MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN MIKE COONEY**, on April 4, 2005 at 8:00 A.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Mike Cooney, Chairman (D)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. John Brueggeman (R)
Sen. John Cobb (R)
Sen. John Esp (R)
Sen. Ken (Kim) Hansen (D)
Sen. Bob Hawks (D)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Greg Lind (D)
Sen. Trudi Schmidt (D)
Sen. Corey Stapleton (R)
Sen. Dan Weinberg (D)
Sen. Carol Williams (D)

Members Excused: Sen. Steven Gallus (D)
Sen. Lane L. Larson (D)
Sen. Jon Tester (D)
Sen. Don Ryan (D)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

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

Committee Business Summary:
Hearing & Date Posted: HB 4, 3/30/2005; HB 5, 3/30/2005; HB 6, 3/30/2005; HB 7, 3/30/2005; HB 8, 3/30/2005; HB 9, 3/30/2005
Executive Action: HB 9; HB 8; HB 7; HB 332; HB 505

HEARING ON HB 4

Opening Statement by Sponsor:

REP. JOHN MUSGROVE (D), HD 34, Havre, opened the hearing on **HB 4,** Appropriations normally made by budget amendment. Budget amendments are usually authorized in the interim by respective approving authorities for each branch of government with review and comment by the Legislative Finance Committee. When the Legislature is in session, budget amendments are approved by the Legislature in HB 4. These amendments provide one-time-only spending authority, primarily for federal funds. These funds are not appropriated in HB 2, because they are not expected to continue long-term. The two types of budget amendments included in HB 4 are new spending authority and language to continue authority already established.

Proponents' Testimony:

Amy Sassano, Office of Budget and Program Planning (OBPP) stated the bill represents one-time-only federal funds that will continue into the next biennium. She asked that the committee delay executive action on the bill for a day or two.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

CHAIRMAN MIKE COONEY inquired about page 5, line 7. **Jim Oppedahl, Administrator, Montana Supreme Court,** advised this is a grant to a tri-county area that has three goals: to save lives by reducing alcohol and other drug-related crashes, increasing use of seatbelts and child restraints, and increasing proper use and installation of child and passenger restraints. **CHAIRMAN COONEY** asked why this grant was in HB 4. He noted he had a connection to this program. **Mr. Oppedahl** indicated it is in the Judicial budget because it is being coordinated. The program is actually run in the Youth Court. **CHAIRMAN COONEY** stated he works for a non-profit organization that receives this grant which they distribute to a number of community coalitions throughout the state. It is a grant through the Department of Transportation and comes down through the National Highway Transportation and Traffic Safety Administration.

SEN. GREG BARKUS asked about additional legal services in the Executive offices on page 1, line 20. **Ms. Sassano** explained these funds were added at the end of the Martz administration for

several lawsuits that carried over to Governor Schweitzer. **SEN. BARKUS** asked if there was an amount, or if this was an open-ended budget item. **Ms. Sassano** replied these were the leftover funds if the funds were not spent by the end of this fiscal year. She thought it was $30,000 to $40,000.

SEN. TRUDY SCHMIDT asked about the federal match. **REP. MUSGROVE** advised there is a variety of matching funds depending on how the agency is structured. The amounts vary from month to month.

SEN. BOB KEENAN noted the lawsuit was probably the *Travis D.* lawsuit.

Closing by Sponsor:

REP. MUSGROVE said additional amendments to the bill will be provided.

HEARING ON HB 5

{Tape: 1; Side: A; Approx. Time Counter: 11.6}

Opening Statement by Sponsor:

REP. JACK WELLS (R), HD 69, Bozeman, opened the hearing on **HB 5,** Long-range building appropriations. He referred to a summary sheet on HB 5.

EXHIBIT(fcs71a01)

Funding for the bill come from the cigarette tax and the coal severance tax that is deposited into the Long Range Building Fund. The Governor requested that more money be put into long range planning, and with the surplus that was in the revenue estimates, it was thought this was a good time to cover a lot of the deferred maintenance and long-range building that has been held in abeyance over the past few years. There is an additional $30 million in general fund. There is state special revenue that comes from the Department of Fish, Wildlife, and Parks (FWP), Department of Transportation, and Department of Public Health and Human Services (DPHHS). There is also federal special revenue that comes into the system. Other funds include donations and funds that the University system acquires through grants and loans. There are about 85 projects in HB 5. Total appropriations and authorizations are about $211 million. Projects included repair and replacement of components in state buildings including mechanical systems, boiler plants, etc. Some of the state special revenue projects include park improvements,

wildlife habitat maintenance, and facility repairs and improvements at two veterans homes. The federal special revenue was for some other FWP improvements and for some Military Affairs projects. The uses of other funds are primary University System projects including construction of new buildings and improvements. One of the big dollar items was the Historical Society project. There is a $20 million authorization to spend an anticipated contribution. The Historical Society wants to buy the mall in Helena, and they are negotiating with the owners. Through other long range bonding bills, the Historical Society was authorized $7.5 million to negotiate the purchase of the mall. It appeared to be a valid project, according to **REP. WELLS.**

CHAIRMAN COONEY and **SEN. BOB KEENAN** commended the work of the Long Range Planning committee and **REP. WELLS.**

Proponents' Testimony:

Sheila Stearns, Commissioner of Higher Education, concurred with the compliments to the subcommittee and its chairman. The University System buildings constitute close to 65 percent of the square footage in the state. Most of their projects were listed on page 4 of the bill. Every campus in the system and six of the Agricultural Experiment Stations were affected. Every part of this will affect students. When Governor Martz and Budget Director Chuck Swysgood first presented their plan, it was an exciting day for the University System. She noted the University System does their part to maintain the campuses. The Great Falls and Helena campuses will benefit from new construction if HB 540 passes. She said they always come in with requests to deal with the most dire needs. She noted that there would be an upgrade to a steam distribution system. That system is buried and is 50-80 years old. Leaks were repaired in 1988, 1994, 1997, 1999, 2001, 2002, 2004, and in many places the pipe can no longer be welded. Three sections of condensate piping have been internally sleeved twice, reducing the size from a two inch diameter to a one-inch diameter. As a consequence the condensate loss is expected to be up to 10 percent. She noted that **Deputy Commissioner Rod Sundsted** thinks this is his favorite bill. She stated appreciation to Governor Martz and Governor Schweitzer for making this deferred maintenance a priority.

Amy Sassano, OBPP, asked for support for the bill. It is an important part of both Governor Martz and of Governor Schweitzer's executive proposals. She thanked **REP. WELLS** for carrying the bill.

John Youngberg, Montana Farm Bureau, said he also represented the **Montana Grain Growers** and the **Montana Stockgrowers.** There is money in the bill for the Agricultural Experiment Stations. They deferred their maintenance for a number of years in order to maintain the integrity of their programs. He urged support for the bill.

Cary Hegreberg, Montana Contractors Association, testified this is one of their favorite bills. The state of Montana spends in excess of $200 million a year maintaining and improving our transportation system. Highways get federal funding matched by state funding. If there is any money left over, it is put into long range building to maintain buildings and facilities. In the last few years, there has not been much money left over. Consequently, deferred maintenance is not being taken care of. Some facilities are in dire shape.

{Tape: 1; Side: B}

Mr. Hegreberg stated strong support of the bill. Estimates show that every million dollars spent on public works construction generates in excess of 40 jobs.

Bernadette Franks-Ongoy, Montana Advocacy Program, referred to page 7, line 3, which her organization supports with the understanding there is an amendment coming from **SEN. GREG LIND.**

EXHIBIT(fcs71a02)

The Montana Advocacy Program sued the state of Montana in 1996 in a class action lawsuit. People with disabilities need to be provided services in the most integrated setting possible, and therefore people that were in the Montana Developmental Center (MDC) in Boulder need to be allowed the opportunity to live in community settings. The state, the Montana Advocacy Program, and the disability community worked hard on a settlement of that case. The case was settled in February of 2004, and they were unaware that this bill was moving through the House and got this far without their attention. They believe this funding is in violation of their settlement agreement. They would not support any sort of new building with any sort of security at Boulder. They believe this is a violation of the agreement. They support housing for people with developmental disabilities that have behavioral difficulties and need some intensive services. DPHHS and the Department of Administration worked with the disability community to come up with a compromise for this line item to read "housing for high risk behaviors". Her organization and most of the disability community would support that. They oppose a secure lock down facility and a prison-like structure.

Jeff Sturm, DPHHS, testified that the Montana Developmental Center has gone through rapid changes involving who would be served. There were historically three types of commitments including danger to self or others, total care, and near-total care. They successfully worked with the Legislature this year to remove near-total care from the language. In addition, in the last legislative session, **SEN. DUANE GRIMES** introduced SB 35, which allowed MDC to take criminal commitments similar to Warm Springs. Of the 97 people that have come to MDC in the last five years, 74-77 percent were admitted for danger to others. This led to the issue of mixing predatory and non-predatory populations. Predators are considered people that injure others. Three years ago, a survey team said the facility needed to immediately separate some of the population from others. Within ten days, the Department put together a unit called 104R and 104W. He described the units as substandard, and stated that the unit is full. Currently, they are going through another survey at MDC. The issue continues to be the mix in the population. The Department is in a ten-day corrective action period. The Department believes eight beds are not enough. Originally, they were looking a modifying one of the other units. It would cost more to remodel the unit than to construct something new. The Department is not concerned where it is or what it looks like. The concern is about an adequate place to house people with behavior problems.

Jeff Hagener, FWP, said HB 5 is the vehicle that allows the Department to utilize the funds from several earmarked accounts from various programs that have been established by the Legislature over the years. He said they would appreciate support of the bill.

SEN. LINDA MOSS, testified in support of the Historical and Cultural Properties Interim Study. It was brought to her attention that there were several wonderful historic buildings slated for demolition. With the assistance of **REP. WELLS** and **CHAIRMAN COONEY,** they were able to amend HB 5 to stabilize the Boulder River School. The Historical and Cultural Interim Study will look at historic properties in Montana and the policies of other states regarding historic properties. Many states have policies that deal with conversion of state buildings to be leased or donated to local organizations so those properties can be cared for and have other uses. The state is rich in historical and cultural properties. This project will use the expertise of individuals, non-profits, and businesses in SB 26 who will come together to develop model programs.

Arnie Olson, Montana Historical Society, thanked the subcommittee and **CHAIRMAN WELLS** for their hard work on the project. He said

he would appreciate support for HB 5 as well as the authorization to spend the private funds as they are raised on this important project. There is a desperate need, and they think this is a great opportunity. They look forward to working with the Legislature on this project.

Ed Amberg, Director, Warm Springs State Hospital, said they have three projects in this bill including enhancing the environment for patients with air conditioning, improving ADA access on the campus, and remodeling seclusion rooms. There are 200 patients in a facility designed for 135. People are sleeping in rooms that are meant for seclusion. Those need to be remodeled to make them into suitable patient rooms. Another project was for $175 million for building demolition. There are approximately 20 old, abandoned buildings on the campus. There is a project to construct a chapel on the campus for patients. They will raise money for that; it will be non-denominational and will include traditional Native American religions as well as others.

Mike Mahoney, Warden, Montana State Prison, commended **CHAIRMAN WELLS** for the outstanding job he did conducting Long Range Building Committee hearings. He urged support for the bill. The requests of the Department of Corrections are austere by comparison to the past, but are important to preventative maintenance programs.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. KEITH BALES recalled a hearing two years ago when **Mr. Sturm** sat in this room and the committee was shutting down Eastmont. Because they were putting people into community settings, there were sufficient beds at Boulder and money would be saved by closing down Eastmont. Two years later, there is a $2.5 million request for new buildings. **Mr. Sturm** indicated a lot has happened in the last couple of years with facilities. The primary change has been with the population coming into MDC. The population at Eastmont was people with total and near total care issues. Those people can be successfully treated in the community. They expect MDC will downsize to about 70 people who are a danger to themselves and others. **SEN. BALES** said he was under the impression that could be handled at Boulder without any additional facilities. He found it ironic they are transforming Eastmont into a secure facility for drug offenders at far less cost than this, and now they will build a new building at Boulder. He wondered why the recommendation to close Eastmont

was made. **Mr. Sturm** thought the issue at the time was the population at Eastmont was a population of near total or total care. There was a psychiatrist and staff at MDC, and it was decided that the secure population needed to be where there were services. They did not believe the populations coming in could be served at Eastmont. **SEN. BALES** asked about the closure of the A, B, and C units at Boulder. He wondered what those units were and what they were capable of. **Mr. Sturm** replied A, B, and C are two units. Unit C was closed down; it had about 22 beds and was primarily serving total or near total care. A and B had a population similar to that but had more in the total care population. They will be closing down about 45 beds from the census at MDC and adding back in 14 beds with the new construction. The census will settle somewhere around 70 beds in two years. **SEN. BALES** asked about the age of the A, B, and C units. **Mr. Sturm** indicated they originally thought the building could be renovated and enlarged. Because of the structure of the building it would be more expensive than to build something new. It is a sixty-year-old building that needs major renovation. **SEN. BALES** commented it was ironic that they closed Eastmont because they could not get counseling staff, but the building will be used for a drug and alcohol facility that will take counseling staff. He did not think it was costing the Department of Corrections very much to turn that into a secure facility. He thought somebody had dropped the ball and had not done a very good job.

SEN. LIND asked about the challenges of caring for this population. **Ms. Franks-Ongoy** advised in the *Travis D* lawsuit the Department was supposed to have explored the ability to serve this difficult population in the community. There are presently nine states in the country that do not have secured units for people with behavioral challenges. She said this is a difficult thing to do but suggested there are models, such as Alaska, for providing care for people with challenging behaviors in the community. It concerned her that **Mr. Sturm** continues to say he wants to add the 14 beds. The proposed amendment was for a planning process with stakeholders to find the best ways to provide the housing. She added if they had known that this was going through the House and the legislative process, they would have been at the other hearings.

SEN. KEN HANSEN asked **Mr. Mahoney** about improving perimeter security and what has changed. **Mr. Mahoney** advised perimeter security as it exists is secure. This request is for about sixty acres inside the double-fenced perimeter in the main compound. Attached to that is the industries compound with a single fence perimeter. They are asking to have the same electronic security system to detect breaches of that fence and to replace the fence

fabric. In addition, they put a double fence perimeter around the new diagnostic intake unit, and they did not have the funding to put the electronic surveillance system in that fence. **SEN. HANSEN** wondered if this has been a request before or if this is the first time. **Mr. Mahoney** indicated this is a first time request for these projects.

SEN. SCHMIDT referred to the comments of **Ms. Franks-Ongoy** and asked **Mr. Sturm** to further clarify the situation. **Mr. Sturm** responded they are willing to work with the stakeholders to find options. If there is a better option, they will certainly look at that. The issue is how to decrease the census at MDC to the point where they do not have this crisis. They are willing to find an option that does not take this new construction. **SEN. SCHMIDT** asked if they are still receiving people that are brought by county sheriffs from county jails. **Mr. Sturm** replied the admissions they receive are all involuntary commitments from the courts. MDC has no say of who they take. **SEN. SCHMIDT** asked how much time would be needed to get this issue resolved. **Mr. Sturm** said they want to start meeting in May to get this resolved. He thought this needed to be resolved quickly.

SEN. COBB asked about the federal requirement for secure facilities. **Mr. Sturm** said they are on a ten-day corrective action. They were told to find a place for these individuals away from those they are preying on. Two years ago, they developed this unit which met the recommendations at that time. Individuals that are too dangerous to place in the population would have a more structured environment. **SEN. COBB** asked why it is not okay now. **Mr. Sturm** said the issue is not the unit, it is that is does not have enough space.

{Tape: 2; Side: A}

SEN. BOB HAWKS recalled that the highest priority on the list for MSU was Gaines Hall, the chemistry structure, that dates back to the 1950s. **REP. WELLS** explained that Gaines Hall ended up in a long-range bonding bill that will presented before this committee tomorrow. There is $3 million for Gaines Hall in that bill.

SEN. SCHMIDT asked **Ms. Franks-Ongoy** to respond to the testimony of **Mr. Sturm**. **Ms. Franks-Ongoy** replied there is an opportunity to reconcile their differences with the Department. This money is very important to people with disabilities, and they want to preserve it for housing. However potential loss of the $11 million of federal funds has nothing to do with this building. Whether the committee approves that or not will not save the $11 million. MDC is under the threat of loss of funding because they

have not been able to offer the appropriate care. She maintained the amendment would take care of a lot of the issues.

SEN. ESP inquired if the building would be a long-term solution to the problem that is causing the $11 million threat this week. **Ms. Franks-Ongoy** answered that would be the Department's position, but not the advocacy position or that of the disability community. They believe that people with disabilities, even those with substantial behavior problems, can be served successfully in the community with appropriate support. She did not think a building was necessary. **SEN. ESP** wondered if there are other states that successfully serve sexual predators within the community. **Ms. Franks-Ongoy** claimed there are. One of the provisions of the settlement agreement was that the Department will explore models for disability community programs for persons with sexual offending behaviors. When they find the appropriate approach, the Department will submit a request to the 2007 Legislature to make the statutory changes necessary.

SEN. KEENAN asked **Cathy Duncan, Legislative Fiscal Division**, how much of $34.6 million is for deferred maintenance. **Ms. Duncan** believed all of it is. All of the long-range building cash program is to take care of high need maintenance projects. **SEN. KEENAN** said there was a disputed amount of from $140 million to over $200 million for deferred maintenance. He wondered if the greater part of the $34 million would be towards that. **Ms. Duncan** replied for the most part. However, needs become apparent that need to be dealt with immediately.

SEN. BARKUS referred to the $34 million for deferred maintenance. There is also $160 million to $170 million for new projects, which will all require maintenance down the road. The agencies will be responsible for this maintenance in the future. He wondered if they were creating a bigger problem down the road. **REP. WELLS** said to some extent they are taking on additional responsibility. In the past there has been a split between the state and the University System. A change was established in this bill and through some of the processes in the committee. In the bill, the state has more of an obligation in the future. The committee had to decide if they wanted these buildings or not and anticipate whether there will be sufficient resources.

SEN. LAIBLE asked **Mr. Hagener** about the maintenance for the bird stamp program. **Mr. Hagener** advised that is the waterfowl program, and the money is earmarked for wetland and waterfowl habitat. Some of the maintenance is building islands in wetland areas. Part of it allows for acquisition. **SEN. LAIBLE** wondered if these are not in the normal budget for the agency. **Mr.**

Hagener said this is a biennial appropriation, but it carries on into the future.

SEN. KEENAN referred to the question raised by **SEN. BARKUS** and said that has been an issue for a long time. There was a motion in committee to request that the Legislative Audit Committee make a high priority performance audit in the interim on the operations and maintenance issue. Regarding the agreements that the state will pick up the operations and maintenance on some buildings, he noted the University raised $10.5 million of $12 million for the journalism building. If the Legislature agrees to pick up the operations and maintenance it will cost $7.50 a square foot to maintain a building that was built with private funds.

Closing by Sponsor:

REP. WELLS expressed appreciation for the kind comments and to the members of the Senate who were on his subcommittee, including **SEN. KEENAN, SEN. BRUEGGEMAN, SEN. TESTER,** and **SENATOR COONEY.** He also thanked the members of the architectural and engineering group, including Tom McConnell. Cathy Duncan, Legislative Services, was invaluable to the committee, and Mark Bruno from the budget office was very helpful. He described it as a pleasant experience. There are two amendments to the bill. He noted the subcommittee authorized $8,000 for the study of the operations and maintenance problem. He said this is a good bill, and will be a better bill with the two amendments.

EXHIBIT(fcs71a03)

HEARING ON HB 6

{Tape: 2; Side: A; Approx. Time Counter: 15.0}

Opening Statement by Sponsor:

REP. JOHN WITT (R), HD 28, Carter, opened the hearing on **HB 6,** Renewable resource grants. HB 6 appropriates money to the **Department of Natural Resources and Conservation (DNRC),** for renewable resource grants. The bill appropriates $100,000 for emergency grants, $300,000 for project planning grants, and $4.6 million for projects listed in the bill and in a table provided by the Legislative Fiscal Division.

EXHIBIT(fcs71a04)

Interest earnings from the Resource Indemnity Trust Fund provide a source of revenue for these grants. In addition, $600,000 in general fund was added to the bill in subcommittee action to fund six additional projects. Unfunded projects remain in the bill, and if a funded project is unable to use the grant, the dollars will be used on the unfunded projects in rank order. The Long Range Planning Subcommittee held hearings on these projects and made a few adjustments. These are reflected in the amendment. The renewable resource grants in HB 6 are of critical importance to the communities receiving these funds. These grants will allow communities to meet critical needs such as providing safe drinking water, protection of streams, etc., keep projects affordable for local governments, and fund construction projects.

Proponents' Testimony:

John Tubbs, DNRC, advised he administers the grants in HB 6 and the loans in HB 8. He expressed appreciation to **CHAIRMAN WELLS** and the subcommittee. He offered to answer questions on HB 6.

Mark Bruno, OBPP, He reported there were no changes in the bill from the current administration. He thanked the subcommittee and **REP. WITT** for carrying the bill.

Opponents' Testimony: None.

Informational Testimony: None.

(Note: SEN. COREY STAPLETON assumed the role of Chair in the absence of SEN. COONEY.)

Questions from Committee Members and Responses:

SEN. ESP asked why the study on the Glaston Reservoir was removed. **REP. WITT** replied that there is an upper part of the drainage and a lower part of the drainage. There was disagreement, and after the hearing it was decided they need to work out their problems and come back another day.

(CHAIRMAN COONEY resumed the Chair.)

Closing by Sponsor:

REP. WITT thanked the committee for the hearing. He said it was an honor to work with the Senators on the committee. He is termed out and will not be back for the next session.

{Tape: 2; Side: A; Approx. Time Counter: 22.0}

HEARING ON HB 7

Opening Statement by Sponsor:

REP. TIM CALLAHAN (D), HD 21, Great Falls, opened the hearing on **HB 7,** Reclamation and development grants. Section 1 of the bill appropriates just under $5 million to fund 17 projects. They are funded with interest earnings from the Resource Indemnity Trust Fund, and the Long Range Planning Subcommittee held hearings on these grants. Statutes require that $600,000 in grants be provided to the Board of Oil and Gas to plug orphan wells, and that priority is satisfied in the bill. The statutes also require that $800,000 in grants be provided to reclaim hard rock mines, and that priority is satisfied by three grants.

EXHIBIT(fcs71a05)

Proponents' Testimony:

John Tubbs, DNRC, advised he manages the HB 7 grants. He thanked **REP. CALLAHAN** for carrying the legislation. HB 7 grants are important in the area of resource indemnity trust financing. Projects such as the St. Mary's project meet a crucial state need.

Mark Bruno, OBPP, expressed appreciation for the work of the subcommittee on HB 7 and to **REP. CALLAHAN.** He reported there were no changes in the bill from the current administration.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. DAN WEINBERG asked if all of these expenditures are restricted, or if some of the money can be used for other projects. **Mr. Tubbs** replied the appropriations are for specific projects. Within the project there may be modifications as necessary to meet the goals described in the application. **SEN. WEINBERG** asked if the money is spent on what was heard in testimony. **Mr. Tubbs** said these projects are very much like those approved in the past, and thought they would be consistent with testimony provided in the subcommittee process. The legislative body is part of this process. The Executive Branch makes recommendations to the legislative body for appropriations on a project specific basis. This is not like the process in HB 2 where a program administers dollars specifically. The report provided to the committee is used to contract for those projects.

SEN. WEINBERG asked about the orphan well project. He wondered what should be private responsibility and what should be public responsibility. **Mr. Tubbs** advised the first two grants are for the Board of Oil and Gas Conservation to fund orphan well projects. The Board of Oil and Gas Conservation has permitted a number of wells in the state of Montana over the last forty years. Prior to that, there was no permitting process. At the turn of the century when oil development in Montana started, companies had to notify the county about where they were drilling. There was no bonding or permitting.

{Tape: 2; Side: B}

Since the 1940s, bonding to reclaim those sites was sufficient. There were tens of thousands of oil wells across the state of Montana. Some had been abandoned by the party that drilled them, and the company is completely out of existence. There is no viable financial party that has the responsibility to deal with the well. There may be a landowner, but minerals being separate from the surface has prevented the Board from making the landowner the responsible party. In those cases where the Board ends up taking the responsibility of dealing with an abandoned well, the Board will grant the Department the responsibility to plug it. The grants to various counties are efforts to provide incentives for current owners of wells to plug wells that have not produced in the last three years. The benefit to the state is it costs 10-20 percent less to cap those wells with incentives versus five times that amount if the Board gets them as an orphan. Orphan status becomes very expensive for the state. **SEN. WEINBERG** asked having the industry put together a fund to handle that and keeping it out of the public treasury. **Mr. Tubbs** said 70 percent of the $100 million in the RIT trust fund came from oil and gas taxes. The intent of the statute as originally passed was to reclaim these sites as well as invest in renewables. This is the fund the industry paid for, and therefore they feel some entitlement in receiving these funds for that purpose. Early in **Mr. Tubbs** career, the bond levels for plugging the wells by the owners themselves were very low. The Board of Oil and Gas increased their bonding standards for the cost of reclamation. They are not creating an unfunded reclamation issue with the new wells that are being drilled.

SEN. BARKUS asked about the amendment in Section 7 of the bill for a temporary biennial appropriation. **Ms. Duncan** advised other administrative expenses not related to the grants program have been expended through that account. The only spending that can be done from that account is for the grants and the administrative costs of the grants program. Because this has been a long-standing practice for over ten years, they decided on

the language that would allow that spending to continue through this biennium. There is an interim study to look into the spending from these accounts as well as other problems associated with RIT spending. **SEN. BARKUS** asked **Mr. Tubbs** why most projects ask for $300,000 and one project asked for $285,572. **Mr. Tubbs** advised some people have a fine pencil when they turn in their project application. This is a demand driven program, and almost all of the grant applications also have matching funding. From an administrative perspective, he would rather see an amount rounded.

SEN. HAWKS asked when the bonding limits reached the levels to actually cover the costs of closing wells. Pondera, Toole, and Teton Counties are receiving permission to close three-year-old wells. **Mr. Tubbs** said it was about the mid-1990s when the Board of Oil and Gas adopted new bonding requirements. None of the wells that are being considered for plugging are current new wells; they are all old wells in old oil fields.

SEN. LIND inquired if orphan wells are still occurring. **Mr. Tubbs** replied if a producer goes bankrupt, the state has the potential of ending up with the responsibility for plugging those wells. The big companies are no longer here. The landowner is often left with stripper wells. He did not know how many wells were not covered under a sufficient bond, but it has been getting substantially less in the last decade. **SEN. LIND** asked about the $300,000 for reclamation at Zortman. The committee will be hearing HB 379 by **REP. JONATHAN WINDY BOY**, and he wondered if those interact. **Mr. Tubbs** advised they interact but are not the same. **REP. WINDY BOY'S** legislation is for long-term water treatment in perpetuity at Zortman. The legislation sets up a funding source to build an account sufficiently large to run a water treatment plant into the future. The $300,000 appropriation is $300,000 out of $1.5 million, and he was not sure if the Department had secured the other $1.2 million. This would be surface land reclamation on the site. The connection is if they do a good job on the Z-6 alternative plan, there will be less acid water to treat. That is the preferred alternative, but they have not been able to fund the preferred alternative. They have been able to fund an acceptable alternative.

SEN. LAIBLE asked if there will come a point on Zortman where the need for water treatment would be completely eliminated. **Mr. Tubbs** said he doubted it. The Fort Belknap Tribe wishes there had been much more money spent reclaiming this site, even under the Z-6 alternative. At the mine drainage, any time those types of rocks are exposed there is no technology in existence that will stop that problem from occurring.

Closing by Sponsor:

REP. CALLAHAN acknowledged the work of the subcommittee and urged concurrence on the bill.

HEARING ON HB 8

{Tape: 2; Side: B; Approx. Time Counter: 17.4}

Opening Statement by Sponsor:

REP. JOHN WITT (R), HD 28, Carter, opened the hearing on **HB 8,** Renewable resource bonds and loans. DNRC administers the renewable resource loan program and issues those bonds. There are three new loans authorized in HB 8 and re-authorization of four loans that have been in the bill since the 2003 session. These loans provide a match to state and federal grants for irrigation districts and their projects. The Renewable Resource Loan Program is one of the two sources of affordable funding. Section 3 of the bill provides for the issuance of $7,236,264 in coal severance tax bonds to provide funding for these loans. Coal severance tax bonds were first issued in 1985. These are limited liability bonds where the revenue pledged to repay the bonds is the borrower's payment along with revenue deposited in the Coal Severance Tax Trust. Interest rates for the loans are set in HB 8. To the extent that the loan rate is less than the interest on the bonds, the difference is made up by the use of the coal severance tax deposits. The total use of the coal severance tax fund per year is approximately $600,000. HB 8 requires a three-quarter vote in both Houses to pass, as the bill authorizes debt and the use of coal severance taxes that are deposited into the trust.

EXHIBIT(fcs71a06)

Proponents' Testimony:

John Tubbs, DNRC, advised this is one of the smallest HB 8's they have moved forward, in part because of the successful Environmental Protection Agency (EPA) loan program. Communities now have a preferred low interest loan that the state can offer through that program, so the Department is seeing less drinking water and waste water system loans. There are a few that will have to come through this mechanism because they cannot match EPA funds with EPA dollars. This is the one place that irrigation districts can find a source of capital for public infrastructure. The community of Lockwood continues to have no sewers with individual drinking wells in a community of about 7500. The

expense of putting a sewer in was so staggering that they have never been able to get a 60 percent majority vote. This has continued on the books in case they got that vote.

Mark Bruno, OBPP, advised HB 8 is part of Governor Schweitzer's budget package. There were no changes from the Martz administration. He expressed appreciation to the subcommittee and to **REP. WITT** for carrying the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. SCHMIDT asked about Deadman's Basin. **Mr. Tubbs** advised Deadman's Basin Supply Canal is a canal that diverts water out of the Musselshell River close to Harlowton and delivers that water to a storage reservoir called Deadman's Basin. He described Deadman's Basin as a topnotch recreational area with some good roadside restaurants. It also provides the water supply for a large state-owned irrigation project in the Musselshell River Basin. Martinsdale is also part of that system and is close to White Sulphur Springs. There is a reservoir outside of town that continues to have some erosion problems that the project will address. The Cartersville Irrigation District is the district that diverts water at Forsyth.

SEN. LAIBLE asked why Lockwood has a different interest rate formula. **Mr. Tubbs** said it was a program precedent for many years that, when a water and sewer loan came in, there was a differential interest rate when they gave a subsidy for the first five years to get the project off the ground and then removed the subsidy. It is a recommendation they carried forward from past biennia. This project has been on the books for so long and that was the original language so it has continued forward.

SEN. BARKUS asked about the Lockwood project. He said he represents a similar area in Evergreen which has dense population. He asked if Lockwood voters approve the project, if it is an obligation of the property owners in the district. **Mr. Tubbs** advised it was based on a revenue stream. Water and sewer district statutes indicate only when the payment is not made by a homeowner does it then become an assessment on the property. If Lockwood goes out for election again, the water and sewer district statute allows them to have an SID approach or they can take the revenue-based approach. It is up to the governing body to make a decision, and then the electorate has to approve that.

Closing by Sponsor:

REP. WITT advised Carterville is a suburb of Carter, Montana.

CHAIRMAN COONEY said he has a picture of his grandfather, when he was Governor, dedicating Deadman's Basin reservoir when they first started to build it in the middle 1930s.

HEARING ON HB 9

{Tape: 2; Side: B; Approx. Time Counter: 28.4}

Opening Statement by Sponsor:

REP. JOHN WITT (R), HD 28, Carter, opened the hearing on **HB 9**, Cultural and aesthetic grant appropriations. **REP. WITT** advised when the director called him about carrying the bill he said he was a dirt farmer and did not know much about culture. He decided it was important for him to carry the bill. He described it as a good bill that does a lot for people across Montana. It supports things like helping Montana Towns bring Missoula Children's Theater to schools, new windows, roofs, and bathrooms for historical museums, etc.

EXHIBIT(fcs71a07)

{Tape: 3; Side: A}

The Cultural and Aesthetic Trust Fund was established in 1976 with a small portion of the coal tax. It reached a high of $7.5 million, and $4 million was transferred to the Historical Society for the purchase of Virginia City during the 1997 session. At that time it was promised that the funds would be forthcoming to make up half of the interest lost in the transfer of the corpus. In 1998 and 1999 funds were transferred from the corpus for that purpose. Since then, general fund has been used to backfill the lost interest. During the 2002 special session, bed tax replaced the 2003 general fund amount of $198,575. Both Governor Martz and Governor Schweitzer recommended that the 1997 transfer from the corpus be replaced with one-time-only monies. For the current biennium, there are 91 applications requesting $2.1 million, which is $2.64 for every dollar available. This is a reduction from the awards in the last biennium. These grants benefit all things cultural in the state as well as enriching every community large and small. These grants generate an additional $31.5 million and serve as a stamp of approval when these organizations seek funding from other public and private funds.

Proponents' Testimony:

Mark Bruno, OBPP, stated HB 9 is part of the Governor's budget package. Again, there was no change in HB 9 with the new administration.

Carleen Layne, Montana Arts Council, thanked **REP. WITT** for carrying the bill, **CHAIRMAN WELLS** and the committee for a great hearing. She said that applicants felt very welcome before the committee.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. BARKUS asked if there was any chance he was carrying this bill because there was nearly a 100 percent increase for the funding for Liberty Village Art Center and Gallery. **REP. WITT** said he was not aware of the situation until he heard that **CHAIRMAN COONEY** stopped in that community and was so taken by it he thought they should do whatever they could for the facility. **CHAIRMAN COONEY** said he pleads guilty, but they had fun teasing **REP. WITT.** It seemed like everything they did impacted his district.

Closing by Sponsor:

REP. WITT thanked the staff. He said that **Ms. Layne** was diligent about keeping track of time and kept the hearings completely under control. He noted some of the fields on his farm are very artistic.

CHAIRMAN COONEY commented that the hearings were interesting. The subcommittee got to hear people play instruments, dance, and describe other activities for which funding was being asked. **CHAIRMAN WELLS** did a great job, and it was an interesting committee on which to serve.

EXECUTIVE ACTION ON HB 9

{Tape: 3; Side: A; Approx. Time Counter: 9.2}

Motion/Vote: **SEN. COBB moved that HB 9 BE CONCURRED IN. Motion carried 10-1 by voice vote with SEN. HANSEN voting no.**

SEN. JON TESTER would carry the bill on the floor.

EXECUTIVE ACTION ON HB 8

{Tape: 3; Side: A; Approx. Time Counter: 10.7}

Motion/Vote: SEN. COBB moved that HB 8 BE CONCURRED IN. Motion carried 13-0 by voice vote.

SEN. COBB would carry HB 8 on the floor.

EXECUTIVE ACTION ON HB 7

{Tape: 3; Side: A; Approx. Time Counter: 11.4}

Motion/Vote: SEN. COBB moved that HB 7 BE CONCURRED IN. Motion carried 13-0 by voice vote.

SEN. LAIBLE would carry HB 7 on the floor of the Senate.

EXECUTIVE ACTION ON HB 332

{Tape: 3; Side: A; Approx. Time Counter: 14.8}

Motion: SEN. WILLIAMS moved that HB 332 BE CONCURRED IN.

Discussion:

SEN. WILLIAMS explained this is the supplemental for the Low Income Energy Assistance Program (LIEAP) between now and until the next fiscal year. There are many who suffered big power bills this winter. This was an amount of money they thought they could get by with to supplement that program.

SEN. ESP recalled something in the hearing about using federal funds instead of general fund. **SEN. WILLIAMS** said there was a federal grant that came in after the bill was written. The original appropriation was $1.185 million and now it is down to $903,000. There are other federal monies that were applied for, but it would not take care of this issue between now and the end of the fiscal year.

Taryn Purdy, Legislative Fiscal Division, recalled the money in the budget currently reflects the additional federal monies that were available.

SEN. BARKUS asked if this would push the supplementals up to near $60 million. **Ms. Purdy** advised this would be in addition to the supplemental bill, and she recalled the supplemental bill was for about $55 million. **SEN. BARKUS** commented his energy costs for this year were substantially down from the previous year because of the mild winter. **SEN. WILLIAMS** indicated the energy committee held a hearing in Helena with low income and senior citizens testifying about their power bills. Almost all the testimony was that people's power bills were up. That was one of the reasons a supplemental was important.

SEN. ESP observed he would vote no on this given the fact that they pulled some LIEAP funds out of the budget for the next biennium in HB 2. There will be about $10.5 million in federal funds, plus another $4 million spent on this program.

SEN. WILLIAMS acknowledged they cut quite a bit of money out of the LIEAP program for next year. This is a supplemental for this winter. None of the federal money for next year's program will help these people who may get their power cut off.

CHAIRMAN COONEY reminded the Senators that the funding that was removed in HB 2 was not a reduction in LIEAP. It was a reduction of an increase.

Vote: Motion passed 13-6 by roll call vote with SEN. BALES, SEN. BARKUS, SEN. ESP, SEN. KEENAN, SEN. LAIBLE, and SEN. STAPLETON voting no.

SEN. COBB offered to carry the bill on the floor of the Senate.

EXECUTIVE ACTION ON HB 505

{Tape: 3; Side: A; Approx. Time Counter: 23.3}

Motion: SEN. COBB moved that HB 505 BE CONCURRED IN.

Discussion:

SEN. SCHMIDT recalled Miles City Community College has video conferencing available, and Pine Hills has used it for their training according to Mike Batista, who runs the Law Enforcement Academy. It is a quarter of a mile away.

SEN. WEINBERG asked if there was a security risk in sharing that system. **SEN. SCHMIDT** replied, no. The person she talked to at Miles City Community College worked previously at Pine Hills and was now at the community college. Pine Hills had used the video

conferencing at the community college for staff training purposes.

SEN. LAIBLE thought the labor involved moving people and documents for the video conferencing would cost almost $70,000. **SEN. SCHMIDT** advised they offer one class a year for juvenile training. It is built into the collective bargaining agreement that staff will be trained by the Montana Law Enforcement Academy. According to Mike Batista, they have to beg people to travel to come to the class. The cost for the video conferencing at the community college was less than the travel. There was no security issue. **SEN. LAIBLE** thought it would be more effective to have video conferencing on-site.

{Tape: 3; Side: B}

SEN. BALES said if the system was in place at Pine Hills it could be used for communications for those that are incarcerated. He acknowledged the system at the Miles City Community College is not far away. The question was about the value and necessity of having a system on the Pine Hills campus. If it was just for annual training required for the employees of Pine Hills, there was no justification for having it. He thought there were other benefits to those incarcerated. He stated support for the bill.

SEN. SCHMIDT said the bill says for staff training purposes. She did not ask about other purposes and thought they should wait until they get more information.

CHAIRMAN COONEY recalled there were other uses outlined in the hearing such as teleconferencing with counselors. This would not decrease face to face efforts.

SEN. COBB withdrew his motion.

ADJOURNMENT

Adjournment: 10:43 a.m.

_____
SEN. MIKE COONEY, Chairman

_____
PRUDENCE GILDROY, Secretary

MC/pg

Additional Exhibits:

EXHIBIT(fcs71aad0.PDF)