

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By Rep. Bill Tash, Vice Chair, on January 13,
1995 at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Bill Tash, Vice Chairman (Majority) (R)
Rep. Bob Raney, Vice Chairman (Minority) (D)
Rep. Aubyn A. Curtiss (R)
Rep. Jon Ellingson (D)
Rep. David Ewer (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Paul Sliter (R)
Rep. Robert R. Story, Jr. (R)
Rep. Jay Stovall (R)
Rep. Emily Swanson (D)
Rep. Lila V. Taylor (R)
Rep. Cliff Trexler (R)
Rep. Carley Tuss (D)
Rep. Douglas T. Wagner (R)

Members Excused: Rep. Dick Knox, Chairman (R)

Members Absent: None

Staff Present: Michael Kakuk, Environmental Quality Council
Alyce Rice, Committee Secretary

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

Committee Business Summary:

Hearing: HB 130, HB 128
Executive Action: None

VICE CHAIR BILL TASH said there would be a presentation by the **Montana Consensus Council** prior to the hearings. He turned the meeting over to **Matthew McKinney, Director, Montana Consensus Council (MCC)**.

Mr. McKinney said the purpose of the presentation was to let the committee know what the MCC has been doing the past year and the future mission of the MCC. **Exhibit 1.** (Tape malfunction Tape 1,

Side A, approximate count 75.) **Mr. McKinney** introduced **Jim Richard**, Montana Wildlife Federation, and **Bill Donald**, Montana Stockgrowers Association, Case studies on Land Access Negotiations; **Jack Atthowe**, Bitterroot Greens and **Joe Gray**, Montana Farm Bureau, Ravalli County Land Use Planning; **REP. EMILY SWANSON** and **REP. DOUGLAS WAGNER**, Endangered Species Working Group; **Ted Kober**, Chair, Board of Directors and **Lt. Governor Dennis Rehberg**.

Jim Richard said about two years ago a controversy surrounding recreational access to state lands began to reach a peak. The sportsmen and conservationists filed petitions with the State Land Board trying to achieve a greater degree of recreational opportunity on state lands. They believed those lands were public and the public should have some reasonable access to them. Those efforts created some frustration on the part of the agricultural community that held permits on those state lands. About 15 months ago it became clear that something had to be done to head off the severe controversy that was raging across Montana. The newly formed Consensus Council became involved through the recommendation of the State Land Board. Four members of the Montana Wildlife Federation represented the sportsmen's side of the issue and five people from the Montana Stockgrowers and Farm Bureau represented the permittees and agricultural community. The Montana Wildlife Federation wanted as broad an opportunity to recreate on state lands as was feasible. Agriculture wanted to ensure that ranching operations were protected. **Mr. Richard** said he felt the Consensus Council was a success.

Bill Donald said he was a representative for the lessees on the state lands recreational access debate. He agreed with **Mr. Richard** that the Consensus Council was a success.

Jack Atthowe said one of the critical problems with the land use plan is that the citizens haven't been given the opportunity for input. As a result of the Consensus Council a modified land use plan is being developed.

Joe Gray agreed with **Mr. Atthowe**.

REP. EMILY SWANSON said **REP. DICK KNOX** invited her to participate in the endangered species working group about a year ago. The group worked to come up with ideas to improve the Endangered Species Act for Montanans and to offer those ideas to the federal government. For example, the state should have a bigger role in deciding what animals should be put on the endangered species list. The working group has come up with about ten recommendations to possibly send to the federal government but a final decision hasn't been made at this time.

REP. DOUG WAGNER said the Consensus Council is a good process that has a lot of potential but the key is to get everybody at the table and keep them there. He said he couldn't come to the

meetings sometimes because he had to work. He didn't know if he would sign off on the final report of the endangered species group because he hadn't had a chance to study it.

Ted Kober said the Board of Directors role is to identify a vision for the Consensus Council, to find its mission and to lead the Council in achieving that vision. The Council has only been in existence sixteen months but it has already exceeded many expectations. The early successes have been attributed to the skills and dedicated work of **Matt McKinney**, to the full support and backing of a governor who believes in the consensus building processes and also to the wisdom of the Montana legislators who provided the initial financial support and helped create the organization. As a state agency it has enjoyed many advantages including such things as being able to serve small private organizations or loosely organized groups of citizens who were either unaware of consensus building processes or were unable to afford professional services. The board is determined that the Consensus Council meets the needs of helping Montana to build agreement in the most effective and efficient ways possible. In meeting that commitment the board recognizes that it is essential to maintain a strong relationship with state government. However, if the board continues to operate simply as a state agency there will be several disadvantages and lost opportunities.

Although the board receives state funding, financial stability presents limitations for meeting substantial growth in the future, including adding additional staff. Some individuals and private foundations have shown interest in contributing to the organization but larger gifts are usually only given to non-profit organizations and not to state agencies. Some groups needing the agency's services may perceive the council as being biased in favor of state interests or possibly biased in favor of the governor's own political agenda. Several users of the services the agency provides are reluctant to pay the full value of those services because they know the agency is underwritten by state government.

The Board of Directors together with the director of the governor's staff are studying how a public/private partnership that would have two objectives would work. The agency would still enjoy the advantages of being strongly connected to state government and would also realize the neutrality, flexibility and increased capacity of a privately-funded organization. The original architects of the Consensus Council anticipated these needs. In only the second year of operation 25% of the funds needed to operate will come from sources other than state funds.

The Council anticipates presenting a plan to the legislature in two years that will create a statutorily recognized public/private partnership that will meet four objectives. The objectives are that the Council will still remain strongly connected to state government, that it will derive its financial

support from a variety of sources, that it will be available to continue to serve Montanans at many levels and to create a private/public relationship that would support a Consensus Council that would maintain its impartiality and credibility by being independently governed by a non-partisan board. The board's responsibility to Montana citizens is to lead the organization in the most efficient, effective way possible.

HEARING ON HB 130

Opening Statement by Sponsor:

REP. HARRIET HAYNE, House District 86, Dupuyer, said HB 130 is a proposed Act eliminating the authority of the Board of Oil and Gas Conservation to set the annual salary of four professional staff positions, amending sections and providing an effective date. The bill is in keeping with the objective of the legislature to cut the cost of government.

Proponents' Testimony:

Mark Simonich, Director, Department of Natural Resources and Conservation, on behalf of the Governor. Written testimony. Exhibit 2.

Pati Jo O'Reilly, Shelby, supports HB 130.

Opponents' Testimony:

Stanley Lund, Chairman, Montana Board of Oil and Gas, said if HB 130 passes and there are personnel changes, there will be considerable downgrading in the ability of the board to function. Everyone involved in the oil and gas industry and the State of Montana needs an experienced administrator. In a recent session of the legislature oil companies were granted a significant tax reduction for enhanced recovery projects. One of the duties of the administrator is to evaluate these projects. It is the responsibility of the board to ensure that wells are properly plugged and surface reclamation is completed. The efforts of the administrator of the board could be diminished if the salary limitations that are proposed become a reality and it becomes a training camp for administrators.

Dean Swanson, Independent Oil Business, Member, Montana Board of Oil and Gas, Polson, said the board is self-sustained so the bill wouldn't save money for the State of Montana. There are 18 exempt positions state government. If the board's exempt positions are eliminated, all exempt positions should be eliminated in state government. Elimination of the exempt positions will weaken the Board of Oil and Gas.

Gail Abercrombie, Executive Director, Montana Petroleum Association. Written testimony. Exhibit 3.

Tom Richmond, Administrator and Petroleum Engineer, Montana Board of Oil and Gas, said in 1979 the board received the authority to hire and set the salary of four exempt positions. At the present time the board has two exempt positions. He said he would be available to answer any questions the committee might have.

Dave Schaenen, Consultant, Oil and Gas, Public Lands Matters.
Written testimony. **Exhibit 4.**

Informational Testimony: None

Questions From Committee Members and Responses:

REP. EMILY SWANSON asked **Mark Simonich** if there are other boards that have exempt positions. **Mr. Simonich** said he didn't know.

REP. DAVID EWER said directors of state agencies are required to have a complete packet of bills from their bureau chiefs and boards that are attached to them to present to the Legislature and asked **Mr. Simonich** if HB 130 was part of the packet that was brought to him to be submitted for the Governor. **Mr. Simonich** said HB 130 is not a department bill. The department did not promote the idea. The department is required to submit the bills that the board gives to it. The board submitted two bills. The Governor endorsed HB 130 but did not endorse the other bill.

REP. AUBYN CURTISS said it was her understanding that the oil and gas industry is going to fund the bill to make sure it has qualified personnel, but the sponsor of the bill said it would save money for the state. **REP. CURTISS** asked **Mr. Richmond** to comment. **Mr. Richmond** said it is his understanding that if the bill passes, two positions would be classified under the state pay system. Once in the state system, pay would be determined by the classification. There might be pay protection for a period of time, but there would be an attempt to grade the positions at a salary as close as possible to the positions' current salaries. The savings would be minimal. The savings to the general fund would be none.

REP. JAY STOVALL asked **Mr. Simonich** why the Governor supports the bill if it isn't saving the state money. **Mr. Simonich** said the Governor didn't look at the bill as a money saving measure. The past year the Governor has been working at renewing government. He has asked for a very thorough review of state government and how it operates. The Governor also wants to review the exceptions to the rule. The bill is one of the exceptions.

REP. LILA TAYLOR asked **REP. HAL HARPER** if the bill required a fiscal note. **REP. HARPER** said a fiscal note is only needed on a bill that either increases or decreases revenue. This bill does neither.

REP. KARL OHS asked **Mr. Simonich** if he believed qualified personnel could be hired under the state pay plan. **Mr. Simonich** replied yes.

REP. HARPER said it has been a well known fact that one of the biggest problems with the state's pay plan is attracting and retaining engineers at specialized levels. He asked **Mr. Simonich** if he was professing that pay plan Rule 1827 has solved those problems. **Mr. Simonich** said the personnel division believes that it is a very good step in solving the problems. The pay plan rule gives the agency more flexibility in managing those problems themselves. In the past in order get a pay exception the department has had to go to the Department of Administration and argue the merits of a pay exception outside of the specific pay plan classification range. The pay plan rule would allow the department flexibility in certain cases to make the pay exceptions without going through the Department of Administration.

REP. CARLEY TUSS said she couldn't figure out the purpose of the bill, why the department is supporting the state pay scale when their turnover is significant and the experience of the board has been steady, stable employment. She said she suspects there is some internal strife among the staff and a way to get rid of personnel they don't want. **REP. TUSS** asked **Dean Swanson, Member, Montana Board of Oil and Gas** to comment. **Mr. Swanson** said at times problems come before the board during their hearings and there has to be a winner and a loser. If **Mr. Richmond**, who makes the first recommendation, differs with someone in the industry, that person is possibly unhappy. He said the board is a quasi-judicial type of operation and occasionally someone is unhappy with the board's operation.

Closing by Sponsor:

REP. HAYNE said the testimony had been explicit and urged the committee to vote in favor of the bill.

HEARING ON HB 128

Opening Statement by Sponsor:

REP. DON LARSON, House District 58, Seeley Lake, said HB 128 expands the definition of a hazardous material incident to include a potential release of a hazardous or deleterious substance. For example, if a tanker truck runs off the road and turns over and the fire department shows up, the department can be compensated even though there was no spillage. Under the present law, if there is no spillage the fire department does not get compensated.

Proponents' Testimony:

Gordon Morris, Director of the Montana Association of Counties (MACO), presented MACO Resolution 94-18 which was adopted in September 1994 by the members of the association. **Exhibit 5** It would be in the best interest of transporters of hazardous material to have emergency responders on the scene of an incident even if no spill occurs because of liability. There was an incident in Lake County where a propane tank went off the road into the ditch and the emergency responders were called. They arrived and were on standby in case a spill occurred. There wasn't any leakage but there was a significant potential for one. After the incident was taken care of without any harm to the environment, the emergency responder made an effort to bill the propane company and was unsuccessful. Taxpayers should not be responsible for the costs. The industries should be responsible for the costs associated with being at the accident even if it is only a potential situation. **Mr. Morris** asked the committee for favorable consideration of HB 128.

Paul Spengler, Lewis and Clark Disaster and Emergency Services Coordinator, President, Montana Disaster and Emergency Services Association supports HB 128. Written testimony. **Exhibit 6.**

James A. Lofftus, President, Montana Fire District Association, said many fire districts in the state have budgets of less than \$25,000 and need to be paid for emergency responses to potentially hazardous incidences.

Robert Mussleman, Member, Montana Disaster and Emergency Services Association, said having first responders on the scene of a potential hazardous materials release significantly reduces potential liabilities of the carrier of hazardous material if the material is released. Compensation to the first responders, even though the hazardous material is not released, is in the best interest of everybody.

Dave Herzberg, Employee, Missoula Rural Fire District, said emergency responders do not clean up hazardous waste spills. Their only obligation is to stop the spread and contain it. He urged the Committee to do pass HB 128.

Bill Reed, Chief, Missoula Rural Fire District, urged the Committee to do pass HB 128.

Opponents' Testimony:

David Owen, Montana Chamber of Commerce, said he understands why rural volunteers and local governments with increased marginal costs have a need, but unfortunately the statute doesn't apply to railroad cars and trucks that are in a heightened state of potential risk. If the word potential is going to be used as if something actual has happened and it is applied to situations where people are handling things such as old underground tanks on

their own property, who will call the emergency responders and at what point do they start recovering some of the costs. **Mr. Owen** said it is troublesome to him when something that nebulous is expanded upon. He encouraged the committee to at least modify the bill.

Tape 2, Side B .

Russ Ritter, Montana Rail Link and Westran Transportation, Missoula, said he wondered what "reasonable costs" would be under law 717. Would the person actually doing the work be paid the same as a person just watching it? **Mr. Ritter** said the concept of the bill is good but needs a few changes. He said the sponsor agreed to an amendment and it is being prepared.

Pat Keim, Director, Government Affairs, Burlington Northern Railroad (BNR), said BNR supports the concept of the bill and recognizes the problem it is trying to address. BNR is concerned that the cost of responding to a hazardous material incident for a small rural fire department has the potential to bankrupt it. Many BNR employees are part of the emergency response groups and many are recipients of the services provided by the small rural volunteer fire departments. The problem with the bill is not the intent. The problem is the bill's ambiguity. There needs to be cost guidelines. There is no definition of the word "incident." "Hazardous material" needs to be defined. BNR is willing to work with the sponsor and proponents of the bill to try to tighten it up. **Mr. Keim** left a copy of equipment and man-hour cost guidelines written by the Department of State Lands. **Exhibit 7**

Ben Havdahl, Montana Motor Carriers' Association (MMCA), said MMCA has a membership of over 400 motor carriers in Montana and a fair percentage of those carriers transport hazardous material. Highway transportation of hazardous materials is a very serious undertaking and the transportation industry does not take it lightly. **Mr Havdahl** displayed a book containing almost 1,000 pages of regulations passed by the Federal Highway Administration, U. S. Department of Transportation and adopted by the Montana Department of Justice. He said there are many pages and sections in the regulations that outline and define all kinds of hazardous materials. Hazardous materials are not just transported in bulk via rail cars or trucks. Hazardous materials are packaged and put in the back of dry vans at times and transported the same as other general commodities. Regulations require that if a vehicle has over 1,000 pounds of hazardous materials, it has to identify the type of hazardous material and meet all the requirements for packaging and shipping. Hazardous material carriers have to carry a minimum of \$1,000,000 in insurance and if transport is involved it is \$5,000,000. The cost of transporting hazardous materials is enormous to carriers. **Mr. Havdahl** said MMCA supports the concept of HB 128 and its amendments.

Steve Turkiewicz, Montana Automobile Dealers' Association,
opposes HB 128.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. JAY STOVALL asked **Mr. Lofftus** if fire districts have their own criteria for charging or is it the same for all fire districts. **Mr. Lofftus** said the charges are pretty standard throughout the state.

REP. KARL OHS asked **Mr. Reed** if gasoline is considered hazardous material. **Mr. Reed** replied yes. **REP. OHS** asked **Mr. Reed** who would be billed if a person filled the gas tank of his car up and it overflowed and the fire department was called. **Mr. Reed** said in most cases the individual rather than the gas station would be charged.

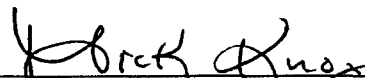
REP. DOUG WAGNER asked **Mr Reed** why the service station shouldn't be billed for having faulty equipment that wouldn't shut off. **Mr. Reed** said it would depend on who was responsible for the overflow.

Closing by Sponsor:

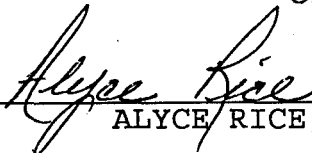
REP. LARSON said a lot of hazardous materials are being moved through Montana and there is always the potential for a spill. Emergency responders should be compensated for the use of their equipment and time. **REP. LARSON** urged the committee to accept the amendment that was offered and do pass as amended.

ADJOURNMENT

Adjournment: 5:35 p.m.



REP. DICK KNOX, Chairman



ALYCE RICE, Secretary

DK/ar

HOUSE OF REPRESENTATIVES

Natural Resources

ROLL CALL

DATE 1-13-95

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---------|--------|---------|
| Rep. Dick Knox, Chairman | | | ✓ |
| Rep. Bill Tash, Vice Chairman, Majority | ✓ | | |
| Rep. Bob Raney, Vice Chairman, Minority | ✓ | | |
| Rep. Aubyn Curtiss | ✓ | | |
| Rep. Jon Ellingson | ✓ | | |
| Rep. David Ewer | ✓ | | |
| Rep. Daniel Fuchs | ✓ | | |
| Rep. Hal Harper | ✓ | | |
| Rep. Karl Ohs | ✓ | | |
| Rep. Scott Orr | ✓ | | |
| Rep. Paul Sliter | ✓ | | |
| Rep. Robert Story | ✓ | | |
| Rep. Jay Stovall | ✓ | | |
| Rep. Emily Swanson | ✓ | | |
| Rep. Lila Taylor | ✓ | | |
| Rep. Cliff Trexler | ✓ | | |
| Rep. Carley Tuss | ✓ | | |
| Rep. Doug Wagner | ✓ | | |

EXHIBIT 1

DATE 1-13-95

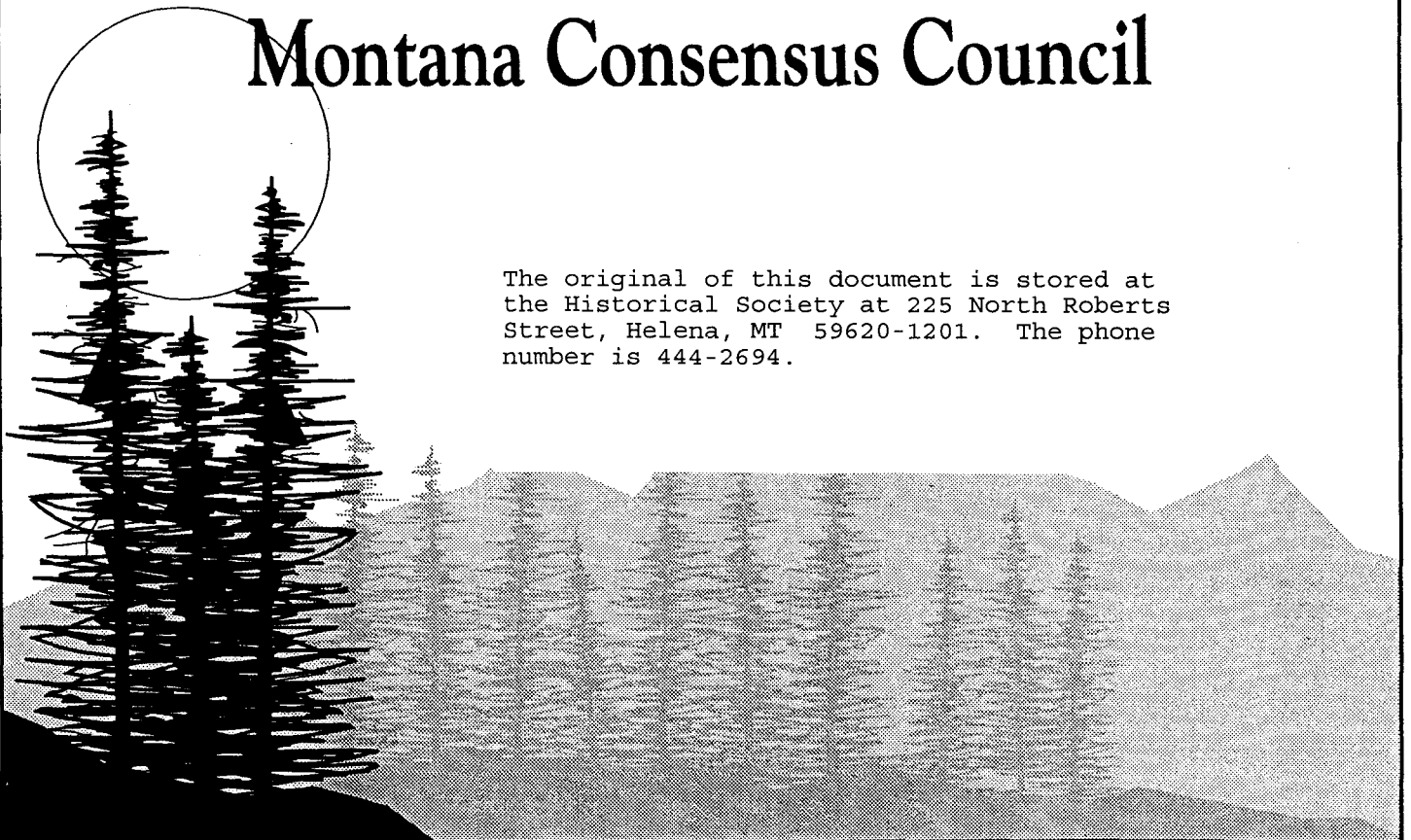
~~CONSENSUS~~ COUNCIL
PRESENTATION

Building Agreement on Natural Resources

1994 Annual Report

Montana Consensus Council

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.



DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION

EXHIBIT 2
DATE 1-13-95
HB 130



MARC RACICOT, GOVERNOR

LEE METCALF BUILDING
1520 EAST SIXTH AVENUE

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-6699
TELEFAX NUMBER (406) 444-6721

PO BOX 202301
HELENA, MONTANA 59620-2301

STATEMENT OF MARK SIMONICH
IN SUPPORT OF H.B. 130

January 13, 1995

I am here today on behalf of Governor Racicot to support H.B. 130. From our standpoint this is a good government bill.

The exemptions this legislation proposes to eliminate were created in another era when some specific expertise relative to oil & gas development was in short supply and very high demand. It was recognized by the legislature at that time that the normal state classification pay scale may not be adequate to fill and maintain the positions necessary to carry out the responsibilities required of the staff of the Board of Oil & Gas Conservation. The same situation does not exist today. Let me briefly describe two issues that relate to this matter.

The first relates to the question of why these Oil & Gas positions should be viewed any differently for the purposes of pay than any other positions within state government. Yes, at one time there was a shortage of qualified individuals to recruit for these positions. At various times in the years since then the state has experienced the same short term problem with a variety of other occupations or career areas. Different types of engineers often are in high demand with a shortage of qualified individuals available to fill necessary positions. Currently computer experts are in very high demand. The state has become very dependent on computers to accomplish our tasks, and, as technology has continued to expand at a rate more rapid than many of us can keep pace with, the individual with expertise in this area has become increasingly more valuable. These individual cases have often been handled through the use of pay exceptions rather than by creating exempt positions.

My second point is recruitment and retention of qualified individuals with specific expertise has been a concern of the state for some time. For this reason the Personnel Division at the Department of Administration implemented Rule #1827, Pay Plan Rules, last June. This new rule provides more flexibility to Department Directors in recruitment and retention of difficult to fill positions.

Department Directors have the flexibility of establishing a rate of pay that varies from the typical rate of pay for a particular grade when it is necessary. A copy of the "Guidelines for Implementation of Rule 1827" is attached.

With this relatively new addition to our personnel management tool chest we believe there is no longer any need for exempt positions at the Board of Oil & Gas.

Let me also clarify, lest there be any confusion, this bill does not affect the ability of the Board of Oil & Gas Conservation to continue to hire and manage its staff. The bill simply eliminates the exemptions, which means the four positions will become classified and will then be administered according to state pay plan rules.

Thank you for your consideration of this very important matter.

Mark

DEPARTMENT OF ADMINISTRATION

STATE PERSONNEL DIVISION



MARC RACICOT, GOVERNOR

MITCHELL BUILDING, ROOM 130
PO BOX 200127

STATE OF MONTANA

(406) 444-3871

HELENA, MONTANA 59620-0127

TO: Agency Directors
Personnel Officers

FROM: Mark Cress *Mark Cress*
Administrator

DATE: June 1, 1994

SUBJECT: Implementation of Rule 1827, Pay Plan Rules

Division Administrator
FYI

RECEIVED
JUN 03 1994
DNRC

Pay Plan rule 1827, INDIVIDUAL PAY PLAN EXCEPTIONS - RECRUITMENT AND RETENTION - AGENCY AUTHORIZED, was amended effective May 1, 1994. The rule delegates authority to Agency Directors to approve pay exceptions,

"... in order to retain employees with unique knowledge, skills and abilities essential to the operation of vital agency services. . ."

The intent of the rule is to shift decision authority from the State Personnel Division to Agency Directors to allow a more effective and proactive approach to retaining key employees. The previous criteria relied on the employee having a bona-fide job offer from another employer before a pay exception could be granted.

GUIDELINES FOR IMPLEMENTATION OF RULE 1827.

We recommend Agency Directors apply criteria similar to those used by the State Personnel Division in approving retention pay exceptions in the past. Those criteria include:

- (1) Persons with similar qualifications are in high demand and limited supply. The agency has experienced difficulty in retaining qualified employees and has been unable to recruit qualified applicants for the position or for positions requiring similar qualifications.
- (2) The agency has required pay exceptions to fill this position in the past or to fill vacant positions requiring similar qualifications.

Agency Directors, Personnel Officers

Page 2

June 1, 1994

- (3) Salary survey data indicates that the employee's pay and benefit package is significantly less than that offered by other employers in the recruitment area for similar qualifications.
- (4) The employee possesses specialized knowledge or skill that is in demand by other employers and would require significant time and investment to replace. The specialized knowledge is unique to the employee. Other employees or applicants could not acquire sufficient expertise without considerable training or experience.
- (5) The specialized knowledge or skill is essential to the provision of statutorily required services.
- (6) The agency has evidence that the employee has applied for other employment or is being recruited by other employers and there is significant risk the employee will resign. It is likely a retention pay exception will cause the employee to remain employed with the agency.

When determining a base salary under this rule, the agency should consider the following:

- Existing salary relationships within the work unit or agency,
- Salary survey data for similar employers in similar labor and economic markets. (Care should be taken to examine the employer's total compensation package including benefits, leave and retirement plans when evaluating salary data.)
- Any job offers made by other employers.

The State Personnel Division may be able to assist agencies in evaluating these criteria by supplying salary survey data or turnover data for related positions or occupations. For assistance contact Ron Wilson (444-3853) or John McEwen (444-3894).

MC/mmb



MONTANA PETROLEUM ASSOCIATION

A Division of the
Rocky Mountain Oil and Gas Association

EXHIBIT 3
DATE 1-13-95
HB 30 Last Chance Gulch, Suite 2B
Post Office Box 1186
Helena, Montana 59624-1186

Gail Abercrombie
Executive Director

Telephone (406) 442-7582
FAX (406) 443-7291

TESTIMONY OPPOSING HOUSE BILL 130

House Natural Resources Committee
January 13, 1995

I am Gail Abercrombie, Executive Director of the Montana Petroleum Association, a Division of the Rocky Mountain Oil and Gas Association. Our members are responsible for ninety percent of the oil and natural gas exploration, development, production, refining and transportation activities in the Rocky Mountain West.

We are opposed to HB 130. The ability of the Board of Oil and Gas Conservation to evaluate the necessary duties of the staff and to set commensurate salaries, and the exemption from certain Department of Administration rules, which is proposed to be struck, are paramount in getting the best people for the Board of Oil and Gas Conservation positions. You can see by the description of the Board membership requirements, starting on line 13 of the first page of the bill, that the Board is a varied group of individuals. The folks serving on the Board are no rubber stamp group. I've been there and have seen the sparks fly.

The State and the industry are being well served by the Board and its staff. For the oil and gas conservation professional staff there is a level of education and experience that is necessary to fulfill the duties and responsibilities. At every Board meeting, permit applications are submitted by major U.S. and Canadian exploration companies, as well as by small entrepreneurial companies. It behooves the credibility of the state and its agency to have the technical expertise on staff to deftly and with depth of knowledge evaluate all range of sophistication in permit or other applications.

The oil and gas industry funds, through the license and privilege tax on production and through fees, the activities of the Board. We are willing to pay for the state to have qualified professionals on the Board staff. The salary determinations by the Board are an integral part of competing for qualified professionals.

I wish some of you could have been in on across-the-table discussions of decline curve calculations. Some very talented petroleum and reservoir engineers from industry were head to head with the Board staff, and none of them skipped a beat. That is, each knew what the other was talking about, and were equal matches for each other. That's the kind of staff the state needs and has.

To use the old adage, If it ain't broke, don't fix it.

The Montana Petroleum Association urges you to vote NO on House Bill 130.

EXHIBIT 4
DATE 1-13-95
HB 130

DAVID SCHAENEN

Consultant
Oil & Gas
Public Lands Matters

Mailing Address

P.O. Box 2343
Billings, MT 59103

January 13, 1995

House Natural Resources Committee
State Capitol Building
Helena, Montana 59601

Re: HB 130 - An Act to Remove
Exempt Position from the
Board of Oil & Gas Conservation

Gentlemen:

I am writing to oppose the subject Bill and ask that you vote "NO" as to the passage of same.

Having served on the Board of Oil and Conservation, I am acutely aware of the unique qualification required for the present two exempt positions.

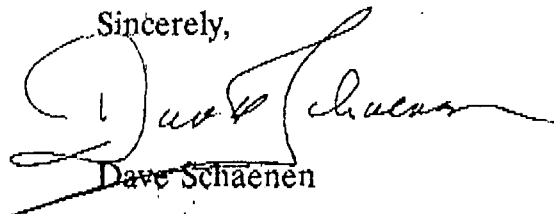
I'm sure you recognize that the oil and gas industry funds the operation of the Commission through the taxation process. Because the exploration and production phases of the industry are supervised by the staff of the Commission, it becomes incumbent on us to be assured that the most knowledgeable and qualified individuals are hired.

Removing the exempt status from these positions will significantly reduce the Board's ability to hire the type of qualified, professional staff that they require.

I urge you to vote NO on the H.B. 130.

Thank you for your consideration.

Sincerely,


Dave Schaenen

DS:aw

EXHIBIT 5
DATE 1-13-95
HB 128

RESOLUTION 94-18

HAZARDOUS MATERIAL INCIDENT

WHEREAS, MCA 75-10-716(2) now reads "Hazardous material incident" means a release involving a hazardous or deleterious substance that endangers property, public health, or public safety, and

WHEREAS, in 75-10-717 authority is given to emergency responders to recover costs of a hazardous material incident, including the release of a hazardous material, but not the potential release, and

WHEREAS, an emergency response is the same if it is a known release of a product or an anticipated release of the product; and

WHEREAS, if a propane tanker rolled over, emergency responders will respond and incur costs, and

WHEREAS, if a release does or does not occur, the cost should still be recoverable from the transporter, owner, etc., and

WHEREAS, a propane company in Lake County would not pay for response costs of local emergency responders because there was no release and they cited that the law covers releases only.

NOW, THEREFORE BE IT RESOLVED, that MCA 75-10-716(2) should be amended to include a potential release and read as follows: "Hazardous material incident" means a release or potential release involving a hazardous or deleterious substance that endangers property, public health, or public safety.

SUBMITTED BY: Districts 6 & 7

RECOMMENDATION: DO PASS

PRIORITY: MEDIUM

ADOPTED: September 21, 1994

TESTIMONY FOR HB 128 TO AMEND HAZMAT LAW TO INCLUDE A POTENTIAL RELEASE

The Montana Disaster and Emergency Services Association supports HB 128 which would amend the current law to pay for the response costs associated with a potential release of a hazardous material.

A liquid propane gas truck recently overturned in Lake County and the fire and sheriff's department responded to the accident, assuming that the gas was leaking.

When the responders billed the trucking company for the response cost, which is allowed if there is a hazardous materials release, the payment was refused because there was no release of the gas.

Amending the law to include a potential release, so responders could recoup their costs, would not only provide that the responsible party pay for its accident, but it would encourage companies that handle hazardous materials to be safer when handling these products.

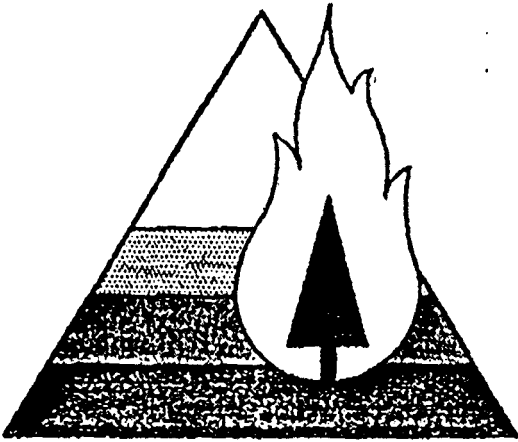
An accident will happen again involving hazardous materials, and it is not fair if the emergency responders must bear the burden of the total cost if there is not a release of product. Emergency response agencies respond assuming that a release has occurred, because that is their job, which is to protect our lives and property.

Please do not financially burden our emergency responders by allowing this loop hole to remain in the law.

Paul Spengler, Lewis and Clark County Disaster and Emergency Services Coordinator and Montana Disaster and Emergency Services Association President, 221 Breckenridge, Helena, MT 59601, 447-8285.

EXHIBIT 7DATE 1-13-95HB 128

MONTANA DEPARTMENT OF STATE LANDS



Forestry Division
Fire Management Bureau
2705 Spurgin Road
Missoula, Montana 59801
(406) 542-4250 TELEPHONE
(406) 542-4242 TELEFAX

Telefax Transmittal Cover Sheet

TO: PAT KOEIM BNRRFROM: Tim MURPHY DSCDATE: 1/13

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

PAGES TO FOLLOW:

MESSAGE: Equipment Rets for you
Request

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

House Natural Resources COMMITTEE
BILL NO. 128 SPONSOR Rep. LARSON

DATE 1-13-95

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| NAME AND ADDRESS | REPRESENTING | Support | Oppose |
|---|--|---------|--------|
| <i>A.G. Ziegler</i> | <i>Yellowstone Co</i> | ✓ | |
| <i>James G. Toffers</i> <i>MISSOULA MT</i> | <i>MT FIRE DIST ASSN</i> | ✓ | |
| <i>Bill Reed</i> | <i>Missoula Rural Fire Dist</i> | ✓ | |
| <i>Dave Herzberg</i> | <i>Missoula Rural Fire Dist</i> | ✓ | |
| <i>Larry Brown</i> | <i>Ag Pres. Assoc</i> | — | — |
| <i>Jim Mockler</i> | <i>MT Coal Council</i> | | ✓ |
| <i>Stan Stumberg</i> | <i>MT Dept of Trans</i> | | |
| <i>Gordon Mann</i> | <i>MACo</i> | ✓ | |
| <i>Russ Ritter</i> | | | ✓ |
| <i>Paul Spangler</i> | <i>MONT. DIS. & EM. SVCS. ASSOC.</i> | ✓ | |
| <i>PAT Heim</i> | <i>Burlington Northern</i> | | — |
| <i>Steve BARRY</i> | <i>mHP - Justice</i> | | |
| <i>Ben Howard</i> | <i>MT Motor Carrier Assn</i> | | ✓ |

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CS-14

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 130
 DATE Jan. 13, 1995 SPONSOR(S) Rep. N. Haynes

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| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|-------------------------|-------------------|------|--------|---------|
| Jon Hjartarson | | | | |
| Larry Brown | Ag. Pres. Assoc. | | | |
| STANLEY Lund, Reservoir | MT Bd O+G C | | X | |
| DEAN SWANSON, POKON | MT BOGC | | X | |
| TOM RICHMOND, BILLING | MT BOGC | | X | |
| MARK Simonich | Governors Office | | | X |
| Harold Abercrombie | MT Petroleum Assn | | X | |
| Jack Hagne | | | | X |
| Art J. O'Reilly | | | | X |
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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

House Natural Resources COMMITTEE DATE 1-13-95
BILL NO. HB 130 SPONSOR(S) Rep. Harriett Haynes

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| NAME AND ADDRESS | REPRESENTING | Support | Oppose |
|------------------|------------------------|---------|--------|
| Ronna Alexander | MT Petroleum Marteters | | X |
| Paul Abercrombie | MT Petroleum Assn | | X |
| ROBERT MYSSERMAN | Mt. DES ASSN | X | |
| Anne Hedges | MEIC | X | |
| David Dwyer | mt chamber | | ✓ |
| Kew Williams | ENtech | | ✓ |
| Gene Turkiewicz | Mt. Auto Dealers Assn | | ✓ |
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