

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on April 16, 1993, at
8:08 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chair (R)
Rep. Wilbur Spring, Vice Chair (R)
Rep. Ervin Davis, Vice Chair (D)
Rep. Beverly Barnhart (D)
Rep. Pat Galvin (D)
Rep. Bob Gervais (D)
Rep. Harriet Hayne (R)
Rep. Gary Mason (R)
Rep. Brad Molnar (R)
Rep. Bill Rehbein (R)
Rep. Sheila Rice (D)
Rep. Sam Rose (R)
Rep. Dore Schwinden (D)
Rep. Jay Stovall (R)

Members Excused: Rep. Squires; Rep. Wallin

Members Absent: None.

Staff Present: Dave Bohyer, Legislative Council
Dorothy Poulsen, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SJR 28
Executive Action: SJR 28

HEARING ON SJR 28

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, introduced SJR 28 which requests the legislative auditor to conduct a performance audit of the Hard Rock Bureau, Reclamation Division, Department of State Lands, and report the results to the fifty-fourth legislature. He explained the resolution was the result

of criticisms heard throughout the session about the hard rock mining bureau from both environmental groups and the mining industry. He said asking the legislative auditor, a neutral, unbiased, third party, to conduct the performance audit would quiet criticisms, assuming no problems are found. He said if problems are identified, then solutions can be recommended.

Proponents' Testimony:

Gary Amestoy, Administrator, Reclamation Division, Department of State Lands, stated his strong support for a performance audit of the Hard Rock Bureau of the Reclamation Division. He said a performance audit would assist the Reclamation Division in sorting through many misconceptions by both the mining industry and the environmental community about what a hard rock mining regulatory program should or should not do under existing state law. He explained as regulators, the division must adhere to the provisions of the Montana Constitution, the Metal Mine Reclamation Act and the Montana Environmental Policy Act (MEPA) and cannot promote nor inhibit mining.

Mr. Amestoy stated the Reclamation Division has been criticized both for being too thorough and not thorough enough. He noted both industry and the environmental community have criticized inadequacies in the permitting process, inspection and enforcement, and MEPA compliance. He said everyone agreed the permitting process needs to be improved. He noted, however, that improvement from the mining industry's perception meant a faster permitting process; while from the environmental community's viewpoint, improvement meant a more thorough analysis, more public participation, and more time.

Mr. Amestoy reported not only does the Hard Rock program have the highest profile program in the Reclamation Division, but it is also funded by the largest general fund appropriation. He stated, therefore, each time the general fund appropriation to the division is reduced, the bulk of the money comes from the Hard Rock Bureau budget, thus further limiting their flexibility to meet the demands on the program.

Mr. Amestoy concluded the division looked forward to the performance audit and were confident it would recognize the competent and dedicated professional staff in the Hard Rock Bureau who were doing the best job possible with the available resources.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. MASON asked Mr. Amestoy whether the Department of Natural Resources was involved in the permitting of hard rock mines. Mr.

Amestoy responded they were involved through the Major Facilities Siting Act.

REP. SPRING asked **Mr. Amestoy** which third party would conduct the performance audit. **Mr. Amestoy** responded the Legislative Auditor's office would conduct the audit. **REP. SIMPKINS** explained the Legislative Auditor's office performs both accounting and performance audits for all state agencies. **SEN. DOHERTY** confirmed the Legislative Auditor's regular staff would conduct the audit and noted the fiscal note showed it would cost \$1,200. He explained performance audits of state agencies were conducted on a regular rotation, and explained the effect of the resolution was to move up the schedule for the Hard Rock Bureau.

REP. SPRING asked **SEN. DOHERTY** how the resolution would change the regular process. **SEN. DOHERTY** responded the Hard Rock Bureau was not scheduled for a performance audit for two or three years.

REP. GALVIN asked **SEN. DOHERTY** whether the resolution would affect the clean-up of Butte and Anaconda. **SEN. DOHERTY** said the resolution would have no effect and explained Superfund sites were a separate issue from mine permitting and enforcement.

REP. ROSE asked **Mr. Amestoy** whether state mining laws varied greatly from federal regulations. **Mr. Amestoy** responded the federal laws were not as extensive as Montana laws. He said federal agencies approached mining from a land management standpoint. He noted there was consideration currently being given to changing the federal 1872 Mining Law and enacting a nationwide program to regulate mining. He said most Montana mines involve some federal lands. **REP. ROSE** asked **Mr. Amestoy** whether a program to clean up streams from inactive mines existed. **Mr. Amestoy** responded the Division has an abandoned mine reclamation program which reclaims these sites with highest priority going to sites with the greatest health and safety hazards. **REP. ROSE** said he had visited mines near Lewistown which were producing cyanide wastes. He asked **Mr. Amestoy** whether the state monitored the water quality which might be affected by these wastes. **Mr. Amestoy** responded the Bureau required a monitoring program prior to issuing a permit. **Mr. Amestoy** invited committee members to call the division to discuss the hard rock program.

REP. SIMPKINS asked **Mr. Amestoy** whether performance audits were normally conducted on the entire department or on individual divisions or bureaus. **Mr. Amestoy** responded he did not know. **REP. SIMPKINS** said he thought the performance audit usually considered the entire department and suggested the resolution was necessary to have only the bureau audited. **SEN. DOHERTY** said because mining was such a big industry and because of the issues, he considered looking only at the Bureau as reasonable.

Closing by Sponsor:

SEN. DOHERTY pointed out staff of the Hard Rock Bureau were in a difficult spot because no matter what they do, someone is disappointed and angry. He said the Montana Mine Permitting Improvement Advisory Council, established by former Governor Stephens, had recommended increasing staff at the bureau. He explained one problem for the bureau was that staff become well-trained and then leave for higher salaries elsewhere. Sen. Doherty said both the mining industry and environmental groups agreed the Bureau's staff should be higher paid. He predicted one of the recommendations from the performance audit might be that the Bureau needs more highly trained staff which would, of course, cost more.

SEN. DOHERTY contended mining was a very important industry in Montana which provided high paying jobs and paid substantial taxes. He recounted it was also an industry which had left a legacy in Montana demonstrating what happens when things go wrong. He said Montana needed to both promote mining and monitor it carefully. He concluded a performance audit would help develop recommendations to improve the situation for all concerned.

EXECUTIVE ACTION ON SJR 28

Motion: REP. GERVAIS MOVED SJR 28 BE CONCURRED IN.

Discussion:

REP. REHBEIN asked whether SJR 28 would be included with other study resolutions. REP. SIMPKINS responded SJR 28 was not a study resolution. He said the resolution had two effects: to accelerate the performance audit process and to require a more detailed analysis. He noted there was no funding required, and the audit was a normal function of the Legislative Auditor's office. REP. SPRING reiterated the effect of the resolution was to accelerate the review of the Bureau.

Motion/Vote:

Vote: SJR 28 BE CONCURRED IN. Motion carried 14 to 0.

ADJOURNMENT

Adjournment: 8:35 a.m.



DICK SIMPKINS, Chair



DOROTHY POULSEN, Secretary

DS/DP

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION

COMMITTEE

ROLL CALL

DATE 4/16/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS	✓		
REP. HARRIET HAYNE	✓		
REP. GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN	✓		
REP. CAROLYN SQUIRES			✓
REP. JAY STOVALL	✓		
REP. NORM WALLIN			✓

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Mr. Speaker: We, the committee on State Administration report that Senate Joint Resolution 28 (third reading copy -- blue) be concurred in .

Signed: *Dick Simpkins*
Dick Simpkins, Chair

Carried by: Rep. Simpkins

Committee Vote:
Yes 4, to 0.

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

State Administration COMMITTEE BILL NO. SJR 28
DATE 4/16/93 SPONSOR(S) Sen. Doherty

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gary Amestoy	DSL	✓	
John North	DSL	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.