

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION**

#### **JOINT SUBCOMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN ROGER DEBRUYCKER**, on January 25, 1995, at 8:00 a.m. in Room 402 of the State Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Roger DeBruycker, Chairman (R)  
Sen. Thomas F. Keating, Vice Chairman (R)  
Sen. Judy H. Jacobson (D)  
Sen. Loren Jenkins (R)  
Rep. John Johnson (D)  
Rep. William R. Wiseman (R)

**Members Excused:** Rep. Johnson excused 8 a.m. - 11 a.m.  
Sen. Keating excused 8 a.m. - 9 a.m.

**Members Absent:** none

**Staff Present:** Roger Lloyd, Legislative Fiscal Analyst  
Florine Smith, Office of Budget & Program  
Planning  
Debbie Rostocki, Committee Secretary

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

##### **Committee Business Summary:**

Hearing: none  
Executive Action: Department of Public Service Regulation  
Department of Agriculture  
-Agricultural Sciences Division  
-Central Services Division  
Department of State Lands  
-Central Management Division  
-Reclamation Division  
-Land Administration Division  
-Forestry Division

**SEN. JUDY JACOBSON** announced she had been authorized by **REP. JOHN JOHNSON** to cast proxy votes for him and **CHAIRMAN ROGER DEBRUYCKER** stated **SEN. THOMAS KEATING** had authorized him to cast proxy votes.

**EXECUTIVE ACTION ON Department of Public Service Regulation**

**Motion/vote:** REP. WILLIAM WISEMAN moved to reconsider the budget of the Department of Public Service Regulation; SEN. JACOBSON seconded the motion. Motion **carried** unanimously.

**Discussion:** Public Service Commission (PSC) Chairperson **Nancy McCaffree** explained this committee's decision on January 17, 1995 had been to remove six FTE from the Transportation Division: two from the field and four from the Helena office. She requested the mix be changed to four from the field and two from the Helena office.

**Motion:** REP. WISEMAN moved and SEN. JACOBSON seconded to make the change as requested.

**Discussion:** In response to SEN. LOREN JENKINS, Mr. Roger Lloyd, Legislative Fiscal Analyst (LFA), said he had removed six FTE from the PSC budget based on the department's information for a total reduction in the budget of \$186,584 in 1996 and \$187,313 in 1997.

PSC member **Wayne Budt** said the field positions were grade 12 and there were people in the office who were grade 12 compliance officers as well. Under REP. WISEMAN'S motion all four of the field positions are grade 12's. Two of the positions proposed to be removed from the Helena office (under both REP. WISEMAN'S motion and the original motion on January 17) would be what is on the LFA's list. The original motion proposes to remove a grade 9, 3 grade 12's, a grade 14 and a grade 15. **Chairperson McCaffree's** request proposes to remove four grade 12's, the grade 15 and the grade 14, which would further reduce the budget.

In response to SEN. JENKINS, Mr. Budt said if the bill to deregulate trucking on the state level passes, the PSC will make further staff reductions. If the bill does not pass, SEN. JENKINS wanted to know who would be doing PSC's regulating, if four positions were removed from the field. Mr. Budt said one position in Helena would coordinate the effort and handle as much of the work as he can. The rest of the enforcement would be passed to the Highway Patrol and "the GVW." Two office positions would be reduced from Helena but one field position would be transferred to Helena although it would not be doing what the two positions had been doing (handling tariffs and complaints). If the field staff is reduced to one, it makes sense for it to be coordinated out of Helena.

SEN. JENKINS wanted to know what kind of enforcement would be required in light of the deregulation of intrastate trucking. Mr. Budt replied they would still be enforcing the Commission's tariffs and authorities of the commodities that are operating inside the state, such as household goods and passenger carriers. Enforcement duties would remain the same but the number of

commodities would be more limited. The Commission's one rail safety inspector would remain on board.

**Vote:** The question was called for and the motion **carried** with **SEN. JENKINS** opposed and **SEN. KEATING** and **REP. JOHNSON** voting "yes" by proxy.

**Motion/vote:** **REP. WISEMAN** moved and **SEN. JACOBSON** seconded to close the section on the Department of Public Service Regulation. The motion **carried** unanimously.

**EXECUTIVE ACTION ON Department of Agriculture**  
**Agricultural Sciences Division**

**Motion:** **REP. WISEMAN** moved to accept Present Law (PL) Adjustments No. 4, 5, 6, 7 and 8 on p. C-125; **SEN. JACOBSON** seconded the motion.

**Discussion:** In response to **SEN. JENKINS**, **Mr. Lloyd** explained why the noxious weed grants had been reduced. The last legislative session authorized increased grant authority for funds which became available over the level of the noxious weed trust cap; these funds have been spent and are in the base. Since the fund has reached its cap, there is a steady ongoing source of revenue from weed vehicle fees and interest from the trust.

**Vote:** The question was called for and the motion **carried** unanimously with **SEN. KEATING** and **REP. JOHNSON** leaving "yes" votes by proxy.

Discussion took place regarding the department's increasing present law funding for employee and pesticide applicator training while proposing to remove a training and development specialist; proposing to add new laboratory equipment and chemistry services while proposing to eliminate a chemist; adding under present law travel expenses to do more pesticide and agricultural inspections while proposing to eliminate 3 FTE agricultural inspectors and proposing to reduce personal services funding while providing for additional overtime funding in present law.

**Mr. Leo Giacometto**, Director of the Department of Agriculture, explained that when the budget was formulated it was done in anticipation of being expected to maintain funding at the 1994 base level. However, after this work was completed the "ag groups" objected to the recommendations and argued that it was their money and federal money supporting these services. Regarding the committee's action to accept PL No. 4, he said it was his belief that if New Proposal No. 6 was not approved, PL No. 4 would "fall into place." Contracted services account for some of the services being eliminated in the new proposal. If the new proposal was approved, however, the department would not be able to spend the \$152,000 per year of grant money to hire the contracted positions. **Mr. Lloyd** said the five positions were

connected with PL No. 4 in the sense that the authority approved in PL No. 4 is what some of the positions would be using. If New Proposal No. 6 is approved approximately \$95,000 of federal authority is funding the reduction and this would reduce the amount of indirect costs funding for the Central Management division.

**REP. WISEMAN** wanted to know what was presently in the base for Environmental Protection Agency (EPA) grant funds (re: New Proposal No. 7). **Tape No. 1:B:000**

**Mr. Giacometto** said \$390,000 per year is in the base for federal special funding. Most of the "new money" is related to the new federal Worker Protection Program, which requires that any individuals dealing with pesticides have to be trained and licensed. He added that if this act was not administered at the state level the federal government would come in and do it. The state's licensed pesticide applicators have indicated they would prefer the state to handle it.

**Mr. Gary Gingery** explained the provisions of the Worker Protection Act. The act will primarily impact seasonal workers. If the workers are not in enclosed cabs, protective clothing needs to be provided and information on what is going on needs to be posted within a specific timeframe. **SEN. JENKINS** expressed frustration with the state being forced to implement federal laws and rules that in some cases are not applicable to Montana. **CHAIRMAN DEBRUYCKER** suggested that the EPA might not have enough personnel to take over the program. **Mr. Giacometto** felt turning authority back to the federal government should not be done in a piecemeal fashion.

**Motion:** **REP. WISEMAN** moved to accept New Proposals No. 1, 2, 3, 4, 5 and 6 on p. C-127; **CHAIRMAN DEBRUYCKER** seconded the motion.

**Motion:** **SEN. JENKINS** moved that the vote on New Proposal No. 6 be segregated. **CHAIRMAN DEBRUYCKER** seconded the motion. The motion **carried** with **REP. WISEMAN** opposed.

**Vote:** The question was then called for on **REP. WISEMAN'S** motion, not including New Proposal No. 6. The motion **carried** unanimously. (**SEN. KEATING** and **REP. JOHNSON** voted "yes" by proxy.)

**Discussion:** **Mr. Giacometto** explained the majority of the funding under New Proposal No. 6 was federal and some was state special related to the Montana Environmental Protection Act (MEPA). If the new proposal is not approved, the 18% of those funds which go to the Central Management Division as indirect costs would not be available to help pay for pay increases. How the contracted services in PL No. 4 would be funded if the funding in New Proposal No. 6 was not available is unknown at this time.

**Vote:** The question was then called for on the motion to accept New Proposal No. 6. The motion **carried** with **SEN. JENKINS**

opposed. (REP. JOHNSON excused and SEN. KEATING voting "yes" by proxy.)

**Motion/vote:** SEN. JACOBSON moved to accept New Proposal No. 7; SEN. JENKINS seconded the motion. The motion failed on a tie vote, with SEN. KEATING (by proxy), CHAIRMAN DEBRUYCKER and REP. WISEMAN opposed and SEN. JENKINS, SEN. JACOBSON and REP. JOHNSON (by proxy) voting "yes."

**EXECUTIVE ACTION ON Department of Agriculture**  
**Central Services Division**

**Motion/vote:** SEN. JACOBSON moved to accept PL Adjustments No. 4 and 5 on p. C-122; SEN. JENKINS seconded the motion. Motion carried with CHAIRMAN DEBRUYCKER and REP. WISEMAN opposed. (REP. JOHNSON voted "yes" by proxy.) Tape No. 2:A:000

Mr. Giacometto said the committee's action to accept New Proposal No. 6 in the Agricultural Sciences Division would result in the need to replace federal and state special funding in the department with \$26,231 in 1996 and \$26,246 in 1997 from the general fund. Federal special funding would be reduced by \$18,332 in 1996 and \$18,347 in 1997 and state special funding would be reduced by \$5,406 in both years.

**Motion/vote:** SEN. JENKINS moved to accept New Proposal No. 1 on p. C-122 and REP. WISEMAN seconded the motion. Motion carried unanimously.

**Discussion:** Mr. Lloyd asked the committee what it wanted to do regarding the loss of state and federal indirect cost funding which had resulted from the passage of New Proposal No. 6 in the Agricultural Sciences Division. Mr. Giacometto encouraged the committee to reconsider its action on the Agricultural Sciences Division's New Proposal No. 6.

SEN. JACOBSON asked, if these positions were kept in the budget, where the money would be found to fund the pay plan. Mr. Giacometto said if those positions were reinstated in order to get the authority to spend the indirect costs portion of the funding, then the general fund for the department wouldn't have to be increased. REP. WISEMAN said the question is whether \$158,000 per year was going to be spent to save \$26,000.

**Motion/vote:** SEN. KEATING moved to increase general funding for the department by approximately \$26,000 per year and reduce state and federal special funding by the same amount. REP. WISEMAN seconded the motion. The motion carried with SEN. JENKINS opposed and REP. JOHNSON voting "yes" by proxy.

**Motion/vote:** REP. WISEMAN moved to close the section on the Department of Agriculture. The motion carried unanimously.

EXECUTIVE ACTION ON Department of State Lands  
Central Management Division

**Testimony:** REP. SAM KITZENBERG, Glasgow, spoke to the committee regarding state land equalization payments (p. C-55). When former state senator Ed Carney finally got legislation passed in 1967 to reimburse "in lieu of" payments on state lands, he thought this would result in tax equalization as far as the 20 counties than have more than 6% of their area in state lands. It started out well, but payment has fallen off to the point where it is down now to 50% of what is actually owed. He requested that the committee restore the money to raise annual equalization payments from \$265,000 to \$532,983. REP. KITZENBERG is also trying to recoup lost money (HB 124): currently Montana under statute owes these counties close to \$2 million. He submitted that since 100% equalization is required in the statutes it should be done. He added that these counties needed the funding badly.

SEN. JACOBSON pointed out that special education and transportation funding were two other areas where funding was not provided even though it was required by statute. She suggested that more than just this budget needed to be examined if the principle of funding what is provided under the law was going to be followed.

The committee then considered the PL Adjustments for the division on p. C-53. REP. WISEMAN wanted to know what the increase in the general fund portion of the budget was funding. Mr. Bob Kuchenbrod, Central Management Division Administrator, said the money identified in the personal services increases was a combination of several things including salary increases. Mr. Lloyd pointed out that PL Adjustments No. 3 and 4 represent a general fund decrease. This is offset by the general fund increase in PL No. 10 which is related to the "double counting" in air operations funding. The general fund increase is transferred into the proprietary account but it is still a \$188,677 increase in general fund (p. C-54). The executive has increased that because the proprietary account fund balance is not adequate to fund it because the last Legislature used that fund balance to reduce general fund. This account had been accumulating funds in expectation of fixed costs related to the major overhauls of the aircraft. Now the account does not have adequate funds to pay for these costs so general fund is being requested.

Tape No. 2:B:000

Mr. Lloyd said the level of general fund support traditionally budgeted for the proprietary account was reflected in the PL adjustment. The variable costs are charged out on rates. Mr. Kuchenbrod distributed an outline of the fixed costs proposed to be covered by general fund in Air Operations. EXHIBIT 1 \$188,000 is the amount of the increase but the total amount which would be funding air operations from general fund is \$312,000. He pointed out that administrative costs only covered a portion of the total

cost for insurance, which runs about \$24,000 or more. **Mr. Kuchenbrod** said DSL had done a cash flow analysis showing that the amount of money received in revenues and the proposed appropriation would result in a cash balance of about \$140,000 at the end of the biennium. They would anticipate using that amount for major overhauls and repairs. The intention with the account was to save a little money through rates so when big cost items came along the department wouldn't have to go somewhere else to fund them. Discussion took place regarding the double counting of proprietary money.

**Mr. Kuchenbrod** reviewed the aircraft maintenance activity (**EXHIBIT 1**/New Proposal No. 1). Some of the major maintenance was paid for in the current biennium. Maintenance had to be done before the expected date. DSL is asking for \$142,450 less than the original request for 1996 and \$45,636 more in 1997.

In response to **CHAIRMAN DEBRUYCKER**, **Mr. Lloyd** said the difference between the increase in general fund in PL No. 10 and the reductions in PL Adjustments 3 and 4 was roughly the net amount of general fund increase in present law. He cautioned that it was difficult to break out exactly how much general fund was supporting any one area. **SEN. JENKINS** wanted to know if the savings in general fund in New Proposal No. 2 (p. C-55) would also be reflected as an increase in the proprietary account. **Mr. Lloyd** said this was another case of double counting. Wherever general funds are reduced proprietary funds are reduced by a like amount. New Proposal No. 1 reduces general fund but because they are now adding \$25,550 of general fund (revised request, **EXHIBIT 1**) this also has to be budgeted as a transfer into the proprietary account for increased proprietary authority. This \$25,550 is thus double-counted. The revised new proposal reflects a reduction in general funding and this amount also needs to be applied to the proprietary funds because of the accounting mechanisms.

In response to **SEN. KEATING**, **Mr. Kuchenbrod** said all of the division's permanent positions are filled. Some of the FTE are seasonal pilots and these positions are not currently filled. The removal of three FTE during the special session put the division down to "the old bare bones." The personal services reduction in New Proposal No. 2 will have to be taken in some other division.

**Motion/vote:** **SEN. JENKINS** moved to accept PL Adjustments No. 4, 5, 9, 10 and 11. **REP. WISEMAN** seconded the motion. Motion carried with **CHAIRMAN DEBRUYCKER** opposed and **REP. JOHNSON** voting "yes" by proxy.

**Motion:** **REP. WISEMAN** moved to accept PL No. 7 at the level of \$25,000 per year.

**Discussion:** SEN. JACOBSON said it was her understanding that using the seven year average, gasoline consumption would be \$33,100.

**Amended motion/vote:** REP. WISEMAN amended his motion to fund PL No. 7 at \$33,000 per year. SEN. JACOBSON seconded the motion. The question was called and the motion **carried** unanimously, with REP. JOHNSON voting "yes" by proxy.

PL Adjustment No. 8 was then discussed. Mr. Kuchenbrod explained the skids on helicopters are not the length required to land in some rough areas. Also a bubble window needs to be put on the aircraft to improve ground observations. **Tape No. 3:A:000**  
The source of funding for this is proprietary. The new helicopters will bring in more revenue and therefore they need the spending authority, but only in the proprietary account.

**Motion:** SEN. KEATING moved to accept PL No. 8 on p. C-53; SEN. JACOBSON seconded the motion.

REP. WISEMAN wanted to know how long the helicopters had been operated as presently configured and how many accidents there had been. State Forester Don Artley replied that DSL has been phasing in military excess helicopters over the past ten years. There have been no serious accidents; however, in the summer of 1994 one helicopter had a rotor blade hit a treetop on a steep slope. There was another case of a mechanical failure that caused "auto-rotation" and resulted in a hard landing. REP. WISEMAN suggested that the PL request was related to FAA (Federal Aviation Administration) rules and regulations only and was not necessary. Ms. Florine Smith, Office of Budget and Program Planning (OBPP) said that PL No. 8 was not related to the request for special landing skids or the bubble door, which were contained in a New Proposal in the Forestry Division. This PL adjustment continues funding for the two new helicopters received in the current biennium and now in service. Mr. Kuchenbrod said the new helicopters are not modified. If this spending authority is not approved, DSL will be short in its proprietary account to pay costs. Mr. Lloyd explained the retrofitting approved in the 1993 special legislative session inflated the 1994 base and DSL wanted the appropriated level for 1995 used to establish the base. The amount in the PL request reflects the total operating costs needed to continue operating these two aircraft.

In response to SEN. JENKINS, Mr. Kuchenbrod explained the base that was established included not only operating costs (\$58,560) but also personal services (\$41,000) for a truck driver and some other personnel. The \$41,000 and staff was removed from this division's budget and transferred to the Forestry Division.

**Vote:** The question was called for and the motion **carried** unanimously. (REP. JOHNSON voted "yes" by proxy.)



**Discussion:** Mr. Lloyd explained to SEN. JENKINS that when .55 FTE was moved to the Forestry Division, there was a corresponding transfer of funding, which is reflected in PL No. 5. A portion of the modification remains in personal services in this division which makes up the remainder of the \$11,000 in general fund. The \$9,224 state special was also transferred to the Forestry Division.

**Motion:** SEN. JENKINS moved to accept New Proposal No. 1 on p. C-55, with the revised figures of \$25,550 in 1996 and \$91,136 in 1997 in general fund, with total funding levels at \$51,100 in FY96 and \$182,272 in FY97.

**Discussion:** Mr. Lloyd reiterated that this was strictly a general fund request but due to the accounting, it shows up also as proprietary funding.

**Vote:** REP. WISEMAN seconded the motion. Motion carried unanimously with REP. JOHNSON voting "yes" by proxy.

There was a short discussion regarding LFA Option No. 1 on p. C-56.

#### **EXECUTIVE ACTION ON DSL Reclamation Division**

Ms. Smith referred the committee to New Proposal No. 2 on p. C-62. New figures have been provided for this proposal. There was funding switch for the personal services reductions. The correct negative figures for state special and federal revenue funds are (\$43,138) and (\$31,108) in 1996. In 1997 the figures are (\$45,086) and (\$35,725). Mr. Kuchenbrod said when the budget was put together the position was identified to come out of state special funding from the Environmental Impact Statement (EIS) Program. Since this program only has three FTE that can't be done. Instead they are asking that the position being eliminated come out of the Abandoned Mine Program. This would be federal dollars. The rest of the personal services reduction would be applied to contract-related spending authority within the EIS program. If there was a chance to move this funding back where it should be this would be done. The original vacancy savings of about \$50,000 per year would come from the EIS spending authority.

Ms. Smith explained to SEN. JENKINS the funding for New Proposal No. 1 was a split between federal and state special revenue. \$6,500 is coming from the Resource Indemnity Trust (RIT) money and \$4,500 is coming out of federal reclamation.

SEN. KEATING was told that all 51.43 FTE were currently on board in this Division.

**Tape No. 3:B:000**

SEN. KEATING wanted to know how much of the division's budget was in spending authority. Mr. Kuchenbrod said the \$3 million in EIS funding is strictly spending authority. \$200,000 in bond forfeitures is anticipated in spending authority. SEN. KEATING

wanted to know how certain the EIS figure was. **Mr. Gary Amestoy**, Administrator of the Reclamation Division, replied that the spending authority request envisions that five EIS's at a cost of \$500,000-\$600,000 each and a few major Environmental Analyses (EA's) at about \$50,000 each are expected, based on annual averages. **REP. WISEMAN** pointed out that in the past spending was significantly lower than what was appropriated. **Mr. Amestoy** stressed that they were only requesting spending authority. Providing spending authority now will help expedite the process for EIS applications. The lower spending levels reflected on p. C-61 are because only portions of the total costs for EIS's are spent in any one year. Discussion took place regarding going in for budget amendments vs. being appropriated spending authority during the legislative process. In response to **SEN. KEATING**, **Mr. Amestoy** said the money for the Abandoned Mines Land Account was forthcoming. These funds are derived from the \$.35 per ton Abandoned Mine tax on coal mined in the state. The state is eligible to receive half of this revenue and the other half is kept by the Secretary of the Interior for abandoned mine reclamation problems in other states.

**Motion:** **REP. WISEMAN** moved to accept PL No. 4 on p. C-59, amended to the level of \$773,453 in 1996 and \$73,453 in 1997, with exactly where the reduction in the executive budget is to take place left up to DSL. **SEN. KEATING** seconded the motion.

**Discussion:** **Mr. Amestoy** expressed concern about whether or not the budget amendment process would be a good approach.

**Vote:** The question was called for and the motion **carried** unanimously.

**Motion:** **SEN. KEATING** moved to accept PL Adjustments No. 5 and 7. **SEN. JACOBSON** seconded the motion.

**Discussion:** **Mr. Lloyd** said DSL would like some language in HB 2 that would allow them to move spending authority between federal and state special revenue for the library transfer (PL No. 7). **Mr. Kuchenbrod** said currently funding is 75/25. If this money is specifically appropriated it can't be transferred. In anticipation of the split changing, DSL is requesting language saying the \$20,000 could be expended either out of the federal special or the state special account, but not to exceed \$20,000.

**Amended motion:** **SEN. KEATING** amended his motion regarding PL No. 7 to incorporate the language **Mr. Kuchenbrod** requested and he specified that this authorization was to apply only to the \$20,000 each year in PL No. 7. The motion was seconded.

**Vote:** The question was called for and the motion **carried** with **CHAIRMAN DEBRUYCKER** opposed.

**Motion/vote:** REP. WISEMAN moved to accept PL Adjustment No. 6 on p. C-59; SEN. JACOBSON seconded the motion. The motion carried with SEN. JENKINS opposed.

**Motion/vote:** SEN. JENKINS moved to accept New Proposals No. 1 and 2 on p. C-62. REP. WISEMAN seconded the motion. The motion carried unanimously.

Ms. Smith presented a third new proposal from the OBPP, to restore 4.07 FTE, resulting in increases of \$203,434 in FY 96 and \$163,446 in FY 9, supported by the general fund.

Mr. Amestoy explained the FTE were made up of 1.07 FTE which was lost in the last Legislature and three additional FTE. The audit identified that there were deficiencies in the area of field work and office follow-up work regarding inspections, enforcement, recordkeeping and the documentation of decision-making. The FTE lost in the last Legislature included a .5 FTE reclamation specialist, a .5 FTE attorney and a .07 FTE records technician. The reductions were based on a dollar amount and this is why they were not whole FTE. The three additional FTE being requested are one FTE reclamation specialist to do work in the field, one FTE hydrologic technician with field and office responsibilities and one FTE inspection supervisor to oversee and make sure that all the mines are inspected regularly and all the proper documentation and follow-up is taken care of in a timely manner.

**Motion:** SEN. JACOBSON moved to accept the additional new proposal as presented by Ms. Smith. REP. JOHNSON seconded the motion by proxy.

**Discussion:** Mr. Lloyd requested that the motion also include the committee's concurrence to make adjustments in operations and equipment based on what personal services actually came out to be. Mr. Amestoy pointed out that originally they had considered asking for 8-15 more FTE but had scaled back their request to this more modest proposal.

**Vote:** The question was called for and the motion failed with SEN. JACOBSON and REP. JOHNSON (by proxy) voting "yes."

#### EXECUTIVE ACTION ON DSL Land Administration Division

**Motion/vote:** SEN. KEATING moved to accept PL Adjustment No. 1 on p. C-65; REP. WISEMAN seconded the motion. The motion carried unanimously, with REP. JOHNSON voting "yes" by proxy.

**Discussion:** REP. WISEMAN wanted to know what was in the base budget for EIS's and Mr. Lloyd told him nothing was.

**Motion/vote:** SEN. KEATING moved to accept PL Adjustments No. 5, 6 and 7; SEN. JACOBSON seconded the motion. The motion carried

with CHAIRMAN DEBRUYCKER opposed. (REP. JOHNSON voted "yes" by proxy.)

**Motion:** SEN. JENKINS moved to accept PL Adjustment No. 8; SEN. JACOBSON seconded the motion.

**Discussion:** SEN. KEATING wanted to know if the department intended to spend the entire appropriated amount. Mr. Jeff Hagener, Land Division Administrator, said that was their intent. They are getting into more of a biological control effort and will probably spend most of the funding on this.

**Vote:** The question was called for and the motion carried unanimously.

**Discussion:** SEN. KEATING wanted to know how much money was in the equipment budget base. Mr. Hagener said the actual expended amount for 1994 was \$25,889 and he expected the FY 95 figures to be equivalent to this amount. The reason for the requested increase is because all nine of the vehicles will have more than 100,000 miles on them by the end of 1997.

SEN. JENKINS wanted more information on the request for computer equipment. "Don't them darn things last more than a while; what wears out on them?" Mr. Hagener replied that most of the computers being replaced were noncompatible with current software. Some of their computers are "XT's" which are quite old. SEN. JACOBSON revealed that Montana Tech was giving away "286's", and the "XT's" are even older than these.

**Motion:** SEN. JACOBSON moved to accept PL Adjustments No. 9 and 10. REP. WISEMAN seconded the motion.

**Discussion:** Mr. Hagener said PL No. 10 includes the money currently being paid for assessments on the Continental Divide Subdivision in Billings as well as some contracted services currently being used to continue monitoring of the federal farm programs funds they receive. Currently they receive about \$3 million and if it is not audited it is hard to keep track of. In some years they have lost as much as \$500,000-\$600,000 that was not kept track of.

Discussion took place regarding the lawsuit for disaster money under the farm program. Mr. Hagener said DSL won the case at the local district court level but the federal government has appealed it through the ninth district court. \$3-12 million is estimated to be tied up in the case. Every year from 1988 to the present the state was declared ineligible for disaster money because it was considered a multimillion dollar corporation. DSL proved, in the legislation passed in 1985, that there is a specific exemption given to educational trusts, so the state should be eligible for that money.

**Vote:** The question was called for and the motion **carried** unanimously.

**Motion/vote:** SEN. JACOBSON moved to **accept New Proposal No. 1** on p. C-66; the motion was seconded by several committee members. The motion **carried** unanimously.

**EXECUTIVE ACTION ON DSL Forestry Division**

Mr. Lloyd referred the committee to a revised Present Law Adjustment Table for the Forestry Division. **EXHIBIT 2** He requested that the exhibit be used in lieu of the figures on p. C-69 as the basis for any motions.

**Motion/vote:** SEN. JACOBSON moved to accept PL Adjustments No. 4 and 5 (per EXH. 2); REP. WISEMAN seconded the motion. The motion **carried** unanimously. (REP. JOHNSON voted "yes" by proxy.)

**Tape No. 4:B:000**

REP. JOHNSON arrived at the meeting.

Regarding PL No. 6, SEN. JACOBSON stated that because of the way the Land Board is now charging a variable fee, there has been a windfall of money coming into this account and the department is asking for a "fair chunk" of that for road maintenance, tree thinning and reforestation above and beyond what has been being done on a yearly basis, as a form of "catching up." Mr. Artley agreed and added that before DSL became able to adjust its rates there had been under-funding of these efforts. He added that DSL fully expects this amount of money to come in.

Mr. Lloyd pointed out a typographical error on **EXHIBIT 2**: The column heading "Adjustments Fiscal 1996" should read "Adjustments Fiscal 1997", the figure for PL No. 6 for FY 1997 should be \$829,040 and PL No. 13 should be \$23,198 in FY 97.

In response to SEN. JENKINS, Mr. Artley said they are asking for authority to spend the money which has already been generated. Fees are set based on the needs for the sale and this is considered in the bidding process. This is money that is spent after the sale. SEN. JENKINS reasoned the more that is appropriated, the more the fees can be raised and if the appropriation is lower the fees have to be lowered. Mr. Artley pointed out that because of the inherent delay in timber sales fees are being set today for money that will in be spent in two to three years. The money currently being requested is for sales which have already taken place and the rates have already been set and the money will be coming in. SEN. JENKINS wanted to know, if the Legislature did not appropriate this money, whether it would revert to the School Trust Fund. Mr. Artley said in this case the money would go to DSL's state special revenue account and sit there.

**Motion/vote:** REP. WISEMAN moved to accept PL No. 6 (EXH. 2), at the level of \$429,040 per year. SEN. KEATING seconded the motion. Motion carried unanimously.

**Discussion:** Mr. Bud Clinch, State Lands Commissioner, spoke up. He reminded the committee that as DSL fails to meet the mandates of proper forest management, (re: the vote on PL No. 6) this would bring increased scrutiny to all future timber sales. By cutting the budget in this area and mandating that half of the work be done he reiterated this would set DSL up for intense criticism.

**Motion:** SEN. KEATING moved to accept PL Adjustments No. 7 and 8 (EXH. 2).

**Discussion:** SEN. JACOBSON suggested that DSL was proposing to contract for services which she doubted were either cost-effective or legal. She suggested that if there is a law mandating proper slash burning, it is not good practice to contract with a private party to tell DSL whether or not the law is being followed. She felt adding FTE would be preferable to contracting for those services.

Mr. Artley said \$20,000 in 1996 under PL No. 8 is unrelated to the issues SEN. JACOBSON was raising. This amount is federal funds from the Community Forestry Program which exist in the budget but were unspent and DSL is unable to carry them over without the Legislature's approval. This funding is necessary for DSL to meet its federal grant obligation. Even if the funds were not approved for this program, DSL would need the authority to return the money to the federal government. Mr. Lloyd said if the committee did not wish to pass PL Adjustments No. 7 and 8 but wished to approve the \$20,000, it could be incorporated into PL No. 11.

**Withdrawn motion:** SEN. KEATING withdrew his motion.

**Motion:** SEN. JENKINS moved to accept PL Adjustment No. 9 (EXH. 2).

**Discussion:** SEN. JACOBSON summarized these were federal funds which were given to the state to reimburse it for fires which DSL personnel worked on in other states. The question is, does the committee want to put part of these funds into the general fund and part into DSL or all into DSL.

**Amended motion:** SEN. JENKINS amended his motion to put \$58,968 in the department and the balance in the general fund.

**Discussion:** SEN. JENKINS said it was his intention to appropriate DSL the same amount as it received in 1994, with any surplus to go to the general fund. Mr. Lloyd said no executive action on PL No. 9 would leave what was actually spent in 1994 (\$41,332) as the appropriated level in the budget for 1996. He

did not believe a motion was necessary to provide for any excess to go to the general fund.

**Withdrawn motion:** SEN. JENKINS withdrew his motion.

**Discussion:** Mr. Artley pointed out that the \$100,000 spending authority for federal fire reimbursements was intended to allow DSL to catch up on work that was not done while assisting federal agencies in other states. The full amount was not spent in FY 94 because that year followed the summer of 1993 which was the lightest fire season on record in the entire western U.S. Therefore, DSL did not earn the full \$100,000 and was unable to spend it for this reason.

**Motion/vote:** SEN. KEATING moved to accept PL No. 9 (EXH. 2); REP. JOHNSON seconded the motion. The motion carried unanimously.

**Discussion:** SEN. KEATING wanted to know the rationale for PL Adjustment No. 10 (EXHIBIT 2). Mr. Artley said it was primarily related to the department's needs to meet facilities obligations and administrative support in the division's Missoula headquarters. Rent for all Forestry operations (in Missoula and all the other field locations in 11 other communities) is also incorporated into the request. The executive budget doesn't include any inflation for rent and there is about \$1,000 in rent increases which DSL will be obligated to pay in the coming biennium. The rest of the request is related to the Missoula complex. Underground storage tanks have been removed. There is a problem with contamination and DSL has been asked to drill monitoring wells. SEN. KEATING wanted to know the size of the entire operating budget. Mr. Artley said their other services operating budget was \$848,000.

SEN. KEATING wanted more information on PL No. 11 (EXHIBIT 2). Mr. Artley said it was related to implementation of the 100% federally funded Community Forestry Program. Due to employee turnovers and vacancies, they have about \$45,000 they need to "catch up" on spending. They will spend most of it on contracted services to assist in setting up community volunteer groups, the identification of tree, street and parks problems and development, printing and mailing of informational material. These projects are developed in concert with DSL's Citizen Advisory Council.

Regarding PL No. 12 (EXH. 2), SEN. JACOBSON reminded the committee that DSL had said they could get a diesel truck tractor for \$80,000 rather than the \$95,000 in the request. Mr. Lloyd suggested that \$15,000 could be removed to reduce the total request to \$273,973 in 1996. REP. WISEMAN pointed out that \$585,000 was in the base for each year. Tape No. 5:A:000

In response to SEN. KEATING, Mr. Artley said \$682,130 per year has been in their base per year, but the FY 94 actual was

\$585,000. He pointed out that in FY 94 there was a .5% cut in their general fund amount and 5% vacancy savings was also imposed on them.

**Motion/vote:** SEN. KEATING moved to accept PL No. 10 (EXH. 2) at the level of \$273,973 in FY 96 and \$96,000 in FY 97; REP. JOHNSON seconded the motion. The motion carried with CHAIRMAN DEBRUYCKER and REP. WISEMAN opposed.

**Motion/vote:** SEN. JACOBSON moved to accept PL No. 11 (EXH. 2), adding \$20,000 in the first year; REP. JOHNSON seconded the motion. The motion carried with SEN. KEATING and REP. WISEMAN opposed.

**Discussion:** Mr. Lloyd said that with the approval of PL No. 9, the department now has \$100,000 each year in federal spending authority. Regarding the issue on P. C-74, because only the unspent monies would go to the general fund, this would be reducing general fund revenues.

**Motion:** SEN. KEATING moved to accept New Proposal No. 2 on p.C-72; REP. WISEMAN seconded the motion.

**Discussion:** SEN. JENKINS wanted to know how many more FTE the department would end up with if this proposal and HB 50 were both approved. Mr. Artley said the 6 FTE in that bill and these 6 FTE were the same ones. SEN. KEATING pointed out that department-wide 4.5 FTE were being reduced. Mr. Artley said this new proposal would allow him to retain the 6 existing positions.

**Vote:** The question was called for and the motion carried unanimously.

**Motion:** REP. WISEMAN moved to accept New Proposal No. 4. SEN. JENKINS seconded the motion.

**Discussion:** Ms. Smith distributed the executive's request for a switch in the funding for this new proposal. EXHIBIT 3 Mr. Lloyd explained the switch would be increasing general fund and decreasing the federal and state special revenue. Because this proposal is a reduction, the effect is that there is less general fund being reduced.

**Amended motion/vote:** REP. WISEMAN amended his motion to incorporate the funding switch presented by Ms. Smith. The question was called for and the motion carried unanimously.

**Motion/vote:** SEN. KEATING moved to accept New Proposal No. 3 at the level of \$27,000, to be used to purchase the federally required "bubble doors." REP. WISEMAN seconded the motion. The motion carried unanimously.

**Motion:** SEN. JACOBSON moved to accept New Proposal No. 1.



**Discussion:** SEN. JACOBSON pointed out that these people were on board now and would have to be laid off if the federal funds were not accepted to fund them.

**Vote:** REP. JOHNSON seconded the motion. The motion failed with SEN. JACOBSON and REP. JOHNSON voting "yes."

**Motion/vote:** SEN. KEATING moved to accept New Proposal No. 5; SEN. JENKINS seconded the motion. The motion carried unanimously.

**Discussion:** Mr. Artley asked the committee's advice regarding New Proposal No. 1. He wanted to know if the committee wanted to contract with private parties for community forestry activities or if they wished to no longer continue participating in the program and return the money to the federal government.

**Motion:** SEN. JACOBSON moved to keep the funding in New Proposal No. 1 and use it in contracted services; REP. JOHNSON seconded the motion.

**Discussion:** Ms. Smith said originally all of the funding in the new proposal was in the present law base. DSL asked for three FTE but no additional funding. In order to fund the positions present law operating money was put in this new proposal. Actually, the money was present level.

**Vote:** The question was called for; motion failed on a tie vote with CHAIRMAN DEBRUYCKER, SEN. KEATING and REP. WISEMAN opposed.

**Discussion:** Mr. Lloyd brought up that there had been an oversight in using these federal funds to fund present law and reducing general fund. Since these federal funds are not for the regulatory program, DSL is requesting a funding switch to increase general fund and decrease federal funds. Mr. Artley explained that when the OBPP used their computer to remove the \$87,000 it failed to reduce the federal money in DSL's current budget. Therefore, there is no other money to put back in, so the regulatory programs, which are supposed to be funded by general fund, are short by this amount of general fund. Mr. Lloyd said in present law there is \$87,000 in federal funds funding regulatory programs, which is an inappropriate use of federal funds.

**Motion/vote:** SEN. KEATING moved to accept the correction which was necessary as a result of the computer error. SEN. JACOBSON seconded the motion. The motion carried unanimously.

**Motion/vote:** REP. JOHNSON moved to close the section on DSL's budget. SEN. JENKINS seconded the motion. The motion carried unanimously.

**Adjournment:** 11:45 a.m.

  
\_\_\_\_\_  
ROGER DEBRUYCKER, Chairman

  
\_\_\_\_\_  
DEBBIE ROSTOCKI, Secretary

RD/dr

This meeting was recorded on five 60-minute audiocassette tapes.

Jan. 25, 1995

Senator Jacobson

You MAY Vote My Proxy To-day  
I'll Vote With you

John Johnson, Representative  
HD-2

EXHIBIT 1  
 DATE 1/25/95  
 HB                     

AIR OPERATIONS  
 (Current level/fixed costs)

Personal Services

Position #	
00029	54,136
00130	46,911
00105	34,976
00189	25,692
90213	44,338
90214	<u>44,339</u>

TOTAL \$250,392

Operating Expense

Administrative	13,374	
Building	<u>47,634</u>	\$ <u>61,608</u>

TOTAL FIXED COSTS \$312,000

APRCRAFT MAINTENANCE:

	<u>FY96</u>	<u>FY97</u>
ORIGINAL REQUEST	168,000	45,500
GF TRANSFER	168,000	45,500
PROPRIETARY	<u>168,000</u>	<u>45,500</u>
	336,000	91,000
REVISED REQUEST (New proposal No. 1)	25,550	91,136
GF TRANSFER	25,550	91,136
PROPRIETARY	<u>25,550</u>	<u>91,136</u>
	51,100	182,272
DIFFERENCE		
REQUEST	LESS 142,450	ADD 45,636
GF TRANS + PROP	284,900	91,272

Department of State Lands  
Forestry Division  
Present Law Adjustments/Issues

Description	FTE Fiscal 1996	Adjustments Fiscal 1996	FTE Fiscal 1996	Adjustments Fiscal 1996
<i>Statewide Present Law Adjustments</i>				
1. Personal Services		\$560,358		\$588,099
2. Inflation		13,361		25,871
3. Fixed Costs		94,901		94,017
<i>Other Present Law Adjustments</i>				
4. Executive Elimination of 1.00 Base FTE		0		0
5. Transfer of Helicopter Mod		29,327		29,341
6. Forest Improvement Contracted Services		829,040		825,040
7. Slash Contracted Personal Services		29,000		29,000
8. Service Forestry Contracted Services		57,214		37,214
9. Federal Fire Reimbursements		58,968		58,968
10. Other Services (General Fund)		13,489		13,489
11. Federal Carry-Over Funds		25,000		0
12. Equipment		288,973		96,943
13. Other		20,818		26,198
<i>Total Executive Present Law Adjustments</i>		\$2,020,449		\$1,825,180

01/17/95

C:\DATA\LOTUS\DSL95\FOR\_ADJU.WK1

DEPARTMENT OF STATE LANDS  
Forestry Division

3  
EXHIBIT \_\_\_\_\_  
DATE 4/25 1-25-95  
HB \_\_\_\_\_

New Proposal:  
Personal Services Reduction

	<u>FY96</u>	<u>FY97</u>
FTE	(5.0)	(5.0)
PERSONAL SERVICES	(358,313)	(360,666)
FUNDING:		
<u>General Fund</u>	(214,407)	(217,078)
<u>State Special Revenue</u>		
02039 Fire Assessment	(45,610)	(46,589)
02449 Forest Improvement	(48,057)	(48,292)
02031 Nursery	(5,453)	(5,496)
02073 Slash	(26,055)	(26,172)
Subtotal	(125,175)	(126,549)
<u>Federal Special Revenue</u>		
03068 Federal Fire	(8,942)	(7,147)
03069 Federal PFA	(9,789)	(9,892)
Subtotal	(18,731)	(17,039)
TOTAL	<u>(358,313)</u>	<u>(360,666)</u>

HOUSE OF REPRESENTATIVES  
VISITOR REGISTER

NAT. RESOURCES SUB COMMITTEE

BILL NO. \_\_\_\_\_

DATE 1/25 SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Nancy McClellan	PSC		
Don Artley	DSL		
Teff Harcorer	DSL		
Sam Kitzberger	Rep. HD 96		
Gary Amstutz	DSL		

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