

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON NATURAL RESOURCES**

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 28, 2001
at 3:15 P.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Bill Tash (R)
Sen. Mike Taylor (R)
Sen. Ken Toole (D)

Members Excused: Sen. Lorents Grosfield (R)

Members Absent: None.

Staff Present: Melissa Rasmussen, Committee Secretary
Mary Vandebosch, Legislative Branch

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 626, 3/27/2001
Executive Action: HB 626
HB 320
HJ 19
HJ 27
HB 421
Discussion: HB 457
HB 572

HEARING ON HB 626

Sponsor: REP. MATT MCCANN, HD 92, Harlem

Proponents: Chris Tweeten, Reserved Water Rights Compact
Commission & Attorney General
Susan Cottingham, Reserved Water Rights Compact
Commission
SEN. GREG JERGESON, SD 46, Chinook
John Bloomquist, Milk River Joint Board of Control
Mike Murphy, MT Water Resources Association

Opening Statement by Sponsor:

REP. MATT MCCANN, HD 92, Harlem, declared that the bill refers to the Fort Belknap water compact. He told the committee that there is litigation involved in the process, and funding must be decided.

Proponents' Testimony:

Chris Tweeten, RWRCC & Attorney General, joked that he has grown old with the compact. He stated that getting the tribes involved is a good idea.

Susan Cottingham, RWRCC, explained that amendments were handed out during the joint committee. They are four brief, technical amendments that do not change the substance of the compact. She stated that the tribal chairman agrees with the bill. The bill passed 94-6 in the House

SEN. GREG JERGESON, SD 46, Chinook, expressed his support for the bill and declared he would carry the bill on the floor if it passes.

John Bloomquist, Milk River Joint Board of Control, stated that the bill possess key language necessary to make the compact work. The system is the lifeblood of the irrigation districts.

Mike Murphy, MT Water Resources Association, declared his support for the bill. He added that the process has been long, with lots of public comment and involvement.

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked if there were amendments and if he wanted to present them. **REP. MCCANN** informed her they were handed out during the joint committee hearing.

SEN. MACK COLE questioned if there was anything in the bill that addressed mitigation. **Mr. Tweeten** informed him that the compact provides for mitigation. Mitigation procedures will be determined by specific studies that are currently being conducted in the Milk River Basin.

Closing by Sponsor:

The sponsor was excused during questions.

EXECUTIVE ACTION ON HB 626

Motion/Vote: **SEN. MAHLUM** moved that **HB 626 BE CONCURRED IN.**
Motion carried 8-0.

EXECUTIVE ACTION ON HB 320

Motion: **SEN. CRISMORE** moved that **AMENDMENTS HB032001.AMV EXHIBIT (nas70a01) BE ADOPTED.**

Discussion:

Mary Vandebosch explained the amendments to the committee.

SEN. KEN MILLER asked for clarification as to why the language was necessary. **Ms Vandebosch** told him it was to make the section clear. There were questions raised during the hearing as to the constitutionality of the bill.

Vote: **Motion carried 9-0.**

Motion: **SEN. TASH** moved that **HB 320 BE CONCURRED IN AS AMENDED.**

Discussion:

SEN. KEN TOOLE argued that the constitutional issues were significant. He stated he had asked for further information during the hearing from the department and they had not responded.

Substitute Motion/Vote: SEN. TOOLE made a substitute motion that HB 320 BE TABLED. Substitute motion failed 3-5 with Cocchiarella, Roush, Toole voting aye.

Vote: Motion carried 5-3 with Cocchiarella, Roush, Toole voting no.

EXECUTIVE ACTION ON HJ 19

CHAIRMAN CRISMORE informed the committee that amendments HJ001902.amv EXHIBIT (nas70a02) eliminated inaccurate numbers that had been given by the AFL-CIO.

Motion: SEN. TASH moved that HJR 19 BE CONCURRED IN.

Motion: SEN. CRISMORE moved that AMENDMENTS HJ001902.AMV BE ADOPTED.

Discussion:

SEN. TOOLE expressed his concern that the amendments rewrite the resolution. He stated that it brings up issues that were not discussed during the hearing.

CHAIRMAN CRISMORE stated if the amendments fit within the title, they are okay.

SEN. TOOLE declared that the committee should not move forward with the proposed amendments.

SEN. TASH argued that the amendments clarify concerns that were raised during the hearing.

SEN. COLE added that the amendments eliminate the question of legitimacy.

SEN. VICKI COCCHIARELLA proclaimed the amendments made the bill better. She questioned if the language needed to be changed on page one, line eight. Ms Vandebosch maintained the language was clear within the context of the resolution. SEN. COCCHIARELLA questioned if the language was addressing more than was introduced. Ms Vandebosch said no.

SEN. COCCHIARELLA inquired if page one, line 13 presented a problem with allowing people access to the wilderness area. She argued that perception is everything. She questioned if supporting the resolution, would be equivalent to supporting the current lawsuit against the roadless rule.

SEN. DALE MAHLUM wondered if anyone reads the resolutions.

SEN. COLE informed him, from experience, that people do.

Vote: Motion **carried 8-1 with Toole voting no.**

Motion: **SEN. MCCARTHY** moved that **HJ 19 BE CONCURRED IN AS AMENDED.**

Discussion:

{Tape : 1; Side : B}

SEN. TOOLE argued that to a person used to having open roads the word "initiative" is limiting. He questioned if the word gave a false impression. He warned against using the resolution to create a controversy.

SEN. TASH stated that multiple use equals multiple benefits. He stated it would send a message to people who do not understand the issue.

SEN. TOOLE accused the term multiple use as being used for a political grindstone.

Vote: Motion **carried 7-2 with Cocchiarella, Toole voting no.**

EXECUTIVE ACTION ON HJR 27

Ms Vandebosh explained the amendments **HJ002701.amv EXHIBIT (nas70a03)**. The language eliminates some of the restrictions.

Motion: **SEN. COCCHIARELLA** moved that **HJR 27 BE CONCURRED IN.**

Motion: **SEN. COCCHIARELLA** moved that **AMENDMENTS HJ002701.AMV BE ADOPTED.**

Discussion:

SEN. COCCHIARELLA stated she was concerned with the possible assumption that the EQC would have some oversight over the EIS process. She wanted to make sure that the EQC did not lose track of their own priorities by taking on the burden of reviewing EIS'.

Vote: Motion on **AMENDMENTS HJ002701.AMV carried 10-0.**

Motion: SEN. COCCHIARELLA moved that HJR 27 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. TOOLE argued the resolution did not deal with concerns brought forth during the hearing.

SEN. COLE declared the resolution deals with issues that have already been addressed by the EQC.

Vote: Motion carried 9-1 with Toole voting no.

EXECUTIVE ACTION ON HB 421

Motion: SEN. MAHLUM moved that HB 421 BE CONCURRED IN.

Motion: SEN. CRISMORE moved that AMENDMENTS HB042103.AKL EXHIBIT (3) BE ADOPTED.

Discussion:

SEN. MILLER questioned the reasons for adding the language "purpose for the condemner".

SEN. TOOLE suggested it clarified when a condemner changes the use of the land.

SEN. MILLER directed his question to Tom Ebzery, Lobbyist. Mr. Ebzery declared that the amendments made the definition of "evolved technology" stronger. He stated that the Supreme Court ruled fiberoptic is the same as telephone. There was concern that the original condemner order was not strong enough.

SEN. MCCARTHY informed the committee the subject was already discussed by the council.

Motion/Vote: SEN. MCCARTHY moved that HB 421 BE TABLED. Motion carried 6-2 with Miller, Toole voting no.

Discussion on HB 457

CHAIRMAN CRISMORE proclaimed the bill was not needed because of SB 242.

SEN. MILLER argued that SB 242 was tabled.

SEN. MCCARTHY stated if SB 242 passed, HB 457 would be void.

{Tape : 2; Side : A}

SEN. MILLER asked **Ms Vandebosch** to explain the amendments to SB 242. She stated that a county cannot adopt a building code outside of its municipality. **SEN. MILLER** questioned if the whole county has to vote. **Ms Vandebosch** stated that according to SB 242, as amended, the municipality has no authority outside of its limits. The county can adopt a building code outside of its limits, but they have to adopt it for the entire county. **SEN. MILLER** wondered who would be allowed to participate. **Ms Vandebosch** told him the county has to notify all of the owners of real property in the affected area by mail. The postal service has to notify the county that the letter was received. **SEN. MILLER** expressed his concern that the people outside of the municipality can petition but they still cannot vote for representation; even though they are obligated to follow the rules of the governing body in which they have no say. **Ms Vandebosch** declared that if a large number of protests were received the county could not adopt that particular jurisdictional area. **SEN. MILLER** asked if the jurisdictional area language was removed in SB 242. **Ms Vandebosch** declared that the language was amended.

Discussion on HB 572

Motion: **SEN. TASH** moved that **HB 572 BE CONCURRED IN.**

Motion: **SEN. CRISMORE** moved that **AMENDMENTS HB057204.ALM EXHIBIT (nas70a04) BE ADOPTED.**

Discussion:

Larry Mitchell, Legislative Environmental Policy Office, declared that the amendments clarified the confusion related to the distribution of oil and gas taxes.

SEN. ROUSH questioned if a water rights' holder who lives on the border would be compensated. **Ms Vandebosch** stated if they were a land right holder and a water right holder they would be compensated. **SEN. ROUSH** wondered if that applied to the reservations. **Ms Vandebosch** told him if they are a water rights holder they should be compensated.

SEN. COLE added that families do not live along the border. It is mainly fee lands.

SEN. MIKE TAYLOR questioned where the suggested figure of \$400,000 came from. **REP. KEITH BALES, HD 1, Otter,** declared the figure is a projection of possible tax revenue from coal bed methane. It was easier to make the bill work with a set amount. The actual amount of the account cannot be determined until the program gets going. **SEN. TAYLOR** asked what was the percentage of projected income set aside. **REP. BALES** stated the amount is around one billion dollars, and 40% of that is set aside.

SEN. TOOLE questioned if the grants lost money. **Ms Vandebosch** said yes. **REP. BALES** stated that **SEN. TOOLE** was correct. The fund diverts money from that revenue flow. **SEN. TOOLE** questioned how long the diversion would last. **REP. BALES** proclaimed approximately ten years. **SEN. TOOLE** questioned if the grants were having a surplus. **REP. BALES** announced that the Orphan Share has not been utilized.

ADJOURNMENT

Adjournment: 4:30 P.M.

SEN. WILLIAM CRISMORE, Chairman

MELISSA RASMUSSEN, Secretary

WC/MR

EXHIBIT (nas70aad)