MINUTES OF THE MEETING
LONG-RANGE PLANNING SUBCOMMITTEE
49TH LEGISLATURE
HOUSE OF REPRESENTATIVES
SPECIAL SESSION III

June 10, 1986

The meeting of the Long-Range Planning subcommittee was called to order by Chairman Robert Thoft on June 10, 1986, at 8:30 a.m. in Room 108 of the State Capitol.

ROLL CALL: All members were present. Also present was Madalyn Quinlan, Associate Fiscal Analyst for the Legislative Fiscal Analyst's Office (LFA).

DEPARTMENT OF ADMINISTRATION:

Ellen Feaver, Director, Department of Administration (D & A) (1:A:010), presented two long-range building program budget amendments which she wanted to get the committee's reaction on. The Department of Military Affairs has the ability to get federally funded pre-planning money for armories in Libby and Livingston. There were bills brought to the Long-Range Planning committee last session by people in those communities to build armories, and neither one of those bills passed. However, those weren't all federal money and there would have been a state share and it would involve a commitment to construct. This will allow the pre-planning of two armories and no immediate commitment of state money. If we were to build the two armories, we would have to reimburse the feds for the state share of the pre-planning money.

General James Duffy, Department of Military Affairs (A:026), said that the estimated cost for the armories is $1.3 million, for each location. Pre-planning funds are 100% federal funds. If the committee approved the spending of planning funds, the design would be on the shelf so that some day if the committee approved the 25% share to build these armories, the design would be complete. When the construction came, the state would be required to pay 25% of both the building and the architect design fees. In this case the state share would amount to about $29,000, both in Libby and Livingston.

COMMITTEE DISCUSSION: Representative Bardanouve asked what the cost of the pre-planning is, to which General Duffy answered about $77,000 a piece. The money will be coming directly from the federal government and the planning will be 100% federally funded.

Senator Tveit asked when the payback by the state would be. General Duffy answered that the state would not have to pay anything until construction began. If this committee, in the next couple of sessions, says "No, we can't afford the 25% share to build this armory", then the plans will sit on the shelf until such time as it is approved by the state. There is no obligation by the state.

Senator Van Valkenburg (A:048) asked what has happened to make the federal government change its policy and if there is something in the congressional appropriation act that says this, have they got more money than they need right now and they're trying to get rid of some of it. General Duffy answered that the facilities' money affected in FY 86, $5 million, was taken out. It is not that they have an over-abundance of money, but every state is in about the same bind as we are.

Senator Van Valkenburg asked if this was just internal National Guard policy or a law. General Duffy replied that he was not aware that a federal law has been changed, and thought it was internal in the National Guard. However, it is approved by the legal people in the National Guard bureau.

He stated further that he is fearful that they are telling him now that there is no commitment on the state's part to pay unless they build in the future. A year from now they may say that if they didn't build this armory in Libby or Livingston and you're into us for $29,000 as a result, they will withhold this $5.6 million. If it were in law that the states are not committed he would feel a little more comfortable. General Duffy said he would have his attorney look into it and come back later with an answer.

Representative Bardanouve asked if a bill was needed for this, and Chairman Thoft replied, "No. The Department of Administration has the authority to do this, but only needs the committee's blessing."

Senator Fuller asked if Libby and Livingston are the priorities for the next two armories. General Duffy replied, "Yes, and Livingston is the #1 priority. The city gave them the ground in January of 1985 to encourage them to build down there."

Ralph DeCunzo with Military Affairs (1:A:095) replied to Senator Van Valkenburg's question saying the instrument that is used to make the agreement with the federal government and the state government is called the Federal/State Agreement. That agreement is a binding document signed by the federal government and General Duffy, and it spells out the requirements for the state and the federal government's obligations. The document says that the federal government is responsible for 100% of the planning fees. Even if the project is terminated, the state is not liable for their percentage.

EXECUTIVE SESSION: Senator Fuller moved to approve the budget amendment. Motion CARRIED unanimously.

DEPARTMENT OF FISH, WILDLIFE AND PARKS:

Jim Flynn, Director of the Department of Fish, Wildlife and Parks, (FW&P) (1:A:118), presented a budget amendment which the department would like to see completed. During the last session, the Long-Range Planning committee, approved two projects: 1) Request for $30,000 of the license authority to remodel and finish the old headquarters at Glasgow to be used as a storage facility and pave the parking area. 2) A request for $40,000 ($30,000 of license money and $10,000 of coal tax money) to move the sign shop from Whitehall to Helena. This was proposed for reasons of economy and more effectiveness in sign operations. Since the session, two things have developed. One is to complete the paving aspect of the Glasgow project, it will cost an additional $6,600 over what was requested. The owner of the sign shop property in Whitehall is willing to give the department more space at less money, and fix up the space they had. Therefore, FWP has decided not to move their sign shop from Whitehall to Helena. The result is that they will not be expending the $40,000 for that project. The department requests to take $6,600 of the $30,000 license money from the Whitehall project and move it to the Glasgow project to complete the paving project. The reason for doing it now, as opposed to waiting until the next regular session, is there a paving contractor in Glasgow at this time. He will be there until the first of July, and the department feels they can get an advantageous price to do the work right now.

Chairman Thoft asked Mr. Flynn what will happen to the balance of the $40,000 after using $6,600. Mr. Flynn replied that of the $40,000, $30,000 was the license funds. That is where the $6,600 would come from. The balance of that $30,000 would revert back into their license account for distribution in the 1987 session. $10,000 was coal tax money, which they assume will go into park operations to offset general fund that will be taken out, assuming this session adopts the Governor's recommendation on that particular proposal.

COMMITTEE DISCUSSION: Representative Bardanouve asked Mr. Flynn if there would have to be a budget amendment on this issue, and Mr. Flynn replied that it was his understanding that this falls within the authority of the director of the Department of Administration, but she wanted this committee to be aware of the amendment before taking any action on it. Rep. Bardanouve said a budget amendment bill is being drawn up in which the budget amendments could be included.

Tom Crosser from the Governor's Budget Office (A:184) explained that the reason they elected not to put these two particular budget amendments in the budget amendment bill is that those amendments that are contained in that bill fall under the normal budget amendment process that the Legislative Finance Committee is involved in. The Long-Range Building budget amendments don't require that same process. They didn't think it appropriate to tie the two types of budget amendments together, which is why they elected to come to this committee to get the committee's feeling about how to approach it. They would favor going with the committee's concurrence, processing those budget amendments as they normally would through the Department of Administration and not including them in the regular budget process.

Senator Van Valkenburg asked Mr. Flynn the length of the lease at the Whitehall sign shop. Mr. Flynn replied that he thought it was a ten-year lease with a two or three year review period and that an inflationary factor on the rent was tied in which will stay in effect.

Chairman Thoft asked Mr. Flynn about an issue with an employee who was retiring but didn't want to move to Helena. Mr. Flynn replied that she retired this fall and it was the opportune time to consider the move. Chairman Thoft then said the inflation factor worried him a little and asked Mr. Flynn what they were using. Mr. Flynn said he did not recall at this time what it was, but could get the information.

EXECUTIVE SESSION: Representative Bardanouve moved to approve the budget amendment of transferring funds as requested by the Department of Fish, Wildlife and Parks. Motion CARRIED unanimously.

CAPITOL CONSTRUCTION PROGRAM: (1:A:240)

Madalyn Quinlan, LFA, presented an overview of the program. She referred to the LFA budget analysis (G-1 to G-10), and a table showing all the projects the legislature approved in the last session. She identified four issues: 1) to update the revenue estimate and to look for what excess cash might be available above the appropriations that were approved last session; 2) project reversions; 3) possible project delays, and 4) excess cash available in terms of interest earnings on the capitol renovation account. The last option wouldn't be available if the bond proceeds from the capitol renovation were transferred to the general fund.

On page G-3 are the cash estimates for the Long-Range Building Program (LRBP). The revenues for that account come from supervisory fees, from 20.25% of the cigarette taxes, from interest earnings on various bond proceeds accounts, and on the cash account itself. The revenue estimate now stands at about $2 million above what was estimated last session. Most of that increase is greater earnings on the bond proceeds account because of project delays. Ms. Quinlan presented options, page G-4 of the program book, for the committee to consider (1:A:284).

PROJECT REVERSIONS: (288)

The Table on G-5 shows three projects that have actually been completed and the money should be available for reversions.

PROJECT DELAYS:

Ms. Quinlan presented the Table on page G-7 which lists the projects that were appropriated last session by this committee, which haven't begun yet.

INTEREST EARNINGS ON CAPITOL RENOVATION BOND PROCEEDS:

Ms. Quinlan presented this issue, which is on page G-8 (A:298). During the 1985 session, the committee planned on having excess interest earnings from the Capitol Renovation Bond Proceeds account of $1.3 million, to be used to fund the projects from the 1985 session, including the Forensic unit. It now looks like there will be about $401,000 more than was estimated during the 1985 session. This money would be available to transfer to the LRBP cash account or the general fund or to leave in the Capitol Renovation account, where those interest earnings would sit unless this committee took some action. Those interest earnings don't automatically transfer to the cash account.

COMMITTEE DISCUSSION: Rep. Ernst (A:318) asked Ms. Quinlan about the legal implications of moving the capitol renovation funds to the general fund. Ms. Quinlan answered that the Bond Counsel from Minneapolis and someone from the legal staff of the Legislative Council would be making a presentation to the committee on the legal issues involved.

Senator Van Valkenburg (1:A:327) asked Ellen Feaver,Director of D. of A., if she agreed with the LFA on the amount of excess cash available in the cash account. Ms. Feaver replied they only saw the LFA's estimates yesterday afternoon and haven't been able to reconcile them overnight. There is about $.5 million difference - $500,000 higher than the LFA's excess cash.

He then asked Madalyn Quinlan what the cash available in the long-range building cash program at the start of the 1987 biennium was what and would be the projected cash available in the long-range bulding cash program for the 1989 biennium if this money is left where it is now. Ms. Quinlan answered (1:A:361) that the net funds available at the end of FY85 were $3.7 million. In answer to the Senator's second question, Ms. Quinlan said their projection is this $2 million in excess cash will be available at FYE87. He then asked if the D. & A. figures were used instead of the LFA figures, would there be $2.5 million available on 7/1/87.

Senator Van Valkenburg asked Ellen Feaver of D. of A. if she concurred with Ms. Quinlan's numbers, that $3.7 million was the amount available going into this biennium. Ms. Feaver replied she didn't have that information with her, but in comparing what was available in the cash program last session, she doesn't feel that projections would be that far off. They had $10 to $11 million last year in the cash programs; this year they project they will have about $7 million, and they have maintenance requests of $11 million.

Madalyn Quinlan, LFA, (A:389) said the figure she had given of $2 million or the D. of A.'s figure of $2.5 million is the cash that will be available at the beginning of the biennium. All during the 1987 biennium the cigarette taxes would be coming in, and those are at least $2.5 million annually.

Senator Van Valkenburg then commented that the cash program in the 1989 biennium is now up to $7.5 million, if the excess cash is kept in the program and is not spent somewhere else. Ms. Quinlan said that was correct.

Tom O'Connell, Chief of the Facility Planning Bureau of the D. of A. (1:A:406) referred to the revenue projection sheet submitted by Ellen Feaver of the D. of A. (EXHIBIT 1) and asked if the committee would agree for discussion purposes that the $2.5 million figure would be the same whether talking with the LFA or the D. of A.. The $8 million figure is what would be available, but the operational cost would have to be subtracted. Therefore, the amount available for appropriation during the next regular session would be $7 million. Assuming that the fiscal analyst's figure of $2 million available at FYE87 are correct, and then adding the projected earnings, there would only be $6.7 or $6.5 million available.

Ellen Feaver, Director of D. of A., (A:434) said she wanted to make sure they would get to speak to these issues. She said one of the things she wanted the committee to consider while looking at the various options, is that they have quite a substantial number of buildings that they are obligated to take care of. It is going to be substantially more difficult this time than last time to come up with money for new buildings. As part of the direction of the Long-Range Building bill last session, they have started a process of gathering from agencies their long-range maintenance plans. There are also a substantial number of short-term maintenance plans, and the department has gotten requests for over $11 million of maintenance projects in the next biennium.

Option A: She felt the first priority would be to take care of the buildings which they have now, and the $7 million isn't going to do the job. If the legislature takes away another $2 million that will not do the job. Therefore, they will have leaky roofs creating additional damage. Another aspect of taking the cash balance and putting it in the general fund is that if they started out with no cash at the beginning of the next biennium, they couldn't start any projects until they earned some cash. The maintenance program might not really get started for another year. They can't engage in contracts until they have money to pay for the products. Option 1 is bad from a number of vantage points. Another one being that it's not just cash. They have a lot of investments that result from the cash program or the bond proceeds, and overnight they haven't determined what the maturity dates of those investments are. If they would be required at this session to immediately transfer cash to the general fund, they may well be in the position of cashing in securities to put cash in the general fund, and taking a penalty in those investments. This is a likely consequence.

Option B: Diverting the cigarette tax. Ms. Feaver submitted that they need the money for a maintenance program and she would hate to see the cigarette tax go to the general fund, instead of taking care of the buildings.

In the second category - Reversions - (1:A:505), there are two items which she addressed. The first item listed is money left over from the Montana Tech sewer project. During that project they had a controversy with a contractor who refused to bill the D. of A. because he was angry about the way the department dealt with the project. They can't pay a bill until they get it; and, therefore, they still owe this person money for services rendered. They intend to send their attorney down to talk with the contractor, along with the building program people and see if they can't get a bill paid that they owe. At this point, they still owe the money and it is not a good idea to revert it.

Another situation Ms. Feaver wanted to address (1:A:529) is the money left over in the Justice building. They haven't closed that project out already because the building has water problems. They have bleaching bricks that may in part be caused by an imperfect design on the front of the building and water damage. Also the planters in the front of the building collect water which leaks water into the front causing deterioration. She would prefer to use the money that is left in that project to fix the drain situation if it is determined that is appropriate, and revert that which is left after that is done.

Senator Fuller (1:A:555) asked Ms. Feaver if they had gotten an estimate on the Justice building, to which she answered, "No. They have kept the money and observed what is going on, but they haven't decided what to do yet."

Representative Bardanouve (1:A:560) asked if the contractor and architect have gone out of business already, or have gone bankrupt. Tom O'Connell, D. of A., replied that the sub-contractor and architect on this project are still around. The general contractor, Sunrise Construction, is no more. They have a mechanical and electrical contractor left. Unfortunately for the work they have a problem with, it is the general contractor they have to go back to. The bulk of the problems are on the bridge and there is moisture getting behind the brace off of the bridge deck. There are other minor problems around the building with the moisture in the brick as well. It is a matter of trying to determine how to deal with it. If they can keep this money, they feel they can deal with it, and take care of it. If they lose it, they will have to come back and talk about brick again.

Chairman Thoft asked Tom O'Connell (1:A:592) if that contractor is bonded and if that bond has been released. Mr. O'Connell replied that when they accept the finished project, they release the bonds. There is a warranty period on the building but, with the contractor out of business, there isn't anyone to go back to. Bonding capability is good when it's time to construct, or when they have a problem. They exercised bonding capabilities on the Big Timber fish hatchery job which the D. of A. took over through the insurance companies, because they were able to go over to the bonding company to do that. Here, that option is not available.

Rep. Bardanouve commented that while big concerns have been raised (1:A:613), he felt there are bigger concerns in the whole government. The MEA man is very concerned about his budgets; universities are concerned, people in SRS are concerned. These concerns have to be weighed against actual cutbacks, and these are not actual cutbacks, but rather proposals down the road that may or may not take place. He did not agree that securities have to be cashed in tomorrow or the first of July. They can be cashed in any time during the fiscal year, as long as the treasury has knowledge that they are coming in. He also stated that a project is usually not started until a year from the time it is authorized, so cash will be accumulated. Rep. Bardanouve said he would sacrifice some potential things that may be inconvenient against some real human problems, including personnel in their own department which would be laid off if they don't have the dollars to keep them on the job.

Chairman Thoft (1:B:007) responded by saying that letting state buildings deteriorate is not good business management. If we are going to take our capital investment and hand it out to people, that is just delaying and making something much more serious down the road.

Senator Fuller (1:B:016) asked how much the cigarette tax would have to be raised to generate $2.5 million. Tom O'Connell, D. of A., responded that the 8 cents that was proposed the last time generated about $10 million.

Senator Van Valkenburg (1:B:026) asked Tom O'Connell why they are waiting so long to do something about the Justice and Library buildings; what is keeping them from using the $144,000 that is in that account before the problem gets more expensive, and before Francis Bardanouve comes along and grabs it and gives it to general assistance recipients; why is A and E letting money sit there since 1979 instead of getting the problem addressed.

Tom O'Connell, D. of A., (1:B:045) responded that they have hundreds of buildings with hundreds of problems. One of the things with the Justice building is that the brick institute does not recommend sealing brick. This problem didn't manifest itself until the building was completed, in 1982. They have watched it and are studying the problem; but before getting it fixed, they want to be sure they have the correct solution. This is a time-consuming process. They have hundreds of these kinds of problems throughout the state.

Senator Van Valkenburg (1:B:078) asked if they leave the $144,000 available for that project, is there some likelihood that the D. of A. would spend that money and address the problem in this coming fiscal year. Mr. O'Connell said yes, that it had been requested by the Board of Examiners to prepare a report on the D. of A.'s recommended solution of the problems.

Rep. Bardanouve (1:B:086) asked what the solution is. Mr. O'Connell said they are trying to figure out how to reconstruct the joint between the floor and the wall. They have to deal with how that wall is modified to prevent the moisture problem. Another problem is how to seal the brick. They haven't come up with a recommendation yet.

Ellen Feaver, Director, D. of A., (1:B:107) commented on the potential project delays listed in page G-7, Table 3, of the fiscal analyst book, which describes the projects that have no money committed yet. Regarding fire protection in the capitol complex, which has an appropriation of $350,000, she wanted the committee to know that they do have an architect and plans, and they are ready to begin that project. This involves fire protection for the employees who work in the buildings around here. They are not luxurious, frivolous kinds of building modifications; but life-threatening deficiencies cited by the fire marshal. The original project was for $1 million, where they would not only have taken care of the life-threatening deficiencies, but some of the warning signs by the fire marshal. Funding to correct the most serious deficiencies was approved in the last session, and she urged the committee to let them take care of these problems.

Senator Fuller asked Ralph DeCunzo of the Department of Military Affairs (1:B:128) about the two shops they are losing, which are listed on page G-7. He wondered if they are just short of federal funds. Mr. DeCunzo replied that the federal government is in the process of trying to prioritize their projects, and these two shops are caught in that reshuffle of prioritization. They are definitely in the program, but the federal government is trying to determine exactly which year they are in the program, either FY 87, or FY 88. When they release that, or determine that, then Mr. DeCunzo said he is convinced that those two projects will be a go.

As for Table 2, the potential reversion on page G-5, street improvements in Anaconda, the footnote of federal matching funds doesn't apply there. They are not anticipating any federal matching funds.

The final specifications and plans are due in the A. & E.'s office on Friday. If they could maintain that project, Mr. DeCunzo said he would offer up two projects he doesn't believe that federal government is going to come through on - $24,750 and $10,600. There isn't enough money for street improvements, and he doesn't know how that figure was arrived at. They have met with the architect and asked him to revamp the parking lot in terms of gravel, getting the slopes prepared properly so that the drainage goes away from the building. They will end up with a graveled surface which is better than what they have.

Rep. Bardanouve (1:B:172) stated that maybe we should leave what we have authorized and not cut back projects we felt were necessary at the time. On the Fish and Game Giant Springs project, he felt the committee should take a look at it. If it is directly for headquarters, he didn't think that Fish and Game would object to using some of their funds. Chairman Thoft said they could use some of that $40,000.

Representative Hubert Abrams, District 24, presented a proposed bill at the request of the Department of Administration (EXHIBIT 2). (2:A:000) Rep. Abrams explained that the Capitol Renovation project was authorized by the 1981 legislature for a project cost of $6,750,000; $5 million for the project came from the issuance of bonds, while the balance of $1,750,000 was generated from interest earnings on investment of the bonds proceeds. Revenue from the Capital Land Grant was appropriated to make the annual debt payments. Since the issuance of bonds for the capitol renovation in 1981, the project has had many problems. House and Senate disagreements over space allocations and competition among agencies to remain in the capitol have made it impossible to plan adequate space for all the building occupants, while at the same time providing suitable space for legislative functions. The planning process to date indicates that all the desired changes cannot be accommodated in the renovation. It is time to delay this project until a workable plan can be established to solve the renovation problems, and he felt the legislation which he has presented provides the opportunity to sole the space needs of the legislature and the various capitol agencies in an orderly, well-planned manner. This legislation will delay the capitol renovation project and transfer and appropriate the remaining capitol renovation moneys to the debt service account to retire debt created through the issuance of bonds. The project balance is estimated to be $5,100,000 by October, 1986. The effective date of October 1986 maximizes the effect of the transfer while allowing the capital land grant account to continue its debt service commitment through the next principal and interest payment date of August 1. Once the capitol renovation transfer is effective, the responsibility for debt service will transfer from the capital land grant to the general fund due to restrictions in the use of capital land grant moneys. The general fund's first debt payment would be an interest payment on February 1, 1987 for $150,000. Therefore, the net benefit to the general fund by this transfer is estimated to be $4,950,000 for FY 87. This legislation has been review by the bond counsel and it is their opinion that this transfer does not violate the state constitution or the purpose for which the capital land grant moneys may be used according to the enabling act. Bond counsel's opinion is that this application of the moneys is appropriate to minimize risks that the bond issue will conflict with the federal income tax law.

PROPONENTS: Ellen Feaver, Director of D. of A., (2:A:82), said she would agree with Rep. Bardanouve's comments about balancing needs. In this instance, the way to balance the needs of operation of state government in the coming year would be to decide not to do this project at this time, and put this money into the debt service account, which relieves the general fund of having to make the debt service payments. The capital land grant account which derives revenue from sections of land throughout the state, through leasing and grazing monies, is constricted constitutionally for use in the capitol complex for buildings. Under this proposal, this money will be freed up starting next biennium for whatever uses the legislature decides to consider in the next session. The money can be built up in the capital land grant account for doing renovation in the future. In the past several years, it has earned about $700,000 per year. There are a number of options for this money: let the money build up and have cash to do a project in the capitol area, dedicate the money to retiring debt in the Justice building or DNRC, or as it builds up a little, it can be used as a bondable source of revenue. She ended by asking the committee to consider this proposal favorably.

There were no further proponents and no opponents present.

COMMITTEE DISCUSSION: Senator Fuller (2:A:126) asked Ellen Feaver to go through the bond issue. Ms. Feaver explained that they sold $5 million worth of bonds. For at least a biennium, the interest earnings on the bond proceeds went into the project. The project was authorized for $6,750,000. As long as they needed the interest to make up the total project, the interest was dedicated to that project. After that, the interest earnings on the bond proceeds have gone into the cash program. They have spent about $1,700,000 on capitol renovation. Over time, the capital land grant account has paid about 42% of the total principal and interest ($3.7 million out of a total $9 million principal and interest) to retire this debt. One of the questions to consider is, is there a problem with capital land grant having spent $3.7 million and only gotten $1.7 million worth of improvements out of it. The benefit of this transfer to the general fund would be fairly substantial as it would get about $5 million, and the total principal and interest remaining is $5.17 million.

Senator Fuller (2:A:164) asked Ms. Feaver what would continue to pay off the debt of the original bonds. Ms. Feaver replied the general fund. Sen. Fuller then asked if we are committing $150,000 which is due Feb. 1, 1987, will this debt be there each succeeding year as a general fund obligation. Ms. Feaver replied that the debt service account and the general fund are virtually the same. The legal description of what is going to pay for this will be the debt service account. Sen. Fuller then asked if subsequent legislatures will have to appropriate x amount of dollars to retire the bonds originally for capitol renovations. Ms. Feaver answered that it is a statutory appropriation.

Chairman Thoft (2:A:175) asked, if the net is something a little under $5 million in the next year, what happens down the road. Does the general fund eventually suffer the same amount that is being transferred to us now? Ms. Feaver replied that the obligation is roughly even, present dollar-wise, but the total principal and interest remaining on the bonds is about $5.18 million. Chairman Thoft asked if this proposal will leave the capital land grant account trust in place. Ms. Feaver replied yes.

Senator Fuller (2:A:193) asked Tom O'Connell if the $1.7 million spent on the capitol has taken care of the basics, or will another $300,000 to $400,000 be needed to fix a leaky roof or make other repairs? Mr. O'Connell replied that the $1.7 million that was spent did things like repair roofs, repair leakage and other miscellaneous repairs. Basically from working with the capitol building and planning committee, they picked out the most critical items and did them. Anything above or beyond that, there has been no agreement.

Bill Johnstone, who has been the Bond Counsel for the state on a number of issues (2:A:217 stated that Ellen Feaver of D. of A. asked them to analyze the proposal and advise her as to whether or not the legislature could legally enact the legislation. Their conclusion is that the legislature may do so. They looked at four separate legal questions which they thought were relevant. First, whenever the state issues bonds, it in effect enters into a contract with the people who buy the bonds and you cannot change that contract. So the question is, does this particular piece of legislation have the effect of changing the agreements made with the bond holders. In their opinion, it does not. There was never any agreement with the bond holders that the proceeds had to be expended for capitol purposes. The bond holders are paid from taxes levied by the state. It is a general obligation of the state. Their securities are in no way affected or impaired by the transfer. They had no security interest in the proceeds of the bonds when they purchased the bonds. It is relatively typical with respect to bonds, particularly general obligation bonds, that, if bonds were issued and the project is not completed or more bonds were issued than were needed to complete the project, the proceeds of the bonds be applied against debt service. The proposed transfer of bond proceeds does not violate any promises made to bond holders, and it would be consistent with what they would expect to have happen.

Second, they looked at whether or not this would violate the enabling act, by transferring the proceeds of the bonds to the general fund after having paid the debt service from the capital land grant account. Their conclusion is based on some financial numbers put together by the Department, it is not violating the enabling act.

Third, is the constitutional issue. (2:A:25) Article 8, Section 11 of the state constitution says that whenever the state borrows money, it will use the proceeds realized from borrowing for the purpose specified in the law authorizing the borrowing. That same constitutional provision applies to cities, counties, and school districts. Its purpose is to insure strict accountability of money and prevent diversion of money for purposes that are not authorized by law. The question is, by taking proceeds and the investment income on the bonds and applying them to pay off the debt of the state, are you violating that constitutional provision? In their judgment, you are not, for two reasons. One, if the project for which the bonds are issued will not cost as much as was anticipated, using the proceeds of the bonds to pay principal and interest on the bonds to get rid of the debt for which the bonds were incurred is consistent with the purpose. Secondly, in their judgement, the legislature has the authority to amend the purpose for which the bonds were issued. The legislation which has been proposed amends the initial bond authorization. The bonds were issued by the legislature upon a two-thirds vote of each house: the people didn't vote on them. The legislature should be able at a subsequent time, based on changed circumstances, to use the proceeds of the bonds for a different purpose.

Fourth they looked at (2:A:278 federal income tax questions. When the bonds were issued, an opinion was given that the interest on bonds was tax exempt. That makes the bonds more valuable to the investors, and the state has paid a much lower rate of interest because of that. Many rules have to be followed when bonds are issued that are exempt from federal income taxation. The rules are fairly lengthy, but the idea behind them is fairly simple. The federal government doesn't want states to borrow money tax exempt for the sole purpose of turning around and investing it in taxable obligations that are earning a profit. IRS regulations exist to prevent this. Among the exceptions to the general prohibition from investing bond proceeds at a higher rate of interest, which is obviously what has been done here over a period of time, is a temporary period during construction of the project. That temporary period is generally three years from the day of issuance of bonds, subject to some extensions. In their judgment, the state is about at the end of its temporary period under the most charitable of interpretations: and when you get to the end of your period, the internal revenue code regulations provide that you should take the unexpended money and use it to retire the debt.

Chairman Thoft (2:A:306) asked Mr. Johnstone whether this was putting the bond holders in any jeopardy as far as tax consequences, to which Mr. Johnstone answered no. If anything the action taken minimizes the risk that they are put in jeopardy.

Senator Fuller (2:A:311) asked if a suit were filed on this issue, would a bond holder have standing to challenge this act. Mr. Johnstone said he didn't think a bond holder would have any standing.

Rep. Bardanouve (2:A:321) questioned the legal aspects of using the capitol land grant moneys for general fund purposes. In his opinion, that would be more pertinent to the issue. The capitol land grant fund is to be used for renovation of the capitol. In essence, we are using the money for general fund purposes, and using it to pay off all of this will be $5.1 million for general fund money.

Mr. Johnstone (2:A:333) answered that in his opinion, that is not being done. He said you have issued $5 million worth of bonds, and to date you have paid debt service on that $5 million from the capital land grant. Effective October 1, if you pass this bill, you will no longer pay debt service on those bonds from the capital land grant. The obligation to pay from the capital land grant will be extinguished. General fund money will be used in the future to pay debt service on the outstanding bonds.

Chairman Thoft (2:A:347) said that in effect we are transferring this money to our bond retirement account, not the general fund, and also relieving the general fund from its debt service obligation. Mr. Johnstone replied that the effect is that you are taking it from the capitol renovation construction fund account and transferring it to the debt service account. The amount transferred will be sufficient to pay debt service that is due during this next fiscal year, on long-range building program bonds. Therefore, money that would otherwise have to have been appropriated from the general fund to the debt service account, to satisfy that obligation, won't have to be appropriated.

Gregory J. Petesch, Director of Legal Services for the Montana Legislative Council, (2:A:363) said he was asked to look into this issue by the staff of the capitol building and planning committee and by the fiscal analyst staff because they must consider the constitutionality of all proposed legislation. He presented written testimony (EXHIBIT 3) which is attached.

The constitution says you can only use borrowed funds for the purpose of authorizing legislation. By amending that, you have drawn this new use within the purposes of the authorizing legislation. By amending that, you have drawn this new use within the purposes of the authorizing legislation. Mr. Johnstone feels confident that there isn't a problem with this legislation. Mr. Petesch doesn't feel confident in saying that there could not be a problem and said the purpose of this section is to guarantee proper management of borrowed funds, and should prevent misuse or diversion of that money. The question then arises does "diversion" of that money allow for any purpose that could be amended later on, or is that section of the constitution intended to be an expressed limit on the legislature's authority to authorize future amendments to the authorizing legislation. The last concern he has is that because this authority was created by two-thirds vote of the legislature, that it may require a two-thirds vote to authorize a change in the authorizing legislation.

Rep. Ernst (2:A:437) asked Mr. Petesch how great the risks would be and what are the consequences. Mr. Petesch said that first they would have to determine whether there is someone who feels strongly enough to challenge this. He has worked through most of the provisions which are involved and he feels confident about them. The only one he is not confident about getting around is the purpose for use of the funds. By amending that section by two-thirds vote, that may be sufficient. However, in order to be safe, that section should be amended by two-thirds vote of each house.

Rep. Ernst (2:A:460) then asked if the supreme court will review that if they passed it, or would there have to be a suit filed. Mr. Petesch said there would have to be a suite filed before the court reviewed the legislation.

Chairman Thoft (2:A:491) asked Rep. Bardanouve what he thinks about the two-thirds vote. Rep. Bardanouve replied he doesn't have any real hangups on it, but is more conservative than Mr. Johnstone. Senator Van Valkenburg (2:A:510) said this is a pretty specific area of the law. However, he has considerable respect for Mr. Johnstone's opinion and that of his firm. They are a very thorough outfit in terms of analysis, very conservative in terms of their legal analysis. As to the two-thirds vote requirement, he felt the legislature should be told that it requires a two-thirds vote, and be very up front about it. That will provide an extra measure of safety in terms of any challenge to this action.

Rep. Bardanouve (2:A:547) said he was not putting Mr. Johnstone's opinion down, but he is just a little more conservative than he is and a little concerned.

Mr. Johnston (2:A:546) replied that he respects that. He said he didn't mean to soft sell this; however, there is a constitutional question involved, with only three deciding cases in the state of Montana. The legislature, under the constitution, has the authority to create state debt, and define the purposes for which the debt is created.

Chairman Thoft (2:A:588) asked Mr. Johnstone if he was recommending the two-thirds vote, to which Mr. Johnstone replied yes.

Mr. Petesch (2:A:599) said that another thing that may encourage the legality of the transfer, is for the legislature to decide to not renovate the capitol. If you so do, what you may do with that money is very limited. This is one of the few permissive uses of this money if it's decided that the constitutional provision is not an expressed limit on the legislature's authority.

Chairman Thoft (2:A:608) asked if it would take an amendment to this bill to deal with the two-thirds vote. Mr. Petesch replied that this bill has not been introduced yet but they are putting a provision in the bill that says what vote is required. He is assuming they would add this provision to this bill.

Rep. Bardanouve asked Madalyn Quinlan, LFA, if there was a need to amend any section of the law if the legislature wanted to appropriate the excess cash in the cash account. She replied she thought they would have to amend the long-range building program section of the law. Rep. Bardanouve said if they change the percentage of the cigarette tax, a bill would be needed. Rep. Bardanouve suggested an amendment which would require two-thirds of the vote, to be part of the bill, and it would have a bill number and a sponsor.

Senator Van Valkenburg (2:A:676) said he didn't think the committee could take executive action on it until a bill is introduced. He then moved to give preliminary approval of the capitol renovation bond proceeds bill (EXHIBIT 2), which doesn't have a number or a sponsor. Motion CARRIED unanimously.

Next, he (2:B:010) asked to have a discussion about the excess cash balance. He felt it would be a very short-sighted action and unwise to grab this $2.5 million in excess, and wanted to know if anyone on this committee really thinks they should be going after that money. The short-term, quick-fix things create greater problems in the next biennium. There is going to be $11 million in maintenance proposals coming in the 1989 biennium.

Rep. Bardanouve (2:B:35) said there is at least one member of this committee that does support that concept. Before this session ends, there will be a lot of short-sighted moves and bills passed by this legislature. As far as the $11 million request, last time the university system alone began with $120-some million requests, we did not close down the university system because they ignored most of those requests. They can have any amount of requests but that doesn't mean these buildings will fall down in a two-year period. We still have $5 million and over the years, they always usually run more than what we calculate. We've gained a large sum of money since we adjourned the last special session. We have gained a couple million dollars more than we calculated. So we'll probably have $6 or $7 million to work with for repairs.

Chairman Thoft (2:B:052) responded by saying he felt they would come back the next session, and he didn't feel we would be out of trouble financially. That money will be there and then we can decide what is most important.

Rep. Bardanouve (2:B:056) said there is a tendency that everybody protects their own turf, and nobody will want to give up anything. Somebody will have to give up something before the session is finished.

Senator Tveit (2:B:079) commented on the $2.5 million cash available. He felt it was important to take care of the buildings around the state. He demanded, and felt the committee should demand, better accountability from the A and E Department. Accountability is going to be very important in all areas of state government as we struggle with this big problem. He felt we have an obligation to take care of what we have, and we should consider not taking this money and putting it in the general fund.

Senator Fuller (2:B:097) asked what analysis they have done with the $11 million, and what degree of crisis there was on the $11 million. Tom O'Connell replied that they are only now receiving all the requests from the agencies for the long-range building programs. In general, the response from the agencies have been very conservative, very much emphasizing the maintenance needs on their campuses. He is worried that they will not come anywhere near taking care of some of the real needs. He does not have the exact figures, but they are going to far exceed the $11 million.

Rep. Bardanouve (2:B;124) said he thought it would be $40 or $50 million.

Chairman Thoft (2:B:126) asked how many state buildings we have and their value. Tom O'Connell said they have that information available and would bring it in the afternoon.

Rep. Bardanouve said he did not like to play the role of devil's advocate (2:B:130), but we have a $100 million obligation to meet right now. It is going to take a lot of hard work on the part of this legislature. He said he is not against repairing buildings, but we have a more immediate crisis.

Senator Van Valkenburg (2:B:146) said that in order to be realistic about what we are doing, we have to look into the future. We are going to have $7 million of extremely legitimate maintenance needs in the next biennium, and if we go and grab that $2 million right now, we are ignoring the long-range effect. If we can't see beyond the next six months, then we run the risk of making very serious mistakes.

Chairman Thoft (2:B:174) said one of his concerns is that this money would be taken to establish a level of spending in some other area that we can't afford.

Chairman Thoft (2:B:222) asked if we have the ability to service any more long-range debt. Ellen Feaver, D. of A., said she would not be recommending any more debt, as this is not a very good time for Montana. A lot depends on how this legislature balances the budget. They have quite a heavy immediate term debt service right now, and she would like to see Montana behave as states do, although we are not a AAA state.

Senator Tveit (2:B:247) asked Ellen Feaver about the behavior pattern Montana is in compared to other states. Ms. Feaver said she did not have that material with her, but would bring it in later. They have prepared a lot of material to decide where the state is in debt capacity, and they have a finance advisory council that is made up of all the debt issuing agencies.

Chairman Thoft called a recess at 10:55 a.m.

The meeting reconvened at 1:00 p.m. Madalyn Quinlan, LFA, (3:A:000_ presented the RIT grant program and the water development program, beginning with the RIT grant program fiscal 1987 (EXHIBIT 4).

DEPARTMENT OF NATURAL RESOURCES OF CONSERVATION:

Resource Indemnity Trust Program

Gary Fritz, Administrator, Water Resources Division, (3:A:055) pointed out that they just got new revenue projections for the RIT program. They had projected that in FY 86, they were going to receive $5,670,000 in RIT interest. that has been revised to $6,092,000. In FY 1987, instead of $6,555,000, it is expected to be $7,576,000. For the biennium, the projections are up by about $1.5 million. That is the total RIT interest available, and from which other expenditures have to be subtracted, including 30 percent for water development, 6% which goes to the department of health, the contingency fund, DNRC appropriations, state land's appropriation, labor and industry, bureau of mines, U of M, etc. They project that with the new revenue estimates, all of the RIT projects will be funded and have a balance of $759,000 at the end of biennium, assuming the 5% contingency account is fully funded at $475,000. The proposal is from the budget office that $3000,000 be taken from the environmental contingency fund, leaving an approximate balance of $175,000. And take $200,000 from the administration of the RIT program, reducing that administration account in that executive proposal is to take $500,000 from the RIT interest account to be used to replace in the general fund in the water resource division of the department. Given the current revenue projections, that could be done, and all of the projects could still be funded.

Chairman Thoft (3:A:105) asked if they would go beyond that with redirecting the tax.

Dave Hunter, budget director (3:A:126) said there will be a specific piece of legislation to redirect the tax for fiscal years 1987, 88 and 89 to the general fund. They propose to do the same as with the coal tax moneys in HB 500 -- to allocate the tax to the general fund, but then retract the money in HB 500. They will also propose that it end in 1989, and at that time the tax again be deposited to the trust. This would give the 1989 session a chance to re-evaluate.

Chairman Thoft (3:A:143) asked if that will have to be a two-thirds vote. Mr. Hunter replied no. The legislature has the authority by majority vote to deposit that money in the general fund.

Opponents: George Ochenski, lobbyist for the Montana Environmental Information Center (MEIC) (3:A:229) presented written testimony (EXHIBIT 5) explaining his opposition.

Ann Humprey, representing the Montana Audobon Council, (3:A:300) spoke in opposition to the use of RIT interest for administrative purposes.

Madalyn Quinlan, LFA, (3:A:330) said there are three proposals with which the committee is dealing. Chairman Thoft (3:A:342) asked if the last two issues could be handled in one bill, to which Madalyn Quinlan said no. Dave Hunter said the administration bill does not propose to redirect any of the projects in HB 922 that the legislature has already approved. That is an amendment which the LFA proposed, but is not supported by the administration.

Gary Fritz (3:A:352) said the reason they are proposing to revert some of the RIT administrative money is that they made the decision early on not to spend it. Only a small portion of that money has been spent so far. They anticipated all along that they would minimize their expenditures, even if they went ahead and took applications for more projects for the next legislative session.

Committee Discussion: Senator Fuller asked Ms. Quinlan, LFA, if the $104,000 is the LFA suggestion to redirect part of the tax. Ms. Quinlan said it was the LFA estimate of the impact of redirecting the RIT tax in fiscal 1987. It combines both the administrative proposal and the proposal to redirect the RIT tax.

Senator Fuller (3:A:431) asked Mr. Ochenski whether DNRC's proposal to put this money into water resources meets the intent of RIT funding and asked Mr. Ochenski what was the basis of his opposition. Mr. Ochenski (3:A:449) responded that the money that had been appropriated to run the grant program next year is what we are talking about. If that money is redirected we will see no grant program, and the interest will go to the general fund. That is against the intent of why RIT was established.

Chairman Thoft (3:A:462) asked Mr. Ochenski if he knew there was going to be a grant program next session with the money there to administer it, would the reversion bother him. Mr. Ochenski replied if that happens, they would support it.

Mr. Fritz (3:A:474) wanted to clarify that at this point in time, they have not gotten the word to go ahead and start seeking applications.

Mr. Hunter (3:A:486) said if you don't have the money to go through the process, it would not be their intent to go through a ranking process to submit a list of projects, as with HB 922 in the 1985 session.

Chairman Thoft (3:A:493) asked if there would be a program, to which Mr. Hunter replied there would not be a recommendation from the executive branch for a series of prioritized projects. The legislature still has the opportunity to appropriate the money in any way it sees fit from the interest earnings in the 1987 session. It means they would not have the resources and would have made the choice not to present an executive proposal. Mr. Ochenski said that it is then a foregone conclusion that the money will be used for the general fund, to which Mr. Hunter said he would not agree with that.

Senator Fuller (3:A:508) asked why so few of the funds are expended this year on the grant projects. Mr. Fritz said there are several reasons. They made a strong effort not to expend many of those administrative funds. The only project that was funded to any extent this fiscal year is the weed project. The administrative expenses have been minimal because the money was turned over to the department of agriculture, which coordinates the weed program.

Senator Fuller (3:A:517) then asked if the rest of the money will be expended in the coming year for those 20 or so projects, to which Mr. Fritz replied yes.

George Ochenski (3:A:521) commented that at the end of the last session, the $5 million that was taken off the top of the RIT interest was determined to go to the general fund first, and as the interest moneys came in, they would be expended on those projects.

Mr. Fritz (3:A:541) said that based on the latest estimates, all the projects could be funded. Based on the latest projections there is at least $1.5 million above what was originally estimated.

Senator Tveit (3:A:551) said if $4 million of interest has been taken out of the grant program and put into the general fund, which is in total violation of what the money is for, his concern is how these projects are going to be funded if this money has been taken out.

Madalyn Quinlan, LFA, (3:A:565) replied that he needs to distinguish between the proposal to redirect the tax to the general fund, which is $4 million or $4.5 million. Instead of depositing the tax to the trust fund, it would be deposited to the general fund. That is the executive proposal. The alternative proposal of the LFA is to use the earnings on the trust fund to replace general funds in the Department of Natural Resources, Department of Health and some state land's projects in fiscal 1987. She referred to the Table on page G-23 of the RIT program section, which shows what has been spent in fiscal 1986, what the RIT interest earnings have been appropriated for, and what they are appropriated for in fiscal 1987.

Chairman Thoft (3:A:600) said he wanted Mr. Hunter to tell the committee if there is going to be a RIT program. Mr. Hunter said he doesn't think the administration has made that decision yet. The only option they would foreclose if the DNRC bill is passed as the executive grant proposes, is that they wouldn't have the administrative money to go through the application and ranking process.

Chairman Thoft (3:A:625) asked if they have any other resources that they could do that with. Mr. Fritz (3:A:628) said he would hesitate to say whether they would have those resources or not.

Chairman Thoft (3:B:067) asked Mr. Hunter if the revenue projections are larger, and this committee reverts the administrative funds, would the money be there to prepare a program? Mr. Hunter said if the money is left in HB 500 and the executive branch is given direction to prepare a program, they will do that.

George Ochenski (3:B:076) asked if there will be clear direction from the committee that the RIT program will continue to exist, regardless of what it is called, and if there will be the intent to spend the interest monies as they are constitutionally mandated? Chairman Thoft told him he hoped that is what will come out of this.

Senator Tveit (3:B:087) said we have to set the direction of whether we want to continue the RIT in its present form, and what it is designed to do under state law.

Senator Fuller (3:B:100) asked Mr. Hunter to speak to the redirecting issue even though we don't have a bill.

Mary-Linda Kemp of the Natural Heritage Program and Natural Resource Information System (3:B:120) submitted written testimony. (EXHIBIT 6). She also wanted to be recorded as representing the Nature Conservancy Program. Ms. Kemp said if RIT funds that are intended for the RIT trust program are used for general funds, we are setting a dangerous precedent. This tax was intended to indemnify Montana's future generation.

Dave Hunter presented the administration's proposal to divert the RIT tax to the general fund (EXHIBIT 7) for a three fiscal year period, 87, 88, and 89. That would raise about $4 million in FY 87. He said he believes that the legislature clearly has the authority to do that. He read from the constitution which deals with those two issues. There is a very clear difference in the way the constitution treats the coal tax trust and the RIT trust. It is their legal opinion that the language that says "the legislature may from time to time", clearly gives the legislature the discretion to direct the tax that is now known as the RIT tax for some period of time for some other purpose. Clearly the principal is inviolate, and they are not proposing to violate the principal. They are proposing to divert that $4 million of income and deposit it in the general fund for the next three fiscal years. They are proposing to not put as much in savings, until the revenue growth returns to a more normal pattern.

There were no proponents present.

OPPONENTS: Gary Langley, (3:B:276) executive director of the Montana Mining Association, presented written testimony (EXHIBIT 8) opposition to this bill. He said the mining industry does not object to paying severance taxes, but they do object to the level of the tax at some point, and the taxes in Montana are the highest in the nation. They also object to the interpretation of the administration of some of these taxes. His main objection is if the money is not used for its intended purpose, the mining industry may be faced with another tax.

Mary-Linda Kemp (3:B:406) asked to add to her previous testimony. She referred to a letter in the packet of information she had submitted in EXHIBIT 6, from Senator Tom Towe. This letter points out that he was a member of the taxation committee when they discussed HB 97, which later became the RIT legislation. Senator Towe stated in this letter that it was not the intent of RIT to be a fund for the use of people without limitation. She wanted to use this letter to strengthen the argument that it shouldn't be used in the general fund.

Anne Humprey, representing the Montana Audobon Counsel, (3:B:435) said they oppose any diversion of the RIT tax money into the general fund. The RIT program is a mechanism to mitigate and protect our resources, and she pointed out that it was a constitutional amendment.

Jim Jensen (3:B:449) presented written testimony from Jack Heyneman, chairman of the Northern Plains Resource Council, (EXHIBIT 9). Mr. Jensen said he does not represent this organization, but only appeared in Mr. Heyneman's behalf.

Committee Discussion: Senator Fuller (3:B:512) asked George Ochenski which option he would prefer: 1) take the $4 million projected to go into the trust fund for three years and redirect it to the general fund; 2) take approximately $4 million of funding for the grants in FY 87. Mr. Ochenski replied that instead of making a choice, the potential consequences are if you take the money from the projects, you wind up with a lot of people who put in a lot of time trying to get their projects funded, fighting amongst themselves for the bones, which is not fair. On the other hand, if the tax is redirected, the potential consequences are that there are people who feel it is very clear in the law that these moneys are not to be redirected to the general fund.

Senator Fuller (3:B:564) asked Mr. Hunter to give a quick idea where the $4 million would be used to replace general fund. Mr. Hunter said the list that was funded in FY 86 was exactly the kinds of projects they would use it for.

There being no further discussion on the RIT program, the Chairman told the committee they would deal with the summary of long-term indebtedness.

Long Term Indebtedness:

Marvin Eicholtz, (3:B:625) management analyst for the Department of Administration, appeared with a brief summary of the state's debt. Montana's debt is a concern of the New York rating agencies. Montana's major industries - agriculture, mining and forest products - have not performed up to earlier expectations at a time when Montana was increasing its bonded debts. Montana should be concerned about its credit due to economic conditions, poor investment returns, and disappointing tax years. He presented a handout (EXHIBIT 10), which showed the debt per capita ratios based on data from Moody's Investors Service, most commonly used by their analysts in the municipal bond industry. They are used as broad guidelines only. Schedule 5 shows the net tax-supported debt per capita, schedule 7 is the net tax-supported debt as a percentage of the 1984 personal income, and schedule 9 is the 1984 personal income per capita. These schedules show how Montana compares with other states.

Rep Ernst (4:B:234) asked for a breakdown in the debt load in the university or education debt load against human services. Mr. Eicholtz said they break out general obligation debt, limited tax debt, and moral obligation debt, but he did not have information on the purpose of the debt issues by program.

Senator Fuller (4:A:259) wanted to know if at this point there is no great concern that we are over bonded or that we are risking our rating. Ellen Feaver, D. of A., said that the debt that was issued in the last session was not out of line and at this point in time, we are in a more conservative position.

Rep. Bardanouve said the bond companies feel that because our economic base is in an upheaval now, it makes us not quite as safe as if we had a broad manufacturing base. We have never had a AAA rating. The highest was AA-1.

Mr. Eicholtz (4:A:308) said the rating agencies are aware of Montana's fiscal condition, and they will be reviewing our outstanding bonds.

There was more discussion by the committee members regarding issuance of bonds (4:A:312), and recalling of bonds.

Water Development: (4:A:371)

Madalyn Quinlan, LFA, gave a summary of the water development account (EXHIBIT 11). This listed proposals for use of the funds. She also presented a list of all the water development projects in Table 2 on page C-53. If the proposals offered were adopted, we would be able to fund through project #24. Before we would have funded through #35.

Gary Fritz (4:A:405) presented an amendment to HB 500, a reduction in general fund authorization. The proposal is to take the $125,000 water development emergency fund, which was set up in the last legislative session, to replace general fund. In addition, the proposal is to take $100,000 directly from the grant projects and use that to offset general fund expenditures, for a total of $225,000. The LFA proposal is to take another $353,000 from the grants and reduce the general fund expenditures in the Engineering Bureau. The real question is what that does to the funding of the projects from last session. The information heard about the RIT interest relates to the water development special revenue account, because 30 percent of the revenues in that account come from the RIT fund interest. Based on the RIT fund interest, the interest earned in the water development special revenue account and the coal severance tax, we project there is about $1.985 million available for water development grants. They had originally used the figure of $1.3 million. That would take us down to project #37, the accumulative total being $1,970,000. Mr. Fritz explained that Projects 5, 6, and 13 are funded by the RRD account, not the water development account. There are a number of projects that were funded out of last biennium's money. (4:A:474) Number 7, 9, 12, 16, 18, 20, 25, 27, 31, and 38 were projects funded last biennium and even though the authority was carried over to this biennium.

Rep. Bardanouve (4:A:493) asked if any projects have fallen by the wayside since the last session. Chris Devaney answered that to date none have. The numbers under contract right now are #3, 4, 5, 6, 8, 13, 14, 15, 17, and 19. Projects pending signature are # 10 and 22.

Senator Fuller (f:A:529) asked Mr. Fritz in signing these contracts, have there been any adjustments in appropriation amounts, any additional savings? He relied no.

Mr. Fritz (4:A:538) indicated where the funding line would be, assuming their projections are correct and that the executive proposals are adopted. Number 37 funding line is $1,970,000 which is a little different than $1,985,000. That already takes into account the $125,000 taken from the water development emergency account. In addition, we are taking $100,000 from the grant account and that would take us up through project #36.

Rep. Bardanouve asked where we would be if we went the LFA route (4:A:558). Mr. Fritz responded that $353,000 would be in addition to what they are suggesting, and that would be at project #29, using the updated information.

Senator Fuller (4:A:571) asked if the updated figures take out the $225,000 plus the $353,000, and we get through #29. Mr. Fritz responded that is correct. Mr. Fritz (4:A:577) pointed out that those projections are tentative. They have always left a cushion of about $200,000. The $1.9 million estimate includes $200,000 set aside for cushioning.

There were no other proponents and no opponents present.

Mr. Fritz pointed out that they are neither proponents =nor opponents of the LFA's suggestion at this time.

Committee Discussion: Senator Fuller (4:A:600) asked Mr. Fritz to speak to the $353,000. Mr. Fritz said that money is for the water engineering bureau that contains the state-owned water projects. They also have the flood plain management program and the rehabilitation state-owned water projects.

There was some discussion as to whether the committee should take action on this issue. It was decided that no decisions would be made at this time.

John Sondregger (4:A:645) who is involved with an arsenic study in ground water of the Madison River Valley, project #33, explained to the committee that basically they try to keep the costs very low, and are working on the very margin of what they can do. If severe cuts are made, they won't be able to come up with results that the projects were evaluated on. He said if a choice has to be made between cutting out whole projects and not funding them, vs. reducing the funding level of all projects, his preference would be to not have the project at a reduced funding level where he can't do the job right.

Rep. Bardanouve (4:A:673) said he would agree with that.

There being no further business before the subcommittee, the meeting adjourned at 3:20 p.m.

Robert Thoft

REP. ROBERT THOFT, Chairman

49TH LEGISLATURE SPECIAL SESSION III

DAILY ROLL CALL

LONG-RANGE PLANNING SUBCOMMITTEE

8:30 AM

Date June 10, 1986

NAME	PRESENT	ABSENT	EXCUSED
Rep. Robert Thoft, Chairman	✓		
Sen. Fred Van Valkenburg, Vice Chair	✓		
Sen. Dave Fuller	✓		
Sen. Larry Tveit	✓		
Rep. Francis Bardanouve	✓		
Rep. Gene Ernst	✓		

CS-30