

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
55th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN ROGER DEBRUYCKER, on January 17,
1997, at 8:00 P.M., in Room 201

ROLL CALL

Members Present:

Rep. Roger DeBruycker, Chairman (R)
Sen. Thomas F. Keating, Vice-Chairman (R)
Sen. Larry L. Baer (R)
Rep. John Johnson (D)
Sen. Linda J. Nelson (D)
Rep. William R. Wiseman (R)

Members Excused: None

Members Absent: None

Staff Present: Roger Lloyd, Legislative Fiscal Division
Theda Rossberg, Committee Secretary

Committee Business Summary:

Hearings: DEPARTMENT NATURAL RESOURCES & CONS.
Reserved Water Rights Compact Commission
MONTANA ASSOCIATION OF CONSERV. DIST.

Executive Action: DEPARTMENT NATURAL RESOURCES & CONS.
Oil and Gas Conservation Division
Reserved Water Rights Compact Commission

Tape 1,A
Speed 4.8

EXECUTIVE ACTION OIL AND GAS CONSERVATION DIVISION

1), 2), 3) Present Law Adjustments

Motion/Vote: SEN. BAER MOVED TO APPROVE THE REDUCTION OF \$98,806
FROM PRESENT LAW ADJUSTMENTS. Motion carried unanimously.

4) Regulation Adjustments

5) Primacy Achievement

6) Equipment Replacement

Motion/Vote: SEN. KEATING MOVED TO APPROVE ITEMS 4,5,6. Motion
carried unanimously.

Motion/Vote: SEN. KEATING MOVED TO APPROVE OTHER BASE ADJUSTMENTS. Motion carried unanimously.

EXHIBIT 1, Page C-165 - New Proposals:

Motion: SEN. KEATING MOVED TO APPROVE THE 3 FTE IN THE UNDERGROUND INJECTION CONTROL PROGRAM.

Discussion:

Vote: Motion carried unanimously.

{*Tape: 1; Side: A; Approx. Time Count: 22.7; Comments: .*}

ROGER LLOYD, Legislative Fiscal Division reviewed the funding in the Underground Injection Program. See EXHIBIT 1, Page C-165.

Tape 1,B
Speed 4.8

Discussion:

Discussion on funding the Underground Injection Control Program continues.

Motion: SEN. KEATING MOVED TO APPROVE \$110,000 FEDERAL REVENUE EACH YEAR OF THE BIENNIUM AND RESTRICTED FOR THE UNDERGROUND INJECTION CONTROL PROGRAM.

Discussion:

SEN. KEATING thought it may be appropriate to have language saying that the federal funds were for replacement of spending authority for state special revenue.

{*Tape: 1; Side: B; Approx. Time Count: 9.9; Comments: .*}

SEN. NELSON remarked she didn't understand why the federal funds had to be appropriated.

SEN. KEATING replied that if they weren't appropriated they cannot be spent.

Mr. Lloyd explained how the Motion should be stated.

EXHIBIT 2, Page C-166. The Executive Language Recommendation

Amended Motion/Vote: SEN. KEATING MOVED TO PUT LANGUAGE IN HB 2 THAT THE BOARD OF OIL AND GAS CONSERVATION IS APPROPRIATED UP TO \$110,000 OF FEDERAL REVENUE FUNDS EACH YEAR, CONTINGENT UPON RECEIVING FEDERAL FUNDS FROM THE ENVIRONMENTAL PROTECTION AGENCY FOR THE UNDERGROUND INJECTION CONTROL PROGRAM AND REDUCE STATE SPECIAL REVENUE BY A LIKE AMOUNT. Motion carried unanimously.

Motion/Vote: SEN. KEATING MOVED TO CLOSE THE HEARING ON THE OIL & GAS CONSERVATION DIVISION. Motion carried unanimously.

{Tape: 1; Side: B; Approx. Time Count: 16.1; Comments: .}

EXECUTIVE ACTION
CONSERVATION & RESOURCE DEVELOPMENT DIVISION

BUDGET ITEMS:

EXHIBIT 3, Page C-169. Mr. Lloyd reminded the committee that they had already taken action on Grants/Local Assistance.

EXHIBIT 4, Page C-170. Mr. Lloyd said the second to the last sentence under Item 5, LFD Issues starting at "Also included in the base," was incorrect and should be eliminated.

5) Reorganization:

Mr. Beck explained that due to reorganization the rent was included in the division budget.

Motion/Vote: SEN. NELSON MOVED TO APPROVE ITEM 5, REORGANIZATION. Motion Carried unanimously.

{Tape: 1; Side: B; Approx. Time Count: 26.2; Comments: Funding Switches.}

EXHIBIT 5. Ms. Miller reviewed some funding switches in Table 9. See EXHIBIT 3, Page C-169, Table 9.

EXHIBIT 6. Ms. Miller reviewed the two items that were in the funding switch.

Tape 2,A
Speed 2.4

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 0; Comments: Discussion continued on the funding switch.}

Motion/Vote: SEN. KEATING MOVED TO APPROVE THE FUNDING SWITCH CV 23001 AND CV 91055. Motion carried unanimously. See EXHIBIT 6.

6) Workload Adjustments.

Mr. Beck reviewed the three areas that were included in the Workload Adjustments.

Motion/Vote: SEN. JOHNSON MOVED TO APPROVE ITEM 6, WORKLOAD ADJUSTMENTS. Motion carried 4-6 with SEN. KEATING and SEN. BAER voting no.

7) Replacement Equipment:

Mr. Beck said the budget office used the wrong figure to calculate some of their expenditures. Some of the reduction in the budget was in other areas and not all of it in equipment.

Motion/Vote: REP. WISEMAN MOVED TO APPROVE ITEM 7, REPLACEMENT EQUIPMENT. Motion carried unanimously.

Other Base Adjustments:

Motion/Vote: SEN. JOHNSON MOVED TO APPROVE OTHER BASE ADJUSTMENTS. Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Count: 8.6; Comments: SEN. KEATING suggested there be some discussion on Other Base Adjustments so as to know what they were.}

EXHIBIT 7. Mr. Beck explained the request for one FTE in the Drinking Water Proposal and that person's duties.

Discussion:

Discussion continues on the funding of the FTE in the Drinking Water Proposal.

Motion: SEN. NELSON MOVED TO APPROVE THE ONE FTE FUNDED OUT OF FEDERAL FUNDS AND STATE SPECIAL REVENUE AND LINE ITEMED. See EXHIBIT 7.

Discussion:

Mr. Lloyd asked the department for a written explanation on the FTE for the written narrative.

Vote: Motion carried unanimously.

{Tape: 2; Side: A; Approx. Time Count: 22.2; Comments: .}

Executive Language Recommendations:

EXHIBIT 8, Page C-171. Mr. Lloyd said there was a correction in the LFD Issues, the fourth line down, 1993 should be 1983.

EXHIBIT 9, Page C-143. Mr. Lloyd reviewed some of the language appropriations in HB 2.

Questions and Responses:

SEN. KEATING asked if Rangeland Loans were an on-going program. See EXHIBIT 8.

Mr. Beck explained that loan program was a revolving account first established in the 1979 legislature.

Discussion:

{Tape: 2; Side: A; Approx. Time Count: 26.8; Comments: SEN. KEATING discussed the Rangeland Loans account.}

Questions and Responses:

SEN. KEATING asked what the current fund balance was.

Mr. Lloyd responded that the fund balance was \$1,115,835 in FY96. See EXHIBIT 8, Page C-171.

Mr. Beck explained that the default was zero.

Item 1, Proposed Language:

Motion/Vote: REP. WISEMAN MOVED TO APPROVE THE LANGUAGE AS FOLLOWS, "THE DEPARTMENT IS APPROPRIATED UP TO \$700,000 PER YEAR FROM THE ACCOUNT ESTABLISHED IN 76-14-112, MCA, FOR RANGELAND LOANS DURING THE 1999 BIENNIUM." Motion carried unanimously. See EXHIBIT 8, Page C-171.

Item 3, Proposed Language:

Mr. Lloyd explained that the funds were appropriated for grazing districts up to \$15,000 per year and if the committee wished to appropriate spending authority, it should be done in HB 2.

Discussion:

Mr. Beck stated the Grazing Association was concerned about the future of grazing districts.

{Tape: 2; Side: A; Approx. Time Count: 35.0 ; Comments: Continued discussion on grazing districts.}

Motion/Vote: SEN. KEATING MOVED TO APPROVE THE LANGUAGE IN ITEM 3 AS FOLLOWS, "ALL FUNDS HELD IN THE STATE SPECIAL REVENUE ACCOUNT IN ACCORDANCE WITH 76-16-106(2), MCA, ARE APPROPRIATED TO THE DEPARTMENT FOR ADMINISTRATION OF GRAZING DISTRICT ACTIVITIES IN AN AMOUNT OF UP TO \$15,000 PER YEAR FOR THE 1999 BIENNIUM." Motion carried unanimously. See EXHIBIT 8, Page C-171.

Item 4, Propose Language:

Mr. Lloyd reviewed the proposed language issue.

Discussion:

SEN. KEATING inquired as to whether or not there would be \$400,000 left in the state special revenue account from fees.

Mr. Lloyd explained the language appropriation.

Motion: REP. WISEMAN MOVED TO APPROVE THE LANGUAGE IN ITEM 4 AS FOLLOWS, "The department is appropriated up to \$400,000 for the 1999 biennium from the state special revenue account established in 85-1-604, MCA, for the purchase of prior liens on property held as loan security as required by 85-1-618, MCA."

Discussion:

SEN. BAER asked if there would be an increase in the future.

Mr. Beck said they didn't expect any defaults.

Vote: Motion carried 5-1 with SEN. KEATING voting no. See EXHIBIT 8, Page C-171.

Discussion:

REP. WISEMAN suggested that the department let Mr. Newell Anderson know that the City of Shepherd could borrow money for their water program and be able to pay it back.

SEN. KEATING said there was no coal impact on the City of Shepherd. It was the school that was requesting funds and shouldn't have access to coal monies.

Tape 2,B
Speed 2.4

HEARING MONTANA CONSERVATION DISTRICTS

EXHIBIT 10, Nonpoint Source Pollution Program. Mike Valesky, Montana Association Conservation Districts reviewed the program with the committee members and proposed to move the Nonpoint Source Pollution Program to the Conservation and Resource Development Division (CARDD).

CHAIRMAN DEBRUYCKER commented that program was in the Department of Health & Environmental Sciences before the reorganization and was transferred to the Department of Environmental Quality.

Discussion:

{Tape: 2; Side: B; Approx. Time Count: 8.6; Comments: Moving the Nonpoint Source Pollution Program to DNRC .}

Mr. Beck stated that during executive reorganization **Director Simonich** and himself agreed that the 319 program should go to DNRC, but the Governor's request at the direction of DHES determined that the program should be in the regulatory dept. of DEQ.

Mr. Beck said that they would abide by the recommendation of the committee.

Mark Simonich, Director Department of Environmental Quality remarked that the conservation districts had not visited with the department concerning the transfer of the 319 Nonpoint Source Pollution Program to DNRC.

He urged the committee to leave that program with DEQ so they can fulfill their mission as best possible. That was the Governor's decision.

{Tape: 2; Side: B; Approx. Time Count: 17.5; Comments: .}

Questions and Responses:

REP. WISEMAN asked if the attempt was to get the environment back to the way it was 200 years ago.

Mr. Simonich responded no that was not the case. Under the Clean Water Law they had a responsibility to list streams that were impaired. Some of the impaired streams were natural impairment. They were trying to ensure that the streams do not become further degraded under the federal regulations.

CHAIRMAN DEBRUYCKER stated the committee would postpone action on the conservation district's request until DEQ's budget was reviewed and give everyone a chance to consider the proposal.

Tom Stelling, Cascade Conservation District said he was proposing the move to DNRC because of the new Federal Farm Bill. They recognized that the conservation districts were the lead agency for Nonpoint Source Pollution. They believe that it would be another tool to work with in the urban, rural farms and ranches in the State of Montana.

SEN. WISEMAN asked how many FTE in the program and source of funding.

Mr. Lloyd responded that in DEQ's budget there were 4 FTE funded with \$1.28 million each fiscal year.

Mr. Simonich stated he would provide the committee with a breakdown of the figures between grants and operational dollars.

Motion/Vote: REP. WISEMAN MOVED TO CLOSE THE HEARING ON CONSERVATION AND RESOURCE DEVELOPMENT DIVISION. Motion carried unanimously.

{Tape: 2; Side: B; Approx. Time Count: 28.9; Comments: .}

EXHIBIT 11, Pages C-144 and C-145. Mr. Lloyd reviewed some suggested global language appropriations with the committee, specifically (c) and (d).

{Tape: 2; Side: B; Approx. Time Count: 32.1; Comments: .}

HEARING RESERVED WATER RIGHTS COMPACT COMMISSION

Chris Tweeten, Representative for the Reserved Water Rights Compact Commission said that the program was attached administratively only, to the DNRC.

EXHIBIT 12, Page C-182. Mr. Tweeten explained that the Compact Commission by statute is the governor's representative for purposes of negotiating settlements of water rights.

Susan Cottingham, Program Manager Reserved Water Rights Compact Commission gave an overview of the staffing of the department and their duties. She reviewed a graph for which they use a geographic information system that shows where those water claims are.

Ms. Cottingham stated that the Blackfeet Tribe was the only tribe that declined to negotiate and wanted to litigate their water rights and were currently in water court.

{Tape: 2; Side: B; Approx. Time Count: 51.10; Comments: .}

Ms. Cottingham reviewed how the commission was funded.

Tape 3,A
Speed 2.4

CHAIRMAN DEBRUYCKER inquired as to what the litigation costs were with the Blackfeet tribe.

Mr. Tweeten the Blackfeet Tribe was referred to the federal court by the Compact Commission when the tribe said it was not in their interest to negotiate with the Compact Commission. He said their office was using appropriations for major litigation expenses had engaged in a process of doing the technical work to prepare that case for litigation.

Question and Responses:

SEN. BAER asked if the creation of the Compact Commission was the result of a federal mandate.

Mr. Tweeten answered no.

SEN. BAER inquired as to who pays for the Indian's litigation costs.

Mr. Tweeten responded that they receive funding from Congress for that purpose. He said the individual water users will be brought into court as well and will have to pay their own expenses.

Discussion:

{Tape: 3; Side: A; Approx. Time Count: 10.2; Comments: Continued discussion on the tribes water rights.}

SEN. NELSON asked when the Fort Peck Compact was settled.

Mr. Tweeten responded that was settled in 1985. It took six years before that compact was completed.

EXECUTIVE ACTION RESERVED WATER RIGHTS COMPACT COMMISSION

BUDGET ITEMS:

EXHIBIT 13, Page C-183.

4) Reorganization:

5) Administrative Workload:

6) Equipment Replacement:

Motion/Vote: REP. JOHNSON MOVED TO APPROVE ITEMS 4, 5 AND 6.
Motion carried unanimously.

Motion/Vote: SEN. NELSON MOVED TO CLOSE THE RESERVED WATER RIGHTS COMPACT COMMISSION. Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:20 A.M.


REP. ROGER DEBRUYCKER, Chairman


THEDA ROSSBERG, Secretary

RD/TR