

MINUTES

**MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **CHAIRMAN KEN TOOLE**, on February 15, 2005 at 3:00 A.M., in Room 317-C Capitol.

ROLL CALL

Members Present:

Sen. Ken Toole, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jeff Essmann (R)
Sen. Dan Harrington (D)
Sen. Dave Lewis (R)
Sen. Greg Lind (D)
Sen. Dan McGee (R)
Sen. Gary L. Perry (R)
Sen. Glenn Roush (D)
Sen. Carol Williams (D)

Members Excused: None.

Members Absent: None.

Staff Present: Casey Barrs, Legislative Branch
Claudia Johnson, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted: SB 415, 2/4/2005; SB 428, 2/4/2005;
SJ 17, 2/4/2005; SB 364, 2/4/2005;
HB 455, 2/4/2005
Executive Action: SB 143; SB 321; SB 371; SB 356; SB
455, SJ 17

HEARING ON SB 415

Opening Statement by Sponsor:

SEN. JON TESTER (D), SD 15, opened the hearing on **SB 415**, Expand production and use of alternative energy.

He said this bill will establish oil standards for alternative energy. He stated that Montana is out-produced by neighboring states, and Montana is the fifth windiest state in the United States.

Proponents' Testimony:

R. Paul Williamson, Dean of University of Montana College of Technology, Butte, discussed Montana having the first hydrogen wind energy. He talked about the 2003 Legislature that passed the resolution to develop wind energy. He stated there are four goals, and one of them is to have alternative energy in place by 2020.

Claudia Brown, representing Montana Association of Churches, Missoula, distributed written testimony which she read. She urged the Committee to support SB 415.

EXHIBIT (ens37a01)

Ronald Muir, Chairman of the Sierra Club, stated his support for SB 415.

Peggy Beltran, representing the National Association of Counties, said the association is a representation of 800 plus rural communities throughout the United States.

Richard Opper, Director of Department of Environmental Quality (DEQ), urged the Committee to support SB 415 so they can attain the goals set by the resolution study. He informed the Committee this bill is "water friendly".

Michael Costante, Energy Consultant, Power Procurement Group, Bozeman, distributed a report he made based on a summary that was submitted to the National Renewable Energy Laboratory (NREL) on September 2004. The report shows the quantifying economic development impacts of wind power in six rural Montana counties using the NREL Model, and Jobs, and Economic Development, and Impacts (JEDI).

EXHIBIT (ens37a02)

{Tape: 1; Side: A; Approx. Time Counter: 14 - 25}

Nancy Peterson, Director of the Department of Agriculture, stated their support for SB 415. She urged the Committee to support this bill.

Van Jamison, representing himself, distributed a handout on renewable portfolio standard (RPS) overview on the requirement of electric utilities and other electric suppliers to supply a minimum percentage or amount of their load with eligible sources of renewable energy. An RPS is sometimes accompanied with a tradable renewable energy credit (REC) program to ease compliance. He urged support for SB 415.

EXHIBIT (ens37a03)

Richard Parks, NPRC, informed the Committee he has a fly fishing shop in Gardner. He said that Gardner uses one megawatt per year, and their wind tunnels produce one to one and one-half megawatt per year. He urged the Committee to pass SB 415.

Gary Forrester, representing the Montana Contractors Association, said this bill is good for jobs, but he would like to work with the sponsor regarding environmental issues.

Richard Owens, representing the Montana Grain Growers Association stated his support for SB 415.

Pat Doplar, Doplar Solar Construction, Deer Lodge, stated his support for SB 415.

{Tape: 1; Side: B}

Brooks Daily, representing the Montana Farmers Union, said they support this bill, and urged the Committee to support this bill.

Mike Volesky, Governor's Office, talked about the regulation of utilities. This bill will provide renewable resources. He added there are several new plants being built, the one in Great Falls will be completed in 2006.

Wendy Kleinsassen, Wind Park Solutions of America, stated their support for SB 415.

Dave Ryan, representing Montana Renewable Association, distributed written testimony in support of SB 415.

EXHIBIT (ens37a04)

Gordon Brittan, representing himself, distributed written testimony in support of SB 415.

EXHIBIT(ens37a05)

Bruce Measure, Montana Office of the Northwest Power and Conservation Council, stated their support to expand production and use of alternative energy. Written testimony was distributed.

EXHIBIT(ens37a06)

Tom Schneider, Commissioner, representing the Public Service Commission (PSC), stated their support for SB 415.

Matt Leow, MontPIRG, stated their support for SB 415.

EXHIBIT(ens37a07)

Matt Elsaesser, Montana Conservation Voter, stated he also represents the Montana coalition groups. He urged the Committee to support HB 415.

Don Judge, representing the Montana Chapter of Sierra Club, Appolo, and the AFL-CIO, stated their support for SB 415.

EXHIBIT(ens37a08)

EXHIBIT(ens37a09)

Derek Goldman, representing the Montana Audubon, stated their support for SB 415.

Chuck Magraw, representing NRDC sand RNP, stated their support for SB 415.

Jean-Marie Souvigney, Program Director of Montana Conservation Voters, distributed written testimony in support of SB 415.

EXHIBIT(ens37a10)

Ann English-Gravatt, Senior Policy Associate, RPP and RED, Portland Oregon, distributed written testimony in support of SB 415.

EXHIBIT(ens37a11)

Patrick Judge, MEIC, distributed written testimony that gives an overview of Montana's untapped energy.

EXHIBIT (ens37a12)

Jackie Boyle, AARP Montana, distributed written testimony in support of SB 415.

EXHIBIT (ens37a13)

A second handout from **MontPRIG** was distributed that gave information on Montana's renewable energy potential for wind resources.

EXHIBIT (ens37a14)

Barbara Broberg, Women Involved in Farm Economics (WIFE), distributed a note stating that WIFE supports SB 415.

EXHIBIT (ens37a15)**Opponents' Testimony:**

{Tape: 1; Side: B; Approx. Time Counter: 13 - 18.9}

Brad Molnar, PSC, said he is one of the 200 plus Public Service Commission representatives, who opposes SB 415. He discussed the cost of energy, and how this cost will affect the consumers.

Charlie Holter, Manager of the Yellowstone County Electric Cooperative, said he is before the Committee representing the almost 12,000 members of the coop in Billings, and the surrounding area. He said they are only opposed to the mandate, not the bill. He talked about geo thermo heating approximately 450 residences and small businesses. He informed the Committee there is 650 megawatts of wind in the United States. He asked the Committee to wait and see what comes out of the Energy Forum that the Governor will be holding this summer. He said this will be part of a package to be looked at for Montana's future.

{Tape: 1; Side: B; Approx. Time Counter: 18.9 - 25}

John Fitzpatrick, representing NorthWestern Energy, stated that NorthWestern supports the development of renewable energy resources, but a "reasonable" amount of energy, and the cost effect for consumers to help stabilize rates. He said that SB 415 is focused in the wrong direction, because the market in Montana isn't that big. He said if renewable energy is to take off in Montana, it will have to be done on a export basis. He added the bill is well intended, but there will be serious consequences for future utilities operating in the state. **Mr.**

Fitzpatrick said NorthWestern doesn't support the bill in its current form.

{Tape: 2; Side: A}

John Alke, representing Montana Dakota Utilities (MDU), distributed written testimony, and a worksheet that show why MDU feels the bill will make the rates go higher. He informed the Committee if this bill passes, and for MDU to comply with this bill, they will have to pay a developer that has a wind generator.

EXHIBIT (ens37a16)

{Tape: 2; Side: A; Approx. Time Counter: 7.2 - 8.4}

Tim Gregori, General Manager of Electric G & T, said they provide energy to private co-ops in southern Montana. What Montana should be doing is developing a integrated resource plan for the state. He informed the Committee they need to see what comes out of the Governor's energy forum.

Don Quauder, Council to Montana Large Customer group, Billings, stated that SB 415 has very good intentions, but it is hard to reconcile with the substance that is available. He informed the Committee that the PSC is not staffed to go out and "fine" those that are not complying within the law, and who could be selling to Montana customers.

Haly Boudree, representing Columbia Falls Aluminum Company, informed the Committee that the company uses approximately 20 percent of the power in the state of Montana. If this bill is mandated, it will incur higher costs, and the Company will not be able to survive.

Greg Van Horsen, representing Black Hills Energy Corporation, stated that Black Hills is the regional operation that owns and operates generation in and around Montana, but they are not located in Montana. He said they oppose this bill.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 15 - 20}

Gary Wiens, Montana Cooperative Association, distributed written testimony that states the variables in this bill will affect the numerous co-ops to incorporate any renewable energy standards. He said they are not opposed to renewable energy, but need the flexibility and not be mandated.

EXHIBIT (ens37a17)

Gary Marbutt, Missoula, distributed an amendment that he hoped would be useful to the bill. He informed the Committee that he is approximately three months into a feasibility assessment to clean up the bio mass on Montana's ports. He stated that the bio mass is too low grade, and doesn't pay for itself when coming out of the ports for consumer use. His study will turn this into electricity with the bio mass conversion at the nearest point on the power grid. He wants to market this power in a free activity market where consumers are recruited.

EXHIBIT (ens37a18)**Questions from Committee Members and Responses:**

{Tape: 2; Side: A; Approx. Time Counter: 21.9 - 25.9}

SEN. LIND asked **Tom Schneider** about the cost effectiveness of qualifying power, and the conference that took place on renewable energy. **Mr. Schneider** responded that he feels Montana is poised to jump into renewables. The price is in the five to seven range, and said that is very attractive. He said this will be very competitive. They are in-line with what is going on throughout the United States. He discussed **Exhibit 7**, that was distributed earlier on the Western Governors energy policy resolution sponsored by Governors Richardson, New Mexico, and Governor Schwarzenegger, California.

{Tape: 2; Side: B}

CHAIRMAN TOOLE asked **Mr. Schneider** if the Commission has taken a position on this bill. **Mr. Schneider** said that the Commission supports this bill as Commissioner Molnar indicated on a 3-2 vote. He said this bill will be a regional-wide public policy.

SEN. ESSMANN asked **Mr. Schneider** about the cost impact as stated by the opponents, and if he would accept an amendment that would protect those companies that are against this bill. **Mr. Schneider** said they will be willing to look at any language that will make the companies comfortable.

SEN. LEWIS asked **Mr. Schneider** about MDU indicating if the federal tax credit went away, it would add \$15 to their kilowatt output, which would be passed on to the consumer. **Mr. Schneider** said if there was an elimination of the wind power tax credit, it would affect the ability of the utilities to meet the portfolio standard, but it is achievable in Montana.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 4.8 - 9.4}

SEN. TESTER closed. He distributed an amendment which addresses the concerns that were discussed today. He talked about basic industry not wanting to change. This bill will change the direction of Montana, and he urged the Committee to pass SB 415.

EXHIBIT (ens37a19)**HEARING ON SB 428**

{Tape: 2; Side: B; Approx. Time Counter: 9.4 - 20}

Opening Statement by Sponsor:

SEN. COREY STAPLETON (R), SD 27, opened the hearing on **SB 428**, 211 - disaster, emergency, safety, health, human service referral phone service.

Proponents' Testimony:

Susie McIntyre, Voices of Hope/Opportunities Incorporated, Great Falls, informed the Committee she is the coordinator in the Great Falls office. She said this will establish a 211 throughout the state of Montana. She gave an example how SB 428 will give assistance to someone that cannot pay a bill by directing them to the appropriate place. The 211 office in Great Falls received a grant from the national library of medicine for \$420,000. She informed the Committee they are on target to complete a statewide data base on the website with all the services listed through the Department of Health and Human Services, and can be used by anyone. She informed the Committee that the federal communication system supplied them with the 211 number.

EXHIBIT (ens37a20)

Peter Bishop, United Way of America, Florida, informed the Committee this is his first time to Montana, and said it is a beautiful state. He distributed a map showing the 211 coverage throughout the United States. He said that currently, 37 percent of Americans have access to 211. He said it is their goal to bring that up to 50 percent by July 2005. The difficulties other states have had with 211, are taken care of in this bill. He informed the Committee when September 11, 2001 happened, New York gave out two numbers, one was 211, and the other was a 800

number. He didn't say how many calls came in on the 800 number, but there were 9 more calls on 211. He urged the Committee to pass SB 428.

EXHIBIT (ens37a21)

Gayle Shirely, Public Information Officer, Department of Public Health and Human Services (DPHHS), distributed written testimony in support SB 428. She said that individuals that work in the field say that 211 is a one-stop service. It is a public hotline for Montana. She added that DPHHS will oversee the program, but will not run the program. She informed the Committee that DPHHS is required by the state emergency operation plan to provide a public hotline in case of disaster. She urged the Committee to support SB 428.

EXHIBIT (ens37a22)

Walter Pyatt, consumer, stated his support for SB 428, and urged the Committee to pass this bill.

{Tape: 3; Side: A}

Paul Spangler, Lewis and Clark Disaster Emergency Services Coordinator, and the Montana Association of Disaster Emergency Services through the state. He said they support this bill for the reasons previously mentioned, and urged a do pass for SB 428.

Gary Owen, President of the United Way in Cascade County, said he represents all the United Ways in Montana, and urged the Committee to support this bill.

Donetta Klein, Executive Director of Montana Coalition against Violence, said the coalition supports SB 428, and urged the Committee to give it a do pass.

Sherry Waulf, Executive Director of the United Way, Stevensville, informed the Committee that the 211 call center in her area has been in existence since 1984, and have touched more than 1.5 million people. She said this bill connects people to services by providing answers when they are needed the most.

Jean Curtiss, Commissioner of Missoula County, and representing Montana counties, informed the Committee there are only four call centers in Montana at this time. She urged a do pass to allow statewide services.

Jim Morton, Executive Director of the Human Resource Council, Missoula, said they were the first organization to implement a

operational 211 in the state of Montana. He said they are funded by local funds, especially by the United Way. This is a vital program, and he urged the Committee to pass SB 428.

Sandy Filipowice, Voice of Hope, Cascade County, said that 211 provides vital information to the community. She urged the Committee to support this bill.

Tim McCauley, Executive Director of United way in Lewis and Clark County, said he has recently been elected as chair for the 211 advisory council. With the four centers in place, the council will be looking at how to pull the system together for a statewide structure. He urged support for SB 428.

Jim Kemp, representing the Montana Association of Chiefs of Police, said they support this legislation, and it is a public safety measure. He urged support for SB 428.

Dan Leiberg, Executive Administrator for the State Disaster and Emergency Services Division, said the 211 communication is the largest service that can be provided to enhance the capability for public safety. He urged support for SB 428.

Opponents' Testimony: None.

Informational Testimony:

Charlie Rehbein, Aging Services, Senior and Long Term Care Division (SLTC), DPHHS, said he is before the Committee for informational purposes and to answer any questions the Committee may have.

Questions from Committee Members and Responses:

{Tape: 3; Side: A; Approx. Time Counter: 6 - 14.5}

SEN. CROMLEY asked about expanding the 211 call centers. **Susie McIntyre** responded that the bill only sets out implementation of the call centers. She said they only have the four centers at this time, because they don't know what the big picture will look like. The bill provides a system how a call center can apply to be a 211 system. The DPHHS will determine what the requirements will be, then the call center will be approved by the coalitions.

SEN. CURTISS asked about the fiscal note. **SEN. STAPLETON** said the fiscal note has not gone through the process yet. He stated there is a fiscal impact from the general fund of \$47,000 in 2006, and \$23,000 in 2007. **SEN. CURTISS** said the Pacific Northwest Economic Region received a homeland security grant, and

was able to set up a early warning system. She said that Texas, New York, and a few other states have adopted pilot program, and wanted to know if the sponsor thought this program could be connected with those disaster programs from the other states.

SEN. STAPLETON deferred the question to Dan Lieberg. **Mr. Lieberg** replied that he isn't sure if this could go through homeland security. **SEN. CURTISS** stated that she would like to see a fiscal note, and if there is potential in receiving a homeland security grant.

Closing by Sponsor:

SEN. STAPLETON closed.

HEARING ON SJ 17

{Tape: 3; Side: A; Approx. Time Counter: 14.5 - 20}

Opening Statement by Sponsor:

SEN. GREG LIND (D), SD 50, opened the hearing on **SJ 17**, Encourage renewable energy development.

He informed the Committee this resolution will encourage renewable energy and development. SJ 17 will send a message to Congress and the President to extend the production of tax credits for 10 years or more. This will allow Montana to take advantage of the resources available, and encourage the production of windmills.

Proponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 20 - 23}

Van Jamison, said he gave his background information when he testified previously, said this bill calls upon the president and congress to extend the tax credits for co-ops, non-profits, and other organizations. The tax credit incentive will give footing in the production of wind energy resources. He said that wind needs two cents, but the federal government set it at 1.8 cents. **Mr. Jamison** said the tax credit expired at the end of 2003, but now that it has been renewed, "you cannot find one generator in Montana". He added that the use of tax incentives has been provided to private investors for some time. He urged a do pass for SJ 17.

{Tape: 3; Side: B}

Don Judge, AFL-CIO, Teamsters Local 190, and the Montana Chapter of the Sierra Club, stated they support SJ 17. He said energy diversity is critical for our national security, and by developing renewable energy, we will stabilize our country, and reduce pollution. He informed the Committee that 10 percent of the wind potential in the windiest cities can provide enough capacity to reduce the total U.S. carb production by one-third. He said 10 percent of wind capacity in 10 cities will reduce carbon production in the U.S. by one-third. Wind power generates 2.77 jobs for every megawatt that is produced, and Solar creates 7.24 jobs per megawatt. He urged the Committee to support this bill.

Windy Kleinsassen, Wind Park Solutions of America, said they support SJ 17.

Dave Ryan, representing Montana Renewable Association, stated their support for SJ 17.

Chuck Magraw, stated their support for SJ 17.

Patrick Judge, MEIC, said they support SJ 17. He urged a do pass motion.

Bob Raney, PSC, representing SW Montana, informed the Committee that the majority of the Commissioners, Commissioner Jergeson, and Commissioner Schneider, support SJ 17. He said there are two points to consider when pushing Montana and the rest of the nation into using renewable energy production: fuel diversity and the environment. He said "we shouldn't have all the energy eggs in the fossil fuel basket". The result of choosing fossil fuel is evident in the troubles in the middle east. He said it will only get worse with time if "we do not develop alternatives". In regards to the environment, he said, "how do we tell our children and our grandchildren that we did not care about the air that we breathe and the water they drink, or the atmosphere that changes the solar rays." He said \$100s of billions have been spent, and thousands of soldiers lives have been lost to wage a war for oil, then we can certainly afford a few hundreds of millions to reduce the need. He asked the Committee to please support SJ 17.

Opponents' Testimony:

Brad Molnar, Public Service Commissioner, said he is also representing Commissioner Mood. He said the bill is asking the government to increase deficit spending to create the illusion of affordable energy to the detriment of "our own economy". It takes more wind than it can to produce energy. He said, if this bill passes through Congress, the windmill producers will stay in

Denmark and this bill will help pay their wages. He urged a do not pass.

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. LIND closed.

HEARING ON SB 364

{Tape: 3; Side: B; Approx. Time Counter: 9.5 - 17}

Opening Statement by Sponsor:

SEN. GREG LIND (D), SD 50, opened the hearing on **SB 364**, Environmental labeling and disclosure for electric utilities.

SEN. LIND said this bill came out prior to the legislature. This will provide consumers meaningful information in making choices. He distributed an amendment SB036401.acb, and explained what the amendment does.

EXHIBIT (ens37a23)

Proponents' Testimony:

{Tape: 3; Side: B; Approx. Time Counter: 17 - 20}

Patrick Judge, MEIC, submitted background information on SB 364. He discussed "green Power". He said there are 150 customers who have installed small photovoltaic or wind generation systems at their homes, schools, or businesses. Green Power is renewable resources that can be purchased from Northwestern Energy for \$2 extra a month to support development of new renewable energy resources. He added that the state of Washington was used as a model for the green power plan. **Mr. Judge** also distributed amendments, SB036401.ate, which he explained. He added that his amendments will place the Department of Environmental Quality in charge

EXHIBIT (ens37a24)

EXHIBIT (ens37a25)

Chuck Macgraw, stated his support for SB 364. He discussed the Montana Code and giving the citizens of Montana the information to make a choice.

Matt Leow, representing the Montana Public Research Group, stated their support for SB 364. He urged a do pass.

{Tape: 4; Side: A}

Dave Ryan, representing Montana Renewable Association, stated the Association's support for SB 364. He said it is the Associations goal to train Montanans on renewable energy. He urged a do pass.

Opponents' Testimony:

John Fitzpatrick, representing Northwestern Energy, informed the Committee this bill will raise the price of energy, because it will create more mailing, and increase the cost to consumers.

Doug Hardy, representing the Montana Electric Cooperatives Association, Livingston, distributed written testimony which he read. He said that the cooperatives oppose this bill because it is placing a mandate on the member consumers. He said the consumers should be provided direction, rather than mandates.

EXHIBIT (ens37a26)

Informational Testimony:

Paul Cartright, said he works for the DEQ. He is available for any questions the Committee may have.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

SEN. LIND closed. He informed the Committee this bill places "as minimal a burden as possible on the consumers". He said it is doable, and will work for everyone. He said there is a fiscal note that changes the effective date from 2006 to 2007. He said DEQ has informed him that most of the costs will be up front. He urged a do pass.

HEARING ON SB 455

{Tape: 4; Side: A; Approx. Time Counter: 7 - 16.6}

Opening Statement by Sponsor:

SEN. KEN TOOLE (D), SD 41, opened the hearing on **SB 455**, Billing period for electric and gas utility customer billing statements.

He informed the Committee this bill came out of the public hearing that had taken place at the Lewis and Clark Library on February 3, 2005. He said that many of the people that came forward said their power bill reading exceeded 30-days. He stated that his meter reading for 39-days. This bill will set a permissible range for a meter reading from the energy company between 28 to 32 days.

Proponents' Testimony:

Matt Leow, representing Montana Public Research, said this bill is commonsense. He commented that it is outrageous that a bill could vary up to 39-days. He said "you'd expect your power bill to be a monthly bill". He urged the Committee to support this bill.

Opponents' Testimony:

John Fitzpatrick, representing the NorthWestern Energy Company, informed the Committee they basically view this bill as a nuisance and a intrusion into the basic relationship with the customer at this time. He said that NorthWestern, unlike Walmart, is not a cash and carry business, and the customers are billed periodically. A customer is billed 21-days per month, one day per business day per month. He said the billing system sometimes malfunctions and the customer will be billed out of sequence. There are holidays when the employees take time off, and it sets the billing period out of whack, or there are times they have to readjust their meter routes. He informed the Committee he was also billed for a 37-day period.

Doug Hardy, representing the Montana Electric Cooperatives Association, distributed a handout of SB 371, the bill with new language added by **SEN. LIND**, (see Exhibit 27). He stated the bill is fairly prescriptive the way it is worded regarding the number of days for a cycle. He said the co-ops have irrigation accounts where some are billed monthly, twice a year, and cabin accounts that billed only twice a year.

[EXHIBIT \(ens37a27\)](#)

Informational Testimony: Paul Cartwright, from Planning, DEQ, informed the Committee he is available for any questions they may have.

Questions from Committee Members and Responses:

SEN. ROUSH asked **John Fitzpatrick** if the power company was having problems when billing some people at 39-days. **Mr. Fitzpatrick** replied, he wasn't sure. Maybe it was due to the number of holidays that had taken place during that period. He said that people can always call the power company to change their billing cycle if they are having a problem with cash flow.

Closing by Sponsor:

SEN. TOOLE closed. He stated if this was a competitive business and a person wanted to be billed on a regular cycle he can predict, they could go somewhere else and retain a different service provider. He commented, "but, we don't have that option". It is a regulated utility. He said this isn't a small matter, it affects a lot of people. He urged a do pass.

EXECUTIVE ACTION ON SB 143

{Tape: 4; Side: A; Approx. Time Counter: 16.6 - 25.6}

CHAIRMAN TOOLE informed the Committee that this is the bill that deals with the Orphan Share account, and the cleanup in Kalispell. He said when the bill went to the floor of the Senate, there was much confusion, and trouble. He explained the amendments. The Department of Environmental Quality, (DEQ), is preparing another bill that deals with the cleanup of the site in Kalispell. The bill will now only deal with the Orphan Share account that goes into the CIRCLA account (hazardous waste), for another cleanup.

He asked **Casey Barrs, LSD**, to distribute the amendment. **Casey Barrs, LSD**, explained the amendment SB014302.acb. **CHAIRMAN TOOLE** stated that the Committee didn't have any discussion on the amendment when it was handed out to the Committee for executive action that had taken place in a previous hearing.

EXHIBIT (ens37a28)

CHAIRMAN TOOLE asked **Sandi Olsen, Remediation Division, DEQ**, if this amendment had been proposed before when the bill was in Committee. **Ms. Olsen** said amendments had been added to the bill to ensure that DNRC had received credit and was required with HB

2. She said when the bill came back from the Senate floor, everything that had gone into the Orphan Share fund should be deleted from the bill with this amendment.

{Tape: 4; Side: B}

Casey Barrs, LSD, explained the amendment to the Committee.

Motion: SEN. HARRINGTON moved that SB 143 DO PASS.

Motion: SEN. TOOLE moved that AMENDMENT SB014302.acb BE ADOPTED.

EXHIBIT (ens37a29)

Discussion: SEN. LEWIS said he is going to vote against this bill, because it is his understanding that money was not to come out of the Orphan Share fund.

{Tape: 4; Side: B; Approx. Time Counter: 3 - 7.4}

Sandi Olsen, DEQ, explained the bill, and how the funds are paid. She said there was a bill that mirrored this bill from the last session to retain a provision, which was codified. She said it is a one time loan. This is currently in statute, and it provides whenever there is a positive fund balance that the Orphan Share account must be reimbursed.

Vote: Motion carried unanimously by voice vote.

Discussion: CHAIRMAN TOOLE asked **Sandi Olsen** what the amendment does. **Ms. Olsen** informed the Committee that the amendment as adopted now, takes everything out of the bill, and now it will only provide funding to CIRCLA. This funding is used to run the DEQ regulatory programs, and bring in the five to six million federal dollars that will operate other programs. **CHAIRMAN TOOLE** reconfirmed **Ms. Olsen's** comment; this is used as match for federal dollars, and not tied to the Swank Contract. **Ms. Olsen** replied, that is correct. **CHAIRMAN TOOLE** informed the Committee that he will be supporting this bill, because of the federal match.

Motion/Vote: SEN. LIND moved that SB 143 DO PASS AS AMENDED.

Motion carried 6-5 by roll call vote with SEN. CURTISS, SEN. ESSMANN, SEN. LEWIS, SEN. MCGEE, and SEN. PERRY voting no.

EXECUTIVE ACTION ON SB 321

{Tape: 4; Side: B; Approx. Time Counter: 20 - 25}

Motion: SEN. LIND moved that SB 321 DO PASS.

Motion: SEN. ROUSH moved that AMENDMENT SB032102.acb BE ADOPTED.

EXHIBIT(ens37a30)

Discussion: CHAIRMAN TOOLE informed the Committee that SEN. ESSMANN has some amendments, but he felt that the Committee should get this bill out to the floor, and address the amendments there.

Substitute Motion/Vote: SEN. LEWIS made a substitute motion that SB 321 BE TABLED. Substitute motion failed 5-6 by roll call vote with SEN. CURTISS, SEN. ESSMANN, SEN. LEWIS, SEN. MCGEE, and SEN. PERRY voting aye.

{Tape: 5; Side: A}

Vote: Motion on the amendment carried unanimously by voice vote.

Motion: SEN. ROUSH moved that AMENDMENT SB032103.acb BE ADOPTED.

EXHIBIT(ens37a31)

Discussion: The Committee discussed the amendment that extends the liability from five years to seven years.

Vote: Motion carried unanimously by voice vote.

{Tape: 5; Side: A; Approx. Time Counter: 8.6 - 15}

SEN. ESSMANN wanted to make a conceptual amendment to strike Section 4, in its entirety. CHAIRMAN TOOLE informed the Committee if this is done retroactively on the applicability date, the seven-year clock will not start until the applicability date. He feels that the amendment will gut the bill.

SEN. ESSMANN withdrew his motion.

Motion: SEN. ROUSH moved that conceptual AMENDMENT TO GO BACK SEVEN YEARS to January 1, 1998 BE ADOPTED.

Vote: The motion on the conceptual amendment to go back seven years to January 1, 1998 carried by voice vote.

Motion/Vote: SEN. LIND moved that SB 321 DO PASS AS AMENDED. Motion carried 6-5 by roll call vote with SEN. CURTISS, SEN. ESSMANN, SEN. LEWIS, SEN. MCGEE, and SEN. PERRY voting no.

EXECUTIVE ACTION ON SB 371

{Tape: 5; Side: A; Approx. Time Counter: 15 - 25}

Motion: SEN. HARRINGTON moved that SB 371 DO PASS.

Motion: SEN. HARRINGTON moved that AMENDMENT SB037102.acb BE ADOPTED.

EXHIBIT (ens37a32)

Discussion: Casey Barrs, LSD, distributed, and explained the amendment.

Vote: Motion carried unanimously by voice vote.

{Tape: 5; Side: B}

Discussion: The Committee discussed the amendment, and whether or not if the bill fails the Energy Share Assistance program be able to continue. CHAIRMAN TOOLE commented there is a sunset. They were informed by Jackie Boyle, AARP, who said this will establish a minimum of 17 percent. She said there is a difference with public utilities, which are set at 40 percent, and co-ops have a minimum of 17 percent for allocation of funds. The Committee referred to Doug Hardy who said they did fund 17 percent of the 2.4 percent in 1995. In 2003, there was a 26 percent increase from 1995. The change from 17 percent up to the minimum compounded the minimum of 122 percent higher on the low income. He said they did overfund last year, but said there was a statutory overfunding.

{Tape: 5; Side: B; Approx. Time Counter: 7.3 - 10}

Motion/Vote: SEN. LEWIS moved that SB 371 BE TABLED. Motion carried 6-5 by roll call vote with SEN. CROMLEY, SEN. HARRINGTON, SEN. LIND, SEN. TOOLE, and SEN. WILLIAMS voting no.

EXECUTIVE ACTION ON SB 356

{Tape: 5; Side: B; Approx. Time Counter: 10 - 15}

Motion: SEN. ESSMANN moved that SB 356 DO PASS.

Motion: SEN. ESSMANN moved amendment SB 035602.acb, and asked that CONCEPTUAL AMENDMENT on line 12 after the words "during regular business hours" add "as defined in Section 2-16-117, MCA, BE ADOPTED. On line 18, strike the word "can", and insert the word "must".

EXHIBIT (ens37a33)

Discussion: CHAIRMAN TOOLE asked Casey Barrs, LSD, if this goes back downstairs through editing, and then back here. Mr. Barrs replied, yes, it is a conceptual amendment.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: SEN. ESSMANN moved that SB 356 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

EXECUTIVE ACTION ON SB 455

{Tape: 5; Side: B; Approx. Time Counter: 15 - 22}

Motion: SEN. TOOLE moved that SB 455 DO PASS.

Substitute Motion/Vote: SEN. LEWIS made a substitute motion that SB 455 BE TABLED. Substitute motion carried 6-5 by roll call vote with SEN. CROMLEY, SEN. HARRINGTON, SEN. LIND, SEN. TOOLE, and SEN. WILLIAMS voting no.

Other Information submitted to Secretary:

Wind Hunter, LLC, Grapevine, TX, submitted written testimony for SB 455.

EXHIBIT (ens37a34)

Richard Moe, Chairman for Wheatland County Board of Commissioners, submitted written testimony for SB 415.

EXHIBIT (ens37a35)

EXECUTIVE ACTION ON SJ 17

Motion/Vote: SEN. LIND moved that SJ 17 DO PASS. Motion carried 10-1 by voice vote with SEN. ESSMANN voting no.

ADJOURNMENT

Adjournment: 6:30 P.M.

SEN. KEN TOOLE, Chairman

CLAUDIA JOHNSON, Secretary

KT/cj

Additional Exhibits:

EXHIBIT ([ens37aad0.PDF](#))