

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON NATURAL RESOURCES AND COMMERCE

Call to Order: By **CHAIRMAN RICK RIPLEY**, on January 6, 2005 at
8:00 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Rep. Rick Ripley, Chairman (R)
Sen. Gregory D. Barkus (R)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Rep. Walter McNutt (R)

Members Excused: Rep. Rosalie (Rosie) Buzzas (D)
Rep. John L. Musgrove (D)

Members Absent: None.

Staff Present: Britt Nelson, Committee Secretary
Shane Sierer, Legislative Branch
Barbara Smith, Legislative Branch
Doug Schmitz, OBPP

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape time stamp refers to the material following.

Committee Business Summary:

Hearing & Date Posted: HB 2, 1/5/2005
Executive Action:

**HEARING ON COAL SEVERANCE TAX SHARED STATE SPECIAL REVENUE
ACCOUNT**

CHAIRMAN RICK RIPLEY initiated introductions of the committee members after informing the committee members and the visitors that there was limited time available for the hearing due to orientation for the committee members at 10:00 A.M.. The order of introduction was **SEN. BARKUS, SEN. HANSEN, Barbra Smith(LFD), CHAIRMAN RIPLEY, Britt Nelson(Secretary), Doug Schmitz(BOPP), REP. MCNUTT, SEN. HAWKS,** and then concluded with **CHAIRMAN RIPLEY** introducing the absent **REP. MUSGROVE** and **REP. ROSIE BUZZAS.**

Barbara Smith, Legislative Fiscal Division (LFD), passed out a manual entitled Natural Resources and Commerce Appropriations Subcommittee Orientation-2005 Session. She reminded the committee members that Shane Seirer, the other LFD Staffer, and herself were there for the committee members convenience. She notified the members that the schedule was set and subject to change by the chairman. She also relayed that the agencies will be heard in the order of an overview, LFD issues and comments, budget office, comments and presentations followed by any other testimony. Executive Action will be taken after all programs within the agency have been heard. She also noted that a quorum for this committee is four members. Following this **Barbara Smith** introduced the rules which the committee would follow; the Chair can make a motion and they are not going to use seconds. She noted that LFD had made issue and comment sections at the end of certain decision packages. However, an absence of these means only that LFD had not found anything to comment on but it was still up to the committee to review. She concluded, saying that most of the information contained in the packet would be gone over further in the training sessions and would only be addressed during committee meetings if any of the members had questions.

EXHIBIT(jnh04a01)

SEN. HAWKS asked Barbara Smith to clarify whether Executive Action would be taken immediately following testimony or the following day. **Barb Smith** responded that Executive Action would be taken the day after all of the programs within the agency had been heard. **CHAIRMAN RIPLEY** noted that it was the same as last session.

CHAIRMAN RIPLEY asked all visitors to sign in and submit written testimony. He asked that comments be held to a time limit, and if redundant to keep it short. At this time he brought to

attention the sheet which displayed the Coal Tax Shares Revenue Account -2007 Biennium.

EXHIBIT(jnh04a02)

The actual amounts and percentages of the 2004 expenditures were shown on this sheet. By statute 7.75% of Coal Tax Revenues go into the Coal Tax Shared Revenue Account. How the expenditures will be divided between these four agencies will be determined during the committee hearings. No questions were forthcoming from the committee so **CHAIRMAN RIPLEY** opened the floor to testimony from visitors. The Conservation and Resource Development division of the Department of Natural Resources and Conservation volunteered to go last so visitors from out of town would have time to testify.

{Tape: 1; Side: A; Approx. Time Counter: 14.2 - 15.6; Comments: At this time floor opened to Testimony.}

Proponents:

Shawn Williams, mayor of Colstrip, spoke on behalf of the Coal Board funding and to support the appropriations of designated programs. He testified to the impact that coal development and power generation has had on the community of Colstrip. Mr. Williams has been a member of the community for 35 years and has witnessed the impact firsthand. He encouraged the committee to provide the appropriations which have impacted the small communities that are so important to Montana and its economic health.

David Cole, Administrator of the Human Development Division of the Department of Commerce, will be speaking next Monday for the Department of Commerce concerning the Coal Board. He wanted to tell of the need for the appropriations requested for the Coal Board. He referenced a handout entitled "Montana Coal Board," which on the third page showed increased activity in Montana coal country. More activity has occurred in the last two to three years than has been present in the last 25 years. He spoke of various Montana coal-related projects which are either underway or are being proposed. He believes that these programs are adequate justification to provide the funding requested of the Coal Board. He also said that he feels it has a vital role to play in assisting Montana communities.

EXHIBIT(jnh04a03)

William Duffield, Executive Director Montana Association of Gas and Coal Counties, represents 35 counties which are oil, gas or

coal producing. His group would like to see an increase from the 7.75% of the Coal Tax Shared Revenue Account to 8.136%. He does not want to take away from the other entities in the share account but would like to increase the total share account so there is a potential for surplus. He also wanted to highlight the large potential for coal development that is present in Eastern Montana.

Jim Atchison, Executive Director of Southeastern Montana

Developmental Corporation, from Colstrip spoke next. His corporation has been present since 1997 the result of local citizens that were concerned with the downsizing occurring in Colstrip. The corporation helps the local county and city governments with all aspects of job retention and creation in the counties of Rosebud, Custer, Treasure and Powder River. Coal Impact Funds from the Coal Board and the Growth Through Agriculture program are of tremendous help to their cause. **Mr. Atchison** would like to see the return of the 2003 Biennium which was a \$2 million minimum. He feels these Impact Funds are more important than ever before for the survival of the coal mining communities. He also mentioned that many other financing programs make the infrastructure programs a reality but they rely on money from the Coal Board. Finally he passed out bumper stickers in support of the coal mining industry to the members of the committee.

Bob Gilbert, representing Rosebud, Big Horn, and Treasure

Counties, was concerned with Castle Rock Road which leads to coal mines out in Colstrip and is heavily impacted. Last session there was a request for a \$100,000 engineering study which was denied. Hence, the members of Rosebud County have invested \$380,00 of their own money into its maintenance. They would like to see the funding restored to the 2003 Biennium level. He feels the fund was meant for projects like the Castle Rock Road and need to be used for such projects. **County Commissioner Matt Hole** also supports this. He presented a letter from Rosebud county testifying to their need for the funding as well as a copy of **REP. LINDEEN's** 2003 bill calling for appropriations for the Castle Rock Road.

[EXHIBIT\(jnh04a04\)](#)

[EXHIBIT\(jnh04a05\)](#)

Nancy K. Peterson, Director of the Montana Department of

Agriculture, presented a written testimony entitled Testimony for the Combined Coal Tax Shared Account Hearing as well as a notebook titled Montana Growth Through Agriculture Program (GTA)

and Agriculture Marketing and Business Development. She then read the testimony to the committee.

EXHIBIT(jnh04a06)

EXHIBIT(jnh04a07)

Robert Hanson, Senior Member of the Vote for Agriculture Council, has sat for four years on the council. He Spoke of the Anheuser-Busch project in Sydney and two other projects which were funded by the Coal Trust.

REP. LINDEEN spoke on behalf of restoring the Coal Board funding. The intent of the Coal Trust was to take care of the issues in the communities impacted by development. With the decrease in funding and the continued impacts the need is still there. She wanted to urge the committee to return the money to the Coal Trust Fund.

Gary Amestog, lobbyist representing Richland Economic Development Corporation, wanted to address their recommendation for the continued support of the Growth Through Agriculture Program. He cited the four programs in Sydney and Richland that have been successful, mentioning the Anheuser-Busch Program and the West Cream Dairy which have both been very beneficial. He also wanted to talk about the continued support for the Department of Natural Resources and Conservation District programs.

Richard Owen, representing **Montana Grain Growers Association,** strongly supports Coal Tax Funds that are used for the Growth Through Agriculture Program. He presented that over 200 businesses and organizations have received aid through this program. He also believes that the turnaround from the small businesses made it worth the money spent.

Earl Bricker, of the **Agriculture Development Council,** concurred with Nancy Peterson's testimony. He wanted to make the committee aware of the council members; Cathy Conn, Chairman; Irvine Flemmer, Vice-chair; and Nancy Peterson, Director of Agriculture. He urged the support of Growth Through Agriculture.

John Youngberg, Montana Farm Bureau, supports the Growth Through Agriculture Program. He wanted to remind the committee that the programs make a huge difference in the little communities.

Mack Cole, County Commissioner from Treasure County, thinks that there is a need to get the Coal Board fully funded so that small communities can utilize the funds. He also supports the Growth Through Agriculture but wanted to keep the bottom-line money for

the communities impacted by the coal industry and for those who need the grants.

Brooks Daily, President of the Montana Farmers Union,

representing over 2,000 families in agriculture, fully supports the Growth through Agriculture Program. He feels there is an ongoing need in the state to fund this program. He mentioned two projects; Peaks to Prairies - a cooperative which received \$50,000 from Growth Through Agriculture. This program is an innovative way to take production ground, utilizing it into oilseed for bio-based product.; and The Natural Beef Cooperative - expanding businesses into areas not previously utilized. He related to the drought and the impacts it caused, including a \$48,000 net loss for the average agriculture family. This, along with other losses such as the elevator which closed on the High Line taking with it two jobs integral to the community, show the immense need that eastern Montana has for programs such as Growth Through Agriculture. He believes there is hope and that there is a need for the program to encourage youth to stay in Montana and interested in agriculture.

Helen Hanson, a second grade teacher from White Sulphur Springs, speaking on behalf of **Agriculture in Montana Schools**, was there to represent Margie Thompson. The funding through Department of Agriculture is crucial for the Agriculture in Montana Schools Program. This association is an aggregate of volunteers made up of all the agriculture organizations in Montana. Their mission is to go into schools and educate teachers and students about the importance of agriculture as a natural resource as well as a part of our history.

Steve Pilcher, Executive Vice President of the Montana

Stockgrowers Association, wanted to remind the committee that Agriculture remains the number one industry in Montana. In order to move Montana's economic stature forward there is a need to add value to the agriculture products that are produced in Montana.

Chris Chistiaens, representing **The Montana Farmers Union** and **Secretary of Montanans for the Coal Trust**, provided a written testimony with history of the Coal Trust, breaking it down into various components. He believes that the funding for programs such as the Montana Growth Through Agriculture provides opportunities for Montanans which has a huge payback for the state as well as for agriculture producers. He asked that the committee be as fair as possible distributing the money allocated for the next biennium.

EXHIBIT (jnh04a08)

Paul Tuss, Executive Director of the Bear Paw Development Corporation, Havre, strongly supports the Growth Through Agriculture program. They have used it for many projects that are successful. This program is the most user friendly program that their company has been involved with and they have been present on the High Line for 36 years.

Darlene Staffeldt, State Librarian, wanted to ask for the continued allocation of the \$400,000 from the Share Coal Tax Fund that is provided to the libraries across the state. It is used for many state programs including federation support for libraries to bring in continued education and training programs.

Opponents: None

Questions from Committee Members and Responses:

SEN. BARKUS asked Nancy K. Peterson about the declining amount of applications for the GTA program, referring to Exhibit 7.

Nancy K. Peterson responded with the number of applicants for the last four years. She believes that the economics and the drought have affected the applicants over the last six years and that is why there is a decline.

SEN. BARKUS continued asking if **Nancy Peterson** felt that there was a correlation between better crop years, with less drought, and more applications for the GTA and if she thought the opposite was true as well.

Nancy K. Peterson replied that she felt that because individuals had to have a dollar match for some of the programs that when there is a bad crop year there is not enough money for the basics let alone starting a new venture.

SEN. HAWKS asked Darlene Staffeldt about the allocation process of funds to libraries across the state and possibly for the formula for dispersing the funds.

Darlene Staffeldt responded that approximately \$219,000 are joined with \$100,000 from community libraries across the state which are used to purchase internet equipment. \$128,000 is then distributed to the six federations, groupings of libraries around the state, by formula. Half of that is distributed equally across the board and the other half is distributed by population, with larger federations receiving more funding. Around \$56,000 is held at the State Library and used to share with other libraries or find answers to questions from other libraries.

CHAIRMAN RIPLEY asked Barbra Smith(LFD) about the additional 2% that was transferred to the general fund. He wanted to know if he was right in assuming that anything not allocated goes to the general fund.

Barbara Smith responded that he was correct in his assumptions. Any non allocated funds must be sent back to the General Fund

CHAIRMAN RIPLEY then asked Barbara Smith if the General Fund would make up the difference if the committee over allocated.

Barbara Smith responded that it would not, and she would urge the committee not to over allocate funds as there were four agencies who needed funding.

CHAIRMAN RIPLEY followed up, asking if the committee allocated by percentage rather than dollar amount if it would be less likely to over allocate than if they allocated funds by dollar amounts.

Barbara Smith responded in the affirmative.

SEN. BARKUS wanted to clarify if the restoration of \$1.9 Million to the total fund was up to the committee or was it money that was available.

Barbara Smith responded that the money available was on the revenue statement. The testimony concerning \$1.9 Million restoration was referencing returning the money to the Coal Board and if the committee did that then they would have to take money away from the other three programs to balance.

CHAIRMAN RIPLEY noted that unless there was a committee bill or a bill to change the 7.75% it would remain the same.

Barbara Smith concurred and added that she was unaware of any bills at this time.

REP. MCNUTT asked how the committee would go about increasing the 7.75% to what it used to be and what were the effects on other programs.

Barbara Smith responded that the statue for the severance tax is long and that the committee would have to go back into the statute and reallocate that percentage to the Shared Account and then re-balance the rest of the statute.

REP. MCNUTT continued, asking if changing the statue would cause less money to go into the Trust Account and more money to go into the Shared Account.

Barbara Smith replied that his statement was virtually true but it could be coming out of the account of another funding pot. For example, the parks system does receive some of the Coal Tax dollars.

Doug Schmitz, OBPP, stated that he believed that if there was a committee bill to raise the percentage to what it was prior to the Special Sessions, when the General Fund was short on money, it would be possible. However, what it would do would be to provide more revenues for the programs within the Coal Shared Trust Account but it would reduce the money in the General Fund.

CHAIRMAN RIPLEY asked **Barbara Smith** how the committee would coordinate with the Libraries and Education Subcommittees for funding libraries.

Barbara Smith replied that it was up to the LFD staff to make sure that the two committees were coordinated and that there wouldn't be an over-allocation of funds. The Education Subcommittee would be hearing the libraries allocation of the Coal Share Fund.

{Tape: 1; Side: B; Approx. Time Counter: 15.6 - 49.9; Comments: Five min. recess, end of tape 1}

**Hearing on Conservation and Resource Development Division of the
Department of Natural Resources and Conservation**

Informational Testimony:

Mary Sexton, DNRC Director, introduced a presentation from Ray Beck of her department.

Ray Beck, Administrator of Conservation and Resource Development Division, the division which represents the Conservation Districts and provides technical and legal support for the districts, conducted a power point presentation on Conservation Districts (CD's).

Ray Beck informed the committee that Conservation Districts cover the entire state. The districts are local governments set up under state law and are responsible for the management of natural resources within their boundaries. Each CD has five locally elected supervisors and two appointed by the incorporated

municipalities within that district's boundaries. Funding for the CD's comes from a mill levy at the local level, which generates \$10-15,000 for each district. CD's are seeing their workload increase greatly because the state, public and local governments are insisting on local involvement in natural resource issues.

Ray Beck stated that the issues addressed by CD's statewide include water quality, water quantity, watershed planning, riparian management, drinking water, farming practices, salinity control, fire reclamation, development of federal conservation program, river council, range land resource conservation, urban conservation, weed control, among others. Specifically mandated responsibilities include the Streambed and Land Preservation Act which is referred to as 310 Permits. They are responsible by law to manage the permitting process concerning water. And they are also responsible to manage water reservations as well as being responsible for determining portages, and the Stream Access Law, for having a planning board, managing the Coal Bed Methane Act and the Range Land Resources Act.

Ray Beck commented that Coal Tax Funding is very important for CD's. Administrative funds are important for the day-to-day operations because of the low income from the levies. The funding provides salary, insurance, travel costs, and general operations. Funding goes mainly to rural districts, ones with low population levels because they are less likely to make enough money to operate off of the levies. The funding also provides critical funding to projects and activities necessary to fulfill CD's mandates. There is more demand than funds available. Watershed planning has become a high priority for CD's and needs funding to provide the assistance and grants requested. Funds to the CD's are based on the number of permits that are issued. Grants have also been given to CD's to hire technical services. There are typically 110-120 310 Applications a year in the Flathead National Forest alone. The funds also provide needed legal assistance which the CD's might not be able to afford on their own. The legal funds are for the Dry Prairie Rural Water System. The funds are used to conduct negotiations, legal procedures and has been provided to four northeast CD's.

Shonny Nordlund, Coordinator of the Envirothon, Lewistown and District Administrator for their CD. The Envirothon has been going for ten years. It is an educational program where students can earn scholarship and grants for college. The goal is to teach youth to save and preserve natural resources. This years theme is protecting cultural landscapes. There were 115 students from across Montana who participate in 2004.

Jane Holzer, Director of Montana Salinity Control Association, passed out a pamphlet on salinity control and presented a Power Point Presentation. Most of their funding comes from the Coal Tax Fund. They add to their budget through user fees and grants. They are based in Conrad. She ran through the processes that are followed with individual landowners and the aid that they provide. She mentioned that their program has 45 years of experience and equipment that they have been able to purchase over the years.

Jane Holzer stated that there are many locally-led conservation programs that provide technical assistance and funding. They have had the same allocation for the last six years and would like to see a potential increase in their funds.

EXHIBIT(jnh04a09)

{Tape: 2; Side: A; Approx. Time Counter: 1 - 38.8; Comments: End of presentation}

Proponents:

Mike Wendland, Hillcounty Conservation District Supervisor and a dry land farmer from Red Yard, urged support of continued funding for the CD's from the Coal Tax Shared Funding. He reiterated much of what Ray Beck stated in his presentation. He also handed out a pamphlet on Conservation Districts.

EXHIBIT(jnh04a100)

Josh Kellar, Coordinator of the Northern Rocky Mountain Resource and Conservation Development Area, wanted to talk about a program which they used 223 Grant Funding for, part of the funding provided by the Coal Tax Shared Revenue Account. The program concerned a methane digester feasibility study for a dairy in Churchill. This project is an attempt to grow power as an alternative income for ranchers and farmers. The feasibility study results show that the potential offset is around \$45,000 and operating expenses. He just wanted to indicate how important the 223 Funding was for this study. He also mentioned a grant through the Growth Through Agriculture Program to work on an agreement between NorthWestern Energy and the NRCS.

Barry Worrom, member of the **Executive Board for Montana Salinity Control Association,** wanted to stress that the CD's in the state were mandated to do a lot of things on a slim budget and they need as much help as they could receive. He wanted to urge the committee to maintain the funding.

Pete Woll, of the Flathead Conservation District, mentioned some of the programs which they used 223 Funding for, including a project with the Flathead VOAG Technical School.

Tom Jurenka, Chairman of the Sagecreek Watershed Alliance from Hill County wanted to mention that without NSCA assistance their projects would not be effective and that in order for their efforts to be successful they need the continued funding of the Conservation Districts.

Robert Moog, from Liberty who farms Liberty and western Hill County also sits on the board of **Sagecreek Watershed Alliance**, supports the Montana Salinity Control Association and associated CD funds. He would also like to see an increase in funding levels.

Michael Habets, Chairman of the Bolthead Water Quality Association, supports Montana Salinity Control Association.

Deryl Stutterhem, from north of Livingston, attested to the use of all of the programs and funds that are provided to the Conservation District. Supports the continued funding of the Conservation Districts.

Lane Nordlund, student proponent of the Envirothon Program supports the continued funding and wanted to tell how important and educational the Envirothon could be.

Jim Stone, North Owl Conservation District member and **Chairman of the Blackfoot Channel Watershed Alliance**, spoke of successful programs from the Ovando area relying on the funding of the local CD. He urged the committee to continue funding of the 223 and watershed planning assistance. He provided a pamphlet and written testimony.

EXHIBIT(jnh04a111)

Ray Beck asked that the visitors stand up and state their names.

Sarah Carlson, works for **Montana Association of Conservation Districts**, she was asked by the **Farm Bureau and Grain Growers** to give their support for the continued funding of the CD's.

Questions for Committee Members and Responses

SEN. HAWKS asked **Ray Beck** about the Districts capability of over site and the number of 310 violations.

Ray Beck responded that they weren't rare and they deal with the Conservation Districts by putting on educational sessions they reduce the violations.

Jim Stone addressed the question saying that in his district, where they receive 100-200 310 Applications a year, they were down to around 10% of grants that are in violation. They were able to do this through education as well.

Barbara Smith addressed the council explaining a handout she provided. She concluded that the budget for the committee was a biennial amount of \$431,383,356.

EXHIBIT(jnh04a122)

Shane Seirer, LFD Staff Member, introduced himself to the committee.

{Tape: 2; Side: B; Approx. Time Counter: 1 - 22.6}

The following exhibits were submitted without oral testimony after the meeting.

EXHIBIT(jnh04a133)

EXHIBIT(jnh04a144)

EXHIBIT(jnh04a155)

ADJOURNMENT

Adjournment: 9:50 A.M.

REP. RICK RIPLEY, Chairman

BRITT NELSON, Secretary

RR/BN

Additional Exhibits:

EXHIBIT ([jnh04aad0.PDF](#))