

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on February 1, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary

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

Committee Business Summary:

Hearing & Date Posted:	HB 417, 1/25/2005;
	HB 373, 1/25/2005;
	HB 335, 1/25/2005;
	HB 291, 1/25/2005
Executive Action:	HB 417; HB 123; HB 297;
	HB 234; HB 35

(VICE CHAIR BROWN leaves to present a bill elsewhere)

HEARING ON HB 417

Opening Statement by Sponsor:

REP. MONICA LINDEEN (D), HD 43, opened the hearing on **HB 417**, Fund Lewis & Clark Bicentennial signature events. **REP. LINDEEN** advised that the first of two signature events, "Explore the Big Sky," is scheduled for June 1 through July 4, 2005 in Great Falls, and the second, "Clark on the Yellowstone," will be held July 22 through July 25, 2006 in the Billings-Huntley Project-Pompeii's Pillar area. **REP. LINDEEN** contended this was a once-in-a-lifetime opportunity for Montanans to showcase the state, demonstrate Montana hospitality and capitalize on the economic impact of increased tourism. While infrastructure, volunteers, partnerships, promotions, planning, and programming for these events were in place, the commemorative events lacked adequate funding. Passage of HB 417 would provide \$500,000 each for the events in Great Falls and in the Billings area.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.7}

Proponents' Testimony:

Jeffrey Dietz, Chair, Yellowstone County/Lewis & Clark Bicentennial Commission, submitted written testimony and the organization's projected budget.

EXHIBIT(sth25a01)

Peggy Bourne, Executive Director, Explore the Big Sky, provided a summary of her testimony as well as additional information on the Bicentennial. She stated that she and 280 other volunteers have been working on the event for the past three years, planning to retell the story of the expedition in many different media, such as academic programming, museum exhibits, a musical re-creation of the Blackfeet story of "Scarface" as well as tours, float trips and various community events. She emphasized the involvement of Native American tribes and made special mention of the Indian Art Market showcasing, promoting and marketing tribal art and craft items; this will be a juried event for years to come. **Ms. Bourne** advised that to date, \$1 million has been raised through grants and sponsorships; the difference of the estimated \$3 million needed would have to be made up through ticket sales. She added that the State's financial support was very much needed in order to continue working on the events and finalizing the 180 different activities.

EXHIBIT(sth25a02)

Stephenie Ambrose Tubbs, Helena, stated HB 417 represents an investment in attracting future visitors to Montana as the interest in the Lewis & Clark Expedition would remain viable long after the Bicentennial. She recounted that her father, Stephen F. Ambrose who penned the bestseller "Undaunted Courage," was fond of saying, "In terms of Lewis & Clark sites, Montana has the best places and stories along the trail that is filled with extraordinary places and stories." In October of 2000, he addressed the Bicentennial Commission in Great Falls and admonished everyone to start preparing for the Bicentennial's arrival in Montana. She contended that he would be proud of the work done in preparing for the arrival of the Lewis & Clark enthusiasts but would advocate the need for additional funds to support the efforts of the dedicated event organizers. **Ms. Ambrose Tubbs** stressed the educational importance as well as the cultural and historical significance of the events. She submitted that it was the duty of this Legislature to demonstrate their pride in the state's history and scenic beauty by funding these signature events, thereby increasing the likelihood of their success. In closing, she reminded the Committee that Montana was facing stiff competition from fellow Trail states as outlined in Exhibit 2.

{Tape: 1; Side: A; Approx. Time Counter: 4.7 - 19.5}

Randy Gray, Mayor, City of Great Falls, also spoke for **Rhonda Carpenter, Great Falls Chamber of Commerce,** and stated he was a long-time member of the National Lewis & Clark Interpretive Center Board which has morphed into the National Lewis & Clark Interpretive Center Foundation. He praised this collaborative effort of municipal, State and Federal organizations as well the education and private sectors in organizing and preparing for the signature events. **Mr. Gray** reiterated the need for the State's financial support, emphasizing that these two programs would benefit the entire state well into the future.

Bill Kennedy, Yellowstone County Commissioner, Billings Area Chamber of Commerce, rose in support of HB 417, echoing previous testimony. He stressed that the \$1 million was a one-time commitment which would result in a seven-fold turnover in each of the communities and surrounding areas. **Mr. Kennedy** stated the anticipated number of visitors to the state was between 53,000 and 100,000.

Jim Ohara, Choteau County Commissioner, reminded the Committee that besides the excitement and anticipation, there was concern that the unprecedented influx of visitors would tax the region's infrastructure; the funding requested in HB 417 would go a long way towards strengthening and improving it.

Jani McCall, City of Billings, urged the Committee to support the funding requested in HB 417 for the aforementioned reasons.

Roger Axtmen, President, Fort Benton City Council, also spoke on behalf of **Mayor Rick Morris** and stated that this small community would be greatly impacted by the expected influx of visitors, 30,000 last year alone, and expect this number to double or triple. While the community is looking forward to hosting the signature events, he stressed the need for the additional funding.

{Tape: 1; Side: B}

Jay Russell, Lewis & Clark Interpretive Center Foundation, stated that while the organization had no fiscal responsibility with regard to the Bicentennial, the Foundation is committed to its success and is assisting in the fund raising activities. **Mr. Russell** stressed the Bicentennial's success was paramount as it would be judged by Lewis & Clark scholars and fans alike. He stated that the goal was to make Montana the premier state along the Lewis & Clark Trail as it boasts the largest number of campsites. **Mr. Russell** recounted efforts to raise private funds for the signature events and asked that the state partner with the Foundation in making this a lasting legacy.

Carl Kochman, Montana Innkeepers Association, Montana Chamber of Commerce, Montana Tourism Advisory Council, rose in support of HB 417, citing previous testimony.

Dan Krum, Yellowstone County Bicentennial Commission, Pompeii's Pillar Historical Association, echoed previous testimony, stressing the events offered a once-in-a-lifetime opportunity to showcase the State of Montana and capitalize on the economic impact of increased tourism. He informed the Committee that similar signature events in other states had the financial support of state and local governments.

Hal Stearns, Past Chair, Montana Lewis & Clark Commission, gave a brief overview of some of the highlights of Lewis & Clark's journey, stating that people yearn to understand their past. He contended that if the state really wanted to showcase the historical events, it had to commit to funding the Bicentennial.

Amy Grmoljez, Montana Tourism Coalition, also spoke for **Stu Doggett, Montana Innkeepers Association**, and strongly supported efforts commemorating the Lewis & Clark expedition. She voiced her organization's appreciation for using general fund money for the Bicentennial instead of additional revenue from the bed tax.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 8.3}

Clint Blackwood, Executive Director, Montana Lewis & Clark Bicentennial Commission, held up a map covering the national Lewis & Clark trail which shows the sites of the fifteen national signature events. He gave a brief overview of the ones that had been held already, adding that the events were watched closely on national and international levels. He stressed that the signature events are important in light of the fact that Montana is home to the only documented campsite, at Pompeii's Pillar, and the expedition traveled more than 2,000 miles in the state in about a month's time. In closing, he stressed that the potential for return visits, along with the inherent economic benefits, should not be underestimated.

Opponents' Testimony: None

{Tape: 1; Side: B; Approx. Time Counter: 8.3 - 12.4}

Informational Testimony:

Betsy Baumgart, Department of Commerce, Administrator, Travel Montana, agreed with previous testimony and stated that the Department had started promoting the Bicentennial in 1997, spending about \$67,000 of bed tax funds; in 2004, funding for the promotion reached \$600,000 and included advertising in magazines and television both in national and international markets. In all, approximately \$6 million of bed tax funds have been invested in the Bicentennial.

Questions from Committee Members and Responses:

REP. HAL JACOBSON, HD 82, HELENA, asked the Sponsor if the \$1 million was included in the Governor's budget. **REP. LINDEEN** replied that it was not.

REP. ALAN OLSON, HD 45, ROUNDUP, noted that the two events were about a year apart and asked **REP. LINDEEN** if the expenditure could be split between the two fiscal years. **REP. LINDEEN** did not think this would be a problem but asked to refer to Mr. Dietz to make sure the money did not have to be available to the Billings event prior to 2006. **Mr. Dietz** stated that even though there was a deadline in early April, it would be acceptable as long as they knew beforehand how much money would be available as they planned details and committed to speakers, exhibitors, and programs. **REP. A. OLSON** was confident that this bill would pass, and Mr. Dietz would know by April that the funds were available.

REP. BERNIE OLSON, HD 10, LAKESIDE, wondered why only Democrat lawmakers were co-sponsoring the bill. **REP. LINDEEN** apologized, citing time constraints and added she had not intended to leave anyone out.

REP. GORDON HENDRICK, HD 14, SUPERIOR, advised that he and anyone else could still sign on.

REP. BRUCE MALCOLM, HD 61, EMIGRANT, referred to Mr. Dietz's testimony in that 50,000 additional visitors were expected in Yellowstone County. He questioned why only \$30,000 in vendor fees were listed on his budget sheet and asked why there was no mention of admission fees. **Mr. Dietz** explained the reason for the absence of admission fees was that the Lewis & Clark Bicentennial was an event that belonged to the people and no one should be excluded because of an inability to pay. He recalled having had two bicentennial events with admission fees, and they did not do well. He contended that adding fees to family type events tended to put people off; this was too important an event to allow that to happen. It was their goal to put off charging admission fees if at all feasible. With regard to the projected vendor fees, he explained this was comprised from fees charged participating vendors.

REP. MARY CAFERRO, HD 80, HELENA, asked Ms. Baumgart to repeat the promotional expenditure breakdown. **Ms. Baumgart** complied, detailing that between 2005 and 2007, about \$2.4 million was anticipated for infrastructure which was allocated to the Montana Historical Society, the Lewis & Clark Bicentennial Commission, various Lewis & Clark projects and a museum exhibit at the Historical Society; for the same time span, an anticipated \$2.5 million is being used in all of the advertising and marketing efforts.

REP. JOAN ANDERSON, HD 59, FROMBERG, ascertained that part of the requested \$500,000 would go to pay for presentations. **Mr. Dietz** explained that the funds would support a number of activities, speakers, exhibits, and the establishment of a National History Mall aimed at young people. In addition, since July 25, 2006 marks the 200th anniversary of Captain Clark's signature on Pompeii's Pillar, it would be declared National Day of Honor, honoring the involvement of Native Americans; he added that this day would be their primary focus. **Mr. Dietz** repeated the plans for a Native American Fine Art Show and added this would include a Quilt Show which would provide in additional income as the quilts would be auctioned off at the end of the celebrations. The plans also included a Youth Fair and a so-called Author's Tent. Other expenses included transportation and logistics costs for shelters.

{Tape: 2; Side: A}

REP. SUE DICKENSON, HD 25, GREAT FALLS, referred to previous testimony regarding infrastructure needs and wondered how

necessary the \$500,000 was to address general comfort and safety issues. **Ms. Bourne** replied that out of their \$3 million budget, \$500,000 was dedicated to improving infrastructure, from venue rental to porta potties, sound systems, shuttle busses and the like. \$130,000 are budgeted to help offset safety related costs in the affected counties.

(VICE CHAIR SMALL-EASTMAN left at 9 A.M.)

Closing by Sponsor:

REP. LINDEEN closed, stressing the importance of the Bicentennial events for Montana in terms of economic development.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 5.6}

REP. A. OLSON advised the Sponsor that he whole-heartedly supported HB 417 but would like to add an amendment splitting the appropriation between FY 2005 and FY 2006. **REP. LINDEEN** had no objection.

EXECUTIVE ACTION ON HB 417

Motion: **REP. A. OLSON** moved that HB 417 DO PASS.

Motion: **REP. OLSON** moved that the CONCEPTUAL AMENDMENT TO HB 417 to appropriate \$500,000 in FY 2005 and \$500,000 in FY 2006 BE ADOPTED.

Discussion:

REP. DICKENSON asked Sheri Heffelfinger, Legislative Services Division, whether this would take care of the technical concern listed in the fiscal note. **Ms. Heffelfinger** confirmed that it would, saying the funds for FY 2005 would be included in the current budget if the bill passed.

Vote: Motion carried unanimously by voice vote; REPS. SMALL-EASTMAN and BROWN voted aye by proxy.

Motion: **REP. JENT** moved that HB 417 DO PASS AS AMENDED.

Discussion:

REP. A. OLSON advised that for those who wanted to co-sign HB 417, the green sheet had to be signed before the bill was reported out of Committee.

REP. GARY MACLAREN, HD 89, VICTOR, referred to the projected seven-fold investment return and suggested increasing the state's contribution to \$10 million. This was met with applause.

(VICE CHAIR BROWN returned; CHAIRMAN JENT briefed her.)

Vote: Motion carried unanimously by voice vote; **REP. SMALL-EASTMAN** voted aye by proxy.

CHAIRMAN LARRY JENT, HD 64, BOZEMAN, commented that this was a wonderful opportunity for lawmakers to promote the State of Montana and the Lewis & Clark Expedition. He hoped the events would garner the attention of the national media because it would bring in even more visitors and guarantee the projected investment return.

REP. DICKENSON agreed and advised watching the bill's progress to make sure it was included in HB 2.

{Tape: 2; Side: A; Approx. Time Counter: 5.6 - 13.5}

(The Committee dissolved into discussions while waiting for the next sponsor.)

{Tape: 2; Side: A; Approx. Time Counter: 13.5 - 16.6}

HEARING ON HB 373

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS (D), HD 66, opened the hearing on **HB 373**, Montana code review commission. He reviewed a section of law dealing with amusement games to make a point about the need to identify and repeal outdated statutes. **REP. HARRIS** advised the Montana Code should be accessible and readable, not cluttered.

(CHAIRMAN JENT left and VICE CHAIR BROWN presided.)

Proponents' Testimony:

John Bohlinger, Lieutenant Governor of Montana, stated that aside from the administration's campaign pledge to bring the two major parties together to deal with the problems faced by the State; some of the goals included new efficiencies in government, challenging expenses and not wasting resources. He lauded the sponsor for bringing forth HB 417 as it was in line with this promise. **Lt. Governor Bohlinger** advised that it has been 30 years since the Montana Code Annotated had been revised and urged the Committee's support.

(CHAIRMAN JENT returned at 9:35 A.M.)

REP. JOHN MUSGROVE, HD 34, HAVRE, stated his support for HB 373. He suggested adding the requirement of repealing one law before a new one could be added. He stated there is a certain reticence to repeal laws limiting existing technology and agreed with the Sponsor in that there was a lot of obsolete and cluttered language in statute, asking for passage of HB 373.

John Shontz, Montana Newspaper Association, advised that in the sections dealing with freedom of information, a number of statutes remaining on the books have been declared unconstitutional by the Supreme Court, such as the stipulation that labor negotiations between governmental units and their union are private. He pointed out that 20 years ago, the courts had ruled these are open and public events. He stated the industry was committed to ensure that the people of Montana are made aware of this so that they could actively participate, and commended **REP. HARRIS** for bringing this bill.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. DEE BROWN, HD 3, HUNGRY HORSE, asked **REP. HARRIS** whether there should be a fiscal note, seeing that the code review commission was comprised of five members. **REP. HARRIS** replied there was no provision for reimbursement but anticipated their expenses would be paid.

{Tape: 2; Side: B}

REP. A. OLSON referred to the Sponsor's comments that there had not been any new amusement games since 1947 and wondered if this was due to regulations imposed on the industry. **REP. HARRIS** was not sure and pointed to the five-page section in statute which had not been updated or amended since then, saying it was prohibitive to invent a new game since it had to conform to this statute.

REP. A. OLSON remarked his question was based on the notion of undue regulation.

REP. MALCOLM referred to the provision that each department branch was required to prepare a report on obsolete and outdated laws and wondered about a fiscal note as well. **REP. HARRIS** advised that there would be a fiscal note but asked the Committee to look at any fiscal note with scepticism, explaining that since each department and agency was familiar with the code provisions

within their jurisdiction, it would not take a lot of work or time to identify and report them.

REP. B. OLSON pointed to New Section 3 and asked if the parties identified therein were to provide this service free of charge.

REP. HARRIS confirmed this. **REP. B. OLSON** ascertained this was the reason why the Sponsor did not anticipate a great deal of expense associated with HB 373. **REP. HARRIS** agreed, adding that the more recent laws did not need this scrutiny; the bill mainly addressed laws seventy-five years and older. He suggested doing the necessary clean-up with one comprehensive bill rather than in piece-meal fashion.

Closing by Sponsor:

REP. HARRIS closed.

(CHAIRMAN JENT announced a five-minute break and asked to reconvene at 9:50 A.M.)

{Tape: 2; Side: B; Approx. Time Counter: 0 - 9.5; Comments: REP. SMALL-EASTMAN enters; REPS. CAFERRO and DICKENSON are not present}

HEARING ON HB 335

Opening Statement by Sponsor:

REP. VERONICA SMALL-EASTMAN (D), HD 42, opened the hearing on **HB 335**, Require Native American voting member on all state boards. She stated that Native Americans make up seven percent of Montana's population and should have a voice; she proceeded to give a brief overview of HB 335. **REP. SMALL-EASTMAN** advised that so far, the current administration has appointed Native Americans to eight of the one hundred and fifty three boards.

Proponents' Testimony:

Linda Gryczan, Montana Women's Lobby, stated her organization has long supported gender balance and racial parity on boards and commissions; she saw it as a way to get people involved in government and public office.

REP. JOEY JAYNE, HD 15, ARLEE, supports the bill for the reasons given by the Sponsor, **REP. SMALL-EASTMAN**.

Opponents' Testimony: None

Informational Testimony:

Craig Thomas, Executive Director, Montana Board of Pardons and Parole, reminded the Committee of his testimony on a related bill and stated that HB 335 mirrors HB 290. He recounted that the Montana Supreme Court ruled that if a Native American is appointed to the Board, he must attend and act upon all hearings involving Native Americans. While he did not know how HB 335 would affect other boards, he stated its importance to the Parole Board. Should this bill pass, **Mr. Thomas** suggested to specify that the Native American on the Parole Board is not required to attend and act upon all cases involving Native Americans. He added this would eliminate administrative problems and enable the Board to conduct cases in a timely manner.

{Tape: 2; Side: B; Approx. Time Counter: 9.5 - 19.8}

Questions from Committee Members and Responses:

REP. WILLIAM JONES, HD 9, BIGFORK, requested that the Sponsor provide a list of all affected boards including the number of members serving on each board as well as the number of sub-boards and their members. **REP. JONES** stated it was important to find out whether this bill would affect only the large boards or their sub-boards as well. **REP. SMALL-EASTMAN** promised to obtain this information.

REP. A. OLSON asked how much authority regulatory boards had on tribal lands. **REP. SMALL-EASTMAN** replied Indian tribes in Montana are sovereign nations; agencies such as the Department of Health and Human Services (DPHHS) are allowed to come in and work with the Bureau of Indian Affairs (BIA) and the tribal social services. As far as the food stamp program is concerned, recipients register with their respective county office and deal with that agency. She added that the county, the FBI and the BIA work together on incidents involving Native Americans; the same goes for drug enforcement issues. **REP. A. OLSON** asked whether Family Services under DPHHS had the authority to enter a home on the reservation. **REP. SMALL-EASTMAN** advised that they usually go through the BIA or tribal office. **REP. A. OLSON** ascertained that the Department had no real authority but had to work with the BIA. **REP. SMALL-EASTMAN** opined this had been the case before the Indian Child Welfare Act; now these agencies worked together. **REP. A. OLSON** asked whether the Board of Environmental Review was authorized to engage in or review permitting actions on the reservations. **REP. SMALL-EASTMAN** was not sure but thought the tribes would collaborate with the Board as they had with the coal-fired power generation plant near Hardin and related air quality issues. **REP. A. OLSON** referred to numerous instances of cooperation cited by the Sponsor and asked whether the State had

any authority to regulate on tribal lands. **REP. SMALL-EASTMAN** indicated her first reaction would be to say "no" but opined it was done on a case-by-case basis; she referred to the Zortman-Landusky mine where the State had allowed permitting; subsequently, it turned out the bonding was not sufficient to cover clean-up costs.

REP. HENDRICK wondered if the Sponsor felt a fiscal note was necessary for the new appointees' training. **REP. SMALL-EASTMAN** replied that training should be afforded all new appointees, no matter what their race. **REP. HENDRICK** asked whether the provisions of HB 335 would displace someone who had already been appointed to a board. **REP. SMALL-EASTMAN** advised that the new Administration was making appointments for positions she assumed were vacant; for those positions whose terms had not yet expired, the provisions in HB 335 suggested that possibility.

CHAIRMAN JENT asked the Sponsor whether other states with significant Indian populations had passed similar legislation. **REP. SMALL-EASTMAN** stated she knew that New Mexico and Arizona have Native Americans on their boards but absent any research on her part, did not know any details.

CHAIRMAN JENT ascertained Mr. Thomas' statement with regard to the Supreme Court ruling meant that a Native American on the Board of Pardons and Parole was required to hear and act upon all cases involving Native Americans. **Mr. Thomas** affirmed this and added the ruling was based on language in the previous statute dealing with the Board's composition, "... at least one member of the Board must be knowledgeable in American Indian culture and problems...." Based on that language, the Court stated they could see no other reason for having this language than for that person to hear and act on all American Indian cases. He assumed this would also apply if one member had to be an American Indian, rather than just "knowledgeable."

{Tape: 3; Side: A}

REP. JONES asked whether this type of legislation required everyone working in Montana to be racially profiled, adding he would strongly object. **REP. SMALL-EASTMAN** replied that even applicants for a drivers' licenses have to state their race, and the U.S. Census questionnaire requires the same. **REP. JONES** advised his concern was with having to prove his genealogy.

CHAIRMAN JENT advised this line of questioning should be left for Executive Action.

Closing by Sponsor:

REP. SMALL-EASTMAN closed, saying Native Americans should be allowed to serve on Montana's boards and should be notified of vacancies. She added that HB 335 had nothing to with regulatory authority.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 4.4}

HEARING ON HB 291**Opening Statement by Sponsor:**

REP. VERONICA SMALL-EASTMAN (D), HD 42, opened the hearing on **HB 291**, Revise membership of coal board. She stated that her reasoning for HB 291 was the fact that most of Montana's coal reserves are on Indian reservations, and yet, Native Americans are not represented on the Coal Board. She further stated that one member from a coal-producing county as well as a Native American should be added to the Board to make knowledgeable decisions concerning Coal Board grants affecting their areas.

Proponents' Testimony:

Linda Gryczan, Montana Women's Lobby, stated that Montana's boards should reflect the state's population; since they do not, it should be required by law.

Opponents' Testimony: None**Informational Testimony:**

Dave Cole, Community Development Division, Montana Department of Commerce, stated that two agencies are attached to his division, namely the five-member Hard Rock Mining Impact Board and the seven-member Coal Board. **Mr. Cole** reviewed the current make-up of the Coal Board, referring to the handouts, Exhibit 3, which provide definitions of some of the terms used in HB 291 and show the maps depicting existing power generation plants and the two districts from which Board members are picked. In closing, he stated that he was available to answer any questions the Committee might have.

EXHIBIT(sth25a03)

Questions from Committee Members and Responses:

REP. A. OLSON commented that it has been practice to select one person from a coal-producing area to the Coal Board. He stated that one of the concerns he had with HB 291 was the fact that Montana does not receive any coal severance tax from tribal coal

and asked the Sponsor whether these positions and impact monies should also be offered to people living in Wyoming since most of the workforce at the Decker Mine were residents of that state.

REP. SMALL-EASTMAN replied that all she wanted was to have Indian representation on the Board and someone familiar with the area that was being impacted. **REP. A. OLSON** asked about the amount of coal severance tax collected by the tribes on their coal. **REP. SMALL-EASTMAN** replied she did not know the extent of tribal coal production.

REP. DICKENSON asked Mr. Cole to share with the Committee whether he felt an increase in the number of Board members from seven to nine was helpful. **Mr. Cole** advised this was a policy call for the Legislature to make and added that the fiscal impact was marginal as it merely entailed quarterly travel expenses. **Mr. Cole** stated if there was hesitancy about adding to the number of Board members, the Committee could change the composition of the board to requiring one member to be from the coal impact area and one from a coal mine county, rather than having two members who must be from the coal impact area. In addition, current requirement calls for two educators, and the Committee could change this to one educator and one Native American. In reference to the grants, **Mr. Cole** advised that a number of the Coal Board grants go to assist communities which are primarily Native American as two reservations are located in the heart of coal country.

REP. DICKENSON wondered why two of the members have to be educators. **Mr. Cole** replied he did not know; this dated back to the creation of the Board in 1975 when the coal severance tax was first established.

REP. B. OLSON referred to Linda Gryczan's testimony for the two bills and asked if it was her intent to have women appointed to all boards corresponding to their percentage of the state's population. **Ms. Gryczan** advised that her group supports gender balance and racial parity and would like to see the people solve this problem rather than having to push for a legal solution.

REP. B. OLSON asked whether Native Americans could serve on the Coal Board under current law, provided they met the qualifications. **REP. SMALL-EASTMAN** stated they probably could serve on the Board but none did. She was aware of the fact that Governor Schweitzer was contemplating the appointment of Native Americans for positions on various boards but did not know whether it involved the Coal Board. **REP. B. OLSON** asked whether the Sponsor would agree that anyone who was qualified, regardless of race or gender, could serve without any restrictions. **REP. SMALL-EASTMAN** replied that anyone could serve on a board, but she

wanted to guarantee that one member on each board would be a Native American.

(CHAIRMAN JENT leaves at 10:25 A.M.)

Closing by Sponsor:

REP. SMALL-EASTMAN closed, stating that her original bill did not provide for two additional members; the bill drafter misunderstood and put this requirement in which she allowed, thinking she could bring an amendment to keep the number at seven.

{Tape: 3; Side: A; Approx. Time Counter: 4.4 - 19.8}

EXECUTIVE ACTION ON HB 123

Motion: **REP. OLSON** moved that HB 123 DO PASS.

Discussion:

REP. ANDERSEN voiced her opposition to the bill, stating party designation is already required to be on campaign signs; the size of the letters should not be regulated for yard signs or campaign literature.

VICE CHAIR BROWN concurred, adding some of her constituents had asked whether there would be a "print police."

REP. A. OLSON stated he opposed the bill as well.

REP. SMALL-EASTMAN lauded **REP. FACEY** for bringing this bill forward; she said that she appreciated being able to make out a candidate's party designation on the signs.

REP. HENDRICK opposed HB 123 adding it was a candidate's responsibility to make his party affiliation known and he was proud to do it.

Vote: Motion failed 7-9 by roll call vote with **REP. CAFERRO**, **REP. DICKENSON**, **REP. HAMILTON**, **REP. HENRY**, **REP. JACOBSON**, and **REP. SMALL-EASTMAN** voting aye.; **REP. JENT** voted aye by proxy.

Motion: **REP. A. OLSON** moved that HB 123 BE TABLED AND THE VOTE REVERSED. Motion carried.

{Tape: 3; Side: A; Approx. Time Counter: 19.8 - 26.6}

EXECUTIVE ACTION ON HB 297

Motion: **REP. A. OLSON** moved that HB 207 DO PASS.

Discussion:

REP. A. OLSON opined this was an excellent idea which he would support.

REP. MACLAREN concurred.

Since she had missed the hearing, **VICE CHAIR BROWN** asked whether these paper ballots could be counted by machine, and counted by hand as a back-up. The Committee members assured her this was the case. **VICE CHAIR BROWN** commented she would support the bill but vote "no" so it would be debated in the House.

Vote: Motion carried 15-1 by voice vote with **REP. BROWN** voting no; **CHAIRMAN JENT** voted aye by proxy.

(**CHAIRMAN JENT** returned with the Junior and Senior classes of the Shields Valley High School)

EXECUTIVE ACTION ON HB 234

Motion: **REP. A. OLSON** moved that HB 234 DO PASS.

Motion: **REP. DICKENSON** moved that AMENDMENT HB023401.ASH BE ADOPTED.

EXHIBIT(sth25a04)

Discussion:

Sheri Heffelfinger, Legislative Services Division, stated there had been some concern with the definition of "filed" versus "recorded," and explained the amendments which provide that a Clerk and Recorder's only duty is to record the discharge certificate and to produce a copy of it as a certified original copy which can be reproduced. **Ms. Heffelfinger** was confident that the amendments met with the Clerk and Records approval as well as that of some veterans' groups who had been given the opportunity to peruse them.

{Tape: 3; Side: B}

REP. A. OLSON would have liked to ask a question of either Mr. Throssell or a representative of one of the veterans' groups but neither was present.

Vote: Motion carried unanimously by voice vote.

Motion/Vote: REP. EATON moved that HB 234 DO PASS AS AMENDED.
Motion carried 15-1 by voice vote with REP. JONES voting no.

EXECUTIVE ACTION ON HB 35

CHAIRMAN JENT introduced the visitors, stating they had been watching the progress of HB 35 and wanted to witness Executive Action on the bill.

Motion: REP. BROWN moved that HB 35 DO PASS.

Motion: REP. BROWN moved AMENDMENT HB003503.ASH.
[EXHIBIT](#)(sth25a05)

Discussion:

As a lead-in to the amendments, **VICE CHAIR BROWN** recounted the Legislative Audit Report which she had presented to the Committee at the hearing for HB 35, stating that the audit had found a number of things that were not reported properly, such as recording patrol time that was spent doing other things. The Highway Patrol reported 43% of their time was spent on patrol whereas the audit showed it was closer to 30%. It also showed a strong correlation between an increase in traffic stops and citations and a decrease in crashes. **VICE CHAIR BROWN** proceeded to explain the amendments, saying they were especially necessary in light of the term limits because there had to be some accountability by the Highway Patrol. She added that Col. Grimstad and others involved had no objections to these requirements.

CHAIRMAN JENT voiced his support for the amendment, stating accountability was necessary when positions were created and funded with public money.

Vote: Motion carried unanimously by voice vote.

Motion: REP. BROWN moved that AMENDMENT HB003502.ASH BE ADOPTED.
[EXHIBIT](#)(sth25a06)

Discussion:

VICE CHAIR BROWN advised her amendments targeted the crash report fees and provided Exhibit 7, a table of fees charged by surrounding states. She advised that Montana charges the least for the reports and even though she would favor an increase, she feared her amendment might not be constitutional and asked Ms. Heffelfinger to elaborate. **Ms. Heffelfinger** advised the \$20 fee

could be put in statute. Currently, the fee represents cost; there is a clause in statute, saying an agency may charge for the actual cost of producing the report. **VICE CHAIR BROWN** was satisfied with the explanation and touted raising the fee to \$20 fee as a great way to support the highway patrol.

EXHIBIT(sth25a07)

While **REP. A. OLSON** appreciated her motivation, he felt the amendment did not fit in with the intent of the legislation and he would oppose it.

REP. CAFERRO asked **VICE CHAIR BROWN** whether she believed that the reports' cost was more than the \$2. **VICE CHAIR BROWN** stated that she did as some of the reports, for instance those on big crashes, were very extensive and involved a lot of time and manpower. A \$20 fee would help mitigate the costs.

CHAIRMAN JENT interrupted and, without objection, invited Pam Bucy, Assistant Attorney General, to address this issue. **Ms. Bucy** advised that currently, State government operated under an Executive Order signed by Governor Racicot which says only actual costs for copying can be charged, and staff time only if it exceeds half an hour.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 16.3}

REP. B. OLSON commented that he, too, had requested information reflecting the time spent on accident investigation and reporting as he concurred that the fees charged were too low. He provided Exhibits 8, 9 and 10 and explained that 21% of Highway Patrol activity is spent on dealing with accidents. He added that the patrol is providing a tremendous service to the insurance industry and should be compensated for it; therefore, he was in support of **VICE CHAIR BROWN's** amendment.

EXHIBIT(sth25a08)

EXHIBIT(sth25a09)

EXHIBIT(sth25a10)

REP. A. OLSON remarked he would like to see this bill come out of committee without amendments, maintaining he did not disagree with **VICE CHAIR BROWN** or **REP. B. OLSON** that something should be done but felt HB 35 was not the vehicle.

VICE CHAIR BROWN replied that perhaps he was correct as she had been told the Attorney General could change the fees through rule-making. She suggested sending a strong letter requesting that the Montana Highway Patrol investigate their fee charges, holding out hope that they might be able to change the fee structure.

Without objection, **VICE CHAIR BROWN** rescinded her motion on Amendment HB003502.ash.

CHAIRMAN JENT advised he was bringing amendments to HB 35 which specified how the funds would be raised.

Motion: **CHAIRMAN JENT** moved that **AMENDMENT HB003501.ASH BE ADOPTED.**

EXHIBIT(sth25a11)

Discussion:

CHAIRMAN JENT explained that originally, the bill required the fees to be tacked on to each insurance policy which was met with strong objections. He reiterated a fact which was brought up in the hearing, namely that 20% of drivers do not carry any car insurance while others might have a fleet of twenty cars on one policy; this raised the issue of fairness and led to the decision to add the fees onto the vehicle and water craft registration. The increase of the basic fee from \$15.50 to \$20.50 would go to the \$6.5 million necessary to fund the provisions in HB 35.

CHAIRMAN JENT asked Ms. Heffelfinger to review any technical changes. **Ms. Heffelfinger** explained most of the changes involved the fee increase, and the stricken language related to calendar year 2004 which made it obsolete. The standard language in the new sections states that the Department of Revenue must deposit \$5 from the registration fees in the Special Revenue Account as described in Section 7.

VICE CHAIR BROWN asked whether the fiscal note associated with the original bill was obsolete now and should be rewritten. **Ms. Heffelfinger** advised a new fiscal note was needed but could not be issued until these amendments passed.

CHAIRMAN JENT explained to the students what a fiscal note was.

REP. HAMILTON asked for a definition of "personal water craft" and was told it was motorized boats, kayaks, jet skis and the like.

Vote: Motion carried 15-1 by voice vote with **REP. CAFERRO** voting no.

Motion: **REP. BROWN** moved that **HB 35 DO PASS AS AMENDED.**

Discussion:

REP. B. OLSON stated his strong support for the bill. He followed up on VICE CHAIR BROWN's suggestion to write a letter indicating the Committee's interest in increasing the crash report fees.

CHAIRMAN JENT concurred.

{Tape: 4; Side: A}

VICE CHAIR BROWN stated that just prior to the 2005 Session, knowing this bill would be introduced, she rode in a patrol car with a Captain Aubrey in Kalispell. In the course of conversations with him and other patrolmen, she realized a number of positive things had come out of the performance audit mentioned earlier, which she shared with the Committee: crash reports are sent directly to Helena, freeing up one sergeant; software updates streamline everyday functions; elimination of ATV and motorcycle inspections, and the implementation of a number of programs free up valuable patrol time. **VICE CHAIR BROWN** added she was carrying a bill which would transfer bus inspections to the Department of Transportation. She referred to the Performance Audit Summary, stating that all these changes made for better patrolled, and therefore, safer highways.

EXHIBIT(sth25a12)

REP. MALCOLM asked about vacancy savings. **VICE CHAIR BROWN** explained that HB 35 eliminated the requirement of vacancy savings for the highway patrol which enables them to increase the number of patrolmen. **REP. MALCOLM** expressed concern with this portion of the bill, stating it could set a precedent for other agencies. He stressed he was not opposed to the bill but did not agree with the provision of eliminating vacancy savings. He wondered if the patrolmen's numbers could be increased without this provision and requested further discussion.

REP. DICKENSON advised the vacancy savings requirement was instituted to cut government spending which was a laudable thing per se. She added, though, that it was devastating to some departments and felt the elimination of the program in the public safety arena was doing the people of Montana a disservice and, therefore, it should be dealt with on a case-by-case basis.

REP. DICKENSON referred to the fiscal note where it states the initial pay increase would be paid for in FY 2007; she inquired if the vacancy savings positions could be filled before then.

CHAIRMAN JENT advised that positions could be filled now: by eliminating the vacancy savings requirement, starting on July 1,

2005, 14 patrolmen can be added. He added that three patrolmen are currently serving in Iraq and would be back on the job upon completion of their deployment. In addition, the anticipated revenue will be sufficient to add six to eight officers per year for several years to come.

REP. MALCOLM commented that as per the highway patrol, there will be 20 more officers in 2007, and by 2010, the goal of 80 additional officers would be reached.

VICE CHAIR BROWN stated that her amendment, HB003503.ash, would answer these questions on a yearly basis to the Audit Committee.

CHAIRMAN JENT agreed with REP. DICKENSON, saying for law enforcement, vacancy savings had been disastrous.

REP. A. OLSON addressed REP. MALCOLM and advised that the vacancy savings issue was primarily directed at general fund agencies. Agencies funded out of special revenue accounts do not affect the general fund, and he believed that those agencies should be left alone; savings should be looked at in light of their impact on the general fund.

CHAIRMAN JENT remarked that the highway patrol is funded through the gasoline tax and not through general fund dollars, and the incremental raise and supplement provided in HB 35 will be funded by an additional registration fee.

Vote: Motion carried unanimously by roll call vote.

ADJOURNMENT

Adjournment: 11:15 A.M.

REP. LARRY JENT, Chairman

MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT ([sth25aad0.PDF](#))