

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, on February 12, 1993,  
at 8:04 a.m.

**ROLL CALL**

**Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Fred Van Valkenburg (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Bonnie Stark, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 316, SB 322  
Executive Action: SB 299

**HEARING ON SB 322**

**Opening Statement by Sponsor:**

Senator Larry Tveit, representing Senate District 11, presented SB 322 at the request of the Department of Transportation. This bill will allow the Department of Transportation access to individual income tax information from the Department of Revenue records after providing notice to the applicant. The DOT is endeavoring to prevent fraudulent applications for fuel tax refunds from people who are not bona fide farmers.

**Informational Testimony:**

Bill Salisbury, Administrator of the Administration Division, Montana Department of Transportation (DOT), presented Exhibit 1 to these minutes. Mr. Salisbury said that under the Motor Fuels Tax Refund program, there is one option where a bona fide agricultural person can make application, and receive reimbursement, for 60% of his motor fuel taxes. The information the DOT seeks is the percentage of net farm income related to gross income, and SB 322 will give them the authority to obtain that information only after notice has been given to the applicant. The DOT will not be looking at the income tax records, but will send a form to the Department of Revenue (DOR) who will verify that the applicant is involved in a bona fide agricultural activity.

**Proponents' Testimony:**

None.

**Opponents' Testimony:**

Mick Robinson, Director of the Department of Revenue, spoke in opposition to SB 322, saying they would be able to provide the information the DOT requests if the DOT will not actually be making access into the DOR records, which are confidential. One concern the DOR has is whether the DOT application forms alert the applicants that this information is being sought from the DOR. Another concern is that the language in SB 322 is too broad and should be limited to the specific information the DOT is seeking, and the DOR would provide that information to the DOT.

**Questions From Committee Members and Responses:**

Senator Towe questioned Bill Salisbury about the DOR concerns and Mr. Salisbury responded that the DOT plans to add the applicant notification information on its application forms, and they will narrow the scope of the information sought in SB 322 to verification of the percentage of gross farm income vs. total income.

In answer to questions by Senator Eck, Bill Salisbury said the DOT guidelines for motor fuel tax reimbursement require that 50% of gross income must come from a bona fide agricultural activity.

**Closing by Sponsor:**

Senator Tveit said that the clarification language will be amended into SB 322 in order to allow the DOT the ability to make motor fuel tax refunds to bona fide farmers.

HEARING ON SB 316

Opening Statement by Sponsor:

Senator Tom Towe, representing Senate District 46, presented SB 316 which will include an amendment to the Treasure State Endowment Program (TSEP) to allow county water, sewer, and solid waste districts to apply for assistance. Senator Towe presented information on the TSEP program, copies of which are attached to these minutes as Exhibits 2 and 3. A grant cycle is presently underway with approximately \$2.1 million in available funds and approximately \$11 million in project applications. SB 316 is primarily the result of a series of meetings the Department of Commerce (DOC) held throughout the state last fall for input on how the TSEP program could be effectively run.

Senator Towe said there may be an amendment coming to SB 316 which will authorize borrowing from the Board of Investments for interim financing.

Informational Testimony:

David Cole, Chief of the Community Development Bureau, Montana Department of Commerce (DOC), said the Local Government Assistance Division of the DOC has been assigned the responsibility of implementing the Treasure State Endowment Program. Mr. Cole presented Exhibits 4, 5, 6, and 7, to these minutes, and said the DOC strongly supports SB 316.

Proponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, spoke in support of SB 316. Mr. Hansen said the League worked closely with the drafters of the TSEP and the challenge now is to make it work. Mr. Hansen believes it is very important to specifically include county water, sewer, and solid waste districts; it is critical to have money available for engineering studies to see if a project is workable; and, it is important to consider need in the rating system, all of which are included in SB 316.

Arnold Peterson, Co-Chairman of the Legislative Committee of Montana Rural Water Association, spoke in favor of SB 316. Mr. Peterson said that as an Association, they have great difficulty finding funding for feasibility studies and engineering required before they can go to conventional sources for funding to build these systems. Mr. Peterson said money spent on infrastructure is generally returned to the state several times over in better health, living standards and improved tax base.

Nick Clos spoke as a representative of Montana Rural Water Systems and said they support SB 316 on behalf of the numerous towns and districts in this state. Many of these systems are trying to solve public health and safety problems and meet new state and federal health and safety standards.

Bill Leonard is employed by the Midwest Assistance Program, which is a not-for-profit organization that assists rural communities who are looking for solutions to waste water or drinking water problems. At any one time, he works with 18-20 communities across the state and believes the preliminary engineering is the most important part of SB 316. Mr. Leonard urges support of SB 316.

James Tutweiler, representing the Montana Chamber of Commerce, spoke in support of SB 316. Mr. Tutweiler believes the bill strengthens the Treasure State Endowment Program and will promote more applications which will generate more economic activity and, ultimately, this bill should help develop a stronger infrastructure in the State of Montana.

Carl Schweitzer, representing the Montana Contractors Association (MCA), said the MCA supports SB 316. Mr. Schweitzer said he thinks it is important to have preliminary engineering studies included so when monies become available, Montana's infrastructure needs can be met.

Beverly Gibson, Montana Association of Counties (MACO), said MACO supports SB 316. Ms. Gibson said she supports the statements of the previous speakers and feels this is a much-needed program.

Doug Wells, representing the Montana Association of Water and Sewer Systems, spoke in favor of SB 316 and presented his written testimony, attached to these minutes as Exhibit No. 8.

#### Opponents' Testimony:

None.

#### Questions From Committee Members and Responses:

Senator Van Valkenburg asked David Cole if the Department of Commerce has ranked the 1993 applications, and when they will become public. Mr. Cole said they are in the process of making recommendations at this time and their goal is to get them to Governor Racicot on Monday. The Governor will review them and prepare the final list which will come to the Legislature's Long Range Planning Committee.

Senator Van Valkenburg told Senator Towe he is concerned about moving the criteria of projects that reflect greater need for financial assistance higher in the list of priorities within SB 316. Senator Towe explained the concern was to put need above job opportunities or opportunities for expansion of businesses.

Senator Towe, responding to comments from Senator Eck, said SB 316 will make it easier for some people who genuinely have a valid reason and purpose for living in small communities to help build a better life with healthy water and good sewer systems.

Senator Eck questioned Mr. Cole on how SB 316 will fit into other plans for funding small water and sewer projects through DOC and the Department of Natural Resources (DNRC). Mr. Cole said there are coordinating efforts taking place before the Long-range Planning Committee since several projects have applied to both the DNRC and the DOC. Senator Eck asked if the coordinating efforts could be worked out prior to coming to the Legislature. Mr. Cole said the difficulty is that the TSEP became effective last October, there is no staff assigned to the program, and it has been a volunteer effort by several state agencies to get these applications available and ranked for this legislative session.

Ann Miller, from the Water Development Program in the Department of Natural Resources and Conservation, said the rules expected to be in place for the TSEP state the county water and sewer districts have to be at least 75% developed before they can come in for a funding package. The DNRC is currently working with the Department of Health and the Department of Commerce in various programs.

Senator Gage asked Senator Towe if any of these entities could use RITT grants in these programs. Senator Towe said there is a provision in SB 316 that enables local governments to obtain funds from sources other than the funds provided under TSEP.

Senator Gage asked about multi-county districts. Ann Miller said as long as inter-local agreements between the communities are worked out there should be no reason why multi-county districts wouldn't be approved. Dave Cole said he knows of nothing in the legislation which would be an obstacle to multi-county districts., and that kind of arrangement is already provided in other programs.

Senator Gage said SB 316 doesn't indicate that loans can be made from TSEP. Senator Towe said the bill should have this language, and it will be presented as an amendment.

Senator Gage asked if loans are going to be made for pre-engineering efforts and the project does not develop, would the loans be considered grants. Senator Towe said that is probably true, although the board may devise a system whereby they may be able to assure loan repayment in some instances.

Senator Grosfield questioned Senator Towe about the three different rule-making authorities in SB 316, and if the rules are tied to priority lists in other sections of law. Senator Towe said when the rules are made, they would have to be consistent with the statutes, and he would not object to the Statement of Intent addressing this.

**Closing by Sponsor:**

Senator Towe offered no further remarks in closing.

**EXECUTIVE ACTION ON SB 299**

**MOTION:**

Senator Van Valkenburg moved SB 299 DO NOT PASS.

**SUBSTITUTE MOTION:**

Senator Harp moved SB 299 BE TABLED.

**DISCUSSION:**

Senator Van Valkenburg said he opposes the substitute motion because this issue is extremely important to Montanans, that they have the ability to rely on the public statements of people campaigning for office on an issue as important as their ability to vote on the sales tax. He thinks that every Montanan expected they were going to have a chance to vote on the sales tax before it was implemented.

Senator Harp said he sees no reason to continue the discussion on the Senate floor, and he would prefer that this issue stay in this Committee.

**VOTE ON SUBSTITUTE MOTION:**

Substitute motion that SB 299 be TABLED, FAILED 6 to 5 on ROLL CALL VOTE.

**DISCUSSION ON ORIGINAL MOTION:**

Senator Van Valkenburg said he did not think there would be any discussion on the Senate floor on SB 299.

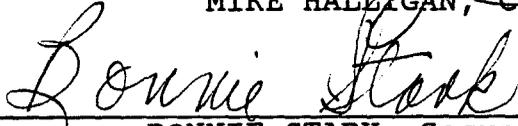
**VOTE ON ORIGINAL MOTION:**

The motion that SB 299 DO NOT PASS, CARRIED 7 to 4 on ROLL CALL VOTE.

**ADJOURNMENT**

**Adjournment:** The meeting adjourned at 9:20 a.m.

  
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MIKE HALLIGAN, Chair

  
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BONNIE STARK, Secretary

MH/bjs

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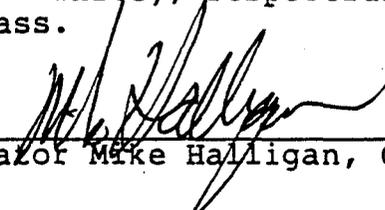
ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 12, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 299 (first reading copy -- white), respectfully report that Senate Bill No. 299 do not pass.

Signed: 

Senator Mike Halligan, Chair





SENATE TAXATION

EMENDIT NO. 1

DATE 2-12-93

BILL NO. SB 322

Date: February 11, 1993

Senate Bill 322

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR  
ADMINISTRATION DIVISION  
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT ALLOWING THE DEPARTMENT OF TRANSPORTATION ACCESS TO INDIVIDUAL INCOME TAX RECORDS UNDER CERTAIN CONDITIONS".

Allows the Montana Department of Transportation the ability to verify percentage of agricultural earned income for gas refund claimants. Effective upon passage and approval.

The Montana Department of Transportation appears before this committee to offer our support for Senate Bill 322.

This allows the Department of Revenue to verify the percentage of agricultural earned income for gas refund claimants upon the request of the Montana Department of Transportation.

Under the current statute 15-70-223, MCA, anyone purchasing gasoline in bulk and whose major endeavor and primary source of earned income is from the business of farming and ranching can file a refund claim for 60% of the tax paid on gasoline purchased. Yet, the Montana Department of Transportation has no way of verifying the income of applicants.

Prior to July 1, 1991, the Department of Revenue performed the motor fuel tax collection and refund process. They had the statutory authority to access these records. This enabling legislation for the Department of Transportation did not include this audit authority.

By allowing access to income tax information, the Montana Department of Transportation could verify whether or not the applicant is entitled to a refund under Option 1 of gasoline refund program.

The Montana Department of Transportation urges this committee to give this proposal a do-pass recommendation.

# TREASURE STATE ENDOWMENT PROGRAM (TSEP)

SENATE TAXATION

Annual Coal Tax Revenue

\$ 40,000,000

EXHIBIT NO. 2

\$-20,000,000 earmarked programs

\$ 20,000,000 Balance

DATE 2-12-93

PULL NO. SB 316

## PERMANENT TRUST

minus \$ 500,000/yr. for Coal Sev. Tax Bonds

minus \$ -0- /yr. for School Const. Bond Special

minus \$ 5,000,000/yr. for 3 yrs. Clean Coal

= \$14,500,000\*

Operating Year	Perm. Fund Principal	Annual Deposits to TSEP Fund Principal	Est. Annual Interest Available for Distrib.
1 FY '94	\$ 7,250,000	\$ 7,250,000	\$ 1,013,136
2 FY '95	(10,000,000)	\$ 10,000,000	\$ 1,653,748
3 FY '96	\$ 7,250,000	\$ 7,250,000	\$ 2,395,000
4 FY '97	\$ 7,250,000	\$ 7,250,000	\$ 3,175,000
5 FY '98	\$ 9,750,000	\$ 9,750,000	\$ 3,955,000
6 FY '99	\$ 9,750,000	\$ 9,750,000	\$ 4,735,000
7 FY '00	\$ 9,750,000	\$ 9,750,000	\$ 5,515,000
8 FY '01	\$ 9,750,000	\$ 9,750,000	\$ 6,295,000
9 FY '02	\$ 9,750,000	\$ 9,750,000	\$ 7,075,000
10 FY '03	\$ 9,750,000	\$ 9,750,000	\$ 7,855,000
11 FY '04	\$ 9,750,000	\$ 9,750,000	\$ 8,635,000
12 FY '05	\$ 9,750,000	\$ 9,750,000	\$ 9,415,000
13 FY '06	\$ 9,750,000	\$ 9,750,000	\$ 10,195,000
14 FY '07	\$ 9,750,000	\$ 9,750,000	\$ 10,975,000
15 FY '08	\$ 9,750,000	\$ 9,750,000	\$ 11,775,000
16 FY '09	\$ 9,750,000	\$ 9,750,000	\$ 12,535,000
17 FY '10	\$ 9,750,000	\$ 9,750,000	\$ 13,315,000
18 FY '11	\$ 9,750,000	\$ 9,750,000	\$ 14,095,000
19 FY '12	\$ 9,750,000	\$ 9,750,000	\$ 14,875,000
20 FY '13	\$ 9,750,000	\$ 9,750,000	\$ 15,655,000
21 FY '14	\$19,500,000	- 0 -	\$ 15,655,000
<b>TOTALS</b>	<b>\$207,000,000</b>	<b>\$197,500,000</b>	<b>\$180,791,884</b>

\* Changes to \$ 19,500,000 in year 1997.  
 Years '94 & '95 projected at 8.26% & 8.56% interest earning rate, respectively.  
 Years '96 & on, projected at 8% interest earnings rate.

## "TREASURE STATE ENDOWMENT PROGRAM"

### The Definitions of the Act: (LR 110)

1. Creates a Treasure State Endowment Fund & Program (TSEP). ( effective 10/1/92)
2. Provides for a 50% TSEP Fund / 50% Permanent Trust Fund deposit of uncommitted annual coal severance tax receipts.
3. Authorizes interest from TSEP fund to be spent on grants, debt service subsidies, and loans to local governments.
4. Transfers \$10 million (one time) from the permanent trust to the TSEP fund. (effective 7/1/93)
5. Provides that the 53rd legislature may authorize the issuance of bonds in order to provide the maximum amount of initial funding.
6. Defines eligible projects as: drinking water systems; wastewater treatment; sanitary sewer or storm sewer systems; solid waste disposal and separation systems, including site acquisition, preparation or monitoring; and bridges.
7. Expands the coal severance tax bond program & amend 17-5-701 and 17-5-703, MCA.
8. Provides statutory priorities for ranking applications.
9. Provides for Executive Branch application review/recommendations and final Legislative project funding review/approval.
10. Submits the creation of TSEP (LR 110) to the qualified electors. (Passed 6/3/92)

EXHIBIT NO. 2-12-93  
DATE 2-12-93  
BILL NO. SB 216

MENT PROGRAM CASH ANTICIPATION

al Year 1994

5/95 6/95  
\$1,812,500

12/93 1/94 2/94 3/94 4/94 5/94 6/94  
\$ 1,812,500 \$1,812,500

\$22,687,500

\$13,625,000 \$15,437,500

\$ 161,838 →

→ \$ 93,785 → \$ 106,261 →

208 \$2,505,046 \$ 2,666,884

7,950 \$519,259 \$ 613,044 \$706,829 \$800,614 \$ 906,875 \$1,013,136

11/20/92)

**TREASURE STATE ENDOWMENT PROGRAM CASH ANTICIPATION**

**Fiscal Year 1995**

	7/94	8/94	9/94	10/94	11/94	12/94	1/95	2/95	3/95
Principal deposits:		\$1,812,500			\$1,812,500			\$1,812,500	

Cumulative principal deposits:		\$17,250,000			\$19,062,500			\$20,875,000	
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Interest earnings (by month):		\$123,050			\$135,979			\$148,908	
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Cumulative interest earnings (by month):	\$1,119,397	\$1,242,447	\$1,365,497	\$1,488,547	\$1,624,526	\$1,760,505	\$1,896,484	\$2,045,392	\$2,194,300
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**NOTES:**

- Assumes no interest earned on interest
- Interest calculated at Long Term ROC Interest Rate: 8.56% (adopted 11/20/92)

DEPARTMENT OF COMMERCE  
LOCAL GOVERNMENT ASSISTANCE DIVISION

MARC RACICOT, GOVERNOR

1424 9TH AVENUE  
PO BOX 200501

## STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0501

WRITTEN TESTIMONY SUBMITTED BY DAVID COLE, BUREAU CHIEF, COMMUNITY DEVELOPMENT BUREAU, MONTANA DEPARTMENT OF COMMERCE REGARDING SENATE BILL 316 SPONSORED BY THOMAS TOWE OF BILLINGS

The Department of Commerce (DOC) supports SB 316. The bill amends the enabling legislation for the Treasure State Endowment Program (TSEP) which was approved by 62% of Montana voters through Legislative Referendum 110 in the June, 1992 primary election.

SB 316 responds to several key concerns regarding Treasure State that were expressed in 10 public hearings we held across Montana in September and October. Over 150 people participated in those hearings.

Several of the amendments are housekeeping in nature. The following are the Department's comments on the major amendments:

**page 2, lines 22-23:**

This amendment would authorize county water, sewer, or solid waste districts to apply directly for TSEP. Under the existing statute, counties must apply on behalf of special districts.

County commissioners, special district representatives, and the bond counsel for the State recommended this change. Most commented that it is inappropriate to require a county government to assume responsibility for a special purpose district's financial obligation to the State.

**page 3, lines 22-24:**

This amendment would authorize TSEP to make deferred loans to local governments and special districts for preliminary engineering studies.

We received more comments on this issue than any other. It was a major concern at every hearing we held and for the majority of letters and telephone calls we received. The lack of funding to prepare preliminary engineering studies is viewed as the major obstacle to communities in developing and constructing local public facilities projects, not just for TSEP but for all state and federal funding programs. Given the financial constraints imposed by I-105, few communities have sufficient reserves to fund needed engineering studies.

The provision of loans for preliminary engineering would not just help communities apply for TSEP funding. If a community is able to prepare a preliminary engineering plan for a public facility project, it will then be able to pursue financial assistance through other state or federally funded programs during the interim year between legislative sessions.

As proposed, repayment would be deferred until the project moves to construction. The community would repay the engineering loan when financing, such as through the issuance of revenue bonds, is arranged for final engineering and construction.

**page 4, lines 23-25 and page 5, lines 1-2:**

These amendments would revise the statutory priorities for TSEP projects.

During the public hearings last fall, a local official suggested that an additional TSEP ranking priority should be added to consider the soundness and cost-effectiveness of the technical solution proposed in the TSEP application. The DOC Community Development Block Grant Program (CDBG) and the DNRC Water Development Program currently incorporate similar criteria to evaluate the technical feasibility of proposed projects. In our 11 years of reviewing CDBG public facility applications, it has not been uncommon to receive applications from communities with serious health threats but which have proposed engineering solutions that the Department of Health and Environmental Sciences considers inappropriate or excessively costly. The new criteria which is proposed would address this issue.

Based on our experience in reviewing the TSEP applications submitted for review by this Legislature, the Department also supports moving local financial need to a higher priority.

Given the limited amount of TSEP funds that are available, relative to the high demand by local governments for financial assistance, we believe that the overall ranking should place greater emphasis on the relative need of each applicant for TSEP assistance. This change would be consistent with the program's stated purposes of making necessary public projects affordable. Under the current order of priority, a community could rank high overall due to the other ranking criteria, even though it has the financial capacity to fund a project without TSEP assistance.

DOC believes that these changes would make the application ranking priorities and the likely results of the ranking process more consistent with the overall intent of the existing law.

We urge your support of SB 316.

## FOR THE TREASURE STATE ENDOWMENT PROGRAM

The following comments are a summary of oral and written comments received at ten regional public hearings held on the draft application guidelines for the Treasure State Endowment Program (TSEP) from September 26 to October 9, 1992 and written comments received to date since the hearings. The hearings were conducted by staff from the Montana Department of Commerce (DOC), Local Government Assistance Division. The statements represent the essence of the speaker's comments and are not intended to be a verbatim record. The original statement may have been paraphrased to improve clarity or make the statement more concise.

The dates and locations (with a location abbreviation noted) of the statements were as follows:

September 28th	Havre (Hav)
September 29th	Glasgow (G)
September 30th	Miles City (MC)
October 1st	Billings (B)
October 2nd	Helena (Hel)
October 5th	Kalispell (K)
October 6th	Missoula (M)
October 7th	Butte (Butte)
October 8th	Great Falls (GF)
October 9th	Lewistown (L)

Written comments received as of October 23rd are identified with a (W). Telephoned comments received to date are identified with a (T).

The comments have been organized by general topic. The order of the topics below follows the overall organization of the draft TSEP Application Guidelines and corresponds to the order in which the topics were discussed at the public hearings.

## 1. GENERAL COMMENTS

If you're going to have an infrastructure program, you need two things: a fair playing field and enough financial incentive to stimulate applications.

We agree with the comments you received in Havre.

You should put out something that summarizes the comments you have received.

I am pretty much in agreement with your draft guidelines. (M)

TSEP will invest several million dollars in projects which will employ many people statewide. Please consider requiring or encouraging whoever gets these funds to recruit and, whenever possible, employ public assistance clients. Often, such people need only a chance to develop a work history to enable them to become self-sufficient. Your implementation would demonstrate that this administration is

sufficient. Your implementation would demonstrate that this administration is coordinating efforts and shares a common goal. (W)

## **2. AMOUNT OF FUNDS AVAILABLE FOR TSEP PROGRAM**

TSEP doesn't provide enough money. (Hav)

This isn't very much money to go around. (Hav)

There just isn't enough money in TSEP. It's a drop in the bucket. (Blgs)

The Legislature can take away TSEP funds by just passing a statute; it's not really permanent. (Blgs)

This is a lot of hoops everyone is jumping through for a tiny amount of money. It's not going to have any noticeable effect. It's too little. The first ten years of TSEP are pretty minimal. (Hel)

What percentage of needed public facility projects will you get to with TSEP? (Kal)

At least TSEP is a start. If this were to go for 40 years, we'd see a lot of benefit. (Kal)

Our sewer project for 60 hook ups is going to cost \$2 1/2 million. That would take all of the TSEP funding you have for two years. (M)

Our city officials feel that TSEP is not really useful. It's much ado about not very much money. (Butte)

How dependable is the flow of money from the coal tax? How dependable is the market over the long-term? (Butte)

The money that will be generated is a very small amount when you consider the extent of need throughout the state of Montana. It's not enough. (GF)

What's the long term revenue that will be generated from coal? How constant is it? (GF)

The money TSEP has available could be used up by two or three projects. We just worked with the Evergreen (sewer) project near Kalispell that cost over \$11 million. (GF)

Your projected figures for earnings from the TSEP look overly optimistic. (L)

## **3. BIENNIAL REVIEW CYCLE/LEGISLATIVE APPROVAL**

We don't want it to go through legislative review. Every two years is too slow. We should review applications every year like CDBG (the State Community Development Block Grant Program administered by DOC). (Hav)

The cycle is too slow to be useful for funding economic development projects. Private sector developers can't wait two years. (Hav)

Funding can take even longer because money may not be available when the Legislature approves a TSEP project. It can be 2-3 years from design before funding is ready. (Hav)

With legislative approval, it could take four years from the time you get money for preliminary engineering before you build a project because you have to go back two years after plans are done to get construction money. (Hav)

The current DNRC (Montana Department of Natural Resources and Conservation) Water Development Program is not usable because of timing problems and inflexibility. Our bids came in higher than expected and we needed a larger loan. We had to wait two years because the Legislature had to approve the exact amount of the loan. (Hav)

Legislative oversight is o-k. They can hold DOC accountable through a legislative committee but the whole Legislature doesn't need to select projects. (Hav)

The legislative process is confusing for small towns; you have to travel to Helena and testify. (Hav)

Our chances with DOC are better. Rural areas can't compete with the votes and lobbying of larger communities. It would not be on an equal basis like it is now with CDBG. (Hav)

The Legislature shouldn't "micro-manage" the program. The review should stop with DOC. It has ranked public facility projects for ten years with CDBG and has well-earned reputation for being fair. An annual program would accelerate the whole process. (Hav)

The only argument for legislative review is to prevent the Governor from having slush fund. That's hogwash. (Hav)

How is the Governor having a slush fund different from the Legislature having a slush fund? (Hav)

The Legislature should look at what DOC has done with CDBG. They should ask applicants and recipients how they were treated. We got fair treatment. We were able to know what we were competing on. That's all we ask. (Hav)

You're always going to have to tell some people "No." Governors would rather have a department do that than be personally associated with the decision. (Hav)

You won't always be successful. With an annual process, you can re-apply the next year. If you have to wait two years you lose your other funding sources and community support. Local officials get frustrated and say "The heck with it." An annual process allows you to keep the momentum going. (Hav)

We need a streamlined system that's fair, responsive, and turns around quickly that you can apply every year to. The Legislature ought to just set it up and let it run. (Hav)

Ranking applications is not fun; it's difficult. All that any local government asks is that their needs are being treated fairly. The track record is there with CDBG; we just need to build on it. (Hav)

Why can't the money be distributed as projects are developed instead of waiting every two years for the Legislature? Why not have DOC review applications when they are needed (on a continuous basis)? (G)

I agree that every two years is too slow. The Legislature shouldn't have select TSEP projects; it's overkill. (G)

Why couldn't you distribute the money on an as needed basis? For example, I submit a project and it meets requirements. You hold it until money is available. Our project will not be ready for the first round. Have DOC issue funds as received. Am I dreaming? (G)

We have to go to the Legislature every two years - that's sad. We need to have this work every year. (Blgs)

Review and approval authority for TSEP should be with a state agency and/or board. Approval by a biennial legislature will not be responsive nor mesh with federal financial assistance programs. (M)

The two year timeline is too long for economic development projects. It would make it very difficult. (Butte)

We're afraid of the legislative approval process. We don't have the votes in eastern Montana. We would prefer to have DOC review the applications like it does with CDBG. (L)

How useful would TSEP really be for economic development projects? It looks like the biennial cycle would take too long. (L)

The application cycle should be yearly, because this will make funds more readily available. The review process should be linked to the existing CDBG program to avoid unnecessary duplication. Requiring legislative approval adds one more item to the Legislature's already packed agenda, and will make the selection of grant recipients more susceptible to political influences rather than technical merit. (W)

The program should be administered, to include application review and approval, in a timely manner to allow for synchronization with federal financial assistance programs. A two-year approval process is not conducive to financial packaging and timely projects. (W)

#### **4. ELIGIBLE APPLICANTS**

Accepting DNRC and CDBG applications as TSEP applications is a great idea. (MC)

A county should be able to sponsor more than one project. We're glad the guidelines allow that. (Blgs)

The Montana Constitution prohibits the Legislature from appropriating funds to a

private individual or corporation directly, as in the TSEP process. TSEP can only assist public entities. (Hel)

We support allowing counties to apply on behalf of more than one project but would prefer allowing water or sewer districts to apply directly, instead. (Kal)

You need to try to get the Legislature to broaden the definition of those eligible to apply. (Kal)

Homeowners associations and mobile home parks should be able to apply for TSEP funds. (M)

All legal public entities, to include water and sewer districts, should be directly eligible for TSEP. (M)

Continue to allow automatic rollover of CDBG and DNRC applications into TSEP applications, even after the first year. (M)

Water and sewer districts should be able to apply directly. Counties don't want to get in the middle of a loan obligation from a district to the State. We can't assume any responsibility for repayment of their loan. We can't make that guarantee. The County has no means of generating revenue to pick up that obligation in the event of a default. (GF)

Under the Clean Water Act, EPA (the U.S. Environmental Protection Agency) defines public water systems to include mobile home parks. Those people will go out of business if there isn't some means of assisting them. We should allow loan assistance to them. They are public water systems by EPA regulations. (GF)

It is discriminatory to consider CDBG and DNRC applications automatically for TSEP. They will have a head start for funding and we will have little time to start from scratch. (L)

The Legislature specified that eligible applicants for this program are to be "local governments." This excludes special purpose districts. County water and sewer districts should be allowed to apply on their own merits. Many counties across the state, regardless of the need or impact on public health, will possibly balk at co-signing on a bond sale with the community where the fiscal ability to repay is potentially weak. I don't know of many county commissioners who would enter into an agreement where they feel the possibility exists that their county might end up paying the bill. (W)

It would be helpful if county sewer and water districts could apply directly, instead of through the county. This would eliminate even more duplication, since CDBG already requires application through the county. (W)

Water and sewer districts should be allowed to apply without direct sponsorship from the counties. If water and sewer districts are to be required to be sponsored by their county, clarification must be made as to the number of projects each county will be allowed to sponsor. (W)

TSEP has overlooked home owners associations and mobile home parks. These two

groups have recently been brought into the public water supply arena by an administrative rule imposed by the Montana Department of Health and Environmental Sciences (DHES). This rule states that all water systems with ten connections or more are now considered public water supplies. These systems do not have the capacity to upgrade their systems to comply with all the regulations that are now in effect without some assistance. This assistance, to be effective, must be in the form of grant monies. (W)

Indian tribes should be eligible to apply without going through a county government, since they are sovereign nations. (T)

The requirements of the Federal Clean Water Act and EPA are having a significant impact on small communities and all public water and sewer systems in the state. This includes many commercial concerns such as trailer courts. They are a part of the infrastructure of this state. TSEP excludes assistance to privately owned, for-profit organizations or facilities. These types of facilities support the economy of this state and definitely affect the public health of a number of the state's citizens. These types of public systems should at least be considered as eligible for loans. The [new requirements] for testing of water and for treatment of water and sewage will put many of these concerns out of business. (W)

## **5. ELIGIBLE PROJECTS**

Why aren't roads included? (G)

Why aren't roads included? ....We have other sources of funding. (MC)

Could you have CDBG fund projects that aren't eligible for TSEP and use TSEP only for TSEP-eligible projects? (L)

## **6. ELIGIBLE COSTS (NEED FOR PRELIMINARY ENGINEERING ASSISTANCE)**

Up to 50% of preliminary engineering costs should be eligible for TSEP funding (a 50/50 grant) but this only makes sense if engineering grants can be o-k'ed without legislative approval. (Hav)

TSEP funding should be available for preliminary engineering. TSEP could provide a dollar for dollar match. It could be like the old EPA Wastewater Construction Grants Program; if you didn't follow through with the project, you paid it back. (Hav)

Preliminary engineering fees should be included in the TSEP because a lot of small towns don't have money set aside for major capital improvements that occur without any notice. (MC)

EPA funded matching grants up to a certain level for preliminary engineering. That was really important to us. You can't play the game without preliminary engineering. (MC)

Money for preliminary engineering is a big item. Communities are flat broke. It's really needed. (Blgs)

Funding preliminary engineering is important. Montana people won't buy a pig in a

poke; they have to know what the proposal is and what it costs. TSEP has to address up front costs or you won't be able to get people to buy into any kind of project. (Blgs)

A loan fund should be set up so communities could borrow for preliminary engineering and design. They could repay the loan when they do construction financing for the project. It should be included in the overall cost of the project. (Blgs)

We need some way of helping with preliminary engineering studies. (Hel)

TSEP should provide matching grants or loans for preliminary design studies. (Hel)

Financing preliminary engineering is not that big an issue; it is not an obstacle. (Hel)

Start up money is a continuing problem, especially for small communities. They don't even get into the pool of applicants without it. (Hel)

This is a problem for every infrastructure funding program. TSEP doesn't have enough money to deal with it. (Hel)

You don't have very much money here. The whole intent of this program is to construct projects and create jobs. It would be sad thing to use the money for planning and not get anything done. (Hel)

You could spend all your money on preliminary engineering studies and not get any projects built. (Hel)

The cost of preliminary engineering depends on the size of the community and the problem facing it - it varies case by case. (Hel)

In eastern Montana, nobody has any money to do anything. [They will need TSEP funding for preliminary engineering.] (Hel)

A predecessor to EDA (the U.S. Economic Development Administration) provided loans for preliminary engineering. The loan was repaid when the project was constructed. Probably some of those loans were never repaid. (Hel)

The Public Service Commission (PSC) might not allow communities to repay loans for preliminary engineering through their rate base (as a separate "stand alone" charge). Repayment would probably have to be tied to overall financing of a construction project. (Hel)

Getting money for preliminary design is very difficult. There's got to be some mechanism for funding this. (Kal)

TSEP needs to cover preliminary engineering and project planning costs. (Kal)

Planning in the preliminary stage is critical to the quality and cost-effectiveness of the project you're going to have. (Kal)

There's got to be some sort of mechanism for small communities to get the

preliminary engineering done initially. (Kal)

TSEP must have preliminary engineering grants available -- projects cannot begin without this expensive up-front cost. (Kal)

If you spend some money on planning up front, you can save a lot of frustrations down the road. (Kal)

Small communities need some form of assistance for first-look or preliminary studies and engineering/planning. (Kal)

Communities also need training in how to select a good engineer. (Kal)

Our sewer district has no way to get funds for preliminary engineering. It should be eligible for TSEP funding. We're going to have to get some funds to define our needs and the scope of the problem and the cost to fix it. (M)

As a newly organized sewer district in Seeley Lake, we would like assistance from TSEP for grant money. Preliminary engineering is needed to help us in finding any problems that may exist. (M)

Since our sewer district is newly organized, we have had the basic problem of no financial help from any source to help us. This money is needed to [hire] an engineering consultant to investigate the preliminary needs of two sewer systems in Seeley Lake. (M)

A preliminary engineering grant set aside is desperately needed. (M)

For years the biggest stumbling block has been the difficulty of funding preliminary engineering. It is the very thing you need to propose a project. We need a way to advance funds to study alternatives for solving problems. You can't select a sound design without it. (M)

People won't support a project unless the need can be shown (with a preliminary engineering study). (M)

With no existing (water or sewer) system in a community, you have no way to raise money (to pay for preliminary engineering). (M)

You need a preliminary engineering study as a "jump start" to even begin the search for financial assistance. It's a "Catch 22": you can't start without it but you can't get financial assistance to help fund it. Communities aren't facing their problems because they can't afford the \$10-20,000 it costs to hire an engineer to verify their problem and suggest some alternative solutions. You can't sell a project to the public without it. (M)

Other states provide funding for preliminary engineering. That's why Montana is so far behind other states in dealing with infrastructure problems. That's why over the years we have sent millions of dollars of U.S. Farmers Home Administration (FmHA) money back to the national pool; we didn't have projects ready to go. (M)

We need an easily accessible TSEP grant setaside for preliminary engineering. (M)

The idea is to make money available for high cost projects to small communities. Why isn't preliminary engineering available if they are successful in getting the loan or grant? It must be considered - in our community this has been one of our draw backs. (M)

TSEP should not duplicate other infrastructure programs. Using TSEP to fund preliminary engineering would not duplicate any other program. We could do something with this new state program that no one else does. (M)

You could use TSEP as a revolving fund for preliminary engineering loans. When they build their project, they pay it back. Make a setaside and have people apply for it. (M)

The Legislature may not appreciate the problem. The program is supposed to support infrastructure projects. Providing funding for preliminary engineering would do that. (M)

There is a great need for engineering moneys for proposed plans - or you probably wouldn't have the information to apply for other grants. (M)

We haven't used all of the FmHA grant money that is available because of a lack of applications. Preliminary engineering is needed to fill this chasm. (M)

Preliminary engineering services should be allowed as match for TSEP grants. Communities should get credit for what they have spent up front. (M)

You can't get a project started without engineering and we can't pay for it. (Butte)

You have to have preliminary engineering to even enter the program. (Butte)

We had to take our enterprise (water) fund down to zero to pay for preliminary engineering. If we'd had a major problem at that time we would have had no where to go. We don't have \$10,000 in an account like a larger city might. (GF)

We have already spent a fairly large amount of money working on grant applications and preliminary engineering. If we could not be reimbursed for this or if this could not be considered as local match, it would really make a difference on what we could apply for. (GF)

Because of the number of low income communities in Montana that couldn't even afford a no interest loan, a portion of TSEP funds should be set aside to help small communities with preliminary engineering. It's essential for small communities to get into the process and to get their infrastructure problems addressed. (GF)

It's a "Catch 22" in that to do a good application you need preliminary engineering and yet communities can't afford to pay for the pre-engineering. (GF)

The old EPA Construction Grants Program provided seed money for pre-engineering in order to move a project forward. (GF)

A revolving loan fund for preliminary engineering would be a viable possibility. (GF)

Without preliminary engineering, you can't go anywhere: you can't go to CDBG, you can't go to DNRC, you can't go to FmHA. Everyone needs that preliminary engineering. Without it, you're stuck. (GF)

Many small communities need funding for preliminary engineering prior to application. Small studies are relatively inexpensive but small systems see preliminary engineering as a shot in the dark of obtaining a grant or loan with no guarantees. They feel that what they are going to get is a pile of paper which is worthless without the grant or loan. (GF)

FmHA will reimburse for preliminary engineering as part of its loans and grants. (GF)

TSEP should be revised to appropriate money for preliminary engineering. Preliminary engineering is critical for many communities to identify problems, costs, and to sell the local population on the need for the project. (GF)

A preliminary engineering grant set aside is the most needed aspect of infrastructure development in Montana. The Legislature has gone on record in support of utilizing TSEP funds to leverage other monies. That desire could not be better satisfied than by providing first phase, jump-start, preliminary engineering grants. Neighboring state grant programs providing for preliminary engineering have been very productive. (W)

It is my understanding that TSEP was designed to not duplicate other programs already in existence, yet, just as with SRF (the EPA-funded State Revolving Fund administered by DHES which provides low-interest loans for sewer projects), CDBG, FmHA, and many other programs, preliminary engineering/planning applications are not eligible. Our community has already had one proposed sewer system defeated, because not enough facts were presented, the system was too big and too expensive, and the need for the system was not proven. It would seem prudent to spend considerably less money for preliminary engineering, rather than to spend millions of dollars on a system that won't work or people can't afford. Please consider making preliminary engineering/planning applications eligible under the TSEP before continuing with disbursement of the funds. (W)

Preliminary engineering should be an allowable cost. Many of our communities do not have the means to afford preliminary engineering. This is a vital part of the application process. A portion of the funds available could be set aside for a limited number of such grants. (W)

Preliminary engineering should be an eligible project cost. It should also be eligible as a "stand-alone" TSEP application. (W)

## **7. APPLICATION SCORING SYSTEM**

You should have another ranking criteria; like CDBG, you should look at the appropriateness and cost-effectiveness of the proposed technical design. You want the best project that you can put together. (MC)

Congratulations on walking a very difficult line. I'd encourage you to include examples in the "criteria" section. It tends to clarify most concerns by listing the

activities and actions that will impact an applicant's competitive standing. (M)

## **8. FORMS OF TSEP FINANCIAL ASSISTANCE**

The Legislature may swallow twice when they look at these numbers but we have to get serious about our infrastructure needs. (Hav)

Basically, I feel TSEP funds should not be competitive, but rather allocations made to each community on a formula basis, similar to gas tax, e.g., water and sewer allocations based on number of miles of each with some provisions making allowance for small communities not being overwhelmed by the larger ones. (MC)

A community shouldn't have to vote on a bond issue before it applies for TSEP funding. (Blgs)

Refinancing of existing debt should be allowed when it is done in conjunction with a new project. It may make sense to roll old debt into a new bond issue in order to achieve a lower per household user cost. (Blgs)

The Legislature would oppose using TSEP for refinancing on a routine basis but it might be o-k if necessary to make the financing of a new project affordable. (Blgs)

Refinancing could lower user costs substantially. (Hel)

Not allowing refinancing penalizes communities that have already done projects to meet federal standards. (Hel)

TSEP has three options:

1. one-time, up-front grants,
2. apply debt service subsidies to local bond debt over the term of the bond, or
3. the State can sell its own bonds and use TSEP to make up the difference between what the local government pays the State and the State's cost on the bond issue. (Hel)

From a management standpoint, you need to set up definite parameters in your guidelines, such the \$500,000 cap on affordability grants. (Hel)

A cap of \$500,000 will limit you to smaller dollar cost projects. (Hel)

Grant and low interest loans sources are absolutely essential for most small and/or rural areas of Montana. Many communities could not fund infrastructure projects. (Kal)

Communities should be able to phase improvements to an overall system as separate components over a period of years as part of a capital improvements plan. (Kal)

DOC and the State Administration should allow local governments flexibility to raise new revenue for matching funds for limited specific purposes such as this. HB 267 at the 1991 Legislature is a good example of a grant of limited authority. (M)

EPA sends down directives on what we're supposed to do but doesn't say how to

pay for it. (Butte)

The difficulties of funding public facilities is extremely frustrating. Some small communities just give up. (GF)

Your comments in the "Introduction" regarding the State's population distribution and economic conditions succinctly place the problem which exists in our small communities. Dr. Haines' conclusion to his study also bears out the fact that many of our communities, both incorporated and unincorporated, cannot afford even zero percent interest loans. To this end, I would note that the level of money generated from the coal severance tax interest is minimal when considered for making grants to worthy projects where there is a serious fiscal need. It would appear that this program is more geared to be a loan program. (W)

We suggest you consider including, as a condition of funding, a method where new customers pay a fair share of the construction cost of the funded facility. Examples of such methods are system development fees, buy-in fees, and connection charges. This helps assure that existing system users don't bear a disproportionate share of system expansions. (W)

#### **A. AFFORDABILITY CONCEPT**

In addition to affordable user charges, you have to consider keeping bonded indebtedness per household down to levels that bonding companies are comfortable with. (Blgs)

Applicants should propose the financing option they want. If it isn't workable, DOC can negotiate with them. The goal should be to fund as many projects as possible. (Blgs)

The proposed system (for determining affordability) only considers one utility. You may already be carrying high costs for solid waste or sewer. (Blgs)

Using median household income (to determine affordability) is equitable. It works. (Blgs)

The 1% [of median household income standard] seems to be a breaking point across the state. Once rates start to exceed that, people resist. (Blgs)

FmHA allows you to do income surveys to make comparisons. Census information may not fit your project area. (Blgs)

We need to consider operation and maintenance (O & M) costs for households, not just debt service. You need to look at all the pieces of the puzzle. (Blgs)

FmHA considers O & M and debt service in its 1% calculation. (Blgs)

TSEP should look at the entire user charge, not just debt service. The people in a community care what their entire user charge is, not just the part related to debt service. (Blgs)

If the 1% calculation isn't a realistic base because of O & M charges, you

need to look at the percentage. If it is, then o-k. What does the average person pay in Montana for water? It isn't right to subsidize more than that. (Blgs)

If you're talking about affordability, then you need to consider O & M costs. (Blgs)

O & M costs vary considerably depending on the type of system involved. The bottom line is what do the people have to pay, since affordability is the issue. (Blgs)

You need to look at total user fees. (Blgs)

Would the 1% test help larger communities? It seems more targeted to smaller communities. (Hel)

The 1% test is just a rule of thumb. It doesn't look at the overall costs the community is carrying and how much debt they can take on. Even if you consider O & M, they may be carrying high costs for other public facilities or services. Bonding companies look at overall debt. (Hel)

The reference on page 18 to the EPA Construction Grant Program is incorrect when considering means to assess affordability. EPA uses a variable scale to denote affordability levels with the scale varying as a function of income levels. (Hel)

Some communities have been negligent; their rates have been too low. It's good to compare overall local effort and financial capacity. (Hel)

How do you compare financial need for bridge or storm drainage projects? Financing bridges with TSEP raises technical, legal, and other problems. (Hel)

How do you define "affordability" for bridges, solid waste, and storm drainage projects? (Hel)

The 1% test is not a fair measure for our town because a very high percentage of our population is very low income: 40% is below \$11,000 in income. Half of our town is very poor, the other half is very well off. We have few families in the middle income range. (Kal)

O & M fees should be considered because they are a cost to the user. (Kal)

Interest rate subsidies should use debt service as a parameter and not include O & M costs. (Kal)

You need to look at overall debt. Communities that are really trying to respond to all the EPA requirements are saddling themselves with a lot of debt. Interest rate subsidies should also look at overall debt. (Kal)

As you start stacking debt for other community facilities, can the community really afford another 1%? How deep in debt should they be? (Kal)

Basing financial affordability on residential sewer rates can skew financial impact in those communities that use a "strength of effluent" rate structure whereby businesses such as restaurants and dairies that create harder to treat effluent pay more. Consequently, residential rate payers pay less than in other cities where rates are based solely on volume. (M)

Considering other local costs, in addition to household incomes, will complicate the application. We want to avoid that. (M)

When you look at a community's need for assistance, you need to consider the SID (special improvement district) debt that property owners are carrying. (M)

How many other local costs and SID assessments will you consider? Where do you draw the line? (M)

Defining "reasonable" costs for solid waste is very difficult. Costs are changing so quickly because of the new EPA requirements that a survey of current charges or assessments may be misleading. (M)

Could O & M costs be considered but subtract any portion of the user charge that is going into a reserve? Count only the O & M costs actually dedicated to O & M hard costs, testing, etc. (M)

Given DOC's years of experience, can a guide book be developed that would help some communities conclude they just can't make it? Are there any data to show when the combination of tax base, and infrastructure deterioration and household income are so hopeless that no amount of investment is justified? (I know - this closer to a political than programmatic question, but it would help if such a guide could be developed.) (M)

You need to consider the number of people in a community, not just their income. It will cost a community with a hundred people just as much as a community with 500 people to do a project but we're dividing the cost into a smaller number of people. (GF)

I recommend that you look at the total debt owed by a community, the rate they have been charging for water and sewer. If abnormally low, tell them no help until they agree to be more comparable to average rates. When the request is reviewed, add in operating costs and reserve accounts. (GF)

Cost per household should include O & M and debt payment and reserve requirements. FmHA includes O & M. It divides the number of users into the total cost of O & M, interest, debt service, and the reserve account. (GF)

A lot of little towns aren't charging what they should be charging. That's the reason why they're in trouble. (GF)

We have spent eight years solving our solid waste problems. Our efforts and our costs for solid waste should be considered when we come in for a sewer or water project. (L)

The overall effect of the program seems to be more to the needs of small communities than the large ones. Along these lines, the program relies heavily on overall, larger area statistics. We suggest you consider projects on smaller area data, such as census tract information. This allows areas of need with a larger area to benefit from the program. (W)

If the median household income listed for Broadus is used to figure eligibility for TSEP grant assistance, the Town of Broadus' chance for receiving funding will be greatly reduced. We question if other communities, especially ones as small as ours, are faced with this problem also. (W)

## **B. GRANTS**

It's better to have grant ceilings higher at realistic levels and then tell the Legislature that you need more money to maintain infrastructure and a solid economy in the future. (Hav)

Even a 50% grant may not be enough to lower costs to an affordable level. (Hav)

Your matrix actually understates the case for up-front grants. If affordability is the goal, grants are the best option. Every dollar a community receives as a grant is a dollar it doesn't have to borrow and pay underwriting costs on. Every dollar financed pushes up user charges because of coverage and reserve requirements. (Hav)

Another difference between grants and debt service subsidies is that the people that price your bond would look more favorably at an up front grant than a subsidy that may quit after a certain number of years. A grant may lower your costs more. Also, with a limited amount of dollars available, you want to keep your administrative costs as low as possible so that the maximum dollars get to the people. If you have to keep track of subsidy payments that's additional administrative costs that will eat up funds. (G)

Why have a dollar cap as well as a percentage cap limit on TSEP grants? As money grows in the TSEP fund in future years, the limited funds now available won't be a problem. Especially for the debt service subsidy, don't limit what somebody can do on a bond issue. (Blgs)

Grants will only allow TSEP to do three or four projects. (Blgs)

Grants and interest rate subsidies with direct TSEP loans make more sense economically and administratively. (Kal)

We have an infinite amount of low interest loan money out there that we aren't beginning to use. We have precious little grant money. (M)

Grants have the benefit of reducing the amount of debt the local government has to incur. (M)

We're looking for grant assistance, not a loan. (Butte)

Up-front matching grants are preferable because they help preserve a community's capacity to issue additional debt and avoids long-term obligations for the State. (GF)

Could a community just ask for a grant without matching money? We have spent a lot of money in the past to fix our water system with loans and grants. We don't have any more money to match with. We need a grant to finish our project up. (GF)

I understand that loans are possible only from bond proceeds. I'm told that there is general agreement that additional legislation is necessary to authorize such bonds. Therefore I and others recommend that only grants be considered for presentation to the legislature. (W)

It is noted that loan subsidies are possible. This is a step in the right direction for those communities where it will work, but it is not enough. More money must be made available for grants. (W)

### C. DEBT SERVICE SUBSIDY

On your matrix (which compares the alternative funding options), debt service costs are significantly understated, not "somewhat understated" as your forms says. You haven't added in the required reserve for a bond issue, which is equal to one year's payment. Also, underwriting costs and most important is the "coverage" ratio. You have to have revenue equal to 125% of debt service. Rates will be much higher. That has the greatest impact on the debt service subsidy option. Your TSEP subsidy won't go as far as you project. It will have much less impact on affordability. (Hav)

An annual debt service subsidy may be a good idea but it might be difficult to explain to your community. Our people were confused by the DNRC five year interest rate subsidy and the change in our rates. (MC)

Debt service subsidies should continue for the life of a bond. They may get a poorer bond rating if the debt service jumps up after a certain number of years because of a dollar cap on the subsidy. (Blgs)

The \$500,000 cap is too low for the debt service subsidy. Bond raters may give you a higher interest rate if debt service jumps up after a specified time. You will lose some of the benefit of doing a subsidy. (Blgs)

The state will have to provide the bonding company with a guarantee that the debt service subsidy will be there over the full term of the bond. (Blgs)

What is the state's liability in the event of a default by a community? (Blgs)

Even though the debt service subsidy costs more over the long-term, it allows us to fund as many projects as we possibly can. We can't wait for ten years when we will have enough money to do one-time grants. (Blgs)

Debt service subsidies are a long-term obligation of the State. Do you want to extend yourself that far? (Blgs)

If you're considering ending a subsidy after five years (like the DNRC Water Development loans), it should be done by considering the community's existing debt service. If they have other debt that will be completely amortized in five years, dropping the subsidy may make a lot of sense. If not, debt subsidies should be used for the life of the bond. (Blgs)

The "cost" to TSEP of an up-front, one-time grant is really essentially the same as the apparently higher cost of 20 years of debt subsidy: the simple way to say it is "stick \$500,000 in the bank over 20 years." It would be worth the \$937,000 you show as the "cost" of 20 years of debt service subsidy; they are basically the same. (Hel)

TSEP should allow debt service subsidies for previously constructed projects, not only new projects. We would like to apply retroactively for our water system improvements (state mandated) that have resulted in high water rates. Helena's biggest concern is that our city has been at somewhat of an economic disadvantage due to our high water rates. We have been mandated to make improvements. It would be unfair to assist other communities now (and prohibit Helena from seeking assistance) and still leave Helena at an economic disadvantage. (Hel)

Debt service subsidies look too complex to administer. (Kal)

In comparing the cost to TSEP of one-time, up-front grants versus long-term debt service subsidies, if you put a future value on a \$500,000 grant, actually the \$937,000 long-term cost of a debt service subsidy over 20 years is less expensive to the State because it is investing versus the \$500,000 paid out of the coffers. The State has a chance for an escalating interest rate on the funds it invests in the pool. (Kal)

When doing a debt service subsidy, you should consider any debt that will be retired during the term of the new loan. (M)

The debt service subsidy option would be cumbersome to do underwriting for. Bonding companies would be hesitant if the debt service per household would be very high without the TSEP subsidy. They would want an ironclad commitment that the State's subsidy would be there through the term of the bond. (M)

The Legislature would be concerned if the debt service subsidy might obligate the State in the event of a default. (M)

Debt service subsidies would be even more difficult to structure for special improvement districts (SID's). It would probably be tougher to market the bonds. (M)

Grants have the benefit of not fiscally obligating the State over a number of years, as would the debt service subsidies. (GF)

Because of the indefinite nature of the TSEP revenues, bonding companies would want an unconditional commitment from the State to provide a debt

service subsidy for the term of the bond. It wouldn't be good enough to just say that the subsidy would be there as long as TSEP funding was available. The bonding companies might impose severe coverage requirements unless the bonds were backed by the state's full faith and credit or by coal severance tax trust funds. The private bond market would want guaranteed assurances of payment of the debt service subsidy. (GF)

Regarding debt service subsidies, local governments would have to show the State's subsidy as an obligation or debt owed them on their financial statements. (GF)

If the State backed TSEP debt service subsidies as a general obligation, it could affect its bond rating for other purposes. (GF)

The debt service subsidy option is preferable to direct state loans. It would reduce the amount of the state obligation and have less impact on the state's bond rating. However, the debt service subsidy would be very difficult to structure to satisfy the private bond market. (GF)

The option of providing assistance through an annual debt service subsidy appears to be a good concept. Providing an option that would potentially make assistance available to a greater number of projects is desirable. (W)

FmHA tried working with the debt service subsidy approach before but found that they don't work because of the difficulty of assuring the long-term commitment of the subsidy. (T)

#### **D. LOANS**

No communities have enough money to repay loans; if they had enough to repay a loan they wouldn't need this program. (Hav)

There are ample sources of loan funds available: FmHA, DNRC, rural co-ops. (Hav)

There's no way to pay back loans for bridges. Should we set up toll booths? (Hav)

The DNRC interest rate subsidy allows some projects to go ahead that wouldn't have otherwise. (MC)

We don't need more ways to borrow money; there's plenty of ways to borrow money. What we need is ways to pay back money. We don't need more debt. (Blgs)

Interest rate subsidies on direct TSEP loans should be more flexible so you can give a zero percent loan if you need to, in order to make the loan affordable. (Kal)

The interest rate subsidy rate should be based on actual interest rate cost for each year of bond existence to the State of Montana for the pool of bonds sold plus 1/2% administrative fee. Please do not use an interest rate cost

to the State (based on the average of interest rate cost based on average maturity of bonds sold). (Kal)

Because of the uncertainty of coal tax revenues, TSEP probably won't be able to commit all of the revenues available to it. Bond underwriters will likely impose debt coverage requirements. You will probably only be able to issue bonds for one-third of the amount of the TSEP revenue stream. The only way you could get away from the coverage requirement would be to get the Legislature to back the bonds with the State's full faith and credit. That seems unlikely. (M)

Our city is so broke that a loan is impossible. We couldn't pay off a loan very easily. (Butte)

A lot of the smaller places are "loaned out." They can't afford to have any more loans, even when they're low interest. (GF)

You will need to add more financial details to deal with loans and bonds. (GF)

If these application guidelines are intended to be used for loans I would suggest more information regarding the loan program to avoid confusion by the public. Reserves, coverage, administrative and origination fees, bond counsel, and so on are all items the public should be aware of up front, as they tend to add cost to the loan and complicate the process. (W)

## **9. APPLICATION REQUIREMENTS**

I like the approach of doing the environmental assessment after the community knows whether it will get TSEP funding. (Hel)

The public hearing requirement is good; any controversy should come out. (Hel)

TSEP should have relatively easy access. The application process should not be terribly complex nor require sophisticated grantsmanship. (M)

I recommend an easier process with less paperwork than the CDBG program. Make it more like the INTERCAP program. (M)

Don't make the application process too involved. I hope it will be more simple than CDBG. For CDBG, you need a grant writer.

The deadline for applications is coming up too soon. It's not enough time to prepare an application. (L)

If the program is truly geared toward poorer communities, those which have traditionally be unable to afford infrastructure improvements, would it not make more sense to provide a pre-application process? One in which the community could provide you with less detailed information, but enough to enable your staff to determine if funding of the project is possible. Once your staff had indicated funding probability, then a detailed engineering study could be launched, with more accurate cost estimates, etc. If a community is too poor to initiate its own infrastructure improvement projects, is it not also too poor to hire an engineer to perform

preliminary studies in order to apply for a grant or loan that may never be received?

The application process must be simple. TSEP is for Montanans and the rules are being written in Montana. The application requirements should avoid as much as possible the complexities of some federal assistance programs. New ground should be plowed, new and simplified procedures tried. (W)

Engineering studies should be mandatory for projects. Preliminary design criteria should be included in the report. The need for a project should be well documented. Studies should require a present worth analysis of capital and operating costs for all alternatives considered. An environmental assessment of alternatives should be provided, particularly on the selected alternative. (W)

Due to the time frame for this first year, we request that this year's applications be an abbreviated version of what is required in this program. The Montana Association of Water & Sewer Systems was under the impression that TSEP was to provide funding unlike the other programs already in effect. The guidelines as they stand now do not accomplish that goal. TSEP is almost a complete duplication of CDBG. (W)

We suggest you evaluate an applicant's ability to properly operate and maintain a facility. This should include a review of user rates, management plan and personnel qualifications. This helps assure maximum facility life. (W)

We suggest you require that applicants have in place and follow planning documents such as land use plans, comprehensive plans, and zoning. This helps assure that constructed facilities fit community needs and growth. (W)

## THE TREASURE STATE ENDOWMENT PROGRAM

SUMMARY

1. The Treasure State Endowment Program (TSEP) is a new state infrastructure financing program which was authorized by Montana voters with the passage of Legislative Referendum 110 on June 2, 1992.
2. TSEP is a grant and loan program funded with coal severance tax revenues and is designed to assist cities, towns, and counties in financing the following eligible public facilities projects: drinking water systems, wastewater treatment facilities, sanitary or storm sewer systems, solid waste disposal and separation systems, and bridges.
3. Current estimates are that approximately \$2,102,625 in coal severance tax interest will be available for TSEP assistance to local governments for fiscal years 1994 and 1995.
4. TSEP funding requests must be approved by the Legislature. The deadline for 1993 TSEP applications was December 31, 1992. The Department of Commerce (DOC) will solicit applications on a biennial cycle.
5. DOC is required to review TSEP project proposals and prepare a list of recommended projects, giving preference based on nine statutory priorities. DOC is also required to recommend the form of financial assistance for each project.
6. Matching grants, debt service subsidies, and loans will be awarded on a competitive basis to local governments that demonstrate that they have serious public facility needs and a limited financial capacity to meet these needs.
7. The January, 1992 Special Session of the 52nd Montana Legislature appropriated \$35,000 for start up activities for the new program, but did not authorize any staff positions to carry out these activities.
8. The 1993 Legislature has the option of adding any construction loans authorized under TSEP to the list of loans approved under the Water Development Program administered by the Montana Department of Natural Resources and Conservation (DNRC). The loans for these projects could be funded through a state bond issue backed by coal severance tax receipts. Given the existing commitments for outstanding bonds and currently authorized projects, a total of approximately \$33 million in bonding capacity would be available to the 1993 Legislature to authorize loans for additional projects through the DNRC Water Development Program and TSEP.

## SENATE TAXATION

 EXHIBIT NO. 7  
 DATE 2-12-93  
 BILL NO. SB 316

## APPLICATIONS FOR THE 1993

## TREASURE STATE ENDOWMENT PROGRAM (TSEP)

	<u>AMOUNT REQUESTED</u>	<u>TOTAL PROJECT</u>
<b>PUBLIC FACILITY (29 Applications)</b>		
Anaconda/Deer Lodge County (water)	\$ 350,000	\$ 4,425,000
Beaverhead County (solid waste)	160,000	320,000
Butte/Silver Bow County (water)	300,000	23,215,000
Carbon County (bridge)	25,000	120,000
Chester (water)	196,235	394,470
Circle (water)	370,000	370,000
Custer County (solid waste)	18,900	18,900
Dutton (water)	68,780	693,280
Ennis (water)	400,000	1,060,000
Froid (water)	117,000	576,600
Gallatin Co. for Rae Subdivision (water)	49,870	66,490
Harlem (water)	217,300	434,600
Helena (water)	677,265	1,354,531
Lewistown (storm drainage)	60,000	165,264
Livingston (storm drainage)	100,000	200,000
Madison County (solid waste)	66,850	79,100
Missoula Co. for Sunset West (water)	154,107	309,107
Neihart (water)	616,213	726,231
Ronan (sewer)	309,107	618,215
Richland County (solid waste)	570,500	1,141,000
Sanders County/Heron Bridge (bridge)	2,735,000	2,735,000
Sanders County/Noxon Bridge (bridge)	2,156,000	2,156,000
Shelby (storm drainage/sewer)	732,000	980,300
Stillwater Co. for Reedpoint (sewer)	250,000	1,312,645
Toole Co. for Sweetgrass (water)	366,040	366,040
Toole Co. for Sweetgrass (sewer)	162,925	162,925
Wolf Point (sewer)	50,000	564,900
Yellowstone County (bridge)	95,500	193,110
Yellowstone Co. for Huntley (water)	100,000	745,300
TOTAL	\$11,474,592	\$45,622,218

**ENGINEERING LOANS (3 applications)**

Circle (water)	\$ 20,000	\$ 20,000
Wheatland County (solid waste)	33,000	35,000
Yellowstone Co. for Shepherd (water)	100,000	118,210
TOTAL	\$ 153,000	\$ 173,210

Summary of TSEP Applications

Bridge	4
Sewer	4
Solid Waste	4
Storm Drainage	3
Water	14
Engineering Loan	<u>3</u>
 TOTAL	 32

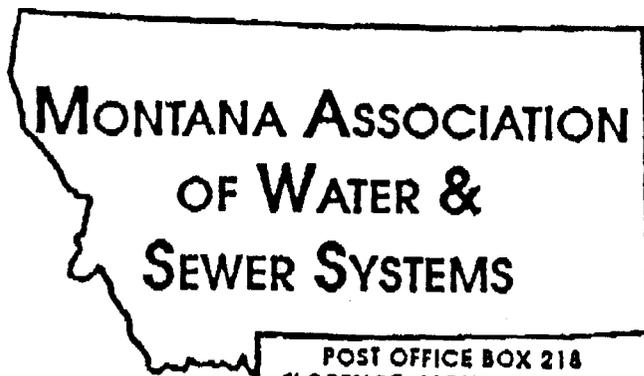
In addition, the Montana Department of Health and Environmental Sciences (DHES), Water Quality Bureau, has requested \$2,479,000 in TSEP funds to use as state match for federal funds used to capitalize the Montana State Revolving Loan Program which provides loans for sewer and wastewater projects. (DHES is not an eligible applicant for TSEP, under the existing statute and regulations.)

Including the DHES request, total requests for TSEP funds equal \$14,106,592.

The original September, 1992, estimate of the total TSEP funds to be available during Fiscal Years 1994 and 1995 was \$1,562,000.

The current estimate as of January, 1993, updated to reflect changes in coal production and interest rates, projects available TSEP funding for Fiscal Years 1994 and 1995, after subtracting administrative expenses, at approximately \$2,102,625.

(tsepsum/colleen 2-8-93)



SENATE TAXATION

EXHIBIT NO. 8

DATE 2-12-93

BILL NO. SB 316

PRESENTATION TO THE MONTANA SENATE TAXATION COMMITTEE ON FEBRUARY 12, 1993.

My name is Doug Wells. I am representing the Montana Association of Water and Sewer Systems. I am here to speak on behalf of SB #316.

This bill will amend the Treasure State Endowment program to allow County water, sewer, and solid waste districts to apply for assistance, permit interest rate subsidies to be paid over the life of loans or bonds, and amend the order of priority for infrastructure projects.

In the case of water and sewer districts, the most important aspect of this bill is to allow for deferred loans for preliminary engineering. In most cases, districts are unable to apply for conventional means of project funding without the completion of preliminary engineering for construction of projects so that "dirt will fly." However, most districts that need to upgrade their systems to meet new regulations or to protect the public from a potential health threat, do not have funds available for preliminary engineering.

Members of our association who attended public meetings concerning the Treasure State Endowment program often heard others

express the same concerns. Funds are not available for preliminary engineering. Yet, a construction project cannot be funded until the preliminary engineering is completed.

Allowing loans to be deferred until the overall construction is arranged will be of great economic assistance to the customers of a district. It will also speed up the process of bringing a water or sewer system up to a level that will not pose a potential threat to public health.

On page 2 section 3 (b) of the proposed bill, the addition of "or a county water, sewer, or solid waste district," is necessary for a couple of reasons. First, counties often do not have the manpower needed to review the project and assist with preparing the application to submit to the State.

It is important that districts are listed with the other forms of government, especially since there are so many unincorporated areas in Montana. Montana Codes Annotated (MCA) 7-13-2221 states that districts have the ability to accept funds from federal or state sources, incur indebtedness and issue bonds, and levy taxes to meet bond obligations.

Sewer, water and solid waste districts are constantly being bombarded with new regulation that have severe economic impact. Without help from the Treasure State Endowment program, many districts will find it impossible to comply with State and Federal regulations.



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REPRESENTING Midwest Assist Program

APPEARING ON WHICH PROPOSAL? SB 316

DO YOU: SUPPORT  OPPOSE  AMEND

COMMENTS:

Should call for a preliminary  
Engineering grant S&TASide

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY





DATE 2/12/93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 316, 322

Name	Representing	Bill No.	Check One	
			Support	Oppose
Doug Wolffs	Montana Assn. of Water Suppliers	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Arnold Peterson	Mont. Rural Water Assn	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Beverly Gibson	MA Co	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mich V. Cloz	MONT. RURAL WATER	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<del>W. E. Lane</del>	Midwest Assict Program	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
David Cole	Mt. Dept. of Commerce	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alec Hansen	CITIES + TOWNS	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jim Twiter	Mt CHAMBER	SB 316	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**VISITOR REGISTER**

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY