

SENATE JOINT RESOLUTION NO. 15 WORK GROUP

# Continuing study of federal land management issues in Montana

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History, administrative considerations, and options

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## History of EQC and topic-specific committees

Senate Joint Resolution No. 15 passed by the 2013 Legislature was assigned to the Environmental Quality Council. Given the history and mission of the EQC, this was a logical choice of interim committees to evaluate federal land management and related topics. As the SJ15 Work Group and the EQC considers options to continue the study of federal land management, a brief historical overview of the Environmental Quality Council and the formation of new topic-specific committees may be helpful.

### *Environmental Quality Council*

The EQC was created in 1971 to develop environmental and natural resource policy, generate environmental and natural resource information, and oversee the state's environmental and natural resource programs.

“The EQC has an important role in maintaining a policy overview of state programs with environmental consequences to assure that state environmental policy is consistently observed,” wrote Rep. George Darrow, the first chairman of the EQC in a 1971 report. “It also fulfills the urgent need for a mechanism within state government to better coordinate and integrate the various environmental programs of state agencies already in existence.

“In the past, environmental problems have often been dealt with in a piecemeal manner because of the lack of such a mechanism.”

The EQC has broad authority to study and investigate any issue related to the environment and natural resources. The EQC may consult with representatives of science, industry, agriculture, labor, conservation organizations, educational institutions, local governments, and other groups. It is also charged with utilizing to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies and organizations and individuals in order that duplication of effort and expense may be avoided. Such efforts are meant to ensure that the council's activities will not unnecessarily overlap or conflict with similar activities authorized by law and performed by established agencies.<sup>1</sup>

The topics of water, energy, and fire have all been major parts of the EQC realm over the last four decades. And each topic has been removed from the EQC jurisdiction by the Legislature. The creation of new committees is often sparked by headline-grabbing events.

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<sup>1</sup> 75-1-313, MCA

## *Water*

Interim jurisdiction over water policy has gone back and forth through the years. From the creation of the EQC, water policy was the domain of the council. In the early 1980s, a major debate surrounded marketing of Montana water, including out of state use in coal slurry operations. Out of a contentious 1983 session was born the Select Committee on Water Marketing. The EQC provided staff. Among other recommendations the committee made to the 1985 Legislature was a request to establish a permanent water policy committee.

Ten years later, in a massive restructuring and organization of the legislative branch, the Legislature eliminated the water committee and its duties were assigned to the EQC. Concurrently, the membership of the EQC was increased from 13 members to 17. Over the next 12 years, the EQC regularly established a water policy subcommittee.

But between 2005 and 2007, several events led to the creation of a temporary Water Policy Interim Committee. In 2005, the Legislature approved a measure to rejuvenate water rights adjudication. In 2006, the state Supreme Court issued a major ruling on regarding the connection of groundwater and surface water. The 2007 Legislature passed new ground water laws and created the one-time only Water Policy Interim Committee (WPIC). The Legislature appropriated \$50,000 for the committee to complete a water quantity and water quality policy analysis.

At the end of the interim, a joint subcommittee of the EQC and the WPIC recommended making WPIC a permanent committee. It also recommended the adoption of the current WPIC structure, which allows WPIC to study water policy issues, but provides that the EQC retains many statutory duties related to water, including agency oversight and rulemaking review. The committees and staff coordinate to avoid duplication of efforts, but this interim both committees have reviewed the state water plan update, proposed exempt well water rules, and nutrient standards. The EQC also heard testimony over proposed federal Clean Water Act rules.

## *Energy*

Energy issues were also regular topics of EQC interims. The 1991 Legislature responded to the United States' entry in a war in the Middle East and uncertainty about energy security and supply by approving a resolution requiring the EQC to develop recommendations for an energy policy and options for its implementation.

Following the deregulation of the electric industry in 1997, the EQC monitored the restructuring efforts.

But in 1999, a Transition Advisory Committee was created to monitor the effects of restructuring, with staff provided by EQC. The committee existed for two interims before its repeal and the creation of the Energy and Telecommunications Interim Committee (ETIC). While the ETIC oversees the Public Service Commission and deals with many other energy issues, the EQC has maintained some involvement, such as conducting studies on climate change and the use of biomass for energy production.

### *Fire*

In its study of natural resources and the environment, the EQC regularly debates fire policy and the related issues of forest management. But following a dramatic and expensive fire season in 2007, the Legislature established a Fire Suppression Committee. The committee was funded for one interim and made numerous recommendations. The topics of fire policy and forest management remain under the purview of the EQC.

## **Administrative Considerations**

When developing and adopting legislative administrative options for any policy subject area, including evaluating federal land management, there are key criteria that should be taken into consideration to ensure that the administrative outcome is successful. Those criteria include:

- Resource Efficiency, Allocation, and Cost
  - Committee costs in terms of legislator (time, travel, salary)
  - Legislative staff workload (research and legal staff, secretarial support, and IT support).
  - Efficient use of legislator, legislative staff, executive branch, and federal resources
- Committee Jurisdictional Boundaries:
  - Clearly defining administrative jurisdiction boundaries eliminates duplication of effort issues with legislators, legislative staff, executive branch staff, and the public.
- Legislator Workload (Senators are often assigned to more than 1 interim committee)
- Development of Legislator Subject Matter Expertise
- Public Involvement

## Options for Continued Study of Federal Land Management in Montana

Entity	Membership Options	Considerations	Example	Implementation Mechanism
Permanent Federal Lands Interim Committee	Legislators, public	Possible new staff, recurring budget	<a href="#">Water Policy Interim Committee</a> , created 2009	<a href="#">Legislation</a>
Select Committee on Federal Land Management (temporary)	Legislators, public	Existing staff, additional one-time budget	<a href="#">Select Committee on Efficiency in Government</a> , 2011-12 - \$100,000  <a href="#">Fire Suppression Committee</a> , 2007-08 - \$200,000	<a href="#">HB642</a> – 2011 <a href="#">HB1</a> – 2007 Special Session
Statutory EQC subcommittee	Legislators, public	Permanent or temporary, additional one-time or recurring budget, existing staff	<a href="#">EQC Split Estate Subcommittee</a> , 2005-06. 6 EQC members, 6 public members, 2 non-voting members. \$50,000 appropriation	<a href="#">Legislation</a> and EQC work plan
EQC subcommittee or work group	Legislators; public; county, state, federal representatives	Existing or expanded EQC budget, depends on number of members, travel, meetings	SJ15 work group, 2013  <a href="#">Study subcommittee, 2005-06</a> ;  <a href="#">Eminent Domain subcommittee, 1999-00</a>	EQC work plan
Assign topic of federal land management to existing interim committee	Legislators	Existing staff (EQC staff would provide support)	<a href="#">Existing Interim Committees</a>	Legislation to require expansion of committee topics; Request by EQC
Statutory entity attached to executive branch	Legislators; public; county, state, federal representatives	Budget and staffing subject to agency resources	<a href="#">Economic Development Advisory Council</a> ;  <a href="#">Upper Clark Fork Basin</a>	Legislation

			<a href="#">Steering Committee</a>	
Executive branch initiated entity	Legislators; public; county, state, federal representatives	Budget and staffing subject to agency resources	<a href="#">Fish &amp; Wildlife Licensing and Funding Advisory Council, 2013-14;</a> <a href="#">Greater Sage-Grouse Habitat Conservation Advisory Council, 2013-14</a>	<a href="#">Executive order</a> ; Agency Director decision
County-led task force	Commissioners	Funding	<a href="#">Nevada Land Management Task Force</a>	<a href="#">Legislation</a> ; Joint Resolution; EQC request
Executive Branch Office	Non-legislative professional staff. Appointed advisory council including legislators, counties, state agencies	Budget and staffing	<a href="#">Utah Public Lands Policy Coordination Office</a>	<a href="#">Legislation</a>

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