

MINUTES

MONTANA SENATE  
55th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on January 14, 1997, at  
1:00 p.m., in room 405.

ROLL CALL

**Members Present:**

Sen. Thomas A. "Tom" Beck, Chairman (R)  
Sen. Dorothy Eck (D)  
Sen. Sharon Estrada (R)  
Sen. Wm. E. "Bill" Glaser (R)  
Sen. Don Hargrove (R)  
Sen. John "J.D." Lynch (D)  
Sen. Walter L. McNutt (R)  
Sen. Fred R. Van Valkenburg (D)

**Members Excused:**

**Members Absent:** Sen. Mike Sprague, Vice Chairman (R)

**Staff Present:** Martha Colhoun, Legislative Services Division  
Jodi Jones, Committee Secretary

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

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 37, SB 77, SB 102  
Posted: 1/08/97  
Executive Action: Do pass as amended SB 27

HEARING ON SB 37

Sponsor: SENATOR J.D. LYNCH, SD 19, Butte.

Proponents:

Bill Melvin, Commissioner of Butte-Silver Bow, District 9.  
Mike Ferriter, Department of Corrections.  
Dave Ohler, Chief Legal Council for Department of Corrections.

Opponents: None

Opening Statement by Sponsor:

SENATOR JOHN "J.D." LYNCH, SD 19, Butte, presented SB 37. Nine  
months ago in Butte it was rumored that a private individual was

going to remodel a complex and make a half way house or pre-release center for sexual offenders. It caused a major uproar by the citizens of Butte. The rumor was false and no half-way house for sexual offenders was built. However, in the law it states that if a private individual wants to build such a facility that the people can do nothing about it and the local governing unit does not have to approve.

**SENATOR LYNCH** stated this was wrong and the people of the community should have a say in the building of these facilities. If a correctional facility for sexual offenders was going to be built, first they must receive approval from the local government or a vote by the people of that county before such a facility can be introduced. Regardless, of the economic outcome for the community, if such a facility was built the people should still have a say for this type of proposal. He would like to include amendments to the bill. **SENATOR LYNCH** said they don't only want to limit it to sexual offenders but to other pre-release centers.

*{Tape: 1; Side: A; Approx. Time Count: 1:04 p.m.; Comments: .}*

Proponents' Testimony:

**Bill Melvin, Butte-Silverbow Commissioner, District 9**, spoke in favor of SB 37. See attached testimony: (**EXHIBIT 1**). In Butte-Silverbow they put in Ordinance 552 that required a special use permit for this type of facility to come in, however the ordinance was only legitimate in a commercial district. See attached testimony: (**EXHIBIT 2 and 3**).

**SENATOR LYNCH** gave two letters of support for SB 37 from residents and commissioners of Butte-Silverbow. See attached letters: (**EXHIBIT 4 and 5**).

**Mike Ferriter, Department of Corrections** spoke in favor of SB 37. He said the department had many concerns with the bill when it was originally drafted. However, the department now understands the intention of the bill is to allow for a vote of the public if the newly established facility serving sexual offenders is going to be built in a community. The department would have concern if the bill dealt with the establishment of the Montana State prison, county jails or existing pre-release centers serving sex-offenders on an occasional basis. One area of concern would be the departments plan to build a housing unit solely for juvenile sex offenders. This piece of legislation could prohibit them from doing this. In closing the department agrees that the public should have the ability to vote on the establishment of sex offender facilities in their community. Their department supports SB 37 and a do pass recommendation.

**CHAIRMAN TOM BECK, SD 28, Deer Lodge**, explained that about a year ago there was a proposal to locate a pre-release center in the Helena valley. The people were very upset and the community held hearings and protests over this center. The center was finally

stopped by the opposition of the people. He said the people spent \$6000 of their personal money in legal fees to stop the building of the facility. He also supported an amendment to be added that all pre-release centers must be approved by a vote of the people.

**Dave Ohler, Chief Legal Council of the Department of Corrections,** pointed out the concerns of the main bill and the amendments the department would like to have added. The primary concern to the department was the bill required the governing body must first take a vote before sex offenders could be housed. The problem was that if a governing body decided not to take a vote then there was no means by which offenders could be housed. The bill also discusses facilities that are built on state lands. Most pre-release centers are typically privately owned and on private property.

{Tape: 1; Side: A; Approx. Time Count: 1:12 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SENATOR DON HARGROVE,** asked **Mr. Ferriter** if there was 1 or 100 sex offenders in a community would you still need a vote of the people. **Mr. Ferriter** stated there will be amendments dealing with this and this will affect only newly established facilities specifically for sex offenders.

**SENATOR HARGROVE,** asked **SENATOR LYNCH** what is a sex offender and are they classified according to age, type of conviction, previous convictions, etc. **SENATOR LYNCH** stated that this reference is made in the bill and age is not a factor.

**SENATOR HARGROVE** asked about the Aware Program that was discussed during interim. He understood the program was a half-way house for undesirable youths. And according to law, the community has no say about the building of such facilities. **Martha Colhoun, Legislative Council,** said this question could be researched by her department. **Mr. Ferriter,** also said HB 125 deals with established procedures on citing juvenile persons. The Aware Programs are private and licensed by the Department of Human Health and Services.

**SENATOR WILLIAM GLASER,** asked how many women are in the women's prison. **Mr. Ferriter** stated there are 70 in Billings, 16 in Great Falls and 12 in Billings pre-release centers, and 20 in Butte.

**SENATOR GLASER** asked how many individuals are in the men's prison. **Mr. Ferriter** said there was 1330 in Deer Lodge, 237 in pre-release, and 250 in Texas.

**SENATOR GLASER** asked how many of those were sex offenders. **Mr. Ferriter** said he was not sure of the exact figures but it was around 30 percent of the men were sex offenders. **SENATOR GLASER**

also asked how many of those involved serious bodily harm. **Mr. Ferriter** said he was not sure. He also stated very few sex offenders enter pre-release centers.

**SENATOR DOROTHY ECK** asked what kind of intensity treatment programs are being used. **Mr. Ferriter** said the Montana State Prison does have these type of programs. Most sex offenders are required to complete sex offenders programs, and if not, the parole board requires a completion of 1, 2, or 3 phases of the sex offender programs before release.

**SENATOR ECK** asked what is the normal term for sex offenders. **SENATOR FRED VAN VALKENBURG** said it is hard to say what the standard sentencing is.

**SENATOR ECK** asked if the department is looking at, setting up facilities for special programs rather than having them at the prison. **Mr. Ferriter** said they do have special programs at the Montana State Prison. This is the only in-patient sex offender treatment program in the state of Montana. The department does not plan to establish any new in-patient programs.

**SENATOR ECK** asked that the department doesn't appear to be interested in prevention programs especially for juveniles. Is the department looking at all at the types of programs the department might need for prevention? **Mr. Ferriter** said one thing the department does is manage the placement funds. These funds are used for juvenile probation on the district level and go for long term treatment. The department is looking at providing this money for the counties and letting the youth court do what they feel most appropriate for these funds. Currently, these funds go to long-term treatment.

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**CHAIRMAN BECK** asked in the Grady Bill does the department require an approval of the governing body or a vote of the people. **Mr. Ferriter** stated no, but the department does a survey of public leaders, the county commissioners, and a survey of the community after a local committee decides if a pre-release center is appropriate for that community. **CHAIRMAN BECK** asked if the department would have a problem with a vote. **Mr. Ferriter** said that the department would have to research this and decide if that was the most appropriate approach.

**CHAIRMAN BECK** asked if there was ever a time that the department put someone convicted of a sexual offense in a pre-release center. **Mr. Ferriter** said a convicted person must first go through a screening committee. The committee determines if an offender can go to a pre-release center. Sex offenders have gone to these program before and have been accepted into the community.

**CHAIRMAN BECK** asked if this screening committee had anything to do with the high number of sex offenders who are still within the Montana Prison, in the fact that they won't accept them into these pre-release centers. **Mr. Ferriter** said, yes, this is a problem within the system. Sex offenders are not getting the same opportunity as other offenders to get established into the community. Main method of release for sex offenders has been intense supervision vs. pre-release.

**SENATOR HARGROVE** asked about the fiscal note and is it estimated on the whole population and nobody is going to vote to have the pre-release center in the community. **Mr. Ferriter** said this was correct.

**SENATOR VAN VALKENBURG** asked if it would it be fair to conclude that if sex offenders are not admitted into pre-release centers the cost for the state to keep those offenders would be significantly higher than that of community correction programs. **Mike Ferriter** said the cost isn't really the factor. If someone is going to establish a pre-release center, prison, or jail strictly for sex-offenders then the public should have some input on this. It costs the state about \$36/day to keep an offender in a pre-release center and \$46/day to keep them in the Montana State Prison.

**SENATOR VAN VALKENBURG** asked **SENATOR LYNCH** if he was in agreement of the amendments being proposed by the department. **SENATOR LYNCH** said he agreed.

**SENATOR VAN VALKENBURG** asked if a pre-release center had 40 people and 1 out of the 40 was a sex offender would the community have to have a vote to decide whether he should be in the pre-release center. **SENATOR LYNCH** said yes this does apply under this bill. However, he feels that sex offenders who have been convicted because of crimes of small children should never be allowed in pre-release centers.

**SENATOR VAN VALKENBURG** asked **Mr. Ohler** if there was already a statute that local governments could not prohibit the establishment of facilities for mental health care, pre-release centers etc. **Mr. Ohler** did not have a recollection of this statute.

Closing by Sponsor:

**SENATOR LYNCH** said the state of Montana should allow the people to have a say in the building of such facilities. He recommended a do pass of SB 37.

{Tape: 1; Side: A; Approx. Time Count: 1:41 p.m.; Comments: .}

HEARING ON SB 77

Sponsor: SENATOR LOREN JENKINS, SD 45, Big Sandy.

Proponents:

Jim Greene, Department of Disaster and Emergency.  
Paul Spengler, Montana Disaster Assoc.  
Gary Hindoiien, Department of Military Affairs.  
Jack Peters, Department of Natural Resources and Conservation.  
Bill Reed, Montana State Fire Chiefs Assoc.  
Doug Williams, Sheriff of Choteau County.  
Bill Fleiner, Montana Sheriff & Peace Officers Assoc.

Opponents: None

Opening Statement by Sponsor:

SENATOR LOREN JENKINS, SD 45, Big Sandy, presented SB 77. He handed out amendments for the bill (EXHIBIT 6). The bill is a default mutual aid agreement that allows fire departments and incorporated towns and counties to exchange assistance without a written formal agreement during an emergency.

Proponents' Testimony:

Jim Greene, Department of Disaster and Emergency Services, said many communities in Montana do not have mutual aid agreements or they are outdated. This bill establishes a default mutual aid and enables fire districts to call on each other for help. The agency does not have to respond, but if they do, they are protected from leaving their district. It does not replace the need for mutual agreements, in fact, the department still encourages them. It does not impose requirements on local governments. Local governments can ask for assistance and give it but they are not required to do so. In January of 1995, a committee was put together to come up with legislation that allowed flexible mutual aid anywhere in the state and between any agency. Requesting backup from your neighbors is one of the most efficient methods to handle emergency situations.

Paul Spengler, Montana Disaster and Emergency Association, supports SB 77. See attached testimony: (EXHIBIT 7).

Gary Hindoiien, Department of Military Affairs, is in favor of SB 77. See attached Witness Statement: (EXHIBIT 8).

{Tape: 1; Side: B; Approx. Time Count: 1:49 p.m.; Comments: .}

Jack Peters, Department of Natural Resources and Conservation, said his department has been active in drafting this piece of legislation and is very supportive of SB 77. See attached testimony: (EXHIBIT 9).

**Bill Reed, Montana State Fire Chiefs Association**, said at the annual Fire Chiefs conference in September the vote was 100 percent in favor of SB 77.

**Doug Williams, Sheriff of Choteau County**, supports this legislation and the amendments that are being proposed. They fully support this bill as a neighbor helping neighbor piece of legislation.

**Bill Fleiner, Montana Sheriff and Peace Officers Association**, explained that since the session started there has already been 4 occasions of emergency where other fire districts had to help each other. Not all fire districts have the same capabilities as other districts. Some had mutual aide and others did not, however, without the help of other districts, emergencies could of turned into major disasters. The **Montana Sheriff and Peace Officers Association** support this piece of legislation.

{Tape: 1; Side: B; Approx. Time Count: 1:55 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

**CHAIRMAN BECK** asked that in the amendments there was a constitutional change and would cause a 2/3 vote on the floor. **SENATOR JENKINS** stated this was correct. **SENATOR VAN VALKENBURG** stated the amendment was for granting immunity. **SENATOR GLASER** asked if the committee had to pass the bill with a 2/3 vote also. **CHAIRMAN BECK** said the committee can send it to the floor with a majority vote.

Closing by Sponsor:

**SENATOR JENKINS**, asked for a favorable do pass with amendments to SB 77.

#### HEARING ON SB 102

Sponsor: **CHAIRMAN TOM BECK, SD 28, Deer Lodge**

Proponents: **Cort Harrington, Montana County Treasurers Assoc.**

Opponents: None

Opening Statement by Sponsor:

**CHAIRMAN TOM BECK, SD 28, Deer Lodge**, presented SB 102. The bill is an act eliminating the requirement that county treasurers invest certain school money on behalf of the state if the money is remitted to the state by the 25th day of the month. Many times the county treasurer is required to invest this money in as little as three or four days or up to a month. The fiscal note

reflects a full months worth of money collected and needs some changes.

Proponents' Testimony:

**Cort Harrington, Montana Treasurers Assoc.**, discussed statute 15-1-504 which requires the county treasurer to remit to the state any money collected in the previous month. The majority of the money is collected in November for the November 30 tax payment or May 31 when the second half is due. By state law if you mail your taxes in and they are postmarked by November 30 or May 31 they're considered paid on those days even though the county treasurer doesn't receive them till a week later. County treasurer's hold their books open for a week to ten days till all taxes are collected and they can be receipted. During a special session in June of 1989 the legislators passed into law the equalization of school funding. It was also stated that school money must be invested within 3 days of receipt. In reality this is very difficult to impossible because of the amount of money received and when it comes in. It is also hard to keep track of this money on the books. County treasurers say they don't have the ability to figure out how much interest the state earns in that week or ten days that they hold the state's money.

*{Tape: 1; Side: B; Approx. Time Count: 2:04 p.m.; Comments: .}*

Opponents' Testimony: None

Questions From Committee Members and Responses:

**SENATOR VAN VALKENBURG** asked **Mr. Harrington** about the fiscal note and that it was quoted at  $\$3/4$  of a Million. **Mr. Harrington** said the fiscal note is probably wrong and is less than what is stated because the May 31 payment is transmitted to the state. He said he would get some figures from county treasurers for the committee.

**CHAIRMAN BECK** discussed the fiscal note. He said the fiscal note is determining the reappraised increased values on part of this collection. He said the fiscal note would have to take the worse case scenario in reappraised evaluation.

Closing by Sponsor:

**CHAIRMAN BECK** closed with a recommendation to take a look at the fiscal note first and research the bill further before coming to a conclusion.

EXECUTIVE ACTION ON SB 27

Amendments:

**Martha Colhoun, Legislative Council**, explained the amendments to SB 27. See attached amendments: (EXHIBIT 10).

Motion/Vote:

SENATOR LYNCH MOVED TO ACCEPT THE AMENDMENT TO SB 27. Motion carried unanimously.

Motion:

SENATOR LYNCH MOVED SB 27 DO PASS AS AMENDED.

Discussion:

SENATOR HARGROVE asked for a clarification of the bill. SENATOR GLASER said there are 6 counties over \$100 Million and only 1 between \$50-100 Million. These figures were taken from the 1995 county taxable reports. He used the example of Yellowstone County and that they are expanding their jail and the \$500,000 cap is not enough money for such a project and a county with a large tax base should have more borrowing capabilities.

SENATOR HARGROVE asked if there has ever been any other instances in which a county felt they needed to borrow more money and what is the cost to have a vote of the people and is that part of the consideration. SENATOR GLASER clarified that the borrowing cap was a million total. Anything over \$1 Million and the county must have a vote of the people.

SENATOR VAN VALKENBURG asked if there is anybody other than Yellowstone County that needs this authority to borrow this much money. Gordon Morris, Association of Counties, stated that the six large urban counties will be the beneficiaries of this borrowing increase. It will give them more financial options. He said he didn't have any specific examples of counties needing more borrowing money but he was sure that this borrowing capacity would be needed in the future.

SENATOR HARGROVE stated that he came from one of these larger counties and didn't feel this much borrowing capacity was needed. He felt a vote of the people should be implemented before such amounts of money can be borrowed.

SENATOR BECK asked how long ago it was since the cap went from \$10,000 to \$500,000. Gordon Morris stated it was in 1991.

SENATOR GLASER said this is a tool that the seven counties can use in borrowing power. He pointed out that it is only 2 percent of their annual budget and if people can't trust their county commissioners with this \$1 Million borrowing cap then they need to be voted out of office.

SENATOR LYNCH said the bill is a good idea because not every county has the same population and they need to have a ratio system for giving out these monies to the counties. He felt this piece of legislation put it into the right perspective.

Vote: Motion carried 6 - 3 with **SENATORS HARGROVE, SPRAGUE AND ESTRADA** voting no.

ADJOURNMENT

Adjournment: 2:17 p.m.

  
SEN. THOMAS A. "TOM" BECK, Chairman

  
JODI JONES, Secretary

TB/jj