

HOUSE JOINT RESOLUTION NO. 3

INTRODUCED BY Z. BROWN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY TO EXAMINE THE PROCESS FOR CHANGING A WATER RIGHT, PRIMARILY THE USE OF HISTORICAL DATA AND RECORDS; AND REQUIRING THAT THE FINAL RESULTS OF THE STUDY BE REPORTED TO THE 66TH LEGISLATURE.

WHEREAS, Article IX, section 3(4), of the Montana Constitution declares that the "legislature shall provide for the administration, control, and regulation of water rights"; and

WHEREAS, section 85-2-402, MCA, states that "an appropriator may not make a change in an appropriation right without the approval of the department" in the vast majority of cases; and

WHEREAS, the Department of Natural Resources and Conservation endeavors to meet the standards contained in the Montana Constitution and in law, including through its change of water right process; and

WHEREAS, this change of water right process includes a historical consumptive use analysis that requires a look back at historical data and records, which may introduce confusion and complications into the process for water rights holders.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate an appropriate interim committee, pursuant to section 5-5-217, MCA, or direct sufficient staff resources to review this process of historical consumptive use analysis and, if necessary, suggest options for improving the process.

BE IT FURTHER RESOLVED, that the study consider:

(1) reports and analyses related to the change process;

(2) input from the agency, courts, water users, and others involved in the change process;

(3) change of water right processes in other arid western states;

(4) the adequacy of statutory timelines associated with the change process and if additional timelines are needed; and

(5) the relationship between Water Court decrees and the historic consumptive use analysis conducted

1 during the change process.

2 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
3 presented to and reviewed by an appropriate committee designated by the Legislative Council.

4 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
5 requirements, be concluded prior to September 15, 2018.

6 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
7 comments, or recommendations of the appropriate committee, be reported to the 66th Legislature.

8 - END -