

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVES
50TH LEGISLATIVE SESSION

The meeting of the Natural Resources Committee was called to order by Chairman Tom Jones on January 19, 1987 at 1:00 p.m. in Room 312 of the State Capitol.

ROLL CALL: All committee members were present, with the exception of Reps. Harp absent, and Cobb excused.

HOUSE BILL NO. 154: Rep. Dorothy Bradley, District #79, sponsor stated this is a request of the Water Policy Committee and would give the DNRC legislative directive to give an agricultural preference in the projects which are funded through the Water Development Program. This would be a continuation of the policy expressed in the compilers comments from the 1985 Session. Rep. Bradley distributed a handout and reviewed with committee members (Exhibit 1).

PROPOSERS: Jo Brunner representing the Montana Water Development Association submitted testimony (Exhibit 2). She stated they have concerns there are no clear cut definitions of just what comprises direct agricultural use, and whether or not the water project must be developed for actual irrigation production, or perhaps the development of a small hydro plant that will sell off energy, but allow the farmer/rancher to keep his operation intact from the proceeds. The MWDA does not want to pursue at this time, but felt their concerns should be considered.

Larry Fasbender, Director, Department of Natural Resources stated HB 154 makes more explicit what already is the case in the Water Development Program.

OPPOSERS: George Ochenski representing the Montana Environmental Information Center distributed testimony (Exhibit 3). He stated the reason for opposition is that two thirds of the money funding the Water Development Program comes from the Resource Indemnity Tax. They have no opposition for using the other 33% for agricultural and preferential projects, the 66% of that fund that comes from extracting industries and oil and gas, should at least be given some consideration toward reclamation and should certainly not be biased against other uses, which is what an agricultural preference should be. If, however, it is determined to pass the bill, he asked it be amended, so the money that comes NOT from the RIT interest would have the ag preference clause attached to it, and offered an amendment (Exhibit 3a).

Rep. Raney asked Rep. Bradley why the agricultural preference is needed, now that there is agricultural surplus.

Rep. Bradley stated she is optimistic and feels there is a future for agriculture in Montana. However, there is a need to explore other options to fund municipal projects, which she feels is equally important.

Rep. Russell pointed out the number of trials throughout Montana presently in litigation on water rights and asked Rep. Bradley how this plan will effect water rights at the present time.

Rep. Bradley stated this policy has nothing to do with anything that may warrant litigation, and felt the question would be better directed to Larry Fasbender.

Mr. Fasbender stated DNRC has funded water projects that relate to Indian reservations and ground water studies going on at Fort Peck. DNRC also proposes making clear, beside municipalities, local entities and water districts, private governments also are eligible for RIT, from projects that would be on these reservations.

Rep. Simon asked Rep. Bradley who assigns these numbers.

Rep. Bradley stated they are assigned by DNRC.

Rep. Simon asked if the WPC reviews these numbers, and are they in the position of making changes or ratifying in any way.

Rep. Bradley stated WPC has monitored these projects and the only recommendation made was the NRIS (Natural Resource Inventory System) which is under the state Library. This bill would extend preference to projects recommended by WPC.

Rep. Simon was curious why this was for a two year period of time, and why the need for legislation. He also wondered what can't be done under current law, which makes HB 154 necessary.

Rep. Bradley stated it could be done under current law, but would provide DNRC with specific direction or legislative clarification on what we feel is particularly important. To request it be temporary is acceptable due to the policy changes that may take place and WPC felt it was justified at this time. DNRC has shown no resistance to this.

Rep. Harper questioned how WPC preference fits into the ranking, and how recommendations for other projects are received by the policy committee, and how does that fit in to the points system.

Rep. Bradley stated they are on a five point ranking system. They receive the same extra bonus points that an ag irrigation type project would receive. Work has continued in the past to justify the bill be tentative and feels that maybe the legislature should consider every two years, due to the fact that changes take place and reassessment may be necessary at that point.

Rep. Harper felt we need to tighten this down and asked Rep. Bradley if she would consider a Statement of Intent for the bill.

Rep. Bradley stated she would be supportive of this. She pointed out that Mr. Fasbender might be able to clear up some questions by clarifying.

Larry explained the importance of knowing how the process is used to arrive at these projects and where they go from there. DNRC comes up with recommendations that are dealt with by the Advisory Council, which appoints a laymans council that reviews a list of recommendations, submitted to the Long Range Planning Committee who hears testimony from people in the department, responsible for these projects. It is then determined which projects will be funded and how much money is needed. This determination is made solely by the Legislature.

Rep. Cohen asked Mr. Fasbender how much is the two thirds of the RIT.

Mr. Fasbender stated it is 30%.

Rep. Cohen asked if the coal severance revenue would constitute the other one third.

Mr. Fasbender stated that under the coal severance tax of monies that come in, 50% goes into RIT, and 50% is allocated to other various operations of government.

Rep. Miles asked Rep. Bradley if they already have applied for agricultural preference regarding the bill today.

Rep. Bradley then referred to her handout stating that it is in the session laws, but not in the codes. In the compiler's comments, it clarifies what is going on, and it is a tentative two year program.

Rep. Meyers asked George Ochenski what he was so anxious to talk about.

George replied he had the information on the breakdowns, and felt it would help expedite the hearing. He gave a breakdown of expenditures, and felt more is spent for DNRC administration, than goes to grants. By taking this money from extracted industries to indemnify impact of that industry, we should consider carefully money being spent. (Ex. 4)

Rep. Simon had questions on the review process, stating rather than writing in a two year preference for agriculture, due to the changing policy, why not let the WPC have the authority to add preference.

Rep. Bradley stated perhaps for two reasons; WPC does not go into detail on these projects and felt the timing might be a problem, due to the fact, that at the same time, an additional advisory committee looks at this in detail. Also, to insure careful scrutiny, this already takes place through a several fold process.

Rep. Simon asked if the bill also includes additional preference for WPC projects.

Rep. Bradley stated the policy committee took extensive time looking into putting together an access system of water inventory information across the state, and are comfortable making that as a recommendation.

Rep. Raney had questions about the RIT stating several projects ongoing presently should be considered and felt that even though RIT is directly related to hard rock mining, any other projects would take second place, if the bill is passed.

Rep. Bradley stated the whole RIT issue is in court and feels that is an entirely separate issue. In fact, there is a whole list of projects that 30% of the RIT is going for. The question still stands as to whether or not this interest should go for any project.

Rep. Harper stated that if the WPC received a preference project and did recommend, after receiving extra points, doubled points, would that also have a preference.

Rep. Bradley stated WPC only deals with projects of statewide importance.

Rep. Peterson asked how much of the RIT goes to DNRC operations.

George Ochenski stated it is \$1.5 million.

Rep. Peterson asked Larry Fasbender what DNRC is doing with the money.

Mr. Fasbender stated operations for water development programs administration comes out of that \$1.5, along with the engineering department. As for specific, he did not have this information, but stated he could make it available to the committee. He added this was a decision made by the 1985 Legislature. However, DNRC thought it should be coming out of general funds, where more monies are available for grants. DNRC felt it was more appropriate, at the time, to take out of the Water Development Program, rather than put it in a project fund. This is a policy decision the Legislature makes, not the department.

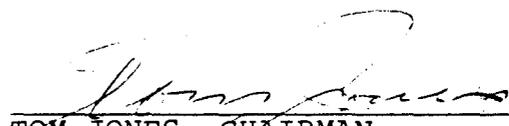
Rep. Roth asked Rep. Bradley if we are increasing the tax when speaking in terms of maintaining municipal projects.

Rep. Bradley stated it might not be appropriate to even raise that matter. However, they have been working with a wide number of people in the state concerned with having a continuing fund for municipal water systems, and the biggest uncertainty is federal funds that have traditionally come in, are diminishing. Thus, we are trying to take a long range look at the problem and assure communities and municipalities they have help from the state.

In closing, Rep. Bradley stated regarding the initial point setting system, she feels it speaks for itself, when you have 11 of the 22 projects that are proposed for funding, are there, and have made use in some way of those available points. It would also be helpful to agriculture, if we continue the policy established in 1985.

Hearing closed on HB 154.

ADJOURNMENT: Being no further business to come before the committee, the meeting was adjourned at 2:20 p.m.



TOM JONES, CHAIRMAN

DAILY ROLL CALL

NATURAL RESOURCES

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
TOM JONES, CHAIRMAN	X		
CLYDE SMITH, VICE CHAIRMAN	X		
KELLY ADDY	X		
TOM ASAY	X		
JOHN COBB			X
BEN COHEN	X		
ED GRADY	X		
JOHN HARP		X	
HAL HARPER	X		
MIKE KADAS	X		
AL MEYERS	X		
JOAN MILES	X		
MARY LOU PETERSON	X		
BOB RANEY	X		
RANDE ROTH	X		
ANGELA RUSSELL	X		
BRUCE SIMON	X		
BILL STRIZICH	X		
STAFF: EQC HUGH ZACKHEIM			

accommodate the hydroelectric facility except as negotiated under subsection (3).

(6) Department actions under this section are subject to prior approval of the board as provided in 85-1-202.

History: En. Sec. 3, Ch. 293, L. 1985.

Part 6

Water Development Program

Part Compiler's Comments

Water Development Program Preferences for 1987 Legislative Session: Section 17, Ch. 717, L. 1985, provided: "(1) The Department of Natural Resources and Conservation is directed to recognize in particular the primary role of agriculture in the state's economy and the needs of its agricultural constituency when it formulates its promotion, assistance, and development programs.

(2) In evaluating proposals for use of funds from the water development state special revenue account for the biennium ending June 30, 1989, the Department of Natural Resources and Conservation and the Legislature shall give preferential consideration to proposals that promote:

(a) the water reservation program established by 85-2-316;

(b) the development of the state water plan required by 85-1-203; and

(c) other state water programs recommended by the Legislative Water Policy Committee established in section 19 of House Bill 680." (The Water Policy Committee was established by sec. 20, Ch. 573, L. 1985 (HB 680), which is codified at 85-2-105.)

Part Cross-References

State debt, Art. VIII, sec. 8, Mont. Const.

Protection and improvement of the environment — remedies to prevent unreasonable depletion, Art. IX, sec. 1, Mont. Const.

Coal severance tax trust fund, Art. IX, sec. 5, Mont. Const.

Fund structure, 17-2-102.

Bond issues, Title 17, ch. 5.

85-1-601. Purpose and policies. (1) The legislature finds and declares that in order that the people of Montana may enjoy the full economic and recreational benefits of the state's water resources, the state must establish this long-term water development program providing financial and administrative assistance to private, local, and state entities for water resource development projects and activities.

(2) The purpose of the water development program is to further the state's policies, set forth in 85-1-101, regarding the conservation, development, and beneficial use of water resources.

(3) The legislature recognizes that water is one of the most valuable and important renewable resources in Montana; therefore, it is appropriate that a portion of the taxes on the removal of nonrenewable resources be dedicated to the conservation, development, and beneficial use of water resources.

(4) The development of water resources is of a high priority because a large portion of Montana's present and future economy is based either directly or indirectly on the wise use of water.

(5) This water development program is an integral part of the implementation and development of the comprehensive, coordinated, multiple-use water resources plan known as the "state water plan".

History: En. Sec. 1, Ch. 505, L. 1981.

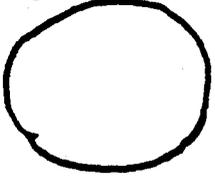
Cross-References

Protection and improvement of the environment — remedies to prevent unreasonable depletion, Art. IX, sec. 1, Mont. Const.

Water Development

Accounts

Debt Service



Special Revenue

- * Grants + Loans
- Emergencies
- Operation of state Projects
- Reservations
- Storage
- Water Courts

Fund Sources

coal severance (dropping)
loan repayments



coal severance
revenue from state water
fees
2/3 RIT (30% of interest)

* Grants + Loans

Grants (\$100,000 limit)

64 projects last 2 bienniums

Small loans (200,000 limit) (Sale of G.O. bonds)

62 projects last 2 bienniums

Large loans (Sale of coal severance tax bonds)

Requesting \$17.5 million in new loan authority

13 recommendations

NAME Jo Brunner

DATE 1-19-87

HB 154 BRADLEY Date

¹²
1/20/87

Address 2015 1/2 9th Avenue, Helena

Telephone 442-2654

Representing Montana Water Development Association

Appearing on Which Proposal HB 154

Support X Amend _____ Oppose _____



Comments:

Mr Chairman, Members of the committee the Montana Water Development Association wishes to go on record as in support of Representative Bradleys bill, requested by the Water Policy Committee.

We believe that agriculture contributes greatly to the economy of the state, even in these oppressed times. Providing for the means of further development of water projects, both in the private sector and for our irrigation districts will be beneficial to the state.

Some of our irrigation districts are either currently up-dating thier systems partially funded by the Water Development Program, and not only does this make for more efficient use of water, it brings money into local economies through wages, materials and so on.

We have a concern that there is no clearcut definition of just what comprises direct agriculture use, whether or not the water project must be developed for actual irrigation production, or for instance the development of a small hydro plant that will sell off the energy, but allow the faarmer /rancher to keep his operation intact from the proceeds.

We do not intend to introduce an amendment at this time, but it is a concern we have that we felt you should want to consider.

We are in support of HB 154 and ask that you do pass it.

have recently completed

TESTIMONY OF GEO. OCHESKI, M.E.I.C.

Projected Cash Flow for the
Special Revenue Account
FY 88-89

EXHIBIT (3)
DATE 1-19-87
HB 154 BRADLEY

*Income

Project Revenues	\$ 440,000	Similar to FY 86-87
Loan Repayment	729,772	(9/86)
RIT	4,110,900	Gov. Office Projection (1/87)
Coal Severance Tax	770,494	(1/87) (377,584 + 392,910)
WD Interest	100,000	(1/87)
Total	\$6,151,166	

Expenditures

Water Courts	\$1,080,000	Similar to FY 86-87
Centralized Services Division	200,000	Similar to FY 86-87
DNRC Operations	1,500,000	Similar to FY 86-87
Project Rehab.	800,000	Similar to FY 86-87
Bond Debt	1,187,315	Similar to FY 86-87
Total	\$4,767,315	

Available for Grants	\$1,383,851
Emergency Grants	- 125,000
RFD Earmarked for Water	+ 170,200
Total	\$1,429,051

adm. greater than grants.

*Assumes no carryover from FY 87

Effective 1/7/87

→ H2O Dev. Bureau
 Portion of Eng. Bureau
 LFA would fund all of Eng. Bureau
 frtz Drop grants to drop operations -

1-19-87

Suggested Amendment to ¹⁵⁴ HB 154

SUBMITTED TO HOUSE NAT. RES. COMM.

1-19-87 by GEORGE OCHENSKI
MT. ENV. INF. CNTR.

~~STATE~~

INSERT NEW SECTION:

Sec. 2 - ONLY THOSE FUNDS IN THE SPECIAL REVENUE ACCT. THAT ARE NOT DERIVED FROM THE RESOURCE INDEMNITY TRUST FUND INTEREST SHALL BE ~~BE~~ PREFERENTIALLY APPROPRIATED AS PER SEC. 1, ~~1~~.

(2)(a) + (b)

RENUMBER SUBSEQUENT SECTIONS

VISITORS' REGISTER

NATURAL RESOURCES

COMMITTEE

BILL NO. HB 154

DATE JANUARY 19, 1987

SPONSOR BRADLEY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kim Enkerud	MT Stockgrowers		
Herald M. Smith	MIRWS	✓	
John Brunner	Spokane MUDWA	✓	
Debra J. Sletty	Montana Dist Gas		✓
Darryl M. ...	PT M. ...		
GEORGE CICHENSKI	HELENA (INT. ENVIRONMENTAL)		✓
Kara Stiermuth -	League of Women Voters		
Matt Richert	418 CHANCE		
Phil J. ...	MIRWS	✓	
Robb McCracken	O.O.C. Helena	—	
		X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.