

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on February 3,  
1995, at 3:00 PM

ROLL CALL

**Members Present:**

Sen. Lorents Grosfield, Chairman (R)  
Sen. Larry J. Tveit, Vice Chairman (R)  
Sen. Mack Cole (R)  
Sen. William S. Crismore (R)  
Sen. Mike Foster (R)  
Sen. Thomas F. Keating (R)  
Sen. Ken Miller (R)  
Sen. Vivian M. Brooke (D)  
Sen. B.F. "Chris" Christiaens (D)  
Sen. Jeff Weldon (D)  
Sen. Bill Wilson (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Todd Everts, Environmental Quality Council  
Theda Rossberg, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 234  
Executive Action:

*{Tape: 1; Side: A; Comments: Chairman Grosfield relinquished the Chair to  
Vice-Chairman Larry Tveit.}*

HEARING ON SB 234

Opening Statement by Sponsor:

CHAIRMAN LORENTS GROSFIELD, District 13, Big Timber, explained SB 234 to the committee members. He said the bill was the result of the Governor's Task Force to revise state government by combining some agencies into new agencies. The Department of Environmental Quality and the Board of Environmental Review are two new

departments. SB 234 would reorganize the Department of Health and Environmental Sciences as the Board of Public Health. The Departments of Natural Resources and Conservation and the Department of State Lands would be eliminated. Also the Board of Natural Resources and Conservation would be eliminated. Those two departments would be combined into the Department of Natural Resource Management. Loan and Grant Programs would be transferred to the Department of Commerce. The purpose of SB 234, in 3 words, is "better decisions faster." SB 234 would allow "one-stop-shopping" for permits. Permit decisions would be more timely, more regulatory and faster.

**CHAIR. GROSFIELD** said a couple of the agencies involved in the bill had recent audits performed. That audit indicated that there was a lack of coordination regarding the regulatory functions in DNRC. He said they were not looking at the Environmental Protection Agency. There are times that it is hard to figure out who makes the decisions in the agency departments. There will be some cost savings contemplated by the combining some agencies. More important, it would be easier to access the agencies, and be more customer-oriented to permittees or public meetings and other environmental issues. "Better decisions faster" will benefit the public, the environment and industry. **CHAIR. GROSFIELD** said SB 234 was a long complex bill that he was presenting on behalf of the Governor, and there will be some technical amendments to the bill.

**Mark Simonich, Director Department of Natural Resources and Conservation,** said basically SB 234 eliminates the DHES, DNRC and creates the Department of Environmental Quality and the Department of Natural Resources Management. The bill addresses the designation of those departments that were eliminated to the two newly created departments. He said there would still be a Department of Health. **Mr. Simonich** reviewed an organizational chart of the Department of Environmental Quality (**EXHIBIT 1**), and the Department of Natural Resources Management (**EXHIBIT 2**). He said the purpose of the reorganization was to develop a government structure that helps make the best agency decisions possible in a more timely fashion. **EXHIBIT 3.**

**Proponents' Testimony:**

**Karen Fagg, Private Natural Resources Consultant,** said she served on the Governor's Task Force to renew Montana Government. She said **CHAIR. GROSFIELD** and **Mr. Simonich** thoroughly described the intent of the bill. The bill is the result of Governor Racicot's Task Force. In addition to a 16 member Task Force, there was a 19 member State Government Committee. She said they reviewed other state's government and recommendations. The directors of the Natural Resources Agency asked them to outline a management, which they did. The two models were then proposed to the public, and in October of last year there were over 800 Montanans attending those meetings. The proposals were advertised in the newspapers and they received 603 responses, of which 54 opposed

the proposal, 36 had no opinion, and over a 100 letters were received commenting on the recommendations. The study was again revised, and 6 more hearings were held asking for comments before the final recommendation. The Task Force structure would eliminate duplication of programs between the agencies. Some management positions would be eliminated and regulatory management would be in a single agency.

**Gary Langly, Director Montana Mining Association,** said they support SB 234. The reorganization of departments is not the only solution, however. The Montana Water Quality Department has placed a moratorium on mining in Montana. The standards and the rules passed last year applied only to mining. Now they apply to agriculture, housing, construction, and others. The Governor's reorganization provides the first step in a more efficient way to regulate the Water Quality Act.

**Jim Mockler, Montana Coal Council,** said he was in support of consolidating various agencies. The agencies can be no better than the laws they have to work with. He said he had some reservations about rule-making authority without the board to deal with it.

**Russ Ritter, representing the Washington Corp, Missoula,** said he also was asked to serve on the Governor's Task Force. He didn't serve on the subcommittees on the reorganization, but attended all of the hearings around Montana. He said he received a call from **Bob Robinson** from the DHES describing some tailings on Joslyn that were full of arsenic. Everyone had a different view as to what had happened. That spill was there for over 60 years, and was only discovered in the summer of 1994. **Mr. Ritter** said there were many questions as to how to handle the situation. One of the questions were, could the tailings be moved and who would move them. He said he had been involved in government for many years and always had to deal with several departments in order to correct a situation such as the one described. The organization bill may need some fine-tuning, but it is a step in the right direction, for a direct path in government for reasonable solutions.

**Patty O'Riley** said she served on the Governor's Task Force and is in agreement with SB 234.

**Chris Tweeten, Chairman Montana Reserved Water Rights Compact Commission,** said they were concerned that the commission would be under the new DNRM. He said they would like to work with the committee on the amendments to the bill. **EXHIBIT 4.** He believed that to continue to have the commission attached to the Governor's office made good sense. **Mr. Tweeten** reviewed a letter to Governor Racicot stating his concerns with the reorganization. **EXHIBIT 5.**

**Richard Parks, Northern Plains Research Council,** said they support SB 234, but there were some issues of concern. Decision-

making for the permitting process could be made in haste, and they would like to be involved in any changes to the bill.

*{Tape: 1; Side: B; Comments: The echo in Room 312-2 makes it nearly impossible to hear testimony or the tapes.}*

**John Lahr, Montana Power Company** said they were in support of SB 234. He read a quote from the 1971 Legislature which reorganized state government after the Constitutional Amendment was adopted in 1970. He said the quote addresses the intent of what **Governor Racicot** and **CHAIR. GROSFIELD** are trying to do. "It is the public policy of this state and the purpose of this Act to create a structure of the Executive Department of state government which is responsive to needs to the people of this state and sufficiently flexible to make changes to strengthen the executive capacity to administer effectively and efficiently in all levels to encourage better public participation in state government. To effectively group state agencies to a reasonable number of departments..."

**Cary Hegreberg, Wood Products Association,** supports SB 234 for the reasons previously states.

**Jim Jensen, Montana Environmental Information Center,** supports SB 234.

**Dave Miller, Montana Chamber of Commerce,** supports SB 234.

**George Ochenski, Trout Unlimited,** supports SB 234.

**Opponents' Testimony:**

**Clint Beck, Billings,** said he supports the concept of SB 234, but was concerned about moving the Grant and Loan Programs from the DNRC to the Department of Commerce. The funding for the Grant and Loan Program was reviewed in 1993 in HB 603. The Resource Indemnity Trust was designed for the people of Montana for the development of oil and gas natural resources.

**Dean Swanson, member of the Board of Oil and Gas,** said he was representing 7 members of the Board of Oil and Gas. They oppose the section of the bill concerning that board. He reviewed a letter from board member, **Warren Ross,** who's concern was with Section 10, Page 14 and amendments Section 2-15-3303 MCA. Paragraph (3) strikes the last 2 sentences that read, "However, the board may hire its own personnel, and 2-15-121 (2) (d) does not apply. The board may also prescribe duties and annual salary of four professional staff positions. **Mr. Ross** said he strongly opposes deleting those two sentences. **EXHIBIT 6.**

**Mike Volesky, Montana Association of Conservation Districts,** said he was concerned with moving the Grant and Loan Programs to the Department of Commerce, and that it would result in an effort to

move the funds intended for natural resource use into general economic development. **EXHIBIT 7.**

**Pete Frazier, Director of Environmental Health with the City/County Health Dept., Cascade County,** said public health and environmental health is critical to all public health activities and programs. In their opinion SB 234 will destroy the public health mission that currently exists within the DHES. He said placing the DHES under a totally separate board comprised of individuals without a public health background, will fragment public health in Montana. **EXHIBIT 8.**

**Jim Carlson, Director of Environmental Health Division of the Missoula County Health Department, and representing the Environmental Health Association,** said the quality of water and air should stay with the Department of Health, and there should be representation on the Board of Health. Health related environments such as water quality, air quality, and food should be kept within a Public Health Department.

**Mick Jackson, Director Montana Association of Conservation Districts,** said SB 234 sets them back about 15 years. **SEN. GROSSFIELD** has been involved with conservation districts for several year, and the Grant and Loan Programs should stay with the DNRC. **EXHIBIT 10.**

**Gail Abercrombie, Executive Director of the Montana Petroleum Association, and he Rocky Mountain Gas & Oil Association,** said they oppose their affiliation with the Environmental Quality Department. The taxes paid the industry would be absorbed into the General Fund instead funding oil and gas issues. **EXHIBIT 9.**

**Robert Layne, Pondera County Conservation District,** opposes SB 234.

**Joan Miles, Director Lewis and Clark City/County Health Department,** opposes SB 234.

**Nick Clos, Montana Rural Water Systems,** opposes SB 234.

**Connie Hanson, representing the Pondera County Conservation District,** opposes SB 234.

**Joan Wirth, Secretary for Rural Conservation District, Helena,** opposes SB 234.

**Jacqueline Lenmark, Montana Water Well Drillers Association,** opposes SB 234. **EXHIBIT 11.**

**Joanne Muretta, representing Choteau Conservation District** opposes SB 234. **EXHIBIT 12.**

**Questions From Committee Members and Responses:**

**SEN. WELDON** asked **Ms. Fagg** if she thought the Grant and Loan Program should stay with the DNRC. **Ms. Fagg** responded that they didn't get into any specific details of the study.

**Mr. Simonich** reviewed the Legislative Audit from 1989, that addressed the Grant and Loan Program. **EXHIBIT 13.**

**SEN. MACK COLE** asked **Mr. Simonich** if he had any problem with the Grand and Loan Programs assigned to the Department of Commerce. **Mr. Simonich** replied that the department was in support of that move.

**SEN. COLE** asked **Mr. Simonich** if he anticipated any problems with the funding from the oil and gas tax. **Mr. Simonich** said the Board of Oil and Gas are fully funded from the tax on oil and gas, and that would not change under the proposal.

**SEN. VIVIAN BROOKE** said she was concerned that the Missoula County Health Department would no longer be monitoring air and water. She asked **Mr. Robinson** if he would respond to that. **Mr. Robinson** said they had been talking to the County Health Department since the new process was initiated. In the terms of the Department of Health, the County Health Departments across the state have opposed consolidation in the Department of Environmental Quality, because of public water supplies. That issue was discussed in some detail.

**SEN. B. F. "CHRIS" CHRISTIAENS** said in the Long Range Building Committee they have hear most of the grants that had been referred by the conservation districts and others. He wondered if the Grant and Loan Program was moved to the Department of Commerce, would you offer the assistance to write grants. **Newell Anderson, Department of Commerce**, said they have within local government, technical assistance for writing grant programs. They provide procedures to government and other institutions.

**SEN. CHRISTIAENS** asked **Mr. Layne** if he believed that with the proposed changes, that his grant would not receive the type of service he was used to. **Mr. Layne** said the Renewal Resource money was attacked by the bankers. They started out with 2% and went up to 4%, they really didn't want anything to do with the loans. He said he had a loan with the DNRC for many years and had never been treated more fairly.

**SEN. TOM KEATING** asked **Ray Beck, Administrator Conservation and Resource Development Division**, what he meant by natural resources. **Mr. Peck** replied natural resources are drinking water, air, soil, energy resources, and renewable resources. **SEN. KEATING** asked **Mr. Peck** if he considered coal, oil, and gas as natural resources. **Mr. Peck** replied yes.

**SEN. KEATING** said the water programs that are going on are paid for by the from oil and coal and they are going to another agency. He said those taxes were benefiting other areas of natural resources, and did not see a balance there. **Mr. Peck** said he thought that the development of other natural resources enhanced the development of oil, gas, and coal. Water is important to all industries for development and businesses.

**SEN KEATING** said for 40 years the Oil and Gas Commission controlled and regulated the oil and gas industry in Montana. They police their members and they have been taxed to support that regulatory body. He asked **Mr. Simonich** if they had done something wrong, that their duties should be taken away from them. **Mr. Simonich** responded that nothing in the bill took the duties away from the Board of Oil and Gas. All the bill does is administer the staff. The director of the department will be directly responsible to ensure that the board's needs are carried out. **SEN. KEATING** asked **Mr. Simonich** if he was saying that the board still had rule-making authority. **Mr. Simonich** replied that is correct.

*{Tape: 2; Side: A}*

Closing by Sponsor:

**CHAIR. GROSFIELD** said there was some concern about moving the Grant and Loan Program to the Department of Commerce. He said there was also a concern about the health issue regarding rule-making. He said what the bill means is "better decisions faster." Briefly SB 234 is a bill that takes a lot of reading to digest. A subcommittee would be appointed to deal with some amendments to the bill. He said **Todd Everts, Environmental Quality Council** prepared some summaries of the bill for the public to review. **EXHIBIT 14.**

*{Comments: This meeting was recorded on Tape 1, Side A and B, and Tape 2, Side A, No. 3.4.}*

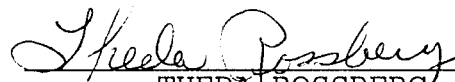
ADJOURNMENT

Adjournment: 9:05 PM



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LORENTS GROSFIELD, Chairman



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THEDA ROSSBERG, Secretary

LG/TR



MONTANA SENATE  
1995 LEGISLATURE  
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-3-95

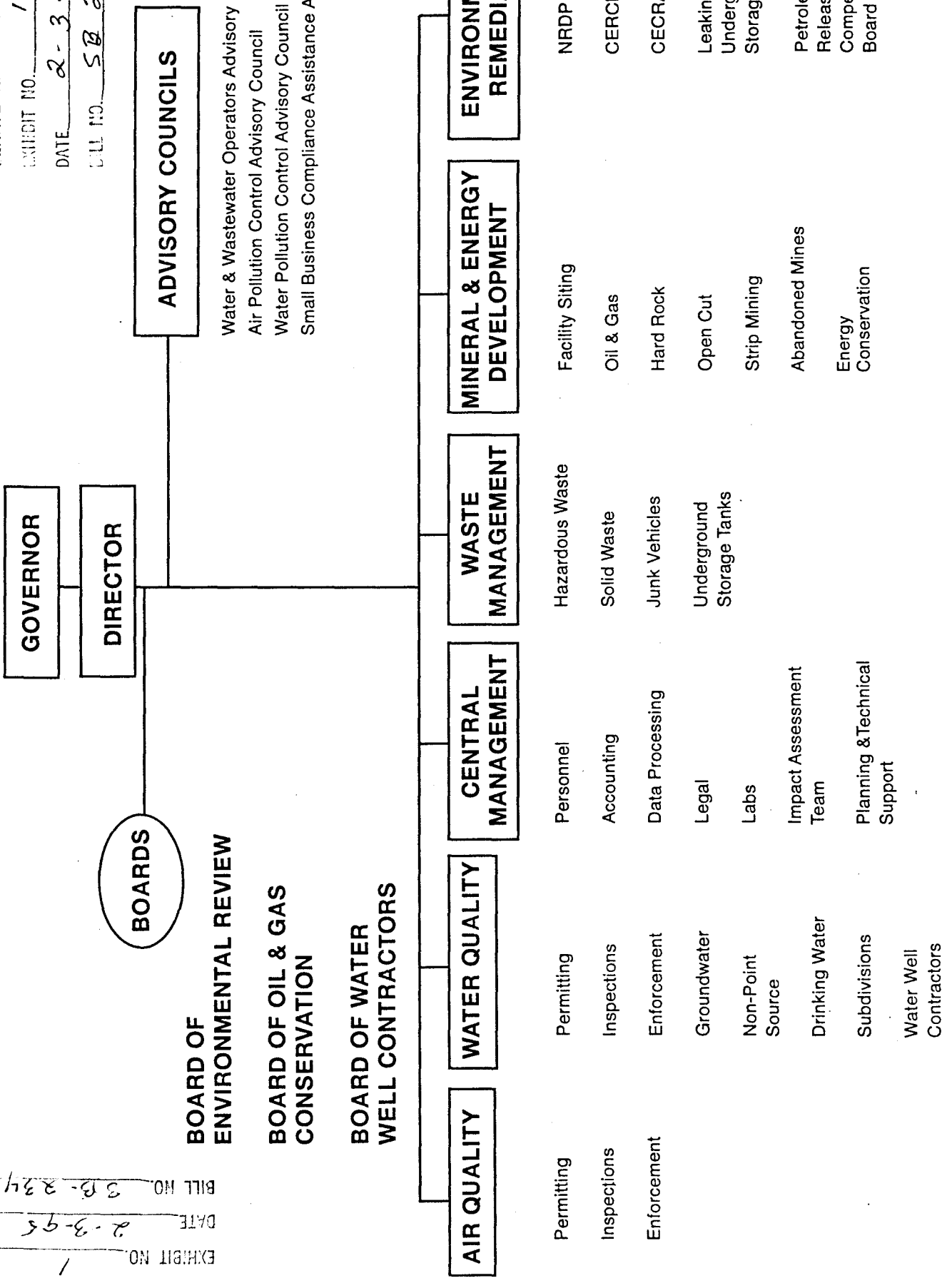
SEN

NAME	PRESENT	ABSENT	EXCUSED
VIVIAN BROOKE	✓		
B.F. "CHRIS" CHRISTIAENS	✓		
MACK COLE	✓		
WILLIAM CRISMORE	✓		
MIKE FOSTER	✓		
TOM KEATING	✓		
KEN MILLER	✓		
JEFF WELDON	✓		
BILL WILSON	✓		
LARRY TVEIT, VICE CHAIRMAN	✓		
LORENTS GROSFIELD, CHAIRMAN	✓		

# DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE NATURAL RESOURCES  
 EXHIBIT NO. 1  
 DATE 2-3-95  
 BILL NO. SB 234

STATE NATURAL RESOURCES  
 EXHIBIT NO. 1  
 DATE 2-3-95  
 BILL NO. SB 234



**DISCLAIMER:** A possible functional example of how the DEQ might look. This is for illustrative purposes only. No final decisions of department division composition have been made.

# DEPARTMENT OF NATURAL RESOURCE MANAGEMENT

STATE NATURAL RESOURCES  
 EXHIBIT NO. 2  
 DATE 2-3-95  
 BILL NO. S.B. 234

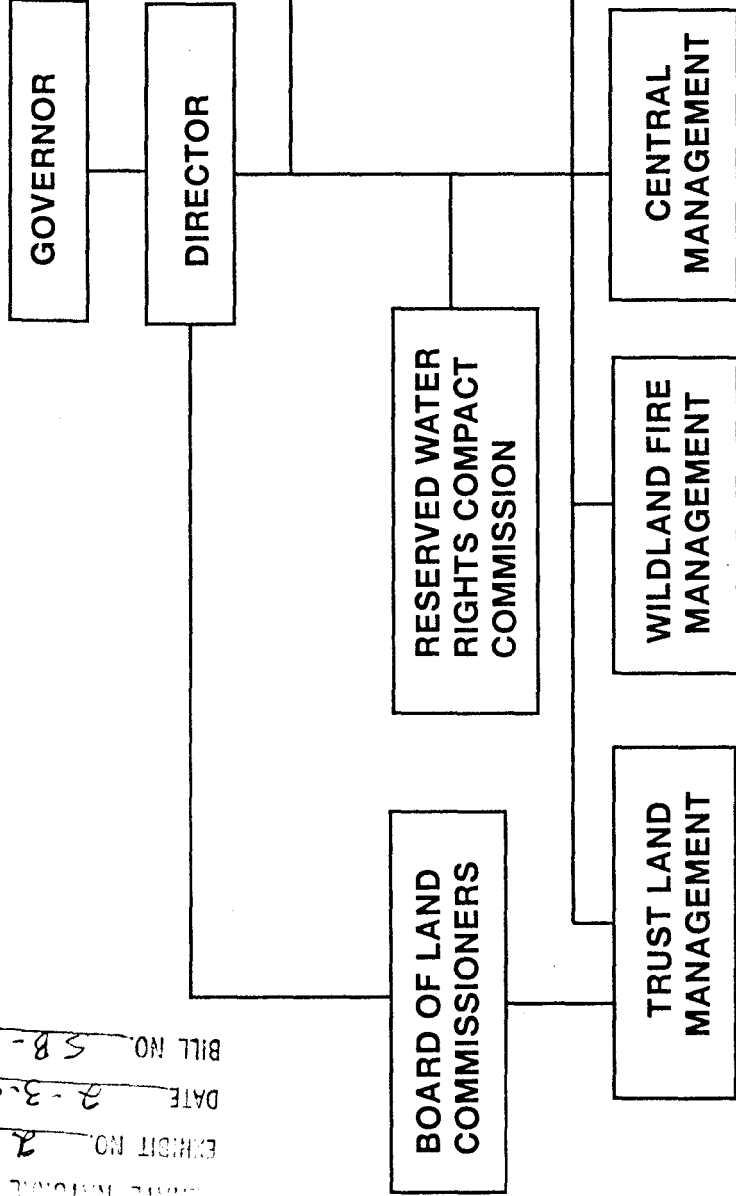


EXHIBIT NO. 2  
 DATE 2-3-95  
 BILL NO. S.B. 234

**DISCLAIMER:** A possible functional example of how the DNRM might look. This is for illustrative purposes only. No final decisions of department division composition have been made.

Natural Resource Agencies Reorganization Proposal  
January 1995  
Senate Bill 234

While the bill itself is over 300 pages, the purpose of the natural resources reorganization legislation is simple and straightforward -- to develop a government structure that helps make the best agency decisions possible in a more timely fashion.

Not only does this reorganization plan establish "one-stop shopping" for permits, it also consolidates environmental enforcement to create a more seamless and coordinated enforcement protocol to protect air and water quality.

For example, a major mine permit application may need permits from three different state government agencies -- State Lands (DSL), Health and Environmental Sciences (DHES) and Natural Resources and Conservation (DNRC). Such an example is not hypothetical. The Montanore Project in Northwest Montana did in fact need permits for Facility Siting through DNRC, for water quality from the Board of Health and Environmental Sciences as well as an air quality permit from the DHES, plus a hard rock permit from DSL.

Through reorganization, this permit authority would be in one department. Enforcement authority would also be in one department. Currently, DSL and DHES each enforce independent permits. The recent performance audits conducted by the Legislative Auditor on the Water Quality Division (at DHES) and Hard Rock Bureau (at DLS) indicated a lack of coordination between the two agencies on permit enforcement.

The benefits of reorganization include better service to the permit applicant, coordinated landowner assistance programs, and improved environmental protection.

The proposal calls for the creation of two new agencies. One is named the Department of Natural Resources Management. The other is named the Department of Environmental Quality.

In general, the Department of Natural Resources Management (DNRM) manages natural resources or provides landowner assistance. The Department of Environmental Quality (DEQ) permits and regulates projects.

DEQ would be composed of: the environmental sciences wing now at DHES (water quality, air quality, environmental remediation and waste management divisions), the energy division and oil and gas conservation division at DNRC and reclamation division at DSL.

DNRM would be composed of: the conservation and resource division, water resources division and Reserved Water Rights Compact Commission from DNRC, and the land administration division, field operations division and forestry division at DSL.

This bill, in addition to producing budget savings through agency consolidation, will lead to better agency decisions. The purpose of all this agency division shifting and massive reorganization is simply to create a framework to make better and faster agency decisions. Good and timely agency decisions benefit industry, our economy and our environment.

Questions and Answers  
Natural Resource Agencies Reorganization  
January 1995

Q: What is the point of natural resource reorganization?

A: The point is simple -- to develop a government structure that helps make the best agency decisions possible in a more timely fashion.

For years people have discussed the possibility of creating "one-stop shopping" for state agency permitting. Not only does this reorganization plan establish one-stop shopping for permits, it also consolidates environmental enforcement to create a more seamless and coordinated enforcement protocol to protect air and water quality.

For example, a major mine permit application may need permits from three different state government agencies -- State Lands (DSL), Health and Environmental Sciences (DHES) and Natural Resources and Conservation (DNRC). Such an example is not hypothetical. The Montanore Project in Northwest Montana did in fact need permits for Facility Siting through the Department of Natural Resources and Conservation, water quality permit from the Board of Health and Environmental Sciences and air quality permit from the DHES, plus a hard rock permit from the Department of State Lands.

Through reorganization, all this permit authority would be in one department.

In addition, the permit enforcement authority would also be in one department. Currently, State Lands and Health and Environmental Sciences each enforce independent permits. The performance audits conducted by the Legislative Auditor on the Water Quality Division (at DHES) and Hard Rock Bureau (at DLS) indicated a lack of coordination between the two agencies on permit enforcement.

The benefits of reorganization include better service to the permit applicant, coordinated landowners assistance programs, and improved environmental protection.

Q. Why make a Department of Environmental Quality and a Department of Natural Resource Management?

A. The management and regulation of our state natural resources is currently spread among several agencies. In some cases the agency that manages or develops the resource is the same one that regulates it, which creates a potential conflict of interest. In other cases similar roles or responsibilities are shared by more than one agency. By creating these two departments we would have one agency responsible for the management of most of our natural resources and a single agency responsible for environmental protection. The problems represented by conflict of interest will be greatly reduced.

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Q. Would this reorganization plan produce budget savings?

A. Yes. Initially the savings would come from combining the highest levels of administration in each of the three existing departments. As the new departments are formed, potential savings exist through the reformation and combination of programs within the departments. This will also mean easier access to government by the public. It will no longer be necessary to go to three different agencies for answers to natural resource questions.

Q: Won't the DEQ be a Montana EPA (Environmental Protection Agency)?

A: There are specific differences between the proposed DEQ and existing EPA.

First, the DEQ will have a proposed Board of Environmental Review to provide an appeals process and public oversight of rulemaking and department decisions. EPA has no public board.

Second, decisions by the DEQ will be made by either the director or the board, will be made in Montana, will be made after a public process, and will be made based upon state law.

It can be difficult to tell if an EPA decision is made in Helena, Denver or Washington, who made it, what process was followed, or what basis the decision was made upon.

Third, the proposal does not seek to create new regulations, new laws or new restrictions. The purpose is make better decisions in more rapid fashion on permits and permit enforcement.

Fourth, the DEQ will contain a special Montana Environmental Policy Act (MEPA) unit whose mission will be to assure consistent and legal MEPA compliance. Having uniform and predictable procedures throughout state government on Environmental Impact Statements (EIS) will help move applications to a faster decision and protect important environmental resources.

Q: When will reorganization take place?

A: The effective date of the proposed bill is July 1, 1995.

Clearly, a complete reorganization of this magnitude cannot occur in that timeframe. But Governor Racicot and the administration are committed to making a transition into reorganization that takes place as promptly and efficiently as possible.

Q: Where will the new departments actually be located?

A: This is one of the many questions that cannot be answered at this time.

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no doubt, however, that some of the names of various branches of government will change. Reorganization must provide the ability to take similar programs or those that overlap and combine them. This will be done in a way that will utilize existing staff and program expertise to assure that the purpose of existing programs is preserved while seeking efficiencies with other programs.

**Q: Does reorganization change the authority of the Board of Land Commissioners?**

**A:** Procedurally, no; statutorily, yes. In 1973, the Land Board conveyed mine permit authority to the Department of State Lands, yet state law still shows the Board with mine permit authority. Since the reclamation division (mine permit authority and enforcement) would be moved to the DEQ and the Land Board remains at DNRM, the proposed reorganization would put into law what has happened in practice for over two decades. The department (DEQ) would now have statutory authority over mine permitting. Except for this change, the authority of the Land Board is neither expanded nor diminished.

**Q. Why are the natural resource grant and loan programs being moved to the Department of Commerce?**

**A.** The specific programs that will be moved to Commerce are the 1.) Renewable Resource Grant and Loan Program; 2.) Reclamation Development Grant Program; 3.) Private Rangeland Improvement Loan Program; 4.) State Revolving Fund Wastewater Loan Program (SRF); and 5.) Treasure State Endowment Program (TSEP). Although each of these is specifically natural resource related, a primary function of the department in administering them is financial management. In fact, at least two of these programs are currently jointly administered with either the Department of Health and Environmental Sciences (SRF) or the Department of Commerce (TSEP). By moving these programs to Commerce the financial management aspect of these programs will be combined with similar functions at Commerce. The actual programs themselves will not be combined. The focus of each of these programs is specified in statute and no legislation is being proposed to change this.

For the current grant cycle in the Renewable Resource Grant and Loan Program 40 applications were received. The applicants are broken down as follows:

State Agencies	9 applications
Counties	9 applications
Municipalities	9 applications
Water & Sewer Districts	5 applications
Conservation Districts	4 applications
Irrigation Districts	3 applications
Conservancy Districts	1 application

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However, where it is attached and how it will be coordinated with those agencies will change.

Reserved Water Rights Compact Commission. The nine members of this commission are currently appointed by the Governor, the Legislative leadership, and the Attorney General. The Commission is administratively attached to the Governor's office. However, in reality the Commission is located within the DNRC and is administered through that department.

The Commission will continue to be appointed in the same manner. However, the Commission will be attached to the DNRM with the staff being a direct line part of the DNRM. Statutory language would provide the Commission the authority to negotiate reserved water rights settlements on behalf of the Governor and the State.

Board of Oil & Gas Conservation. The seven members of this Board are currently appointed by the Governor. Although, the Board is attached to the DNRC it is very autonomous. Unlike many other administratively attached agencies this Board has the authority to hire its own staff and has four positions that are exempt from the state classification and pay plan systems.

The Board will continue to be appointed in the same manner and would continue to have the same quasi-judicial authority it currently has. However, the Board would be attached to the Department of Environmental Quality and the staff would become a direct line part of that department. The Board would no longer be able to hire its own staff and the four exemptions will be eliminated.

The Board of Oil & Gas Conservation is currently fully funded through special revenue accounts generated by fees and taxes on oil & gas production. This will not change. By moving the Board to the new department it is not intended to modify the way in which those current special revenue accounts are administered.

Q: How big will the two departments be?

A: It is obviously impossible to predict with certainty the size of the two departments. A best guess would indicate the two departments would each have about 400 full-time employees.

Q: So does natural resource agency reorganization favor the pro-industry and pro-landowner approach, or pro-environmental quality and pro-environmental protection approach?

A: This bill favors a good decision approach. That's the bottom line. The purpose of all this agency division shifting and massive reorganization is simply to create a framework to make better and faster agency decisions. Good agency decisions benefit industry, our economy and our environment.



Senate Bill No. 234  
Testimony of Chris Tweeten, Chair  
Montana Reserved Water Rights Compact Commission  
February 3, 1995

The Reserved Water Rights Compact Commission was created by the Legislature in 1979 as part of the statewide water adjudication program commonly known as the SB 76 adjudication. SB 76 implements the constitutional mandate for a centralized recordkeeping system for all rights to the use of water in Montana by creating a water court system and providing for the adjudication of all water rights existing as of 1973.

When the Legislature designed the adjudication, it explicitly intended to include rights that exist under federal law as well as rights created under Montana's law of prior appropriation. The Legislature also knew that federal and Indian water rights, called reserved rights, differ from state-law based rights in several fundamental ways. Most importantly, federal reserved rights are quantified by a determination of the amount of water needed to fulfill the purpose of the federal reservation of land. The government need not show that water has actually been diverted and put to beneficial use, nor can such a right be declared abandoned due to non-use.

The Legislature was aware that litigation over federal reserved rights is complex, time-consuming, and very expensive. It therefore adopted a policy favoring negotiated settlement of federal reserved right claims. The Commission was created to implement the State's negotiation policy.

The Legislature also made a conscious choice to make sure that the public and the Legislature, rather than the State's administrative agencies, were in control of the negotiations. It did this by assigning responsibility for the negotiations to a commission made up of citizens and legislators. The Commission consists of nine members: two members of the House, two members of the Senate, four members appointed by the Governor, and one member appointed by the Attorney General.

Historically, the Commission has been served by many prominent Montanans. The first chairman was Judge Henry Loble, one of Montana's preeminent water lawyers and later a district judge in the First Judicial District here in Helena. Judge Loble was succeeded as chairman by Gordon McOmber, former state senator and director of the Department of Agriculture, and who later served as Lieutenant Governor. Sen. Jack Galt chaired the commission for three years following Mr. McOmber. The other members of the commission have included such prominent Montanans as Attorney General Joe Mazurek, former Sen. Larry Fasbender, later director of DNRC and a member of a prominent ranching family in central Montana, Missoula mayor and former House Speaker Dan Kemmis, former Rep. Audrey Roth, former Pondera County

DATE 2-3-95  
SB-224

Commissioner Everett Elliott, former Rep. Dennis Iverson, Prominent Dillon water lawyer Carl Davis, rancher Gene Etchart, and many others.

The current Commission consists of vice chairman Sen. Lorents Grosfield, Sen. Mike Halligan, Rep. Emily Swanson, Livestock Board Chairman Jack Salmond, Park County Attorney Tara DuPuy, Gene Etchart, and former Rep. Bob Thoft. Until January, Rep. Bob Gilbert also served on the Commission.

Since its creation, the Commission has been attached for administrative purposes to the Governor's Office. However, through legislative process and executive action, the Commission's staff has been housed in the Department of Natural Resources and Conservation and its budget has been part of the Department's budgetary process.

This hybrid system has worked very well over the years. The current system of Commission authority, and the organization and operation of the Commission's staff has allowed the Commission to negotiate compacts over federal reserved rights with more success than any other western state. We have successfully completed compacts with the Assiniboine and Sioux Tribes of the Fort Peck Reservation, the Northern Cheyenne Tribe, and two agreements covering the reserved rights claims of five National Park Service units in Montana. The negotiated settlements have saved the State millions of dollars in litigation costs and provided Montana-made solutions to very difficult and complex problems which surround management of federal water rights in a state water management system.

Because of the success of the current system of managing the Commission's affairs, the Commission wrote to Governor Racicot urging that the Commission remain attached to the Governor's Office. (I am submitting this letter for the record.) The Governor's Office did not agree with the Commission's view and the bill has been drafted to attach the Commission administratively to the new Department of Natural Resource Management.

We have discussed our concerns about this arrangement with the proponents of the bill. Those concerns are as follows:

First, to maintain the hard-won working relationships established with the tribes, the federal government and the affected water users of our State it is vitally important that Commission continue to negotiate on behalf of the Governor. This is at least implicit in the Governor's oft-stated policy of engaging in negotiations with Indian tribes in Montana on a government to government basis.

Second, it is very important that the Commission sets its own priorities and workload, that the Commission determines Montana's negotiating positions with the tribes and Federal government, and that in all other matters of policymaking the Commission act independently and without approval or control of the Department. The Commission has been very successful in its work to date, in large part because it has been given adequate staff resources and has had the freedom to allocate those resources among

competing projects in a way which best advances the Commission's business. It would seriously undermine the Commission's effectiveness if the Commission did not have the ability to assign work to its staff according to the Commission's priorities. The current organizational structure and operations of the Commission staff have allowed the Commission to work effectively in conducting several complex negotiations at the same time. The success of the Commission under the present structure is the best evidence that it works well.

As we discussed these concerns with the Governor's staff, we were assured that it was not the intent of this legislation to make any practical changes in the manner in which the Commission's staff transacts its business. Specifically, we were assured that the intent of the legislation was not to give the management of the new DNRM the power to reallocate Commission staff resources to fit the priorities of the department rather than those of the Commission. Language has been added to the section of the bill dealing with the Commission's status in an attempt to guarantee the continuance of the status quo as far as the Commission's operations are concerned.

The Commission wants to work cooperatively within the reorganized framework contemplated by this bill. Based on the assurances stated above, the Commission is willing to recede from the position argued in our letter to the Governor and support the bill. We are working through a process of drafting a Memorandum of Understanding intended to memorialize the nature of the Commission's management arrangement as it presently exists, so that there can be no question about the preservation of that status into the future. We would also be happy to participate in the preparation of further amendments to the bill if the committee feels that the bill's language can be made to state more clearly the intention of the drafters.

Thank you for your consideration of the Commission's comments.

RESERVED WATER RIGHTS  
COMPACT COMMISSION

Marc Racicot  
Governor

Lorents Grosfield, Vice-Chairman  
Susan Brooke  
Gene J. Etchart  
Bob Gilbert

Chris D. Tweeten, Chairman

Mike Halligan  
Jack Salmond  
Bob Thoft  
David E. Wanzenried

## STATE OF MONTANA

November 14, 1994

Governor Marc Racicot  
P.O. Box 200801  
Helena, MT 59620-0801

Dear Governor Racicot:

Mark Simonich has forwarded a copy of the "Final Recommendations of the Governor's Task Force to Renew Montana Government" to the Compact Commission for review and comment.

I understand you will be reviewing their recommendations in preparation for implementing legislation and would like to offer the Commission's comments for your review. The contents of this letter have been circulated to the members of the Commission and reflect a consensus position among the Commission's members.

Currently, under Mont. Code Ann. § 2-15-121 the Reserved Water Rights Compact Commission is administratively attached to your office. Through somewhat poorly documented past practice, the Commission has been attached to DNRC for practical and budget purposes almost since its inception. Since 1987 the Commission has been treated as a separate division within DNRC, similar to the Oil and Gas Division.

The report of the Task Force is silent on where the Commission should be in the natural resources reorganization and I think clarification would assist legislative staff in drafting specifics.

I continue to believe that having the Commission statutorily attached to the Governor's office makes good policy sense. It gives our negotiations high visibility and reinforces the unique government-to-government relationship with Montana's Indian Tribes you have frequently articulated. I personally believe this relationship has promoted our ability to complete compacts with Montana's Indian Tribes, and that this structure continues to be important to the Tribes with whom we negotiate.

Warren H. Ross

406-357-3593

Donald T. Ross

406-357-2746

Rte. 71, Box 18  
Chinook, MT 59523**ROSS 87 RANCH, INC.**

COMMERCIAL HEREFORDS SINCE 1887

2/1/95

Senate Natural Resources Committee  
Capitol Building  
Helena, MT.

Re: SB 234 Section 20

Mr. Chairman and Members of the Committee:

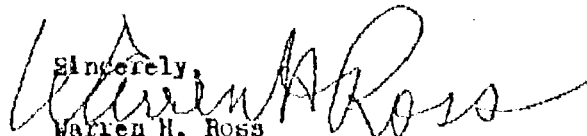
My name is Warren Ross, a self-employed rancher in Blaine County. I am a member of the Board of Oil and Gas Conservation and its immediate past chairman. I cite this information to establish my qualifications. I submit my testimony as a land and mineral owner in Blaine county.

My concern is with Section 20 of SB 234 which is on page 14 and amends Section 2-15-3303 MCA. Paragraph (3) strikes the last 2 sentences - "However, the board may hire its own personnel, and 2-15-121 (2) (d) does not apply. The board may also prescribe duties and annual salary of four professional staff positions." I strongly oppose deleting these two sentences.

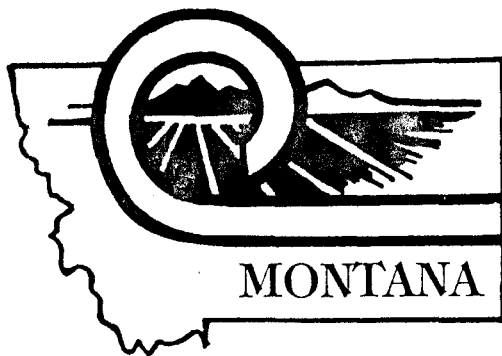
The oil and gas industry is an extremely important financial contributor in the producing counties in Montana. In Blaine Co. it contributes better than 50% of the tax base and that is significant to me as a taxpayer! Since its inception in 1954 the board of oil and gas has been funded by the License and Privilege tax paid by the producers and the mineral owners. The record of the board has been one of fairness and responsibility which has and still does merit the support and trust of the producers and the land and mineral owners. The principal reason for this record is that the board is non-political and has been able to hire qualified professional staff and that staff has been answerable to the board. Removing the authority of the board to have a non-political staff would, essentially, make it an advisory board. I don't let someone else "Prescribe the duties of my ranch employees"!

To limit the authority of this industry funded board would be an unfunded mandate on the oil and gas industry--you pay for it but the state will call the shots! The Governor has promised to eliminate this practice. The board has operated successfully and responsibly for 40 years under its present statutory authority. I see no financial saving or service enhancement in the proposed amendments. I ask that the stricken language be retained in paragraph (3).

Sincerely,



Warren H. Ross



SENATE NATURAL RESOURCES  
EXHIBIT NO. 7  
DATE 2-3-95  
BILL NO. SB-234

**MONTANA**

## Association of Conservation Districts

501 North Sanders, Suite 2  
Helena, MT 59601

(406) 443-5711  
FAX (406) 443-0174

### **STATE GOVERNMENT REORGANIZATION (SB 234) EFFECTS ON NATURAL RESOURCE GRANT AND LOAN PROGRAMS...**

It is proposed in Senate Bill 234 that the grant and loan programs now administered by DNRC be moved to the Department of Commerce. The proposed transfer includes the Renewable Resource Development Grant and Loan Program, the Reclamation & Development Grant Program, the State Wastewater Revolving Fund program, and the Range Improvement Loan program. Conservation districts are concerned that this transfer will eventually turn into an effort to move these funds intended for natural resource use into general economic development. It has been proposed in the name of cost savings due to consolidation, but it has not yet been demonstrated just how these savings will occur.

Conservation districts believe it is important that these programs continue to be administered by a natural resources agency. We have three lines of reasoning:

- ◆ The first has to do with the technical expertise of the program administrators. Currently, the grant application process is relatively straightforward and simplified when compared to the process involved in similar programs. We believe that this is due to the fact that its current administrators can rely upon not only their own experience in the natural resource field, but upon that of their co-workers as well. In other words, we request that those who work most closely with the management of natural resources, and have a working knowledge of these types of projects, also be the administrators of natural resource grant and loan program funds.
- ◆ Our second premise is based upon the intent of the statutes that created these programs. The language specifically designates these programs for natural resource use. It makes sense to consolidate programs that deal with economic development. Just because these programs inevitably have positive effects on local economics, however, is no reason to throw them in with economic development programs. We believe that a relocation of these programs from a natural resources agency to Commerce will eventually lead to a priority shift from their intended use to use for economic development instead.
- ◆ Lastly, it is rural Montana that will suffer most if this move becomes reality. Entities like conservation districts, many counties, and small municipalities, who can not afford to employ grant-writing staff like many others, now receive a good deal of assistance in applying to these programs. They receive it from people who know natural resource projects. If these programs move to Commerce, this assistance to rural Montana will simply not exist.

The Department of Commerce is an agency with too many missions. It already consists of a mishmash of boards and programs. This agency does not need more missions; it needs to be focused on economic development. In SB 234, the legislature is poised again to expand Commerce's mission to include management of the state's natural resources.

The statutory language creating the Renewable Resource Grant and Loan program states that the objective of the program is to "further the policies set forth in 85-1-101 MCA." This title sets forth the state's policies, goals and objectives concerning "Water Resources." Under the reorganization bill, the Department of Commerce's mission would be expanded to include "ensuring that water resources of the state be put to optimum beneficial use and not wasted" and "to promote the conservation, development and beneficial use of the state's water resources." The Reclamation and Development Grants program was established to "repair, reclaim, and mitigate environmental damage to public resources from nonrenewable resources extraction" and to "develop and ensure the quality of public resources for the benefit of all Montanans" (90-2-1102, MCA). Again, under the proposed reorganization, the Department of Commerce's mission would be expanded to include mineral reclamation. The State Wastewater Revolving Loan Fund Program was established to protect water quality through the construction of pollution control facilities. The Range Improvement Loan program was established to assist landowners in improving their management of Montana's rangelands. Again, the proposed reorganization expands the Department of Commerce's mission to include these missions.

Information provided in support of SB 234 indicates that the Department of Commerce "has a good track record of working with both other state agencies and local governments and has a solid background in the area of infrastructure." This is true on the surface. However, concerning natural resource programs and issues, the Department of Commerce has a weak track record. The programs that the Department of Commerce administers focus on county governments and cities. Commerce has not worked actively with conservation districts, irrigation districts, or other rural entities. Commerce has not worked with projects that reclaim mine sites, plug oil wells, repair high hazard dams, improve riparian habitat, evaluate groundwater resources, line irrigation canals, and improve rangeland resources.

Yes, the Department of Commerce has a good track record concerning municipal water and wastewater systems, and yes, the Renewable Resource Program and the State Wastewater Revolving Fund provide some financial assistance for these projects. However, the purpose of the funding is not the same. Commerce's programs are focused on infrastructure and economic development. The DNRC programs are focused on natural resources, and the projects reflect the conservation, management, and preservation of these resources. Commerce has a history of financing infrastructure; but when was the last time Commerce funded a dam rehabilitation; a gravity irrigation system, a range fencing project, or a flood protection project? These are all inevitably "infrastructure" projects. But when you look beyond the surface, the difference reflects that of apples and oranges.

Finally, the reason that is stated for moving these programs to the Commerce is to combine financial management of programs with "similar functions." As the preceding discussion

illustrates, the only similarity between existing commerce programs and the DNRC programs is that they provide financial assistance, and that a small percentage of common projects exist. If this is the criteria, why isn't it proposed to transfer the Department of Agriculture's Agricultural Marketing Assistance program, the Growth Through Agriculture program, the Junior Agriculture loan program, the Noxious Weed Trust Fund program, and the Rural Assistance Loan program to the Department of Commerce? Why isn't there a proposed transfer of the Department of Fish, Wildlife and Parks' Land and Water Conservation fund, the National Recreation Trails Fund grant program, and the Snowmobile Grant program to the Department of Commerce? Why isn't there a proposal to transfer the Department of Transportation's Aeronautical Grant and Loan program and the Community Transportation Enhancement Program to the Department of Commerce?

These are all infrastructure financing programs. Many of the programs even have common projects. The reason that they're not included in SB 234 is that it does not make sense to consolidate financial programs for the sake of consolidating financial programs. These programs are administered by the Department of Agriculture, the Department of Fish, Wildlife and Parks, and the Department of Transportation because these financial programs support the agency's mission. The Renewable Resource Grant and Loan program, the Reclamation and Development Grant program, the State Wastewater Revolving Fund loan program, and the Range Improvement Loan program should be located in the agency that has the mission of managing Montana's natural resources.



# CITY-COUNTY HEALTH DEPARTMENT



1130 17TH AVENUE SOUTH  
GREAT FALLS, MONTANA 59405  
(406) 454-6950 FAX: (406) 454-6959

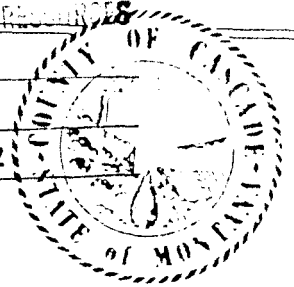
WIC PROGRAM: (406) 454-6953

BETTER BEGINNINGS: (406) 454-6954

EXHIBIT NO. 8

DATE 2-3-95

BILL NO. SB-234



## TESTIMONY ON SB234

MR CHAIRMAN AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER, DIRECTOR OF ENVIRONMENTAL HEALTH WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY. I HAVE BEEN WITH THE DEPARTMENT FOR OVER 23 YEARS AND HELD THIS POSITION FOR THE PAST 17 YEARS. WE APPRECIATE THE OPPORTUNITY TO COMMENT ON SB234.

OVER THE PAST YEAR MUCH WORK AND DISCUSSION HAS TAKEN PLACE WITH REGARD TO HEALTH CARE REFORM AND THE NEED TO REDUCE HEALTH CARE COSTS. HOWEVER, MUCH OF THE TALK HAS CENTERED AROUND HOW TO REDUCE TREATMENT COSTS, HOSPITAL STAY COSTS, SURGERY COSTS, PHARMACEUTICAL COSTS, ETC. THE ONE SUBJECT NOT DISCUSSED AT ANY LENGTH WAS PREVENTION-- HOW TO PREVENT THE ILLNESS OR SEVERE MEDICAL CONDITION FROM EVER AFFECTING THE PATIENT IN THE FIRST PLACE--HOW TO PREVENT THE CANCER THAT MAY HAVE BEEN CAUSED BY RADON IN THE HOME, OR BY BENZENE IN THE WATER SUPPLY, OR HOW TO PREVENT THE PROLONGED DRUG THERAPY TO TREAT SEVER CASES OF GIARDIA ACQUIRED FROM A POORLY MAINTAINED PUBLIC WATER SUPPLY, OR HOW TO PREVENT THE HOSPITAL AND DOCTOR COSTS FOR TREATMENT OF DOZENS OF PEOPLE ILL WITH A FOODBORNE ILLNESS ACQUIRED FROM EATING IN A PUBLIC FOODSERVICE ESTABLISHMENT. THE PREVENTION ASPECT OF HEALTH CARE IS CALLED PUBLIC HEALTH AND PUBLIC HEALTH IS ACTUALLY THE CORE TO REDUCED HEALTH CARE COSTS. PUBLIC HEALTH SAVES MEDICAL CARE COSTS AND SAVES LIVES BY PREVENTING DISEASES OR DETECTING THEM EARLY. MANY PEOPLE BELIEVE THAT PUBLIC HEALTH IS ONLY PERSONAL HEALTH SERVICES SUCH AS THE WELL BABY CLINICS, IMMUNIZATIONS, MATERNAL CHILD HEALTH ETC PERFORMED BY PUBLIC HEALTH NURSES. HOWEVER, PUBLIC HEALTH IS MUCH MORE. MOST ENVIRONMENTAL HEALTH ACTIVITIES ARE TRUE PUBLIC HEALTH PROGRAMS. CONTROL OF COMMUNICABLE DISEASES THROUGH PUBLIC WATER

SUPPLY AND FOOD SERVICE INSPECTIONS AND EDUCATION, RESPIRATORY ILLNESSES AND POTENTIAL CANCERS THROUGH INDOOR AND OUTDOOR AIR QUALITY PROGRAMS, AND THE PROTECTION OF PUBLIC AND PRIVATE WATER SYSTEMS THROUGH PROPER SEWAGE DISPOSAL SYSTEMS BY ADEQUATE AND PROFESSIONAL SUBDIVISION PLANNING AND REVIEW ARE ALL IMPORTANT, BASIC CORNERSTONES TO PUBLIC HEALTH.

I BRING UP THIS QUICK DISCUSSION OF THE IMPORTANCE OF PUBLIC HEALTH AND HOW ENVIRONMENTAL HEALTH IS A CRITICAL ELEMENT TO ALL PUBLIC HEALTH ACTIVITIES AND PROGRAMS SO YOU WILL UNDERSTAND OUR CONCERNS WITH SOME OF THE PROVISIONS OF SB234 THAT, IN OUR OPINION, WILL DESTROY THE PUBLIC HEALTH MISSION THAT CURRENTLY EXISTS WITHIN THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES.

TO PLACE ALL ENVIRONMENTAL HEALTH PROGRAMS INTO A DEPARTMENT OF ENVIRONMENTAL QUALITY UNDER A TOTALLY SEPARATE BOARD COMPRISED OF INDIVIDUALS WITHOUT A PUBLIC HEALTH BACKGROUND, WILL FRAGMENT PUBLIC HEALTH IN MONTANA. AS I'VE INDICATED PUBLIC HEALTH AND ENVIRONMENTAL HEALTH ARE ONE AND THE SAME. THE WATER QUALITY, AIR QUALITY, AND WASTE MANAGEMENT STANDARDS SET BY FEDERAL AND STATE LAW ARE BASED ON LEVELS OF CONTAMINATES THAT CAUSE ILLNESS. THAT IS THE PURPOSE OF THE STANDARDS--TO PREVENT ILLNESS AND MAINTAIN THE PUBLIC'S HEALTH. TO LUMP ALL ENVIRONMENTAL HEALTH PROGRAMS INTO A NATURAL RESOURCE TYPE DEPARTMENT THAT HAS LITTLE, IF ANY PUBLIC HEALTH MISSION OR EXPERTISE, WOULD BE A SERIOUS MISTAKE AND A STEP BACKWARD FOR MONTANA. IN 1988 THE INSTITUTE OF MEDICINE UNDERTOOK A STUDY OF PUBLIC HEALTH. THE CONCLUSIONS OF THIS STUDY WERE PUBLISHED IN A BOOK ENTITLED THE FUTURE OF PUBLIC HEALTH. THE STUDY FOUND THAT IN OTHER STATES "THE REMOVAL OF ENVIRONMENTAL HEALTH AUTHORITY FROM PUBLIC HEALTH AGENCIES HAS LED TO FRAGMENTED RESPONSIBILITY, LACK OF COORDINATION, AND INADEQUATE ATTENTION TO THE HEALTH DIMENSION OF ENVIRONMENTAL PROBLEMS." THE STUDY RECOMMENDED THAT STATE AND LOCAL HEALTH AGENCIES STRENGTHEN THEIR CAPABILITIES FOR IDENTIFICATION, UNDERSTANDING, AND CONTROL OF ENVIRONMENTAL PROBLEMS AND HEALTH HAZARDS." THE INSTITUTE WARNED THAT HEALTH AGENCIES "CANNOT SIMPLY BE ADVOCATES FOR THE HEALTH

ASPECTS OF ENVIRONMENTAL ISSUES, BUT MUST HAVE DIRECT OPERATIONAL INVOLVEMENT." THE PROPOSED CHANGES IN SB234 WILL NOT ALLOW FOR THAT INVOLVEMENT. THEREFORE, WE WOULD URGE THAT AT LEAST THE FOLLOWING ENVIRONMENTAL RESPONSIBILITIES REMAIN AS PART OF ANY NEW STATE PUBLIC HEALTH DEPARTMENT: WATER QUALITY PROGRAMS (ESPECIALLY THE SAFE DRINKING WATER PROGRAM), AIR QUALITY PROGRAMS (ESPECIALLY OCCUPATIONAL HEALTH), AND THE SUBDIVISION PROGRAM. WE IN LOCAL HEALTH DEPARTMENTS WORK EVERY DAY WITH PUBLIC ESTABLISHMENTS SUCH AS TRAILER COURTS, FOOD SERVICE ESTABLISHMENTS ETC. THAT ARE LICENSED AND REGULATED UNDER PROVISIONS OF STATE LAW AND RULE ADMINISTERED BY THE CURRENT DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND PROPOSED DEPARTMENT OF PUBLIC HEALTH. MANY OF THESE PUBLIC ESTABLISHMENTS HAVE THEIR OWN WATER SYSTEMS AND ARE CONSIDERED PUBLIC WATER SUPPLIES UNDER THE STATE AND FEDERAL SAFE DRINKING WATER ACT. WHEN A PROBLEM ARISES MEMBERS OF THE LOCAL AND STATE HEALTH DEPARTMENTS CAN WORK TOGETHER WITH THE ESTABLISHMENT OWNER TO SOLVE THE PROBLEM. SB234 WILL REQUIRE THAT ALL PARTIES INVOLVED MUST WORK WITH TWO ENTIRELY SEPARATE STATE DEPARTMENTS, SINCE SUCH LICENSED ESTABLISHMENTS ARE ADMINISTERED UNDER RULES AND STATUTES WITHIN THE FOOD AND CONSUMER SAFETY BUREAU OF THE CURRENT DHES OR PROPOSED NEW DEPARTMENT OF PUBLIC HEALTH, BUT THE WATER SYSTEM IS COVERED UNDER THE FEDERAL AND STATE SAFE DRINKING WATER ACT WITHIN THE PROPOSED NEW DEPARTMENT OF ENVIRONMENTAL QUALITY. AS WE TRY TO MAKE GOVERNMENT LESS CUMBERSOME AND CONFUSING TO THE PUBLIC, SB234 DOES JUST THE OPPOSITE. THEREFORE, WE WOULD URGE KEEPING HEALTH RELATED ENVIRONMENTAL PROGRAMS (AT LEAST WATER QUALITY, AIR QUALITY, AND SUBDIVISION) WITHIN ANY NEW PUBLIC HEALTH DEPARTMENT THAT MAY BE CREATED.

YOUR CAREFUL CONSIDERATION AND ADOPTION OF THESE THOUGHTS WOULD BE APPRECIATED. THANK YOU.

STATE NATURAL RESOURCES

BILL NO. 9DATE 2-3-95NO. SB-234

RM 407

SEC. THENA ROSEBENG

**DATE:** February 2, 1995  
**TO:** Senate Natural Resources Committee  
**FROM:** Employees of the Oil & Gas Industry  
**RE:** SB-234  
Natural Resources Reorganization Legislation

The oil and gas industry opposes this legislation for the following reasons:

1. Governor, Marc Racicot, commissioned a study for the reorganization of government. The study recommended NOT to combine the Montana Oil & Gas Commission with the Environmental Quality Department. Obviously this recommendation was ignored.
2. Presently the oil and gas industry pays a tax that funds The Montana Oil & Gas Commission. This industry-paid tax would no longer fund oil and gas issues solely. This funding would be absorbed into a general fund if reorganization occurs. At what point will the oil & gas industry have these taxes increased to support interests of no concern to us?
3. The Oil & Gas Industry as a whole opposes the affiliation of our Commission with the Environmental Quality Department.
4. Exactly how would this legislation improve the response time of the Board to oil & gas issues? We don't believe it would improve. For example, look what MEPA did for state lands.
5. The appointed representatives that chair the Montana Board of Oil & Gas Commission oppose this bill. SB-234 would usurp their authority to hire the four technical staff positions that serve the commissioners as an advisory panel for oil & gas related matters.

SENATE NATURAL RESOURCES

EXHIBIT NO. 9

DATE 2-3-95

NO. SB-234

Don Peth  
 Judith Wolfe  
 Robert Vinger  
 Lee Ann Carlson  
 Carol A. Johnson  
 Gary Kelsey  
 Albert Foster  
 Joe Owen  
 Randy Fisher  
 Linda Wilson  
 Jim Kerick  
 Betty Hartung  
 Barbara Schuyler  
 Colleen Ridge  
 Eric Johnson  
 Emma Cotten  
 Michael S. Bryant  
 David Nelson  
 Molly Donald  
 Al May  
 Roberta Schuman  
 Mahab E. Mulvaney  
 Shelley Knutson  
 Julie Hildebrand  
 Loren Morris

Craig Marshall  
 William Sedalla  
 James A. Owen  
 Jenise Eugene  
 Jeanne Jacobsen  
 Glorine Muller

EXHIBIT NO. 10DATE 2-3-95BILL NO. SB-234NAME Micky W. JACKSONADDRESS RT 1 Box 184 Three Forks, MT. 59752HOME PHONE 285-3766 WORK PHONE 285-3766REPRESENTING MONTANA ASSOCIATION of CONSERVATION DISTRICTSAPPEARING ON WHICH PROPOSAL? SB 234DO YOU: SUPPORT \_\_\_\_\_ OPPOSE  AMEND 

## COMMENTS:

OPPOSE Moving GRANT AND LOAN Programs from  
DNRC To the Dept. of Commerce. Conservation Districts  
have spent years in a uphill struggle to gain  
the support of people involved in agriculture plus  
the personal in the DNRC. Moving The grant and  
loan program To Dept. of Commerce would set us  
back 10 to 15 years, putting conservation in com-  
petition with the professional grant writers like  
Butte has. Dept of Commerce doesn't realize  
all the smaller grants and loans that have  
effects on the smaller agriculture producer.

## WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

LAW OFFICES

**Keller, Reynolds, Drake,  
Johnson and Gillespie, P.C.**

P. KEITH KELLER  
THOMAS Q. JOHNSON  
RICHARD E. GILLESPIE  
G. CURTIS DRAKE  
JACQUELINE TERRELL LENMARK  
ROBERT R. THROSSELL  
JOE SEIFERT

SENATE NATURAL RESOURCES

EXHIBIT NO. 11

DATE 2-3-95

BILL NO. SB-234

38 SOUTH LAST CHANCE GULCH  
HELENA, MONTANA 59601  
TELEPHONE (406) 442-0230  
FAX (406) 449-2256

OF COUNSEL  
PAUL T. KELLER  
PAUL F. REYNOLDS  
GLEN L. DRAKE

February 7, 1995

Senate Committee on Natural Resources  
Lorents Grosfield, Chair

RE: Amendments to Senate Bill 234

Dear Senator Grosfield and Committee Members:

I represent the Montana Water Well Drillers Association. Because the time allowed for testimony on Senate Bill 234 was abbreviated, enclosed is testimony on behalf of the Montana Water Well Drillers Association. The enclosed testimony states the Association's concerns. It is the Association's understanding that the concern raised by the bill as presently drafted was inadvertent and will be corrected. An amendment is enclosed for your consideration.

Very truly yours,

Jacqueline T. Lenmark

JTL/ko

Enclosures

cc: Mark Simonich  
Terry Lindsay

STATEMENT OF  
MONTANA WATER WELL DRILLERS ASSOCIATION  
BY  
JACQUELINE TERRELL LENMARK  
RE SB 234

Mr. Chairman and members of the committee:

My name is Jacqueline Lenmark. I am a lawyer from Helena and a lobbyist for the Montana Water Well Drillers Association. The Montana Water Well Drillers Association comprises some 100 of the state's licensed water well drilling contractors.

The Montana Water Well Drillers Association [hereinafter "Well Drillers Association"] supports Senate Bill 234 in concept. It stands in opposition to Senate Bill 234 only with respect to two sections.

In testimony presenting the bill, proponents from the Governor's Task Force, particularly Karen Fagg, indicated that one of the purposes of the bill was to consolidate government functions, streamlining them so that persons dealing with government functions would interact with fewer governmental agencies and departments. The Well Drillers Association strongly supports that purpose. The amendments to statute proposed by Senate Bill 234, however, work at cross purposes to that intent as they apply to the Well Drillers' Association.

While all well log filing and water right functions with which well drillers must comply are codified in Title 85, Chapter 2, parts 3 and 5, and require regulation by the Department of Natural Resources. Field offices which supply needed contacts for the well drillers across the state and which are experienced in water issues



are with the Department of Natural Resources. Senate Bill 234 assigns the Board of Water Well Contractors, the well drillers regulatory and licensing board, to the Department of Environmental Quality, and requires the Department of Public Health as well as Environmental Quality to appoint supervisory members to the Board. The Well Drillers Association would prefer to work with one Department, the Department of Natural Resources Management that supervises and regulates their everyday work functions, with whom they must file their well logs, and through whom water rights are obtained.

Accordingly, the Well Drillers Association propose the enclosed amendment.

Respectfully submitted to Senate Natural Resources Committee for hearing on Senate Bill 234, Friday, February 3, 1995, 1:00 p.m.

Jacqueline T. Lenmark

MONTANA WATER WELL DRILLERS ASSOCIATION NO. SB-234  
REQUESTED  
AMENDMENTS TO SENATE BILL 234

1. Page 15, line 16.  
Following: "director of"  
Strike: "public health"  
Insert: "Natural Resource Management"
2. Page 15, line 24.  
Following: "department"  
Strike: "of environmental quality"  
Insert: "natural resource management"
3. Page 50, line 15.  
Following: "department of"  
Strike: "environmental quality"  
Insert: "natural resource management"
4. Page 50, line 16.  
Following: "for in"  
Strike: "[section 24]"  
Insert: "2-15-3301"

EXHIBIT NO. 12

DATE 2-3-95

BILL NO. SB-234

NAME Joanne Murietta

ADDRESS RD 3 Flowerlee, MT.

HOME PHONE 7345311 WORK PHONE \_\_\_\_\_

REPRESENTING Montana State RC+D

APPEARING ON WHICH PROPOSAL? 234

DO YOU: SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ AMEND X

COMMENTS:

Representing a grassroots non-profit organization with the purpose of regional planning, we would like to amend 234 by deleting the transfer of grants and ~~and~~ ~~to~~ administration from DNRC to Dept of Commerce. We are very concerned that the focus of these natural resource grants will ~~to~~ lose their focus purposes of Commerce is the Administrator.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

# Office of the Legislative Auditor



State of Montana

SENATE NATURAL RESOURCES

EXHIBIT NO. 13

DATE 2-3-95

Report to the Legislature

March 1991

## Performance Audit Report

SB-234

### State Loan/Grant Programs

Department of Agriculture

Department of Natural Resources and Conservation

Department of Commerce

### State Bond Authorities

Department of Administration

Department of Commerce

Department of Natural Resources and Conservation

Department of Highways

University System

This report provides:

- ▶ Information and conclusions regarding Senate Joint Resolution 20 passed in 1989 by the 51st Legislature.
- ▶ Information and a recommendation regarding state bonding activity.
- ▶ Information and conclusions regarding Board of Housing bond reserves.

Direct comments/inquiries to:  
Office of the Legislative Auditor  
Room 135, State Capitol  
Helena, Montana 59620

90P-30.2

# Report Summary

---

## Introduction

Senate Joint Resolution (SJR) 20, passed in 1989 by the 51st Legislature, requested a study of the need for certain state loan/grant programs. We reviewed a total of 32 programs administered by three state agencies: the Department of Agriculture, the Department of Natural Resources and Conservation, and the Department of Commerce. We determined whether these programs could be consolidated or modified to better achieve their objectives, or could be eliminated without harmful impact on Montana's economy. We reviewed the state loan/grant programs for duplication of effort, similarities in operations, financial soundness, need, demand, level of activity, and compliance with legislative intent.

Since several of the programs reviewed use bond proceeds as a funding source, our audit included a review of state bonding activity. We reviewed the potential for consolidation and/or coordination of all state bonding activity. We also reviewed bond reserves at the Board of Housing to answer questions regarding the appropriateness of these reserves.

---

## SJR 20 - Loan and Grant Program Background

We reviewed a total of 32 state loan/grant programs in three agencies. Our SJR 20 work included interviews with program administrators and staff, directors and other management, contact with board and council members, program participants, and review of information and documentation.

Four of the programs we reviewed are administered by the Department of Agriculture. Seven loan/grant programs are administered by the Department of Natural Resources and Conservation. The Department of Commerce administers the remaining 21 programs. These programs are included under the Board of Housing, Board of Investments, Health Facility Authority, Montana Science and Technology Alliance, Local Government Assistance Division, Business Development Division, and Aeronautics Division.

## Report Summary

---

For each program we determined inception date, intent, funding sources, and activity. Chapter II of our report shows the relationship of the programs within each department's organization, and summarizes each program's purpose and activity since inception.

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### SJR 20 - Evaluation of Programs

Program purpose, participants, projects, funding sources, operations, and results were used to review programs for potential consolidation. Possibility of transferring program administration to other agencies to increase effectiveness was reviewed.

Program elimination was considered based on inactivity. After initial review, we identified some programs which had no similarities with other state programs, or showed no possibilities for consolidation, modification, or elimination.

Although we identified potentials for consolidation, modification, and elimination of several programs, we did not identify any changes to these programs which would significantly reduce costs, or benefit program operations, program participants, or the state. We identified two programs where changes were appropriate. The following section summarizes our findings.

Elimination of the Montana Agricultural Loan Authority (MALA), administered by the Department of Agriculture, appears to be appropriate because the program is inactive. Legislation was introduced to the 1991 Legislature, at the department's request, to repeal the MALA Act.

Reactivation of the Multifamily Bond Program, administered by the Board of Housing, appears to be appropriate. The program has been inactive since 1982, but there appears to be need for this type of program. Officials at the Board of Housing recognize the need for low income rental housing in Montana, and could reactivate this program to help address those needs.

We also looked at the need for reestablishment of an airport lending program that was terminated as of June 30, 1989. It appears smaller airports could use some type of program to provide matching funds for federal grants. Currently there is no

state program dedicated to lending money to state airports. Our review indicated possibilities for airports to obtain matching funds through the Board of Investments.

If state airports need funding to match federal grants, and BOI funding is not suitable, the Aeronautics Division should seek establishment of a new program to meet airport needs. We do not believe the previous Airport Lending Program should be reactivated because it could not adequately provide funding.

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### State Bond Activity

For state bonding activity, we reviewed bonding procedures and activity for each program, interviewed program administrators, and contacted various organizations and several states to discuss bond issuance. Seven authorities have issued bonds to date: the Commissioner of Higher Education, the Department of Natural Resources and Conservation, the Department of Administration, the Board of Investments, the Health Facility Authority, the Board of Housing, and the Department of Highways. There are several types of bonds issued by these authorities including general obligation bonds, revenue bonds, special tax bonds, industrial development bonds, and revenue and tax anticipation notes (short-term bonds). Chapter IV discusses the seven issuance authorities and the types of bonds issued by each.

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### Bond Issuance Consolidation/Coordination

Initially, we considered possible consolidation of all state government bond issuance. As our audit progressed, we determined consolidation would not be effective because the missions of the programs are so different and bond issuance is driven by individual program needs.

There was little coordination between state issuance authorities when we began our audit. Although the Capital Finance Advisory Council was active, information gathering and active coordination of bond issuance was not being accomplished. The advisory council was established to aid in coordination and monitoring of all state bond issuance. The Department of Administration assigned responsibility for bond coordination to a position within the department, but had not filled the position

program, and there is no appropriation authority, so there would not be any cost savings from program elimination.

Legislation was introduced to the 1991 Legislature, at the request of the Department of Agriculture, to repeal the MALA Act.

**Conclusion:** Elimination appears appropriate.

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**Department of Natural  
Resources and Conser-  
vation**

For the seven programs reviewed at the Department of Natural Resources and Conservation (DNRC), five have no similarities or possibilities for consolidation, modification, or elimination. These are: the Conservation District Grant Program, the Renewable Resource Development Program, the Reclamation and Development Grant Program, and the Water Development Public Loan and Grant Programs. DNRC has completed some internal consolidation for the Water Development Public Loan and Grant Programs.

Of the two remaining programs: the Rangeland Improvement Loan Program could be transferred to other departments, but no significant benefit is evident; and the Water Development Private Loan Program was reviewed for possible elimination. These programs are discussed in the following sections. We also reviewed the possibility of transferring administration of the Irrigation District Pooled Loan Program administered by the Board of Investments to DNRC. Our findings are discussed in the Board of Investments section of this chapter.



**Water Development  
Private Loan Program**

During our preliminary review, we identified a concern with the number of loans in default under the Water Development Private Loan Program. This led to review for possible modification or elimination.

Since program inception, 74 loans have been made for a total of \$5,021,157. Of the 74 loans, 4 (5.4%) are in default. DNRC officials estimate losses of the four loans to be \$380,000 (7.6%).

According to a state bank examiner official, if an ordinary bank has more than 1.5 percent of loans in default, the bank would be more cautious in processing new loans. The examiner said the program's loss experience is high compared to a well run bank.

DNRC officials believe default problems were a result of economic situations, and procedures used by previous program administrators. In addition, the department experienced staff turnover in previous years which may have caused inconsistency in loan approvals.

Current program administrators have established procedures to control the number of defaults. Better review of background information is conducted. Security of loans has improved and seems to be assessed more effectively. The loan approval process has also improved with increases in the level of application review. Overall, procedures appear to provide assurance for loan repayment.

In summary, there does not appear to be a need at this time for program modification or termination. The Water Development Private Loan Program seems to provide financing that is not available from commercial lending institutions. Interest rates are two percent to three percent lower than market rates, loans are carried long term, and loan amounts meet the needs of smaller projects. Current procedures address the apparent causes of the relatively high default rate.

**Chapter III**  
**SJR 20 - Evaluation of Programs**

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need for low income rental housing in Montana, yet they have not reactivated the Multifamily Bond program or provided funding through another program to address these needs.

**Conclusion:**      **Reactivation seems appropriate.**

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**Summary**

We identified potential for consolidation, modification, or elimination of various programs. Although potentials exist, we did not identify any program changes which would significantly improve operations and services provided, or produce substantial cost savings.

Each program we reviewed has a specific purpose. There are some programs with the same general purpose, but program participants are different. Other programs simply have different purposes. Based on our review, changes in these programs could adversely affect program services, which could result in adverse effects for program participants.

The following figure summarizes the conclusions reached during our evaluation. The column indicating "no action" identifies programs where we identified no similarities or possibilities for consolidation, modification, or elimination. The Montana Growth through Agriculture Program under the Department of Agriculture has not had time to develop results, and we did not make a determination on the Montana Capital Company Act under the Board of Investments. The remaining columns indicate our conclusions regarding program consolidation, modification, elimination, and reactivation.

Figure 5  
SJR 20 - Evaluation Summary

PROGRAM	CONCLUSION				
	No Action	Consolidation	Modification	Elimination	Reactivation
Montana Growth Through Agriculture	X				
Agricultural Finance	X				
Montana Agricultural Loan Authority Act				YES	
Montana Noxious Weed Trust Fund Grant	X				
Water Development Public Loan	X				
Water Development Public Grant	X				
Water Development Private Loan			NO	NO	
Renewable Resource Development	X				
Reclamation and Development Grant	X				
Rangeland Improvement Loan			NO		
Conservation District Grant	X				
Single Family Bond		NO			
Mortgage Credit Certificate		NO			
Multifamily Bond		NO			YES
Low Income Housing Tax Credit		NO			
Reverse Annuity Mortgage Loan	X				
Mortgage Loan		NO			
Coal Tax Loan		NO			
Montana Capital Company Act	X	NO			
Montana Cash Anticipation Finance	X				
Intermediate Term Capital	X				
Irrigation District Pooled Loan		NO			
Pooled Economic Development Bond					NO
Stand Alone Economic Development Bond	X				
CRP Enhancement			NO		
Pooled Loan		NO			
Single Project Financing		NO			
Community Provider Pooled Loan		NO			
Seed Capital		NO			
Research and Development		NO			
Community Development Block Grant	X				
Airport Lending					NO

Source: Compiled by the Office of the Legislative Auditor

# ENVIRONMENTAL QUALITY COUNCIL

## Substantive Changes Summary for Senate Bill 234

**Section 4.** Section 2-15-212, MCA, is amended to read:

**"2-15-212. Reserved water rights compact commission.**

1. This is a substantive change that clarifies that in negotiations, the commission will act on behalf of the governor.
2. The commission will be attached to the department of natural resource management (instead of the governor's office), which will provide staff to the commission in a manner that facilitates the priorities and workload of the commission within the budget established by the legislature.

**Section 20.** Section 2-15-3303, MCA, is amended to read:

**"2-15-3303. Board of oil and gas conservation -- composition -- allocation -- quasi-judicial.**

1. This is a substantive change because the board of oil and gas conservation is allocated to the department of environmental quality (instead of department of natural resources and conservation) for administrative purposes only as prescribed in 2-15-121.
2. The board may no longer hire its own personnel and prescribe the duties and annual salary of four professional staff positions.

**Section 23.** Section 2-15-3308, MCA, is amended to read:

**"2-15-3308. Drought advisory committee.** This is a substantive change because:

1. There is a drought advisory committee in department of natural resource management (replacing department of natural resources and conservation).
2. The drought advisory committee includes representatives of the departments of natural resource management (replacing natural resources and conservation) and environmental quality (replacing health and environmental sciences) and no longer a representative from the department of state lands.
3. The department of natural resources and conservation will no longer provide staff assistance to the drought advisory committee.

**NEW SECTION. Section 24. Department of environmental quality -- head.** There is a department of environmental quality. The department head is the director of environmental quality appointed by the governor in accordance with 2-15-111.

**NEW SECTION. Section 25. Board of environmental review.** (1) There is a board of environmental review.  
(2) The board consists of seven members appointed by the governor. The members must be representative of the geographic areas of the state. One member must have expertise or background in hydrology. One member must have expertise or background in local government planning. One member must have expertise or background in one of the environmental sciences.  
(3) A vacancy occurring on the board must be filled by the governor in the same manner and from the same representative area as the original

appointment.

(4) The board is designated as a quasi-judicial board for purposes of 2-15-124. SB 234

(5) The board is attached to the department of environmental quality for administrative purposes only as provided in 2-15-121.

**Section 26.** Section 2-18-103, MCA, is amended to read:

**2-18-103. Officers and employees excepted.** This is a substantive change because personnel administration and the personnel classification plan (provided in parts 1 and 2, Chapter 18) now apply to the four professional staff positions under the board of oil and gas conservation.

**Section 27** Section 3-7-103, MCA, is amended to read:

**"3-7-103. Promulgation of rules and prescription of forms.** This is a substantive change because the Montana supreme court has the discretion to promulgate special rules of practice and procedure in consultation with the water judge and department of natural resource management (replacing department of natural resources and conservation). This amendment changed a "shall" to a "may".

**Section 38.** Section 7-22-2151, MCA, is amended to read:

**"7-22-2151. Cooperative agreements.**

1. eliminate department of state lands
2. change department of natural resources and conservation to department of natural resource management

This is a substantive change because a state agency that controls land within a weed district, including department of natural resource management (replacing department of natural resources and conservation and department of state lands) shall enter into a written agreement with the district weed board, specify mutual responsibilities for noxious weed management on state-owned or state-controlled land within the district. This amendment consolidates the work of 2 agencies into 1.

**Section 46.** Section 15-6-135, MCA, is amended to read:

**"15-6-135. Class five property -- description -- taxable percentage.**

1. change department of health and environmental sciences to department of environmental quality
2. clarify air and water pollution control equipment eligible.

**Section 52.** Section 15-36-101, MCA, is amended to read:

**"15-36-101. Definitions and rate of tax -- state severance tax -- local government severance tax -- assessment of nonworking interest owner -- exemption.** Department of environmental quality (replacing the board of oil and gas conservation) approves and sets the specifications for secondary and tertiary recovery projects. All duties of the board of oil and gas conservation, such as approval and certification of projects for tax purposes go to department of environmental quality.

1. eliminate board of oil and gas conservation, insert department of environmental quality
2. change department of health and environmental sciences to department of public health

**Section 63.** Section 23-1-302, MCA, is amended to read: DATE 2-3-95  
**"23-1-302. Definitions.** (Montana Conservation Corps) SB-234  
 This section provides an example of state lands being eliminated and department of environmental quality inserted, department of natural resources and conservation eliminated and department of natural resource management inserted.

**Section 82.** Section 37-43-102, MCA, is amended to read:  
**"37-43-102. Definitions.**  
 (water well contractors) provides an example of department of natural resources and conservation changing to department of environmental quality.

**Section 95.** Section 40-6-128, MCA, is amended to read:  
**"40-6-128. Proceeding to determine father's identity and terminate rights.**  
 1. change department of health and environmental sciences to department of public health  
 2. the records and statistics bureau shall send the court a copy of any notice that it has received.

**Section 152.** Section 50-60-803, MCA, is amended to read:  
 insert department of commerce  
 change department of natural resources and conservation to department of environmental quality  
**"50-60-803. Energy labeling sticker.** The department of commerce, in consultation with department of environmental quality, will prescribe by rule requirements for a labeling sticker to be affixed to a new residential building that describes the energy efficiency components of the home, including but not limited to heating appliance efficiencies and R-value or U-value of ceilings, walls, floors, windows, and doors in new residential buildings.  
 The department of commerce shall prescribe the manner to affix the label.

Sections 197-203 change the administration and implementation of the wastewater treatment revolving fund from department of natural resources and conservation and department of health and environmental sciences to the department of commerce.

**Section 197.** Section 75-5-1102, MCA, is amended to read:  
**"75-5-1102. Definitions.** Unless the context requires otherwise, in this part, the following definitions apply:  
 (1) "Administrative costs" to department of commerce only (no longer department of health and environmental sciences and department of natural resources and conservation).  
(3) "department" means the department of commerce provided for in Title 2, chapter 15, part 18.

**Section 198.** Section 75-5-1105, MCA, is amended to read:  
**"75-5-1105. Rulemaking.** The department of commerce (replacing the board of health and environmental sciences, and board of natural resources and conservation) may adopt rules to implement the provisions of this part,

including rules related to applications and procedures for wastewater treatment loans.

**Section 199.** Section 75-5-1106, MCA, is amended to read:

**"75-5-1106. Revolving fund.**

strike department of natural resources and conservation, replace with department of commerce

**Section 201.** Section 75-5-1112, MCA, is amended to read:

**"75-5-1112. Evaluation of applications.**

The department of commerce (replacing department of health and environmental sciences in consultation with department of natural resources and conservation) shall evaluate and annually rank applications for loans and other financial assistance.

**Section 202.** Section 75-5-1113, MCA, is amended to read:

**"75-5-1113. Loans.** This is a substantive change in that the statute used to require a binary process, first that department of health and environmental sciences approve an application and second that department of natural resources and conservation lend the amounts on deposit in the revolving fund. Additionally, department of commerce will set the requirements of financial capability instead and receive an engineering report evaluating the proposed project. The interest rate must be determined as of the date the department of commerce (replacing department of health and environmental sciences) authorizes the loan. The rate may include an additional rate that the department of commerce considers reasonable...

**Section 205.** Section 75-7-117, MCA, is amended to read:

**"75-7-117. Rules -- minimum standards.**

This is a substantive change for conservation districts in that the department of natural resource management shall adopt the minimum standards instead of the board of natural resources and conservation which will be eliminated. The supervisors of each conservation district may still set standards that meet, exceed, or are not covered by the minimum standards set by the department.

eliminate board of natural resources and conservation, insert department of natural resource management

Sections 230 through 251 make changes in the administration of the Montana Major Facility Siting Act, some of them substantive, in that the dual departmental and board roles are eliminated.

**Section 230.** Section 75-20-104, MCA, major facility siting, is amended to read:

This is a substantive change because the section not only changes board of health and environmental sciences and department of health and environmental sciences to board of environmental review and department of environmental quality, but it also eliminates the board of health in the major facility siting administration such as application and filing for facilities.

1. change board of natural resources and conservation to board of

environmental review

2. strike board of health

3. change department of natural resources and conservation to department of environmental quality

4. strike department of health

**Section 237.** Section 75-20-216, MCA, is amended to read:

1. strike board of health, insert board of environmental review

2. strike department of health

department of environmental quality prepares studies, evaluations and reports on proposed facilities without department of health. Therefore, the department of environmental quality will permit facilities not the department of health. Moreover, the board of environmental review administers the laws relating to major facility siting, not the board of health. The review requirements are no longer acceptable in lieu of an EIS under MEPA. department of natural resource management (replacing department of state lands) shall report information relating to the impact of the proposed site in the department's area of expertise.

**Section 241.** Section 75-20-221, MCA, is amended to read:

Clarifies air or water quality decision, opinion, order, certification, or permit by adding air or water quality.

**Section 248.** Section 75-20-401

department of environmental quality, board of environmental review replace state air and water quality agencies.

**Section 251.** Section 75-20-501, MCA, long range plans, is amended to read:

1. eliminate department of state lands

2. strike department of health and environmental sciences, replace with department of natural resource management

**Section 259.** Section 76-5-103, MCA, floodplain and floodway management, is amended to read:

eliminate board of natural resources and conservation, insert department of natural resource management

This is a substantive change in that it eliminates the board of natural resources and conservation. Therefore, wherever the board is used, department of natural resource management replaces it. The department of natural resource management will establish, designate, administer and promulgate, enforce rules for the floodplains and floodways.

**Section 276.** Section 76-11-101, MCA, is amended to read:

eliminate department of state lands, insert department of natural resource management

This a substantive change because it means that department of natural resource management will hold those lands that department of state lands used to hold.

Department of natural resource management will hold the school trust lands and administer timber sales on state lands.



**Section 278.** Section 76-12-104, MCA, is amended to read: for natural areas) change department of state lands to department of natural resource management, although board of land commissioners authority remains the same

**Section 286.** Section 76-14-103, MCA, rangeland management, is amended to read:

This is a substantive change because the department of commerce replaces department of natural resources and conservation for rangeland management. Additionally, department of natural resource management will administer the Montana rangeland resource program instead of the conservation districts of department of natural resources and conservation. Clarifies sportsmen to hunters and anglers.

\*\*This section may be in error.

**Section 287.** Section 76-15-103, MCA, is amended to read:

1. eliminate board of natural resources and conservation
2. change department of natural resources and conservation to department of natural resource management

This is a substantive change because department of natural resource management will define and create conservation districts instead of the board of natural resources and conservation.

**Section 288.** Section 76-15-201, MCA, is amended to read:

eliminate board of natural resources and conservation, insert department of natural resource management

**Section 290.** Section 76-15-204, MCA, is amended to read:

eliminate board of natural resources and conservation, insert department of natural resource management

The department of natural resource management determines the need for a district, not the board of natural resources and conservation.

**Section 305.** Section 76-15-505, MCA, is amended to read:

board of natural resources and conservation to board of supervisors of a conservation district.

**Section 308.** Section 76-15-725, MCA, is amended to read:

change board of natural resources and conservation to board of adjustment which oversees ordinances adopted by the board of supervisors of a conservation district.

Sections 379 through 396 cover changes removing authority for reclamation from the department of state land to the department of environmental quality.

Sections 397 through 493 cover changes in water resource management, many of which remove the board of natural resources and conservation's authority and substitute that of the department of natural resource management.

**Section 406.** Section 85-1-212, MCA, is amended to read:  
This is a substantive change because the bill is eliminating appeal for disputes over water contracts to the board of natural resources and conservation, and the appeal will go to district court.

**Section 421.** Section 85-1-508, MCA, is amended to read:  
This is a substantive change because it changes appeal for disputes over hydroelectric leases from the board of natural resources and conservation to appeal to district court.

**Section 461.** Section 85-2-701, MCA, is amended to read:  
This is a substantive change because it clarifies that the compact commission in negotiations will be acting on behalf of the governor.

**Section 482.** Section 85-6-109, MCA, is amended to read:  
1. This is a substantive change because the section eliminates appeal over water project maintenance, repair, etc. to board of natural resources and conservation and replaces it with appeal to district court.  
2. change department of natural resources and conservation to department of natural resource management

**Section 493.** Section 85-20-109, MCA, is amended to read:  
eliminate board of natural resources and conservation, insert department of natural resource management  
This is a substantive change because department of natural resource management will adopt and enforce the rules consistent with the Yellowstone River Compact (replacing the board of natural resources and conservation)

**Section 494.** (control over state waters for propagation of fish) Section 87-1-223, MCA, is amended to read:  
1. eliminate excess language (department means department of fish, wildlife, and parks)  
2. eliminate state lands, insert department of natural resource management

**Section 495.** Section 87-1-224, MCA, is amended to read:  
change department of health and environmental sciences to department of environmental quality

**Section 497.** (Money collected from fines or forfeited bonds for recreational use of state lands) Section 87-1-601, MCA, is amended to read:  
eliminate department of state lands, insert department of natural resource management

All grant and loan programs found in Title 90 that are currently administered by the department of natural resources and conservation are transferred to the department of commerce. (Sections 499 through 508.)

**Section 501.** Section 90-2-1103, MCA, is amended to read:  
change department of natural resources and conservation to department of commerce  
This is a substantive change because the section transfers department of natural resources and conservation authority over reclamation and development grants programs to department of commerce.

**Section 506.** Section 90-6-207, MCA, is amended to read:  
Eliminate department of state lands, insert department of natural resource  
management for coal impact grants

This is a substantive change because it transfers department of state  
lands's permitting duties to department of natural resource  
management.\*\*This section may be in error.

Eliminate board of natural resources and conservation, insert board of  
environmental review

**Section 508.** Section 90-6-703, MCA, is amended to read:  
change department of natural resources and conservation to department of  
commerce for financial assistance to local governments for infrastructure.  
This is a substantive change because the section transfers financial  
assistance from department of natural resources and conservation to  
department of commerce.

**NEW SECTION. Section 510. Transition.** The provisions of 2-15-131 through  
2-15-137 apply to [this act].

**NEW SECTION. Section 511. Repealer.** Sections 2-15-3201, 2-15-3202,  
2-15-3302, 2-15-3306, 75-10-628, 76-11-203, 76-11-204, 80-15-219, 85-1-202,  
and 85-2-519, MCA, are repealed.

**NEW SECTION. Section 512. Executive orders -- code commissioner  
instructions.** (1) In all material enacted by the 54th legislature that  
assigns duties or functions to the department of state lands, department of  
health and environmental sciences, or department of natural resources and  
conservation, the governor shall by executive order designate the  
department of public health, the department of environmental quality, or  
the department of natural resource management as the agency to perform each  
duty or function.

(2) The governor shall provide a copy of each executive order to the  
code commissioner, who shall make the changes necessary to reflect the  
assignment of each duty or function. The code commissioner shall recodify  
and rearrange material as necessary to reflect the provisions of [this  
act].

**NEW SECTION. Section 513. Codification instruction.** [Sections 24 and 25]  
are intended to be codified as an integral part of Title 2, chapter 15, and  
the provisions of Title 2, chapter 15, apply to [sections 24 and 25].

**NEW SECTION. Section 514. Saving clause.** [This act] does not affect  
rights and duties that matured, penalties that were incurred, or  
proceedings that were begun before [the effective date of this act].

**NEW SECTION. Section 515. Effective date.** [This act] is effective July  
1, 1995.

DATE 2-3-95

1.

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-234

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
MICK JACKSON	MONTANA ASSOCIATION of CONSERVATION DISTRICTS	SB 234		<input checked="" type="checkbox"/>
DEAN SWANSON	Bd of O+G	234		<input checked="" type="checkbox"/>
NICK V. CLOS	MONTANA RURAL WATER SYSTEMS	234	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Betty Deweese	(NPRC) Bear Creek Council	234	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Pete Frazier	CITY-CO. HEALTH DEPT Cascade Co.	234		<input checked="" type="checkbox"/>
Jeanne Musella	NEM RCTD <sup>Chapelleau</sup> CTED	234		<input checked="" type="checkbox"/>
Connie Hanson	Pondera Co. Cons Dist	234		<input checked="" type="checkbox"/>
Stau Sternberg	MONT Dept of Trans	234		
Bill Stokes	Pondera County Cons. Dist	234		<input checked="" type="checkbox"/>
Richard Parks	NPRC <sup>Committee</sup> NEM RCTD	234	<input checked="" type="checkbox"/>	
Jim CARLSON	MISSOULA COUNTY	234		<input checked="" type="checkbox"/>
Alak Johnson	Teton City Cons. Dist	234		<input checked="" type="checkbox"/>
KAREN FAGG	Self	234	<input checked="" type="checkbox"/>	
GEORGE OCHENSKI	TROUT UNLIMITED	234	<input checked="" type="checkbox"/>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-3-95

2

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: S B - 234

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
<i>Paul Mercrombie</i>	<i>MT Petroleum Assoc</i>			<input checked="" type="checkbox"/> part
<i>Marilyn Bartlett</i>	<i>Golden Sunlight Mine</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Don Lepper</i>	<i>Golden Sunlight Mine</i>	<i>234</i>		
<i>Russ Rutter</i>	<i>Wash Corp</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Mary A Canaby</i>	<i>MONTANA MINING ASSN.</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Tom Daubert</i>	<i>Ash Grove Cement Co</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>CLINT PECK</i>	<i>—</i>	<i>234</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Mark Triett</i>	<i>Self</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Dylan R. Ayers</i>	<i>Self</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Pat J. O'Duffy</i>	<i>Self</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Chris Tweeden</i>	<i>Res Worker Rights Compt Commission</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Jim Jansen</i>	<i>MEIC</i>	<i>234</i>	<input checked="" type="checkbox"/>	
<i>Don Miles</i>	<i>L+C City County Health</i>	<i>234</i>		<input checked="" type="checkbox"/>
<i>Jim Mockler</i>	<i>MT Coal Council</i>	<i>234</i>	<input checked="" type="checkbox"/>	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-3-95

3

SENATE COMMITTEE ON NATURAL RESOURCES

BILLS BEING HEARD TODAY: SB-234

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John Lahr	MPC	S 234	X	
David Owen	MT Chamber	S 234	✓	
WM VAUGHNEY JR	INDEP O & G PRODUCER	S 234		✓
Cary Hegreberg	MT Wood Prod. Assn.	234	✓	
Thomas J. Johnson	CURE	234	✓	
Allen Barkley	Columbia Falls Alumna	SB 234	X	
Robert H. Layne	Ponderosa Co Conservation	SB 234		✓
TOM JACNAS	Montana Technical Council	SB 234	✓	
Ward Harahan	Stillwater Mining	SB 234	✓	
J.E. Hays	Stillwater Mining Co.	"	✓	
Peggy Hunt	WETA	SB 234	✓	
Jacqueline Penmark	MT Water Well Drillers	4100		✓
Mike Uolesky	MT Assoc. Cons. Dist's.	SB 234		✓ support amendments

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY