

**MINUTES OF THE
NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENT INTERIM COMMITTEE**
Wednesday, November 19, 2008 – 9:00 a.m. – Room W020 House Building

Members Present:

Rep. Roger E. Barrus, House Chair
Sen. Gene Davis
Sen. Margaret Dayton
Sen. Dennis E. Stowell
Rep. Sylvia S. Andersen
Rep. Melvin R. Brown
Rep. Glenn A. Donnelson
Rep. Jack R. Draxler
Rep. Carl W. Duckworth
Rep. Kerry Gibson
Rep. James R. Gowans
Rep. Neal Hendrickson
Rep. John G. Mathis

Rep. Michael E. Noel
Rep. Patrick L. Painter
Rep. Stephen E. Sandstrom

Members Absent:

Sen. Darin Peterson, Senate Chair
Sen. Michael G. Waddoups
Rep. Phil Riesen
Rep. Bradley A. Winn

Staff Present:

Mr. J Brian Allred, Policy Analyst
Ms. Emily Brown, Associate General Counsel
Ms. Joy L. Miller, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Barrus called the meeting to order at 9:10 a.m. Sen. Peterson was excused from the meeting.

MOTION: Rep. Donnelson moved to approve the minutes of the October 15, 2008 meeting. The motion passed unanimously. Sen. Davis, Rep. Noel, and Rep. Sandstrom were absent for the vote.

2. Draft Legislation, Recodification of Natural Resources Code

Ms. Brown distributed and discussed 2009 General Session draft legislation, "Recodification of Natural Resources Provisions." She also distributed "Codification of Title 79, Natural Resources," which contains a chart of old to new sections; "Sections repealed by the codification of Title 79, Natural Resources"; and a memorandum to the Committee regarding the Department of Natural Resources's fees.

Mr. Kevin Carter, Director, School and Institutional Trust Lands Administration (SITLA), addressed the provision in the bill relating to paleontological resources on SITLA lands. He noted that it is an existing provision that is being relocated within Title 79.

The Committee discussed cross referencing the provisions relating to paleontological resources to clarify the legislation.

MOTION: Rep. Draxler moved to amend the bill as follows: on line 4905, delete "to" and insert "through".

Ms. Mary Tullius, Director, Division of State Parks and Recreation, said the division interprets the language as "through" because they know physically where the trail in question exists. She supported the proposed amendment.

The Committee voted on the motion which passed with Rep. Hendrickson and Rep. Mathis voting in opposition. Sen. Davis was absent for the vote.

Sen. Stowell asked why Old Iron Town was not included in Iron Mission State Park within Title 76, Chapter 4, Part 6, State Parks, of the bill. He said it was included in earlier legislation which dealt with road funds.

Ms. Brown indicated that Old Iron Town is referenced in Section 72-3-204 and will not be affected by the recodification.

MOTION: Sen. Dayton moved to adopt 2009 General Session draft legislation, "Recodification of Natural Resources Code" as a committee bill, as amended, and with the inclusion of cross references regarding paleontological resources. The motion passed unanimously. Sen. Davis was absent for the vote.

Rep. Mathis will sponsor the bill. Sen. Stowell indicated he would sponsor the bill in the Senate.

3. Draft Legislation, Coal Mining and Reclamation Amendments

Ms. Brown discussed the substantive changes contained in 2009 General Session draft legislation, "Coal Mining and Reclamation Amendments."

Mr. Steve Schneider, Division of Oil, Gas and Mining (DOGM), explained that the bill clarifies DOGM's authority to collect an annual fee. He noted that the current fee for a new permit application is \$5. He indicated that since the 2007 legislative audit, DOGM has been working with the coal industry to develop a fee proposal.

Rep. Noel expressed concern with a proposal he had heard to increase the fee for a new application to \$6,000. He said that would make Utah the state with the highest of these fees.

Sen. Mike Dmitrich addressed the Committee. He pointed out that he has a conflict of interest because he is a consultant for a coal company and was also a member of the Audit Subcommittee. He acknowledged that the current fee is not realistic but that a \$6,000 fee would be excessive. He asked the Committee to approve the bill and indicated his willingness to work to resolve the issues in question.

Mr. David Litvin, President, Utah Mining Association, distributed a copy of a letter he sent to Mr. John Baza, Director of DOGM, concerning the proposed coal mine permit fees. He urged more discussion of the proposed fees and stated if the current fee proposal is adopted, it would be detrimental to the coal industry in Utah.

Due to lack of a quorum, the Committee determined it would take action later in the meeting.

4. Report of the Executive Water Task Force

Mr. Mike Styler, Executive Director, Department of Natural Resources, reported on the actions of the Executive Water Task Force. He reviewed the legislation the Task Force supported that will be introduced in the upcoming general session. He also discussed the process that will be followed in filling the position of State Engineer.

5. Draft Legislation, Penalties for Destruction of Bald Eagle

Ms. Robyn Thomas, Division of Wildlife Resources (DWR), distributed and discussed "Tougher penalties for killing bald eagles." She explained that bald eagles were recently removed from the Threatened and Endangered Species List. Under state law, the restitution value for illegally killing a bald eagle is \$100. DWR is requesting that the penalty be increased to \$1,000.

Due to lack of a quorum, the Committee determined it would take action later in the meeting.

6. Draft Legislation, Water Right Applications and Records

Rep. Painter discussed 2009 General Session draft legislation, "Water Right Applications and Records." He explained that the bill was originally approved in the Committee's September meeting. However, it was later determined that the language in the bill could be clarified. He noted the bill allows for segregation or consolidation of a water right or application.

MOTION: Rep. Painter moved to adopt 2009 General Session draft legislation, "Water Right Applications and Records" (version 9) in place of the one previously adopted. The motion passed unanimously.

7. Draft Legislation, Liens on Real Property for Unpaid Water Bills

As sponsor of the bill, Rep. Painter asked that the Committee move to the next item on the agenda.

8. Draft Legislation, Safe Drinking Water Amendments

Rep. Painter discussed 2009 General Session draft legislation, "Safe Drinking Water Act Amendments." He explained that the bill requires the majority of the voting shareholders of a corporate public water system to approve the addition or removal of fluorine in the public water system.

MOTION: Rep. Painter moved to adopt 2009 General Session draft legislation, "Safe Drinking Water Act Amendments" as a committee bill. The motion passed with Sen. Davis voting in opposition. Rep. Duckworth was absent for the vote.

MOTION: Sen. Davis moved to adopt 2009 General Session draft legislation, "Coal Mining and Reclamation Amendments" as a committee bill. The motion failed with Sen. Davis, Rep. Andersen, Rep. Barrus, Rep. Brown, Rep. Donnelson, Rep. Draxler, Rep. Gibson, Rep. Gowans, Rep. Hendrickson, Rep. Mathis, and Rep. Sandstrom voting in favor. Rep. Duckworth was absent for the vote.

MOTION: Rep. Draxler moved to adopt 2009 General Session draft legislation, "Penalties for Destruction of Bald Eagle" as a committee bill. The motion passed unanimously. Rep. Painter was absent for the vote.

9. Wildland Fire Amendments

Sen. Stowell distributed and reviewed information concerning costs for wildland fire suppression and the problems related to the current method of payment for these fires. He stated he has been working with a

task force to develop funding strategies for dealing with wildland fire suppression. He noted that from 2000-2007, fire suppression costs exceeded \$64 million. He proposed that any excess money generated from the tax on insurance be placed in a fund to pay for wildland fire suppression.

Mr. Steve Schwendiman, Assistant Attorney General, pointed out that under current law, cities are not covered under the wildland fire cost payment system. He noted that creating the fund from the excess of insurance premium tax is not an additional appropriation.

10. Proposed Modifications to Agency Criminal Penalty Rulemaking Powers

Sen. Davis discussed the summary handout "Amendments to Agency Rulemaking Regarding Criminal Penalties." He stated the Administrative Rules Review Committee has approved the legislation that has been drafted but is seeking input regarding any amendments that should be made to those portions of the bill that are in the Committee's area of oversight.

Mr. Jim Karpowitz, DWR, said he has worked closely with the Administrative Rules Review Committee on the issue and is comfortable with the wording.

Ms. Heather Shilton, Assistant Attorney General representing the Division of Parks and Recreation, stated that the division is asking that Section 73-18-21 not be repealed. She explained that repealing the section would jeopardize the receipt of \$1 million in federal funds.

11. Energy Development Review and Discussion of Potential Legislation

Rep. Barrus said he has been meeting monthly with representatives of the executive branch concerning energy issues. He noted that the executive branch will not be seeking environmental policy legislation regarding a cap and trade system for the upcoming session. Rep. Barrus stated that the governor favors cap and trade as a way of controlling climate change and reducing CO₂ in the environment. He updated the Committee on the progress of the Rocky Mountain Consensus.

Sen. Stowell reported on the governor's Renewable Energy Task Force, which will issue a report at the end of the month. He stressed the need to determine the ultimate cost of these resources to the consumer.

12. Other Business / Adjourn

Ms. Brown referred back to the cross references regarding paleontological resources on SITLA lands and indicated that the cross references are already in place in the definitions in Section 79-3-102.

Rep. Barrus thanked staff and committee members and recognized the service of those members of the Committee that will not be returning next year.

MOTION: Rep. Hendrickson moved to adjourn. The motion passed unanimously.

Chair Barrus adjourned the meeting at 12:00 p.m.