

Bill as sent
to governor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

HOUSE BILL NO. 66

INTRODUCED BY DARROW, LUCAS, LUNDGREN, MATHER,
CHRISTIANSEN, FASBENDER, COX, HARRISON, SCHOONOVER,
FAGG, NICHOLS, AINSWORTH, JACKSON, JOHNSTON, BRADLEY,
SCOTT, ULMER, HEMSTAD, C. SMITH AND KELLER

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A STATE
POLICY FOR THE ENVIRONMENT AND TO ESTABLISH AN ENVIRON-
MENTAL QUALITY COUNCIL AND SETTING FORTH ITS POWERS AND
DUTIES AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF
MONTANA:

Section 1. This act may be cited as the "Montana
Environmental Policy Act."

Section 2. The purpose of this act is to declare a
state policy which will encourage productive and enjoyable
harmony between man and his environment; to promote
efforts which will prevent or eliminate damage to the
environment and biosphere and stimulate the health and
welfare of man; to enrich the understanding of the
ecological systems and natural resources important to the
state; and to establish an environmental quality council.

Section 3. The legislative assembly, recognizing the
profound impact of man's activity on the interrelations of
all components of the natural environment, particularly
the profound influences of population growth, high-density
urbanization, industrial expansion, resource exploitation,
and new and expanding technological advances and recog-
nizing further the critical importance of restoring and

1 maintaining environmental quality to the overall welfare
2 and development of man, declares that it is the continuing
3 policy of the state of Montana, in cooperation with the
4 federal government and local governments, and other
5 concerned public and private organizations, to use all
6 practicable means and measures, including financial and
7 technical assistance, in a manner calculated to foster
8 and promote the general welfare, to create and maintain
9 conditions under which man and nature can co-exist in
10 productive harmony, and fulfill the social, economic,
11 and other requirements of present and future generations
12 of Montanans.

13 (a) In order to carry out the policy set forth in
14 this act, it is the continuing responsibility of the state
15 of Montana to use all practicable means, consistent with
16 other essential considerations of state policy, to improve
17 and coordinate state plans, functions, programs, and
18 resources to the end that the state may--

19 (1) fulfill the responsibilities of each generation
20 as trustee of the environment for succeeding generations;

21 (2) assure for all Montanans safe, healthful,
22 productive, and esthetically and culturally pleasing
23 surroundings;

24 (3) attain the widest range of beneficial uses of
25 the environment without degradation, risk to health or
26 safety, or other undesirable and unintended consequences;

27 (4) preserve important historic cultural, and
28 natural aspects of our unique heritage, and maintain,
29 wherever possible, an environment which supports diversity
30 and variety of individual choice;

1 (5) achieve a balance between population and
2 resource use which will permit high standards of living
3 and a wide sharing of life's amenities; and

4 (6) enhance the quality of renewable resources and
5 approach the maximum attainable recycling of depletable
6 resources.

7 (b) The legislative assembly recognizes that each
8 person shall be entitled to a healthful environment and
9 that each person has a responsibility to contribute to
10 the preservation and enhancement of the environment.

11 Section 4. The legislative assembly authorizes and
12 directs that, to the fullest extent possible.

13 (a) The policies, regulations, and laws of the state
14 shall be interpreted and administered in accordance with
15 the policies set forth in this act, and

16 (b) all agencies of the state shall

17 (1) utilize systematic, interdisciplinary approach
18 which will insure the integrated use of the natural and
19 social sciences and the environmental design arts in
20 planning and in decision making which may have an impact
21 on man's environment;

22 (2) identify and develop methods and procedures,
23 which will insure that presently unquantified environ-
24 mental amenities and values may be given appropriate
25 consideration in decision making along with economic and
26 technical considerations;

27 (3) include in every recommendation or report on
28 proposals for projects, programs, legislation and other
29 major actions of state government significantly affecting
30 the quality of the human environment, a detailed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

statement on--

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) alternatives to the proposed action,
- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible state official shall consult with and obtain the comments of any state agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate state, federal, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the environmental quality council and to the public, and shall accompany the proposal through the existing agency review processes.

(4) study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(5) recognize the national and long-range character of environmental problems and, where consistent with the policies of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize

1 national cooperation in anticipating and preventing a
2 decline in the quality of mankind's world environment;

3 (6) make available to counties, municipalities,
4 institutions, and individuals, advice and information
5 useful in restoring, maintaining, and enhancing the
6 quality of the environment;

7 (7) initiate and utilize ecological information in
8 the planning and development of resource-oriented
9 projects; and

10 (8) assist the environmental quality council
11 established by section 8 of this act.

12 Section 5. All agencies of the state shall review
13 their present statutory authority, administrative
14 regulations, and current policies and procedures for the
15 purpose of determining whether there are any deficiencies
16 or inconsistencies therein which prohibit full compliance
17 with the purposes and provisions of this act and shall
18 propose to the governor and the environmental quality
19 council not later than July 1, 1972, such measures as may
20 be necessary to bring their authority and policies into
21 conformity with the intent, purposes, and procedures set
22 forth in this act.

23 Section 6. Nothing in section 3 or 4 shall in any
24 way affect the specific statutory obligations of any
25 agency of the state

26 (a) to comply with criteria or standards of
27 environmental quality,

28 (b) to coordinate or consult with any other state
29 or federal agency, or

30 (c) to act, or refrain from acting contingent upon

1 the recommendations or certification of any other state
2 or federal agency.

3 Section 7. The policies and goals set forth in this
4 act are supplementary to those set forth in existing
5 authorizations of all boards, commissions, and agencies
6 of the state.

7 Section 8. Environmental Quality Council. The
8 environmental quality council shall consist of thirteen
9 (13) members to be as follows:

10 (a) The governor *or his designated representative*
11 shall be an ex officio member of the council and shall
12 participate in council meetings as a regular member.

13 (b) Four (4) members of the senate and four (4)
14 members of the house of representatives appointed before
15 the sixtieth legislative day in the same manner as
16 standing committees of the respective houses are
17 appointed. A vacancy on the council occurring when the
18 legislative assembly is not in session shall be filled
19 by the selection of a member of the legislative assembly
20 by the remaining members of the council. No more than
21 two (2) of the appointees of each house shall be members
22 of the same political party.

23 (c) Four (4) members of the general public to be
24 appointed by the governor with the consent of the
25 senate.

26 In considering the appointments of (b) and (c)
27 above, consideration shall be given to their qualifi-
28 cations to analyze and interpret environmental trends
29 and information of all kinds; to appraise programs and
30 activities of the state government in the light of the

1 policy set forth in section 3 of this act; to be
2 conscious and responsive to the scientific, economic,
3 social, esthetic, and cultural needs and interests of
4 the state; and to formulate and recommend state policies
5 to promote the improvement of the quality of the
6 environment.

7 Section 9. Term of office. The four (4) council
8 members from the house of representatives shall serve
9 for two years and may be reappointed. Two (2) council
10 members from the senate, one from each political party,
11 and two (2) council members from the general public shall
12 serve for four (4) years, and these members may be re-
13 appointed for a two (2) year term. Two (2) council
14 members from the senate, one from each political party,
15 and two (2) council members from the general public
16 shall serve for two (2) years and these members may be
17 reappointed for a four (4) year term. In no case shall
18 a member of the council serve more than six years.

19 The council shall elect one of its members as
20 chairman and such other officers as it deems necessary.
21 Such officer shall be elected for a term of two (2)
22 years.

23 Section 10. Meetings. The council may determine the
24 time and place of its meetings but shall meet at least
25 once each quarter. *Each member of the council*
26 *shall, unless he is a full-time salaried officer or*
27 *employee of this state, be paid twenty-five dollars (\$25)*
28 *for each day in which he is actually and necessarily*
29 *engaged in the performance of council duties, and shall*
30 *also be reimbursed for actual and necessary expenses*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state may not be compensated for their service as members, but shall be reimbrused for their expenses.

Section 11. Appointment and qualifications of an executive director. The council shall appoint the executive director and set his salary. The executive director shall hold a degree from an accredited college or university with a major in one of the several environmental sciences and shall have at least three (3) years of responsible experience in the field of environmental management.

He shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the state government in the light of the policy set forth in section 3 of this act; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the state; and to formulate and recommend state policies to promote the improvement of the quality of the environment.

Section 12. Appointment of employees. The executive director, subject to the approval of the council may appoint whatever employees are necessary to carry out the provisions of this act, within the limitations of legislative appropriations.

Section 13. Term and removal of the executive director. The executive director is solely responsible

1 to the environmental quality council. He shall hold
2 office for a term of two (2) years beginning with July
3 1 of each odd-numbered year. The council may remove
4 him for misfeasance, malfeasance or nonfeasance in
5 office at any time after notice and hearing.

6 Section 14. It shall be the duty and function of
7 the executive director and his staff

8 (a) to gather timely and authoritative information
9 concerning the conditions and trends in the quality
10 of the environment both current and prospective,
11 to analyze and interpret such information for the
12 purpose of determining whether such conditions and
13 trends are interfering, or are likely to interfere,
14 with the achievement of the policy set forth in section
15 3 of this act, and to compile and submit to the governor
16 and the legislative assembly studies relating to such
17 conditions and trends;

18 (b) to review and appraise the various programs
19 and activities of the state agencies in the light of
20 the policy set forth in section 3 of this act for the
21 purpose of determining the extent to which such programs
22 and activities are contributing to the achievement of
23 such policy, and to make recommendations to the governor
24 and the legislative assembly with respect thereto;

25 (c) to develop and recommend to the governor and
26 the legislative assembly, state policies to foster and
27 promote the improvement of environmental quality to meet
28 the conservation, social, economic, health, and other
29 requirements and goals of the state;

30 (d) to conduct investigations, studies, surveys,

1 research, and analyses relating to ecological systems and
2 environmental quality;

3 (e) to document and define changes in the natural
4 environment, including the plant and animal systems, and
5 to accumulate necessary data and other information for a
6 continuing analysis of these changes or trends and an
7 interpretation of their underlying causes;

8 (f) to make and furnish such studies, reports
9 thereon, and recommendations with respect to matters of
10 policy and legislation as the legislative assembly
11 requests;

12 (g) to analyze legislative proposals in clearly
13 environmental areas and in other fields where legisla-
14 tion might have environmental consequences, and assist
15 in preparation of reports for use by legislative
16 committees, administrative agencies, and the public.

17 (h) to consult with, and assist legislators who are
18 preparing environmental legislation, to clarify any
19 deficiencies or potential conflicts with an overall
20 ecologic plan.

21 (i) to review and evaluate operating programs in
22 the environmental field in the several agencies to
23 identify actual or potential conflicts, both among such
24 activities, and with a general ecologic perspective, and
25 to suggest legislation to remedy such situations.

26 (j) to transmit to the governor and the legislative
27 assembly annually, and make available to the general
28 public annually, beginning July 1, 1972, an environmental
29 quality report concerning the state of the environment
30 which shall contain

1 (1) the status and condition of the major natural,
2 man-made, or altered environmental classes of the state,
3 including, but not limited to, the air, the aquatic,
4 including surface and ground water, and the terrestrial
5 environment, including, but not limited to, the forest,
6 dryland, wetland, range, urban, suburban, and rural
7 environment;

8 (2) the adequacy of available natural resources
9 for fulfilling human and economic requirements of the
10 state in the light of expected population pressures;

11 (3) current and foreseeable trends in the quality,
12 management and utilization of such environments and the
13 effects of those trends on the social, economic, and
14 other requirements of the state in the light of expected
15 population pressures;

16 (4) a review of the programs and activities
17 (including regulatory activities) of the state and local
18 governments, and nongovernmental entities or individuals,
19 with particular reference to their effect on the
20 environment and on the conservation, development and
21 utilization of natural resources; and

22 (5) a program for remedying the deficiencies of
23 existing programs and activities, together with
24 recommendations for legislation.

25 Section 15. The environmental quality council shall
26 have the authority to investigate, examine and inspect
27 all records, books and files of any department, agency,
28 commission, board or institution of the state of Montana.

29 Section 16. In the discharge of its duties the
30 environmental quality council shall have authority to

1 hold hearings, administer oaths, issue subpoenas, compel
2 the attendance of witnesses, and the production of any
3 papers, books, accounts, documents and testimony, and
4 to cause depositions of witnesses to be taken in the
5 manner prescribed by law for taking depositions in civil
6 actions in the district court. In case of disobedience
7 on the part of any person to comply with any subpoena
8 issued on behalf of the council, or any committee
9 thereof, or of the refusal of any witness to testify on
10 any matters regarding which he may be lawfully
11 interrogated, it shall be the duty of the district
12 court of any county or the judge thereof, on application
13 of the environmental quality council to compel obedience
14 by proceedings for contempt as the case of disobedience
15 of the requirements of a subpoena issued from such court
16 on a refusal to testify therein.

17 Section 17. In exercising its powers, functions,
18 and duties under this act, the council shall

19 (a) consult with such representatives of
20 science, industry, agriculture, labor, conservation
21 organizations, educational institutions, local
22 governments and other groups, as it deems advisable;
23 and

24 (b) utilize, to the fullest extent possible, the
25 services, facilities, and information (including
26 statistical information) of public and private agencies
27 and organizations, and individuals, in order that dupli-
28 cation of effort and expense may be avoided, thus
29 assuring that the commission's activities will not
30 unnecessarily overlap or conflict with similar activities

1 authorized by law and performed by established agencies.
2 Section 18. This act is effective on its passage
3 and approval.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

