

MINUTES

MONTANA HOUSE OF REPRESENTATIVES  
55th LEGISLATURE - REGULAR SESSION

JOINT SUBCOMMITTEE ON NATURAL RESOURCES

Call to Order: By CHAIRMAN ROGER DEBRUYCKER, on February 11,  
1997, at 8:00 A.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:

Hearing(s) & Date(s) Posted: DEPARTMENT OF ENVIRONMENTAL  
QUALITY  
ENVIRONMENTAL PROTECTION  
AGENCY  
Central Management

Executive Action: DEPARTMENT OF ENVIRONMENTAL  
QUALITY  
Centralized Management

Tape 1,A  
Speed 2.4

HEARING DEPARTMENT ENVIRONMENTAL QUALITY

Mark Simonich, Director Department of Environmental Quality  
introduced his staff.

EXHIBIT 1. Mr. Simonich reviewed the FTE in each division on the  
organizational chart.

*{Tape: 1; Side: A; Approx. Time Count: 23.0; Comments: .}*

**DISCUSSION:**

REP. WISEMAN asked Mr. Simonich to indicate on the organization chart how many supervisors there were in the whole department.

*{Tape: 1; Side: A; Approx. Time Count: 25.0; Comments: .}*

EXHIBIT 2, Pages C-81 and C-82. Mr. Lloyd said Mr. Bill Engle, Environmental Protection Agency will be giving testimony on EPA Grants.

Mr. Engle said he was the water program team leader for the Montana Office of EPA. He explained the differences between the Performance Partnership Grants (PPG) and Performance Partnership Agreements (PPA).

*{Tape: 1; Side: A; Approx. Time Count: 31.5; Comments: Continued testimony on EPA Grants by Mr. Engle.}*

**Questions and Responses:**

REP. WISEMAN asked if the grants, explained on Page C-82 have to stay in DEQ.

Mr. Engle answered that the grants were awarded to one agency, but that agency could contract out to another agency.

SEN. BAER asked what was require for a state match for those funds.

Mr. Engle responded that each grant had a different match requirement. That was based upon a percentage of the grant awarded through EPA or what was called a maintenance of effort match that was base upon a historical number that was used in the past.

*{Tape: 1; Side: A; Approx. Time Count: 39.9; Comments: Questions and Responses continued.}*

Judy Hanson, Administrator Centralized Services said that in Table 5 on Page C-82 there was a list of eligible programs for the PPG and PPA grants. EXHIBIT 2.

She explained the match percentages for those programs and that they were on a one year grant program. Water quality cooperative agreements (wetlands) and pollution prevention incentives for states were not included in the grants at that time.

**Discussion:**

SEN. KEATING said that with or without the EPA the state still had to comply with the federal regulations and laws. He asked if

there were any efforts at the federal level to lessen their impacts, etc.

**Mr. Engle** said there was regulatory reform that had been going on for several years. In the permitting program there was a reform that allows for less reporting to be done.

*{Tape: 1; Side: A; Approx. Time Count: 46.6; Comments: Discussion continued with the committee members and Mr. Engle concerning EPA Grants.}*

**Mr. Simonich** explained about the issue of Primacy and how to deal with it in Montana. It makes sense for Montana to gain Primacy of those programs because it provides a better coordination of how they provide for that oversight in Montana.

He stated their work was based upon EPA requirements but also what the legislature has required. If the committee makes changes in the funding level, please remember they have those laws to administer. They don't want to have responsibilities and no way to fund them.

If the committee doesn't fund a program then they need to tell the department how they should administer the program.

**EXHIBIT 3.** **Mr. Simonich** explained how the Department of Environmental Quality was formed and the FTE in each division.

**EXHIBIT 4.** **Mr. Simonich** reviewed a chart showing the funding of the former division and the new division.

**EXHIBIT 5.** **Mr. Simonich** reviewed the general funding in the former division and the new division.

**EXHIBIT 6,** **Mr. Simonich** reviewed the State Special funds in the former divisions and the new divisions.

**EXHIBIT 7,** **Mr. Simonich** reviewed the Federal Fund in the former division and the new division.

**Questions and Responses:**

*{Tape: 1; Side: A; Approx. Time Count: 75.0; Comments: .}*

**SEN. NELSON** asked what the source was of the special revenue funds.

**EXHIBIT 8, DEQ Analysis.** **Ms. Hanson** reviewed the 1998 request and 1999 request of State Special Revenue.

Discussion:

SEN. KEATING discussed the bond for plugging orphan wells. He would like a list of who was responsible for the orphan wells.

Tape 1,B  
Speed 2.4

*{Tape: 2; Side: B; Approx. Time Count: 0; Comments: .}*

Discussion continues:

Mr. Lloyd explained that the 1996 budget was the appropriated amount not the actual expenditures and that the budget was based upon actual expenditures.

EXHIBIT 9, Page C-72. Ms. Hanson explained that the first column was the base for Fiscal 1996. She reviewed the rest of the budget.

SEN. KEATING asked for a list of the reversions from FY96 and where they fall with regards to those sources.

*{Tape: 1; Side: B; Approx. Time Count: 7.0; Comments: .}*

Mr. Simonich explained the FTE and some of their duties. He said they could go through each division and point out where the short fall of funds and some project didn't get finished.

Motion/Vote: REP. WISEMAN MOVED THAT THE COMMITTEE LEAVE ALL DIVISIONS OPEN IN DEQ UNTIL THE LAST DAY OF THEIR HEARINGS AND CLOSE ALL SECTIONS AT THE SAME TIME. Motion carried unanimously.

Mr. Lloyd stated that the committee passed a motion accepting the base in the present law personal services adjustments. That motion exempted DEQ because of the issues he raised concerning the base.

EXHIBIT 10, Page C-79. SEN. KEATING referring to Table 4, said he would be asking to what extent those particular agencies were driven by statute.

EXHIBIT 11, Statutes Referenced in the LFD Analysis. Mr. Lloyd said the committee could reference the statutes that he referred to in his analysis.

SEN. BAER requested a list of statutes from Mr. Lloyd that were derived from federal mandates.

**Discussion:**

**SEN. KEATING** said some of the mandates were more stringent at the state level than by the federal government. He wants to know why they were more stringent.

**Mr. Simonich** stated the Environmental Rehabilitation account was originally proposed as \$100,000 each year and the book showed \$100,000 the first year and \$200,000 the second year. However, that should be \$250,000 each year. Those funds would be to redirect fines and penalties into cleanup and prevention activities to prevent accidents from happening.

**EXHIBIT 12. Mr. Simonich** reviewed the Total Agency Budget.

*{Tape: 1; Side: B; Approx. Time Count: 31.0; Comments: .}*

**EXHIBIT 13, Page C-83. Mr. Lloyd** explained that the Central Management Program budget was not funded by any proprietary funds. He said the committee had already addressed the New Proposals of \$100,000 in FY98 and \$200,000 in FY99.

**EXHIBIT 14. Ms. Hanson** reviewed the Present Law Base Adjustments for the Board of Environmental Review.

**Curt Chisholm, Executive Director Board of Environmental Review** explained the transfers from other department to the new DEQ. Therefore establishing a new Board called the Board of Environmental Review. He explained the functions of the Board which was primarily rule-making.

He stated that the Board of Environmental Review had no rule-making for hazardous waste, all those rules were adopted by the department. However, the Board has the authority to consider variances from those rules.

*{Tape: 1; Side: B; Approx. Time Count: 43.8; Comments: Mr. Chisholm continues his overview of the Board of Environmental Review.}*

**Questions and Responses:**

**SEN. BAER** asked if the board only arbitrated where there was a situation where there was an adversary proceeding or do they make decisions other than adversary situations.

**Mr. Chisholm** said they make decisions other than adversary situations when they promulgate rules.

**Discussion:**

**Mr. Simonich** said some of the statutes provide for administrative appeal to the Board of Environmental Review. There were other

statutes that do not provide for administrative appeal. In those cases their only avenue of recourse is through judicial action.

SEN. WISEMAN wondered how the public was to become aware of the rules by the board. He asked if they were advertised ahead of time or how that was done.

Mr. Chisholm said the board agenda was sent out two weeks in advance of a board meeting.

#### Questions and Responses:

*{Tape: 1; Side: B; Approx. Time Count: 59.2; Comments: .}*

CHAIRMAN DEBRUYCKER asked why one of the members of the board wasn't from the regulated industry.

Mr. Chisholm said the membership of the board was defined by statute. There has to be an attorney, member of the public, public health official, scientist. There was no requirement for a member of the regulated community. He said that would be a conflict of interest.

#### EXHIBIT 15, Page C-84 - PRESENT LAW ADJUSTMENTS:

*{Tape: 1; Side: B; Approx. Time Count: 66.7; Comments: .}*

#### EXECUTIVE ACTION CENTRAL MANAGEMENT PROGRAM

Motion: SEN. KEATING MOVED TO APPROVE THE BASE ADJUSTMENTS OF \$3,100 IN FY98 AND \$5,250 IN FY99.

#### Discussion:

Vote: Motion was defeated for lack of a second.

Motion/Vote: SEN. BAER MOVED TO ACCEPT THE 1996 BASE OF \$2,150 FOR PERSONAL SERVICES. Motion carried unanimously.

Motion/Vote: REP. WISEMAN MOVED TO ACCEPT THE BASE FOR LEGAL FEES OF \$5,268, TRAVEL \$6,370 AND MISCELLANEOUS \$1,208. Motion carried unanimously.

#### EXECUTIVE NEW PROPOSALS;

Mr. Lloyd reviewed the Executive New Proposals. See EXHIBIT 15.

Tape 2,A

Speed 2.4

{Tape: 2; Side: A; Approx. Time Count: 0; Comments: .}

Mr. Lloyd reviewed some of the statutes. See EXHIBIT 11.

Mr. Simonich stated that the committee did not approve any additional increases for the board. He said the \$100,000 was a new proposal.

EXHIBIT 16, Letter from Charlotte Lewis, District Administrator for the Broadwater Conservation District.

ADJOURNMENT

Adjournment: 11:10 A.M.

  
REP. ROGER DEBRUYCKER, Chairman

  
THEDA ROSSBERG, Secretary

RD/TR