

**MINUTES**

**MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN LORENTS GROSFIELD**, on February 7, 1997, at 3:00 p.m., in Room 405

**ROLL CALL**

**Members Present:**

Sen. Lorents Grosfield, Chairman (R)  
Sen. William S. Crismore, Vice Chairman (R)  
Sen. Mack Cole (R)  
Sen. Thomas F. Keating (R)  
Sen. Dale Mahlum (R)  
Sen. Bea McCarthy (D)  
Sen. Ken Miller (R)  
Sen. Mike Taylor (R)  
Sen. Fred R. Van Valkenburg (D)

**Members Excused:** Sen. Vivian M. Brooke (D)

**Members Absent:**

**Staff Present:** Larry Mitchell, Legislative Services Division  
Gayle Hayley, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 273; Posted  
Executive Action: SB 273, SB 146, SB 223, SB 253  
HB 120, HB 59, HB 152, HB 162

**HEARING ON SB 273**

**Sponsor:** SEN. LINDA NELSON, SD 49, Medicine Lake

**Proponents:** Mike Volesky, Montana Association of Conservation Districts  
Ray Beck, Department of Natural Resources & Conservation  
Mike Murphy, Montana Water Resources Association

**Opponents:** None

**Opening Statement by Sponsor:**

**SEN. LINDA NELSON, SD 49, Medicine Lake**, said SB 273 was a bill which granted subordination to certificates as well as permits; something which the Committee members probably knew more about than she did. She illustrated by saying the Sheridan County Conservation District was given a priority rate of December 31, 1985, when they really didn't apply for the rights until 1989 or 1990; meaning all wells after that time would be junior to the Conservation District. She said the Sheridan County Conservation District had been allotted 15,779 acre-feet of ground water to grant for area irrigation, which many people were eager to apply for. **SEN. NELSON** stated since the Conservation District Reservation went back to 1985, and the new irrigation was through the Conservation District allotment, the new permits would be senior to a water certificate which was given in 1994. That meant if there would be a shortage of water, the irrigators could possibly shut down the domestic wells; therefore, the point of SB 273 was to give subordination to certificates as well to protect the stock and domestic wells. She distributed copies of a letter from the Sheridan Conservation District (**EXHIBIT 1**) and referred to the last paragraph. **SEN. NELSON** also distributed copies of a letter from a constituent (**EXHIBIT 2**) who lived in an area which had many applications for the new irrigation water. She wanted to ensure the protection of her well.

**Proponents' Testimony:**

**Mike Volesky, Montana Association of Conservation Districts**, said he supported SB 273. He had talked with the Conservation Districts in the northeastern end of Montana and found it would not affect their Conservation District Water Reservations. He said if the District felt it was adversely affected, it could object. **Mr. Volesky** maintained the Conservation District expected relatively few objections; he felt there was provision in SB 273 for objections to be heard.

**Ray Beck, Department of Natural Resources and Conservation**, said he supported SB 273 and wanted to make the Committee aware people from the Water Resources Division were available to answer questions.

**Mike Murphy, Montana Water Resources Association**, said they wanted to go on record as supporting SB 273.

**Opponents' Testimony:** None.

**Questions From Committee Members and Responses:** None.

**Closing by Sponsor:**

**SEN. LINDA NELSON** felt she didn't need to close.

EXECUTIVE ACTION ON SB 273

Motion/Vote: SEN. BEA MCCARTHY MOVED DO PASS ON SB 273. Motion CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 59

Motion: SEN. TOM KEATING MOVED HB 59 BE CONCURRED IN.

Discussion: SEN. LORENTS GROSFIELD said HB 59, dealing with SO2 standards, had many proponents but no opponents.

SEN. BEA MCCARTHY said she thought there might be a fiscal note because of "something about a new monitor." SEN. GROSFIELD commented the bill needed no fiscal note; however, he asked Bob Raisch, Department of Environmental Quality (DEQ), for input. Mr. Raisch said a fiscal note had been prepared.

SEN. GROSFIELD asked if HB 59 would result in another monitor, costing about \$10,000. Bob Raisch said the note anticipated a need for another air monitor in the Billings area, and thought the initial cost would be about \$41,000 in FY '98, and \$10,000 reoccurring after that. He said the monitor could either be owned and operated by the industries or by the state in conjunction with Yellowstone County.

SEN. LORENTS GROSFIELD wondered why a new monitor was needed. Mr. Raisch said HB 59 would bring back the Montana DEQ Air Quality Standards and monitoring would be the primary modem of compliance; therefore, it was critical to be able to protect the public in the area. He said relocating some of the monitors was being considered but they believed an additional monitor would be needed.

SEN. TOM KEATING asked if the Department already had the authority to require that. Bob Raisch said it didn't have that authority; in fact, most of the monitoring was done by the state in conjunction with Yellowstone County. He explained two sites were required by the permit of Yellowstone Energy Partnership; Black Tech, a consortium, was running three sites on a voluntary basis while Exxon was running two sites on the same basis. He said they would not have the authority to require someone to run an additional site at this time. SEN. KEATING said he wanted the Committee to understand nothing in HB 59 required another monitor; it seemed with the tighter standards more monitoring would be needed but that could be worked out with Black Tech. In any case, if there would be another monitor, the industry would pay for it -- there would be no expense to the state.

*{Tape: 1; Side: A; Approx. Time Count: 3:20 p.m.}*

BEA MCCARTHY asked who would pay for it and SEN. KEATING said the industry always paid for it under fees. Bob Raisch said possibly

operating permit fees could be used; there had been no appropriations included in the Department's budget.

**SEN. GROSFIELD** asked if this was the first fiscal note drafted for HB 59, and explained he was wondering because there was a technical note which said the title was in error. He wondered if that had been discussed in the House Committee. **Bob Ralsch** said originally the fiscal note had included a technical deficiency which said the Hannah Bill was repealed, and it was their intention to begin rulemaking to reinstate the statewide standard.

**SEN. GROSFIELD** said he preferred to not hold the bill up by sending it back to the House with amendments; however, there was a technical defect in the title, but he didn't think a repeal of this section would come before the court for review.

**SEN. KEATING** asked what the defect was and **SEN. GROSFIELD** said the title said "an act setting uniform standards" and HB 59 did not set standards, but gave the Board the ability to do so.

**SEN. BEA MCCARTHY** said she did not understand why the fiscal note should accompany the bill to the floor because no state monies would be used. **SEN. GROSFIELD** said it wouldn't unless it was in HB 2. If it was paid for by permit fees paid to the agency, in order to spend the monies, they would have to be included in HB 2.

**SEN. FRED VAN VALKENBURG** said he didn't understand why the bill didn't have an earlier effective date than October 1.

**SEN. TOM KEATING** said the State Implementation Plan (SIP) to make the area comply with federal standards was going to be done shortly after that so the closer the bill date was to the SIP date, the less juggling there would be. Also, the October 1 date was the one for most law changes.

**SEN. VAN VALKENBURG** said he knew about the second one but wasn't sure the first reason should delay the effectiveness of the bill in order to allow the implementation of the SIP; it seemed if the sources of SO2 were now in compliance with the state standard, it shouldn't be legal for them to be out of compliance between now and October 1.

**SEN. KEATING** said he understood the state and federal standards were being merged in the SIP.

**Bob Ralsch** said that wasn't correct because the SIP was designed to achieve the National EPA Air Quality Standards; however, in achieving these standards, the industries had to operate with a margin of safety to ensure their staying in compliance. In that margin of safety, they were actually emitting SO2, which in the environment is called a state standard; however, they could increase it to their emission limit and violate the air quality

standards. He said he didn't see that happening because they wanted to stay in compliance and do to that there had to be a margin of safety.

**SEN. KEATING** said **REP. JOHNSON** wanted to add this date as the effective one because of the proximity of completion of the SIP. **Bob Raisch** said the compliance date for the SIP was March, 1998; therefore, the October 1, 1997, date would be closer to that date.

**Motion:** **SEN. VAN VALKENBURG** MOVED DO PASS ON AN AMENDMENT TO MAKE THE EFFECTIVE DATE IMMEDIATE.

**Discussion:** **SEN. VAN VALKENBURG** said just because the bill was passed didn't change the rule in place; the Board of Environmental Quality would have to change the rules with respect to the Billings air shed. There would still be some delay until the Board of Environmental Quality acted but the legislature should say ten years was enough; now that the entities emitting sulphur dioxide were in compliance, they should be on the same standard as the rest of the state.

**SEN. MACK COLE** expressed opposition to the amendment because **SEN. KEATING** had given a very good explanation of why the date needed to be tied to the SIP.

**SEN. KEN MILLER** said several Committee members had discussed this with both **SEN. BISHOP** and **SEN. JOHNSON** and both agreed it would be better to have this effective date, partly due to fiscal impact. He explained rules would have to be implemented, extra work be done, etc., for just a short period of time before SIP, with its own set of rules and plans, was implemented. He expressed opposition for the amendment.

**SEN. VAN VALKENBURG** said he was sorry to hear people thought it was better to delay because he would have thought the people who rushed to repeal the Hannah Bill would say to get it done right away, rather than delay.

**SEN. GROSFIELD** asked about the time involved in changing the rules, etc., and **Toby Benson, Department of Environmental Quality**, said it would take several months to ask the Board of Natural Resources to initiate rulemaking, engage in the rulemaking, respond to comments, and ask the Board to adopt the rules. New caps had been established for the state implementation plan and they had until March, 1998, to make the investments to conform to the new caps. The earlier the rules were changed to the Montana standards prior to the time the investments were actually made was the rationale behind moving the effective date.

**SEN. KEATING** said there was no reason to hurry.

Mr. Benson said it was a risk mitigation strategy where people worked to try to get these things into place -- the more time allowed, the less likely there would be a violation; however, they didn't suspect violations under any circumstance.

SEN. LORENTS GROSFIELD asked if the Board of Environmental Quality planned to initiate rulemaking or make their effective date March 1, 1998. Toby Benson said it was their intention to move forward with rulemaking as soon as practical after HB 59 passed. SEN. GROSFIELD said he wondered about the effective date of the rules and Mr. Benson said it had not been discussed internally; in fact, their legal staff had suggested they could start to do this, even without the repeal. He said it would not be very popular with the legislature if they did because the Hannah Bill directed the Board to adopt the standards; it did not require the Board to maintain the standards. He commented what the Board wanted from the legislature was the direction they were to go with respect to air quality standards in the Billings area.

SEN. TOM KEATING asked the Committee to resist the motion because there was no need to send the bill back to the House for any more action.

Vote: Motion BY SEN. FRED VAN VALKENBURG DO PASS ON AMENDMENT FOR IMMEDIATE EFFECTIVE DATE FAILED 2-8.

Motion/Vote: SEN. TOM KEATING MOVED HB 59 BE CONCURRED IN. Motion CARRIED UNANIMOUSLY.

#### EXECUTIVE ACTION ON SB 146

Motion/Vote: SEN. MIKE TAYLOR MOVED TO TABLE SB 146. Motion CARRIED UNANIMOUSLY.

#### COMMITTEE DISCUSSION ON SB 253

SEN. BEA MCCARTHY said the Department said they would be meeting on the 19th of February and she suggested holding SB 253 until it was seen if something was accomplished on that date; if they didn't, then pass it.

SEN. LORENTS GROSFIELD said the Committee's final meeting before transmittal would be on the 20th.

SEN. MCCARTHY said she had discussed it with SEN. LYNCH and he was amiable to the idea.

SEN. WILLIAM CRISMORE asked if their meeting would satisfy the question, or would they need to have something accomplished.

SEN. MCCARTHY said she and SEN. LYNCH had discussed it and he wanted to see if they came up with something; if not, the Committee would move forward on the bill. He said he didn't know if they could be forced into rulemaking after the action of the bill.

**SEN. KEATING** said he had asked the Council to insert coordinating language into the bill which would say the bill would be effective until rules were issued by the Board; therefore, he agreed with the suggestion to wait until the 20th to take action.

**SEN. LORENTS GROSFIELD** said he understood the meeting on the 18th would not produce any final rules; however, there could be a way for the Committee to speed the Department up a bit.

**Jon Dilliard, Department of Environmental Quality**, said on the 18th, the Department was proposing to submit to the Committee a draft set of rules and regulations for the construction of demolition waste. He said with the Committee's input, the Department envisioned either modifying or doing what the Committee felt was necessary to revise the draft rules, and then have the Board come to some conclusion if they accepted or rejected their final revisions. At that point he envisioned going directly into rulemaking procedure and putting the rules into effect.

**SEN. GROSFIELD** asked how long that would take and **Mr. Dilliard** said about two months. **SEN. GROSFIELD** suggested if everybody agreed on the proposals made on the 18th, rules could be in place within 2½ months. **Jon Dilliard** agreed. **SEN. GROSFIELD** asked him if he could make a short presentation to the Committee on February 20 and was told it would be **Mr. Dilliard's** pleasure.

**SEN. MIKE TAYLOR** asked if the topic of discussion was the rules and regulations for buildings being dumped, or was it class III dumps. **Jon Dilliard** said they were proposing to develop a class of waste and landfill which was between a municipal solid waste landfill and class III landfill. He didn't envision class III regulations changing but would allow the removal from the higher class II to go down into the next middle step.

**SEN. TAYLOR** asked if concrete and rebar could be used. **Mr. Dilliard** said that was what was being envisioned; clean concrete and clean wood (untreated, unpainted) could also be put into a class III facility.

**SEN. LORENTS GROSFIELD** said Executive Action would be taken after the February 18 Department meeting.

*{Tape: 1; Side: A; Approx. Time Count: 3:45 p.m.}*

**EXECUTIVE ACTION ON SB 223**

**Motion:** **SEN. MACK COLE** MOVED DO PASS ON SB 223.

**Discussion:** **SEN. LORENTS GROSFIELD** asked if the bill affected the money which went to the Coal Board from the Coal Tax. **SEN. COLE** said these were the Impact Fees.

**SEN. GROSFIELD** asked what SB 223 did in respect with what SB 83 did. **SEN. COLE** said SB 223 allowed any funds which flowed to the Coal Board to be used both for Impact and consequences of a major decline of a coal mine. Prior to the amendments to the Coal Board, the funds were used only for Impact funds.

**SEN. TOM KEATING** said the original language with regard to impact presumed growth; however, SB 223 amended original intent to provide for impacts from decline as well. The source of money was the same but the definition of the decline impact became the impact the Coal Board would address.

**SEN. FRED VAN VALKENBURG** said while the original law provided some clear guidelines to the Coal Board as to how it should prioritize grants for the increases from coal mining activity or energy consumption activity, SB 223 didn't provide any guidance to the Coal Board as to priorities when there was a decrease in production or energy production. He suggested the legislature should provide some guidelines, and referred to an answer given to a question in that regard -- "refer to Page 4, Lines 3-8."

**SEN. VAN VALKENBURG** said the answer really didn't address **SEN. COLE'S** concern because it didn't talk about cutting back production. He suggested at a minimum, "or decrease" should be inserted on Page 3, Lines 14 and 21 because those insertions would provide direction to the downsizing of coal production. He thought more changes could be made, but he didn't currently have language to suggest.

**SEN. MACK COLE** said he would resist those two insertions because many times there would be a rapid rate of increase in mining population and decrease in the living permanence of people not associated directly with the mining business, such as in Colstrip, Forsyth and Hysham.

**SEN. MIKE TAYLOR** asked if the bill was subject to help either way.

*{Tape: 1; Side: B; Approx. Time Count: 4:00; Comments: .}*

He wondered why the amendment would be detrimental.

**SEN. COLE** said in the coal business there could be some very rapid increases when a mine opened; however, usually the decline was quite gradual, and many times the population itself might not be in an element of decline. He felt the 10% over a three-year period might eliminate Colstrip from being helped and that was why he felt it was not a viable part to put into the bill.

**SEN. TAYLOR** commented it would not help **SEN. COLE'S** area.

**SEN. COLE** said all the funds went through the Coal Board. Then the entities came in and requested grants from the Coal Board, whose members considered and granted the requests.



**SEN. GROSFIELD** said it kicked in when the decline was dramatic, not gradual; 10% over three years was 1 million tons per year.

**SEN. VAN VALKENBURG** said this portion of the bill dealt with priorities and didn't prohibit the Coal Board from making a grant to an entity which didn't have a 10% decline in population. However, if a community had a 10% decline and another did not have that decline, the legislature was basically saying the money should be sent to the community with the 10% decline.

**SEN. BEA MCCARTHY** said the effect on the population happened when the schools started the following year, i.e. parents kept their children in school until the end of the school year and then moved during the summer.

**SEN. GROSFIELD** suggested the amendment would help **SEN. COLE'S** bill and **SEN. VIVIAN BROOKE** said it gave clearer guidelines, because if there was a drastic reduction, that community should be given priority.

**Motion/Vote:** **SEN. FRED VAN VALKENBURG** MOVED TO AMEND SB 223 AS FOLLOWS: PAGE 3, LINE 14, FOLLOWING "INCREASE" INSERT "OR DECREASE"; PAGE 3, LINE 21, FOLLOWING "INCREASE" INSERT "OR DECREASE"; PAGE 3, LINE 22, CHANGE "NEW OR EXPANDED PRODUCTION" TO "NEW, EXPANDED OR REDUCED PRODUCTION." Motion CARRIED UNANIMOUSLY.

**Discussion:** **SEN. VIVIAN BROOKE** asked if the phrase, "facility has closed or is scheduled to close within one year" on Page 4, Lines 7-8, was necessary. She explained sometimes businesses talked of closing but didn't; therefore, she felt the money should go to a business which had an actual closing.

**SEN. GROSFIELD** said he presumed the Committee was comfortable with giving **Larry** the authority to change the title to reflect **SEN. VAN VALKENBURG'S** amendment.

**SEN. GROSFIELD** asked if loans were eliminated in the bill. **SEN. COLE** affirmed. **SEN. GROSFIELD** asked if passing SB 223 meant another competitor would be put into the mix of five entities, thereby affecting their funding; in other words, he was wondering why conservation districts, libraries, etc., were not speaking in opposition to the bill. **Van Jamison** said he hadn't had time to study the bill to see what it did.

**SEN. GROSFIELD** asked the same question of **SEN. COLE** who said the Coal Board started out looking for \$1.5 million in the budget; however, before it got to the first hearing it was cut to \$1 million. There had been no conversation back and forth between the Coal Board and those entities which would be putting in applications (they thought they were still under the old system where the money came and then applications were made). He understood one application was in and five more were coming to get the \$1 million; however, even though they all were within the

8.3%, there were sub parts, i.e. if one entity didn't use their proportion, it could be juggled around a bit. There was no indication they would be competing against someone else; in fact, both counties were aware there was only one pot of money.

**SEN. TOM KEATING** said the pot of money was divided up and there was some left over for the General Fund; therefore, each group got what it asked for except for the Coal Board who was scheduled for \$550,000 per year but was getting \$500,000 per biennium. He said the only application the Board had gotten was from the Shepherd School for a well and they did not qualify; also, the Committee needed to know Roundup got \$1 million or more from the Coal Board during the last biennium in anticipation of the mine. He stressed there was currently a \$.5 million biennial appropriation in the local Impact Coal Board appropriation but no applications that qualified.

**SEN. COLE** said because of miscommunication and change in the way things were being handled, applications would be coming which would entail about \$2 million.

**SEN. KEATING** emphasized in the distribution of the funds among the five groups, each got what it asked for -- there were no new proposals or reasons to make decisions on dividing the money.

**SEN. GROSFIELD** told the Committee SB 223 didn't just deal with the biennium process but would be on the books for some time. He felt a portion of the Coal Tax money should be spent on local impacts; however, the way it was currently set up, as coal production decreased so did the pot of money. SB 223 gave authority to draw on that funding source for decreasing impacts; however, there would be less money to draw from. At some point there would be a problem with the five players in the pot of money, and he wasn't quite sure how to deal with it.

**SEN. KEATING** said the purpose of the Tax was to service the taxpayer, so maybe the coal areas should have first choice on whatever was there.

**SEN. COLE** said there was some data showing only about 7-8% was distributed to the coal-producing areas. He understood when the deal was made about 20 years ago, there would be some help to the coal-producing areas so he hoped something could be done.

**Motion/Vote:** **SEN. MACK COLE** MOVED DO PASS AS AMENDED ON SB 223.  
**Motion CARRIED UNANIMOUSLY.**

*{Tape: 1; Side: B; Approx. Time Count: 4:20 p.m.}*

#### COMMITTEE DISCUSSION ON HB 162

**Discussion:** **SEN. LORENTS GROSFIELD** said HB 162 was sponsored by **REP. MATT DENNY** and earmarked funds for hazardous waste management. The fees for registration of hazardous waste

generators had always gone to the General Fund but were never earmarked; however, HB 162 met the earmarking criteria established several sessions ago because the user fee had direct benefit to the user, which was a legitimate reason for earmarking.

**SEN. TOM KEATING** said the reason the fees were not earmarked for expenditure by the Department was to avoid the opportunity for the Department to fund itself by setting fees which may have been higher than what should have been. The legislature was watchdogging the money when it was put into the General Fund and then appropriated. If the fees were limited in statute, he didn't have a problem; however, if they weren't defined in statute, he was uneasy there could be some movement in the Department to raise the revenue.

**Don Vidrine, Department of Environmental Quality**, said the fees specific to the registration of hazardous waste generators and permit modifications and reissuance were in administrative rules, adding the Department had additional rulemaking authority which was established in statute. The 1993 session specifically established those levels of fees for commercial hazardous waste facilities and applications for new commercial facilities in statute. The rules reflecting those similar charges of fees for registration of hazardous waste generators and for permitting and reissuing were established in rule.

**SEN. KEATING** asked if the dollar amounts were written in the statutes. **Mr. Vidrine** said they weren't.

**SEN. GROSFIELD** asked how and how often the fees were changed. **Mr. Vidrine** said it was through the rulemaking process; the accounting for the fiscal note was the fees collected from 1990-1996. Overall, they were about \$34,000 per year, and most came from the registration of hazardous waste generators. He said the Department viewed the bill as an authority to spend the fees through appropriations, but the rulemaking process was an administrative process through the Department.

**SEN. GROSFIELD** asked if there were specific maximums in statute. **Mr. Vidrine** said there were no specific statutes for these two provisions in the statute.

**SEN. MIKE TAYLOR** asked if the Department had the ability to raise the fees, even though they would not do so. **Mr. Vidrine** said it did, but the Department had to go through the process, including public comment. He said there was appropriations in the rulemaking, i.e. if HB 162 passed, rules could be proposed which would raise the fees significantly; however, the process of spending the fees would be through appropriations and the authority would not be there. There had recently been some amendments of the rules to eliminate the registration of the very small businesses. Over time, the level of fees had been very static.

**SEN. KEATING** asked if the activities of the Department were dependent on federal funds. **Don Vidrine** said it was a renewable federal grant from the EPA, and made up between 40-50% of the budget. **SEN. KEATING** commented if federal funds dried up, the fees would be increased. **Mr. Vidrine** said if the policy of this body was to maintain current level of services, alternate funding of services would have to be considered, and increasing fees would be one option.

**SEN. MIKE TAYLOR** commented no matter what HB 162 did as far as fee-setting went, the Department would have to get the Committee or Subcommittee on Appropriations to agree. **Mr. Vidrine** affirmed.

**SEN. GROSFIELD** said the agreement would have to be to put the fee money into the program, not to raise the fees. **Mr. Vidrine** agreed.

**SEN. GROSFIELD** asked if the bill would result in static or increased fees. **Don Vidrine** said the scenario **SEN. KEATING** proposed would be offered to this legislative body if it wished to maintain the current level of services; however, fees would not be increased to go beyond current staff.

**SEN. GROSFIELD** referred to Lines 18-19 and asked if the fees in the two programs came close to covering the costs associated with that portion of the program. **Don Vidrine** said an exact dollar figure had not been done; however, it was costly to administer the registration process, but they used the opportunity to communicate changing regulations on a regular basis. He said it was expensive to collect and account for money and to send out bills; that was one reason the Department wanted to be able to utilize the money to support the program.

**SEN. KEATING** said he had not seen all their policies for direction but would be hearing their budget in the Subcommittee soon, so would have more information and detail as to organization and direction.

**SEN. TAYLOR** asked if action on HB 162 could be postponed because he didn't feel very comfortable with it at present.

**SEN. GROSFIELD** said he thought it was important to have the discussions so everyone would feel better. He said he shared some of **SEN. KEATING'S** concerns because even though they had been assured the Department would be sensitive to the present concerns of the Committee, once the two lines were put into statute they were there forever, more or less. He said he would honor the request but reminded the Committee if amendments were desired, they should talk to **Larry**.

*{Tape: 1; Side: B; Approx. Time Count: 4:35 p.m.}*

EXECUTIVE ACTION ON HB 120

Amendments: SEN. LORENTS GROSFIELD distributed copies of Amendment hb012001.alm (EXHIBIT 3).

Motion: SEN. TOM KEATING MOVED HB 120 BE CONCURRED IN.

Motion: SEN. LORENTS GROSFIELD MOVED DO PASS ON AMENDMENT hb012001.alm.

Discussion: SEN. GROSFIELD said Amendment hb012001.alm clarified HB 120 because it deleted some of the language. He said he was afraid the present drafting of HB 120 would lead to confusion in the statute.

Vote: Motion DO PASS ON AMENDMENT hb012001.alm CARRIED UNANIMOUSLY.

Motion: SEN. TOM KEATING MOVED HB 120 BE CONCURRED IN AS AMENDED.

Discussion: SEN. GROSFIELD commented when the Committee heard the bill, there was legitimate concern exceptions were being made to what had already been approved by the legislature; however, he felt in this particular case, it was just fine. He was, though, concerned about starting to open things a little at a time without really understanding what was being done.

SEN. MACK COLE asked if there were suggestions to do this another way besides hanging up the applications. SEN. GROSFIELD said the siltation in Muddy Creek was probably good soil which went down the creek and ended up at New Orleans. He said if the soil could be put back onto the land around, everybody would benefit; in a small sense, that was what he envisioned HB 120 was trying to do. SEN. GROSFIELD said a lot of money had been spent on the Creek trying to do just that; however, though some good had been done, the problems had not been solved.

SEN. COLE said he was afraid if an exception (though it was justified in this case) was made for Muddy Creek, other requests for exception would follow. SEN. GROSFIELD said that was why he commented as he did -- he wanted them on record. He said they were opening up a basin closure but were doing it for a very specific reason, i.e. it could help the water quality situation in Muddy Creek. He stressed they weren't doing it because someone wanted some water, and he hoped if in the future they were faced with some proposals to open other closures, they be treated in the same way.

Vote: MOTION HB 120 BE CONCURRED IN AS AMENDED CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB152

Motion: SEN. BEA MCCARTHY MOVED HB152 DO CONCUR

Discussion: Don Vidrine, DEQ, stated that this bill just separated the programs into two different sets.

SEN. THOMAS KEATING asked Mr. Vidrine if they would be asking for more FTEs. He answered no.

SEN. VAN VALKENBURG asked Don Vidrine, DEQ, why there was so many new sections with only one statute being repealed.

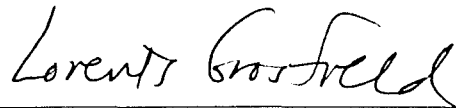
Mr. Vidrine replied that it was just a codification process, not new authorities.

Vote: Motion CARRIED UNANIMOUSLY.

CHAIRMAN GROSFIELD closed the hearing on HB152 and adjourned at 4:51 PM.

ADJOURNMENT

Adjournment: 4:50 PM



SEN. LORENTS GROSFIELD, Chairman



GAYLE HAYLEY, Secretary

LG/GH