

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Chairperson Bob Raney, on March 6, 1989, at
2:55 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Claudia Montagne, Secretary; Hugh Zackheim,
Staff Researcher, Environmental Quality Council

Announcements/Discussion: None

HEARING ON HB 750

Presentation and Opening Statement by Sponsor:

REP. JOE QUILICI, House District 71, said the bill was proposed by himself and the Department of Natural Resources and Conservation (DNRC) to establish a program, using the state's tax exempt bonding authority, to raise capital for the installation of cost effective energy conservation improvements on state-owned buildings. He said that despite conservation efforts, energy costs remained high, in the amount of approximately \$13 million each year. DNRC estimated that 2/3, or 10 million square feet, of the state's total building area had potential for energy savings.

REP. QUILICI said that in 1987, \$1.9 million of Oil Overcharge funds were appropriated to establish a revolving fund for energy retrofits in state buildings. \$100,000 went to fund energy improvements at the Montana Developmentally Disabled Center in Boulder. An additional \$120,000 was also appropriated from Oil Overcharge funds to conduct energy studies for future state retrofit projects. Campus-wide studies were conducted at Warm Springs, Montana State Hospital at Galen, Montana Development Center at Boulder, and the Center for the Aged at Lewistown. It was discovered that as much as \$500,000 a year could be saved in energy costs on these three campuses alone.

REP. QUILICI said DNRC recommended using \$1.3 million of the remaining Oil Overcharge funds for comprehensive retrofits

of the Montana Development Center at Boulder. An additional \$250,000 of the existing Oil Overcharge appropriation would cover design costs for retrofits to Warm Springs, Galen, Lewistown, and also the School for the Deaf and Blind in Great Falls.

REP. QUILICI said the bill proposed that the 1989 Legislature, using general obligation bonds, fund these projects. The bonds would be retired by the energy cost savings, which would be in excess of the debt service.

Testifying Proponents and Who They Represent:

Karen Barclay, DNRC
Tom Livers, DNRC
Chris Kaufmann, Montana Environmental Information Center
Nobby Johnson, Great Falls Public Schools
Karla Gray, Montana Power Company
H.S. Sonny Hanson, Architects and Engineers in the state
Curt Chisholm, Department of Institutions

Proponent Testimony:

KAREN BARCLAY, Director, DNRC, testified as set forth in EXHIBIT 1.

TOM LIVERS, DNRC, gave a general background of the program as set forth in EXHIBIT 2, and continued the testimony from EXHIBIT 1, page 2, with the rationale for the program and project descriptions.

CHRIS KAUFMANN testified that there were environmental benefits from the bill. She said that not only was conservation the cheapest form of energy, but it also lessened our dependence on non-renewable natural resources.

NOBBY JOHNSON commended the Legislature for its consideration of this type of financing. He said the Great Falls School District had been involved in an energy conservation program since 1974. He said they had kept energy consumption statistics since that time, and had completed several retrofit projects. He said the savings spoken about by the sponsor and the proponents were real, and gave examples as set forth in EXHIBIT 3. He urged the committee to support the bill.

CARLA GRAY supported the bill, saying it was sound public policy, and was consistent with the effort being made by the Montana Power Company in the private sector. She said the bill offered a mechanism that was both timely and practical for getting the state into the energy conservation movement.

SONNY HANSON provided graphs on comparative energy use for a school in Billings. These graphs showed the impact of

retrofits on energy consumption. He encouraged the committee to think in terms of energy instead of dollars, since the cost of energy could not be controlled. EXHIBIT 4.

CURT CHISHOLM, DOI Director, testified as one of the primary beneficiaries of the results of this bill. He said the department supported the bill, and spoke of the years DOI had spent trying to maintain its deteriorating campuses. He said energy conservation was usually at the bottom of the list, because other issues held a higher priority, such as overpopulation problems at the prison and life-safety deficiencies at the other campuses. He said the cash available for the Long Range Building monies was less and less. He said the bill would benefit both the patients and state tax payers.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. HARPER asked what else this money (the Oil Overcharge money available under HB 563) could be spent on. TOM LIVERS said any energy related activities that provided restitution to those consumers who were overcharged could be recipients for this fund. Other activities to be funded under HB 563 included energy work with local energy offices, schools and hospitals program, Energy Share of Montana, the Weatherization program, as well as a Weed Control Program. REP. HARPER asked if Mr. Livers felt this was an appropriate use of this money, and MR. LIVERS said yes.

REP. GILBERT asked what would be used to back the bonds when this money ran out, or if the program would terminate at that time. REP. QUILICI said the Oil Overcharge monies were not there to back the bonds. The Oil Overcharge money appropriated last session was used to fund the study. This bill implemented a bonding authority, which would be paid off by the energy savings produced by the retrofits.

REP. GILBERT asked what would back the bonds, and REP. QUILICI said the state of Montana would back these general obligation bonds. MR. LIVERS elaborated that general obligation bonds were backed by the full faith credit taxing authority of the state of Montana. The general fund would realize the savings from the reduced utility bills, which would be structured to exceed the debt service obligation to the general fund.

- REP. HANNAH asked where the state was with regards to bonding level. MR. LIVERS said we could be extended if every general obligation bonding bill were to pass. He said the total ceiling was \$3 million for this bill, the smallest proposal before the Legislature.
- REP. QUILICI said he had asked the same question, and discovered that right now, the level was at \$90 million, and that this measure before the committee would not bother that in any way. MR. LIVERS said they worked closely with the state's bond counsel and financial advisor in structuring this program.
- REP. GILBERT asked for clarification from the sponsor regarding the bill. He said it would allow the establishment of the bonding program and would obligate the state to appropriate the money and do the four projects listed for \$1.9 million. He said any other projects would have to come in line after those four projects. He asked if the bill would have to go through the Appropriations Committee. REP. QUILICI said it was a statutory appropriation, but it could possibly still go through that committee. He said REP. GILBERT was correct in his interpretation of the bill.

Closing by Sponsor:

- REP. QUILICI closed, saying that the savings would more than offset the payment of the bonds. He said the savings would continue, even after the bonds were retired in 15 years.

DISPOSITION OF HB 750

Motion: REP. O'KEEFE moved the bill DO PASS.

Discussion: REP. HANNAH asked for an explanation of the portion of the title referring to "all money received under the program" and asked if this referred to the Oil Overcharge money. VAN JAMISON, DNRC, said this money was the actual bond proceeds authorized by 2/3 vote of the Legislature. These monies in this instance would be used for the buildings at those four institutions listed in the bill, and would provide additional funding to study other state buildings with the idea of coming back in 1991 to request bonding authority to do another set of measures. That would require a 2/3 vote of the 1991 Legislature. He said the Oil Overcharge appropriation was a separate appropriation that was tied to this bill, but was addressed in HB 563. He said the two bills were tied in several ways. HB 563 identified that the appropriation made therein was contingent upon passage by 2/3 of the members of the Legislature of HB 750. In other words, if there was no bond program, there would be no Oil Overcharge appropriation. In HB 750, it said if there were a simple majority to establish the program, but

did not get the 2/3 majority necessary to get bonding authority, then there would be no program.

MR. JAMISON said if HB 750 failed, the money would move down and fund the next lower priorities in the list of projects authorized under HB 563. In response to a question by Rep. Hannah, MR. JAMISON listed those projects, one of which was the project proposed by HB 750 for \$550,000.

REP. HANNAH asked what the department expected to receive in Oil Overcharge monies over the biennium. MR. JAMISON said they expected to receive approximately \$2.5 million, and if amended, the bill would appropriate \$2.9 million because there was that authority.

REP. OWENS asked how much money had been spent on the study of the four institutions in HB 750. MR. LIVERS said the amount of money spent to date was as follows: Boulder, \$40,000; Warm Springs State Hospital, \$50,000; Galen, \$30,000; Montana School for the Deaf and Blind, \$6,000; and Center for the Aged, \$13,000.

REP. GILBERT asked why this bill appropriated \$3,000,000. MR. JAMISON said the department had over appropriated in HB 563. and the \$550,000 start-up costs for this program was in that \$2.9 million appropriation. He said the program was the fourth priority, and was therefore not in jeopardy, despite the over appropriation in the amount of \$400,000. He said the start-up costs for this program were fully funded in HB 563. Those moneys, he said, would provide support in Architecture and Engineering, and the \$3 million would come from bond proceeds backed by general funds. He agreed there would be a general fund cost, but said in this instance the general fund cost of doing something would be less than the general fund cost of doing nothing.

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion for the DO PASS CARRIED unanimously.

HEARING ON SB 227

Presentation and Opening Statement by Sponsor:

SEN. MATT HIMSL, Senate District 3, opened on the bill as set forth in EXHIBIT 5.

Testifying Proponents and Who They Represent:

Rep. Ben Cohen, House District 3
Jim Jensen, Montana Environmental Information Center
Stan Bradshaw, Trout Unlimited

Proponent Testimony:

REP. COHEN said that during a forum held the preceding spring, all involved wanted more direct citizen involvement in the Flathead Basin Commission. He urged support of the bill.

JIM JENSEN supported the addition of more citizens to the Flathead Basin Commission.

STAN BRADSHAW spoke in favor of additional citizen membership as well as the Department of Fish, Wildlife and Parks ex-officio member on the commission.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. BROOKE asked the sponsor if he would object to an amendment to provide gender balance on the commission. SEN. HIMSL said he would not object. REP. BROOKE said she brought this up because of the resolution passed in the House to encourage boards and commissions to be gender balanced. With the change in the make-up of this commission, it could be appropriately coordinated with the intent of the House.

Closing by Sponsor:

SEN. HIMSL urged the committee to support the bill to give encouragement to this group of people dedicated to preserving the pristine environment and water of the Flathead.

DISPOSITION OF SB 227

Motion: REP. SMITH moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. BROOKE proposed an amendment to encourage gender balance among the appointees. REP. O'KEEFE suggested that the resolution passed in the House would handle this, and was not sure that every board and commission bill should be amended. REP. BROOKE said she had considered that, but that she was not sure the resolution would go through the Senate.

REP. ROTH said everyone should be considered on his/her merit. He said equal numbers would not apply, and said this was an unnecessary amendment which served to cloud the issue.

REP. GIACOMETTO said he felt the same as Rep. O'Keefe. He said if the Senate killed the resolution, then this amendment should not be on the bill. If the Senate passed the amendment, this amendment was not needed.

REP. BROOKE said she proposed the amendment as a reminder, and agreed that if the resolution went through, it would serve as a reminder as well. REP. BROOKE withdrew the amendment.

Recommendation and Vote: The motion to BE CONCURRED IN CARRIED unanimously, and Rep. Cohen agreed to carry the bill on the floor.

HEARING ON SB 183

Presentation and Opening Statement by Sponsor:

SEN. HUBERT ABRAMS, Senate District 12, opened on the bill as set forth in EXHIBIT 6.

Testifying Proponents and Who They Represent:

Gary Fritz, Department of Natural Resources and Conservation
Peggy Haaglund, Montana Association of Conservation
Districts

Additional Proponent Testimony:

Jo Brunner, Montana Water Resources Association, EXHIBIT 7

Proponent Testimony:

GARY FRITZ located the Little Missouri River Basin for the committee, saying it was composed of several tributaries in the southeast part of the state that ran into the Missouri River in North Dakota. He said the 1985 Legislature had decided that the state should embark on a water reservation process for the entire Missouri River Basin. However, the Little Missouri River Basin was defined separately in the law, and technically could not be included as a part of that process. He said this bill would add it into that process.

MR. FRITZ said the priority date set by the 1985 Legislature was July 1, 1985. A retroactive priority date could not be set for the Little Missouri River Basin, so the priority date for these reservations would be July 1, 1989. The deadline by which the Board of Natural Resources would have to act on

the water reservations above the Fort Peck Reservoir would be extended from December 31, 1991, to July 1, 1992.

PEGGY HAAGLUND urged the committee to pass this bill so that the Conservation Districts could apply for the water reservations.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. HARPER asked why the extra 6 months was needed. MR. FRITZ said that based on the experience the department had on the Yellowstone, and the current procedure underway on the Clark Fork, it was thought it was necessary for the board to have that extra 6 months. He said it was a major decision that could potentially affect the water rights of the Missouri Basin. In addition, the department anticipated a lot of applications from the conservation districts and the Department of Fish, Wildlife and Parks, as well as others.

Closing by Sponsor:

SEN. ABRAMS closed, and asked Rep. Giacometto to carry his bill.

DISPOSITION OF SB 183

Motion: REP. GIACOMETTO moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED unanimously.

HEARING ON SB 305

Presentation and Opening Statement by Sponsor:

SEN. GREG JERGESON, Senate District 8, said SB 305 was a specific bill to deal with a farm aid problem. He said with the 1985 Farm Act, farmers had been putting land they control into the Conservation Reserve Program (CRP). They had been bidding their state land into the CRP program, at times somewhere in the middle of their 10 year lease. He said

that as the 10 year lease expired, there was still time left on the 10 year CRP contract. These farmers were finding their CRP lands being bid away from them by someone else who had to make no investment in planning for the CRP or in the maintenance.

SEN. JERGESON said the bill would cure problems with any new lands that are on state leases to be put into CRP. The bill would allow a leaseholder to voluntarily terminate his state lease and then renew it to be coterminous with the CRP contract.

SEN. JERGESON said there was still a risk for a producer in that if he/she voluntarily terminated the lease, it would be subject to competitive bid by any neighbor who would come in. However, that neighbor would have to assume the expense and time of turning the land into suitable CRP ground. He said the bill would provide for better management and a chance for these agricultural units to stay together.

SEN. JERGESON said there would be some amendments offered that would suggest that there ought to be on CRP land a minimum lease requirement if the land was to be bid into CRP. He said he had no problem with that amendment as long as the rate at which this land would be bid into the CRP would not serve as a disincentive for the producer.

Testifying Proponents and Who They Represent:

Bob Stephens, Montana Grain Growers Association
Ron De Yong, Montana Farmers Union
John North, Department of State Lands

Proponent Testimony:

BOB STEPHENS stood in support of SB 305, and said Ted Neuman had asked him to testify on the bill, as well as to offer an amendment. (EXHIBIT 8 and 9).

RON DE YONG testified that the bill would give the farmer the option to choose to make his/her operation more workable. He said the Farmers Union supported that philosophy.

JOHN NORTH testified on the bill as set forth in EXHIBIT 10. He said the department would be in support of the amendments that had been offered.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

REP. OWENS asked who would pay the property tax on state lease land. MR. NORTH said there was no property tax paid on state lease land.

REP. GIACOMETTO asked Mr. Stephens if the grain growers support Mr. Neuman's amendment. MR. STEPHENS said they were staying neutral on it.

Closing by Sponsor:

SEN. JERGESON said he would leave the amendments to the wisdom of the committee. He said he would resist amendments providing for a state share higher than 50%, because he was convinced that anything higher than 50% would act as a disincentive to lands going into CRP.

DISPOSITION OF SB 305

Motion: REP. SMITH moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. HARPER moved the Neuman amendments. REP. HANNAH asked if these would cost the farmer more money. REP. RANEY said the higher you raised it, the less the farmer would make, but that the farmer would make more money at 50% compared to what he made now.

REP. HANNAH asked why one would want to make it hard on the farmer. REP. RANEY said the amended bill would make it easier. REP. GIACOMETTO said those subsidized programs were in place. Those individuals who have farmed that land had put in a lot of work and years to get the soil eligible for any of the farm programs. He said it was not appropriate to make them pay more, and would be unfair to lessees from the effective date on. He opposed the amendment.

REP. GILBERT said the CRP program paid an individual to take land out of production. Even though the farmer did some work on the state land, people don't always do what they should, and often get paid for doing nothing. Even if the state took 50%, the farmer would still be making twice what he/she would have made.

REP. GIACOMETTO commented that there were costs involved in the CRP program. He said they may not be enforced, but that the requirements existed, enforced or not, and CRP was not just a free program.

The motion on the amendments CARRIED with Rep. Hannah, Rep. Owens, Rep. Smith, Rep. O'Keefe, and Rep. Giacometto voting no.

Recommendation and Vote: REP. BROOKE moved the bill BE CONCURRED IN AS AMENDED. The motion CARRIED unanimously, with Rep. Giacometto assigned to carry the bill on the floor.

DISPOSITION OF SB 91

Hearing 3/1/89

Motion: REP. COHEN moved the bill BE CONCURRED IN.

Discussion: None

Amendments, Discussion, and Votes: REP. COHEN moved amendments, one to address the applicability problem so that the bill would only address existing leases, another to see that any new development of water and sewer go through the appropriate review process, and a third to provide for conservation easements, making a condition of any sale initiated by this act that the board shall grant to the state a conservation easement which would run with the land through in perpetuity. He said the easement would prohibit a) subdivision of the land, and b) the cutting of trees on property within 100 yards of a body of water, except as necessary for fire prevention, safety or protection of personal property.

REP. SMITH suggested that 150-100 feet might be more appropriate.

REP. ROTH asked if conservation easements provided for anything other than a) and b) referred to by Rep. Cohen. REP. COHEN said his understanding was that there was tax relief for putting a conservation easement on one's property. HUGH ZACKHEIM addressed Rep. Roth's original question, and said that his understanding that in the section of codes cited, there was a list of elements of a conservation easement, but that they did not all have to apply.

REP. O'KEEFE quoted from MCA 72-2-303, 3(a), and said there was a reservation of state lands along these waterways already in law. He suggested that an easement was there in these state lands once they were sold.

REP. GIACOMETTO asked if a conservation easement would cover access for hunting and fishing. MR. ZACKHEIM said an easement did not have to include that. REP. GIACOMETTO suggested that any conservation easement would have to be defined.

REP. RANEY asked John North to respond, and MR. NORTH said no land had been sold, so that particular statute had not been

interpreted. Before commenting, he asked to read the amendments and the statute in detail. REP. RANEY postponed executive action until the comments of Mr. North could be heard.

REP. COHEN WITHDREW his motions.

Motion: REP. COHEN moved SB 91 BE CONCURRED IN.

Amendments, Discussion and Votes: REP. COHEN moved the amendments. MR. NORTH said that what appeared in the codes cited by REP. O'KEEFE did not handle the intent of the amendments because the strips of land could be sold if the board deemed it in the best interest of the School Trust. He said the amendments would have to go in if those restrictions listed in the codes were desired. He reminded the committee that when the Board of Land Commissioners sold land, they had to do so at full market value. Therefore, any restriction on these lands that would reduce the sale price would probably be unconstitutional. The board would then probably break out a portion of the land, the cabin site, for example, and sell that without restrictions, and retain the rest for state ownership. He said they would have to sell the tract in such a way that the conservation easement did not reduce the return to the School Trust.

REP. ROTH asked about the conservation easement restrictions, and if they implied passage through the property. REP. COHEN said he did not believe so.

REP. COHEN mentioned the sponsor's amendment offered at the time of the hearing regarding the boundaries of the lots and the possible need for re-surveys. REP. COHEN WITHDREW the first amendments and moved the sponsor's amendment. MR. ZACKHEIM said as a technical note, that this amendment would be in conflict with Rep. Cohen's amendments, if those amendments restricted subdivision.

REP. COHEN WITHDREW the sponsor's amendment.

REP. O'KEEFE offered a technical amendment to correct a code citation. The motion CARRIED unanimously.

REP. O'KEEFE offered an amendment to guarantee that the School Trust Fund got adequately and fully reimbursed. He suggested a new section amending the codes to read that "the lessee need not make a higher bid than others, but he shall have the option to match the high bid and be given preference. If the lessee chooses to match the high bid, bidding will be reopened to all bidders, with the lessee retaining the right to ultimate preference." REP. RANEY asked Mr. North to comment. MR. NORTH said that was the way the department interpreted that statute anyway, but the amendment would clarify it. He said the bids would open at full market value.

REP. ADDY commented that it sounded awkward, and asked Mr. North if it was manageable. MR. NORTH said currently, it was an oral auction, and he believed it would be manageable.

The motion on the O'Keefe amendment CARRIED unanimously.

REP. COHEN moved the first amendment of the sponsor, with a suggested rewording to make it compatible with his other amendments. MR. ZACKHEIM explained the amendment, which added that the buyer, upon sale, would have prepared a current certificate of survey for the property.

REP. RANEY asked Mr. North to respond to the amendment. MR. NORTH said that the department required, before any land was sold, or conservation easement granted, a certificate of survey. The department had anticipated with the original bill that the department would be responsible for that survey. The intent of this amendment would be to transfer that cost to the applicant.

REP. RANEY asked Sonny Hanson to comment on the amendment. MR. HANSON said it was the intent of the amendment not to have the cost of the survey charged to the state, but to the buyer.

REP. RANEY asked Mr. North how to word this amendment to ensure that the buyer would pay the surveying costs incurred by the state. MR. NORTH suggested "the applicant, or buyer shall provide a survey." REP. RANEY asked who would pay if the lessee lost the bid on the property. MR. HANSON said that cost would be added to the cost of the house or any other improvements on the property. REP. RANEY asked how the amendment would have to read. MR. NORTH suggested the wording "the applicant shall have prepared a current certificate of survey for the property." REP. GIACOMETTO added "and this cost becomes an improvement on the property."

The motion on the amendment CARRIED.

REP. COHEN asked to segregate his three amendments. He moved the applicability date amendment, and asked the researcher to explain it. MR. ZACKHEIM said the amendment would indicate the only leases that could be sold were those that existed as of the effective date of this act. The motion CARRIED unanimously.

REP. COHEN moved the amendment dealing with the development of any new or additional water supply and sewage treatment system needing be approved pursuant to the appropriate review as provided in the Sanitation and Subdivisions Act. REP. HARPER asked if this would cover replacement systems, or if these were grandfathered out. He mentioned that the new regulations called for larger drain fields. REP. COHEN

stood in favor of the amendment because, despite the headaches, this was a water quality issue. REP. HARPER agreed.

REP. OWENS suggested that the amendment read "development of any new, replacement or additional water supply or sewage treatment." REP. COHEN accepted the suggestion.

The motion on the second Cohen amendment CARRIED unanimously.

REP. COHEN moved the third amendment which dealt with the conservation easement. REP. OWENS suggested that the setting distance of property within 100 yards of a body of water was unrealistic, and suggested 100 feet. REP. COHEN agreed to accept that change, and said it referred to cutting of trees except for certain purposes. He said it did not apply to building. REP. KADAS asked if an exception could be made for construction, and REP. COHEN said not without a set-back from the lakeshore for that construction. REP. MOORE asked if existing boat houses would be grandfathered out, and REP. COHEN said yes.

REP. HARPER said an exception would have to be made for building and remodeling. REP. COHEN said that regulations for set-backs had been adopted and enforced at the request of the landowners along waterways and lakeshores. REP. KADAS suggested adding "except clearing necessitated by construction".

REP. ROTH moved an amendment to go from 100 yards to 100 feet. The motion CARRIED.

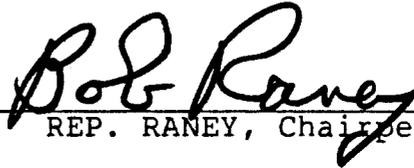
REP. OWENS suggested "prohibiting the cutting of trees except as necessary for construction, fire prevention, safety, or protection of personal property, with no permanent buildings within 25 feet of lakeshore except for docks." REP. COHEN suggested putting in the exception for construction, and leaving it up to the County Commissioners to decide, with their own lakeshore set-backs. REP. HARPER suggested "clearing necessitated by proposed construction".

REP. RANEY said the conservation easement issue had not been decided, and assigned Rep. Cohen, and whomever else was interested, to a subcommittee to clarify the issue. He said final action would be delayed until the following Wednesday when this subcommittee would report to the full committee.

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: 5:20 p.m.



REP. RANEY, Chairperson

BR/cm

5212.min

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-6-89

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bob Raney, Chairman	✓		
Rep. Ben Cohen, Vice-Chairman	✓		
Rep. Kelly Addy	✓		
Rep. Vivian Brooke	✓		
Rep. Hal Harper	✓		
Rep. Mike Kadas	✓		
Rep. Mary McDonough	✓		
Rep. Janet Moore	✓		
Rep. Mark O'Keefe	✓		
Rep. Robert Clark	✓		
Rep. Leo Giacometto	✓		
Rep. Bob Gilbert	✓		
Rep. Tom Hannah	✓		
Rep. Lum Owens	✓		
Rep. Rande Roth	✓		
Rep. Clyde Smith	✓		

STANDING COMMITTEE REPORT

March 7, 1989

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Mr. Speaker: We, the committee on Natural Resources report that HOUSE BILL 750 (first reading copy -- white) do pass.

Signed: _____
Bob Raney, Chairman

STANDING COMMITTEE REPORT

March 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 227 (third reading copy -- blue) be concurred in.

Signed: 
Bob Raney, Chairman

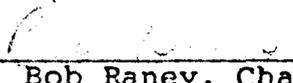
[REP. COHEN WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 183 (third reading copy -- blue) be concurred in.

Signed: 
Bob Raney, Chairman

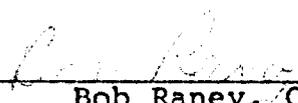
[REP. GIACOMETTO WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 7, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report that SENATE BILL 305 (third reading copy -- blue) be concurred in as amended .

Signed: 
Bob Raney, Chairman

[REP. GIACOMETTO WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Title, line 9.

Following: "TO"

Insert: "A MINIMUM RENTAL RATE OF A 50% CROP SHARE AND"

2. Page 2, line 9.

Following: "to"

Insert: "a minimum rental rate of a 50% crop share and"

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
TESTIMONY ON HOUSE BILL 750

INTRODUCTION

My name is Karen Barclay. I'm director of the Department of Natural Resources and Conservation, and I am here to support House Bill 750.

House Bill 750 provides a way to increase energy efficiency in state government buildings. This translates into direct dollar savings to the state through reduced operating expenses, and replacement of antiquated boilers and distribution systems. In doing so, it also creates jobs for local craftsmen.

House Bill 750 does two things: (1) it establishes a long-term energy conservation program for state buildings, and (2) as the first phase of this program, it authorizes the state to issue up to \$3 million in general obligation bonds in the coming biennium. The bonds will fund energy conservation improvements to the Montana State Hospital at Warm Springs and Galen, the Center for the Aged in Lewistown and the School for the Deaf and Blind in Great Falls.

I'd like to first discuss the overall, long-range program, then I'll elaborate on the projects proposed for the coming biennium.

LONG-TERM PROGRAM

The concept behind the bill is pretty straightforward: the state sells bonds to fund energy conservation improvements to state-owned buildings, then uses the savings in energy costs to repay the bonds.

This program is structured so that the state realizes immediate savings to the general fund, even while the bonds are being repaid. This is accomplished by designing the projects so that the annual dollar savings resulting from the energy efficiency improvements exceeds the debt service on the bonds.

The greatest savings to the state will come in the long term. The energy savings will continue long after the debt is retired. In other words, once the bonds are repaid, the state will continue to realize the benefit of all future energy savings.

Other states are recognizing the long term financial benefit of using bonds to finance investment in energy conservation. Our proposal is modeled after a similar program that has been successfully implemented in Iowa, one that has gained full acceptance in the national bond market.

Iowa has already done the front-end development work with the financial community, and the bonds have sold in national markets.

As it turns out, the financial advisor to Iowa's program, Evenson Dodge, is also the contracted financial advisor for the State of Montana. As a result, we've been able to save substantial development costs for this proposal by capitalizing on work already done in Iowa.

RATIONALE FOR PROGRAM

I'd like to briefly outline the circumstances that prompted the department to develop this proposal:

- We're reaching the point where we can't afford the cost of doing nothing. State government spends more than \$13 million per year to heat, light and cool its buildings.

Based on our experience with energy retrofits on schools and hospitals in Montana, savings in excess of 25% can be obtained through this type of energy conservation effort. Applying this to all state buildings would yield savings of more than \$3 million per year at today's energy prices if all work were completed.

- State agencies have been working for several years to implement low cost, energy saving operation and maintenance changes. However, there is a limit to how much energy and cost savings can be attained through this approach. With many of our institutions, we're now at the point where capital improvements are necessary in order to realize any substantial energy savings.
- The primary impediment to making these necessary energy improvements is the lack of up-front capital. The state itself simply does not have the cash available for widespread investment in energy conservation.

This is where HB 750 comes in.

- Energy financing packages can yield a good enough return on investment to attract private funds. We've looked at a lot of different financing options being used by other states, and have found general obligation bonds to be the most advantageous. They provide the least cost financing and they allow us to tailor each project to the specific needs of the particular state facility.

If House Bill 750 is approved, we will come before future legislatures every two years with a bond package for their consideration. Each session the Legislature would have to approve -- by two thirds of each house -- bond authority for the recommended projects before new bonds could be issued.

This allows the program to proceed at a reasonable pace, and it allows both the executive branch and the Legislature the opportunity to evaluate progress before approving new general obligation debt.

INITIAL PHASE

I'd like to focus now on the first phase of this program -- the proposed \$3 million bond issue that would cover Warm Springs, Galen, the Center for the Aged and the School for the Deaf and Blind.

The main point I'd like to stress here is that we have a window of opportunity open now that may not be open next session. There are three key elements in place today:

- First, we have oil overcharge money available to start the program without using any general funds;
- Second, we have a set of facilities already analyzed for savings potential;
- Third, the financial community is ready to provide retrofit funds at a reasonable rate.

OIL OVERCHARGE FUNDS

Oil overcharge funds available through House Bill 563 would provide seed money to start this program without using any general funds. These oil overcharge funds come to the state from court settlements with major oil companies, and must be used for energy related activities.

FACILITIES ANALYZED

Using oil overcharge money appropriated last session, the Department of Natural Resources contracted with private engineering firms to conduct comprehensive energy analyses at Boulder, Warm Springs and Galen. We chose these because we knew that the potential for energy and cost savings was great, and because these facilities rely primarily on general fund monies for their operation. We later added the Center For the Aged and one of the older buildings at the School for the Deaf and Blind.

FINANCIAL COMMUNITY

As I mentioned earlier, the experience of Iowa and other states has gained the acceptance of the national bond market. In addition, the interest rates available now are reasonable -- currently in the neighborhood of 7.5% for ten year general obligation bonds. If we were facing 12-15% interest rates, we wouldn't be here with this proposal.

TOTAL PACKAGE

Under the package we're recommending, the Montana Developmental

Center at Boulder will receive a comprehensive energy retrofit using \$1.3 million of existing oil overcharge funds appropriated in 1987.

The remaining funds from last session will be used to complete design work on Warm Springs, Galen, the Center for the Aged and the School for the Deaf and Blind. The actual retrofit of these four facilities would be accomplished through the \$3 million bond issue provided for in this bill, HB 750.

The seed money from House Bill 563 would cover training of facility maintenance staff and regular on-site inspection to make sure savings are realized and maintained. A portion would go to the Department of Administration's Architecture & Engineering Division to accommodate the increased workload created by these projects.

The seed money would also fund energy analysis and project design for the next round of buildings, which we would present to the 1991 Legislature for funding under a subsequent bond issue. In the future, this "seed" money would come directly from bond sales. Once established, the program would require no additional infusion of funds other than the bonds. In this manner, the original seed money is recycled several times. When the program is finished, the seed money will go directly toward retrofit costs for the last round of projects.

The other very important thing that the oil overcharge seed money accomplishes is that it lets us complete all the front-end work -- administration, analysis, design -- before we sell bonds. Bonds are not sold until we're ready to do the actual installation of the energy improvements. This drastically reduces the time period between when we start incurring interest charges on the bonds and when the revenue stream from the savings is realized.

SAVINGS

The documentation is solid that this program will provide needed improvements to state buildings and save the state money. The projected energy and cost savings are based on a range of very conservative economic and engineering assumptions. The projects are structured so that measures with longer payback can be dropped if financing terms at the time of the bond sale demand a higher return on investment.

I'd like to call your attention to the chart I've handed out. The top line shows current utility costs for the four facilities, projected over twenty years. This is the projected cost to the state if we do nothing at these facilities.

The lower line shows the projected annual cost if the bonds are sold and the energy conservation work is done. It includes both

EXHIBIT 1

DATE 3-6-89

HB 750

5

the reduced utility costs and the bond payment. In this example, the bonds are retired in ten years, which accounts for the sharp drop halfway through on the lower line.

The area between the two lines represents the estimated savings to the state. As you can see, the state realizes a small net savings, even while the bonds are being repaid, and considerably greater savings once the bonds are retired.

I think this chart clearly points out that there is a significant cost to the state associated with doing nothing to these facilities.

CONCLUSION

In conclusion:

- This program will increase the efficiency and reduce the cost of state government.
- It will provide needed improvements to state facilities.
- It will save general fund dollars, especially in the long term.
- The retrofit projects will create jobs in the private sector, utilizing local craftsmen and suppliers.

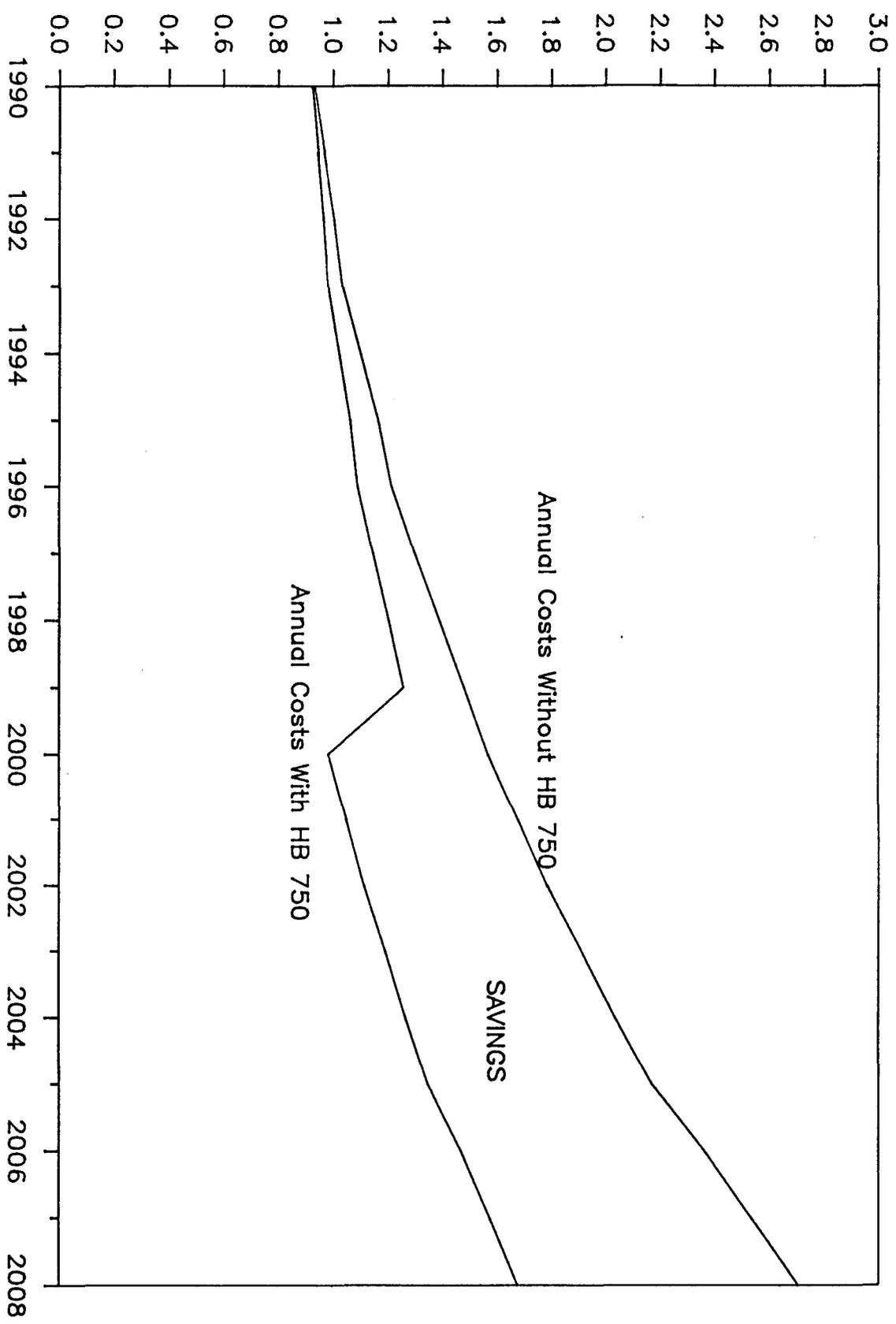
Bond-financed energy conservation is working in other states. The factors are all in place for it to work in Montana. I believe we cannot afford to pass up the unique opportunity before us today.

I urge you to support House Bill 750.

NO. 2
DATE 3-6-89
HB 750

Projected Savings From HB 750

Millions of Dollars



Top: Utility Payments without HB 750

Bottom: Utility Payment + Bond Payment

HB 750 FACT SHEET

HOW IT WORKS

- The state sells bonds to fund energy conservation work in state-owned buildings, then uses savings in energy costs to repay the bonds.
- The projects are structured so that the annual dollar savings resulting from the energy efficiency improvements exceed the debt service on the bonds.

KEY POINTS

- The state spends \$13 million per year to heat, light and cool its buildings. Savings of more than 25% have been achieved through similar efforts in Montana schools and hospitals.
- HB 750: - establishes a long-term energy conservation program for state buildings, and
 - authorizes up to \$3 million this biennium in general obligation bonds for energy improvements at:
 - Warm Springs State Hospital
 - Galen State Hospital
 - School for the Deaf and Blind in Great Falls
 - Center for the Aged in Lewistown
- The availability of oil overcharge money gives us a unique window of opportunity this session to begin the program using no general funds.
- There is a significant cost to the state associated with doing nothing at these facilities. (Please see attached chart).
- Similar programs are working successfully in other states.
- Each session the Legislature would approve bond authority for recommended projects before any new bonds are issued.

BENEFITS

- Increases the efficiency and reduces the cost of state government
- Creates jobs in the private sector. The retrofit projects will use local carpenters, sheet metal workers, insulators, building suppliers, etc.
- Begins saving general fund dollars immediately, even while bonds are being repaid. Savings continue long after bonds are retired.

EXHIBIT 2
DATE 3-6-89
HB 750

SUMMARY OF PROJECTS UNDER HB 750

This sheet summarizes major items to be funded at these facilities. Complete project descriptions are available from the Department of Natural Resources and Conservation.

MONTANA STATE HOSPITAL AT WARM SPRINGS

Boiler plant improvements -- Installing new controls to allow low pressure operation when laundry is not operating, and to allow shut-down of unnecessary steam during summer; repair or replacement of boiler stack economizers; insulation of condensate return pipes, and repairing leaks in the steam distribution system.

Temperature control improvements -- Improving control systems on almost every building to reduce energy wasted through overheating and overventilating, which will also improve occupant comfort. Conversion to variable air volume system on Intake building.

MONTANA STATE HOSPITAL AT GALEN

Decentralize heating system -- (still being reviewed by DNRC engineers to ensure savings warrant the cost)

Replacement, repair, addition of temperature control systems to major buildings; replacement of incandescent lighting; attic, roof and wall insulation in selected areas; window replacements in selected areas.

The analyses of the Center for the Aged and the School for the Deaf and Blind are not yet complete; projections are based on preliminary estimates and will be refined on completion of the studies. High end cost estimates have been used in the bill.

CENTER FOR THE AGED

Items being analyzed for cost-effectiveness include installation of a new boiler versus improvements to the existing plant; installing heat recovery systems in the laundry; lighting improvements; temperature controls; night setback in day use areas; storm windows and insulation of condensate returns.

SCHOOL FOR THE DEAF AND BLIND

The focus of analysis is the heating and ventilating system at the Academic Center building. The existing system is a constant volume system, which is inherently inefficient. The analysis is examining the feasibility of converting to a more efficient variable air volume system. Lighting, roof insulation and the control system are also being analyzed.



GREAT FALLS PUBLIC SCHOOLS

1100 4th Street South
P.O. Box 2428
Great Falls, Montana 59403

EXHIBIT 3

DATE 3-6-89

HB 750

Rep. Sullivan

INTER-OFFICE MEMO

September 29, 1986

TO: Ben Lamb
FROM: Nobby Johnson
RE: Electricity and Natural Gas Consumption.

We have just compiled the figures on electricity and gas savings for the twelve month period of July 1, 1985 through June 30, 1986, and they are as follows:

Savings in Electricity - \$ 70,072.93

Savings in Gas - \$423, 866.61

Certainly all employees of the school district should be commended for their efforts in energy conservation.

It is obvious by these results that turning off lights and electrical appliances along with, setting back thermostats, caulking windows and doors, does pay off.

I am sorry to say that I can't give you a check for these amounts, but the bottom line is, that had energy consumption rates been this year what they were in the baseline years 1974 - 1975, that this school district would have needed \$493,939.54 additional to meet it's budget requirements. This is a tremendous savings to the taxpayers of School District #1.

Respectfully submitted,

Nobby Johnson
Supervisor, Buildings & Grounds

NJ/mj

COMPARATIVE ENERGY USE

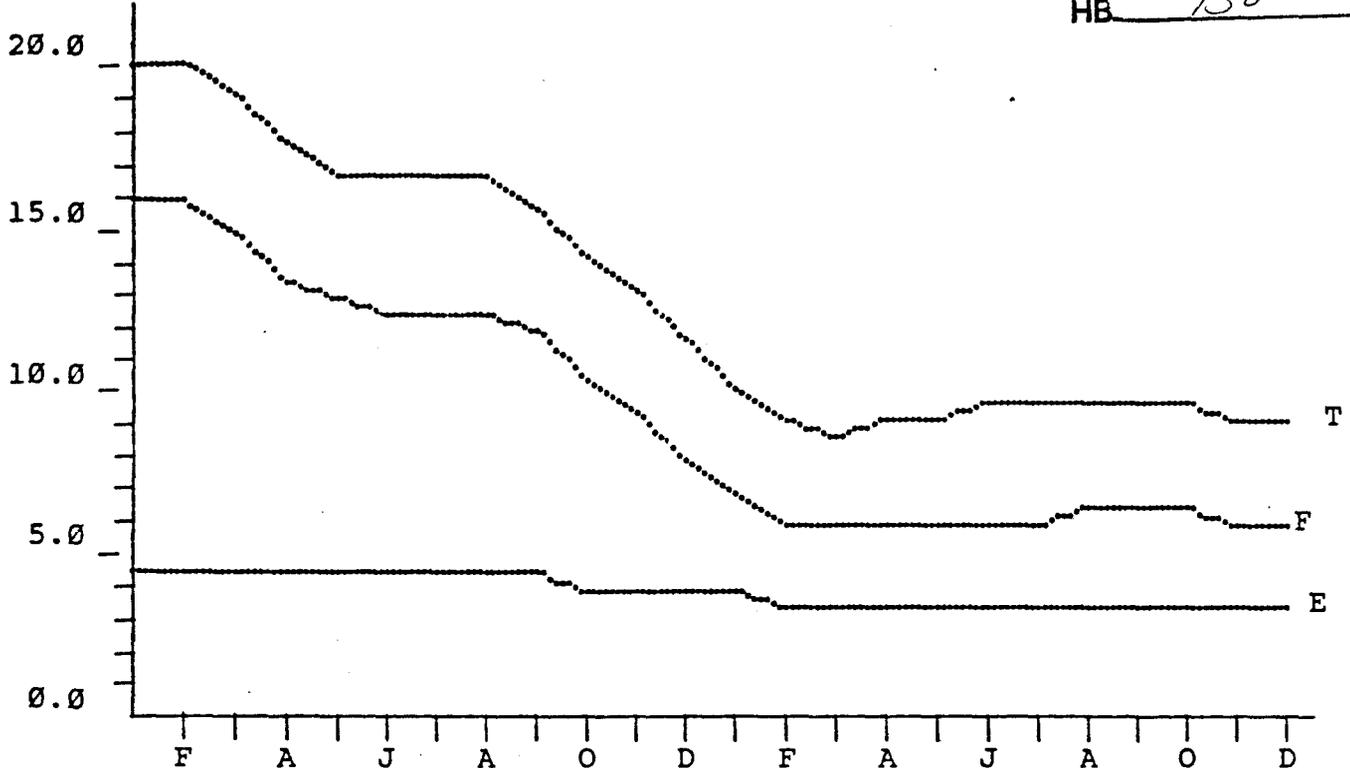
ENERGY CONSERVATION CONSULTANTS
1629 AVE D
BILLINGS, MT 59102

BUILDING: BEARTOOTH AREA: 40330. DATE: 3/24/86
LOCATION: BILLINGS, MT FUEL TYPE: GAS YEAR: 84 - 85

ENERGY USE PROFILE

EXHIBIT 4
DATE 3-6-89
HB 750

BTU/S.F./D.D./YR



1ST PERIOD
(JAN 84 - DEC 84)

2ND PERIOD
(JAN 85 - DEC 85)

ENERGY CONSUMPTION:

		BTU
ELEC	332640. KWH	1135.3 E+06
FUEL	2565.9 MCF	2404.5 E+06
<u>TOTAL</u>		3539.8 E+06

ENERGY CONSUMPTION:

		BTU
ELEC	326320. KWH	1113.7 E+06
FUEL	2016.5 MCF	1889.7 E+06
<u>TOTAL</u>		3003.4 E+06

ENERGY USE INDEX:

87771 BTU/SQ.FT.
11.3 BTU/SQ.FT./D.D.

ENERGY USE INDEX:

74470 BTU/SQ.FT.
8.9 BTU/SQ.FT./D.D.

UTILITY COST:

0.616 \$/SQ.FT. 1ST PERIOD = 7761
0.034 \$/KWH 30 YR AVG = 7763
5.278 \$/MCF

DEGREE DAYS:

UTILITY COST:

0.623 \$/SQ.FT. 2ND PERIOD = 8340
0.044 \$/KWH 30 YR AVG = 7763
5.394 \$/MCF

DEGREE DAYS:

D.D. => HEATING AND COOLING DEGREE DAYS

CONVERSION FACTORS: 3413 BTU/KWH, 937100. BTU/MCF

NOTE: EACH MONTH REPRESENTS THE VALUE FOR THAT MONTH PLUS THE PRECEDING 11 MONTHS

Ex. 4
3-6-89

AVERAGE ENERGY USE INDEX

ENERGY CONSERVATION CONSULTANTS
1629 AVE D
BILLINGS, MT 59102

BUILDING: BEARTOOTH AREA: 40330. DATE: 3/24/86
LOCATION: BILLINGS, MT FUEL TYPE: GAS # OF YEARS: 5

YEAR	HEAT 'G D.D.	COOL 'G D.D.	QUANTITY (MCF)	FUEL COST		TOTAL ENERGY COST FUEL + ELEC
				TOTAL(\$)	\$/UNIT	
1981	5892	718	3165.2	10145.90	3.205	21335.43
1982	7536	665	5037.9	21035.59	4.175	32680.49
1983	6760	812	5121.0	23318.35	4.553	37132.26
1984	6986	775	2565.9	13542.52	5.278	24855.27
1985	7792	548	2016.5	10876.82	5.394	25128.90
AVERAGE	6993	704	3581.3	15783.83	4.521	28226.47
30YR AVG	7265	498				

ELECTRICITY

YEAR	KWH	COST			\$/KWH
		KWH	DEMAND	TOTAL	
1981	386080.	8196.07	2993.46	11189.56	0.021
1982	377920.	8113.69	3531.21	11644.92	0.021
1983	380480.	9609.45	4204.46	13813.93	0.025
1984	332640.	8805.77	2506.99	11312.78	0.026
1985	326320.	6788.11	7463.97	14252.10	0.021
AVERAGE	360688.	8302.62	4140.02	12442.66	0.023

ANNUAL ENERGY CONSUMPTION (BTU/YR)

	ELECTRICITY	FUEL	TOTAL
1981	1318.E+06	2966.E+06	4284.E+06
1982	1290.E+06	4721.E+06	6011.E+06
1983	1299.E+06	4799.E+06	6097.E+06
1984	1135.E+06	2405.E+06	3540.E+06
1985	1114.E+06	1890.E+06	3003.E+06
AVERAGE	1231.E+06	3356.E+06	4587.E+06

ENERGY USE INDEX (EUI):

1981	106219 BTU/SQ.FT.	16.1 BTU/SQ.FT./D.D.
1982	149042 BTU/SQ.FT.	18.2 BTU/SQ.FT./D.D.
1983	151189 BTU/SQ.FT.	20.0 BTU/SQ.FT./D.D.
1984	87771 BTU/SQ.FT.	11.3 BTU/SQ.FT./D.D.
1985	74470 BTU/SQ.FT.	8.9 BTU/SQ.FT./D.D.
AVERAGE	113738 BTU/SQ.FT.	14.9 BTU/SQ.FT./D.D.

THE FLATHEAD BASIN COMMISSION

Proposal to Expand the Membership

SB 227
5
DATE 3-6-89
HE SB 227

The Flathead Basin Commission (FBC) was established in 1983 by legislation sponsored by Chief Justice Gene Turnage and of which I was a co-sponsor. It provided modest funds along with federal money for a study of point pollution on Flathead Lake and waters entering the lake. Dr. Jack Stanford of the Flathead Lake Biological Station managed the research. The Commission is composed of 10 voting members:

10 voting members: Flathead County, Lake County, Governor's office, Department of State Lands, Confederated Salish & Kootenai Tribes, Flathead National Forest, Glacier National Park, and three citizen members.

5 ex-officio members: Bonneville Power Administration, Army Corps of Engineers, Environmental Protection Agency, Montana Power Company, Montana Water Quality Bureau.

2 liaisons: U. S. Bureau of Reclamation, Government of British Columbia.

While these studies were going on the possibility of a large Cabin Creek open pit coal mine at the Canadian headwaters of the Flathead River aroused citizens with special interest in the environment and through the efforts of Senator Baucus \$2.9 Million were granted for Flathead River Basin Environmental Impact Study.

Baseline data has been established and the river system has monitoring points to measure any changes in the quality of the water and effects on aquatic life.

The guardianship nature of the commission has been to get scientific data, so the membership has largely been of people of special technical knowledge - bureaucratic people in the good sense.

Now the developing problems suggest the need for more citizen participation as public policies and practices are going to be involved in the preservation of the environment and the water quality therein.

The area has already adapted a phosphorous ban, sewer plant modifications and a central sewage system for the north end of Flathead Lake. The proposed change of membership, in response to public interest, has been approved by the present commission members, so it is proposed that the commission membership be changed as follows:

Add 3 citizen voting members.

Add the Department of Fish, Wildlife & Parks as an ex-officio member,

Reclassify the U.S. Bureau of Reclamation from liaison to ex-officio, and

Change the wording that describes the citizen membership criteria from "representing industrial, environmental, and other groups" to "representing industrial, environmental, and other interests".

I respectively urge you to accept the Commission's recommendation and make the amendments as proposed.

EXHIBIT 6
DATE 3-6-89
HB SB 183

SENATE BILL #183
Hugh Abrams
Senate District #12

This legislation as the title states includes the Little Missouri River, its tributaries in the water reservation process. Under Montana law, Reservations are the only means to acquire a water right for instream flow purposes. The Legislature has directed the Dept. of Natural Resources and Conservation to coordinate a water reservation proceeding in the entire Missouri River Basin and to prepare applications for conservation districts and municipalities within that Basin.

Conservation districts are legal subdivisions of state government, responsible under State law for conservation work within their boundaries. They are administered by a board of five elected supervisors and up to two appointed urban supervisors.

Including the Little Missouri as a part of the current process has advantages for both the applicants and the State. A comprehensive water reservation proceeding is a lengthy and expensive process. Some economics of scale are realized when larger geographic areas are considered at the same time. Adding the Little Missouri to the current proceeding would negate the need for a separate Environmental Impact Statement and hearing on the Little Missouri; therefore, saving both the State and the applicants additional dollars. This legislation is supported by the Wibaux County Conservation District, the Little Beaver Conservation District in Fallen County and the Montana Association of Conservation Districts. If approved their water reservation would provide a water right for future use by their entities.

though I have written committee members
will you have them sign for me?

EXHIBIT 7
DATE 3-6-89
~~SB~~ 183

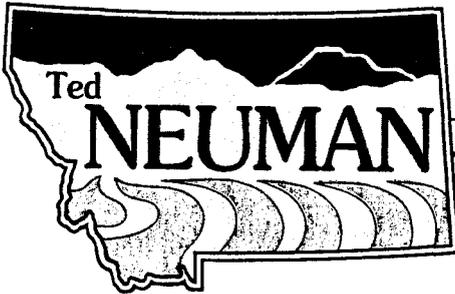
SB183 Abrams March 6/87 Support X

Montana Water Resources Assoc. Jo Brunner, Ex. Sec.

The Montana Water Resources Association supports SB183, which includes the Little Missouri River Basin within the Missouri Basin for adjudication purposes. We ask that you do pass this bill.

Signed,


Jo Brunner, Executive Secretary, Montana Water Resources Association.



March 6, 1989

Representative Bachini and Members of the House Agriculture Committee:

I'm sorry I could not be here in person today to testify in support of Senator Jergenson's Senate Bill 305. I'm sure by now you understand the problem and I hope you will give this bill your full support.

I believe that in order that the state of Montana does not lose any income because of its passage, an amendment may be necessary.

Most state leases are at a 25% crop share to the state. The average yield of most land that is marginal and would go into the CRP program is probably in the area of twenty(20) bushels/acre production or less.

The state's share of this twenty(20) bushel production would be 25% of twenty(20) bushels or five(5) bushels/acre.

If you assume an average price of \$3.70/bushel the state would receive \$18.50/acre.

If this same land was placed in the CRP program at an average of \$37.50 (state average) acre, the state's share 25% of \$37.50 would be \$9.38/acre. Since the CRP program covers total acres of the farm the net return to the state would be \$18.75/acre. The reason the acreage is double under CRP is because the federal program covers all farmed acres, where a normal cropping system would only crop 1/2 of the acres and 1/2 would be summer follow.

So without an adjustment to the state's percentage crop share the state would about equal with its current income. The farmer however is much better off because he has a ten year guarantee of income and a very small production cost in CRP as opposed to a normal crop system.

Session Address:
827 Cedar
Helena MT 59601
406-442-7019
FAX 442-7633

Home Address
639 US Hwy. 89
Vaughn, MT 59487
406-965-3325

EXHIBIT 8
DATE 3-6-89
HB SB 305

It seems to me that the state and the lessee should share in the increased income that the CRP program will produce. The only way that can come about is for the state to increase its crop share percentage.

I am submitting for your consideration an amendment that would require a 50/50 split on these new state leases. I believe that is a fair split.

The farmer still would receive a substantial economic benefit because his production costs are lowered by the CRP contract and his net income rises. He is protected from the bidding process during the life of the CRP contract.

The state benefits because the income is assured and no loss is incurred to the school foundation program.

Thank you. I'll try and be present at your executive session or be glad to answer any questions you may have.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ted Neuman".

TED NEUMAN

TN:dkk
Attachment

8
DATE 3-6-89
51305

160 Acre Farm

Normal Lease Program

Farmers Share

80 acres cropped each year
20 bushels production
\$3.70/bushel average grain price

80 x 20 x \$3.70 x 75% = 4440 x 75% gross income
\$50/acre production cost 4000 expenses
440 net to farmer

State's Share

80 x 20 x \$3.70 x 25% = 1480

CRP Program with Current 25% State Share

Farmers Share

160 x 37.50 x 75% = \$4500 gross income
5 acre production cost 800
3700 net to farmer

State's Share

160 x 37.50 x 25 = 1500

With Proposed Amendment 50% State Share

Farmer

160 x 37.50 x 50% = \$3000
Cost of Production 5 800
2200

State Share Under 50/50

160 x 37.50 x 50% = \$3000

EXHIBIT 9
DATE 3-6-89
HB SB 305

Amendments to SB 305
Third Reading Copy

1. Title, line 10.
Following: line 9
Insert: "A MINIMUM RENTAL RATE OF A 50% CROP SHARE AND"

2. Page 2, line 9.
Following: "to"
Insert: "a minimum rental rate of a 50% crop share and"

EXHIBIT 10
DATE 3-6-89
HB SB 305

Sen. J. J. ...

DEPARTMENT OF STATE LANDS
TESTIMONY ON SENATE BILL 305
House Natural Resources Committee
March 6, 1989

The Department of State Lands supports Senate Bill 305. If enacted the bill will be helpful in solving a problem caused by the interaction of the CRP program with the laws relating to the leasing of state lands.

Currently, virtually all state agricultural leases are for a term of ten years. With the advent of the CRP program in 1985, many of the lessees of agricultural land have chosen to place their leases into that program. This has been beneficial to both the lessee and the state, because both parties generally receive more income. In addition, marginal agricultural land is protected from erosion, which is to the long term benefit of the school trust. However, the CRP contract, which must be signed by the lessee, the state, and the federal government, obligates all parties to maintain the vegetative cover on the land for ten full years. If not, liquidated damages are assessed.

The problem arises when a CRP agreement is entered into in the middle of the lease term. For example, let's say that a ten year lease is in its sixth year and all parties decide to place the land into CRP. The state land will then be placed into CRP with the state receiving the same share of the CRP payments as it currently receives from the crop. In four years the lease expires and is subject to competitive bid. The lessee has the preference right, of course, but someone may bid a rate on the share of the CRP that is drastically different than the rate originally paid to the state. If the existing lessee does not exercise his or her preference right to meet this bid, there is a new lessee and the old CRP contract must be assigned. It is possible that the former lessee will refuse to assign the CRP contract. This creates many problems, not the least of which is the potential loss to the state of substantial liquidated damages under the CRP contract.

With the passage of the bill, some of these problems may be solved by allowing some future lease terms to be concurrent with CRP contracts. Also, if the terms of the CRP contract and the lease coincide, then the bid for the lease should reflect the true value of the lease with the CRP contract attached. This will benefit both the state and the lessee.

Finally, it is the Department's understanding that the request for early termination of a lease may only be made because of a desire to place the state land into the CRP program. The Department does not want to allow a lessee to ask for an early termination for any other reason, such as a desire to lower the current rental rate. The Department does not feel that the bill creates this problem. However, the Department wants to have this clarification on the record.

