

MINUTES

MONTANA SENATE 55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By CHAIRMAN CHUCK SWYSGOOD, on March 5, 1997, at 8:13 a.m., in Room 108.

ROLL CALL

Members Present:

Sen. Charles "Chuck" Swysgood, Chairman (R)
Sen. Thomas F. Keating, Vice Chairman (R)
Sen. Larry Baer (R)
Sen. Thomas A. "Tom" Beck (R)
Sen. B.F. "Chris" Christiaens (D)
Sen. Eve Franklin (D)
Sen. Loren Jenkins (R)
Sen. Greg Jergeson (D)
Sen. John "J.D." Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Miller (R)
Sen. Arnie A. Mohl (R)
Sen. Linda J. Nelson (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: Sen. James H. "Jim" Burnett (R)

Members Absent: None

Staff Present: Taryn Purdy, Legislative Fiscal Division
Sharon Cummings, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 6, 2/19/97; HB 8, 2/19/97;
HB 11, 2/19/97
Executive Action: HB 6, BCCAA; HB 8, BCC; HB 11
BCC

HEARING ON HB 11

Sponsor: REP. MATT MCCANN, HD 92, HARLEM

Proponents: Chris Booth, Montana Rural Water Systems
Rob McCracken, Department of Commerce

Opponents: None

Opening Statement by Sponsor:

REP. MATT MCCANN, HD 92, HARLEM HB 11 is an act appropriating interest money to the Treasure State Endowment Trust (TSET). The amount of interest is estimated at \$9,137,000 and the grants recommended for appropriation equal \$9,411,000. The grants are used for water and waste water projects for Montana communities. (EXHIBIT #1)

{Tape: 1; Side: A; Approx. Time Count: 8:14; Comments: None.}

Proponents' Testimony:

Chris Booth, Montana Rural Water Systems We feel we have a great grassroots cooperation program with communities throughout the state. Many systems need help, either due to population increases, updating old systems or adding new systems. We feel the criteria and the prioritized list is fair and equitable. We urge a do pass on HB 11.

Rob McCracken, Department of Commerce (DOC) We administer the TSET program and are here to answer any questions you may have about the program. The TSET program was created by a vote of the people in 1992 to help local governments make public facility improvements affordable and financially feasible. The TSET enabling statute provides criteria that the applicants must meet. In addition, the DOC has established requirements to carry out the intent in the statutory framework. For example, TSET applicants must supply local matching funds, generally at least 50%, to get TSET funding. All of the projects in HB 11 have substantial matching funds. TSET funds are crucial to making the community public facility projects financially feasible. The TSET funds are used to leverage other fund sources. Based on experience over the last three funding cycles, TSET funding averages only about 20% of a project's total cost. The average TSET grant is about \$388,000. The ranking of TSET applications is a two stage process: 1) how well they meet 10 statutory priorities; and 2) financial gap analysis is used to provide a factual basis for each application. All application scores and recommendations are checked and reconciled by a team of DOC staff and engineers. The Governor's office examines the recommendations we make and then makes recommendations to the legislature. The TSET statute provides for both grants and loans based on financial analysis. Those projects where TSET grants are recommended generally have loans from other sources as part of the funding package. If the applicant has borrowed the maximum feasible loan based on target rate analysis and debt capacity analysis TSET grants are generally recommended. The details of the analysis for the applications are found in the TSET report to the legislature.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 8:21; Comments: None.}

Questions From Committee Members and Responses:

SEN. J.D. LYNCH How many bridges have we built with this endowment and what are the qualifications to get a bridge built under this? **Mr. McCracken** Applicants that want to finance a bridge have to meet the intent of the statutory criteria which is public health and safety concerns. The financial analysis works differently for bridges than it does for water and sewer. Bridges are property tax based and we look at whether the county is at their maximum I 105 limit in terms of their ability to use property tax money to finance the bridge on their own.

SEN. LYNCH Should I advise my commissioners in Butte to let their bridge deteriorate, spend their money elsewhere so they can qualify to have their bridge built by this fund? **Mr. McCracken** I suggest the county draw up a plan determining which bridges are most crucial based on their public health threat.

SEN. LYNCH How many bridges have we built under this? **Mr. McCracken** We have funded 4 bridges to date plus 1 in HB 11.

SEN. TOM KEATING I'd like to track the source of funding for TSET, do you have a flow chart showing where the money comes from? **Mr. McCracken** Yes we do, there is a chart on the back page of the TSET report to the legislature.

SEN. KEATING 50% of the tax heading for the trust fund goes into a bond fund. Is severance tax money used as collateral for the bonds or does it service the bonds? **Mr. McCracken** The money falling into the trust, 50% of which is actually a deferment trust, is pledged for coal tax bonds. I'm not an expert on how the financial security works.

SEN. KEATING The surplus then flows down to TSET? **Mr. McCracken** Yes, once they take out the funds that are obligated by the state it flows down 50% to TSET and 50% to the coal tax trouble fund.

SEN. KEATING Are you using coal tax money in TSET or interest income from the trust? **Mr. McCracken** It is the interest income from TSET.

SEN. KEATING If there wasn't a TSET, that interest income would be flowing to the General Fund wouldn't it? **Mr. McCracken** I can't speculate on how that would work if the TSET was not in existence but that would be a possibility.

{Tape: 1; Side: A; Approx. Time Count: 8:28; Comments: None.}

Closing by Sponsor:

REP. MCCANN There are 4 TSET loans in HB 8 which tie into these grants.

HEARING ON HB 8

Sponsor: REP. ERNEST BERGSAGEL, HD 95, MALTA

Proponents: John Tubbs, Department of Natural Resources
Chris Booth, Montana Rural Water

Opponents: None

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 95, MALTA HB 8 is the loan program which requires a three-quarter vote as it goes through the system. REP. BERGSAGEL explains the bill. (EXHIBIT #2)

{Tape: 1; Side: A; Approx. Time Count: 8:30; Comments: None.}

Proponents' Testimony:

John Tubbs, Department of Natural Resources (DNRC) We support HB 8. I am here to answer questions you may have.

Chris Booth, Montana Rural Water We are out in the field and see the problems people have. We are working with them to update and support many of these programs. We feel the process in choosing these projects is fair and equitable. We urge you do pass HB 8.

Opponents' Testimony: None

{Tape: 1; Side: A; Approx. Time Count: 8:31; Comments: None.}

Questions From Committee Members and Responses:

SEN. KEATING Is this coal tax bonds being loaned? Mr. Tubbs As the revenue is deposited in the trust each year we pledge the payment of bonds. For the state to make a loan we sell a coal severance tax bond to the citizens of Montana. They pay money for the investment, we take the money and loan it to local governments for these projects. As time goes by the local governments pay back the loan. There are two cases where coal tax money is used: 1) to subsidize the interest rate; and 2) to pay the debt service if local government should default.

SEN. KEATING How much coal tax money is used to fund this? Mr. Tubbs The cost from coal tax is between \$500,000 & \$600,000 per year.

SEN. KEATING That money would flow to the General Fund otherwise? Mr. Tubbs That would otherwise be deposited in TSET or the permanent fund.

{Tape: 1; Side: A; Approx. Time Count: 8:33; Comments: None.}

Closing by Sponsor:

REP. BERGSAGEL Four loans are tied to the TSET: the Fort Peck water district; Choteau project; Coram water and sewer district; and the City of Livingston.

HEARING ON HB 6

Sponsor: REP. ERNEST BERGSAGEL, HD 95, MALTA

Proponents: John Tubbs, DNRC
 REP. ROGER DEBRUYCKER, HD 89, FLOWEREE
 REP. LIZ SMITH, HD 56, DEER LODGE
 Tom Livers, Department of Environmental Quality
 SEN. MIKE FOSTER, SD 20, TOWNSEND
 Chris Booth, Montana Rural Water
 REP. GAY ANN MASOLO, HD 40, TOWNSEND
 Gloria Paladichuk, Richland Development

Opponents: None

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 95, MALTA HB 6 appropriates \$125,000 to the DNRC for emergency grants, \$2 million in 27 projects listed in priority order. Some of the projects interrelate with HB 11 & HB 8. (EXHIBIT #3)

{Tape: 1; Side: A; Approx. Time Count: 8:35; Comments: None.}

Proponents' Testimony:

John Tubbs, DNRC We support HB 6 and are here to answer questions.

REP. ROGER DEBRUYCKER, HD 89, FLOWEREE I support HB 6 except for lines 17 & 18 where the Department of Environmental Quality gets \$100,000 to write 20 grants for small communities. I have an amendment which will put \$65,000 toward the Fort Benton irrigation and community forestry rehabilitation and \$35,000 toward Deer Lodge which REP. LIZ SMITH will speak about. The City of Fort Benton would like to tap into the golf club water line to run water to the airport for the two planes we have for fire protection throughout the state.

REP. LIZ SMITH, HD 56, DEER LODGE I support the amendment REP. DEBRUYCKER has offered. Three years ago it was found that the effluent system from Deer Lodge was flowing into the Clark Fork River. The City of Deer Lodge has received a fine of \$2,500 per year for non-compliance. The National Park Service, Department

of Fish, Wildlife & Parks and the Forest Service have developed a plan which would utilize the city's effluent water to irrigate the pasture on Grant-Kohrs National Park. The cost is \$250,000 and the City of Deer Lodge approached the DNRC for grant money. Because the grant application arrived too late it was rejected. We now ask for your consideration of this. Of the \$250,000, \$100,000 paid by Arco, \$35,000 by FWP and \$45,000 by the city of Deer Lodge. This leaves a balance of about \$35,000. I encourage you to support the appropriation for completing this project.

Tom Livers, Department of Environmental Quality (DEQ) We support this bill. The DEQ request provides grants to small communities with a population less than 10,000 to contract for engineering studies to conduct facilities plans as the first step in undertaking a water or waste water treatment project. The grants provide 55% of the funding with local funds making up the other 45%.

SEN. MIKE FOSTER, SD 20, TOWNSEND I support HB 6 and have an amendment (**EXHIBIT #4**) to propose a project by the Broadwater County Conservation District, Slim Sam Riparian Area Implementation. It was ranked #2 before coming before **REP. BERGSAGEL'S** committee. The committee members thought the price of the wood fencing was too high and removed it from the bill. Through negotiations the Forest Service has agreed to pay for the cost of the wood fence. This amendment brings this project back into HB 6 and reduces the DEQ grant to \$62,000 but doesn't put any projects at risk.

Chris Booth, Montana Rural Water We support HB 6.

REP. GAY ANN MASOLO, HD 40, TOWNSEND I concur with **SEN. FOSTER** and urge you to approve that amendment.

Gloria Paladichuk, Richland Development We are trying to preserve our \$60,000 grant that the long range subcommittee granted us. This is a project to study alternative irrigation systems with alternative crops patterned after an Oregon project. This has the potential to turn thousands of state land acreage to irrigation. There is a short window of opportunity before the water reservations sunset. The State of North Dakota and the Department of Agriculture have put funding into this project. We would like this committee to also support this project under HB 6.

Opponents' Testimony: None

{**Tape: 1; Side: A; Approx. Time Count: 8:50; Comments: None.**}

Questions From Committee Members and Responses:

SEN. TOM BECK One of my concerns on the Broadwater County project was that it is a grant to supply fencing material for federal land. Why can't the Forest Service come up with the

money for this fence? **SEN. FOSTER** That is a legitimate concern. I believe the idea is that there are benefits that go beyond the federal interest. I can see the value of this project but my involvement in this project didn't start until after the problem began.

SEN. BECK Is the Forest Service requiring the landowners to do this fence? Will landowners lose their permit if they don't accomplish this project? **SEN. FOSTER** I don't know the answer to that question.

SEN. DARYL TOEWS I'd like more information on the Roosevelt County/Fort Peck Indian Reservation water project. **Mr. Tubbs** The Roosevelt County Conservation District/Fort Peck Reservation project is an assessment of the need for a drinking water supply in non-tribal communities surrounding Fort Peck Reservation. The Fort Peck tribe proposes a massive federal project to supply water for the entire reservation. They approached the Roosevelt and Sheridan County Conservation Districts to see if communities outside the reservation would be interested in tying into that system should it be built. The federal government wouldn't spend money analyzing what those needs are, this money will generate the information necessary as to whether it should also supply the communities surrounding the reservation.

SEN. CHRIS CHRISTIAENS Is there enough money available to do all these projects? **Mr. Tubbs** The bottom two, Park County and Thompson Falls, projects are not funded.

SEN. MIKE TAYLOR Please tell me about the water right settlement, the #1 project. Is this being matched by federal funding and how does it break out? **Mr. Tubbs** The #1 project is a grant to the Reserve Water Right Compact Commission which is tied to the settlement of the Rocky Boys tribal settlement for their water rights. It is matched by a significant amount, approximately \$1.5 million. These project funds would be used for improvement of irrigation efficiencies and purchase of water supply for non-tribal members that are affected by the fact that the tribe is going to be using water on tribal lands.

SEN. KEATING Is the \$2 million under the renewable resource grant and loan program a statutory appropriation on interest income from the RIT? **Mr. Tubbs** It is a statutory allocation that requires legislative appropriation.

SEN. KEATING A percentage of the interest income goes past the statutory allocations back into the renewable resource grant and loan account. How much is in that account, in addition to this \$2 million? **Mr. Tubbs** The new interest deposited into the renewable resources account includes \$2 million for grants and \$3.65 million for other uses. In the next two years there will be \$5.6 million new deposits of RIT interest.

SEN. KEATING Is this an annual appropriation or a biennial appropriation in HB 6? **Mr. Tubbs** These are continuing appropriations, once started they are effective until cancelled or used.

SEN. KEATING Out of this \$5.6 million you are using \$2 million in HB 6, is that correct? **Mr. Tubbs** \$2 million plus the \$125,000 in the first section.

SEN. KEATING What are you going to do with the other \$3 million? **Mr. Tubbs** That funds a number of agency operations.

SEN. KEATING What do the agencies do with that money? **Mr. Tubbs** Operating expenses, personal and grant services, HB 2 appropriations.

CHAIRMAN SWYSGOOD I would like your input on why these projects were eliminated from the original list? **REP. BERGSAGEL** We funded approximately \$520,000 of water and sewer improvements in the City of Fort Benton. Most of this project was for the parks and golf course and the water and sewer projects we were working with ranked higher. Regarding the Deer Lodge project, it wasn't funded because we thought there would be more money coming in from Arco and since Deer Lodge was late on their deadlines we didn't have a chance to do an evaluation of the project. All of the money they are proposing is going to come out of the funds used by the DEQ to provide assistance to small communities to help them write grants and plans for meeting new EPA water and sewer requirements. I urge you to consider that in your decision. Not doing the Broadwater County project may result in difficulty between the ranchers and the Forest Service. I believe there is money at the federal level if they want this fence.

CHAIRMAN SWYSGOOD During your committee hearings, I assume there were people giving testimony that the federal government is trying to get the cost of the fence from the leaseholders. **SEN. BERGSAGEL** That is an accurate statement.

SEN. KEATING On the planning grants for small communities, is that a drinking water study? **REP. BERGSAGEL** It is mainly for water and sewer projects.

SEN. KEATING Isn't there money available for clean drinking water studies and help for small communities in another place? **Mr. Livers** HB 483 makes changes to authorize the state to access federal EPA funds and match them with state funds for drinking water projects. The federal government will allow us to set aside up to 2% of this money which is roughly \$200,000. This could go to technical assistance work for small communities, it cannot be used for the actual engineering studies and facilities plans.

SEN. KEATING This \$100,000 goes to your bureau to use as matching funds for the federal money. **Mr. Livers** No, this money is pass through grant funds that will go to local communities. We propose to provide 55%, they would match this with 45% of local funds to pay private engineering firms to conduct the engineering analysis for these projects.

SEN. KEATING For their safe drinking water or water disposal units? **Mr. Livers** Yes, it was originally submitted with a waste water focus, DNRC requested we expand the focus to drinking water.

SEN. KEATING Is this the only program which would help these communities? **Mr. Livers** To my knowledge it is the only program that provides this particular assistance. There is a safe drinking water program that would be authorized by HB 43 that will provide technical assistance for ongoing work with operators to provide training and technical assistance to help them meet compliance requirements.

SEN. KEATING Is there money in the TSET for these kinds of projects? **Mr. Tubbs** No, this type of planning study is not an eligible use. Regarding your question whether there are other grant funds available, the EPA used to have some funds and those are no longer available. Community development block grant money is nearly gone. There is a loan program to assist municipalities in this area.

SEN. LYNCH This is to help the littlest communities and is a good thing for little, rural Montana.

SEN. BECK In the event some of this money isn't expended could the last two projects possibly get their grants? **REP. BERGSAGEOL** We have two projects below the funding line, Thompson Falls and Park County. If there is more than that it will revert to General Fund.

SEN. KEATING What happens to the emergency money if it isn't used? **REP. BERGSAGEL** It stays.

{Tape: 1; Side: B; Approx. Time Count: 9:10; Comments: None.}

Closing by Sponsor:

REP. BERGSAGEL There is a grant and loan relationship between HB 8 and HB 6, Twin Bridges and Thompson Falls.

{Tape: 1; Side: B; Approx. Time Count: 9:13; Comments: None.}

EXECUTIVE ACTION ON HB 11

Motion/Vote: **SEN. LYNCH MOVES HB 11 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY. SEN. LYNCH will carry HB 11.**

EXECUTIVE ACTION ON HB 8

Motion/Vote: SEN. BECK MOVES HB 8 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY. SEN. BECK will carry HB 8.

{Tape: 1; Side: B; Approx. Time Count: 9:14; Comments: None.}

EXECUTIVE ACTION ON HB 6

Motion: SEN. LYNCH MOVES HB 6 BE CONCURRED IN.

Motion: SEN. LOREN JENKINS MOVES AMENDMENT #HB000602.AGP (EXHIBIT #5) AND AMENDMENT # HB000605.A12 (EXHIBIT #4) AND THAT THESE TWO AMENDMENTS BE JOINED. SEN. JENKINS Change the \$65,000 for Fort Benton to \$32,500.

Discussion: SEN. LYNCH I would like to see the three amendments separated.

SEN. TOEWS I have a problem with striking the \$100,000. I would rather remove the Roosevelt Conservation District/Fort Peck study.

CHAIRMAN SWYSGOOD The first amendment is to strike line 17 & 18.

SEN. LYNCH I think the biggest mistake for rural Montana is to take away their ability to compete with professional grant writers in the cities. This gives them assistance where it is needed.

SEN. BECK If we vote not to strike the \$100,000 that nullifies it, doesn't it?

SEN. TAYLOR I concur with SEN. LYNCH about the small communities. We just gave Fort Benton \$540,000 in HB 8.

Vote: THE MOTION TO STRIKE PAGE 3, LINES 17 & 18 FROM HB 6 FAILS.

Motion: SEN. TOEWS MOVES TO STRIKE LINES 7 & 8 ON PAGE 3.

Discussion: SEN. LINDA NELSON I don't know enough about this project but I must speak against the motion as the conservation district is working with the tribes to get water to the surrounding communities. This has the stamp of approval from the conservation district and would be economic development for the tribe and a good thing for the surrounding communities.

Mr. Tubbs This is related to a large federal project that would provide water throughout the Fort Peck reservation region. The communities surrounding the reservation have poor ground water supplies for drinking water. This would identify what those community's waters needs are. If it were to be approved there

would have to be agreements as to how the water would be distributed and shut off authority.

CHAIRMAN SWYSGOOD Does this have any connection with the compact? **Mr. Tubbs** No, it does not.

CHAIRMAN SWYSGOOD Will this money take care of one of the bottom two projects if we delete this? **Ms. LeFebvre** That is correct, the Thompson Falls project would receive this money. Lines 13 & 15.

Vote: THE MOTION FAILS ON ROLL CALL VOTE.

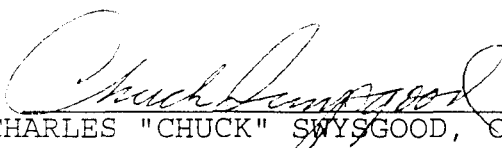
Amendment: Amendment hb000603.agp (EXHIBIT #6)

Motion/Vote: SEN. KEATING MOVES TO AMEND HB 6 WITH AMENDMENT #HB000603.AGP. THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. MIGNON WATERMAN MAKES A SUBSTITUTE MOTION THAT HB 6 BE CONCURRED IN AS AMENDED. THE MOTION CARRIED UNANIMOUSLY. SEN. BECK will carry HB 6.

ADJOURNMENT

Adjournment: 9:30 a.m.


SEN. CHARLES "CHUCK" SWYSGOOD, Chairman


SHARON CUMMINGS, Secretary

CS/SC