

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIR BROWN**, on February 7, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Jan Brown, Chair (D)
Vicki Cocchiarella, Vice-Chair (D)
Beverly Barnhart (D)
Gary Beck (D)
Ernest Bergsagel (R)
Fred "Fritz" Daily (D)
Ervin Davis (D)
Jane DeBruycker (D)
Roger DeBruycker (R)
Gary Feland (R)
Gary Forrester (D)
Patrick Galvin (D)
Harriet Hayne (R)
Betty Lou Kasten (R)
John Phillips (R)
Richard Simpkins (R)
Jim Southworth (D)
Wilbur Spring (R)
Carolyn Squires (D)

Staff Present: Sheri Heffelfinger, Legislative Council
Judy Burggraff, Committee Secretary

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

Announcements/Discussion: A subcommittee meeting for the Women's Prison will meet in Room 312-1, February 8 at 7 a.m. The subcommittee for the Pay Plan in will meet in Room 312-1 today at 5 p.m.

Informational Testimony on HB 528

Questions From Committee Members:

REP. BETTY LOU KASTEN asked what the statistics show regarding the number of violent crimes committed by women prisoners. **Ted Clack**, resource person, Department of Institutions (DI), said he would not say, "women do not commit violent crimes." Relatively few of the female inmates, currently in prison, have committed violent crimes. In the last four to five years of

female prison admissions, among the seven most common crimes committed by Montana's women prisoners are: in 1990, none were violent, all were property or drug crimes; in 1989, one woman participated in a robbery, all the rest were property or drug; in 1988, all crimes but one were property or drug; in 1987 and 1986, all were property or drug crimes. **CHAIR BROWN** requested that information be made available to Committee members.

REP. GARY BECK asked how psychiatric care is now being provided for female inmates. **Dan Russell, Administrator, Division of Corrections (DOC)**, said the state has a contract with Dr. William Stratford from Missoula, who is the only psychiatrist in the area. He provides four hours a month of psychiatric care which is mostly for medication reviews and approvals. **REP. BECK** asked who was providing psychiatric care at the men's prison. **Mr. Russell** said the same individual. **REP. BECK** asked how the DOC would take care of psychiatric care. **Mr. Russell** said it would be contracted. **REP. BECK** asked if the location of the institution has an effect on the cost of psychiatric care. **Mr. Russell** answered that it could reduce the cost. In the present situation Dr. Stratford must drive from Missoula to Deer Lodge or to Warm Springs. The state pays per diem and mileage. **REP. BECK** asked if Dr. Stratford goes to the men's and women's prison on the same day. **Mr. Russell** said he did not believe he did. "I think he spends a full day at the prison, and on an alternate day spends four hours at the women's prison and probably other services in the valley at the same time." **REP. BECK** said that it appears there is a need for a full-time psychiatrist to take care of the men's and women's prisons. **Mr. Russell** said he did not see a need for a full-time psychiatrist for correctional purposes to monitor medications. **REP. BECK** asked if monitoring medication was only a small part of the psychiatric profession. **Mr. Russell** said he was not in a position to say all that a psychiatrist does. In the case of prison institutions, there are psychologists and professional counselors providing the day-to-day work and counseling. The psychiatrist is there to assist and help with the monitoring of the medications to keep the prisoners stable. **REP. BECK** questioned if a full-time psychiatrist would be needed with the new women's correctional facility. **Mr. Russell** said he sees the state contracting for a part-time psychiatrist.

REP. FRED "FRITZ" DAILY said he is concerned about the Site Selection Committee (SSC) mentioned on Pg. 7 of the bill where it states that nine people will serve. He asked who appointed the Interim Committee on the Women's Prison (ICWP). **REP. BROOKE** said that an advisory council was appointed entirely by the governor. **REP. KASTEN**, a member of the ICWP, said the ICWP was appointed by the governor. **Tom Beck, Chairman, Criminal Justice and Advisory Counsel**, asked each of us to state on which committee we would like to serve. He appointed the members from this perspective. **REP. DAILY** asked for the list of the members. **REP. BROOKE** said she did not have the list with her but that it was Sen. Pat Regan, Coleen Conroy, Margaret Borg, Tom Beck and Cheryl

Holkvark, (head of the Pre-Release Center, Billings). REP. DAILY said five of the nine members of the SSC are appointed by the governor. REP. BROOKE said that is true in essence, but the director of the DI would appoint two members. The director of the Department of Administration would appoint one; the two members from the Council would be appointed by the governor. If the language of Mr. Bukovich's amendment is adopted, neither of those two people could be a representative of a local community that submitted a proposal. Only Coleen Conroy from Hardin and Margaret Borg from Missoula would be left on the Committee from those five people as the others are from Billings and Deer Lodge. REP. DAILY said that no matter what process is chosen, there will be politics involved. He asked Rep. Brooke if she would consent to an amendment to allow the SSC to go through the Legislative process and through the Long-Range Building Committee (LRBC). He said this would allow for two selection processes. "I would rather see this go through the Long-Range Building Committee (LRBC) and then through the Legislature for a better selection." REP. BROOKE said she appreciated his concern and that had been her concern all along. That is why she came up with the formula in HB 528. The reason she was so specific in HB 528 regarding the two members was because these two members became very knowledgeable about the needs, the type of facility and the resources in the state to provide a WCF. "I hate to see that expertise just tossed aside. I don't think either one of those appointees would look upon it as a political maneuver or to anything other than the criteria that was set out." REP. DAILY said he felt more comfortable now concerning those two people and would be glad to have them on the Committee.

REP. BROOKE commented that she wanted to involve the Legislative body as much as possible in an issue such as this that involves policy instead of just leaving it to the Appropriations process to "live or die there." She also said she would not like to have her bill amended to the LRBC. She likes the way it is set up now as she wants the Legislature to approve the process in the bill. After the approval is granted, the Legislature must trust the process will work to everyone's best advantage and an impartial decision will be made. Mike Wingard, Legislative Auditor, has set up a scoring methodology which "is very up front" on how to arrive at a clear choice for the WCF site. REP. DAILY said in his area they are trying to close an institution. It is "very obvious from testimony and those involved in the process that the closure is not a good decision. The same people that made that decision are going to make this decision. That bothers me tremendously." REP. DAILY asked if Rep. Brooke was amenable to limiting the proposals to the eight sites that have already submitted a proposal. REP. BROOK apologized for not stating that in yesterday's closing. She said she thinks that would be very wise.

REP. ERNEST BERGSAGEL said he would like to hear the "wish list" of the programs necessary for women inmates. Mr. Russell gave the following list: 1) specialized medical care that we do not

have readily available in the present location; 2) psychiatric and psychological care; 3) foster care for children; 4) mental health services; 5) chemical dependency services that are available in some communities by a contracted services; 6) vocational education programs available on site or a viable alternative must be provided; 7) access to higher education programs -- there is only one instance in the state now (College of Great Falls has a telecommunications program); 8) child care; 9) organizational support services such as women's groups for displaced homemakers, "parenting" and battered spouses programs; 10) programs developed for Native Americans -- there is a disproportionate number of Native Americans in the state's institutions when compared to a similar population in the state.

REP. JOHN PHILLIPS asked how the effort of Rep. Brooks will be coordinated with the DI, and if the DI intended to amend HB 528. CURTIS CHISHOLM, DIRECTOR, DI, said the DI believes that a new WCF is needed. There are differences on how it should be achieved. The DI does not have a bill, and their proposal is now before the LRBC where they typically deal with construction projects. Rep. Bardanoue had said that if the bill is passed out of Committee and passes second reading in the House, it will go to Appropriations. His intent is to have the Appropriations Committee evaluate this bill along with the DI bill and the methodology that the DI has to fund the WCF, which is quite different from HB 528 as is the selection process. Mr. Chisholm wants the DI's bill to stand on its own merits. "We are trying to achieve the same thing. We are trying to get it sited in an appropriate community that can sustain and nurture this program (only) the process is different." DI initiated its selection program in December by asking communities interested in having the WCF respond to DI. Eight communities have filed formal responses. DI is going through a preliminary evaluation of these communities now and the Department will go through the LRPC and share with them the following: 1) the initial review of the responses. We will let the Long-Range Planning Committee (LRPC) know the communities that meet the siting criteria, what we expect them to meet and if the financing arrangements made by the communities are "adequate and affordable." 2) what the communities need from the state of Montana in the form of collateral to sustain their financial plans; 3) that they have, in the DI's judgment, the wherewithal to manage the plan to its completion. If the LRPC perceives the process favorably, the DI will ask them to approve the DI's process or to approve the process outlined in HB 528 or to approve a compromise. They would approve that through "broiler plate language" in the LRPC bill itself. The DI would proceed from there with the "ultimate selection of the site based on the use of the Sight Selection Committee (SSC). . . . From (DI's) proposal, ultimately I would make that selection based on the recommendation of the SSC. Under HB 528, the SSC would make that selection. . . . Either one of those two selection processes are intended to depoliticize, as best we can, the ultimate selection of the best community in the state for the (WCF)."

REP. RICHARD SIMPKINS said the city of Great Falls wanted to avoid the situation of a "political football" like the one created when the Law Enforcement Academy was sited. The city requested the Legislative Auditor (LA) to evaluate the selection process, to monitor it through its completion and to issue reports. The LA has issued two reports that were "pointedly critical" of the DI's monitoring and some of their matching procedures. "Do you feel that by keeping the LA in the site selection process it will keep it all 'above board'?" REP. BROOKE said, "Yes, I do." She requested that Mike Wingard be allowed to present information on how he arrived at the scoring criteria process.

Mr. Wingard, Senior Performance Auditor, Legislative Auditor's Office, presented written testimony. EXHIBIT 1

REP. BEVERLY BARNHART asked why the RFP went from 120 to a 200-bed facility. Mr. Russell said the original thought of a 120-bed facility was based on population projections into fiscal year 1995. "In realizing that a facility would not be built until probably the end of fiscal year 1993, we found it necessary to look beyond that." Population projections are difficult to make. DI extended these projections to the year 2000. Based on projections, the state will then need at least 173 beds. "It really doesn't make sense to build for just your need like we have continually done with our men's prison. . . . and then come in next session and need more and more beds. Our contacts with neighboring states and the Federal Bureau of Prisons has indicated that there is now and will be a greater need for contracts for housing female inmates. If we have those excess beds now and into the year 2000, . . . by establishing contracts with other states and the feds, we could help to substantially offset some of the costs of the (WCF)."

REP. BECK asked how good the DI's working relationship is with the prison staff and the Representatives in the Deer Lodge, Butte and Anaconda area. Mr. Russell said his relationship with the two wardens has never been in question; it is excellent. REP. BECK asked if his rapport was good with the Representatives in that area. He knows that Rep. Menahan has suggested that many times (the Legislature) should do away with the DI. "How fair and impartial can people from the DI be in the selection process. Somebody going to trial can disqualify a judge and get a change of venue. I just worry . . . if we can get a fair shake from the DI." Mr. Russell said the DI put together the criteria, the list of people who would be on the SSC and established the Criminal Justice and Corrections Advisory Council. Every effort the DI has made is to make it an open process to ensure the criteria is followed "to the T." They are designed specifically to get the politics out of the situation. There are only two members of the DI on the SSC and Mr. Russell is one of them. He has to run the WCF and he thinks it is appropriate that he has some input. The other member is the warden of the women's prison. There are four

recommendations for Legislative participants and two additional people that Rep. Brooke did not include. They would be a citizen at large and a financial advisor. There will be ample input from people other than those from the DI. REP. BECK asked why a financial advisor would be on the SSC to decide about important "things" for women. "I do not see the relevance of that person. I would feel more comfortable with a staff member of the women's prison." Mr. Russell said there was never an attempt to not allow someone who was a staff member from being on the SSC. The belief was that the warden represents them "very well." The DI has a requirement that local communities provide a financial package of financing for certificates of participation or special revenue bonds. "No one in the DI is in a position to evaluate those financial packages -- we must have someone like Dave Lewis or his staff. There are many components of it." REP. BECK asked if the DI had asked the employees of the women's prison if they would be willing to move and if they could afford this. He also asked how much it would cost to retrain new staff. Mr. Russell said he thought it would be "poor taste on their part to do this as there are at least two communities, Butte and Deer Lodge/Anaconda, that are part of those eight communities that submitted proposals. He did not want to give those communities an impression that DI has a "hidden agenda" by asking them if they are willing to locate somewhere else as the Women's Correctional Center (WCC) could "just as easily end up in that valley as it could anywhere." REP. BECK said he personally did not object to Mr. Russell or the warden serving on the SSC.

REP. DAILY asked if the warden from the women's prison is on the SSC now and on the advisory committee. Mr. Russell said the warden in the women's prison served as a resource person. REP. DAILY asked why you wouldn't have the warden of the men's prison and the warden of the women's prison on the SSC. They would be the most knowledgeable people as far as corrections in the state are concerned. Mr. Russell said the warden of the women's prison would be on the SSC. The other member was himself and he has been in the DI for 22 years and thinks he has more experience and involvement than either of the wardens. The men's prison warden has the needs of men in mind. There are unique differences in women's prison needs. The men's prison warden's knowledge will not necessarily carry over into that area. REP. DAILY asked if the scoring would be made public. REP. BROOKE said she did not believe the SSC would fall under any exemption of the Open Meeting Law. REP. DAILY asked how the communities would present their proposals. "Would it be in an open forum." REP. BROOKE said that once the SSC is appointed and meets for their first time they would draw up their rules and create a time line. They would then evaluate the eight proposals with the scoring criteria. First they would look at the mandatory criteria. If a community did not have any part or parts of that mandatory criteria, they would not be able to be judged on the next level. In the next level, the SSC would look at the scored criteria. It would be scored according to the points assigned. Before the SSC looks at those proposals, the communities could change any of

those points.

REP. VICKI COCCHIARELLA asked Margaret Borg if with her experience she thought she should serve on the Site Selection Committee (SSC). **Margaret Borg, Chief Public Defender, Missoula, member of the Subcommittee on the Women's Prison,** said it had been the goal of the advisory committee to keep politics out of the selection process. We heard repeatedly that institutions were placed in a community where it appeared to be more beneficial to the community than to the institution and the people that were served by the institution. The Committee's goal was to place people on the SSC that would have a broad knowledge base and concern both for the needs of the offender and the type of programs that best meet those needs. "I think the SSC talked about by Mr. Russell and Rep. Brooke makes sense to me in that it seems to carry across this broad spectrum. I would hope that those who know about women offenders and their unique problems, lay people perhaps, would be some of the "at large members or the other appointees."

CHAIR BROWN appointed a subcommittee to work on HB 528. Rep. Barnhart (Chair), Rep. Davis and Rep. Kasten. She said the full committee should work on it early in the week as it had to go to Appropriations. The members of the subcommittee are persons who have no interest in the bill for their own communities.

REP. SIMPKINS asked if there would be time for questions concerning bonding. **CHAIR BROWN** said Mr. Dave Ashley was present to discuss bonding but there would not be time to address that now. She requested Rep. Barnhart talk with Mr. Ashley, have him present his information to the subcommittee and in written form to the Committee.

HEARING ON SB 4

Presentation and Opening Statement by Sponsor:

SEN. THOMAS "TOM" HAGER, Senate District 48, Billings, introduced SB 4 to amend the Montana Constitution to allow a member of the Legislature to be appointed to a civil office under the state upon resignation from the Legislature. He introduced this bill late last session when he became aware of the governor's appointments and how he was so limited as he was not allowed to appoint anyone who had been elected as a Legislator and still had time on their term. This is unfair to the governor as it "cuts out a lot of talent." The bill would make legal those appointments that had been semi-illegal by the last three democratic and republican governors. He said he understood this clause was in both the 1972 and the 1989 Constitution. The Constitution does not allow Legislators to assume an appointment in the executive branch or on a state board, but it does allow Legislators to be appointed to the bench. "It is like saying that lawyers are more honest than us regular folks." The Jaycees

have a creed that states: "The government should be of laws rather than of men." He said he has tried to live by that, and he thinks the state should too. Steve Yeakel and Steve Brown were involved with setting up the cabinets of both Gov. Stephens and Judge and have first-hand knowledge of the problems caused by this part of the Constitution.

Proponents' Testimony:

Gordon McOmber, former Lieutenant Governor, former Sec. of Agriculture, said he was a former Legislator and he resigned as senator and president of the Senate. He was appointed as the Director of the Department of Agriculture one day after resigning as a senator. That appointment was based on the legal opinion of the governor's attorneys who said that provision of the Constitution is subject to interpretation. He conceded it was subject to interpretation and review by the attorney general or the courts. He felt that his opinion was as good as anyone else's. He said he was nervous that his appointment would be challenged. Some members of the Constitutional Convention (ConCon) did publicly raise the issue as did the chairman of the other party. It was never submitted to the attorney general or to the courts. This has to be resolved one way or another. It is not a partisan issue as governors of both parties have faced this issue and either met it "head on" or "skirted around it." The clause was copied almost verbatim from the 1889 Constitution. The one change anticipated the possibility of a one-House Legislature. He said a case could be made that the 1889 ConCon intended it as a restriction on separation of powers. This is the basis used by the attorney general when he approved Mr. McOmber's appointment. The 1972 ConCon took the interpretation that the section was to keep dishonest Legislators from "cashing in" on their term as a Legislator. He said the people of Montana are entitled to the best people available to serve in any position, whether it is governor or Congress of the U.S. or a department director. "It is not logical." It is discrimination against a Legislator since the governor can appoint a Legislator after his term has expired.

Steve Brown, appearing on his own behalf, gave a historical perspective saying that he came to state government in January, 1973, and worked for Gov. Judge as his legal counsel. Bill Groff, a state Senator, Ravalli County, was the first person that was affected by this provision of the Constitution. Gov. Judge wanted to appoint Sen. Groff as the director of Revenue. Mr. Brown, a democrat, served in the Senate with Sen. McOmber, a republican. He said this is not a partisan bill. It is an issue where "we have held out false hope to the people of (Montana) that we are going to enforce this particular provision, and we don't. Both parties are equally guilty." When Gov. Judge made the appointments of Senators McOmber and Groff, the only people who complained were the republicans. But no one showed up to resist their confirmation in the Senate because neither man had done anything illegal or had compromised their principles. The

same is true for Representatives Marks and Iverson. "The only people who objected . . . were democrats. . . . This issue ought to be decided on its merits and political good faith. I have no problem if both parties will finally decide from this day forward that they intend to enforce this particular provision, but you and I know it is not going to work." The provision only applies to the civil office involving the following: 1) it must be created by the Constitution or the Legislature or a municipality pursuant to the authority delegated to those bodies; 2) it must delegate a portion of the sovereign power of state government; 3) the duties to be discharged must be defined directly or impliedly by the Legislature or through legislative authority. Any Representative or Senator could take a job as a secretary or a data processor for the state and the Constitutional provision would not prohibit that because they would not be exercising any sovereign power of the state. The provision applies to: directorships, appointments to boards and appointments for policy-making decisions. Rep. Dorothy Bradley was challenged on this issue by an individual who ran against her for the Legislature. They claimed it was inappropriate for her to be appointed a water master by a judge in Bozeman. The Montana Supreme Court said, "No, as a Master and as a law clerk her functions are merely advisory. She is not the final decider of the law in those particular circumstances." The Constitutional provision did not prohibit her from being appointed to that particular provision. The state Senate can refuse to confirm anyone who takes advantage of his/her position in order to obtain employment in the executive branch. This power has never been used because the appointees have not done anything wrong. "Nothing prohibits any of you from indulging in self-serving legislation . . . the incongruity appears to be that if you do it and your term expires that is okay. . . . If someone says you have self-interest it does not mean it is bad." The people can still decide by putting pressure on their Senators to tell them not to confirm a person. SB 4 should go on the ballot because if it isn't "sold" to the people and they reject this Constitutional amendment, both parties have sent a message that they do want the republicans and democrats to enforce the Constitutional provision.

Opponents' Testimony:

Marguerite Burns, Common Cause/Montana, presented written testimony. EXHIBIT 1A

REP. HAL HARPER, Speaker of the House, said there is a lot of important business to do in the Legislature. This provision has been "extremely important to four or five individuals." He said he did not think the provision has stood in the way of anyone getting a job they wanted or being effective in any way they wanted to be effective. Removing this provision from the Constitution would remove a protection against "deal making that was specifically discussed a number of times and put into the Constitution to preclude that from happening." He said he is

very good friends with a couple of the last people this provision affected. "In that situation that person would have been one of the best directors this state could have had. . . . It did not prevent those people from having that job. I do not think you should change the Constitution because personalities are involved. The smart thing is to table this bill. . . . This does not address a problem that the state has, it will create a problem"

Questions From Committee Members:

REP. VICKI COCCHIARELLA asked if the bill was killed in the Senate. REP. HARPER said he thought it was killed. SEN. HAGER said the rules the Senate operates under say that anything that has a mathematical possibility of receiving 100 votes must continue on. It could receive a total of 100 votes counting what was cast in the Senate and what could be cast in the House. This indicated the bill had to continue. It did fail on a 27 - 21 vote in the Senate. REP. HARPER said the issue was taken up briefly in the Joint Rules Committee before the session started. The way the Senate interprets Constitutional provisions is that they cannot kill any bill that needs a two-thirds vote of the entire body. "If you want to pass any bill in the Senate, make it a Constitutional-vote provision -- they can't kill it. . . . It means a lot of paper work like this goes through . . . that should not go through. . . . In the House we can stop it. The House rules provide that if a bill does not receive a majority from a committee, it is dead. We can pass a bill in the House without the Senate even giving us one vote. We can pass a bill such as this with 100 votes."

Closing by Sponsor:

SEN. HAGER closed by quoting former Sen. Story who said, "If a member of the House wanted to introduce a referendum that would do away with the Senate, they could pass it on 100 votes -- it would go on the ballot." He said Steve Yeakel did appear in the Senate hearing but was unable to attend today's. "This (bill) is to make the best people available to the person whom we elect as governor. This should go on the ballot . . . for too long we have 'winked' at this law." He asked the Committee to keep in mind that all board members come under the provision of the Constitution.

HEARING ON HB 404

Presentation and Opening Statement by Sponsor:

REP. LARRY "HAL" GRINDE, House District 30, Lewistown, introduced HB 404 to amend the Montana Constitution to allow the transfer of state lands to local governments. He distributed three photocopies of articles from newspapers to the Committee.

EXHIBIT 2, 3, 4 He said HB 404 does not affect state school trust lands. This is stated on Ln. 8 and Ln. 14. The lands he is concerned about come under the Department of Institutions (DI). Every department seems to have "little parcels" of land they have picked up. He showed a large ream of paper where he said it shows just state Highway Department lands that are not being utilized. The Departments of Administration, Commerce, Education, Family Services, Fish Wildlife and Parks (FWP), Natural Resources, State Lands also have some individual parcels of land. He referred to Exhibit 4 that appeared in The Great Falls Tribune. "I have been working on this for a little over three years." In 1952 the Chamber of Commerce purchased 42 acres of land from the late Charles Cooley for a site for the Center for the Aged (CA) in Lewistown. Only eight acres were used for the CA. The remainder of the land was given to DI. The ponds on the land were maintained by FWP. The ponds have silted in and there is little use of them as there are few fish. The criteria for use of the ponds was that one must be 65 years or older or 12 years or younger. The city would like to rejuvenate the ponds. A grant process has been started with FWP. The junior high students have been doing a study on the pond for 10 years. If the city is able to acquire the land, they will be able to obtain the \$50 thousand grant to improve the area. The city can go to DI and obtain a 99-year lease. The city does not want to make improvements on the land they don't own. The city tried to do "land swaps," but were unable to. The other places where similar situations are occurring are in Jefferson County (Exhibit 3) and Lewis and Clark County (Exhibit 4) where they have leased land from the state which is not school trust land. They made improvements on these parcels. They are now in a position where their leases are expiring. They would like to acquire this land since they are making these improvements and believe they should own the land. The Constitution now reads that the land has to be sold for market value by anyone who is willing to meet that bid. The city does not have the money and a developer could step in and purchase the ground. This bill would require a Constitutional change which takes a two-thirds vote of the Legislature. The land can only be sold to a political subdivision, an individual will not fall under this provision. If the bill would pass, there would be enabling legislation to have these land sales and trade transactions handled as they are now by the Board of Land Commissioners in the State Lands Department.

Proponents' Testimony:

REP. HAL HARPER, District 44, Helena, said that there is a similar problem in Helena at the Lewis and Clark County Fairgrounds. The land is rented from the state for about \$1,300 a year. The county has been putting improvements on those lands that total approximately \$40 thousand a year for the past ten years and has more than \$500 thousand in investment there on land

that it doesn't own. The county does not know if could compete with a private developer to purchase the land. "I am very hesitant to fool with the Constitution." Rep. Grady has a bill that is addressing some of the same matters in another way that will come before this committee. "There ought to be some way that these lands can be used to their highest and best value . . . and the Constitution should not prohibit that . . . This amendment may be able to operate like a window that could operate for two years or four years and then self terminate and be taken off the Constitution." He thought that maybe the Committee "would be well advised" to wait for Rep. Grady's bill and consider them together.

Opponents' Testimony: None

Questions From Committee Members:

REP. RICHARD SIMPKINS questioned if the state could sell their land to a city and then years later resell the parcel to a private individual. If the state had a 99-year lease they would still be "locked in" to the state provisions for protection of the parcel. REP. GRINDE said Rep. Simpkins could "have a point here. But if this were set up before the Land Commission, the county or municipality would have to show where they were going to use (the parcel) for a specific project or area. . . . I thought of this . . . where counties could garner revenue if they got (parcels) and turned around and held it or sold it. I don't think that will be the case."

REP. DAVIS said "we were looking at some land where the highway just rounded corners and left some parcels." The fair market value plus restrictions were so high it was "totally ridiculous" for anyone to bid. He asked if HB 404 would also remove these parcels. REP. GRINDE said he thinks HB 404 would address that because "this type of land would fall under that category." State Highway Department lands are treated a "little differently." They should have the ability to sell it to you for \$1.

Closing by Sponsor:

REP. GRINDE said he did not realize that Rep. Grady had a bill. He tried all summer, prior to the Legislature, to draft a bill without changing the Constitution. He has talked to department directors that have these land parcels -- particularly the DI that has about 70 parcels. The departments don't want to have anything to do with these parcels. Their recommendation was that they should be under the State Lands Department (SLD) so they would be in one area. The directors would be supportive of putting all lands under the SLD. He reminded the Committee that "this is not state school land."

EXECUTIVE ACTION ON HB 158

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Discussion:

CHAIR BROWN said HB 158 had been referred to the Committee and Rep. Wanzenried will explain why. REP. DAVE WANZENRIED said the bill was sent out of Committee on the Consent Calendar. When the bill appeared on the board, Rep. John Cobb raised some questions about the cap being taken off the amount of money that could be invested "short." The General Fund, which is also short, might actually end up subsidizing the payment of benefits when they came due for the Public Employees Retirement System (PERS). The concern was we would be making more money available to invest long term, and the General Fund would actually be making payments for PERS. That opportunity has existed since the PERS Board was set up many years ago but this has never happened -- in fact the reverse has happened. The monies invested short in the PERS money have been used to make General Fund payments. He distributed amendments which clarify there will be no subsidy. EXHIBIT 5 It kept the existing situation just like it is. There is also a technical amendment included to strike "fund" and insert "program" as there is no fund, as such, but there is a program.

Motion/Vote: REP. KASTEN moved to adopt the Bohyer amendments. Motion passed unanimously.

Motion/Vote: REP. JOHN PHILLIPS MOVED HB 158 DO PASS AS AMENDED. EXHIBIT 6 Motion carried unanimously.

EXECUTIVE ACTION ON SB 4

Motion: REP. BETTY LOU KASTEN MOVED SB 4 BE CONCURRED IN.

Discussion:

Sheri Heffelfinger distributed and explained the technical amendments to SB 4. EXHIBIT 7 The reason for the amendment is because technically speaking on a referendum (Pg. 2) the wording of the language that says that the public should vote for amending the Constitution or against amending the Constitution can only be 25 words long; it was 27. The amendment shortens up the number of words to meet that criteria.

Motion/Vote: REP. KASTEN moved the technical amendment. The motion carried unanimously.

Motion/Vote: REP. KASTEN MOVED SB 4 BE CONCURRED IN AS AMENDED.

Discussion:

REP. SOUTHWORTH said he is opposed to the bill and will vote against it.

REP. COCCHIARELLA said this bill has already been turned down by the Senate.

Motion/Vote: REP. COCCHIARELLA MADE A SUBSTITUTE MOTION THAT SB 4 BE TABLED. The motion carried by a vote of 11 - 8. EXHIBIT 8

EXECUTIVE ACTION ON HB 395

Motion: REP. RICHARD SIMPKINS MOVED HB 395 DO PASS.

Discussion:

REP. SIMPKINS said Sect. 1 created a problem because it is a bid bond authority section only. HB 395 does not deal with contractors as the 18-2 series of law which deals with construction workers and performance bonds. Sect. 2 deals predominately with the state and their performance bonds. The decision to require a performance bond would be optional. This bill would deal with small contractors such as Davis Business Machines that sent letters to all members of the Committee and do maintenance work on the machines they sell. They are a small contractors. The small contractors do not go through the procedures of getting a performance bond to contract their services. He requested some open discussion to identify the problems before amending the bill.

REP. CAROLYN SQUIRES said she opposes HB 395. She had a discussion with Rep. Simpkins on the floor of the House. She is well aware of the fact that the construction industry is not included in the bill. "We have talked about limits and what to put the bond down to." Rep. Squires referred to a list that contained janitorial services and said she was concerned that the bill was another mechanism of privatization. "The process is there and it is there for a reason. It may be considered an obstacle, but it was placed there for a reason to make sure that the best services possible were provided to the state -- it is a double check and balance system. I don't want to see the removal of it."

REP. JIM SOUTHWORTH said he wanted to echo Rep. Squires and he opposes the bill.

REP. GARY BECK stated he opposed the bill as the bonding process eliminates "the fly by nighters."

REP. PATRICK GALVIN said he also believes it would be removing a protecting device.

REP. ERVIN DAVIS said he is violently opposed to the bill. "We

were involved in our school district with some smaller contracts. The subcontractor left and took the money and went to Arizona. It took four years to get those people who performed the service to get just a portion of their salaries in spite of the bonding. I like the law the way it is."

REP. GARY FELAND said you guys are "reading a lot of bogey men into this. The bill does not deal with that."

REP. RICHARD SIMPKINS said there were a couple of proposals made. If Sect. 1 were deleted it would delete school districts. Sect. 2 deals strictly with state contracts. "I understand Rep. Squires' situation with the janitors, but the bid bond can still be required. . . . I am sorry to see that you think that the small businesses are untrustworthy and incompetent. . . . We are talking about businesses that have one to two employees that basically can perform services on electronic equipment, computers, "fax" machines . . . that do not find it advantageous to go through the performance bond procedure for \$10 thousand, \$15 thousand and \$20 thousand contracts. This is more hassle than it is worth. It precludes any of the small-town businesses . . . from even thinking about (bidding). The other proposal was . . . to raise the (amount) to \$15 thousand to deal with inflation. You would still be protecting the \$100 thousand janitorial contracts. But keep in mind there are some janitorial contracts that are only \$15 thousand for one small building. . . . The state would like to allow small business people . . . and they have a list of people who have complained over the years of not being able to bid because of the hassle of the performance bond from Missoula, Helena, Townsend . . . (to bid). If they don't pay their employees, then you have the procedure where the (Department of Labor) can go against the employer and collect back wages."

REP. KASTEN said that coming from a small community in a rural area we don't have trouble with the subcontractors because no one comes into the area to take these jobs unless they live there. Often we are unable to go to small contractors because of the bonding -- they just don't have the collateral. They have been a member of the community for a long time and they are not going to move away or not perform their work. Most people are just making a living. This bill might allow more competition and a better job.

Motion/Vote: REP. SIMPKINS moved to amend the title, delete all of Sect. 1 from the bill, to restore the language in Sect. 2 and increase the amount of \$10 thousand specified on Ln. 13 to \$50 thousand.

REP. SQUIRES said she is against the amendment because the janitorial services that were in Rep. Simpkins' papers from the

Department averaged below \$10 thousand. What happens to the workers if a "fly-by-night outfit" happens to come in and contract for these employees. There is no one responsible to pay the employees if anything should transpire. "We need to deal with the issue of making people responsible to the employees."

REP. DAVIS said the amendment is "anti-consumer."


REP. KASTEN said all of these provisions have been in the law. If they work, they should have prevented Rep. Davis's situation.

REP. DAVIS said it is the subcontractors who default; it is the worker that has to sit around with no pay waiting for a court case. "In our case (they) waited four years . . ." This amendment will not clear that up.

Motion/Vote: REP. FRITZ DAILY MADE A SUBSTITUTE MOTION TO TABLE HB 395. The motion carried 11 - 8. EXHIBIT 9

ADJOURNMENT

Adjournment: 10:20 a.m.



JAN BROWN, Chair

JUDY BURGGRAFF, Secretary

JB/jb

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 2/7/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JAN BROWN, CHAIR	✓		
REP. VICKI COCCHIARELLA, VICE-CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. GARY BECK	✓		
REP. ERNEST BERGSAGEL	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ERVIN DAVIS	✓		
REP. JANE DEBRUYCKER	✓		
REP. ROGER DEBRUYCKER	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. PATRICK GALVIN	✓		
REP. HARRIET HAYNE	✓		
REP. BETTY LOU KASTEN	✓		
REP. JOHN PHILLIPS	✓		
REP. RICHARD SIMPKINS	✓		
REP. JIM SOUTHWORTH	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		

Jan Brown

11:23
2/7/91
JMB

HOUSE STANDING COMMITTEE REPORT

February 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 158 (third reading copy -- blue) do pass as amended .

Signed: *Jan Brown*
Jan Brown, Chairman

And, that such amendments read:

1. Page 1, line 16.
Strike: "fund"
Insert: "program"
2. Page 1, line 18.
Strike: "cash"
3. Page 1, line 19.
Strike: "or other"
4. Page 2, line 11.
Strike: "fund"
Insert: "program"
5. Page 2, line 12.
Strike: "cash or other"
6. Page 2, line 22.
Strike: "fund"
Insert: "program"
7. Page 2, line 24.
Strike: "cash or other"
8. Page 3, line 10.
Strike: "fund"
Insert: "program"
9. Page 3, line 12.
Strike: "cash or other"

Madam Chairman, Members of the Committee:

For the record my name is Mike Wingard, Senior Performance Auditor with the Legislative Auditor's Office.

Before I discuss the development of the Request for Proposal you have in front of you, I would like to explain our involvement in the siting of a new Women's Correctional Center up to this point.

In early December we were asked to examine and monitor the Department of Institutions process for identifying and selecting a site for their proposed women's correctional facility. As a result, we attended the briefing the department conducted for the interested local government entities, and obtained the RFP which the department used to gather proposals from the local entities. We evaluated the RFP to determine:

the validity of the site criteria established by the department:

whether the information to be submitted by the applicants could be measured against the established criteria; and,

to assess whether documentation was available to support the criteria and/or decision to use a particular criterion.

We completed the evaluation by interviewing the Administrator of the Corrections Division and obtaining the documentation the department used to develop the RFP. Additionally, we interviewed the Architecture and Engineering Division's facility planner and gathered information from other state's corrections agencies.

Our preliminary findings as of January 9th indicated the site location criteria established by the department was valid in terms of being similar to either national or other state's standards for the siting of a correctional facility. However, we did have some concerns about the RFP language regarding the clarity of the RFP requirements. To our knowledge, the department did not modify their RFP to address our concerns prior to the RFP submittal deadline of January 30th. The Department of Institutions at that time also had not completed the procedures they intended to use to score the proposals submitted by the applicants.

In early January, Representative Brooke asked our office to review a RFP that she had devised for the siting of the proposed Women's Correctional Center. After our review and further discussion with Representative Brooke, she asked that we put together an RFP which addressed the concerns we had with the Department of Institution's RFP, include any other criteria that we thought was important, and finally to develop a method for scoring the proposals submitted by

DATE 2/7/91
HB 528

We will continue to monitor the department's process as well as evaluate their scoring methodology.

Madam Chairman, that concludes my overview, I will be available to answer questions from the committee.

DATE 2/7/91
HB 528

We will continue to monitor the department's process as well as evaluate their scoring methodology.

Madam Chairman, that concludes my overview, I will be available to answer questions from the committee.

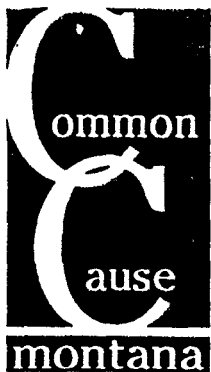


EXHIBIT 1A
DATE 2/07/91
RE SB 4

TESTIMONY OF COMMON CAUSE/MONTANA

IN OPPOSITION TO SENATE BILL 4

7 FEBRUARY 1991

P.O. Box 623
Helena, MT
59624
406/442-9251

Madame Chairwoman and members of the House State Administration Committee, for the record, I am Marguerite Burns, Lobbyist for Common Cause/Montana. I am here today on behalf of the members of Common Cause in Montana to speak in opposition to Senate Bill 4.

We oppose this legislation because it would dramatically change a portion of the Montana Constitution designed to prevent "deal-making" among elected officials. When we reviewed this proposal we researched the history of the discussion by the members of the Constitutional Convention on Article V, Section 9 of the Constitution. We wish to present some of that discussion to show the logic and reasoning for this provision of the Constitution. It is clear that the framers knew what they were doing and, in their wisdom, addressed a very real and important problem.

(page 596 transcript)

Delegate Berg speaking in opposition to the motion to delete Article V, Section 9:

"I believe that it is essential in any constitution that there be a provision prohibiting legislators from holding any other civil office during the term of their office, and I think that's perfectly consistent with the fundamental principle of a separation of powers."

(page 597 transcript)

Delegate Aronow in opposition to the motion to delete Article V, Section 9:

"Mr. Chairman, I rise in opposition of the motion to delete Section 9 for this reason, that I look at this thing as a matter of morals and principles and separation of powers. I think it's one of the most corrupt things that can be done to the Legislature and to the people of the State of Montana to allow a member of the Legislature to accept an appointment to another office while he's a member of the Legislature. Suppose the Governor came to Joe Blow who is in the Legislature and said, "There's a vacancy on the Supreme Court, or on the District Court, but I want this program put through the Legislature and when you've accomplished this job, you'll get this appointment." And under the present language of Section 9 that could be done. I don't want to delete Section 9. I want to amend it to put back in the language of the present Constitution, which has been interpreted by the Supreme Court, which forbids that type of an evil. That thing can be carried on to all types of things and pressures, and the principles of good government and morals doesn't change with changing times or liberalism. Those basic things remain basic and I want to keep them that way in this Constitution. Thank you."

(page 1577 transcript)

Chairman Graybill responds to some discussion over intent of Article V, Section 9:

"For your information, when we debated it the other day, I recall the point being made that the reason is to prohibit the Governor or someone else from offering a job to a legislator in order to get something done and then have him resign and appoint him to an office. Now, that's the purpose of the language, and the language that's been proposed does clear up Section 9, as amended. But you have to decide now what to do."

Article V, Section 9 of the Constitution is an important and valuable good government policy. One that should remain. We, therefore, urge a "do not pass" on SB 4.

Governor must not be allowed to reward legislators with jobs

The House should deal the finishing blow to a questionable bill that would amend the state constitution to allow the governor to appoint sitting legislators to state government jobs.

The Senate rejected the proposed amendment last week.

There is no reason to change the Constitution, despite claims to the contrary by Sen. Tom Hager, R-Billings, sponsor of the bill.

The provision was written into Montana's constitution to prevent a governor from rewarding a legislator for his vote by giving him a cushy state job. It specifically prohibits the appointment of a lawmaker to a public office during the term for which he was elected.

The administration's claim that the prohibition is "an obstacle to the executive branch availing itself of some of the best talent that's available," doesn't wash.

Gov. Stephens, and other governors before him, have found ways — legal ways — to avail themselves of talented legislators.

Gov. Tom Judge skirted the constitutional provision by appointing two serving legislators to administration posts by tagging

"acting" onto their titles.

In late summer 1989, Stephens juggled the state Department of Administration to squeeze Rep. Bob Marks in. Marks resigned his House seat and was hired as deputy director of the department until his term expired and he took over as director.

Similarly, Stephens appointed GOP legislator Dennis Iverson to be deputy director of the Department of Health and Environmental Sciences.

In all these cases, the governors got what they wanted, and stayed within constitutional boundaries.

The provision was written into the constitution to prevent dealmaking among elected officials. Administration spokesman Steve Yeakel said such concern was now "an anachronism that doesn't have much relevance anymore" because the media would uncover any abuse of the process.

He is incorrect. Dealmaking and bribery have not gone the way of the dinosaur.

The existing provision simply delivers the governor and legislators from such temptation. It was needed when the Montana Constitution was written and it's needed now.

EXHIBIT 2
DATE 2/26/91
HB 404

Opinion, comment

The Montana

Official newspaper of Butte-Silver

Land deal

Jefferson County should bill state for cost of fairground work

The Jefferson County Fair Board has a problem.

Ten years ago, the board began leasing a fair site south of Boulder from the state. The site used to be occupied by a dairy that served the Boulder institution. The dairy was discontinued years ago, and the site fell into disrepair.

Over the past decade, however, fair board members and volunteers put immense amounts of work into the site — repairing things, painting buildings, building fences, installing wiring, cleaning things up. A pair of wells were drilled.

The county's lease runs out Dec. 31. Instead of renewing the lease, the county wants to buy the land and have a permanent fairground. Inquiries were made with the state. Then the lawyers got involved.

According to lawyers for the state, Jefferson County probably can buy the land. However, the state is barred from selling below fair market value. And, according to the lawyers, the improvements made to the land by the fair people must be counted as part of the land's market value. In short, the

county would have to pay the state for the county's own improvements.

Reason may prevail, but it probably won't. It sounds like the lawyers have got that taken care of.

It's possible the county could benefit from a bill that will be introduced in the 1991 Legislature. If the bill passes, the state could make gifts of state lands under specific circumstances. Perhaps Jefferson County officials will place their hopes on the bill.

There's one other approach they might consider.

Send a bill to the state. Add up those hours of work, all those improvements, assign a professional cost to them and ask the state to pay. After all, the improvements were made to state land, and state lawyers admit that the improvements have considerably increased the value of the land.

The state owes Jefferson County a bundle.

And since the state is not exactly rolling in wealth, maybe it could work out a deal: Give Jefferson County a particular plot of land in lieu of cash.

Jefferson County Fair Board's option: Pay double or nothing

By Jan Anderson
Standard Correspondent

BOULDER — The Jefferson County Fair Board has discovered it's between a rock and a hard place.

It seems that the more the fairgrounds are improved, the less likely it is that the site will ever belong to the county.

The county holds its fairs at a ranch site south of town that belongs to the state. Formerly a part of the Montana Developmental Center, the land has been leased to the county for the past 10 years at a cost of \$5 per year.

For several years before that, the land and buildings sat idle after the state discontinued a dairy that served the Boulder institution. Neglected, the site fell into disrepair.

Since leasing the site, fair board members and volunteers have spent hundreds of hours making improvements to the location, repairing and painting buildings, erecting fences, installing wiring and cleaning out debris. Two wells also have been drilled, according to fair board members.

All of the improvements have made the site more usable for the fair. The fair board, wanting to secure its investments, decided to try to purchase the site or ask the state to donate the land for a nominal fee.

That, the fair board found, is

In other words, the county would have to pay for the improvements it has constructed on the property

where the catch comes in.

Working through state institution officials, the county asked if it could gain title to the land when its current lease runs out Dec. 31. The question was referred to legal representatives.

The answer, the fair board was told, is that it is unconstitutional to sell or exchange state lands for other than fair market value. And, fair market value for the fairgrounds, in the opinion of at least one state attorney, includes the improvements the county has made.

In a letter dated Dec. 17, Department of Institutions Legal Counsel Sally Johnson told the superintendent of the Montana Developmental Center that she had checked the matter with attorney Valencia Lane of the Legislative Counsel's office.

"We discussed the specific situation of the fairgrounds in Jefferson County and the substantial improvements upon the property at the county's expense," Johnson told

MDC Superintendent Jennifer Pryor.

"It is Ms. Lane's opinion that the property cannot be sold for less than fair market value under the Montana Constitution, and the improvements would constitute part of the fair market value.

"In other words," Johnson wrote, "the county would have to pay for the improvements it has constructed on the property."

In a meeting with the county commission on Tuesday, fair board member Nora Thackeray said another 10-year lease concerns her because there is no guarantee that the county will not lose all of its hard work.

"Every year we put more and more improvements in," she said. "Maybe we should stop."

"I don't know if the county would want to buy it at fair market value," she added.

Fellow board member Marilyn McCauley agreed. County taxpayers should not have to pay twice for the fairgrounds improvements, she said.

"Maybe if we could buy it at what it was worth when we first got it, it would be OK," McCauley said.

Although it may not come soon enough to solve the immediate dilemma, the fair board may find some long-term help in a bill in the works for the upcoming legislative session.

The bill, which was designed to pertain to some state lands in the Lewistown area, would allow state lands to be given as gifts in specific circumstances.

The constitutionality of that proposed legislation has been questioned by the legislative counsel, though, according to Johnson.

An amendment is being considered by the bill's sponsor, she said, to permit sales at less than the fair market value in some cases.

In the meantime, the Jefferson County Fair Board has asked the county commission to see if it can negotiate a long-term lease.

"We still won't own it," Thackeray told the commission, "but it's better than what we have now."

Grinde pushes his 'wild' dream in the heart of Lewistown

By ROBERTA DONOVAN
Tribune Correspondent

LEWISTOWN — Two small ponds in Lewistown have triggered in Larry Grinde a dream of fishing derbies, nature walks and bird watching.

Just northwest of the state home for the aged, the ponds are formed by dams across Little Casino Creek. Though poorly maintained, they have been a popular place with youngsters, a little bit of "wilderness" in the heart of town.

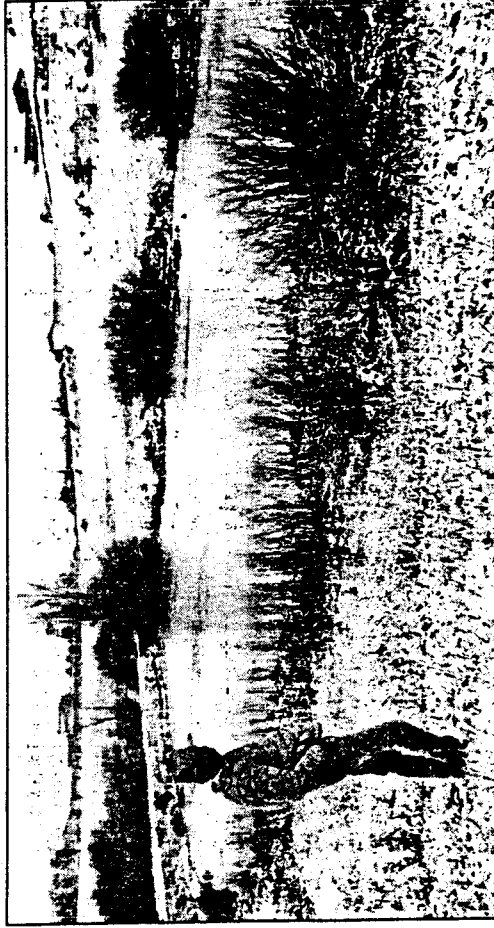
In the early 1950s, the Lewistown Area Chamber of Commerce purchased 42 acres of land from the late Charles Cooley as a site for the Montana Center for the Aged. Ultimately, the center used only eight of those acres, but the rest remained with the state Department of Institutions.

After the state home opened, the ponds were stocked with fish and designated as a place where older people and children under 12 could fish.

But with the years, the ponds were not maintained and they deteriorated.

"They have become silted in and are just worn out," Grinde said.

Grinde's dream is to restore the ponds and make other improvements around them, such as building walkways. He envisions a place where people can go to enjoy the natural beauty of the area, do a little fishing or just get away from the busy work day for a while.



Larry Grinde looks over the pond area he is pushing to have improved and preserved.

Grinde, a Republican state representative, first became aware of the potential of the ponds when he was trying to have Lewistown approved as the site for a new veterans' home.

At that time, Lewistown was offering a site adjacent to the Center for the Aged, including the ponds. Grinde said that the Department of Institutions had indicated a willingness to deed the land back for reality.

Grinde continued his work, first contacting the Department of Institutions, where his idea received a warm welcome.

"Then I went to the Montana Department of Fish, Wildlife and Parks," Grinde said. "They were really excited about the project. Since then, on three different occasions, they have had teams in here. The first team did a preliminary

"We want to leave it in its natural state. The birds are tremendous through here. I have even seen deer tracks down there and there are muskrats. That's amazing in the middle of Lewistown."

— Larry Grinde

study and indicated that they were interested. Then they brought in their engineering team and they gave us some preliminary planning on it and what they would recommend. Then, about four weeks ago, another gentleman came in and we talked finances on how we would handle it."

Grinde said there are different ways to do it. "We could do it under the auspices of the Fish, Wildlife and Parks," he said. "They would do it themselves and run it. Or we could use grant money and they would do all of the work. The city council will have to decide. The city's matching funds would be 'in kind' services, such as maintenance of the area and picking up the garbage."

"The grant," Grinde continued, "would come out of the FWP monies. The money is from licenses and is earmarked for projects like this."

Grinde said at this point he went to the Lewistown City Council and told them what he had in mind.

"I asked for their permission to

pursue it further," he said. "They said it was fine, but they asked that they not be committed."

Grinde said the Department of Institutions would be glad to give the city a 99-year lease on the land, but he personally feels it would be better if the city had title to the land.

"So now the red tape really starts coming into play," Grinde said. "It is part of the system. The Department of Institutions cannot give land away. It has to be put up for the highest bidder. That would create some problems because the city would not be guaranteed it is getting the land."

Grinde said the FWP is eager to go ahead with the project, but nothing can be done until the city either has a lease or has title to the land.

"We are looking at some avenues," he said.

"We may draft some legislation for the next session that would provide that if a municipality has a need

See GRINDE, 2C

Grass Eddy, department director, said the meetings are to tell citizens about legal principles involved in allowing public access to land leased to raise money for public schools. The meetings were authorized by the state Land Board after it decided to consider allowing recreational use of lands.

Grinde: Pushing 'wild' dream

FROM IC

for the land, it can be given back to them.

"Meanwhile, the Fish, Wildlife and Parks will go ahead with getting an appropriation in their next budget," Grinde said. "There will be money appropriated to do these ponds. The amount is yet undecided because they have to do some more engineering."

Grinde said the budget proposal for the ponds has to be approved by the Legislature, "but I see no reason why it shouldn't be approved."

"It is not a new tax," he explained. "It is money allocated through fishing licenses that is already earmarked for this kind of project. I look for it to be approved by the Legislature and if that is the case, I look for the ground breaking to take place next spring and the work to be done by the end of the summer of 1991. That way, in the spring of 1992, the ponds should refill themselves."

The FWP has recommended that the area be accessible to the handicapped.

"They plan approximately five different fishing docks," Grinde said. "There will be restrooms and there may be picnic tables."

The ponds, located in a little valley, do not have vehicle access, but there are walkways leading down to them. These will be improved and more walks added. The emphasis, though, will be on the natural beauty of the area, where wild trees and bushes circle the ponds.

"We want to leave it in its natural state," Grinde said. "The birds are tremendous through here. I have even seen deer tracks down there and there are muskrats. That's amazing in the middle of Lewistown."

The ponds themselves will be deepened and cleared of debris. The FWP has agreed to stock the ponds

for fishing, he said.

Grinde said he can foresee many benefits from the project. He would like to see the area once more be a place where children could play and be off the streets.

"I envision an annual fish derby," he said. "Maybe we could have one for youth and one for the elderly. I look at it as a place where people can go for some solitude in the city and to watch the wildlife."

"I hope that sometime a tourist may come through and go down there, and when he leaves, he will go back to his community and tell the people what Lewistown has got in the middle of their town."

Grinde said the next step is up to the city council. He emphasized that any decision will be up to them.

"I'll go back and give them my findings, so they can decide which direction they want to go," he said. "I'm just doing the leg work. They may decide they want to take the 99-year lease or they may want to wait until after the session and get the land deeded back to the city. Either way, that's fine. The city is the authority here and not me. But I do think it will become a reality."

EXHIBIT 5
DATE 3/7/91
HB 158

Amendments to House Bill No. 153
Third Reading Copy

Requested by Representative Dave Wanzenried

Prepared by Dave Bohyer
January 30, 1991

1. Page 1, line 16.
Strike: "fund"
Insert: "program"
2. Page 1, line 18.
Strike: "cash"
3. Page 1, line 19.
Strike: "or other"
4. Page 2, line 11.
Strike: "fund"
Insert: "program"
5. Page 2, line 12.
Strike: "cash or other"
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Strike: "fund"
Insert: "program"
7. Page 2, line 24.
Strike: "cash or other"
8. Page 3, line 10.
Strike: "fund"
Insert: "program"
9. Page 3, line 12.
Strike: "cash or other"

db\amends\hb158a.adb

Amendments to House Bill No. 158
Third Reading Copy

Requested by Representative Dave Wanzenried

Prepared by Dave Bohyer
January 30, 1991

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8. Page 3, line 10.
Strike: "fund"
Insert: "program"
9. Page 3, line 12.
Strike: "cash or other"

db\amends\hb158a.adb

Amendments to Senate Bill No. 4
Third Reading Copy

For the House Committee on State Administration

Prepared by Sheri S. Heffelfinger

February 7, 1991

1. Page 2, line 4.

Following: "the"

Strike: "Montana"

2. Page 2, line 5.

Strike: "member" through "legislature"

Insert: "legislator"

3. Page 2, line 8.

Following: "the"

Strike: "Montana"

4. Page 2, line 9.

Strike: "member" through "legislature"

Insert: "legislator"

EXHIBIT 8
DATE 2/7/91
HB SB 4

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 2/7/91 BILL NO. SB 4 NUMBER 1

MOTION: To table SB 4

NAME	AYE	NO
REP. VICKI COCCHIARELLA, VICE-CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. GARY BECK	✓	
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY		
REP. ERVIN DAVIS	✓	
REP. JANE DEBRUYCKER	✓	
REP. ROGER DEBRUYCKER		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. PATRICK GALVIN	✓	
REP. HARRIET HAYNE		✓
REP. BETTY LOU KASTEN		✓
REP. JOHN PHILLIPS		✓
REP. RICHARD SIMPKINS		✓
REP. JIM SOUTHWORTH	✓	
REP. WILBUR SPRING		✓
REP. CAROLYN SQUIRES	✓	
REP. JAN BROWN, CHAIR	✓	
TOTAL	11	5

EXHIBIT 9
DATE 2/7/91
HB 395

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 2/7/91 BILL NO. HR 395 NUMBER 1

MOTION: Table the bill

NAME	AYE	NO
REP. VICKI COCCHIARELLA, VICE-CHAIRMAN	✓	
REP. BEVERLY BARNHART	✓	
REP. GARY BECK	✓	
REP. ERNEST BERGSAGEL		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ERVIN DAVIS	✓	
REP. JANE DEBRUYCKER	✓	
REP. ROGER DEBRUYCKER		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER		✓
REP. PATRICK GALVIN	✓	
REP. HARRIET HAYNE		✓
REP. BETTY LOU KASTEN		✓
REP. JOHN PHILLIPS		✓
REP. RICHARD SIMPKINS		✓
REP. JIM SOUTHWORTH	✓	
REP. WILBUR SPRING	✓	
REP. CAROLYN SQUIRES	✓	
REP. JAN BROWN, CHAIR	✓	
TOTAL	11	8

**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

STATE ADMINISTRATION

COMMITTEE

BILL NO.

SB 4

DATE 2/7/91

SPONSOR (S)

SEN. HAGER

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[illegible]

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO.

HB 404

DATE 2/7/91

SPONSOR(S) REP. GRINDE

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.