**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES**
**59th LEGISLATURE - REGULAR SESSION**

**JOINT APPROPRIATIONS SUBCOMMITTEE ON LONG RANGE PLANNING**

**Call to Order:** By **CHAIRMAN JACK WELLS**, on January 10, 2005 at 8:05 A.M., in Room 350 Capitol.

**ROLL CALL**

**Members Present:**
Rep. Jack Wells, Chairman (R)
Sen. John Brueggeman (R)
Sen. Mike Cooney (D)
Sen. Bob Keenan (R)
Rep. Ralph L. Lenhart (D)
Sen. Jon Tester (D)

**Members Excused:** None.

**Members Absent:** Rep. Carol C. Juneau (D)
Rep. John E. Witt (R)

**Staff Present:** Laura Dillon, Committee Secretary
Catherine Duncan, Legislative Branch
Mark Bruno, OBPP

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

**Committee Business Summary:**
Hearing & Date Posted: HB 11, 1/10/2005
GOVERNOR'S BUDGET STATE OF MONTANA
FISCAL YEARS 2006-2007
TREASURE STATE ENDOWMENT PROGRAM
(TSEP)- VOLUME 5
Executive Action: None

**CHAIRMAN WELLS** opened the meeting and reminded members of the audience who wished to testify that they must first sign in at the register.

## HEARING ON HB 11

**Opening Statement by Sponsor: REP. WALTER MCNUTT (R), HD 37,** opened the hearing on HB 11, Treasure State Endowment Appropriation.

**REP. MCNUTT** introduced HB 11 and encouraged support of the Treasure State Endowment Program (TSEP). REP. MCNUTT was unable to remain at the meeting because of other committee responsibilities, so he turned the bill over to **David Cole, Department of Commerce** (**DOC**) and **Jim Edgcomb, DOC** for further presentation.

**Mr. Cole** said that TSEP came about as the result of voter referendum in 1992. TSEP has become a major force behind infrastructure development in local communities statewide. Currently the program can contribute around $18 million for 47 different community projects. Communities that receive TSEP grants are required to formulate a capital improvements plan for the proposed facilities. As a result of TSEP, the majority of communities in the state have formulated such a plan.

**Mr. Cole** told the committee that TSEP staff, along with other state and federal funding agencies, has put together a funding agency called the Water, Waste Water, and Solid Waste Agencies Coordination Team (WSACT). The agency has made significant progress with the coordination of technical and financial assistance for local communities. The agencies have also developed a common application form as well as common environmental checklists for the communities to follow.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 7.1}***

**Jim Edgcomb** introduced himself as manager of TSEP and informed the committee that the information presented would play a key role in their decision-making process.

**SEN. KEENAN** asked how grants to subdivisions or incorporated areas fit under the capital improvement plan.

**Mr. Edgcomb** replied that a capital improvement plan is required of all districts. Many of these districts have formulated such a plan by simply completing the planning required during the loan process.

**SEN. KEENAN** asked if a community completing the TSEP application process would be formulating a capital improvement plan.

**Mr. Edgcomb** said that water, sewer, and streets are the minimum that the applicants are responsible for having in a capital improvements plan.

**Mr. Edgcomb** introduced **Richard Knutterud**, **TSEP engineer**, and commented that other staff engineers may be dropping by to observe committee meetings at times.

***{Tape: 1; Side: A; Approx. Time Counter: 7.1 - 11.3}***

**Mr. Edgcomb** repeated that TSEP was created in 1992 and is essentially a grant program, although loans can potentially be administered through the program as well. TSEP offers grants for the construction or repair of water systems, including bridges and waste water facilities. TSEP grants may be given to counties, municipalities, cities, towns, consolidated governments, or tribal governments. In order to be eligible for a TSEP grant, a community must show structural as well as financial need for their project. TSEP funding is provided by the interest earned from one of the coal trust funds.

**SEN. KEENAN** asked what the reference was for TSEP in statute.

**Mr. Edgcomb** directed **SEN. KEENAN** to section 90-6-701, MCA as cited in Appendix A of the Governor's budget.

**Mr. Egcomb** went on to say that 50 percent of the tax allocations going into the coal trust fund go to TSEP and the rest of the money is used for infrastructure. The fund is currently up to approximately $117 million in principal.

**Mr. Edgcomb** told the committee that there are three kinds of financial assistance provided through the program:
1) Preliminary Engineering Grants
2) Emergency Grants
3) Construction Grants

Most of the money goes into construction grants with over $58 million awarded in matching construction grants to 155 local governments. There are 68 projects currently being administered by TSEP. Funds are disbursed to local governments as expenses are incurred to ensure the construction of these projects is done properly.

***{Tape: 1; Side: A; Approx. Time Counter: 11.3 - 20.9}***

**REP. LENHART** asked if there were any time limits for project completion.

**Mr. Edgcomb** answered that there are no time limits on the projects. He said that many times the TSEP application is just the beginning of a community's funding package and it often takes two or three years to complete a project.

**Mr. Edgcomb** told the committee that TSEP has awarded 72 preliminary engineering grants since the program began in 2002 and there is $425,000 available for this biennium. There have been eight emergency grants awarded since 2002. Typically these are smaller grants to pay for repairs to a structure that is a significant safety hazard and requires immediate attention. The maximum amount available for emergency grants is a $15,000 with the community matching each dollar. Grants for construction constitute the largest portion and are (for the most part) limited to $500,000 per project with a dollar-to-dollar match. There is a limit of $7,500 spent per household of the applicant community.

***{Tape: 1; Side: A; Approx. Time Counter: 20.9 - 30}***

**Mr. Edgcomb** said that seven things are looked at on a TSEP application: 1) health and safety; 2) financial need; 3) design 4) planning and management; 5) funding package; 6) economic development; and 7) community support.

**Mr. Edgcomb** directed the committee members to see Appendix B of the TSEP manual for more information on how these areas are scored. Communities are informed up-front about the scoring process, which consists of five levels. Level 1 consists of 20 percent of the points and Level 5 is 100 percent. A Level 5 project would be one that has demonstrated the most serious need.

**Mr. Edgcomb** said applications are reviewed and evaluated by private sector engineering firms, and applicants are encouraged to attend all scoring sessions. After the application is reviewed, a draft report is sent to the applicant for comment, although nothing new may be added to the project by the applicant community at this point. Scoring for financial need is done through a computer based process which takes into account the different rates and funding available before a judgement is made.

***{Tape: 1; Side: B; Approx. Time Counter: 7.4 - 17.7}***

***{REP. WITT entered the meeting at 8:50 A.M.}***

**Mr. Edgcomb** explained the target rate as a figured percentage of the median household income. The target rate analysis under the financial assessment is only done as often as accurate census data is available. In some cases where census data isn't available; income surveys are done. The DOC will use 90 percent of the target percentage to determine their target rate and this number is moved up by two percent each year to accommodate anticipated growth. Once new census numbers are available, the number is again reset to 90 percent of the target number. To be recommended for a grant, the applicant community must demonstrate that they are at or above the predetermined target rate.

***{Tape: 1; Side: B; Approx. Time Counter: 17.7 - 25.4}***

**REP. WITT** asked if the target rate was weighted to community and location, and if Mr. Edgcomb could give any examples.

**Mr. Edgcomb** said that the target rate is a percent of median household income of the community.

**CHAIRMAN WELLS** asked why TSEP had held some communities ineligible for grants because their water rates were not high enough when some communities may be interested in using a TSEP grant as a means of making their water rates lower.

**Mr. Edgecomb** answered that due to the limited amount of money available, TSEP grants must go to communities where they are most needed, and there are a number of factors to consider aside from the water rates of a community.

**CHAIRMAN WELLS** asked if this meant that TSEP grants would not be awarded to communities who are able to upgrade and still keep their rates relatively low.

**Mr. Edgcomb** answered that a community must at least charge a minimum amount in order to be eligible for assistance.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.7}***

**Mr. Edgcomb** said that financial assistance is determined as a percent of median household income (MHI) when dealing with a bridge levy. When reviewing a bridge application the community's total levy as a percent of MHI, as well as its ability to levy taxes, will be taken into account. Mr. Edgcomb stated that this formula will not continue to be used for much longer as it results in numbers which favor more quickly growing communities.

**SEN. TESTER** asked how much money the TSEP program was bringing in matching funds from the communities.

**Mr. Edgcomb** replied that typically funds are matched dollar for dollar.

**SEN. TESTER** asked if the matched dollars are typically higher on other projects outside of TSEP.

**Mr. Edgcomb** answered, "Yes."

**SEN. TESTER** asked if the TSEP numbers were raised over time as a general rule, or as a result of legislation.

**Mr. Edgecomb** answered that they were raised by rule.

**SEN. TESTER** asked if there was any analysis done to determine if it was better to have more rather than fewer projects.

**Mr. Edgcomb** said that research on that had already been done. Since the buying power of the dollar has gone down since the start of the TSEP program, a raise was necessary in order for the program to be comparable to where it started.

***{Tape: 2; Side: A; Approx. Time Counter: 3.7 - 9.9}***

**SEN. TESTER** said that the variable opportunities for money would need to be factored into the analysis. He asked if there was a possibility of taking this into account for funding more projects.

**Mr. Edgcomb** said that there were projects on the bottom of this list that did not meet the funding criteria that he would not feel confident in funding because they did not present a well-laid plan for their projects.

**SEN. TESTER** asked if the committee was permitted to take money from a project towards the bottom of the list and give it to a project higher up if they felt it was warranted.

**Mr. Edgcomb** stated that theoretically the committee had the authority to do what it wanted with the funds.

**SEN. TESTER** asked if the committee had the flexibility to add money beyond the $500,000 cap to one of the top projects.

**Mr. Edgcomb** stated that the committee is presented with 47 ranked projects and they could shift the funds around if they saw the need to.

***{Tape: 2; Side: A; Approx. Time Counter: 9.9 - 14.5}***

**Mr. Edgcomb** gave examples of some projects where the funding recommendations are different due to unusual circumstances and showed the committee where to find more detailed information on the projects in their budget manuals. In these cases, it will be up to the legislature to decide if the TSEP recommendations are accurate.

**REP. WITT** asked if the North Hills project was included in the TSEP applications.

**Mr. Edgcomb** stated that the project had not come in to complete the application process, and he did not know if there had been any preliminary engineering done.

***{Tape: 2; Side: A; Approx. Time Counter: 14.5 - 23.3}***

**Mr. Edgcomb** gave some more examples of community projects that did not receive the full funding amounts and explained the reasoning. Some of the projects could not show enough financial need, and others needed to show better planning.

***{Tape: 2; Side: A; Approx. Time Counter: 23.3 - 30.8}***

**Mr. Edgcomb** said that the legislative budget predicts that just over $18 million will be available to fund all 47 projects, and over $500,000 would remain left over.

**Mr. Edgcomb** then went over some of the main points of HB 11. He said that although HB 11 appropriates money for the TSEP construction projects, it would need to be amended in order to fund all 47 of the projects.

***{REP. JUNEAU entered the meeting at 9:35 A.M.}***

**Mr. Edgcomb** said that an enabling statute was added to HB 11 to require TSEP to inform the legislature of the status of all projects. The bill also appropriates $600,000 for preliminary engineering grants. This is more than what was appropriated in past years because the funds have had a tendency to run out quickly. HB 11 appropriates $100,000 for emergency grants. The bill also contains language to eliminate annual debt service subsidies, loans from coal severance bonds, and deferred loans for preliminary engineering because none of the options have ever been used through the program. Finally, HB 11 terminates two previous projects that are not moving forward. HB 11 also contains language to appropriate funds from the Treasure State

Endowment Regional Water System to provide the state's share for regional water system projects.

***{Tape: 2; Side: B; Approx. Time Counter: 0 - 16.2}***

**REP. WITT** asked if the projects could be lumped into groups for executive action unless there was an objection by a committee member.

**CHAIRMAN WELLS** said he would agree to group the projects. All approved projects could be part of one executive action.

**SEN. TESTER** asked if the state had gotten all the money back that it had put into two projects which were later terminated.

**Mr. Edgcomb** said that the money had not been given to the projects yet, as there was no reason for them to be utilized.

**SEN. TESTER** asked if the TSEP program would be willing to propose review of the project budget on a yearly instead of biannual basis.

**Mr. Edgcomb** answered that TSEP had proposed annual reviews at one time, but were not permitted to do so, and they were not going to try again at this time.

**SEN. TESTER** expressed to the chair that he would like the committee to have a discussion about this at some time.

***{Tape: 2; Side: B; Approx. Time Counter: 16.2 - 20.5}***

**REP. JUNEAU** asked if a project with a federal money allocation was terminated, would it still be able to retain the federal money for use somewhere else in the state.

**Mr. Edgcomb** answered that he did not think the state would be able to keep the fund, but the question should be posed to a member of the Department of Environmental Quality.

**Cathy Duncan** asked if there was a list of projects that received grants from the $600,000 allocated for preliminary engineering.

**Mr. Edgcomb** said a list of the recipients could be found in Appendix D of the budget manual.

**Ms. Duncan** asked if there was any need for more preliminary engineering grant money.

**Mr. Edgcomb** said that there were many more requests for grant money than could be afforded.

**SEN. KEENAN** asked if TSEP had ever been challenged on the technicality that the grants are statutorily set up for local governments, and they are accepting applications from subdivision and other entities less than local governments.

**Mr. Edgcomb** said that all applicants are informed that they must be a form of local government. Being formed as a county water and sewer district meets this requirement. The county could in fact apply for the preliminary engineering grant, but in order to be eligible for a construction grant, the district must come in and apply.

***{Tape: 2; Side: B; Approx. Time Counter: 20.5 - 26.9}***

## HEARING ON HB 11

### HILL COUNTY BRIDGE IMPROVEMENTS, Project #21 Page 136

**Jim Edgcomb, TSEP,** stated that the proposed project would replace three bridges and recommended the full amount requested; $450,750.

***{Tape: 2; Side: B; Approx. Time Counter: 26.9 - 27.4}***

**Proponents' Testimony**:

**Doug Kaercher, Hill County Commissioner,** thanked the committee for previous TSEP grants that the county had received and encouraged continued legislative support for the program.

**Dan McCauley, ENTRANCO,** was the engineer who performed the preliminary engineering report for the Hill County projects and testified to the need for the projects. He said that one bridge is often out of service because it withstands considerable amounts of annual flooding and the other two bridges' timber structures are beginning to fail. The county would like to take care of these bridges before they create a more expensive problem.

**Opponents' Testimony**: none

**Questions from Committee Members and Responses**: none

***{Tape: 2; Side: B; Approx. Time Counter: 27.4 - 29.3}***

**RICHLAND COUNTY BRIDGE IMPROVEMENTS Project #27 Page 162**

**Mr. Edgcomb** said the project would replace four bridges and is recommended for the full amount of requested funding--$153,841.

**Proponents' Testimony**:

**Russ Hudtari, Richland County Public Works Director,** stated that the oil development in the area has significantly increased the traffic on these bridges and the county is currently without any tax revenues from this development to help pay for the projects. The county has nominated bridges with low Montana Department of Transportation (MDT) sufficiency ratings and Mr. Hudtari circulated a handout that contained some of the county's research data.

**EXHIBIT(jlh06a01)**

**Mr. Hudtari** said that bridges have been a problem for Richland County because they have many structures, some with a low structural rating of less than 50. Several of the bridges on the main canal are owned by the federal government and they have not given the county the authority to replace any of those bridges with culverts.

**SEN. TESTER** asked if there were any way for the county to use federal funds to replace those bridges.

**Mr. Hudtari** answered that under the current agreement, the federal government owns the bridges and Richland County maintains them and pays for any replacements.

**SEN. TESTER** asked if the Finnicum Bridge Project pictured in the handout was created with emergency funds.

**Mr. Hudtari** replied that the bridge was built using TSEP grant money, but was not an emergency grant project.

**Gary Amestoy, Richland County Economic Development Lobbyist,** urged the committee members to support the project. He said that the bridges are needed by the farmers and the oil industry working in the area and that Richland County has received previous TSEP grants and has always followed through on their projects.

**Jeff Hintz, Interstate Engineering,** gave the committee a handout (Exhibit 2) and commented on the preliminary engineering research done for the projects. Mr. Hintz agreed that the oil industry in Richland County had added a significant amount of stress to the bridges and that the alternate route for one of the bridges was actually longer than stated in the preliminary engineering report. Mr. Hintz also said that the Fairview Bridge could possibly be used to supplement the Highway 201 Bridge because of their close proximity.

**EXHIBIT(jlh06a02)**

**Pat Torgerson, Richland County Citizen** testified that she lives near one of the bridges and has safety concerns regarding the amount of big truck traffic.

***{Tape: 3; Side: A; Approx. Time Counter: 0 - 14.3}***

**Opponents' Testimony**: none

**Questions from Committee Members and Responses**:

**SEN. TESTER** commented that the citizens of Richland County should talk to the Congressional Delegation about the federal government paying for some of the upkeep on the bridges that they owned.

**CARBON COUNTY BRIDGE IMPROVEMENTS Project #37 Page 210**

**Mr. Edgcomb** said the recommendation was for the full amount of $97,100 and that the money would replace one bridge.

**Proponents' Testimony**:

**John Prinkki, Carbon County Commissioner,** said that the bridge serves more people than reported and is in a developing area where several subdivisions are expected to be built. There are many trucks that use the bridge and currently it is single lane, with only a 10-ton-load rating. This bridge is one of two main bridges for Red Lodge and both are in need of replacement. The county has $50,000 available and is dependent on a TSEP grant to secure at least one of these bridges.

***{Tape: 3; Side: A; Approx. Time Counter: 14.3 - 19.4}***

**Mike Wambuldt, Carbon County Project Engineer,** said that all bridges were evaluated based on structural integrity as well as the needs of the county transportation system and the Fox Bridge has been identified as the top priority for the county. He stated

that this bridge provided a necessary thoroughfare and detours would be difficult during the winter months.

**Opponents' Testimony**: none

**Questions from Committee Members and Responses**: none

**BIG HORN COUNTY BRIDGE IMPROVEMENTS Project #19 Page 126**

**Mr. Edgcomb** said this project will replace one bridge and a recommendation for the full amount of $142,500 had been made.

**Proponents' Testimony**:

**Chad Fenner, Big Horn County Commissioner,** said that all bridges in the county underwent inspections and the Tullock Creek Bridge was listed highest in need. Many ranchers and farmers in both Big Horn and Treasure Counties use the bridge for hauling livestock and equipment.

**Greg Benjamin, Big Horn County Project Engineer,** said that the bridge is in bad structural condition. He also stated that the bridge is a key economic link for the county and should be replaced.

**Opponents' Testimony**: none

**Questions from Committee Members and Responses**:

**SEN. TESTER** asked for clarification on how grant need was calculated and pointed out that there seemed to be some discrepancies in ratios calculated in the Carbon County Project.

**Mr. Edgcomb** answered that there are sometimes differences in the wording that is used when determining the economic development portion of need and this could account for some of the confusion.

**Closing by Sponsor**:

**CHAIRMAN WELLS** closed the hearing on HB 11 and said that the committee would reconvene at 8:00 A.M. January 11, 2005.

***{Tape: 3; Side: A; Approx. Time Counter: 19.4 - 27.8}***

**ADJOURNMENT**

Adjournment: 11:00 A.M.

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REP. JACK WELLS, Chairman

_____
LAURA DILLON, Secretary

JW/LD

Additional Exhibits:

**EXHIBIT(jlh06aad0.PDF)**