

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By Chairman Bardanoue, on March 3, 1989, at 8:07 a.m.

ROLL CALL

Members Present: All but Representative Spaeth

Members Excused: Representative Spaeth

Members Absent: None

Staff Present: Judy Rippingale, LFA

Announcements/Discussion: None

HEARING ON HOUSE BILL 240

"AN ACT AUTHORIZING THE DEPARTMENT OF COMMERCE TO ESTABLISH AN ANNUAL CONFERENCE ON THE STATE OF MONTANA BUSINESS; APPROPRIATING FUNDS; AND PROVIDING AN EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Speaker Vincent, House District 80, Bozeman, stated House Bill 240 would authorize the Department of Commerce to establish an annual conference on the State of Montana business. It appropriates funds, \$5,000 in each year of the next biennium with the stipulation that money could only be spent if matched with an equal amount raised from private sectors so it is definitely a matching approach. The Bill received a very good hearing and unanimous support from the business committee in the House, it received a very strong vote from the House. The issue now is only money.

Testifying Proponents and Who They Represent:

Bill Leary, representing Montana Banker's Association

Don Ingels, Montana Chamber of Commerce

Mike Pichette, Montana Power Co.

Tom McGree, representing U.S. West Communications

Proponent Testimony:

Mr. Leary stated they do support the concept of House Bill 240 and are willing, at this time, to stand up and commit not

only finances to the project, but significant manpower in the form of some expertise from the banking industry.

Mr. Ingels spoke in support of the concept of this Bill and pledge the cooperation of the Chamber of Commerce to help participate in this conference if it is held to help raise the matching monies.

Mr. Pichette stated the Montana Power Co. would also like to go on record supporting this Bill and the idea of the conference. They pledge their support in seeing the conferences are a success.

Mr. McGree spoke in support of House Bill 240 and thinks that economic development is something that is very important to our state and a coordinated effort between all entities along the economic development line and that all of us know where everyone else is going is an appropriate way to approach economic development and they would be interested in economically supporting the effort in House Bill 240.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

None

Closing by Sponsor:

With no further discussion Representative Bardanouve closed the Hearing

HEARING ON HOUSE BILL 550

"AN ACT REQUIRING THE DEPARTMENT OF COMMERCE TO PRESENT TO THE 52ND LEGISLATURE A PLAN FOR WORLD-CLASS TOURIST WELCOMING AND INFORMATION CENTERS IN MONTANA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Speaker Vincent, House District 80, Bozeman stated House Bill 550 has bi-partisan support and it is an act requiring the Department of Commerce to present to the next Legislature a plan for world-class tourist welcoming and information centers in Montana and providing an immediate effective date. Tourism is one of Montana's most important industries and may, in fact, in this modern day and age be Montana's number 1 renewable resource. Not to begrudge timber and minerals, oil and coal etc, tourism is receiving special

emphasis and it is without a doubt a renewable resource. We need to promote and market tourism much more extensively than we have.

Testifying Proponents and Who They Represent:

Bonnie Tippy, representing the Montana Innkeepers Association

David Nelson, Executive Director Montana Arts Council

Don Ingels, Montana Chamber of Commerce

Proponent Testimony:

Ms. Tippy stated the Montana Innkeepers Association is in full support of this Bill and they feel it would be a great idea to build these types of visitors' centers at the entrances or strategically locations in the state. There is no doubt if we can have these kinds of centers we can increase the number of days people spend in Montana.

Mr. Nelson the Arts Council is a member of a coalition of 14 states in the West and for the last two years have been studying cultural tourism. That relates to the fact that when people tour now they are very interested in the essence of the state, what is the state, and why the state is different than other states. Some of the qualities of the state are the artistic and the crafts people.

Mr. Ingels added the Chamber's support of this study.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Representative Thoft asked Rep. Vincent if the bed tax were to be used could this be defined as promotion. Rep. Vincent stated that most of the people in the Dept. of Commerce he has talked to had said yes to that question. Rep. Thoft asked if the 2 1/2% that goes to the University system could be used to support this and how much money does this amount to. Rep. Vincent was not sure how much money that amounted to. Rep. Thoft stated there were three options that could be used to fund this, the bed tax, university involvement or the general fund.

Representative Swysgood asked Mr. Nelson about the fiscal note and the .33 FTE to coordinate this and with the staff he has as well as the staff the University has could this come

about without any additional FTEs. Mr. Nelson stated he thought not as there are some technical things such as design work in the visitors' information centers and they don't have any staff to do that. They clearly would need to put a portion of FTE and possibly the Dept. of Administration doing that.

Representative Cody stated she liked the idea but why couldn't the state advisory council be involved in this? Mr. Nelson stated the Tourism Advisory Council advises the Department of Commerce on all matters of tourism. Their intent would be to go through them and get their input before they get started on this.

Representative Marks stated there is area fine architecture schools in Bozeman, Missoula and Dillon and wondered if it could be possible to give them the projects. Rep. Vincent stated he had no objection to utilizing all the resources we have, still unless you commit some FTE at the Department of Commerce to coordinate a project like this, it saves putting the project in several different places.

Representative Bardanoue stated it might be wise if Rep. Vincent included it in the Department of Commerce and the Highway Dept. His reason for this is the Highway dollars will be involved in facilities and would help this project a lot.

Representative Ream stated he knows a little bit about the tourism institute at the university and stated the 2.5% that goes to the institution, by law, goes through the tourism advisory council and they have to approve a project on studies that are done, so they prioritize the studies and interact with the University to do those studies.

Representative Marks asked if there was some direction from the Legislature would it have any effect on what they advised. Rep. Vincent stated yes.

Representative Cobb asked what the other centers cost and Rep. Vincent stated it depends, but probably looking at \$1.5 million dollars. Land costs, if any, would be one of the variables.

Representative Thoft stated he thought the Parks Dept. is going to spend about \$500,000 for this type of facility. He suggested the two things could be combined. Rep. Vincent was unaware of that.

Representative Bradley stated she echoed what Rep. Marks said in utilizing the Architecture and Engineering school. She referred to an area where the Engineering students did the entire landscape design.

Representative Marks asked Rep. Vincent if he agreed with the conclusions on the fiscal note? Rep. Vincent stated he did

not sign it originally because he read it too quickly and he thought #2 was referencing the amount of money necessary to actually build the centers and not take care of this study.

Closing by Sponsor:

Representative Vincent stated he assumed other agencies of state Government would enter into this. It seems logical that the Department of Commerce would deem it appropriate that Engineering and Architectural schools contribute to this project. This is a great way to approach it. He emphasized, however, that doesn't necessarily mean that all the funding can be struck from this Bill. There will still be an investment needed here. Something needs to be done now as there is a time frame.

Representative Bardanoue closed the hearing on House Bill 550

HEARING ON HOUSE BILL 403

"AN ACT APPROPRIATING MONEY TO THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS FOR GRANTS FOR THE ESTABLISHMENT AND IMPROVEMENT OF SHOOTING RANGES; ESTABLISHING SHOOTING RANGE DEVELOPMENT GRANTS AND CRITERIA FOR THE GRANTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Representative Ellison stated this Bill would not take any money out of the general fund. This Bill is popular with the sportsmen as well as the legislators. This Bill sets up a matching fund to establish or improve shooting ranges. A portion of the Pittman-Robinson that is not used goes into the Wildlife Fund. A lot of arms and ammunition are used in shooting ranges so that segment of the sporting population deserves to have some of that money. This will ask for an appropriation \$250,000 out of the state special revenue fund.

Testifying Proponents and Who They Represent:

Representative Clark from House District 31

Ron Marcoux, Department of Fish, Wildlife and Parks

Alfred M. Budarwell, Montana Weapons Collectors

Proponent Testimony:

Rep. Clark stated the money that has been allocated through the Pittman-Robinson fund for this range building program has not been used by the shooters of the state since the early '70s and during this period of time that 5% amounts to a

considerable amount of money and reverted by law into the Wildlife Fund. The shooters and the sportsmen of the state don't have a problem with that but now with the condition some of the ranges are in and the fact that they want to expand on the ranges they are asking for the money that has been set aside for range development, by law. This money is for allocation of land and earth moving and has nothing to do with expendable items for a shooting range. It is a matching fund, dollar for dollar, so whoever applies for the grant has to match whatever funds they get. The fiscal note shows \$170,000 a year and what they are asking for is less per year.

Mr. Marcoux stated they have identified the need for additional shooting ranges as we become more urbanized in Montana. It is becoming more difficult for people to find places to shoot, sighting their rifles, etc. In the department's budget request for \$20,000, which has been approved, is to be utilized in the second year of the biennium for a matching grants program. They contemplate a 50/50 cost share with local groups. See exhibit 1.

Mr. Budarwell, a hunter safety instructor, has taught hunter safety and has been a member of the Montana Weapons Collectors and the Prickley Pear Sportsmen's Association and the Helena Gun Club, which is a trap-shooting organization. He stated the Pittman-Robinson money is long overdue to the sportsmen and the shooters.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Representative Bardanoue asked Mr. Budarwell about the word "weapons" being amended out of the Bill and is now arms. Mr. Budarwell stated arms and weapons are synonymous and could not give a technical reason. Weapons could include military weapons and arms would deal more with the civilian aspect of fire arms and sporting arms.

Representative Swysgood asked Mr. Marcoux if \$170,000 are directed toward hunter safety and shooting range development? Mr. Marcoux stated they are available for both of these. Rep. Swysgood then asked if this money had been available for a period of time and Mr. Marcoux stated yes. Rep. Swysgood then asked if this amount of money had not been expended on these programs and Mr. Marcoux stated that of the \$170,000 prior to this legislative session they were expending approximately \$135,000 for hunter education alone

and did not expend the difference. That amount was utilized within the Wildlife program. They have not been using the total allocation. Rep. Swysgood asked Mr. Marcoux if the hunter education is expanding and you didn't expend but only \$135,000 on that program, this request had been made a while back, why those monies were not expended going into this. Mr. Marcoux stated the shooting range issue has developed over the past few years and their awareness in budgeting started over a year ago for this presentation to the legislature and at that time they had identified the shooting range development was something that is needed.

Representative Cody asked Mr. Marcoux about the \$3 million dollars he mentioned in excise taxes and wondered if this is an annual amount. Mr. Marcoux stated the funding of approximately \$3 million dollars comes in on an annual basis from the excise taxes. Rep. Cody asked if these the excise taxes on the sporting arms and does it come to the department annually from the Pittman-Robinson funds and Mr. Marcoux stated that is correct. Mr. Marcoux also stated that of the \$3 million dollars \$170,000 has been their allocation the last couple years to be utilized for hunter education programs and it also is qualifiable for shooting range programs. Rep. Cody stated Mr. Marcoux is asking for \$125,000 a year which leaves almost \$90,000 over the biennium, then the comment was also raised about raising the licenses. Mr. Marcoux stated that currently they are expending about \$135,000 in the hunter education program of that \$170,000, so the difference is currently programmed for the hunter education effort. Rep. Cody asked at what point in time did the department prioritize this \$170,000 as being mostly education and nothing for the shooting range. Mr. Marcoux stated this has been through the annual biennial budgeting process over the years.

Representative Menahan asked if there were sites picked out and Mr. Marcoux stated there are some groups that would like some matching dollars, but they have not been identified yet. Rep. Menahan asked if there were rifle ranges in there too and if it will take an extensive program with surrounding ranches. Mr. Marcoux stated that is something that needs to be addressed as a grant program is developed.

Representative Peterson asked if there was any restriction toward charging or if they are free public things. Rep. Ellison stated it is in the Bill that anybody who applies for any of the grants and to anyone who has a hunting license and can charge a nominal fee. Rep. Peterson then asked if a club could sponsor a shooting match where they charge entry and Rep. Ellison stated possibly for a certain match such as for a non-profit organization. In answer to a question from Rep. Peterson concerning prize money for a shooting match, Rep. Ellison stated as long as it was an open match and not closed to members it would be all right.

Representative Grady asked about the matching funds and what programs would be hurting if money was taken out of license dollars. Mr. Marcoux stated they would have to assess all their programs and decide which ones are of lesser priority. Rep. Grady asked if the hunters now or the public use the ranges that the National Guard Reserves have? Mr. Burdawell stated the ranges are only open at specific times for the National Guard but during the pre-hunting season sighting they open them for two days to the general public and after that they are closed.

Representative Cobb asked Mr. Marcoux about FTE secretarial service and he stated that is contracted out.

Representative Bardanouve told Mr. Marcoux he had a feeling he was not overly enthusiastic about this and Mr. Marcoux stated he did not know if legislation was necessary. He thought the department should utilized PR funds, like the land and water conservation funds program, and develop a grants program. They are supportive of it and it is the level of funding at this time.

Representative Swift stated there was nothing inviolate about the amount of money used but a matter of priority and how they set those priorities. Mr. Marcoux stated that was correct but does not believe they can go above the \$170,000 for hunter education or shooting ranges. They would have to go the license dollar amount if they reach that.

Closing by Sponsor:

Representative Ellison stated they approached the department some years ago with this same proposition and they informed the committee they could do it without any legislation and nothing ever happened. This time they are really serious about it because there is a growing demand for these ranges.

Representative Bardanouve closed the Hearing.

HEARING ON HOUSE BILL 333

"AN ACT TO STATUTORILY APPROPRIATE \$1 MILLION OF THE ENVIRONMENTAL QUALITY PROTECTION FUND FOR USE BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES FOR EXPENDITURES RELATING TO RELEASES OF HAZARDOUS OR DELETERIOUS SUBSTANCES; TO REQUIRE A REPORT TO THE LEGISLATURE ON EXPENDITURES FROM THE FUND; AMENDING SECTIONS 17-7-502 AND 75-10-704, MCA; AND PROVIDING AN EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Representative Ream, House District 54, Missoula County. stated in the 1985 session he carried House Bill 766 to set up the environmental quality protection fund, a revolving fund that would address problems of hazardous waste spills or

emergencies and to address super-fund sites or toxic waste sites for which there is not known a responsible party. That Bill passed and at the time provided a mechanism for the Dept. of Health and Environmental Sciences to quickly respond to such emergencies. This was set up in order to have the department quickly respond to those kinds of circumstances and to respond with additional spending authority. They presently have to get approval through amendment process and that process is too lengthy for quick response and the remedy is to establish statutory appropriations of authority so that as funds come in from whatever source, this is a revolving fund, recovered costs or grants possibly, and penalties, these funds could be available in order to respond immediately.

Testifying Proponents and Who They Represent:

Ray Hoffman, Administrator of the Centralized Services Division,
Department of Health and Environmental Sciences

Vic Anderson, Department of Health

Proponent Testimony:

Mr. Hoffman stated his Department feels House Bill 333 is a very intricate mechanism that they require to respond to eminent or immediate action on the department's part for releases that may affect the environment or public health. Representative Bardanouve told Mr. Hoffman this committee frowns upon these kinds of appropriations. Mr. Hoffman stated he is well aware of that and stated there is an inability by the Department of Health to respond to the clean-up of an eminent hazard to the environment or to the individual. If the responsible party that would affect that type of thing would not voluntarily clean that up the Department, by law, must be in a mechanism to do it and to do that they must have access to financial resources. Without the ability to have access to this \$1 million dollars you would have a situation that would cause further degradation or a lot further threat to human health.

Mr. Anderson stated the Department needs this because if they get a really big emergency they can get the assistance. It is the problems that are something less than that where the problem is created and without some mechanism to respond and even investigate in those situations they are in dire straits.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Representative Iverson asked if the type of situation they are talking about be the type of thing they are involved in now in Cut Bank and Mr. Anderson stated precisely.

Representative Quilici asked how they would be able to collect these funds and where would this money come from? Mr. Hoffman stated in about four areas; Funds recovered by the Department, penalties, contributions and payments from responsible parties; Funds from the legislature; funds received from the interest income of the Resource Trust Fund.

Representative Bradley wanted to explain some mischief that is going on with the Department of Health budget. There is a sum of money from other percentages that were sent over to the Department of Health, the purpose of which was to accumulate over a period of time and then those sums would be available as a 10% match for other funds when it was necessary for a massive and expensive clean-up. What the executive budget did and her committee, as well, was take something like \$600,000 or \$700,000 of that and use it to fund administration which is absolutely opposed to what the original statutory intent was and the excuse that was used was the Supreme Court has now said we can do whatever we want with the RIT money. That is not what the statute or the Bill that was passed last session intended to do. It was very specifically intended to build up a sum of money so there would not be an empty pot when the time comes for that clean-up. She was extraordinarily frustrated at that mischievous maneuver took place and would like to know if the same kind of thing is going to happen if they do it here.

Representative Ream stated there have been in the past shifts in the use of this and other funds. He stated he can't answer for the correct budget and would refer the question to Mr. Hoffman. He responded to Rep. Bradley's question and to preface the response is that the legislature makes the law and sometimes takes away the law. Whatever they make is their interpretation of the money spent but currently in the Environmental Protection fund it states the funds may only be used to carry out the provision of this part of remedial action taken by the department pursuant this part.

Representative Swysgood asked the Department of Health how close they work with the DES when there is a disaster like this. Mr. Anderson stated very closely. Rep. Swysgood thought the Subcommittee had given the department of emergency services monies for this very thing. Mr. Anderson stated some money was given out of the 4% RIT money that is designated for this program. Additionally there was some money taken out of it to fund the asbestos regulatory program. There is

about \$225,000 left for the purposes of this act.

Representative Marks asked if he could give an example of the kind of occurrence he is talking about. Mr. Anderson stated a few years ago in Lincoln they were putting a water line in and a trench started filling up with gasoline and nobody knew anything about it. Since that time they have some ability to tap the leaking underground trust fund to respond to that. Next time it might not be related to the leaking underground and they would have no money at that time. Rep. Marks asked if they cannot find out who the culprit is what money will they spend. Mr. Anderson stated any money that is available in that fund. Mr. Anderson stated if they can find out who the culprit is it will be their money that is spent.

Representative Harper stated the members of this committee know they have had a running battle with the past administrations on the RIT money. They have tried to rustle that money out of state budgets for a number of years and a few years ago they thought they had an agreement with a letter signed by different people saying they are going along with them and now the past administration has tried to recover some of this money into the budget and he thinks it is real serious and he thinks Rep. Bradley's point should be looked at by the Committee.

Closing by Sponsor:

Representative Ream closed by giving an example: What if the Rail Link disaster in Helena had occurred five miles further west of town and the company decided they would just throw up their hands, that they just did not have the manpower or the technical know-how to deal with this problem, and did not know what the chemicals were. If the state had to step in and take care of the situation, there would be double damages that would go back into this revolving fund.

Representative Bardanouve closed the Hearing on House Bill 333

HEARING ON HOUSE BILL 462

"AN ACT PROVIDING FOR A COMPREHENSIVE STATE DROUGHT MITIGATION PROGRAM; CREATING A DROUGHT POLICY COMMISSION; REQUIRING THE GOVERNOR TO DESIGNATE PRIORITY BASINS AND SPECIFYING THE GOVERNOR'S POWERS IN REGARD TO DROUGHT DISASTER; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

Presentation and Opening Statement by Sponsor:

Representative Hal Harper, House District 44, Helena pointed out with the amount of snow that we've had we are still not at normal snow pack. The fact is we live in a semi-arid region and we have had recurring droughts and we are not ready for them. A state that lives in a modern world and has such a

complicated economic system ought to have a better response mechanism. This bill is to provide the Governor with the tool to have better direction and input from all the people who are concerned about water usage in the state of Montana and basically that affects every segment of the economy when a drought situation occurs. This bill provides for the creation of a comprehensive state drought mitigation program and it provides for the appointment of a nineteen member drought policy commission. Nine of these members will be voting, the rest will be ex-officio members. Their designation is on page 3. This will be a very high level commission. Either the Governor or the Governor's representative who may be the Lt. Governor, will chair this commission. This needs to be at the highest level because this drought mitigation program and this drought policy commission are to direct the Governor. Rep. Harper made a few comments on the fiscal note. They had asked for \$15,000 in this particular bill and that money was to be from the water development special revenue account. He did not see in the fiscal note that, although on the first assumption, the \$15,000 is mentioned, where they have worked into the figures on fiscal impact. They did not anticipate that this bill would put any new responsibilities on the Department of Natural Resources and Conservation. They had expected that the existing data that they collected would be sufficient and they know they are working on their efforts to upgrade the data. Rep. Harper thinks it is absolutely essential that they get moving on a drought mitigation program in the state of Montana.

Testifying Proponents and Who They Represent:

George Ochenski, representing the Alliance for Montana Water

Stan Bradshaw, representing State Council of Trout, Unlimited

Jo Brunner, Executive Secretary to the Montana Resources Association

Peggy Haaglund, Executive Vice President for the Montana Association of Conservation Districts

Proponent Testimony:

Mr. Ochenski stated he had taken part in the formulation of the National Drought Response Plan and have taken part in Montana's drought mitigation efforts since 1985. He chaired the Governor's drought task force in 1987 and 1988 and has the best first hand knowledge of how this state reacts in response to drought. All the economic sectors are affected when the state runs out of water and the question then becomes how do we equitably address all sectors of the economy with proper and equitable mitigation efforts.

Mr. Bradshaw addressed support of the Bill, emphasizing drought preparedness, which last summer indicated the state was not adequately ready to deal with.

Ms. Brunner stated her group supports the Bill and are going to offer an amendment later on concerning Page 6 on the Governor's powers and will state in this amendment that storage facilities be considered. See Exhibit 1

Ms. Haaglund stated her group supports the concept of a drought mitigation commission. See Exhibit 2

Testifying Opponents and Who They Represent:

Jerry Jack, Executive Vice President Montana Stock Growers and also speaks for the Montana Farm Bureau, Montana Cattle Women and State Grazing Districts

Opponent Testimony:

Mr. Jack stated they oppose this Bill from a conceptional standpoint. He also served on the Governor's task force on the drought during 1988. They are not sure there is a need for a formalized commission to do what the Governor and the Governor's office now has the power to do. They believe that the Governor, at the onset of the drought, could do what he did in 1987 and 1988 and call them in. They want to participate in this and believe there is not a necessity for any fiscal impact and most of them are willing to volunteer their services to assist the Governor. He feels that in looking at Section 4 it is strictly an advisory commission anyway. He feels, as the proponents do, that drought has to be taken in a very serious vein.

Questions From Committee Members:

Representative Thoft stated there is a section in the code that already deals with this issue under the water plan. He also questions the need for the Bill. Rep. Harper stated if the Legislature does not take some action and provide some direction on a matter that is as critical as this, there will not be any better response than they had last year. Mr. Ochenski read the section 85-1-203 under the state water plan and he thinks that section strengthens the proponents argument but questioned the fiscal note.

Representative Swysgood stated he was having some difficulties with this Bill also and asked Rep. Harper that given the situation of last year and with the Governor's Advisory task force what could this commission have done that would have been different to alleviate the situation. Rep. Harper stated this commission would have already been in place and would have had meetings by the 1st of March, already been on the track of assessing what the impacts would be. Rep. Swysgood asked Rep. Harper what authority does this

commission have if they have all this information together. Rep. Harper stated it would be basically the authority found on Page 5 to review and recommend. Rep. Swysgood asked if the Governor does not presently have all this information available to him from organizations that are already in place such as the DES and all the agency heads they go through to keep him apprised of the situation that is going on. Rep. Harper stated this information does exist but might not be in the best state that it could be, the problem is how to you get it together and how does it get coordinated and then get it in a policy to address drought. Rep. Swysgood asked how many stated have this type of commission. Rep. Harper stated it was developed in Colorado and Washington. Mr. Ochenski stated there are 23 other states right now in process of developing a drought plan.

Closing by Sponsor:

Representative Harper said hundreds of millions of dollars go to different economic entities in this state and he feels \$15,000 would be well spent in an attempt to develop this kind of response mechanism, because the only one we have now is inadequate.

HEARING ON HOUSE BILL 526

"AN ACT ELIMINATING THE ALLOCATION OF COAL SEVERANCE TAX REVENUES TO THE ALTERNATIVE ENERGY AND ENERGY CONSERVATION RESEARCH DEVELOPMENT AND DEMONSTRATION ACCOUNT; TRANSFERRING THE UNOBLIGATED CASH BALANCE FROM THE ALTERNATIVE ENERGY AND ENERGY CONSERVATION RESEARCH DEVELOPMENT AND DEMONSTRATION ACCOUNT TO THE GENERAL FUND; AMENDING SECTIONS 15-35-108, 22-2-304, 90-3-101, AND 90-4-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

Tape 2, Side 1, 314

Presentation and Opening Statement by Sponsor:

Representative Iverson, House District 12, Whitlash stated this Bill deals with renewable energy and conservation grant program. It was set up in 1975 and essentially what it did was to give grants and loans to various projects that had to do with renewable energy. What this Bill does is redirect the money that is currently going into that program and puts it in the general fund. This amount is roughly \$1.7 million dollars during the 1990-91 biennium and it also takes the \$.5 million dollar balance in the fund now and puts it in the general fund. This is not a big policy change. When it was established in 1975 there was a lot of concern during the high energy price years, energy shortage years, that we should be doing something to figure out what could be developed for energy.

Testifying Proponents and Who They Represent:

Dave Darby, Deputy Director, Department of Natural Resources and Conservation

Proponent Testimony:

Mr. Darby stated originally the alternative energy account was proposed in Governor Schwinden's budget to offset general fund in the department. After discussions with the new administration they agreed it made more sense simply to de-earmark that revenue screen, largely for the reasons mentioned above. The reason for the original grant loan program has been met and now the emphasis is on efficiency in state buildings and other areas than the purpose for those grant programs. Given the history of the use of the funds since about 1985 it also made sense to go ahead and de-earmark. What that would do in the upcoming biennium is to offset about 20% of the department's general funding from traditional sources and essentially that money would be available as general fund. Some of the money in that account issues for federal match and to leverage federal funds. Currently the money left in the grant and loan repayment account will cover that for several bienniums. There could be some time in four or five years to leverage federal funds. The department could come back in and ask for a modest increase in general fund but that won't happen in the next three or four years. If concerns about greenhouse effect, how stable the northwest energy supply and energy surplus is and national air quality issues, focus some re-examination on energy matters, they would bring those up at an appropriate time.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Closing by Sponsor:

Representative Iverson closed.

HEARING ON HOUSE BILL 463

"AN ACT ALLOWING A DISTRICT COURT TO APPOINT A WATER COMMISSIONER MEDIATOR TO MEDIATE A WATER CONTROVERSY IN A DECREED OR NONDECREED BASIN; ~~ENABLING THE GOVERNOR TO APPLY TO THE DISTRICT COURT FOR APPOINTMENT OF A WATER COMMISSIONER; ALLOWING THE DISTRICT COURT TO ASSESS REASONABLE FEES FOR A WATER COMMISSIONER; MAKING OTHER REVISIONS TO THE WATER COMMISSIONER~~

~~LAWS TO CLARIFY THEM AND TO DISTINGUISH THE MEDIATION AND DISTRIBUTION AUTHORITY THAT MAY BE GIVEN TO A WATER COMMISSIONER, ESTABLISHING AN EDUCATIONAL PROGRAM FOR WATER COMMISSIONERS AND MEDIATORS; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 85-5-101, 85-5-102, 85-5-105, 85-5-108, 85-5-201, 85-5-206, 85-5-301 AND 75-5-302, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."~~

Presentation and Opening Statement by Sponsor:

Representative Thoft, House District 63, stated this Bill sets up a mediation process related to drought conditions or water disputes and either the Governor or the Department of Natural Resources or the water users could request the mediators be appointed through the district court and the funding of that would be decided by that court and paid or pro-rated among the people that requested the mediator. The reason the Bill is here is because of the education part of the Bill which requests the Department to put together a water manual and that would be based on Montana Water Law and also set up a training program for the mediators and water commissioners. This is the best part of the Bill because it is very difficult to find anyone that has any knowledge of water when you are looking for water commissioners. This would include mediators. The amount of money requested is \$10,000, \$5,000 a year and he has talked twice to the head of DNRC and they feel they could absorb this cost so there wouldn't be impact on funds, water development of general fund.

Testifying Proponents and Who They Represent:

Dave Darby, Department of Natural Resources

George Ochenski, representing the Alliance for Montana Water

Jo Brunner, Executive Secretary for the Montana Water Resource Association

Proponent Testimony:

Mr. Darby stated if the question comes up about having a \$15 to \$20 million dollar biennial budget and someone asks if you have the flexibility to absorb \$10,000 to the person who says no, is running a tighter budget than he has ever seen. Their position to that is yes, we can absorb a \$10,000 issue like this, yet on the other hand if we were asked 10 or 15 times to do this pretty soon there is a money issue, but in answer to this issue, yes they could absorb it.

Mr. Ochenski went on record as supporting the Bill.

Ms. Brunner stated it has been one month since this Bill has been heard in House Natural Resources and at time the Montana Resources Association supported the Bill but offered an amendment, which was not accepted by that committee. They continue to support the Bill and will offer further amendments to

the Bill (See Exhibit 1).

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Tape 2 Side 1, (619)

Representative Swysgood stated he was not too excited about this Bill but thought the education for the water commissioners is good. He asked about the mediator and suggested there would be a lot of them throughout the state and the ability of the commissioner and asked what would be the necessity of this mediator. Rep. Thoft stated it is an undecreed basin so there would not be an opportunity for a water commissioner so someone would be needed that has the ability to go in and at least talk about the disputes.

Representative Kadas asked about the proposed amendments and what Rep. Thoft thoughts were. Rep. Thoft stated that first of all if 15% of the water users live up from him and they are getting the water and he is not getting any he is not sure they would sign a petition to form a mediator or a commissioner to deliver his water. The other recourse he would have would be to go to the Governor or the department. He feels the department should have the ability to go to the District Court and the Governor should have the ability to go to the District Court and that Court is the one that makes the decision here. As far as including different agricultural groups in compiling the education program, he would rather have it done strictly in the Court as to Montana Water Law and then when these educational programs are presented some good judgement can be entered into it.

Representative Swift asked if the Water Commissioner do the same thing as the mediator? Rep. Thoft stated it is a decreed basin and the commissioner of such a basin is not appropriate. The mediator process is a lot simpler and less controversial.

Closing by Sponsor:

Representative Thoft did close.

Representative Bardanouve appointed a subcommittee of Representatives Kadas and Iverson to look at the amendments and closed the Hearing.

Adjournment At: 10:22 a.m.



REP. BARDANOUE, Chairman

FB/sk

5002.min

DAILY ROLL CALL

HOUSE APPROPRIATIONS

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date

3/3/89

NAME	PRESENT	ABSENT	EXCUSED
REPRESENTATIVE BARDANOUVE	✓		
REPRESENTATIVE SPAETH			✓
REPRESENTATIVE PECK	✓		
REPRESENTATIVE IVERSON	✓		
REPRESENTATIVE SWIFT	✓		
REPRESENTATIVE QUILICI	✓		
REPRESENTATIVE BRADLEY	✓		
REPRESENTATIVE PETERSON	✓		
REPRESENTATIVE MARKS	✓		
REPRESENTATIVE CONNELLY	✓		
REPRESENTATIVE MENAHAN	✓		
REPRESENTATIVE THOFT	✓		
REPRESENTATIVE KADAS	✓		
REPRESENTATIVE SWYSGOOD	✓		
REPRESENTATIVE KIMBERLEY	✓		
REPRESENTATIVE NISBET	✓		
REPRESENTATIVE COBB	✓		
REPRESENTATIVE GRINDE	✓		
REPRESENTATIVE CODY	✓		
REPRESENTATIVE GRADY	✓		

EXHIBIT 1
DATE 3-3-89
edk HB 403

HB 403
March 3, 1989

Testimony presented by Ron Marcoux, Department of Fish,
Wildlife & Parks

The department appears today in support of the intent of HB 403. Through our Hunter Education programs, we have identified a need for additional shooting ranges. The department's budget request for the next biennium includes a \$20,000 matching grants project for a pilot shooting range development program.

As background for our request, we have obtained and are continuing to obtain information that would assist us in developing a sound program. Specifically, we have corresponded with other states regarding their range development activities and funding sources. We have also been in contact with other agencies to determine the possibility of cooperative efforts in developing shooting range facilities.

Existing laws and regulations pertinent to shooting ranges have been reviewed, as has the availability of insurance. Through a questionnaire, we have asked our Hunter Education Chief Instructors to tell us about the availability of public and private ranges, and also the relative need for shooting ranges. We have other questionnaires out to County Commissioners and sporting groups throughout Montana to assist us in developing a long-range program.

While we agree with the intent of this legislation, we have several suggestions and concerns for your consideration.

In general, we would prefer to initiate a program with broader rule making authority than HB 403 allows. Our concerns relate to establishing by law, specific criteria such as: when grants must be submitted, as listed on lines 20-24 in section 2; how projects will be prioritized, as discussed in section 4, subsection 4; and promoting the use of public land as discussed in section 4, subsection 6.

We would prefer to draw on the experience we've gained in administering over \$30 million in Land and Water Conservation Fund grants and suggestions we will receive as we work with interested groups throughout Montana. It's possible we might be creating criteria by law that will prove to be unnecessary or, in fact, a hindrance as we move into administration of the program.

In section 3, subsection 6, HB 403 suggests that in the event of discontinued use of a shooting range facility, the assets

of the facility would revert to the Department of Fish, Wildlife and Parks. We certainly want to protect assets that may be the result of this program, but do not want to be expected to manage local facilities if a range is discontinued.

Our proposal for the \$20,000 of matching funds was one where we could utilize existing manpower to develop the program, initiate some projects and through the experience gained, plan appropriately for future increases. If \$250,000 is allocated for this upcoming biennium, it must come from other programs. It will also be necessary to request additional FTE's to adequately handle a grant program of that size.

Although we strongly support the development of a grants program, we urge your consideration of broad rule-making authority to develop the program and a lower level of funding as we begin the program and gain experience in implementation.

AMENDMENT TO HB 403
SECOND READING (BLUE) COPY

1. Title, line 6.
Following: "ACT"
Strike: "APPROPRIATING MONEY TO THE DEPARTMENT OF FISH,
WILDLIFE AND PARKS FOR GRANTS"
2. Title, line 10.
Following: "GRANTS;"
INSERT: "PROVIDING RULEMAKING AUTHORITY TO THE
DEPARTMENT OF FISH, WILDLIFE AND PARKS;"
3. Page 1, lines 19 through 24.
Strike: section 2 in its entirety
Renumber: subsequent sections
4. Page 3, line 2 through line 7.
Strike: subsection (6) in its entirety
Renumber: subsequent sections
5. Page 3, line 20.
Following: "rules"
Insert: "-- rulemaking authority"
6. Page 3, line 23 through Page 4 line 6.
Strike: subsections (2), (3), and (4) in their entirety
Renumber: subsequent sections
7. Page 4, line 10 through 19.
Strike: subsections (6) and (7) in their entirety
8. Page 4.
Following: line 19
Insert: "(3) The department may adopt rules to
administer grants for shooting range development. The
rules may include, but are not limited to, application
forms and procedures, criteria and methods for
establishing priority of applicants for available
funding, and conditions for the expenditure of grant
funds by grant recipients."
9. Page 5, line 3.
Following: "account"
Strike: ":"
(1) money appropriated under [section 6] and
(2)"
10. Page 5, lines 8 through 13.
Strike: section 6 in its entirety
Renumber: subsequent sections
11. Page 5, line 23.
Strike: "[This act] is effective on passage and
approval."
Insert: "Effective July 1, 1989."

EXHIBIT 1
DATE 3-3-89
HB 333

EQPF Background

The 1985 Legislature created the EQPF (Environmental Quality Protection Fund) in HB 766.

Up through the third reading the fund was statutorily appropriated.

There were other bills being considered at the same time that used RIT monies and the bills weren't compatible.

As a compromise measure, a new section was added to HB922 which established the Environmental Contingency Account controlled by the Governor. The ECA was statutorily appropriated and the EQPF was specifically listed as one of the appropriate uses.

The EQPF (administered by the DHES) was not funded for the 85-87 biennium so there was no need to have any appropriation, statutory or otherwise.

In the 1987 session, DHES sought EQPF funding and was unsuccessful for the 87-89 biennium but did get permanent funding starting July 1, 1989 in the form of a 4% share of the RIT interest.

Starting July 1, 1989 the DHES needs statutory appropriation authority for the EQPF to be able to use the EQPF as a revolving fund when the department receives cost recovered funds, penalties, contributions and payments from responsible parties and to be able to react to emergencies.

EXHIBIT 1
DATE 3-3-89
HB 462

HB462

HARPER

MARCH 3, 1989

___MONTANA WATER RESOURCES ASSOCIATION___JO BRUNNER, EXEC. SEC.____

___SENATE AGRICULTURE COMMITTEE___SUPPORT___X___AMEND___X_____

Mr.Chairman, members of the committee, the Montana Water Resources Association is generally in support of HB462.

We do have one concern, however, and offer an amendment to Section 5, page 6, (1) & (2) Lines 15 through 21.

The amendment will put a period after the words drought impacts on line 15, and delete all wording of lines 16 through 21.

The Montana Water Resources Association does not support giving the Governor, whomever he may be, the right to request the District Court appoint a mediator in a basin experiencing water shortages, either on his own initiative or by petition of those experiencing water shortages.

We are aware that this paragraph hinges on the passage of certain wording in HB 463 pertaining to the powers of the Governor, and we intend to offer amendments to that section.

Whether or not our amendments to HB463 pass, we oppose Section 5, (2) lines 16 through 21 of HB462.

Again we ask you to pass HB462 with the amendment offered .

Thank you.

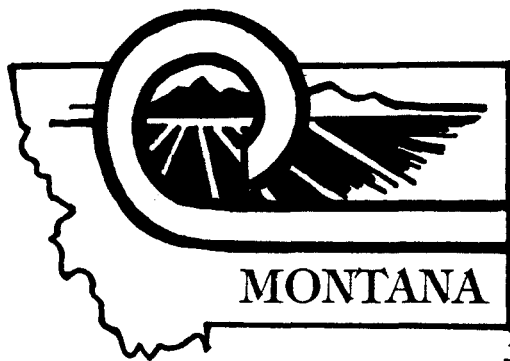


EXHIBIT 2
DATE 2-3-89
HB 462

MONTANA

Association of Conservation Districts

1 South Montana 443-5711
Helena, MT 59601

Testimony to the House of Representatives Appropriations Committee on
HB 462.

For the Record, my name is Peggy Haaglund and I am executive vice
president of the Montana Association of Conservation Districts.

MACD does support the concept of HB 462. It is important for us to be
prepared for all types of emergencies.

But I would like to have the bill amended from the way it is presently
written. At this time the Conservation Districts are included as one
of the ex officio members. It is our stand that because of the
responsibilities the conservation districts have under state law, which
is being responsible for the conservation of Montana's natural
resources on non-government lands, that we should be included as one of
the commission members if this bill is adopted. We were a member of
the former Drought Task Force.

Montana's 59 conservation districts are local elected people working
with local people. In the scope of our work districts are in close
contact with many government entities--county, state and federal--as
well as the private individuals and companies. Our scope of activities
include working with:

- . All of the perennial streams in Montana because of the 310 law;
- . Helping people with conservation planning on pasture, range and
forest lands;
- . Riparian management;
- . Irrigators;
- . Have ready access to the SCS snow survey program which is
one of the first indicators of our water supply.

MACD asks you to amend HB 462 to have a representative from the
conservation districts as a voting member of this commission and not an
ex officio member.

We encourage you to support HB 462 as per our amendment.

Thank you.

EXHIBIT 1
DATE 3-3-89
HB 463

_____ HB426 _____ Rep. Thoft _____ Mar. 3, 1989 _____
____ Montana Water Resources Association, Jo Brunner, Exec. Sec. _____
____ Senate Agriculture Committee _____ Support X _____ Amend _____ X _____

Mr. Chairman, members of the committee, its been a month since this bill was heard in House Natural Resources. At that time, the Montana Water Resources Association supported HB463 and offered amendments which were not accepted by that committee.

MWRA continues to support HB463, and we will offer this committee further amendments to the bill.

MWRA supports the appointment of a mediator, by the district court if and when controversy arises on a stream. We are well aware that in existing situations oftimes a commissioner does not fulfil his obligations to the water users in a fair and honest manner, and this bill would supply the means to lessen such situations.

However we are not in agreement with the section of the bill which allows other than water right holders to request a mediator should controversy arise within a basin.

Section 1, page 1, (1) appointment of water mediators, duties,..... allows the Governor, 15% of the water right holders, or any state agency that might have an interest in water, to request a mediator.

In the House hearing, we offered amendments that would delete lines 14 and 15, **(C) upon petition by a state agency with water related interests**. After due consideration by the Association Legislative Committee, we now offer that amendment and another to delete line 11 on page 12, **(A) upon request of the Governor**.

We further request an amendment to line 13 (B); after the words 'water rights' insert the words **"including state agencies holding reservations"** ... to then read in full, **"(A) upon petition by at least 15% of the owners of water rights, including state agencies holding reservations, in a nondecreed basin."**

Mr. Chairman, paragraphs (A) and (C) in the existing language are repetitive and unnecessary. It is likely that any Governor will arrive at the decision to request a mediator without first consulting the agencys and departments interested in water, whether it be DNRC, FWP's or Health and Environmental Sciences. It is more likely that such departments would bring any controversy to the Governors attention, who would then make the decision as to necessity, and could through the agency, then request the mediator.

Even as paragraph (B) reads now, a state agency would have the option

basin. This amendment would further define the right of a state agency holding a reservation to participate in the process. Again, if an agency, or the Governor feels the need for mediation, this process allows that to happen.

The amendment disallows a Governor the ability to request mediation without consultation with the agencies, and it disallows an agency, with only water interests, not a water right, the ability to request a mediator in a nondecreed basin.

It is not our intent to discredit any agency, or a Governor. However, it is our intent to protect, to the greatest degree possible the rights of the water right holder, and to that end we offer these amendments.

We further request an amendment on page 13, Subparagraph (3). We ask deletion of all of line 3; the words, 'petitions' and 'the Governor or agency' on line 4; and the deletion of the words 'or a majority of ' on line 5.

We would insert on line 3, the word 'Petitioners' and the line would then read, 'Petitioners for a water mediator shall pay all the costs of the water mediator, as determined.....' This allows the district court to determine equitable distribution of the mediator or commissioner expense.

Again, lest you get the idea that MWRA is not supportive of the concept of this legislation, let me assure you that we are, and we believe a mediator will be beneficial in most controversies.

We offer one more amendment concerning the educational program to be implemented by this legislation.

On page 13, Section 2, lines 14 through 19 the bill lists those to be involved in the development of an educational program for mediators and commissioners. MWRA agrees with that list, as far as it goes, but believes that too often programs are developed by people who do not have first hand knowledge of the workings out on the streams, the ditches and the land. The real world of water distribution differs greatly from the text book concept, and having representation in the development of an educational program by those who will effected will lean toward greater acceptance of this program, tending to lessen controversy with implementation of the rules and regs.

Our amendment asks that, on page 13, line 18, after the words 'federal agencies, insert the words, 'one representative from the agriculture irrigation industry, and one representative from the livestock industry.'

We request that you do pass HB463 with these amendments incorporated

DATE 3/3/89

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)