

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON SENATE BILL 489

Call to Order: By **CHAIRMAN GREG LIND**, on April 19, 2005 at 9:07
A.M., in Room 422 Capitol.

ROLL CALL

Members Present:

Sen. Greg Lind, Chairman (D)
Rep. Rick Ripley, Chairman (R)
Rep. Sue Dickenson (D)
Sen. Kelly Gebhardt (R)
Rep. Gail Gutsche (D)
Rep. Jon Sonju (R)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jenn Kirby, Committee Secretary
Joe Kolman, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: SB 489, 4/18/2005
Executive Action: SB 489

CHAIRMAN LIND opened the hearing on SB 489 for the purposes of discussion.

SEN. WHEAT inquired what was wrong with the bill originally.

REP. RIPLEY provided a cost breakdown. He believes that if the study is done with less funding, that will leave more for the clean-up. His fear is that they will spend too much money studying the issue, and not enough cleaning up the area.

REP. DICKENSON asserted that the Department of Environmental Quality (DEQ) has agreed to do the study for the amount given.

Richard Oppen, DEQ, stated that they agree with **REP. RIPLEY**. They want to administer this study with as minimal funding as possible. It is a good investment. He added that originally the figure was approximately \$2 million. They have cut off approximately \$500 dollars from the figure.

REP. RIPLEY stated that he does not think the figures are inconsistent. They need to look at the cost of the study versus the cleanup. He added that the cleanup will probably cost at least \$1 million. It will be very expensive.

REP. SONJU inquired into the amount of money there is available for the legislature to study the results of DEQ's study.

REP. RIPLEY stated that there is approximately \$115,000 in the Department of Natural Resources & Conservation (DNRC).

REP. SONJU asked what would happen if the study doesn't reveal anything. He wondered how they would approximate the cost of cleanup.

Mr. Oppen stated that they have to study by the estimated cost of cleanup.

Denise Martin, DNRC, spoke about potential liable persons (PLP). She discussed some of these groups of people and how they relate to this project.

REP. SONJU inquired why the original owner of the land is responsible for the cleanup.

Ms. Martin asserted that is a liability issue.

REP. RIPLEY asked when the site became a priority.

Ms. Martin declared that it has always been a high priority. However, there are 200 sites on the state superfund list.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 18.5}

SEN. WHEAT asked Mr. Opper if there is a trial date set for this matter. **Mr. Opper** stated that there is not a date. **SEN. WHEAT** inquired if he anticipated a trial date. **Mr. Opper** replied that they would love to avoid a trial date. However, they are not sure that is going to happen. **SEN. WHEAT** asserted that the only way they will do that is if they understand the complexity of the pollution. With all the information, the responsible parties can sit down and negotiate what needs to be done. **Mr. Opper** agreed that would be the best for everyone. He explained a couple of situations in which they might go to court.

SEN. GEBHARDT asked about the primary contaminant in the area. **Mr. Opper** claimed that penta and dioxin are the major contaminants in the area. He explained these substances to the committee. **SEN. GEBHARDT** stated that he understands they need to study these components; however, he would like to see more action being done to help this situation.

REP. GUTSCHE asked how much money is in the orphan share and if they are short of funding. **Mr. Opper** claimed that they currently have approximately \$5.9 million in the orphan share. He discussed how they have budgeted the funds.

REP. SONJU provided an example in 1997 when there was approximately \$535,000 that was not utilized. He wanted to make sure that is not going to happen again. **Mr. Opper** stated that he appreciated **REP. SONJU's** concern. He spoke about the process DNRC will be following in hopes that does not happen again.

{Tape: 1; Side: A; Approx. Time Counter: 18.5 - 27.1}

SEN. WHEAT spoke about prior amendments he had made and what was intended with them. He also explained problems that occurred. He stated that he would really like to see the benchmarks remain in the bill.

REP. RIPLEY asserted that the House has the same goals; however, he is afraid that if they amend this bill too much, the House will kill it.

Mr. Barber responded by saying that this was not his bill to begin with, but DNRC's instead. He spoke about the funding in relation to the process that needs to happen.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 3}

CHAIRMAN LIND attested that he believes this has good goals and good substance in the bill.

REP. SONJU wondered if the Committee would be open to a compromise of \$1.2 million for cleanup.

SEN. WHEAT believed that \$1.2 million shows good faith on the part of the Legislature. He stated that he is not open to the other amendments. He believes this bill has become watered down; he would rather see it die and taken to court.

CHAIRMAN LIND asked Mr. Oppen what would happen if they were \$100,000-\$200,000 short. He wondered if they could still administer the cleanup.

Mr. Oppen responded by saying that he was not sure how that would work. He stated that they could scramble to find money in the budget. However, they may not be able to administer the cleanup.

REP. SONJU wondered, "If there is money left over, which site gets cleaned up first?" **Mr. Oppen** believed that the study would determine which site needed it the most.

MOTION: **SEN. LIND** moved that **AMENDMENT SB048906.ajk** BE ADOPTED.

EXHIBIT(frs84sb0489a01)

DISCUSSION: **SEN. GEBHARDT** attested that this makes a good point; however, the two positions at hand may actually be the same individual.

CHAIRMAN LIND replied by stating that this amendment was brought forward by one of the PLPs.

SUBSTITUTE MOTION: **SEN. WHEAT** moved **TO REJECT THE AMENDMENTS AND PASS AS SENT OVER BY THE SENATE.**

DISCUSSION: **SEN. WHEAT** stated that is probably the only way that this bill will not die.

REP. RIPLEY asserted that if the Committee does that, it will most likely die on the House floor.

REP. DICKENSON inquired, if that happens, if it would be possible to add amendments to the bill.

SEN. WHEAT stated that his motion was intended to send the bill back as it came to them, and then it would be finished.

{Tape: 1; Side: B; Approx. Time Counter: 3 - 12.8}

SEN. GEBHARDT believed that somebody could still add an amendment in Committee.

SEN. WHEAT explained the amendments.

Mr. Oppen declared that the biggest concern of DNRC was the cost of the cleanup.

SEN. WHEAT withdrew his motion without objection.

{Tape: 1; Side: B; Approx. Time Counter: 12.8 - 19.4}

SEN. GEBHARDT inquired into the Burlington Northern cleanup site and wondered about the hazardous waste involved.

REP. GUTSCHE called for a point of order and directed the Committee back to the amendment at hand.

CHAIRMAN LIND withdrew his motion without objection.

MOTION: **REP. SONJU** moved **A CONCEPTUAL AMENDMENT BE ADOPTED.**

SUBSTITUTE MOTION: **SEN. LIND** moved that **AMENDMENT SB048904.ajk** **BE ADOPTED.**

EXHIBIT(frs84sb0489a02)

DISCUSSION: **CHAIRMAN LIND** explained this amendment to the Committee.

SEN. WHEAT added, "I think it's only right." If the State pays for it, the State should get credit for it.

VOTE: The motion passed unanimously by voice vote.

{Tape: 1; Side: B; Approx. Time Counter: 19.4 - 27.6}

MOTION/VOTE: **REP. SONJU** moved **A CONCEPTUAL AMENDMENT BE ADOPTED.** The motion passed unanimously by voice vote.

MOTION: **SEN. LIND** moved **AMENDMENT SB048906.ajk** **BE ADOPTED.**

DISCUSSION: REP. RIPLEY stated that he understands the purpose, but he also understands SEN. GEBHARDT's concerns. He is undecided on this amendment.

REP. SONJU wondered if the DEQ has a contractor in mind for this position.

Mr. Opper said, no, and explained that they would communicate with the PLPs.

REP. SONJU commented that there is a group in Kalispell that is familiar with the area. He wondered if that would be a possibility.

SEN. GEBHARDT attested that the purpose of this amendment is to cut down on costs.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 4.7}

REP. DICKENSON spoke about some concerns that were brought forward and stated that she will vote against this amendment.

VOTE: The motion failed 3-4 by voice vote. REP. SONJU, REP. RIPLEY, and SEN. LIND voted yes.

MOTION/VOTE: SEN. WHEAT moved SB 489 AS AMENDED DO PASS. The motion passed unanimously by voice vote.

ADJOURNMENT

Adjournment: 10:13 A.M.

SEN. GREG LIND, Chairman

JENN KIRBY, Secretary

KIM LEIGHTON, Transcriber

RR/GL/jk

Additional Exhibits:

EXHIBIT ([frs84sb0489aad0.PDF](#))