



ENVIRONMENTAL QUALITY COUNCIL

67th Montana Legislature

SENATE MEMBERS

Pat Flowers
Steve Hinebauch
Tom Jacobson
Mike Lang
Cary Smith
Mark Sweeney

HOUSE MEMBERS

Willis Curdy
Paul Fielder
Steve Gunderson
Jedediah Hinkle
Jim Keane
Marilyn Marler

COMMITTEE STAFF

Joe Carroll - Attorney
Joe Kolman - Legislative
Environmental Analyst
Nadine Spencer - Secretary
Hope Stockwell - Research
Analyst

PUBLIC MEMBERS

John Brenden
Dave Galt
Bradley Hamlett
Monica Tranel

MINUTES LOG

September 15, 2021
State Capitol Building, Room 137
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <https://leg.mt.gov>. From the home page, select the "Committees" drop down menu at the top, then select Administrative or Interim, and the appropriate committee. The written minutes log can be located by expanding the accordion menu for the date of the meeting. Links to the audio/video files can be located by selecting the Video/Audio button on the same page, then the "past/current recordings" button. From there, use the calendar to select the date of the meeting you wish to view/listen to. The written Minutes Log, along with links to the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed. Please contact the Legislative Services Division at 406-444-3064 for more information.

MEMBERS PRESENT:

Sen. Mike Lang, Presiding Officer (R)
Mr. Bradley Hamlett, Vice Presiding Officer

Rep. Willis Curdy(D)
Rep. Paul Fielder (R)
Rep. Jedediah Hinkle (R)
Rep. Jim Keane (D)
Rep. Marilyn Marler (D)

Sen. Pat Flowers (D)
Sen. Steve Hinebauch (R)
Sen. Cary Smith (R)
Sen. Mark Sweeney (D)

Mr. John Brenden, Public Member
Mr. Dave Galt, Public Member
Ms. Monica Tranel, Public Member
Mr. Michael Freeman, Governor's Appointee

MEMBERS EXCUSED:

Rep. Steve Gunderson (R)

Sen. Tom Jacobson (D)

STAFF PRESENT:

Joe Carroll, Attorney

Joe Kolman, Legislative Environmental Analyst

Nadine Spencer, Secretary

AGENDA [\(Attachment 1\)](#)**VISITORS' LIST** [\(Attachment 2\)](#)**COMMITTEE ACTION**

The Environmental Quality Council (EQC):

- Voted to adopt the EQC work plan;
- Voted to nominate Sen. Smith, Rep. Gunderson, Sen. Sweeney, and Rep. Marler to represent the EQC on the HJ 27 special committee.

CALL TO ORDER/ROLL CALL

08:02:19 Sen. Mike Lang called the meeting to order at 8:02 AM. The committee secretary noted the roll. [\(Attachment 3\)](#)

08:03:05 Sen. Lang discussed the agenda.

SANITATION PROCEDURES REPORT

08:03:58 Amy Steinmetz, Water Quality Division administrator, Department of Environmental Quality (DEQ), provided information on DEQ's subdivision review process. [\(Exhibit 1\)](#)

08:05:22 Rep. Marler entered the meeting.

Public comment

None

EQC questions and discussion

08:13:14 Mr. Brenden asked Ms. Steinmetz to provide information on the type of septic systems used in Washington and Oregon which work well along streams and lakes.

08:14:41 Rep. Marler said when she worked in city government, subdivision reviews were done by the public works department and asked when DEQ staff reviews proposals.

08:16:22 Rep. Marler asked Ms. Steinmetz about proposed rule changes that favor larger lots and make additional room for drain fields and storm water mitigation. She asked if the rule will be applied everywhere or just in certain types of development zones. Ms. Steinmetz redirected the question to Kevin Smith, Engineering Bureau chief, Water Quality Division, DEQ.

08:18:37 Rep. Curdy asked Ms. Steinmetz when the state last had a comprehensive legislative subdivision review.

08:19:10 Rep. Curdy redirected his question to Chris Dorrington, director, DEQ.

08:20:16 Rep. Curdy said he thought the last review was done in 1978. He asked Mr. Dorrington if the DEQ is having conversations with county planners about a potential substantive and comprehensive remake of subdivision laws in the state.

08:22:11 Rep. Curdy said he hopes the department will reach out to planners and look at a potential remake of the subdivision laws in 2023.

08:23:07 Sen. Flowers complimented Mr. Dorrington and Ms. Steinmetz for DEQ's efforts to expedite reviews and doing a comprehensive overhaul of the entire system.

08:23:52 Sen. Lang asked Mr. Dorrington if the DEQ will be reviewing the Subdivision Platting Act and the Sanitation Act.

08:24:19 Mr. Hamlett asked Mr. Dorrington if the DEQ fast-tracks community septic systems over individual systems. Mr. Dorrington redirected the question to Mr. Smith.

08:25:51 Sen. Lang asked Ms. Steinmetz about expediting subdivision reviews if a certified engineer puts the package together.

08:29:51 Mr. Galt asked Ms. Steinmetz if the DEQ is part of the large group working on a comprehensive review. Ms. Steinmetz redirected the question to Mr. Dorrington.

08:31:00 Mr. Dorrington commented on a bill that the DEQ advanced under the Hard Rock Metal Mines Reclamation Act that applied to eastern Montana counties that were high and dry. He said the department would consider the same type of legislation for subdivisions if it applies.

08:31:57 Mr. Brenden commented on county and state laws and how they are applied to large farms and ranches.

08:33:44 Mr. Hamlett asked Mr. Dorrington about the lawsuit that was filed regarding smoke and clean air. Joe Kolman, legislative environmental analyst, Legislative Services Division (LSD), said he will send a copy to the Council.

Public comment

None

INTERIM ITEMS

Overview of Work Plan and Interim Calendar

08:34:30 Mr. Kolman provided information on the work plan and decision matrix.
(Exhibit 2)

08:37:39 Rep. Keane entered the meeting.

EQC questions and discussion

08:38:47 Sen. Lang opened discussion on HJ 27.

08:39:41 Mr. Kolman said he recommends putting .1 FTE (Option A) on the study.

08:40:00 Sen. Lang asked about taking a field trip. Mr. Kolman said it is not required.

08:41:17 Rep. Fielder said he recommends asking each conservation district to provide an overview of what they do.

08:42:04 Sen. Lang agreed. He said he sent a letter to the seven conservation districts he represents asking what they do and the reason they exist.

08:42:59 Mr. Brenden said in ranching and farming communities, conservation districts generally do the same types of things.

08:43:45 Sen. Lang said the conservation districts lead an effort in eastern Montana to drill base wells for oil and gas technology.

08:44:15 Rep. Marler agreed with Rep. Fielder's recommendation to have the conservation districts provide a report to the EQC and said the Council could also ask Rebecca Boslough, executive director, Montana Association of Conservation Districts, for suggestions on which of the districts are diverse. She said she recommends that the conservation districts participate in person via Zoom.

08:45:15 Ms. Tranel asked Mr. Kolman about the estimate on staff hours and the amount of time spent on studies over the last 5-10 years.

08:47:51 Rep. Hinkle asked Mr. Kolman if the hours can be adjusted later.

08:48:47 Sen. Hinebauch asked Mr. Kolman about splitting the number of FTE.

08:49:52 Mr. Hamlett asked Mr. Kolman if the EQC has had a reduction in FTE hours.

08:51:20 Mr. Brenden asked Mr. Kolman about the open LSD staff position.

08:51:48 Mr. Hamlett said he recommends putting .1 FTE on HJ 27.

08:52:54 Sen. Lang said he recommends putting .1 FTE on HJ 27, .2 FTE on statutory duties, .2 FTE for agency oversight, and .02 FTE for publications creating a total of .52 FTE. He said the remaining FTE can be used for other topics.

08:53:36 Mr. Galt asked Mr. Kolman if providing Montana Environmental Policy Act (MEPA) training to state agencies is a statutory requirement.

08:55:02 Mr. Galt said providing requested MEPA training should be a hybrid of Option B and Option A. Mr. Kolman said that is how it was done in the past.

08:55:57 Sen. Lang asked about the amount of FTE to put on HJ 27.

Motion

08:56:07 Mr. Brenden moved to put .1 FTE on HJ 27.

EQC questions and discussion

08:56:33 Mr. Brenden said he recommends the Montana Fish and Wildlife Commission discuss elk management under agency oversight.

08:58:44 Rep. Marler asked for a point of order.

08:58:52 Mr. Brenden continued.

09:00:07 Sen. Flowers said he added the elk management plan under member issues. He said the Department of Fish, Wildlife, and Parks (FWP) is revising the plan and the EQC needs to keep abreast of the process throughout the interim. Rep. Keane said he recommends adding time for it.

09:01:40 Sen. Lang said FWP has had meetings in every district and asked citizen advisory groups to become more involved. He asked Mr. Kolman for his recommendation regarding the amount of time to allow.

09:03:28 Sen. Lang discussed the member topics submitted by Council members. **(Exhibit 3)** He provided his recommendations.

09:04:18 Rep. Curdy said his recommendation on the forest action plan will only require a presentation and not take much time. He said he recommends taking a significant look at ways to generate money and provide enticements to people in rural communities to help bolster local volunteer fire departments and emergency medical technician (EMT) programs.

09:07:23 Rep. Fielder said addressing air quality should be a top priority for the EQC.

09:08:48 Rep. Hinkle said he recommends determining the number of FTE for statutory duties before moving forward.

09:09:27 Mr. Hamlett said he recommends addressing issues with grizzly bear management.

09:11:31 Sen. Lang asked Mr. Kolman about the difference between EQC's statutory duty and its agency oversight of DEQ, FWP, and the Department of Natural Resources and Conservation (DNRC).

09:12:53 Sen. Flowers asked about Mr. Brenden's motion and making a broader motion to adopt Option A for all the work plan topics.

09:13:30 Mr. Brenden withdrew his motion.

09:13:38 Mr. Kolman said he recommends putting .2 FTE on statutory duties.

09:14:07 Rep. Hinkle provided his recommendation for the work plan options and leaving .48 FTE for emerging issues.

Motion/Vote

09:15:01 Rep. Hinkle moved to adopt Option A for HJ27, Option B for statutory duties, Option A for agency oversight, and Option C for EQC publications. The motion carried unanimously by voice vote of those present and voting. Sen. Jacobson and Rep. Gunderson voted aye by proxy. (see timestamps 09:42:20 and 09:42:31)

09:15:31 Sen. Lang opened discussion on direction to staff for agency oversight issues. He provided his recommendations.

09:18:08 Sen. Lang asked Rep. Marler about plans to control rush skeleton weed.

09:18:36 Rep. Fielder said rush skeleton weed is a new invasive weed that could affect barley and wheat crops and asked about setting up a task force in the future.

09:19:15 Mr. Kolman said he will work with the presiding office and vice-presiding officer on the work plan and provide a timeline for the interim.

09:19:59 Rep. Hinkle said he recommends inviting the U.S. Forest Service (USFS) regional supervisor and the director of the DNRC for a panel discussion on what can be done to solve the issue of air quality and wildfire smoke.

09:21:09 Rep. Keane said he is opposed to having a discussion trying to manage the USFS. He said the discussion should be on what can realistically be done.

09:22:01 Sen. Smith said a suit was filed by states in the eastern part of the country over poor air quality caused by coal production in midwestern states. He asked Mr. Kolman if he can provide information on whether a precedent was set on states working with other states to improve air quality.

09:22:51 Sen. Lang said it can also be put before the attorney general for comment.

09:23:01 Rep. Fielder said he recommends that the EQC provide input and share its concerns on grizzly bear management prior to the Interagency Grizzly Bear Committee's (IGBC) annual executive meeting in December.

09:24:28 Sen. Lang said members can attend and participate in the meeting but the EQC will not meet again until January. He said the EQC can ask to be part of grizzly bear management and request that the IGBC be present at a future meeting.

09:24:45 Mr. Galt asked about discussing selenium standards in Lake Koocanusa and rules that were adopted by the DEQ.

09:25:17 Sen. Lang said staff will work on allocating the remaining FTE for member issues and the Council can discuss it at its meeting in January.

09:25:31 Sen. Flowers asked if the EQC can meet its statutory obligations for EQC publications with .02 FTE. Mr. Kolman said it can.

09:26:11 Mr. Hamlett commented on studying wildfires and smoke in Montana and said he recommends looking at access issues as part of the general study.

- 09:32:13 Sen. Flowers said he recommends that staff solicit questions from members of the EQC when putting together panel discussions in order to focus on what Council members think is important.
- 09:32:48 Sen. Lang said panel members can also be directed to watch or listen to archived meetings for information on the topics.

Discussion on Forming a Special Committee on Selenium Standards for Lake Koocanusa

- 09:33:13 Sen. Lang said the EQC received a letter from the Water Policy Interim Committee (WPIC) asking to be part of a special committee on selenium standards in Lake Koocanusa. [\(Exhibit 4\)](#)
- 09:34:26 Rep. Keane said he recommends that the HJ 37 study stay in the WPIC.

Motion

- 09:35:21 Sen. Smith moved to appoint Rep. Gunderson to the special committee.

Discussion on the Motion

- 09:35:39 Rep. Curdy
- 09:36:02 Mr. Kolman
- 09:37:08 Rep. Curdy
- 09:37:21 Mr. Hamlett
- 09:38:48 Mr. Brenden
- 09:39:17 Sen. Hinebaugh said he recommends that Sen. Smith be appointed as a member of the special committee.
- 09:39:26 Sen. Smith accepted the nomination.
- 09:39:38 Mr. Hamlett said he recommends that Sen. Sweeney be appointed as a member of the special committee.
- 09:39:47 Sen. Sweeney accepted the nomination.
- 09:40:17 Ms. Tranel left the meeting.
- 09:40:56 Rep. Marler said she would also like to be a member of the special committee.

Substitute Motion/Vote

- 09:41:16 Sen. Flowers moved to nominate Sen. Smith, Rep. Gunderson, Sen. Sweeney, and Rep. Marler to represent the EQC on the special committee. The motion carried unanimously by voice vote. Sen. Jacobson and Rep. Gunderson voted aye by proxy. (see timestamps 09:42:20 and 09:42:31)

Vote

- 09:41:53 The motion by Rep. Hinkle to put .52 FTE for the work plan options carried unanimously by voice vote. Sen. Jacobson and Rep. Gunderson voted aye by proxy. (see timestamps 09:42:20 and 09:42:31)
- 09:42:20 Sen. Flowers voted Sen. Jacobson's proxy on all previous votes.
[\(Attachment 4\)](#)
- 09:42:31 Rep. Fielder voted Rep. Gunderson's proxy on all previous votes.
[\(Attachment 5\)](#)

ATTEND SECTION C INTERIM BUDGET COMMITTEE

09:44:08 Mr. Kolman provided information for the Section C Interim Committee Budget meeting.

ADJOURNMENT

09:44:30 Sen. Lang adjourned the meeting at 9:44 a.m.