

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on April 8, 1997, at 10:01 a.m., in Room 331.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Vivian M. Brooke (D)
Sen. Delwyn Gage (R)
Sen. Fred Thomas (R)
Sen. Bill Wilson (D)

Members Excused: None

Members Absent: None

Staff Present: David Niss, Legislative Services Division
Mary Morris, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 177, HB 499, Jefferson
County Land Board Proposal -
4/2/97
Executive Action: None

HEARING ON HB 177

Sponsor: REP. JOHN COBB, House District 50, Augusta

Proponents: None

Opponents: Jonathan Motl, Common Cause of Montana
Tara Mele, Montana Public Interest Research Group

Opening Statement by Sponsor:

SEN. COBB stated HB 177 is the only bill of its type which hasn't been killed this session. The title is big enough to allow many items to fall under it. The House and Senate leadership are to be coordinating on how campaign laws should be changed.

Leadership has not had adequate time to negotiate what exactly should be in the bill. He reviewed the bill.

{Tape: 1; Side: A; Approx. Time Count: 10:07; Comments: None.}

Proponents' Testimony: None.

Opponents' Testimony:

Jonathan Motl, Common Cause of Montana, stated that, historically, campaign reform issues have been decided by initiatives. The initiative that set the amounts being amended by HB 177 was Initiative 118, which was passed in 1994 by over 60% of the voters. The initiative passed because of the overriding feeling there is too much money involved in politics. Initiative 118 affected only Montana races.

The change on page 4 of the bill would be of concern to voters. The limits on what individuals can give would be doubled. It is noted on page 5 of the bill that the limits were doubled in the case of a contested primary. There is more mischief in the change than first appears. The limits are still low, as Montana voters want them to be. Montana voters want more personal contact and less media contact. If there isn't a doubling in the primary, there would be an extreme advantage to a candidate that doesn't have a primary. With the old system, a candidate that had a primary could double his/her limits, and that was fair. The limits were also set as they were because they were within the reach of an average contributor.

He referred to the doubling of political party limits as shown on page 4 of the bill and noted that I-118 already greatly raised limits on what a political party could give to a candidate. The bill would further raise the limits. The reason I-118 raised the limits was to prevent a monetary relationship between a soon-to-be-elected official the party which supports him/her financially.

He referred to the clause on the bottom of page 5 and noted it would be extremely difficult for the Commissioner of Political Practices, or any other entity, to handle. Under Montana Law, corporations cannot give directly to political campaigns. He questioned whether the term "politically related activities" would include initiatives or candidates for public office. That section of the bill really deals with the tension between the 501-C3 and C4 nonprofit laws and state laws. The section would likely generate many complaints, but no resolution.

Tara Mele, Montana Public Interest Research Group, supported the statements made by **Mr. Motl**. She added that Section 5 (7) is an armed-race approach to campaign finance, it would create a game of "catch-up".

{Tape: 1; Side: A; Approx. Time Count: 10:22; Comments: None.}

Questions From Committee Members and Responses:

CHAIRMAN HARGROVE asked **Ed Argenbright, Commissioner of Political Practices**, what the term "received from any source" means to him.

Commissioner Argenbright stated that the section of the bill would open up the possibility that corporations could contribute, even though it is prohibited in law. The term creates ambiguity.

CHAIRMAN HARGROVE asked if the term would remove the restrictions set out in HB 575 and Initiative 125, or more specifically, would it create situations for the Commissioner to investigate.

Commissioner Argenbright responded that the situation would have to be handled on a complaint basis.

Determining when candidates receive money could pose a problem. A wealthy candidate could potentially wait until two days before the election to reveal the contribution.

CHAIRMAN HARGROVE referred to the portion of the bill starting on page 5, line 30 and asked if it would potentially create a lot of complaints.

Commissioner Argenbright questioned whether the ability to define "politically related activities" should be given to anybody in the position of Commissioner. The issue is troublesome.

SEN. BILL WILSON asked whether, in order to meet his opponent's \$500,000 contribution, he could theoretically increase his aggregate PAC contribution limit and shop around to any PAC in the country for contributions.

Commissioner Argenbright responded that the term says "from any source".

SEN. WILSON asked if lending to one's own campaign and then paying off the loan with other sources would fall under the bill.

Commissioner Argenbright responded that a loan is included in the definition of contribution.

SEN. VIVIAN BROOKE asked what the reason for the bill is.

REP. COBB responded that he heard several complaints, from legislators and candidates for other offices, that less money is going to them, while other groups are spending more money on races.

There were also complaints that having two election cycles gives unfair advantage to incumbents.

There is concern about doing the paperwork correctly each time.

Candidates expressed that it is difficult to run against wealthy opponents. HB 177 would help make a level playing field.

He would rather have money come directly to him and disclose it than have all the different groups that are out there running the races.

SEN. BROOKE asked **REP. COBB** whether he had seen **SEN. SUE BARTLETT's** bill from last session which addressed limiting independent election campaigns.

REP. COBB responded that he had seen the bill, however no one was able to get together to use that bill with HB 177, as had been suggested.

SEN. BROOKE commented that **SEN. BARTLETT's** bill defined terms clearly. She asked why such specific language was not used in HB 177.

REP. COBB responded that it was his hope that representatives from both parties would be able to meet to come up with mutually acceptable definitions.

SEN. FRED THOMAS asked **SEN. COBB** if, as a lawyer, he would be opposed to an amendment requiring prior disclosure of putting money into a campaign. The Supreme Court, to some degree, has stated that an individual's ability to donate to his/her own campaign can't be limited.

REP. COBB responded that the amendment could work. There is a lawsuit in process that may throw out all limits.

SEN. THOMAS asked **Commissioner Argenbright** what his view of such an amendment would be.

Commissioner Argenbright cited a theoretical example of a candidate's consultant advising him/her the weekend prior to the election that advertizing would push the candidate over the top, causing the candidate to put in the money without time for disclosure. That candidate would be found in violation of the statute. The provision would be very hard to police.

SEN. THOMAS questioned how the same scenario would turn out if the candidate did not have the money to put toward the advertising.

Commissioner Argenbright stated he was faced with the situation and he had to go into debt and raise the money later.

SEN. DEL GAGE asked **Commissioner Argenbright** if anything in the bill would help him administer election laws or help the candidate comply with the election laws.

Commissioner Argenbright responded that full finance disclosure is a goal he has for himself as Commissioner. He related the scenario of a contributor giving a candidate one check because the contributor is going to Arizona for the winter. The candidate would have to put the money in two different accounts to keep the money for the primary election separate from the money for the general election. Simplifying the approach would benefit the candidate and the Commissioner's Office. Doubling of the limits would simplify the approach.

{Tape: 1; Side: A; Approx. Time Count: 10:39; Comments: None.}

Closing by Sponsor:

SEN. COBB stated that the big question is whether the legislature wants to get rid of the two election cycle and return to having one. The two election cycle kept people from running and was in favor of the incumbents. He reiterated points made earlier.

{Tape: 1; Side: A; Approx. Time Count: 11:41; Comments: None.}

HEARING ON HB 499

Sponsor: REP. JOHN BOHLINGER, House District 14, Billings

Proponents: Leroy Not Afraid, Crow Indian Tribe
Betty Waddell, Montana Association of Churches
Rodney Garcia, MCA
Pat Haffey, Department of Labor and Industry

Opponents: None

Opening Statement by Sponsor:

REP. BOHLINGER stated that, like most old parts of town, his district has what might be termed "affordable housing". Living in the affordable homes are a variety of colorful people from different cultures. According to the 1990 census, Hispanics, African Americans and Asians represented about 5% of the Billings population and about 2.5% of the state population. American Indians represent nearly 3% of the Billings population and nearly 6% of the state population.

In 1971, the legislature saw the need to establish the office of State Coordinator of Indian Affairs, whose mission is to serve in a governmental capacity as an advocate for our state's largest minority. He wishes he had been a part of the legislative body that established this important office.

The current legislature has the chance to do something important for the African Americans, Hispanics, Asians and other minorities of the state by establishing the office of Ethnic Coordinator.

The appointed person would assist the minority population in matters of education, employment and housing.

Many people arrive in our state with the inability to communicate in English. They don't understand our customs, traditions or way of doing business. It is clear an advocate is needed to help the new citizens become good citizens.

The Human Rights Commission is responsible for the enforcement the Montana Human Rights Act and Governmental Code of Fair Practices through investigation, conciliation, hearings and education. The Commission is responsible for enforcing laws which prohibit discrimination in employment, housing, public accommodation, financing/credit transactions, insurance, education, and government services.

{Tape: 1; Side: A; Approx. Time Count: 10:45; Comments: END OF SIDE ONE.}

An Ethnic coordinator would serve as an advocate for minority populations.

Because of the backlog, it currently takes from nine to ten months for the Human Rights Commission investigator to be assigned to a case. From that point it usually takes an additional six months of processing before a case is closed or is certified for a hearing. The average duration of a complaint taken all the way through the contested hearing procedure, resulting in a final order, is usually two years.

The delay in processing of discrimination complaints adds to the burden and risks of the complainant and respondent alike. Delays have a corrosive effect on staff morale and the quality of justice served. A year or more of backlogged cases adds to the cost of settlement and discourages potential claimants. The backlog also damages the Commissions public image and can place federal funds in jeopardy.

He reviewed the bill.

He read a letter from a proponent of the bill. (EXHIBIT 1).

{Tape: 1; Side: B; Approx. Time Count: 10:50; Comments: None.}

Proponents' Testimony:

Leroy Not Afraid, Crow Indian Tribe, presented written material. (EXHIBIT 2) He stated he has been privileged to participated in political practices at tribal, state and federal levels.

He was once told by his grandfathers not to try, as a young person, to give advice to his elders or community leaders. He was advised to be careful and aware because the leaders have been places he hasn't. He respects the authority of the leaders in

the room, however, he must share his heart and represent his people.

He believes HB 499 represents people of all cultures and races. Many leaders at every level of government want to make a difference and they should come together as one.

On his reservation, the unemployment rate stands at approximately 70%. He grew up in a one bedroom apartment with a family of six because the employment opportunities were limited. They have been limited for the last 50 to 100 years. HB 499 can represent the minorities and open the doors to new employment opportunities.

He has put in 100 job applications in Billings in the past year and has only been given three interviews. Maybe his qualifications have prevented him from getting interviews, but one has to wonder who is getting the jobs. He has spoken at national conferences in Washington D.C., has worked with state and federal officials and is a grants reviewer for Health and Human Services. He has put these qualifications on his resume and has included letters of recommendation from the United State's Attorney's Office. He must question why he has a job that pays only \$5 an hour. The same question must be asked by many who receive or do not receive the same opportunities.

The average income on the Crow Indian Reservation, for those who are employed, is \$15,000 a year. It is not possible to raise a family on that income.

He spoke at the three Missoula High Schools. He questioned one group of about 1,500 students about their knowledge of geography. Considerably more students know where China, Turkey and other foreign countries are located than know where any of Montana's reservations are.

Montanans have to ask themselves if they are satisfied with the way things are. If they are satisfied, there is no room for growth.

Betty Waddell, Montana Association of Churches, stated that the Association is made up of the following denominations: United Methodist, United Church of Christ, (inaudible), Roman Catholic, Episcopalian, Presbyterian, ELC, Lutheran and the Christian Church.

The Association rejoices in the cultural diversity in Montana and recognizes that many people, regardless of cultural background, have had the resources everyone else has. However, there are places in the state where racism exists.

The Association believes people are made in the image of God and that everyone deserves respect and dignity. Everyone should have

the same opportunities to pursue their lives as they feel they should.

This session has been difficult for those concerned with human rights. The third duty of the Ethnic Coordinator, under Section 7 of HB 499, is very important.

In Montana, 25% of the children under five live in poverty. In areas where the population is predominantly non-white, the poverty rate for children goes up to 50%, yet a proposal to add two new programs to reservations to increase infant and pregnancy care were rejected.

SB 350 is still being debated. A lot of the money and support for the Human Rights Commission has been lost. That may make it impossible for HUD to recognize the activities of the Human Rights Commission, causing people who have been discriminated against to have to go through federal courts instead of the less expensive and friendlier negotiation process of the Human Rights Commission.

HB 299 and HB 303 were anti-semitic. Fortunately they were defeated, but there was a lot of support for those bills and this is a concern to the Association.

The death penalty is racially discriminatory. Four of the seven people currently on death row are of non-white origin. However, 4/7 of the crimes in the state have not been committed by non-whites.

She has African American friends who are concerned about traveling in Montana because of the racism here. Some of these issues may be alleviated by appointing an Ethnic Coordinator.

Rodney Garcia, MCA, stated he had the pleasure of serving in the House of Representatives in 1987. He thanked those who helped with the statistics for HB 499. A similar bill was introduced in 1995, but was tabled because it did not have specific information or direction.

He passed around a binder showing figures compiled from the state, the City of Billings, Billings School District 2 and Yellowstone County.

The current state population is 91.8% caucasian. In the women's prison system, 30% of the prisoners are Native American and 3.8% are Hispanic. In the men's prisons, 15% are Native American, 2.4% are African American, 2% are Hispanic and 1.3% are Asian.

The census process is not an accurate reflection of the Hispanic population, because at the time he was born, Hispanics were classified as white. Figures indicate there are only 3,158 Hispanics in Yellowstone County, when there are actually more than 20,000.

In 1979 HJR 19 was passed. The Resolution was to do a study on Hispanics in Montana. The study determined that less than 50% of children of Hispanic descent finish high school. That puts a burden on the tax-payers in the state. Less than 6% of minority students at MSU graduate. The Resolution recommended a coordinator be appointed, but he and others involved with the study did not follow through.

Job opportunities and income for minority males is much lower than for non-minority males. Job opportunities for female minorities are even lower. The percentage of minorities in the work force is much lower than the percentage in the state population.

He has verified there are employers in Billings that will not hire someone who is not white. It would be better to have a liaison to negotiate and educate in such situations than to use tax dollars to fight lengthy court battles.

The Human Rights Commission had 576 new cases in 1976. Of those cases, 64% involved employment discrimination and 29% involved housing discrimination.

Historically, government has spoken for, at, or about minorities, but has never spoken with minorities. Minorities know what the problems are and know how to solve them, but the government's help is necessary.

The situation of minorities is not due to bigotry or discrimination, rather it is due to pure, outright racism. The minorities will not be eliminated through economic genocide.

Records indicate the state's history began when the white man came. In fact, Hispanics introduced horses to the Native Americans in the 16th century. The minorities will not be eliminated.

The money needed for HB 499 is 1/100,000 of 1% of the budget. This is asking a very small amount to find a solution for equality for all the people of the state.

He has personally faced discrimination due to being Hispanic; his American citizenship has been questioned by the Mayor of Billings because of a battle over flooding on the south side of Billings, a situation the city doesn't want to address.

His ex-wife remarried and his children were adopted, with his permission, by her husband. The children are now old enough to choose to take back the last name of Garcia. He will not allow them to because of the disadvantage it would cause them in this state.

He traveled through bad weather at 4:00 a.m. to appear at the hearing because the bill is so important to him.

Pat Haffey, Commissioner of the Department of Labor and Industry, supported the concept of the bill. She expressed concern, however, over the funding of the position and where the position would be located.

SB 350 reorganizes the Montana Human Rights Commission and will likely put the Commission under the responsibility of the Department of Labor and Industry. At the same time, HB 2 reduces the funding and FTE for that responsibility by 4.5 FTE.

{Tape: 1; Side: B; Approx. Time Count: 11:22; Comments: None.}

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. KEN MESAROS asked REP. BOHLINGER to address the first Technical Note of the Fiscal Note.

REP. BOHLINGER explained that when he brought the bill forward, he asked that it be attached administratively to the Human Rights Commission. At that time, there was nearly \$1 million in that budget. The Human Rights Commission deals with issues of discrimination and seemed like the natural place for the office of Ethnic Coordinator. Recent legislative action has moved the Commission to the Department of Labor and Industry. This does create some conflict, but nothing that can't be resolved by the legislative body. Addressing matters of discrimination is a far greater concern than any administrative conflict which might exist.

SEN. BROOKE asked whether the office would be in Billings.

REP. BOHLINGER responded that the office would be in the city with the most ethnic minorities. The recent census data indicates Billings is that city. It was contemplated that the person employed in that position would not just address the concerns of that community, but would have to be involved with minority populations throughout the state. The job would be to educate and help minority citizens unfamiliar with our customs avail themselves to education and employment opportunities.

{Tape: 1; Side: B; Approx. Time Count: 11:27; Comments: END OF SIDE 2.}

SEN. BROOKE asked whether the appropriation for the position of Ethnic Coordinator is currently in HB 2.

REP. BOHLINGER responded that the funding for the Human Rights Commission is included in HB 2. He does not think that funding has been set aside for this particular position, however. The funding request for the office of Ethnic Coordinator has to be part of the big package of services that are unfunded, yet are vital functions of government.

The budget being requested for this position is such an infinitesimal amount that the conscience of the legislators should lead the body to fund the position so Montana can announce to the world it is not a place where discrimination will be accepted. Without making a bold statement, discrimination will continue.

CHAIRMAN HARGROVE asked whether the Human Rights Commission is being instructed to give priority to this position in its funding.

REP. BOHLINGER responded that the Human Rights Commission has spent a great deal of time on housing issues and has perhaps gotten in trouble for its aggressive spirit in dealing with such matters. The Commission has lost some of its focus which is to deal with racial discrimination. It is appropriate for the legislature to require a portion of the Commissions budget go to addressing the concerns of discrimination.

CHAIRMAN HARGROVE commented that acting as a coordinator for the entire state would be a large job for just one person. He asked whether the city of Billings couldn't hire a person to address the issues in that city.

REP. BOHLINGER stated that the concern goes beyond Billings and is something the state should address. Hopefully, local governments throughout the state would welcome the person in the position Ethnic Coordinator.

SEN. THOMAS asked **Mr. Garcia** if the bill introduced in 1995 tried to coordinate the office of Ethnic Coordinator with the office of Coordinator of Indian Affairs.

Mr. Garcia responded that coordination of the two positions was not proposed because the Coordinator of Indian Affairs deals with federal as well as state issues.

He invited members of the committee to go shopping with him so they can witness for themselves how closely he is watched by store employees.

{Tape: 2; Side: A; Approx. Time Count: 11:34; Comments: None.}

Closing by Sponsor:

REP. BOHLINGER stated that the proponents of the bill are speaking from their hearts and their life experiences. Discrimination is encountered by Montana's minorities on a daily basis. We are able to measure the discrimination in terms of unemployment and the proportion of minorities in the prison population.

The minority prisoners were born in the image of God and are worthy of dignity and respect, yet they have been overlooked in

terms of education and opportunity. The office of Ethnic Coordinator would help enhance opportunities for minorities.

{Tape: 2; Side: A; Approx. Time Count: 11:38; Comments: None.}

HEARING ON THE JEFFERSON COUNTY LAND BOARD PROPOSAL

Proponents: Leonard Wortman, Jefferson County Commissioner

Opponents: John Heide, Self

Opening Statement:

Bud Clinch, Director of the Department of Natural Resources and Conservation, presented written materials. (EXHIBIT 3)

{Tape: 2; Side: A; Approx. Time Count: 11:42; Comments: None.}

Proponents' Testimony:

Leonard Wortman, Jefferson County Commissioner, stated that some time ago the decision was made to move the operations of the Montana Developmental Center to the north side of the Boulder River. The buildings on the south side of the campus were abandoned.

There are several buildings built in the 1960's and 1970's which are in fairly good shape. Building eight is the building of primary interest. Work has been done over the past few years to convert the building into a regional juvenile detention center which would serve 11 counties in southwestern Montana.

The county had funding in place, had applied for grants and had made a request to the legislature for assistance in converting the building into county facility. That plan has fallen by the wayside.

The county does not want to abandon the idea of creating a regional juvenile detention center because such a center is definitely needed in Montana. The focus is to contract with a private provider that could build such a facility. Putting programs in some of the other buildings is also being considered. The (inaudible) Program and Montana Youth Alternatives Program are currently using a cluster of buildings. A girls Adjudicated Center is also planned. The vision is to save abandoned state buildings and use them to fill needs in the state.

He described land on a blueprint shown to the committee (not presented as an exhibit).

A transfer station for the solid waste program is currently located southwest of Boulder. In addition to housing the solid

waste facilities, the land is currently leased to a rancher for cattle grazing.

Several years ago, a 20 acre piece of land was used by the county as a landfill. The land was reclaimed last year and has been seeded. Another 20 acres has been acquired for a Class C pit in the transfer station.

The county shop is currently located in Boulder between the elementary school and one of the city water wells. There is potential for disaster on either side if the shop is kept in town. The hope is to have the shop located next to the transfer site. The intent is to fence off the area for the county shop and honor any lease the state has with ranchers.

{Tape: 2; Side: A; Approx. Time Count: 11:47; Comments: None.}

Opponents' Testimony: None.

Informational Testimony:

Sherrel Siegmond, Manager of the solid waste site, stated the solid waste site which services the entire area is currently on state land. It would be a priority that the land be owned by county so it can be maintained over the years.

Mr. Clinch stated the Department of Health and Human Services has been contacted by the county and concurs with the transfer of the state land.

{Tape: 2; Side: A; Approx. Time Count: 11:48; Comments: None.}

Questions From Committee Members and Responses:

SEN. MESAROS asked questions based on the maps presented by Mr. Wortman. The maps were being folded and unfolded over the microphone and the questions can not be heard clearly.

SEN. MESAROS asked whether the remainder of the parcel of land under the Department of Health and Humans Services is leased out for agricultural purposes.

Mr. Clinch responded that it is. It is not uncommon for state agencies that have state property to lease out the land for various purposes.

SEN. MESAROS asked if school trust lands and other state lands differentiate with regard to constitutional mandates and market value.

Mr. Clinch answered there is considerably more qualifying language in reference to school trust lands. The language indicates full market value can only be received in actual dollars.

In regard to other state owned land, use for another government purpose constitutes full market value. A similar proposal that is being considered is the transfer of the Lewis and Clark Fairgrounds from the state to the county.

SEN. MESAROS asked what the terms of the transfer are.

Mr. Wortman answered that the solid waste program has agreed to provide seven years of service to the Montana Development Center.

Ms. Siegmond added that the solid waste program has been providing service in exchange for use of the land for the past several years, with the understanding that the trade would take place. An actual mathematical equation was worked out to determine how many years of service should be provided.

CHAIRMAN HARGROVE asked if the building is in good enough condition to meet the needs of the county's desired use.

Mr. Wortman responded that extensive remodeling would be required. A new roof and reinforcement of the walls would be needed.

Under the proposal, the state would transfer the building with the express requirement that it be used for a juvenile detention center or youth activities. If the county could not find the money to use the facility in that manner, the building would revert back to the state.

CHAIRMAN HARGROVE asked if the DPHHS is currently spending any money on the buildings.

Mr. Clinch answered that it is not.

{Tape: 2; Side: A; Approx. Time Count: 11:54; Comments: None.}

Opponents' Testimony:

John Heide, Self, stated he is the current leaseholder of the land in question. He has no problem with the building site, his only concern is with the dump site.

Twenty years ago the solid waste district was given 20 acres of land. Ten years later the district requested another 20 acres of land with the understanding that the first 20 acres would be reclaimed and released to the lessee. The reclamation of the first 20 acres did not take place until last year. The fence is to be moved in the spring, allowing the first 20 acres will go back into production.

The county was looking for a place to build the shop. The county currently has land right across the river from Boulder that, until a couple months ago, was where the shop was to be located.

There is plenty of land there. The county shop would be of more benefit on that land than if it were way out on the other land.

The county was not satisfied with just the 40 acres and decided to get the land that goes clear to the county road, which would entail between 80 and 100 acres. The county does not need 80 acres for a county shop.

He currently leases approximately 900 acres from the state. There hasn't been much communicated to him about the proposal.

There is other state owned land with less grazing value that could be used for the purposes of the proposal.

The Department of Institutions, which is in control of the land, was not told of today's hearing.

{Tape: 2; Side: A; Approx. Time Count: 11:58; Comments: None.}

Questions From Committee Members and Responses:

CHAIRMAN HARGROVE asked **Mr. Wortman** if there is better land that could be used.

Mr. Wortman explained that the county had considered placing the shop on the land across the river. The county had owned the land and had used it for years. The state Department of Transportation shop had also been on the land. The county assumed it owned the entire portion of land. However, a title search revealed that a 5 acre parcel in the middle of the property was owned by someone else.

The benevolent woman who owned the land had donated a lot of land to Boulder and it was the county's hope that the land could be purchased from her or donated by her. Unfortunately, the owner had been in declining health and all her affairs had been turned over to an administrator. During negotiations the owner passed away. The land was appraised at \$17,000 and the county made an offer to buy it at that price. The lawyers in control of the owner's affairs originally accepted the offer, then rescinded it and raised the price to \$65,000. The lawyers also sued the county for trespass. The issue was scheduled for a December hearing, but the hearing was canceled at the opposition's request.

The county can't afford to pay \$65,000 for a 5 acre parcel of land.

CHAIRMAN HARGROVE asked if the 5 acres was the land to which **Mr. Heide** referred.

Mr. Wortmen responded that there are an additional 20 acres that are owned by the county. He reiterated that the 5 acres is, unfortunately, right in the middle of the land.

He understands the concern about taking agricultural land out of production. However, the 20 acres that were used previously for a land fill could never be used for anything other than grazing; no structures could be built on it. When the county started the process, it was assumed the state would just as soon relinquish itself of that possible liability.

The county is certainly willing to lease any land not used by the shop and related facilities.

CHAIRMAN HARGROVE asked if any legal problems would arise from the county leasing converted state land for the purposes of grazing.

Mr. Clinch responded that there would be no legal problems. The lease would be by the county to the lessee, which is a common practice.

CHAIRMAN HARGROVE asked if it would be reasonable to make the land swap contingent upon an agreement that the county would lease unused land.

Mr. Wortman responded that such an agreement would be satisfactory to him.

Mr. Clinch responded that it would make no difference to him; his role is to serve as a conduit. The DPHHS does not have statutory authority to dispose of property, so the proposal must get before the Land Board.

He added that regardless of the committee's decision, the proposal will go before the Land Board. Should the Board support a preliminary approval, there will be an environmental assessment. Many questions will be answered by the assessment and through a full range of public hearings.

CHAIRMAN HARGROVE asked **Mr. Heide** how he would feel about the county opening up the unused land for grazing.

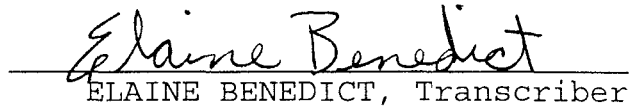
Mr. Heide stated he is concerned that, if the county is given the 80 or so acres, that much land will be fenced. The county does not need 80 acres. The county shop should be built on the 20 acres the county currently owns. There are less agriculturally valuable state lands that are closer to the facilities presently used by the county.

ADJOURNMENT

Adjournment: 12:08


SEN. DON HARGROVE, Chairman


MARY MORRIS, Secretary


ELAINE BENEDICT, Transcriber

DH/EMB