

JOINT HOUSE-SENATE APPROPRIATIONS SUBCOMMITTEE ON NATURAL  
RESOURCES AND BUSINESS REGULATION - MINUTES  
February 14, 1983

The meeting was called to order by CHAIRMAN MANUEL at 8:15 a.m.  
in Room 132 of the Capitol Building, Helena, Montana.

ROLL CALL: MANUEL, HEMSTAD, STOBIE, BOYLAN, LANE - Present  
SMITH - Excused  
Staff Present: DICK GILBERT, LFA; CAROLYN DOERING,  
OBPP; and PATTI SCOTT, SECRETARY

DEPARTMENT OF COMMERCE (Tape #54 Side A-001)

WITNESSES for the Department were: GARY BUCHANAN, Director;  
BRIAN McCULLOUGH, Administrator of Centralized Services; MIKE  
FERGUSON, Administrator of the Aeronautics Division; and BRYON  
ROBERTS, Administrator of the Transportation Division.

GARY BUCHANAN provided the Committee with a detailed description  
of all the Divisions. (EXHIBIT A)

TRANSPORTATION DIVISION

GARY BUCHANAN began with an overview of the Transportation  
Division. This Division represents the State of Montana on  
transportation matters, provides assistance to local govern-  
ments regarding their transit systems and assists commodity  
shippers with planning litigation against carriers regarding  
rate cases. The organizational structure consists of four  
service units: Litigation and Analysis; Intermodal Planning;  
Passenger Transportation; and Policy and Research.

Revenue projections for funding of Litigation and Analysis  
includes \$37,000 in Wheat Commission funds which will not be  
available, regardless of appropriation authority, unless the  
Wheat Commission also approves the use of their funds.

MR. BUCHANAN felt there was a great deal of interest last  
session to set up this Division. The major emphasis was the  
Branch Line Abandonment and the current monopoly position of  
Burlington Northern. There are many problems statewide in  
keeping our current rail transportation in-tact. MR. BUCHANAN  
stated there is no "bigger economic issue" in this State than  
the transportation issue. The maintenance of the Rail Branch  
Line System, as well as the maintenance and improvement of our  
over-all railroad system, is a fundamental priority. He believes  
this is what stimulated the extra-strong support from the  
Agricultural Industry last session.

MR. BILL FOGERTY, Administrator for the Transportation Division stated the Division is divided into three bureaus:

1. Intermodal Commodities Bureau. This Bureau provides an economic and operational analysis of present and future freight service needs, the economic/social effects of abandonment of rail service and rail lines, the potential for moving commodities by alternative modes, the benefits/costs involved in using alternative transportation modes. This Bureau administers the "803 Plan" which is the rail rehabilitation program.
2. Passenger Transportation. The Bureau provides technical assistance to local communities and transit authorities in planning, organizing, and funding transportation systems in urban areas. It administers federal grant money from the Urban Mass Transportation Administration (UMTA) for transit assistance. In FY84 and FY85, the Division plans to spend \$481,000 on transit assistance to small cities and rural areas. All of this money is passed directly through to the local communities.
3. Litigation and Analysis. The main thrust is preservation of local rail service and insure competitive rates for Montana producers. This Bureau does an analysis of freight rates and ICC proceedings and the interpretation of these proceedings and how they affect Montana producers. They also represent the State and the shippers at hearings to testify as expert witnesses; to develop transportation rates and data for use in court cases. This Bureau has recently established a "Rail Cost Data Base" where they can cost out various movements, such as switching costs, car costs, train/fuel costs, which they will use to combat the increase in rail rates charged. This Bureau is funded by General Fund.

SUITS PENDING (Tape #54 Side A-097)

MR. FOGERTY stated there are three cases pending in which the Division is involved. One is the Constitutional Suit - which has been filed before the Federal District Court in Great Falls. The State contends that because of the Stager Rail Act, the rights and authority of the State to regulate were pre-empted by this Act. Also, the Accounting Principal Board, which was to be established by the Stagers Act, was never accomplished. It would have devised a system to determine the reasonableness of rates. One system proposed was the Uniform Rail Costing

System. The other was to determine a system by which a monopoly could be identified.

The second suit is the Stagers 229 Case. The 229 portion of the Stagers Act stated a base rate could be established by October 1, 1980. If anyone was going to protest the rates, they had until March of 1981. The State filed against this because all future rates will be determined by this base rate. It is possible the base rate would be established as of 1926, when rates were very low.

The McCardy Farms Case was filed by various agricultural groups. Five months ago, the ICC decided to combine the Stagers 229 and the McCardy cases. The State was not as far along as the McCardy Farms case. ICC operates under the authority of Congress to get all of their cases heard and decide within three years. One of the concerns of the law firm handling this case for the State and McCardy Farms, is that it may drag out longer than three years. Montana feels it is an unconstitutional decision to combine them because of this. However, the State/McCardy Farms is going to file joint evidence and get this presented by June, 1983. Thirty days after this, there is rebuttal by both the State/McCardy Farms and Burlington Northern. Then it is up to the ICC to make a decision.

INTERMODAL COMMODITIES PROGRAM (Tape #54 Side A-166)

Responsibilities include the annual update of the Rail Plan. From the Rail Plan, they make an economic assessment of the branch line, the cost-benefit analysis, and the operational analysis. The Bureau administers the 803 Program, which is the Rail Rehabilitation Program. They receive money each year from the Federal Railway Administration to address those branch lines the State feels are of priority. The State of Montana distributes this money on a loan basis. In the event these Federal dollars dry up, they will be able to continue the program.

They currently have two 803 Programs: one in the Power-Choteau-Fairfield area for \$2.8 million, and one in the Valier area for a \$2.2 million loan. There is \$2.7 million remaining in this Program right now. There are several new projects they are considering.

GARY BUCHANAN stated that the transition from a "grant" to a "loan" program to one of the largest, most secure corporations in the world causes him philosophical problems. (Referring to Burlington Northern) But the emphasis is to replenish this fund for future use.

BILL FOGERTY added that this is a leverage the State can use to maintain services in some areas and keep the rates competitive.

PROPONENTS FOR THE TRANSPORTATION DIVISION (Tape #54 Side A-242)

BUD LUETHOLD, President of the Montana Grain Growers Association. MR. LUETHOLD stated his strong support for the efforts being taken by the Department and Mr. Fogerty on behalf of the farming industry. He stated the Burlington Northern basically owns the State through rate manipulation. Farmers pay from 20% to 30% just to get their grain to market. Before this Division was created, there was no one to coordinate efforts. He stated this is important, especially with a company like Burlington Northern. Burlington Northern will go for everything they can get, whenever they get the chance. In the McCardy Farm/State case, the farmers have contributed over \$250,000 to help in this effort. MR. LUETHOLD stated that now Mr. Fogerty is helping to get the Port of Butte going. The only thing Burlington Northern responds to is competition. The help from the Department of Commerce has been extremely beneficial, in his opinion.

JO BRUNNER, W.I.F.E. (Wives In Farming Economics). MS. BRUNNER stated her organization also supported the efforts by the Transportation Division. She agrees with Mr. Luethold in that anytime Burlington Northern gets the chance, they try to put it to the farmers. She hopes the Legislature will continue to support the Division.

LOANS VS. GRANTS OF 803 MONIES (Tape #54 Side A-396)

MR. BUCHANAN stated again it is frustrating to loan money to Burlington Northern, and is a complex relationship, to say the least. However, it does give the State some leverage to bargain with. On one hand, they are suing Burlington Northern, and on the other, they are lending money.

PASSENGER TRANSPORTATION BUREAU (Tape #54 Side A-457)

The function of this bureau is to provide technical assistance to local communities and transit authorities in planning, organizing and funding transportation systems in urban areas. Most of the money is federal - through the Urban Mass Transit Administration.

UMTA

Under Section 5, UMTA provides about \$1 million annually to Billings, Great Falls, and Missoula for capital and operational subsidies. Section 3 provides capital funds on a discretionary basis to Montana communities for capital transit equipment. Under Section 3, it will receive a large part of the 1 cent tax on gas in the new Federal legislation. Montana will not see any great application as it is geared more to larger cities' fast rail services.

Section 2 of UMTA does provide \$170,000 annually to private non-profit organizations serving the elderly and handicapped to purchase small buses and vans.

Section 9 provides technical and financial planning assistance to localities and transit districts and other organizations providing public transit.

Section 18 provides \$500,000 each year to various local governments and organizations serving the elderly and handicapped.

State Transit Subsidy - provides state gas tax revenue to Montana communities to help offset operational deficits of public bus systems.

MR. FOGERTY stated the UMTA programs are matched on a 80-20 basis. The rail programs are now matched on a 70-30 basis.

WHEAT COMMISSION MONIES (Tape #54 Side A-530)

\$37,000 of Wheat Commission monies went to support the Litigation/Analysis function. MR. FOGERTY stated the Wheat Commission looks for areas they are interested in supporting, and do not give funds just to fund.

UMTA MONIES

DICK GILBERT asked the status of the UMTA funding in the next biennium. MR. FOGERTY stated it will be about the same as it has been. It probably will not increase. There will be no change in the money that can be used for operating. BYRON ROBERTS stated that Section 18 provides \$50,000 a year to be used either for capital or operating, at the discretion of the State. Section 16 (b) (2) has always been a capital program, which provides buses to non-profit organizations. Section 8

is a State Technical Studies Program and has always been in the area of operations. There has been a change in the capital matching ratio from 80-20 to 75-25, which would have no effect on the State administration.

VACANCY SAVINGS (Tape #54 Side A-667)

GARY BUCHANAN stated that the recruiting for specialists in this Division took some time. They are unique and highly skilled. So there were some vacancies that did occur.

RAIL PLAN STATUS (Tape #54 Side A-683)

MR. FOGERTY stated they are in the process of revising the 1982 plan for 1983. The relationship to Federal Funds is that \$100,000 comes to the Division annually to update the plan. This update is a Federal requirement in order for the State to be eligible for the Rail Rehabilitation funds.

AERONAUTICS DIVISION (Tape #54 Side B-001)

Airport/Airways Bureau

The Bureau operates and maintains 11 State-owned airports; 24 non-directional radio beacons; 50 air-to-ground communications stations (Unicoms); and 21 rotating airway beacons. The Bureau updates and publishes the Montana Airport Directory and the Montana VFR Aeronautical Chart; conducts annual facility inspections of the public use airports throughout the State under contract with the Federal government for the purpose of noting safety deficiencies, additions and improvements and general airport conditions. It also renders technical assistance to local communities.

West Yellowstone

This a State-owned airport serving the Yellowstone National Park. The airport is self-supporting, operating on funds generated through fuel flowage fees, tie down fees, landing fees and terminal rentals from the airport tenants. It operates off a revolving fund. It has one full-time manager. The other FTEs are seasonal. It is closed in the winter.

MIKE FERGUSON, the Administrator, asked that the .5 FTE be left in. The position has been vacant. The position is for a fire-fighter at the airport. They have been making do by using the

manager in a dual role. However, if flights go back to the night schedule, they will need this position. He also plans to use this position for a part-time student in the winter. The student would update their film library. This student was previously hired under Contracted Services.

RURAL AIRPORTS (Tape #54 Side B-171)

REPRESENTATIVE STOBIE asked why they estimate so high to fix up some of these smaller airports, when he feels it should not cost so much. MR. FERGUSON stated that all updates have to meet Federal standards, which, unfortunately do not take into account the small rural airports.

GARY BUCHANAN stated there is a Committee bill going to be introduced to allow for a portion of the Long-Range Building Program, approximately \$1.4 to \$1.5 million a year, to be bonded and converted into a revolving loan program within the Division of Aeronautics, to match a new Federal Program. This will become part of the "Build Montana" Program. About \$13 million will be available from the Federal government for airport construction. This will be matched on a 90-10 basis. This would be available for communities to borrow from the State. They would borrow the "match" money to be used to get the 90% Federal monies. Senator Goodover and Senator Hims1 are working on this. It will not only improve airports, but get people back to work.

Representative Schye also has a bill in to raise the fuel tax.

FEDERAL MONIES (Tape #54 Side B-247)

There is \$4.5 billion now available for states. There is also a new taxing at .12 and .14 cents on gas. The airlines are exempt; however, there is an 8% charge on all tickets which go towards airports. \$13 million was allocated to Montana for the biennium. There is also a chance for discretionary monies -- \$700,000 to \$1.5 million available for Montana. Montana must make a 10% match. MR. FERGUSON testified that any new Federal monies would not require any new FTEs.

INKIND MATCHES

MR. FERGUSON stated that some monies are available to communities under certain conditions.

LOAN/GRANT MONIES

There is only \$39,000 left in this account. There is not enough income to match the expenditures. The money was loaned out at 5% for ten years.

FINANCIAL DIVISION (Tape #54 Side B-366)

This Division is involved in the chartering, licensing, examining and supervising of State Banks, State Savings and Loan Associations, and State Credit Unions. It licenses, supervises and examines Consumer Loan Licenses, and licenses/supervises Sales Finance Companies. It supervises condominium sales under certain conditions, receives reports of prearranged funeral plans, handles consumer complaints against regulated and non-regulated lending institutions, and responds to inquiries on usury and finance charge statutes.

GARY BUCHANAN stated that this Division is operating with less FTEs than it had in 1976, and many more responsibilities. He sighted LES ALKE, the Administrator, primarily responsible for the Division's excellent management. This Division has not had a supplemental in 30 years.

As recommended by the Governor's Council on Management, this Division is going to an earmarked basis. This proposal is included in House Bill 701.

LES ALKE stated it is hard to justify what he is doing, as all the work is confidential. They have 50 new banks, an ever-increasing workload. (EXHIBIT B)

MR. ALKE's personnel costs do rise, because he has a career ladder in his operation. Examiners come on as a trainee and work themselves up to an Examiner III.

MR. BUCHANAN urged the Committee to consider the OBPP budget.

EARMARKED REVENUES (Tape #54 Side B-531)

If House Bill 701 passes, this Division will need some "up-front" monies in order to operate. The current bill states that fees will be deposited directly to the General Fund. They are not due until June 30, the last day of the fiscal year.



INDIRECT COST (Tape #55 Side A-001)

BRIAN McCULLOUGH reiterated that Indirect costs will be occurring in all Divisions. This is the support to the Legal Division, the Director's Office and Centralized Services. GARY BUCHANAN stated that most directors' offices are General Funded. By charging the Divisions within the Department he is justifying the office. He feels all Departments should be doing this as a management practice. If any new units transfer in, as a result of this Session, the indirect costs will have to be re-figured. LES ALKE stated a problem they have had in the past is getting new programs with no funding.

COMMUNITY REINVESTMENT ACT (Tape #55 Side A-123)

MR. ALKE stated there is no law that states a bank must invest in its community. However, before they can expand, they must show community investment under this Act.

TRAINING

Because of the numerous changes going on regarding the financial world, MR. BUCHANAN stated it is very important these people attend workshops to keep up on the changes.

EXECUTIVE SESSION

AERONAUTICS DIVISION (Tape #55 Side A-181)

Personal Services

REPRESENTATIVE STOBIE MOVED TO ACCEPT THE OBPP FIGURES. MOTION PASSED UNANIMOUSLY.

There was discussion on the .5 FTE. This position will be needed in the event night flights start up again. In the winter, it will be used as a Firefighter on night flights in summer, and in winter for a student to help with the library. OBPP did pull this position from the 1982 base before figuring Contracted Services, as this position was previously in Contracted Services.

Contracted Services (Tape #55 Side A-254)

The primary differences between LFA and OBPP were in audit costs and security protection. MIKE FERGUSON stated that security is

required by the FAA. The State is reimbursed for this cost. In winter, they must contract with someone to monitor the Yellowstone Airport for vandalism. The \$4,800 requested is for the summer Peace Officer security person. The winter person is already provided for. It costs more in summer, because the person must be a qualified peace officer.

REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FIGURES AND OPERATING BUDGET WHICH INCLUDES LINES 2100 THROUGH 2600. MOTION PASSED UNANIMOUSLY.

#### REPAIR/MAINTENANCE/OTHER EXPENSES

REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FIGURES. MOTION PASSED UNANIMOUSLY.

#### GOODS PURCHASED FOR RESALE (Tape #55 Side A-452)

REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FIGURES. MOTION PASSED UNANIMOUSLY.

The Division purchases a variety of hard to get/expensive items in bulk and then sells them to small airports at cost plus 10%.

#### EQUIPMENT

REPRESENTATIVE HEMSTAD MOVED TO ADOPT THE OBPP FIGURES. MOTION PASSED UNANIMOUSLY.

There was discussion on this. The top priority for the Division, the overhaul of an airplane engine, had been left out of the LFA. It was learned that the FAA requires an overhaul after so many hours of flying time.

The Division also helps smaller airports by purchasing big and hard-to-get equipment. They do this on a 50-50 basis. If the State didn't help, many smaller communities could not afford some of the needed safety equipment.

#### FUNDING (Tape #55 Side A-669)

REPRESENTATIVE STOBIE MOVED TO APPROVE THE OBPP FIGURES OF LINE 5100 - \$39,000 AND LINE 6100 - \$34,000. MOTION PASSED UNANIMOUSLY.

VACANCY SAVINGS FOR AERONAUTICS

REPRESENTATIVE HEMSTAD MOVED THAT NO VACANCY SAVINGS BE TAKEN.  
MOTION PASSED UNANIMOUSLY.

The meeting adjourned at 11:30 a.m. (Tape #55 Side A-705)



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REX MANUEL, Chairman

VISITOR'S REGISTER

Joint HOUSE App Sub Com - Nat Res/Business COMMITTEE

BILL Dept of Commerce - Budget

DATE 2-14-83

SPONSOR \_\_\_\_\_

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Brian McElroy	Helena	Dept of Commerce	✓	
Tony Puchner	Helena	"	✓	
Bob Swihart	<del>Helena</del> Billings	Mont Grain Growers	✓	
John Drummer	W. I. F. E. Helena	W. I. F. E.	✓	
Mike Ferguson	Helena	Commerce - Aeronautics	✓	
Byron Roberts	Helena	Commerce - Trans	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.  
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

DEPARTMENT OF COMMERCE

EXH. B TB  
9-14-83



TED SCHWINDEN, GOVERNOR

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FINANCIAL DIVISION

	<u>Mid 1976</u>	<u>1983</u>
Banks (+11%)	102	113
T. A. (+91%)	1,425 Million	2,728 Million
Field Examiners	15	14½
Supervising Examiner	<u>1</u>	<u>0</u>
	16	14½
Exams Completed	85	79
Problem Institutions	-0-	Banks 5** C.U.'s 2* S&L's 1

\*These two credit unions are technically insolvent, have required substantial extra supervisory effort, and continue to exist thru assistance programs of N.C.U.A., to prevent liquidation or mergers out of existence.

\*\*One of these problems required a capital impairment notice, which resulted in sale of the bank to new owners who injected 800M in new capital. This bank and four other banks are under voluntary correction programs to induce strengthening and prevent further deterioration.