

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND
COMMERCE**

Call to Order: By **CHAIRMAN DICK HAINES**, on January 31, 2001 at 8:30 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Dick Haines, Chairman (R)
Sen. William Crismore, Vice Chairman (R)
Sen. Linda Nelson (D)
Sen. Bill Tash (R)
Rep. Joe Tropila (D)

Members Excused: Rep. Christine Kaufmann

Members Absent: None.

Staff Present: Gary Hamel, Legislative Branch
Amber Sauer, Committee Secretary
Doug Schmitz, OBPP

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: Department of Environmental Quality, Centralized Services Division, 1/26/01
Executive Action: Department of Environmental Quality, Centralized Services Division

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DEPARTMENT OF ENVIRONMENTAL QUALITY

Ms. Jan Sensibaugh, Director, Department of Environmental Quality (DEQ), introduced the Division Administrators who would be presenting overviews and budget requests.

Global Issues

Ms. Ann Danzer, Administrator, Centralized Services Division, spoke about the "Enterprise" Database Concept presented earlier and called the committee's attention specifically to the efficiencies.

EXHIBIT (jnh25a01)

Ms. Danzer then covered the database maintenance requests per the following exhibit as found in the LFD Budget Book on page C-67.

EXHIBIT (jnh25a02)

She explained the decision package (DP) requests and that some of the amounts had been adjusted. **Mr. Gary, Hamel, LFD,** distributed information regarding a new table of adjusted figures and full explanations of the costs for each office within the DEQ.

EXHIBIT (jnh25a03)

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Ms. Danzer continued with the global issue of NRIS funding. There is a language recommendation for a total of \$177,860 for the 2003 biennium for the Montana Natural Resources Information System (NRIS) services. The services provided by NRIS are important to the DEQ and would be very expensive to duplicate themselves; therefore, they have agreed to contribute to the core services. NRIS requests for funding will appear in each division of the DEQ that uses the services. She described some of the services.

Ms. Danzer brought to the attention of the committee that the DEQ has some non-budgeted funds. These funds are received by the DEQ but not budgeted in HB 2 or other legislation. They are typically private, non-state funds that are, however, accounted for on the state accounting system. There are two large projects that are non-budgeted. The Montana Pole Project and Stream Site Tailings both located in Butte. The DEQ is responsible for oversight of the funds and for ensuring the reclamation work is completed. Non-budgeted funds are also involved in the State Revolving Fund Loans which are loans to communities for waste water and drinking water facilities. This program is shared jointly with the Department of Natural Resources and Conservation (DNRC). **Ms. Danzer** then explained the procedure involved in determining base adjustments.

Ms. Danzer continued with the proprietary rates. The Department has one proprietary fund, which is an internal service fund used to account for the Department's indirect cost activity. The Department negotiates an annual rate with EPA. The Department is requesting an increase in its indirect cost rate from the 23 percent approved in the last legislative session to 24 percent. She explained the request in full per page C-73 in the LFD Budget Book. **Mr. Hamel** explained the decision packages that would be funded by the rate increase on page C-70. He stated if the rates for the proprietary fund are accepted, the committee will in effect be granting the Department increases in four DP's. **Ms. Danzer** stated all base adjustments will reflect the rate increases.

Mr. Hamel referred to exhibit 3 stating each base adjustment requested is explained for each program throughout the Department. He had an issue throughout the DEQ's budget requests in that each program anticipates additional workloads and there are only a few references to legally mandated workload increases. Detailed descriptions for the base adjustments were not provided by the DEQ. He suggested options to the committee on how to deal with the DP's. He also spoke to the database conversion per the exhibit and although there will be a significant maintenance dollar amount needed there will be offsetting efficiencies generated and some cost savings.

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CENTRAL MANAGEMENT DIVISION

Ms. Danzer gave an overview of the Central Management Division. She stated they provide services in central budgeting, accounting, fiscal reporting, internal auditing, procurement, contracts for services, purchasing of supplies and equipment, and information technology services. The Division consists of four bureaus which are the Fiscal Management Bureau, Contracts and Procurement Bureau, Systems Administration Bureau, and Systems Solution Bureau. She listed the duties of each bureau.

Mr. Hamel began with the decision packages. The DP's that would be affected by the proprietary rate increases were discussed last. He referred to exhibit 3 in discussion of the DP's for base adjustments. DP-2 Board of Environment Review Base Adjustments is compensation for board members. It is necessary to approve the requested amount to get back to the original budget and would provide travel expenses for board members. **Mr. Curt Chisholm, Deputy Director, DEQ**, explained the request is for general fund monies to establish the Board's general fund budget

back to the levels that were appropriated in the last biennium at \$15,000 per year. The Board is critical to the operation of the DEQ and meets six times a year. Depending on the geographical location of board members, expenses vary from year to year.

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Motion/Vote: SEN. NELSON moved that DP-2 BOARD OF ENVIRONMENTAL REVIEW BASE ADJUSTMENTS BE ADOPTED. Motion carried unanimously.

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Mr. Hamel stated DP-33 was removed per Governor Martz's request and presented DP-46 DEQ Database Development Biennial. It is a request to continue the department's database development consolidation project started during the previous biennium. Mr. Hamel stated the LFD issue is that the 1999 legislature appropriated \$250,000 for that purpose, restricted and one-time-only. The LFD recommendation is the same action. He stated other issues and options for discussion. Ms. Danzer explained there is no duplication of funding in the requests. All requests are to move closer to centralization of the Enterprise database. There was further discussion regarding the database conversion, the costs and where the funds might be found. They discussed possible proprietary funds and/or grants available.

Mr. Chisholm spoke about the time frame for completion of the conversion. He was not sure it would be done by the end of the 2003 biennium. Mr. Hamel added the project was to take 3-5 years (beginning in 1999) with smaller projects to follow. They had no final figure on the overall cost other than the \$1.3 million development costs for this biennium from various sources with \$350,000 in general funds. Mr. Chisholm stated they had received a federal grant unexpectedly for \$500,000 to help with the project. The committee and agency representatives discussed how a reduction of \$100,000 in funds could be handled. The Department felt they could redirect funds to take care of the project.

{Tape : 1; Side : B; Approx. Time Counter : 230}

Motion/Vote: SEN. TASH moved that DP-46 DEQ DATABASE DEVELOPMENT BIENNIAL REDUCED TO \$150,000 ONE-TIME-ONLY AND RESTRICTED BE ADOPTED. Motion carried unanimously.

Mr. Hamel discussed DP-57 Legal Challenges which is a request for a restricted, biennial appropriation of \$200,000 general fund to respond to a variety of legal challenges to the department's

permitting and bonding actions. It would be used to hire outside expert legal services. The request was reduced to \$150,000 by the Martz budget. The LFD issue is that requesting general funds assumes this type of action requires general funds. It was suggested the legislature may wish to require the department to explore methods of charging other funding sources for the service in the receiving programs. **Mr. Chisholm** explained the request further as covering actual and anticipated costs. He stated a case in point was the bankruptcy of the Pegasus Mining Company and the enforcement of reclamation. It was necessary to hire outside legal representation in Reno, Nevada, where the bankruptcy was filed. The court costs, filing, travel, per diem, etc., caused the DEQ to absorb \$208,000 from other sources. Also, there are further costs expected to be incurred since there is a countersuit against the State of Montana.

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Motion/Vote: SEN. CRISMORE moved that **DP-57 LEGAL CHALLENGES REDUCED TO \$150,000 BIENNIAL APPROPRIATION ONE-TIME-ONLY AND RESTRICTED BE ADOPTED. Motion carried unanimously.**

Mr. Hamel returned to the proprietary fund rates increase and the four DP's which are DP-1, DP-27, DP-43 and DP-44.

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Mr. Hamel presented DP-1 Central Management Program Base Adjustment requesting proprietary funds for increases to the base budget due to increases in operating costs such as hiring of new staff, automation and conversion of agency financial databases, etc. He suggested the committee may want to look at the efficiencies gained from the database conversion efforts. There was discussion on whether the rate increase should be discussed before the DP's were considered. It was decided each DP would be discussed as a component of the need for a rate increase and executive action would be held until all discussion was completed.

Ms. Danzer stated the base adjustments are to bring the Department back to the current level. Expenditures were low in the base year partly due to the reorganization of their information technology and therefore full costs are not reflected in the base expenditures. The request is for \$149,400 proprietary funds for the 2003 biennium.

Mr. Hamel discussed DP-27 IT positions to CMP which is a request to transfer 6.5 FTE and include proprietary funding of \$594,086

for the 2003 biennium in the Central Management Program. Although the request does not increase funding as the FTE's are transferred from different programs, it would increase the department's indirect cost rate. **Ms. Danzer** stated they did a review to determine best placement of the FTE's. This will ensure all programs get the level of service needed.

Mr. Hamel discussed DP-43 Data Storage System. This is a request to provide a data storage array system for the department. He explained the current storage situation, the growth expected, and how the centralization of information technology will increase efficiencies. **Ms. Danzer** explained the benefits of the data storage system. With the quantum leaps in information technology, more storage space is needed and the current file servers cannot accommodate the data storage capacity needed without purchasing about five more servers. Each server would require licenses to be purchased also. Expanding the storage space will be the most cost effective way to accommodate the growth. More space has been required in order to provide the public information on the internet.

Mr. Hamel presented DP-44 Software Upgrades to support staff and to maintain existing department software for upgrades and replacements. He explained the need for training with software upgrades. **Ms. Danzer** spoke about the difficulty in determining when software upgrades are necessary and the expense of it both in buying the software and in training the personnel.

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Motion/Vote: SEN. CRISMORE moved that **PROPRIETARY RATES INCREASE PROPOSED BY THE DEPARTMENT FROM 23% TO 24% BE ADOPTED.** Motion carried unanimously.

Mr. Hamel explained the language recommendations to be adopted.

Motion: REP. TROPILA moved that **RECOMMENDED LANGUAGE AS FOLLOWS BE ADOPTED.**

- 1) "Item 1a includes a biennial/restricted appropriation of \$150,000 general fund one time only for database development."
- 2) "Item 1b is a biennial appropriation for legal challenges."

Discussion: Mr. Schmitz stated the language was not necessary since the information had been included in the motions on the DP. The committee was in agreement.

Motion was withdrawn.

CHAIRMAN HAINES closed the hearing and executive action on DEQ Centralized Services Division.

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PLANNING, PREVENTION AND ASSISTANCE DIVISION

Mr. Art Compton, Administrator, Planning, Prevention and Assistance Division, presented an overview of the agency and the Total Maximum Daily Load program.

EXHIBIT (jnh25a04)

Mr. Compton stated the Planning Division is the non-regulatory arm of the DEQ. Their efforts are in two very broad areas which are technical and financial assistance to industry, small businesses, and land owners, and voluntary measures to maintain compliance with environmental laws. He stated the philosophy of the Department is "an ounce of prevention is worth a pound of cure."

Mr. Compton stated there are four bureaus in the Division which are the Resource Protection Planning Bureau, the Monitoring and Data Management Bureau, the Pollution Prevention Bureau, and the Technical and Financial Assistance Bureau. He stated the responsibilities of each Bureau and gave examples of the duties of each. The Resource Protection Planning Bureau is presently working on coalbed methane development in Montana. The Technical and Financial Assistance Bureau is mainly involved in drinking water and wastewater systems and outreach energy efficiency.

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Mr. Compton continued that the Pollution Prevention Bureau works with small business and others in the areas of air quality, water quality, and energy efficiency. They were involved in the ban of gas burning snowmobiles in Yellowstone Park due to the polluting emissions. The Monitoring and Data Management Bureau monitors air and water quality conditions and trends. **Mr. Compton** listed per the exhibit the division goals and objectives, the major

accomplishments, and the funding sources for the Planning Division.

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Mr. Compton then presented an overview of the Total Maximum Daily Load Program.

EXHIBIT (jnh25a05)

He stated the Total Maximum Daily Load Program (TMDL) is the State's compliance with the federally delegated and mandated program that requires the DEQ to identify water bodies, mostly streams, that are not meeting their beneficial uses such as stock water, irrigation and domestic water supplies, and fix it. The TMDL itself essentially represents the amount of pollutants or discharge the water body can accept and still meet the beneficial uses. Montana started the TMDL Program with HB 546 in the 1997 legislative session. It is a voluntary program for everyone except state agencies. He further explained the Program in detail. The exhibit included a list of the Watershed's in the State that are involved.

Mr. Compton stated the major obstacle in the program is that since it is voluntary, getting to the final step of sending in the paperwork to the EPA is difficult. There is the feeling of changing from a voluntary project to a federal requirement. The staff has to overcome that in a salesmanship effort. They began to administer the program in 1997 cautiously and now they need staffing and operating funds. The job now is to develop TMDL allocations on about 850-860 stream reaches. They have completed 135 and the deadline is 2007. He summarized the program and the budget requests. He stated the Montana State Department of Transportation would also like to be involved in the TMDL project when they are considering highway and road construction.

REP. KAUFMANN asked if only streams were involved or if lakes were also involved. **Mr. Compton** stated both are being done. There was further discussion about the water quality and the beneficial uses of the streams and lakes being done. **Mr. Compton** stated recreational uses are part of the beneficial uses and Fish, Wildlife and Parks waters are involved. The Conservation Districts are helping the DEQ to provide measurements on productivity. He also spoke about the 319 Grant Program and its critical part in the TMDL Program. Violations are usually not involved due to the fact that a source of pollution is very hard to find. The point is to clean up the water, not to place blame and fines on landowners.

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Mr. Compton continued to explain landowners do not have to accept responsibility for the condition of the water. **Mr. Chisholm** added it is an extremely important project and the deadline of 2007 established by the legislature creates a tremendous task before the Division. The TMDL's are basically a restoration program for all the identified impaired streams. He gave a brief history of why Montana decided to become involved in stream water quality. Unfortunately, in such a tight budget year, they have to ask for general fund monies to continue the work.

CHAIRMAN HAINES asked if it would be possible to shave some of the general fund requests and find other money sources.

The committee moved to the DP's. **Mr. Hamel** stated DP-1 TMDL Total Maximum Daily Load Program, which has been adjusted by Governor Martz per exhibit 6, is to accelerate the development of total maximum daily loads to meet the statutory deadline of 2007. Over the first four years of the program, the department developed methods to list, de-list, and prioritize water bodies for TMDL development. The additional staff would be used to develop water restoration plans and TMDL's.

EXHIBIT (jnh25a06)

Mr. Hamel's comment was that the department had been asked to supply a "master plan" for the TMDL program from which they could quantify goals achieved and overall direction for the program. **Mr. Schmitz** explained the reductions made by Governor Martz as being very difficult choices. **Mr. Compton** added they were very careful in the requests to include only what was absolutely necessary to finish the work by 2007. **Mr. Chisholm** explained additional cuts have previously been made to satisfy Governor Racicot's budget and Governor Martz's budget. The Division feels the current request is down to the "bare bones." In order to reduce the requests further, they would need time to investigate other alternatives. **Ms. Jan Sensibaugh, Director, DEQ,** stated they have already redirected some federal funds from other programs to help fund the TMDL; however, the Department would search for other sources of funding. **SEN. TASH** asked if funds could be redirected from the legal department and **REP. KAUFMANN** asked if license fees could be allocated from Fish, Wildlife and Parks. **Mr. Hamel** stated there are strict guidelines for using the license fees collected from FWP.

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There was further discussion about possible funding sources, how federal money might be used, and other agencies that might be involved. **Mr. Compton** explained the federal fund/general fund split. **REP. TROPILA** suggested if the deadline would not be met, possibly extending the deadline would be the answer since funds are tight. It was decided to defer action on this DP until the next meeting. The Department reminded the committee some general funds will be necessary to provide the match for federal funds.

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Mr. Hamel presented the next five DP's which are all base adjustments. DP-3 is Base Adjustment to Administration for indirect cost increases. The base year costs were understated due to three vacant positions. **Mr. Hamel** will total the general fund requests for the five DP's. There was some discussion on the vacant positions.

Motion/Vote: **REP. TROPILA** moved that **DP-3 BASE ADJUSTMENT TO ADMINISTRATION BE ADOPTED. Motion carried unanimously. SEN. CRISMORE** voted via proxy.

Mr. Hamel continued with DP-4 Base Adjustment to Resource Protection Plan to fund increased operating costs due to higher rates for in-state lodging and indirect charges.

CHAIRMAN HAINES decided to adjourn the meeting for lack of time and continue on February 1, 2001.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. DICK HAINES, Chairman

SANDRA WHITAKER, Transcription
Secretary

DH/SW

EXHIBIT (jnh25aad)