

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 19, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. in Room 317 of the State Capitol on the above date.

ROLL CALL: Eighteen members were present.

CONSIDERATION OF SENATE BILL NO. 259: Sen. Fred VanValkenburg, Senate District #30, sponsor of the bill, said it was somewhat of a housekeeping bill. Last session there was a bill passed that required that executive branch agencies had to repay loans by the fiscal year end and there were some exceptions to that. The State Prison, however, did not ask for any exceptions at that time. They have since realized that their cash flow is in the fall when they sell their cattle and would like to have this exception in the law.

PROPONENTS: Curt Chisholm, Department of Institutions, said they have had to repay the loans at the end of the year and then reapply for those loans a few days later. This would make much more sense for their department and the Prison operation.

OPPONENTS: There were no opponents.

Sen. Van Valkenburg closed his presentation without further comment.

CONSIDERATION OF SENATE BILL NO. 236: Sen. Max Conover, Senate District #42, said that this bill has to do with the leasing of State lands and problems of misuse of those State lands. The Department, which administers approximately 10,000 surface leases, inspects those leased premises at least once every 10 years. If this inspection raises questions of misuse, improper management practices, etc., the lessee is brought before the board for hearing. During this time his lease will probably come due. The lessee has a 10 day grace period and presently can renew the lease while that hearing is ongoing. Under this bill, if there is misuse of State lands they could withhold renewal until the hearing is finished; if the lessee is declared innocent his lease would be renewed, if guilty, the lease would be cancelled. (See Exhibit #1 attached)

PROPONENTS: Dennis Hemmer, Administrator of the Department of State Lands, submitted written testimony, Exhibit #2 which is attached to the minutes. He said that the evaluation in the field which is accomplished once every 10 years usually takes place in the year preceding the expiration of the lease. This bill would allow them to carry out cancellation proceedings against a lessee who has violated the terms of his lease and would also provide that the department could delay renewal if cancellation procedures are in progress.

The State cannot cancel a renewed lease for misuse on the previous lease and as the law reads now, the lessee is forgiven all past sins once the lease is renewed. This bill would give the department of state lands the ability to go back and cancel the renewed lease of a lessee who has abused state land in the previous lease. Mr. Hemmer also showed the Committee photographs of misuse of State lands and said the bill would give them better tools with which to resolve problems correctly.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 236: Rep. Cody asked Mr. Hemmer how long it would take them to find out about any misuse or bad practices. Mr. Hemmer said they evaluate every tract at least every 10 years or more often if they receive a complaint. They would like to evaluate these tracts a little more frequently but they do not have the personnel to do so.

Chairman Sales asked if they evaluate these tracts a little more often if they are involved in paying out some money. Mr. Hemmer said on the resource development project they are out a little more.

Rep. Jenkins said he had problems with the wording of the bill. He stated that they can cancel a lease now. Mr. Hemmer said the cancellation is not the problem; it is the renewal provision. Rep. Jenkins asked if they could do the evaluation two years before the lease is up for renewal rather than the year preceding the expiration. Mr. Hemmer said this could possibly make the situation worse in that the lessee would figure he had another year before the lease was to be renewed. He said that any violations during the current lease are forgiven after renewal.

In closing, Sen. Conover said he had served on the State Lands Committee in the Constitutional Convention and that these are "School Lands" given by the federal government to the State for income to support schools. Last session a bill was introduced to increase the lease payment but it is not that there is not enough money coming in from leases but the poor management of these lands. The lessees take care of their own land first because they know they will not lose their State lands unless there is a very good case against them. He told the Chairman that Rep. Holliday had agreed to carry the bill.

In answer to a question from Rep. Pistoria Mr. Hemmer said that any lands Class III or better are not allowed to be broken.

CONSIDERATION OF SENATE JOINT RESOLUTION NO. 15: Sen. Chris Christiaens, Senate District #17, sponsor, explained the Resolution to the Committee and cited the figures that were present in the Resolution concerning the national debt. He said that the Resolution asks the President to submit a balanced federal budget to Congress.

There were no proponents and no opponents to SJR 15.

There were no questions from the Committee

Without further comment, Sen. Christiaens closed, except to state that Rep. Waldron had consented to carry the bill.

CONSIDERATION OF SENATE BILL NO. 242: Sen. Ed Smith, Senate District #10, sponsor, said the bill was introduced at the request of the department of commerce and would transfer the building codes division from the department of administration to the department of commerce. Transferring this division to the department of commerce where the licensing boards are would be the proper place for this division and it would be much more effective than where it is at the present time. He said there would probably be a problem with the funding but it has already been addressed in the House Appropriations Committee as there has to be some funding to compensate for the transfer.

PROPOSERS: Keith Colbo, Department of Commerce said this was not a new conception as it had been discussed in the past. It would be more efficient and the building codes enforcement is more compatible with the department of commerce. He said the code writing responsibility would remain with the building codes division and the building codes council. One division would be responsible for licensing and inspection.

Ellen Feaver, Department of Administration, said she concurred with the move and thought it would be a good one. Would allow them to provide a better service to the public.

H.S. "Sonny" Hanson, Building Trades Council, Professional Design Engineers, supported the transfer of the division.

OPPOSERS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 242: Rep. Cody asked if they are just transferring a division from one department to another why is there a need for more FTE's and money. Mr. Colbo said the original fiscal note had been revised by the budget office. The Committee had not been supplied with the amended fiscal note. He said the department of commerce would not seek additional positions to take over this division.

Rep. Phillips asked Ms. Feaver if this move would cut down on the staff of the DOA. Ms. Feaver said it would not as this is just a small part of their department.

Rep. Harbin said he did not understand the figures on the original fiscal note and Mr. Colbo said they didn't want to impose any additional cost and tried to assimilate it in and explained the original fiscal note to the Committee.

Mr. Colbo told Rep. Campbell that the division would not be physically moved, only the duties would be moved from one department to another. This move would allow them to combine some of the functions.

Sen. Smith closed saying that there was a great deal of difference in the original and amended fiscal notes. He also said it had been addressed in the Appropriations Subcommittee and also the full Appropriations Committee. He told the Chairman that Rep. Holliday had consented to carry the bill.

CONSIDERATION OF SENATE BILL NO. 251: Sen. Tom Towe, Senate District #46, sponsor, said this was a "fine tuning" bill that refers to the Build Montana Program. He thought the program was working very well. He said the Economic Development Board had come up with a very minor change that would perhaps make the program even better. Sen. Towe explained the purpose of the bill saying that it would allow certain projects to be exempt from certain financing requirements that are not to be guaranteed or secured by the Montana Economic Development Board. This bill is for those that do not want or need the State guarantee, and there are those that come under this. The new subsections to the bill are page 3, lines 12-16 and page 5, lines 15-18. One refers to those under \$800,000 and the other for those between \$800,000 and \$10 million.

PROPOSERS: Dale Harris, Deputy Administrator of the Montana Economic Development Board, said the Board has proposed seven bills this session. He explained that there are five different programs in the Build Montana Program and explained the five different statutes that cover these different programs: Coal Tax Loan Program, Pooled Industrial Revenue Bond Program, Stand-alone Industrial Bond Program, Montana Capital Companies and Pooled Municipal Bond Program. (Exhibit #3) This bill refers to the Stand-alone IDB Program. He said if the State is not involved in the credit at all it doesn't make sense to finance just 90% of the project. The requirement that a bank participate 10% makes sense for a pooled program but it doesn't make sense for the bank to be involved for a stand-alone. Guarantee or insured in whole or in part would not be necessary for a stand-alone project. If local governments can do these stand-alones now the State agencies should also be allowed to because of projects in two different counties such as the pipeline out of Canada through Glacier and Toole Counties. They would have to deal separately with each county. Also, in cases where the county commissioners have agreed it would be more efficient for the State to be the issuer if the county commissioners have no experience in this field. It could also be the case of a developer with projects in several different counties. He also said the law adopted last session gives the local governing board the option to hold a public hearing on the project. Any local government can hold a public hearing, the State has to give the option for such hearing.

Mr. Harris also handed out Exhibit #3 which explains the programs further.

OPPONENTS: There were no opponents.

DISCUSSION OF SENATE BILL NO. 251: Rep. Smith asked Mr. Harris if the bank or State are not obligated in the stand-alones. Mr. Harris said they have no trouble selling the bonds if the underlying credit is good.

Rep. Phillips brought out the change on page 3, line 6 and page 5, line 9 changing 3 weeks to 2 weeks. Mr. Harris said this amendment was added to change the notice time from 3 weeks to 2 weeks which would be consistent with federal law and is simply timeliness in doing these projects. The public finds it very frustrating not to have a decision in a shorter amount of time.

Rep. Harbin asked if most of these are prenegotiated prior to coming in to the State. Mr. Harris said that was true.

Rep. Jenkins asked how many loans had been made and Mr. Harris explained Exhibit #3. He said that several of these stand-alone projects are simply waiting to see if this bill passes. Rep. Jenkins asked if these loans have to be new companies or can they be existing companies. Mr. Harris said they take new and existing businesses or buy-outs. They will finance more existing businesses than new ones and about 90% are existing businesses that are in the expansion phase. The Capital Companies Program is for new businesses only. He said they would be more interested in a buy-out if there were to be expansion.

Rep. Pistoria made the comment that he was against industrial revenue bonds because no State or Federal taxes are paid on the interest.

There were no further questions.

Sen. Towe closed without further comment. He said that Rep. Harbin had agreed to carry the bill.

The Committee then went into executive session.

DISPOSITION OF SENATE BILL NO. 259: Rep. O'Connell moved that SB 259 BE CONCURRED IN, seconded by Rep. Nelson. Motion CARRIED UNANIMOUSLY. Rep. Donaldson will carry the bill.

DISPOSITION OF SENATE BILL NO. 236: Rep. Cody moved that SB 236 BE CONCURRED IN, seconded by Rep. Compton.

Rep. Jenkins said he had a problem with the wording as there was no time limit and Rep. Phillips said the time limit was when the lease was being renewed. Rep. Harbin stated that

the present law is no good because once the lease is renewed all misuse, etc. is forgiven for the previous lease.

The motion CARRIED with Rep. Jenkins voting "no".

DISPOSITION OF SENATE JOINT RESOLUTION NO. 15: Rep. Pistoria moved that SJR 15 BE CONCURRED IN, seconded by Rep. Moore. The motion CARRIED 11-7 with Reps. Cody, Hayne, Peterson, Campbell, Compton, Sales and Phillips voting "no".

DISPOSITION OF SENATE BILL NO. 242: Rep. O'Connell moved that SB 242 BE CONCURRED IN, seconded by Rep. Moore.

Rep. Cody asked if this would be a wash but was told that they anticipated raising fees but that would be true in either department.

The motion CARRIED with Reps. Sales and Campbell voting "no".

DISPOSITION OF SENATE BILL NO. 251: Rep. Campbell moved that SB 251 BE CONCURRED IN, seconded by Rep. Smith. The motion CARRIED UNANIMOUSLY. Rep. Harbin agreed to carry the bill.

There being no further business, the Committee adjourned at 10:35 a.m.



WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/19/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	/		
V-Chairman Helen O'Connell	/		
Campbell, Bud	/		
Compton, Duane	/		
Cody, Dorothy	/		
Fritz, Harry	/		
Garcia, Rodney	/		
Hayne, Harriet	/		
Harbin, Raymond	/		
HolliDay, Gay	/		
Jenkins, Loren	/		
Kennerly, Roland	/		
Moore, Janet	/		
Nelson, Richard	/		
Peterson, Mary Lou	/		
Phillips, John	/		
Pistoria, Paul	/		
Smith, Clyde	/		

STANDING COMMITTEE REPORT

March 12 19 35

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 251

Third reading copy (Blue color)

EXEMPT PROJECTS NOT GUARANTEED BY ECON. DEVELOPMENT ED. FROM CERTAIN LIMITS

Respectfully report as follows: That Senate Bill No. 251

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

= March 19 1985

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 242

Third reading copy (Blue)
color

TRANSFER STATE BUILDING CODES FUNCTION FROM DOA TO DEPARTMENT
OF COMMERCE

Respectfully report as follows: That Senate Bill No. 242

BE CONCURRED IN

DO PASS

STANDING COMMITTEE REPORT

March 19 19 35

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Joint Resolution Bill No. 15

Third reading copy (Blue)
color

**CALLING FOR THE PRESIDENT TO SUBMIT TO CONGRESS A BALANCED
FEDERAL BUDGET**

Respectfully report as follows: That Senate Joint Resolution Bill No. 15

BE CONCURRED IN

~~XXXXXXXX~~

STANDING COMMITTEE REPORT

March 19 19 85

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 236

Third reading copy (Blue)
color

ALLOW CANCELLATION OF STATE LEASE FOR VIOLATION OF PRIOR LEASE

Respectfully report as follows: That Senate Bill No. 236

BE CONCURRED IN

DO PASS:

STANDING COMMITTEE REPORT

March 19

19 35

MR. SPEAKER

We, your committee on State Administration

having had under consideration Senate Bill No. 259

Third reading copy (Blue)
color

ALLOW PRISON RANCH LOANS TO EXTEND BEYOND FISCAL YEAR

Respectfully report as follows: That Senate Bill No. 259

BE CONCURRED IN

DO PASS

BACKGROUND

Senator Max Conover
Senate Bill No. 236

An act providing that a renewed State lease may be cancelled for violations by the same lessee during the prior lease term; amending Section 77-6-205, MCA.

Senate Bill No. 236 would amend Section 77-6-205, MCA, by adding a paragraph stating that in cases where a lessee of State lands has violated the terms of the lease, cancellation procedures may be allowed to extend into a new lease renewal period.

The Department of State Lands administers approximately 10,000 surface leases. These leases are evaluated in the field once in a ten year period, usually in the year preceding the expiration of the lease. An inspection may find an abuse on State lands, such as unauthorized subleasing, illegal breaking, improper management practices, etc., that may require cancellation. Often, there is not enough time to carry out the cancellation procedures before the lease must be renewed. Section 77-6-205, MCA, provides that if a lessee has paid all rentals due to the State, he is entitled to have his lease renewed for a 5 or 10 year period any time within 30 days prior to expiration, if no other applications for lease of the land have been received. The issuance of a new lease eliminates any chance of taking action on the prior lease, even if any wrong doing has occurred.

The passage of this bill would allow the Department to carry out actions against a lessee who has violated the terms of the lease even though the lease has been renewed for another term. It would also provide that the Department can delay renewal if cancellation procedures are in progress.

Senate Bill 236, introduced by Senator Max Conover

A bill for an act entitled: "AN ACT PROVIDING THAT A RENEWED STATE LEASE MAY BE CANCELED FOR VIOLATIONS BY THE SAME LESSEE DURING THE PRIOR LEASE; AMENDING SECTION 77-6-205, MCA."

This bill does two things. First, it enables the State Land Board to terminate a renewed lease for misuses of the leased state land during the previous lease. Second, it suspends all renewal procedures until cancellation procedures for misused state lands are complete.

As the law reads now, the lessee is forgiven for all past sins when he renews his lease. The state cannot cancel a renewed lease for misuse on the previous lease and if cancellation procedures are not completed before the lessee's renewal process is culminated, no action can be taken by the State Land Board.

Leases and renewal leases can be canceled for reasons stated in 77-6-113, 77-6-208, 77-6-209 and 77-6-210.

SB 236 is essential because it gives the State Land Board the ability to go back and cancel the renewed lease of a lessee who has abused state land in the previous lease.

22, 2

TESTIMONY ON SENATE BILL 236

FROM DENNIS HEMMER, COMMISSIONER, DEPARTMENT OF STATE LANDS

The Department of State Lands supports the passage of Senate Bill No. 236 establishing the ability for the Department to cancel surface leases for violation by a lessee during a previous lease term.

The Department is concerned that lessees who have abused or violated the terms of their lease cannot have the lease cancelled as required under Section 77-6-113, 77-6-208, 77-6-209 or 77-6-210, because the lease has been renewed. In cases where abuses are detected very late in the lease term, the Department does not have the authority to extend the renewal period and legal actions such as notification, hearings, and formal Land Board action cannot be taken before the renewal of the lease. Passage of the bill would allow the Department to take action against a lease even though the lease has been renewed for another 5 or 10 year lease term, or to delay renewal if cancellation procedures are being pursued.

The passage of this bill would allow the Department to conduct more thorough investigations of abuses of State Trust lands which will be more protective of the land and therefore the School Trust.

MONTANA ECONOMIC DEVELOPMENT BOARD

1985 Biennium Accomplishments

Board and General Program Administration

- * In the 18 months since the Board's creation it has designed and implemented five complex development finance programs.
- * To date the Board has committed over \$8.7 million in long-term, fixed-rate financing to over 17 Montana businesses that will create 312-357 jobs when construction of new facilities is completed. Additional jobs will be generated by the multiplier effect for each basic job created. (\$5.1 million CTL; \$3.6 million IDB)
- * The loans range in size from \$55,000 to our maximum loan of \$1,000,000 and the businesses are located from Baker to Eureka.
- * We expect to do another \$4-5 million in 10 coal tax loans in February, issue our second Pooled IDB bond in May for approximately \$6 million to fund loans to 10-12 businesses, and issue 3-6 Stand-alone IDBs totalling \$11-20 million before the end of the fiscal year.
- * The Board and staff designed and implemented procedures for approving participating financial institutions and has approved 63 financial institutions in 29 communities as participants.

Coal Tax Loan Program

- * Reviewed and analyzed 19 applications totalling \$8.8 million, approving 14 applications totalling \$6.5 million. \$5.1 million in approvals have been accepted by applicants and have been funded or are pending funding.
- * The 11 accepted loan approvals will create approximately 250 to 295 primary new jobs when construction is completed as estimated by loan applicants. Potentially, another 250 or more secondary jobs may also be created.
- * The total return to the state on the first eight loans can be summarized:

Direct cash interest payments	11.19%
Estimated tax return on basic jobs	5.63%
Estimated tax return on secondary jobs	<u>5.32%</u>
Total Return to State	22.14%

For comparison, the average treasury bond rate for the equivalent period of time was 12.66%.

Pooled IDB Program

- * Sold first Pooled Industrial Revenue Bond Issue in the amount of \$3,650,000 to fund loans to 7 Montana businesses that will create 60 jobs.
- * This first bond issue provided 15 and 20 year fixed-rate loans at an average effective borrowing rate (including the impact of all fees and charges) of approximately 12 3/4 percent.
- * Anticipate selling second Pooled Industrial Revenue Bond Issue in May 1985 in the amount of \$6 million to fund loans to 10-12 Montana businesses.

Stand-alone IDB Program

- * Processing 3 applications totalling \$11,100,000 in financing requests.
- * Anticipate receiving 2 or 3 additional applications totalling \$7 to \$15 million in financing requests.

Montana Capital Companies

- * Three capital companies have been approved by the Board and they are in the process of raising investment capital from Montana individuals and corporate investors:
 - Venture Capital Corporation of Montana, Billings
 - Development Corporation of Montana, Helena
 - Montana Equities Limited Partnership, Billings
- * A total of \$2,070,300 has been raised, of which \$900,300 is eligible for tax credits, and \$75,000 in tax credits have been approved.
- * Another two companies have not completed the approval process:
 - Blaine County Development Corporation, Chinook
 - First Montana Capital Company, Ronan
- * Assisted in the creation of the first statewide SBA "503" corporation.
- * Encouraged creation of first federally chartered Small Business Investment Company (SBIC).

Pooled Municipal Bond Program

- * Marketed program extensively to local government units.
- * Received 4 applications totalling \$1,083,000 and indications that an additional 2 to 3 applications may be submitted totalling \$650,000 to \$1,000,000.
- * After extensive analysis, determined that program is not cost effective as presently structured and with present demand.

VISITORS' REGISTER

COMMITTEEBILL NO. SB 251

DATE _____

SPONSOR Towe

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dale A. Harris	Helena	✓	
Bob Pancich	Helena	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.