

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 21, 2005 at
8:00 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

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

Members Excused: Rep. Rosalie (Rosie) Buzzas (D)

Members Absent: None.

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

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

Committee Business Summary:

Hearing & Date Posted:

Executive Action: HB 2, Department of Livestock

**EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK CENTRALIZED SERVICES
DIVISION**

REP. BUZZAS was not present for the first ten minutes of the meeting. REP. MUSGROVE voted for her by proxy until she arrived.

Motion/Vote: REP. MUSGROVE moved that DP 1, Informational Technology Department, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: SEN. BARKUS moved that DP 2, FTE Reduction -- Centralized Services Division, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: SEN. HANSEN moved that DP 104, Board of Livestock - Per Diem, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: REP. MCNUTT moved that DP 105, Board of Horse Racing -- Office Rent, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion: SEN. HAWKS moved that DP 106, Out of State Travel -- CSD, BE ADOPTED.

Discussion:

SEN. BARKUS voiced a concern about increasing out-of-state travel for five out of the six agencies in the Department of Livestock. He felt suspect about the requests even though he voiced he would still vote for them.

Doug Schmitz addressed this concern by pointing out that most of the Decision Packages (DP) were negative. He cited that the agency did not travel as much in the base year as they might have. He related that they had authority that they had not used and these DPs were to bring their budget back to the same level as before.

CHAIRMAN RIPLEY clarified that increasing the authority did not mean that they would use it all.

Vote: Motion carried unanimously by voice vote with REP. MUSGROVE voting for REP. BUZZAS by proxy.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.1}

**EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK DIAGNOSTIC LABORATORY
PROGRAM**

Motion/Vote: SEN. BARKUS moved that DP 301, Diagnostic Lab Equipment, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: REP. MCNUTT moved that DP 302, FTE Reduction -- Diagnostic Laboratory, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: SEN. HAWKS moved that DP 304, Lab Recharges -- Montana State University Facilities Management, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: REP. MUSGROVE moved that DP 306, Out of State Travel -- Lab, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: SEN. BARKUS moved that DP 307, Reduction -- Milk Lab Equipment, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK ANIMAL HEALTH DIVISION

Motion/Vote: REP. MCNUTT moved that DP 401, Animal Health -- Vehicle Replacement, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: SEN. HANSEN moved that DP 402, FTE Reduction -- Animal Health Division, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

{Tape: 1; Side: A; Approx. Time Counter: 5.1 - 9.4}

Motion/Vote: SEN. HAWKS moved that DP 403, FTE Reduction -- Bison Management, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

CHAIRMAN RIPLEY informed the committee members who had arrived late, that Shane Sierer had handed out the requested information concerning the Bison Management Plan.

Motion/Vote: REP. MUSGROVE moved that DP 404, Out of State Travel -- Animal Health, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

Motion/Vote: REP. MCNUTT moved that DP 405, Bison Management -- Federal Funds, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK MILK AND EGG PROGRAM

Motion/Vote: SEN. HANSEN moved that DP 501, Vehicle Replacement -- Milk and Egg Bureau, BE ADOPTED. Motion carried unanimously by voice vote with REP. MUSGROVE voting by proxy for REP. BUZZAS.

REP. BUZZAS arrived at 8:10 A.M.

Motion/Vote: SEN. BARKUS moved that DP 502, Milk and Egg Bureau -- Shell Egg Federal Funds, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. MCNUTT moved that DP 503, Out of State Travel, BE ADOPTED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK BRANDS ENFORCEMENT
DIVISION

Motion/Vote: SEN. BARKUS moved that DP 601, Vehicle Replacement -- Brands Division, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: SEN. HAWKS moved that DP 602, FTE Reduction -- Brands Enforcement Division, BE ADOPTED. Motion carried unanimously by voice vote.

Motion/Vote: REP. MUSGROVE moved that DP 603, Out of State Travel -- Brands Division, BE ADOPTED. Motion carried unanimously by voice vote.

{Tape: 1; Side: A; Approx. Time Counter: 9.4 - 15.8}

Motion: SEN. HANSEN moved that DP 04, Overtime -- Brands Division, BE ADOPTED.

Discussion:

SEN. HAWKS remarked that he felt that it was not a choice to pay using the overtime bracket.

CHAIRMAN RIPLEY agreed with that statement.

SEN. BARKUS wanted to know if brand inspecting was something that could be done on a part-time basis.

Jack Wiseman, Administrator of the Brand Enforcement Division, responded that they did have part-time employees. He expressed that the problem with the overtime issue was the unexpected occurrences which would generate overtime.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. BARKUS moved that DP 609, New Printing Costs in the Brand Enforcement Division, BE ADOPTED.

EXHIBIT(jnh16a01)

Discussion:

Shane Sierer addressed the committee, indicating that DP 609 called for \$28,000 State Special Revenue per year, not over the biennium.

Vote: Motion carried unanimously by voice vote.

**EXECUTIVE ACTION: DEPARTMENT OF LIVESTOCK MEAT AND POULTRY
INSPECTION**

Motion: REP. BUZZAS moved that DP 103, Field Automation Information Management (FAIM) -- OTO, BE ADOPTED.

Discussion:

Shane Sierer added that all of the computers would be replaced at the end of the 2007 biennium. He suggested that the appropriation be made one-time-only.

Doug Schmitz commented that it was the original intent that the DP be one-time-only.

Vote: Motion carried unanimously by voice vote.

Motion: REP. MCNUTT moved that DP 101, Additional 1.0 FTE Meat Inspector, BE ADOPTED.

Discussion:

{Tape: 1; Side: A; Approx. Time Counter: 15.8 - 23.6}

SEN. BARKUS asked Shane Sierer if this DP was the same as the present law adjustment 111 -- Provide Meat Inspectors for Eastern Montana(see exhibit one).

Shane Sierer responded that it was for an additional two meat inspectors. He mentioned that there were six new meat processing plants that had come on-line so the Department of Livestock had asked for two new meat inspectors but, that had been denied. He explained that at the end of her term, Governor Martz had asked to put the inspectors back into the budget. Governor Schweitzer, he said, had initiated a new meat inspector into the Department of Livestock's budget. Therefore, what SEN. BARKUS was referring to were two different meat inspector packages.

CHAIRMAN RIPLEY inserted that DP 101 also included the \$6,270 for a leased vehicle.

Vote: Motion carried unanimously by voice vote.

Motion: SEN. HANSEN moved that DP 111 BE ADOPTED.

Discussion:

REP. MUSGROVE asked if the committee was going to do a language amendment.

CHAIRMAN RIPLEY replied in the negative, since there had not been anything brought forth from the Department or any of the legislators.

REP. BUZZAS wondered if REP. MUSGROVE was thinking of the new full-time equivalent(FTE) when he asked for a language amendment.

REP. MUSGROVE answered in the affirmative.

Doug Schmitz offered to provide the committee with appropriate language for their consideration. He reported that the two FTE which they had already approved were for existing plants. What they were trying to address with this DP was the possibility of a new plant coming on-line.

CHAIRMAN RIPLEY summarized that at the current time since there was no language presented by the Department or any of the members, the Department of Livestock would be completed.

SEN. HAWKS reminded the committee that general fund money was used for contract services to cover FTE for the interim.

{Tape: 1; Side: A; Approx. Time Counter: 23.6 - 30.6}

Doug Schmitz explained that when they create a language appropriation it does not specify what level of expenditure there should be. He said that it was when they established the appropriation in Embars during the course of the year that they set up their out plan and decide where the department would want those monies to go.

REP. MUSGROVE desired to go on record as a committee asking to have language prepared.

Shane Sierer referred to SEN. HAWKS comment earlier. He felt that what SEN. HAWKS had been talking about was doing a general appropriation for contracted services and have them report to the Legislative Fiscal Committee during the interim.

CHAIRMAN RIPLEY mentioned a proposed bill that would provide additional funding for a meat inspector. He was not sure what the exact content was but thought that the legislation might have an effect on the committee's decision.

REP. BUZZAS wondered if they would be able to create language that included, 'if the position is needed then it may be added' to the DP.

Shane Sierer replied that it was possible to form language that would include, 'if the federal matching funds do come in' and 'if it is needed' in the DP.

REP. BUZZAS asked if spending authority was included in the DP.

Shane Sierer answered that it was included.

Doug Schmitz followed up on Mr. Sierer's comments, indicating that the language appropriation was temporary. He expressed that it was only good for the current biennium as long as HB 2 was in affect. If the position was modified at this time they would have to bring the DP in front of the committee next biennium to make it a permanent position.

REP. BUZZAS was curious if, after it was added, it would become part of the base for the next biennium.

Doug Schmitz informed her that she was correct, if they approved the DP next time. He explained that it would be modified this time and would not appear in the base, nor would the language appropriation be in the base.

REP. MCNUTT asked if they needed something in the language which specified, if demand were to decrease, they would not need to hire another meat inspector.

CHAIRMAN RIPLEY responded that he felt that was the problem the Department was having. He pointed out that right now they have the demand for a new meat inspector but they are unsure of what the demand will be later on.

**EXECUTIVE ACTION ON THE DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION**

Jack Stults, Administrator of Department of Natural Resources and Conservation (DNRC), addressed the committee's request for a budget of **DP 2409**, the Governor's proposal to appropriate \$1 million per year of the biennium towards the adjudication program. He related that in the first year of the biennium there was \$400,000 earmarked for the database project and \$600,000 for claims examinations. During the second year of the biennium the total \$1 million would be going towards claims examinations. He provided two handouts to the committee clarifying the budget for DP 2409.

EXHIBIT(jnh16a02)

EXHIBIT(jnh16a03)

{Tape: 1; Side: A; Approx. Time Counter: 30.6 - 50.3}

{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.3}

SEN. HAWKS requested background on the selection process for the equipment.

Jack Stults summarized that for the database enhancement they had been working with contractors since 1999. They had also been working with the Department of Environmental Quality Control and felt they needed to accelerate the project. At that point they were able to gain funding from the Governor's Office in order to speed up the process. There is an existing contract with the Department of Administration that is available for any Department to use. He mentioned that because of the time frame on this project it fits perfectly into the term contract of the Administration Department.

REP. BUZZAS was curious if the Natural Resources Information System (NRIS) was being used on the database.

Jack Stults answered that NRIS was the national resource information system and that it was actually a component of the

State Library. He explained that there were many agencies that use the system. DNRC does have links with the NRIS though the database they are working on is a different system.

REP. BUZZAS followed up on her question, suggesting that the newly proposed database wasn't replicating NRIS but adding on or improving the information available.

Mr. Stults affirmed REP. BUZZAS' statement. He emphasized that it was not recreating the NRIS system but was helping make sure that the project continued to have a component of linking DNRC's database to NRIS securely, so that it would always be available to those who accessed the website.

REP. MCNUTT stated that they had heard that the project had been a work in progress, making sure the data was user friendly and available to everyone. He pointed out that this DP was just a continuation of this progress.

Jack Stults agreed with REP. MCNUTT but claimed that it was also more than that. He elaborated that they were talking about doing things, such as having the on-line ability to access the scanned data so it would take less time for claims examiners to access the information and perform their assessments that were necessary for the Department to meet the targets presented in HB 22. He purported that without meeting these components there would be more stress on the system.

{Tape: 1; Side: B; Approx. Time Counter: 2.3 - 10.1}

CHAIRMAN RIPLEY asked how much work they would have to do to update the previous system.

Mr. Stults notified the committee that all of the data from the old database had been converted to the Oracle database. He commented that they had been converting data from the old database to Oracle since 1999. He assured the committee that all of the data had been converted and what they needed to do currently, was to develop the functionality of the new database.

CHAIRMAN RIPLEY wondered if it was the intent of DNRC to make this a biennial appropriation.

Jack Stults answered that they did not intend to make it a biennial appropriation. He remarked that they were confident that they would be able to accomplish the conversion within one year.

{Tape: 1; Side: B; Approx. Time Counter: 10.1 - 14.6}

Barbara Smith indicated that when they had taken Executive Action the data available had shown the \$400,000 for the database and the \$600,000 for the claims examinations, split between the two years. She reported that it did not reflect the new proposal, DP 2409. She explained that if the committee wished to vote on this DP they would have to make a new motion to amend the package they had voted on Wednesday.

CHAIRMAN RIPLEY clarified that Ms. Smith had been talking about DP 2409 and 2413.

Motion: REP. MUSGROVE moved that DP 2409 BE ADOPTED AS AMENDED so that \$400,000 would be appropriated for the first year of the biennium as one-time only and the rest as it was split.

Discussion:

CHAIRMAN RIPLEY asked Mr. Stults if that was the Departments preference.

Mr. Stults replied that it was the Departments desire that the DP be one-time-only.

SEN. BARKUS wanted to have assurance in the future that the project was proceeding. He asked Barb how they would do that in terms of feedback.

CHAIRMAN RIPLEY responded that the feedback would be left to the Department of Environmental Quality Control(EQC).

Jack Stults asserted that HB 22 set benchmarks that, even if the bill didn't pass, the Department would be following. He suggested that there be some language that required the Department to report to the EQC. He indicated that this project was important enough to the Department that they would do anything they needed to in order to ensure its success.

CHAIRMAN RIPLEY expressed a concern that they had thought all along that the project had been moving along and was successful when it had actually had problems. He felt like they needed the language requiring intermittent reports.

Barbara Smith indicated that she had taken language from HB 22 the previous day which tied the Department into reporting to the EQC at every scheduled meeting, on the topics of the progress of database development and on the Water Adjudication Program.

SEN. BARKUS asked if **SEN. MUSGROVE** would include that language in his motion.

Substitute Motion: **REP. MUSGROVE** made a substitute motion that **DP 2409 and 2413 BE ADOPTED AS AMENDED** to include the language provided by **Barbara Smith**.

Discussion:

Barbara Smith clarified the wording of the DPs; **DP 2409 -- Water Adjudication one-time-only (OTO), Restricted in the Biennium for \$1.6 million and DP 2413 -- Water Adjudication Database, OTO Restricted in the first year only and including the language discussed.**

REP. BUZZAS commented that there were two separate DPs and the motion needed to be modified to include both the DPs.

REP. MUSGROVE replied that it had been his intent to include both the DPs in his motion.

Vote: Motion carried unanimously by voice vote.

{Tape: 1; Side: B; Approx. Time Counter: 14.6 - 24.1}

CHAIRMAN RIPLEY introduced a new proposal, **DP 2414**.

EXHIBIT(jnh16a04)

SEN. HANSEN requested that **Jack Stults** explain the new proposal to the committee.

Mr. Stults remarked that **DP 2327**, which the committee had passed, put a state involvement in the project by including the engineer. The departmental working group and the St. Mary's Project Group decided there was a need for a hydrologist as well as an engineer. He provided three reasons why they needed a hydrologist: 1) To be able to further the efforts of the water rights discussions between Canada and Montana, 2) to handle the Indian water rights issues, and 3) to develop structures such as siphons and projects such as raising the dam. He expressed that the request for the hydrologist should have been part of the package which included the engineer. He elaborated on how important the hydrologist was to the project.

{Tape: 1; Side: B; Approx. Time Counter: 24.1 - 34.1}

REP. MUSGROVE discussed the Montana Alberta Bilateral Committee. He expressed his amazement at how much more prepared Canada was entering into discussions on the treaty than Montana had been. He insisted that Montana needed to do whatever necessary to attain the correct water amounts.

SEN. HAWKS asked what the gain would be if Montana returned to the original treaty.

REP. MUSGROVE posed that it would be a gain of 20% water since the split was 60%/40%, with Montana not receiving the complete 40% in drought years. He remarked that they wanted to open up the treaty of 1921 and in order to do that information would be critical.

CHAIRMAN RIPLEY agreed with **REP. MUSGROVE** about the need for preparation. However, the fact that this was a last minute proposal showed him that they were not prepared at this time and he was unsure whether it would help them prepare to give them the hydrologist.

REP. MUSGROVE indicated that it was a start. He asserted that the St. Mary's Project workers had been working very diligently.

CHAIRMAN RIPLEY agreed but recapitulated that he felt the last minute addressing of something so important indicated poor preparation.

REP. MUSGROVE remarked that organization was one of the reasons that Canada was successful. He charged that bringing the State into the project would strengthen their position by demanding organization.

{Tape: 1; Side: B; Approx. Time Counter: 34.1 - 40.6}

SEN. BARKUS postulated that there had to be a reason why they were so unprepared. He felt that if the hydrologist position was so critical it would have been in **DP 2427**. He postulated that the position was an after thought once they saw that the committee had been willing to pass so many DPs.

Doug Schmitz related that it was his understanding that the hydrologist and engineer positions were the ones Chief of Staff Hal Harper mentioned at the St. Mary's hearing. He recounted that Mr. Harper had mentioned committing \$10 million of possible bonding if the federal government came up with the matching funds and the requisition of two full-time equivalent. Mr. Schmitz

believed that those two FTE were the engineer, in **DP 2427**, and the hydrologist.

Jack Stults related that they had not had the position in the Executive Budget that it was a proposal of the new administration.

CHAIRMAN RIPLEY asserted that his question was, "Why had the committee received the DP during this meeting and not earlier?"

SEN. HAWKS commented that since the source of the water was coming from the Indian Nation shouldn't the federal government be involved in the process.

CHAIRMAN RIPLEY answered that the federal government had not come forward with any support for this project. He believed it was the hope of the present administration to bring the federal government on board by issuing the \$10 million in bonds.

REP. MUSGROVE explained that one of the problems that occurred when they had asked for funding was that the federal government was half way through the year's budget. He asserted that the Project had the federal government's attention and the next budgeting cycle would present a better opportunity for federal funding.

{Tape: 1; Side: B; Approx. Time Counter: 40.6 - 47.4}

SEN. BARKUS asked if the tribes had any other position than the ones they had stated at the meeting.

REP. MUSGROVE conveyed that the Blackfeet had been left out since 1908. He claimed that by including the Blackfeet they strengthened their position in making sure the federal government paid attention to what they were doing.

SEN. HAWKS argued for trying to pull out of the disorganization and unpreparedness. He agreed that it was uncomfortable having something show up at the last minute but the fact was that was not an argument against the logic of trying to get organized.

CHAIRMAN RIPLEY expressed his agreement with **SEN. HAWKS** sentiments.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.2}

May Sexton, Director of the Department of Natural Resources and Conservation, reported that there was a multi-pronged effort concerned with the Water Rights Compact Commission, the Blackfeet, and St. Mary's Rehabilitation Project. She admitted that this DP was last minute and appreciated the committees indulgence of such a critical package.

John Tubbs, Bureau Chief of he Resource Development Bureau, offered to answer specific questions. He asked the committee to readdress the issues they had been discussing since he had just arrived.

CHAIRMAN RIPLEY explained that they had been addressing the importance of the position but questioning the timing and organization of its arrival.

Mr. Tubbs responded that the need for the position had been discussed within the agency but it had not been included in the executive budget. He expressed that he was in a delicate situation, having a working group that identified the need but not being bale to introduce it into the budget.

He stated that he was partially to blame for not having the DP prepared for the formal presentation. He had talked to SEN. HANSEN about moving the same DP twice during executive action to encompass both of the FTEs. There was a mis-communication and the DP was only moved once. He stressed that this meeting was the last opportunity to come before the committee with a DP as important as **DP 2414**.

CHAIRMAN RIPLEY asked Mr. Tubbs to address the funding source. He wondered if there could be another funding source such as general fund or the Orphan Shared Account.

John Tubbs said that he felt the funding source was in the committee's hands. He expressed that they would accept funding from another source if Resource Indemnity Tax(RIT) funding was tight. However, they did not have any strong recommendations.

REP. MUSGROVE requested that it be put in the general funds so they could take some pressure off of the other funding source.

Barbara Smith indicated that it was entirely up to the committee. She suggested that due to the lack of detail in the DP they should wait to get further information on how the request would be broken down and move forward from there. She recommended that the committee not take action on **DP 2414** at that time.

Doug Schmitz commented that it would be appropriate to reconsider the action on **DP 2327**, the original position requested by St. Mary's. He suggested that they combine **DP 2327 and 2414** and fund them both with general funds. He noted the pressure that existed on the RIT funds.

REP. MUSGROVE requested that Rich Moy talk about the international situation that exists on the border as well.

REP. BUZZAS asked for a clarification about the pressure on the RIT funds.

CHAIRMAN RIPLEY answered that there were some concerns that the revenue would not be there for the RIT. He indicated that it would be a good idea to wait until the following week when they knew what was happening with the RIT funds, before they made any decisions on **DP 2414** and **DP 2327**. He also requested that the Department break down the figures proposed in the package.

{Tape: 2; Side: A; Approx. Time Counter: 1.2 - 13.5}

CHAIRMAN RIPLEY returned to the RIT Funds and prioritize the DPs on which they had already taken action. He referenced a handout from Ms. Smith. He declared that the committee's intention was not to micro-manage so, he asked Ray Beck to note the Department's priorities.

EXHIBIT(jnh16a05)

Ray Beck, Administrator of the Conservation and Resource Development Division, listed the Departments recommendations: 1) DP 2320, 2) DP 2327, 3) DP 2321, 4) DP 2320, 5) DP 2326, and 6) DP 2412.

SEN. BARKUS wanted Mr. Beck to elaborate on why the Clark Fork Task Force was the lowest priority.

Ray Beck responded that he was not sure if he could. The list was a compilation of many parties and he was not involved with that decision.

Doug Schmitz reported that the Clark Fork Task Force was set to sunset this year. He mentioned that there was a bill carried by REP. JACKSON to remove the sunset date and make the Clark Fork Task Force permanent. The funding therefore, might be changed, depending on what happens to REP. JACKSON'S bill. He clarified that there was no language in the bill for funding, only to make permanent that program.

Ray Beck related that funding for the task force would come from the Renewable Resource funds.

REP. MUSGROVE petitioned that the committee leave prioritization until after the St. Mary's package came forth. The DP could change the priorities depending on its funding source.

Doug Schmitz stated that there was also the topic of revenue estimates to consider.

{Tape: 2; Side: A; Approx. Time Counter: 13.5 - 26.8}

CHAIRMAN RIPLEY agreed to wait but expressed concern at reopening agencies. He urged the committee members to submit DPs for upcoming agencies as soon as they could.

SEN. HAWKS noted the number of bills that would affect Fish and Game. He conveyed concern about how they were going to deal with the conflict.

Barbara Smith updated the committee on the Fish and Game fee increase bill. She said the bill was heard the previous night and was sent to a joint subcommittee, it will then be transmitted to Senate Fish and Game. She indicated that the Governor was not supportive of the fishing increases or the upland bird increases. However, she had received a letter from the Governor's Office that contained DPs that were contingent on the passage of the fee increase. She related that the fee increase was not included in the FWP budget so the committee will act on the DPs as if the fee increase were not present.

{Tape: 2; Side: A; Approx. Time Counter: 26.8 - 32.3; Comments: Ten minute break}

At 9:25 A.M. REP BUZZAS departed.

CHAIRMAN RIPLEY introduced **DP 2404 -- Broadwater Power Project -- FERC Fisheries Mitigation.**

Jack Stults provided additional information concerning the Broadwater Hydropower Project. He mentioned that the DP was funded with State Special Revenue for the fisheries mitigation component of their Federal Energy Regulatory Commission (FERC) license. The funds that they were requesting would enable the project to remain in compliance with FERC standards.

CHAIRMAN RIPLEY asked what would happen if **DP 2404** were not to pass. He wanted to know where they would be in terms of their licenses.

Jack Stults explained that if they were not funded from this account they would have to find a way to meet the license obligations through some other funding source. He expressed that they could not be in violation of the license obligations and continue the project.

{Tape: 2; Side: A; Approx. Time Counter: 32.3 - 43.8; Comments: end of side A}

Chris Hunter, Administrator of the Fisheries Division of Fish, Wildlife and Parks, informed the committee that the FERC license included mitigation for both rainbow and brown trouts. They have undertaken two successful projects concerned with rainbow trout. However, they have not been successful with the mitigation of brown trout. He believes that FWP and the DNRC had more than meet the obligations for rainbow trout but have not been successful with brown trout. He remarked that they were currently looking for a project that would be successful in mitigating brown trout. He explained that the funding would be used to support one point four two fisheries technicians who would be responsible for monitoring the FERC obligations as well as undertaking a project that would be successful in mitigating the brown trout populations.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 4.2}

SEN. BARKUS asked if either brown or rainbow trouts were native to Montana.

Mr. Hunter replied that neither species were native.

SEN. BARKUS wondered why FERC mandated the study for these species when neither of them were native.

Chris Hunter answered that both species were popular game species that have been in the state for over a hundred years.

CHAIRMAN RIPLEY enquired if the \$54,000 in the project included the planting of the fish.

Mr. Hunter explained that they had discontinued the stocking attempts because they were unsuccessful. He reported that at the present they were trying to identify a project that would be

successful. One option he put forth was going to FERC and trying to renegotiate the brown trout issue.

CHAIRMAN RIPLEY asked if they had any projects identified at this time.

Chris Hunter responded with a negative.

Motion/Vote: REP. MUSGROVE moved that DP 2404 BE ADOPTED. Motion carried 5-2 by voice vote with SEN. BARKUS and CHAIRMAN RIPLEY voting no.

REP. MUSGROVE was voting by proxy for both REP. BUZZAS and SEN. HANSEN from this time forth.

{Tape: 2; Side: B; Approx. Time Counter: 4.2 - 8.2}

EXECUTIVE ACTION ON THE DEPARTMENT OF COMMERCE

Andy Poole addressed the handouts which Shane Sierer had provided for the committee concerning the new Decision Package for the Small Business Innovation Research Grant.

EXHIBIT(jnh16a06)

EXHIBIT(jnh16a07)

Mr. Poole proceeded to describe the proposal, informing the committee of the funding and use of the authority.

Shane Sierer added that the information had just become available. He noted that the DP needed to be modified to allow for appropriations in October. He asked if the money would be used for information sharing as well.

Andy Poole remarked that the information which Mr. Sierer had handed out was sent to the SEN. BURNS' office to address the congressional appropriations.

REP. MUSGROVE requested that Mr. Sierer read the DP as it should be.

Shane Sierer recited that there was a request for \$200,000 for fiscal year 2006.

SEN. BARKUS wanted to know if the federal legislation had passed.

CHAIRMAN RIPLEY answered that it was his understanding that it had.

{Tape: 2; Side: B; Approx. Time Counter: 8.2 - 19.4}

Motion/Vote: REP. MCNUTT moved that DP 1 -- Small Business Innovation Research Grant, BE ADOPTED. Motion carried unanimously by voice vote.

Shane Sierer informed the committee that they still needed to deal with PL 111 -- New Worker Training Program, New Proposal 223 -- Country Economic Development and PL 444 -- Made in Montana Program Enhancement.

CHAIRMAN RIPLEY initiated discussion concerning PL 111.

EVAN BARRETT, Chief Business Development Officer, noted that the LFD comment was incorrect. He wanted to stress that the administration was not interested in using InterCap funds and creating long term debt to do worker training. He expressed interest in moving forward with supplemental and regular appropriation.

Shane Sierer stated that the last session when legislation passed with the New Worker Training Program all grants were to be used from the InterCap Loan Program. He claimed that there were no bonds issued from the InterCap Loan Program. The applications that had been received were put on hold, nothing had been granted at that time. The issue was raised by the Legislative Auditor that funding the Worker Training Program through the InterCap Loan Program created state debt -- any debt the state incurred that could not be paid off within the biennium of that session. He explained that for the legislature to incur debt there had to be a 2/3 passage in both houses. He reported that at that time the Executive was proposing a supplemental appropriation of \$2.1 million for 2005 to fund the grants that had been received but not approved and a general appropriation fund of \$6.1 million. He felt that if both the House and the Senate would vote 2/3 the InterCap Loan could be used however, the Executive had not taken that position.

Evan Barrett agreed with Mr. Sierer's statements. He added that the Governor's Office was not convinced that even though a 2/3 vote could take place, it was an appropriate use of the InterCap funds which were primarily designated to assist in infrastructure purchases by local governments. They feel that it would be a neglectful use of the program. He expressed that the Governor's Office felt that the most straightforward way to deal with PL 111 was to use general funds. Using general funds would allow the state to avoid a collection of debts.

CHAIRMAN RIPLEY clarified that because of the audit the Governor's Office wanted to pass PL 111 using general funds.

{Tape: 2; Side: B; Approx. Time Counter: 19.4 - 33.2}

SEN. BARKUS asked how the bonds that were proposed to be issued to provide the Worker Training Program, would have been serviced.

Evan Barrett explained that it was a convoluted kickback mechanism. They had to calculate the amount of increased income taxes to be paid by the workers who were trained and create a 'fictitious' pool of money which was going into the general fund and offsetting the debt paid. They were able to catch this and stop the bonds from being sold. Every year the InterCap Bonds are resold every year to get the best rates, had the program been in place there would have been some major problems.

SEN. BARKUS questioned if the \$2.1 million was funding the 400 plus job training programs that were in place.

Mr. Barrett replied that the \$2.1 million was in a special supplemental appropriation bill, HB 271. He conveyed that what was in PL 111 was the \$2 million per year of the biennium at the rate of \$5,000 maximum per job creator. The number of jobs under the supplemental was 443 jobs in five companies. He said that the \$2 million in the DP would create a minimum of 400 jobs per year of the biennium.

{Tape: 2; Side: B; Approx. Time Counter: 33.2 - 39.4}

CHAIRMAN RIPLEY asked who Mr. Barrett was referring to when he said 'they.' For example when he used 'they had hastily thrown together...'

Evan Barrett responded that it was overly creative not necessarily hasty. He asserted that it was the previous legislature working with the Board of Investments, the Governor's Office of Economic Opportunity and economic development people from around the state.

CHAIRMAN RIPLEY commented that he wasn't aware that the legislature put together a proposal, they might have passed it but it might have been passed based on bad information that they received.

Mr. Barrett indicated that it had been a HB 564 by REP. LINDEEN.

SEN. HAWKS wanted to know what the difference was between the \$6.1 million and the \$2.1 million.

Mr. Barrett replied that the \$2.1 was in a supplemental appropriation found in HB 271 for the training that had already been committed to. The remaining \$4 million represented \$2 million for fiscal year 2006 and \$2 million in fiscal year 2007.

{Tape: 2; Side: B; Approx. Time Counter: 39.4 - 44.3}

Doug Schmitz declared that he did not think that HB 271 was a supplemental bill. He felt it was a bill that had a direct appropriation in it with an immediate effective date. He indicated that HB 3 and HB 336 were the two supplemental bills. He mentioned that HB 336 was the emergency bill that needed to be approved quickly during this session. He clarified that there were technically two supplemental bills for this PL.

SEN. BARKUS asked if the \$2 million required a statute to be passed in the legislature to approve the PL.

Doug Schmitz contended that there did not have to be a statute. He asserted that if they wished to approve the \$2 million in commerce they could do that as an item. He postulated that there might be some enabling legislature that directs the Department as to what they could do with the monies, but that bill may not contain an appropriation in and of itself.

{Tape: 2; Side: B; Approx. Time Counter: 44.3 - 48.3}

CHAIRMAN RIPLEY questioned why they didn't want to go through the 2/3 vote process. He indicated that the audit had suggested that it go back to both Houses and use the Intercap. He was unsure why Mr. Barrett did not want to use the Intercap.

Evan Barrett informed the committee that to create ten year debt when there was no need to was bad fiscal policy, especially to aggregate the debt. That, he explained, was the predominant reason why he did not want to use the Intercap funds. He added that they actually question whether training for a private company would be an appropriate use of Intercap proceeds.

REP. MUSGROVE also expressed concern for the amount of debt that exists and debt servicing.

Doug Schmitz noted that the Martz Administration had made recommendations on some one-time-only expenditures to get the government out of these kinds of Intercap Program debts. The

results, he contended, would be to allow the InterCap Program to be used for its intended uses.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 4}

SEN BARKUS asked if they were only acting on the \$2 million appropriations not for the \$2.17 million.

CHAIRMAN RIPLEY answered that **SEN. BARKUS** was correct.

Shane Sierer restated that the appropriation was still contingent on the passage of HB 22.

Motion: **REP. MUSGROVE** moved that PL 111 -- New worker Training, BE ADOPTED with contingency language and as a one-time-only appropriation.

Discussion:

SEN. BARKUS requested that it contain contingent language rendering the appropriation one-time-only.

REP. MUSGROVE responded that he has assumed the contingent language was included.

SEN. BARKUS stated that he would like to see included a reporting mechanism in place and some benchmarks for the Department to follow and report back about.

REP. MUSGROVE petitioned that the benchmarks be included in the contingency language.

Mr. Sierer indicated that he needed guidance on the types of benchmarks that the committee wanted set.

SEN. BARKUS clarified that benchmarks were not necessary but to have the Department report back in some way, just to have some knowledge of how the \$4 million was being used.

Shane Sierer stated that it would not be a problem. He indicated that he could schedule reports on an interim basis or on a biennial basis, whatever the committee would like, he just needed to know what the committee preferred.

SEN. BARKUS asked that the reports be directed to the appropriate interim committee on a biennial basis.

Evan Barrett asserted that previously, the Economic Affairs Committee had handled this issue.

REP. MUSGROVE interjected that he would like that added to the contingent language.

{Tape: 3; Side: A; Approx. Time Counter: 4 - 10.5}

SEN. HAWKS wondered how they would be able to transfer the oversight from this committee to another committee.

CHAIRMAN RIPLEY speculated that since this committee would not be meeting the Department would report back to the interim committee. Instead of waiting until next session he expressed the desire to have them report periodically to the interim committee.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: **SEN. BARKUS** moved that PL 444 -- Made in Montana Program Enhancement, BE ADOPTED. Motion carried unanimously by voice vote.

SEN. BARKUS commented that he was pleased the Governor was backing this project.

Motion: **REP. MUSGROVE** moved that NP 223 -- Indian Country Economic Development, BE ADOPTED.

Discussion:

SEN. BARKUS spoke against the proposal. He could not support dividing \$1 million between seven reservations. He did not feel that there would be any good done by providing such little economic support. He noted that there were no details and no proposals.

SEN. HAWKS requested Mr. Barrett explain how they were planning to integrate other economic development programs.

Evan Barrett admitted that the construction was somewhat loose. The explanation he provided was that they were concerned with the shaping in terms of dealing with the Indian Nations themselves. They wanted to be able to create successful programs with specific applications to reservations available. They are anticipating working with the Department of Commerce on these efforts. They do have thoughts on how to deal with the different

attitudes and business practices and how to assist these businesses.

{Tape: 3; Side: A; Approx. Time Counter: 10.5 - 21.4}

SEN. HAWKS informed the committee that he had grown up in Indian country and he had observed the amount of failure by the macro business approach. He noted that what seemed to have been missing was a micro business approach. He mentioned that it was almost counter cultural, but these ideas needed to be initiated by the state government, in order for Indian Nations to be successful. He asserted that **NP 223** was a good investment.

REP. MUSGROVE proclaimed that this proposal was a good inroad for capitalism to go against the socialistic attitude of some of the reservations. He urged his support of the DP.

REP. RIPLEY inquired how **REP. JUNEAU'S** HB 18 fit in with this DP.

Evan Barrett informed the committee that HB 18 did two things: 1) continuation of the structure of the Indian Country Economic Development Program, and 2) a statutory appropriation \$100,000 or \$200,000 per year of the biennium. Their intention is that the bill be introduced to the full appropriations committee. They would like to reduce that down to allowing them to carry over unexpended funds and keep out general funds from that bill, the administration did not want to 'double dip.'

CHAIRMAN RIPLEY asked if her bill request was by the Governor and not by the State's Tribal Relations Committee.

Evan Barret reported that it had come from the interim tribal committee relations division and had nothing to do with the Governor's office.

CHAIRMAN RIPLEY attested that he had sat on the State Tribal Interrelations Committee and he claimed that the bill as it was now had not come out of that committee.

Mr. Barrett replied that when he said the bill was introduced by **REP. JUNEAU** it was supposedly on behalf of the interim committee. He expressed that they went into committee to request that the bill be amended so that a representative of the Governor's Office would be put on the commission and it be given a four-year opportunity instead of a two-year time limit. He clarified that it was not their structure and not their appropriation.

{Tape: 3; Side: A; Approx. Time Counter: 21.4 - 30.3}

CHAIRMAN RIPLEY felt that the bill had been amended several times and there had been no previous talk about stripping it of the appropriations.

Mr. Barrett reiterated that it was not the Governor's Office's bill. He reported that they were not in support of the statutory appropriations section of the bill.

CHAIRMAN RIPLEY voiced that the interim committee had not been in favor of the appropriations, of adding a member to the council, or changing the amount needed for a quorum.

Evan Barrett proclaimed that the bill had gone in with two recommendations by the Governor's Office: 1) add a member from their office to the committee and 2) make it a four-year program. He declared that the change in quorum number was not a suggestion of his office.

{Tape: 3; Side: A; Approx. Time Counter: 30.3 - 34.3}

REP. MUSGROVE posed that they referred the package to the Appropriations Committee on the floor so that it had gone through that process.

SEN. HAWKS asked if they had federal economic development funds or programs that gathered these funds for Indian Country as well as the state funding.

Mr. Barrett indicated that the State of Montana was not leveraging the kind of resources with special revenues. One of the purposes of the Title 11 Indian Economic Development Committee was to do that kind of leveraging and identifying the sources.

SEN. BARKUS stated that he had lived around Indian reservations and what he has experienced with Indian businesses is failure. He indicated that imported technology and structure, someone with a plan and a product, would create an economy on the reservations. He would support a bill that would offer Montana businesses tax credits to go onto the reservations and start operations. He speculated that the amount of money being offered would not be enough to make a difference.

Evan Barrett agreed with many of **SEN. BARKUS'** statements. However, what they are hoping to help is the small businesses on the reservation. The program will look for importation of technology and companies that will utilize the workforce. He speculated that they would be able to approach the situation in a

way that would allow them to do the best they could with what they had.

{Tape: 3; Side: A; Approx. Time Counter: 34.3 - 45.5}

REP. MCNUTT shared SEN. BARKUS' concerns. He mentioned that he had owned a business on a reservation and it was difficult. He remarked that it had been tough to interact with the Native Americans because of the culture that is provided. He was concerned that by putting this money into the program they would be contending against the federal monies and the culture. He thought that they needed some goal to work toward and without the leverage the program would be a failure from the start.

{Tape: 3; Side: A; Approx. Time Counter: 45.5 - 49.3}

REP. MUSGROVE sought Director Priete to address some of the committee's concerns. He asked Mr. Priete to give an outline of how the process is working.

Tony Priete, Director of the Department of Commerce, also agreed with many of the concerns expressed by the committee members. He remarked that if he didn't feel that they could take the funds and leverage them he would not support the project either. He noted some programs in place on the reservations that help with economic development. He presented that without leveraging funds they would not be successful. He mentioned many projects that could be utilized. He candidly said that he was not sure everyone deserved the same amount of money. He thought that it should be done on the basis of whoever came up with a good project that needed funding or assistance should get the funding, not just distributing it evenly across the board. He supported the progress reports requested by the committee.

SEN. BARKUS enquired why there was no plan to accompany the appropriation of \$1 million.

Tony Priete expressed that the reason they didn't was because they wanted to bring the Tribal Council in to help devise the plan. He did not feel that they could devise the plan without them working on it in order to make it acceptable.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 7.2}

SEN. HAWKS suggested that they only appropriate money for the second year of the biennium so they could get organized and devise a plan and have the organization report to the committee at some mid point.

Mr. Priete felt confident that they would be able to justify the expenditures placed in front of the committee. He was confident that they would be able to come up with a plan that would be successful in the allotted time.

Shane Sierer commented that there was the option of placing language in the package that would change the appropriations, providing just enough money for the planning and design and then have them report in the interim.

{Tape: 3; Side: B; Approx. Time Counter: 7.2 - 10.3}

Substitute Motion: REP. MUSGROVE made a substitute motion that DP 223 BE ADOPTED AS AMENDED to include language and one-time-only appropriation.

Discussion:

Shane Sierer was not sure what REP. MUSGROVE was asking for.

REP. MUSGROVE indicated that he would like to put language including a progress report so there would be some sort of oversight on the project.

Mr. Sierer clarified that REP. MUSGROVE wanted to have the package stay as it was but add language that there was an interim reporting of the package back to the Economic Affairs Committee semiannually with a one-time only designation.

Vote: Motion failed 5-2 by voice vote with SEN. BARKUS and REP. RIPLEY voting nay.

Motion/Vote: REP. MCNUTT moved TO CLOSE THE DEPARTMENT OF COMMERCE. Motion carried unanimously by voice vote.

{Tape: 3; Side: B; Approx. Time Counter: 10.3 - 17.2}

There was one handout provided by Shane Sierer and one by Andy Poole that were not discussed during the meeting.

[EXHIBIT\(jnh16a08\)](#)

[EXHIBIT\(jnh16a09\)](#)

ADJOURNMENT

Adjournment: 11:00 A.M.

REP. RICK RIPLEY, Chairman

BRITT NELSON, Secretary

RR/bn

Additional Exhibits:

EXHIBIT ([jnh16aad0.PDF](#))