray, Miller, and Reinhart voted by proxy.

EXECUTIVE ACTION ON SB 392

03:27:36 **Motion:** Rep. Hendrick moved that **SB 392 BE CONCURRED IN**.

Discussion:

03:27:48 Mr. Kolman

03:28:13 Rep. Pomnichowski

03:28:34 **Vote:** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy.

EXECUTIVE ACTION ON SB 396

03:29:18 **Motion:** Rep. Hendrick moved that **SB 396 BE CONCURRED IN**.

03:29:32 Mr. Kolman

03:31:30 **Motion:** Rep. Vincent moved that **SB 396 BE AMENDED**. [EXHIBIT \(nah68a05\)](#)

Discussion:

03:31:02 Rep. Cohenour

03:32:00 Rep. Pomnichowski

03:32:38 Rep. Cohenour

03:33:25 Chairman Milburn

03:33:35 Rep. Reinhart arrived.

03:33:37 **Vote:** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, and Miller voting by proxy.

03:34:09 **Motion/Vote:** Rep. Van Dyk moved that **SB 396 BE CONCURRED IN AS AMENDED**. Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, and Miller voting by proxy. Rep. Vincent will carry the bill in the House.

EXECUTIVE ACTION ON SB 427

- 03:34:50 **Motion:** Rep. Pomnichowski moved that **SB 427 BE CONCURRED IN.**
- 03:34:53 Mr. Kolman
- 03:34:50 Rep. Reinhart left.
- 03:35:29 **Motion/Vote:** Rep. Van Dyk moved that **SB 427 BE AMENDED.** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy.
- EXHIBIT** (nah68a06)
- 03:36:11 **Motion/Vote:** Rep. Pomnichowski moved that **SB 427 BE CONCURRED IN AS AMENDED.** Motion carried unanimously by voice vote with Reps. Bennett, McGillvray, Miller, and Reinhart voting by proxy. Chairman Milburn will carry the bill in the House.

EXECUTIVE ACTION ON SJ 21

- 03:36:52 **Motion:** Rep. Van Dyk moved that **SJ 21 BE CONCURRED IN.**

Discussion:

- 03:37:20 Rep. Reinhart returned.
- 03:37:31 Rep. Menahan
- 03:40:12 **Vote:** Motion failed 9-9 by roll call vote with Reps. Hendrick, Mendenhall, Miller, Hoven, McGillvray, Bennett, Vincent, Warburton, and Milburn voting aye. Reps. Miller, McGillvray, and Bennett voted by proxy.
- 03:41:00 **Motion/Vote:** Rep. Van Dyk moved that **SJ 21 BE TABLED AND THE VOTE REVERSED.** Motion carried 12-6 by voice vote with Reps. Vincent, Warburton, Mendenhall, Miller, McGillvray, and Bennett voting no. Reps. Miller, McGillvray, and Bennett voted by proxy.

EXECUTIVE ACTION ON HB 665

- 03:41:23 **Motion:** Rep. Hendrick moved that **HB 665 DO PASS.**
- 03:41:43 Rep. Cohenour
- 03:43:06 Rep. Mendenhall
- 03:44:02 Rep. Reinhart

- 03:44:43 **Motion:** Rep. Hendrick moved that **HB 665 BE AMENDED** (refer to Exhibit 3).
- 03:45:03 Rep. Pomnichowski
03:45:21 Rep. Hendrick
03:45:28 Mr. Kolman
03:45:51 Rep. Vincent
03:46:11 Rep. Cohenour
03:46:48 Rep. Vincent
03:47:03 Rep. Cohenour
03:47:54 Rep. Warburton
- 03:48:17 **Vote:** Motion failed 7-11 by roll call vote with Reps. Hendrick, Mendenhall, Hoven, Miller, Mendenhall, Milburn, and Warburton voting aye. Reps. Miller, McGillvray, and Bennett voted by proxy.
- 03:49:46 **Vote:** Motion carried 10-8 by roll call vote with Reps. Pomnichowski, Van Dyk, Reinhart, Hands, Blewett, Cohenour, Menahan, and Dickenson voting no. Reps. Miller, McGillvray, and Bennett voted by proxy.

EXECUTIVE ACTION ON SB 22

- 03:51:23 **Motion:** Rep. Hendrick moved that **SB 22 BE CONCURRED IN.**
- 03:51:37 Rep. Cohenour
- 03:51:46 **Vote:** Motion carried 15-3 by voice vote with Reps. Mendenhall, Miller, and McGillvray voting no. Reps. Miller, McGillvray, and Bennett voted by proxy. Rep. Cohenour will carry the bill in the House.

EXECUTIVE ACTION ON HB 665

- 03:52:20 **Motion:** Rep. Hoven moved that the committee **RECONSIDER ITS ACTION ON HB 665.**
- 03:52:49 Mr. Kolman
03:52:53 Rep. Mendenhall
03:53:01 Rep. Van Dyk
03:53:05 Mr. Kolman
03:53:50 Rep. Hendrick
03:54:03 Rep. Van Dyk
03:54:18 Chairman Milburn
03:54:21 Rep. Mendenhall
03:54:25 Chairman Milburn

- 03:54:35 Rep. Pomnichowski
03:54:40 Rep. Cohenour
03:54:51 Chairman Milburn
- 03:56:00 **Vote:** Motion carried 9-6 by roll call vote with Chairman Milburn and Reps. Hendrick, Mendenhall, Belcourt, Vincent, and Warburton voting no.
- 03:56:21 **Motion/Vote:** Rep. Vincent moved that **HB 665 BE AMENDED** (refer to Exhibit #3). Motion failed 9-9 by roll call vote with Reps. Hendrick, Mendenhall, Miller, Hoven, McGillvray, Bennett, Vincent, Warburton, and Milburn voting aye. Reps. Miller, McGillvray, and Bennett voted by proxy.
- 03:56:15 **Motion/Vote:** Rep. Vincent moved that **HB 665 DO PASS**. Motion failed 9-9 by roll call vote with Reps. Hendrick, Mendenhall, Miller, McGillvray, Bennett, Belcourt, Vincent, Warburton, and Milburn voting aye. Reps. Miller, McGillvray, and Bennett voted by proxy.

EXECUTIVE ACTION ON HB 678

- 03:59:09 **Motion:** Rep. Pomnichowski moved that **HB 678 DO PASS**.
- 03:59:10 **Motion:** Rep. Cohenour moved that **HB 678 BE AMENDED**.
[EXHIBIT \(nah68a07\)](#)
- 03:59:55 Mr. Kolman
- 04:00:11 **Vote:** Motion carried unanimously by voice vote with Reps. McGillvray, Miller, and Bennett voting by proxy.
- 04:00:31 **Motion:** Rep. Pomnichowski moved that **HB 678 DO PASS AS AMENDED**.
- 04:00:43 **Motion:** Rep. Hendrick moved that **HB 678 BE AMENDED**.
[EXHIBIT \(nah68a08\)](#)
- 04:00:52 Mr. Kolman
- 04:01:17 Rep. Hendrick **WITHDREW** his motion.
- 04:01:31 **Motion:** Rep. Hendrick moved that **HB 678 BE AMENDED**.
[EXHIBIT \(nah68a09\)](#)

04:01:55 Chairman Milburn
04:02:54 Mr. Kolman
04:04:10 Chairman Milburn
04:04:12 Rep. Blewett left.
04:04:15 Rep. Hands
04:04:47 Mr. Kolman
04:06:55 Rep. Hands
04:07:15 Chairman Milburn
04:07:25 Rep. Hands
04:07:51 Rep. Dickenson
04:08:08 Mr. Kolman
04:08:54 Rep. Cohenour
04:09:10 Mr. Kolman
04:09:57 Chairman Milburn
04:10:06 Ms. Hanson
04:10:27 Rep. Cohenour
04:10:45 Ms. Hanson, DEQ
04:11:08 Chairman Milburn
04:11:19 Rep. Cohenour
04:11:30 Chairman Milburn
04:11:39 Mr. Kolman
04:12:27 Rep. Hands
04:14:09 Chairman Milburn
04:15:14 Rep. Vincent
04:15:30 Rep. Cohenour
04:15:41 Rep. Pomnichowski

04:17:51 **Vote:** Motion carried unanimously by voice vote with Reps. Miller, McGillvray, Blewett, and Bennett voting by proxy.

04:18:39 **Motion:** Rep. Hendrick moved that **HB 678 BE AMENDED** (refer to Exhibit 8).

04:18:58 Mr. Kolman
04:21:45 Chairman Milburn
04:24:35 Mr. Kolman
04:25:33 Chairman Milburn
04:25:36 Mr. Kolman
04:25:54 Rep. Pomnichowski

04:27:51 **Substitute Motion:** Rep. Pomnichowski **MOVED TO SEGREGATE AMENDMENT 4 AND THAT AMENDMENTS 1, 2, AND 3 DO PASS** (refer to Exhibit 8).

Discussion:

04:28:08 Rep. Vincent
04:28:40 Rep. Van Dyk

04:29:30 Chairman Milburn
04:30:42 Rep. Pomnichowski
04:30:59 Chairman Milburn

04:31:55 **Vote:** Motion to **SEGREGATE AMENDMENT 4** carried 11-7 by voice vote with Reps. Mendenhall, Warburton, Vincent, and Belcourt voting no. Reps. McGillvray, Bennett, and Miller voted by proxy.

04:32:45 Rep. Cohenour
04:34:37 Rep. Pomnichowski
04:36:39 Rep. Hendrick
04:37:59 Rep. Van Dyk
04:39:21 Mr. Kolman

04:41:10 **Vote:** Motion that **AMENDMENTS 1, 2, AND 3 DO PASS** carried 14-4 by roll call vote with Reps. Hands, Blewett, Cohenour, and Dickenson voting no. Reps. Miller, McGillvray, and Bennett voted by proxy.

04:41:15 Chairman Milburn
04:43:32 Rep. Van Dyk
04:43:43 Chairman Milburn
04:44:55 Rep. Belcourt
04:46:32 Rep. Pomnichowski
04:49:03 Rep. Mendenhall
04:49:11 Mr. Kolman
04:49:16 Rep. Vincent
04:49:48 Mr. Kolman
04:50:05 Rep. Vincent
04:50:23 Mr. Kolman
04:50:29 Chairman Milburn
04:50:31 Rep. Mendenhall
04:51:13 Rep. Pomnichowski
04:52:12 Rep. Warburton
04:52:29 Rep. Cohenour
04:52:36 Rep. Reinhart
04:52:52 Chairman Milburn

04:53:34 **Vote:** Motion that **HB 678 DO PASS AS AMENDED** carried 12-6 by roll call vote with Reps. Mendenhall, Vincent, Miller, McGillvray, Bennett, and Warburton voting no. Reps. Miller, McGillvray, and Bennett voted by proxy.

04:54:40 Rep. Hands
04:55:15 Chairman Milburn
04:55:25 Rep. Hands
04:55:46 Rep. Cohenour
04:55:60 Chairman Milburn

ADJOURNMENT

04:56:36 Adjournment: 9:00 P.M.

Shirley Chovanak, Secretary

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Additional Exhibits

EXHIBIT (nah68a10) Letter from Clark Fork Coalition re: SB 22

EXHIBIT (nah68a11) Letter from Hydrometrics, Inc. for Montana Well
Drillers Association re: SB 94

Additional Documents:

EXHIBIT (nah68aad.pdf)