

SEPTEMBER 9, 2017

Environmental Quality Council
Leanne Kurtz

2007-08 FIRE SUPPRESSION COMMITTEE SUMMARY & FIRE PROTECTION ASSESSMENTS

The Environmental Quality Council has dedicated a portion of its work this interim to certain fire-related topics. Local, state, and federal wildland fire policies and funding for fire suppression, preparedness, and mitigation are frequently discussed by the legislature during the session and in interim committees. Staff briefings for the September meeting include:

1. the findings and recommendations of a special interim committee created by the 60th Legislature during the September 2007 special session, called in response to that year's severe wildland fire season; and
2. fire protection assessments paid by owners of forest land.

Additional documents included with this summary are:

- a report prepared in 2008 by Legislative Fiscal Division staff providing background information on fire protection assessments. Although the report is dated and the assessment amounts referred to are not current, the assessment structure remains the same;
- copies of sections 76-13-201, 76-13-207, and 76-13-213, MCA, which provide for the assessments and the calculation of the amount owed by forest landowners;
- a copy of a "Fire Protection Assessment Fact Sheet" prepared in 2008 by the DNRC Forestry Division, including the changes in the assessment over time and a list of the six counties from which the largest amount of revenue was, at that time, derived; and
- the latest (2016) Legislative Fiscal Division brief on Fire Suppression funding.

I have asked DNRC for updated assessment data, and hope to have that information available at your meeting.

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2007 Special Session

Ten years ago Governor Brian Schweitzer called the 60th Legislature into special session to "appropriate money and provide spending authority to pay for the actual and anticipated costs of fire suppression, disaster response, and recovery activities for the 2007 and 2008 fire seasons."¹ When the special session convened on September 5, total costs for the 2007 session were near \$80 million and climbing. Once cost negotiations among all of the involved agencies were completed, the state faced a liability of over \$40 million, more than twice the average amount calculated over a 7-year period.²

HB 1 contained a \$39 million appropriation from the general fund to the Department of Natural Resources and Conservation for fire suppression and disaster response and recovery and a \$3 million appropriation to the Department of Military Affairs for the same purpose. HB 1 also created the Fire Suppression Committee and appropriated funding for its operations.³

The temporary section establishing the committee is copied below in its entirety.

Section 1. Fire suppression committee study. (1) There is a fire suppression committee established to conduct a comprehensive fire suppression study.

(2) The committee consists of six senators appointed by the committee on committees and six representatives appointed by the speaker of the house. Three senators and three representatives must be members of the majority party, and three senators and three representatives must be members of the minority party.

(3) The legislative services division shall provide staff assistance to the committee, and the committee may receive staff assistance from the legislative fiscal division and the legislative audit division. The committee shall conduct meetings in Miles City, Libby, Thompson Falls, Lewistown, and Hamilton.

(4) The study must include:

(a) an investigation of firefighting operations in Montana, including operations on tribal land and private land, by the state and federal governments and the management policies affecting the success of those operations;

(b) an investigation of the efficient use of fire suppression resources, including equipment and firefighters;

¹ Call to the 60th Legislature for a Special Session, Aug. 27, 2007; Gov. Brian Schweitzer.

² According to the Legislative Fiscal Division's Legislative Budget Analysis for the special session, with its existing general fund appropriation and a request of supplemental transfer authority from FY 2009 to FY 2008, DNRC would have had sufficient funds to pay what ended up being the state's share of the 2007 fire year costs when those amounts were determined in late 2007. However, the agency would not have been able to conduct its normal operations through FY 2009 until the 2009 Legislature could provide a supplemental appropriation.

³ The unreserved general fund ending fund balance at the end of the 2007 biennium was predicted to be \$543.5 million.

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(c) an investigation of impacts of operations on private land and on the effective use of private resources to fight fires; and

(d) an investigation of state and federal forest management policies and how those policies may contribute to an increased number of wildfires, greater safety risk to firefighters, or compromised effectiveness of fire suppression efforts.

(5) The fire suppression committee shall complete the study by September 15, 2008, and report to the 61st legislature on its findings and recommendations, including any recommendations for legislation.

HB 3, also enacted during the special session, created the first version of the fire suppression account (codified as 76-13-150, MCA), required that the amount necessary to keep the balance at \$40 million be transferred to the account from the general fund at the beginning of each fiscal year, and limited use of the money for fire suppression only.

Fire Suppression Committee Activities

FSC members first wanted to review the policies of and the relationship, coordination, and communication among the various land management and wildfire suppression entities in the state. Initial meetings involved presentations and discussions with representatives of the United States Forest Service, the Bureau of Land Management, the United States Fish and Wildlife Service, the Bureau of Indian Affairs, the National Park Service, DNRC, the state Department of Military Affairs, local fire departments, county commissions, and county law enforcement. Once members had achieved a baseline understanding of the issues and before developing recommendations, the committee solicited public comment on fire suppression, land management policies, preparedness, and use of contractors and traveled to seven communities to hold public hearings.

In addition to a review of the committee's work and that of its three subcommittees, the FSC's final report, "[The Price of Flame](#)", features lists of findings, predictions, conclusions, and recommendations, many of which were unanimously agreed upon by the members. Recommendations that required statutory changes took the form of bill draft requests for consideration by the 2009 Legislature. Some involved specific levels of funding or line items in HB 2. Others were simply intended to highlight a problem and offer the committee's perspective.

FSC Recommendations

The committee categorized its recommendations into those that the members believed needed to be implemented immediately, those that future legislatures should consider, and specific proposals for bill drafts, funding, or action by public and private entities. An excerpt from the FSC final report listing the committee's recommendations is copied below.

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Recommendations for Immediate Implementation

The Fire Suppression Committee is convinced of the potential for catastrophic wildfires to occur in Montana in the near future. Its members therefore recommend the following be implemented as soon as possible.

1. The state and local governments in Montana should prioritize fuels reduction in the wildland-urban interface and implement as many projects as possible with current levels of funding. These entities should also be planning to apply for federal grants and to request fuels reduction funding from the 2009 Legislature.
2. The state's federal landowners should spend more to reduce hazardous fuels in the wildland-urban interface.
3. Steps need to be taken to preserve and sustain the state's wood products industry. The industry, the executive branch, legislators, and other interested parties should be discussing strategies to accomplish this. FSC recommends that the 2009 legislative leadership appoint a select committee or a subcommittee of a standing committee to meet during the session and review legislative options.
4. Insurance companies operating in Montana need to explore offering insurance products for grass and other resources that are destroyed by fire and that are necessary for farming, ranching, and other businesses.
5. Additional suggestions made by FSC to the Office of Budget and Program Planning (Appendix D) for use of a portion of the \$40 million appropriated during the 2007 special session should be implemented.
6. State and local fire and law enforcement officials should review evacuation capabilities and procedures in the event of a catastrophic fire endangering large communities.
7. Federal, state, and local officials must meet before and after every fire season to discuss fire suppression plans and policies and to review decisions that were made regarding policy, land management, cost sharing, and compensation to private entities and local fire and emergency response agencies.
8. State and federal wildfire suppression agency officials must discuss their respective long-term wildfire policies and continue to identify any differences in policies so the state is prepared to deal with the differences during the wildfire season.

General Recommendations to the Montana Legislature

The Montana Legislature in future sessions needs to take action in these areas:

1. short-term state and local funding of state and local fire agencies;

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2. long term funding of state fire agencies;
 3. wildland-urban interface conflicts and developments;
 4. dealing with federal agencies where their lands meet state and local lands and conflicts when fire management and land management conflict;
 5. the responsibility of homeowners and landowners for fire and land management; and
 6. the retention of a viable logging and fuel reduction industry.
- All six areas need consideration. The committee strongly believes that simply providing funding will not solve the long term problems of fire costs as well as what has been described above in the conclusions. If the legislature only provides funding and does not deal with the other issues, time, money, and effort will have been wasted on this project.
- The legislature must also assume that the federal agencies can implement very little change in forest management without change at the national and congressional levels.
- If fire and land management agencies, various governmental units, and homeowners and landowners are not making changes, then the legislature will make much less headway in mitigating the predictions made above.
- Finally, the legislature must decide if it wants a committee to follow up on all the recommendations made here. Many do not need bills or laws implemented but there should be some entity to determine whether or not the recommendations are being followed up by other agencies and people. There should be a termination date for the next legislative session at the latest

The FSC's specific recommendations, including bill draft requests, are described in the attached table, along with a note indicating the recommendations' final outcomes if that information is available.