

MINUTES

**MONTANA SENATE
55th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN TOM BECK**, on March 18, 1997, at 3:32 p.m., in Room 405.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Mike Sprague, Vice 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: None

Members Absent: None

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: HB 248, HB 140, HB 315, HB 316
Posted: 3/10/97

Executive Action:

HB 316 Be Concurred In
HB 190 Be Concurred In As Amended

HEARING ON HB 248

Sponsor: REPRESENTATIVE HAL HARPER, HD 52, Helena

Proponents:

REP. DAVID EWER, HD 53, Helena
Pete Blouke, Chamber of Commerce
Carroll South, Board of Investments
Maureen Rude, Board of Housing
Doug Rauthe, Northwest MT Human Resources
Rand Kennedy, Human Resource Council

Ed Mayer, Missoula Housing Authority
Ron Osborn, Haven House Food Bank
Lorna Randolph, Self
Wanda Church, Self
Thomas Reagan, Self
Connie Griffith, Department of Administration

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE HAL HARPER, HD 52, Helena, presented HB 248. This bill is to increase the bonding authority for the Board of Investments by \$25 Million. This would be beneficial to the state because of the interest rate and the loans that this board is able to make affordable to state agencies and local governments. There has been a new section added to this bill on page 1, line 18. He also said an amendment was being proposed concerning low income housing.

Proponents' Testimony:

REP. DAVID EWER, HD 53, Helena, said they also want to amend this bill to clarify the ability for state government to use the intercap program. He said the administration is looking at financing the motor pool through this bill. Much of the effort is to try and reduce the pressure on the General Fund so that when agencies use this there will be a charge to the motor pool. To finance the motor pool they need to be able to borrow money through this program. He passed out amendments to HB 248 (EXHIBIT 1). He said they have federal housing programs in the State of Montana. One of the types of housing projects is where a private citizen will invest in a housing unit and the federal government will subsidize the mortgage and the program is administered by HUD. Last year the federal government dropped their funding after these arrangements started to expire. As a result, they have housing units that can be sold, and low income tenants may find their rent going to market rate. He handed out a list of HUD preservation projects (EXHIBIT 2). He passed out the J.J. Kenny Weekly and discussed it (EXHIBIT 3). He said all of these buyers would have to be non-profits and there is rehabilitation money in this account to fix up those housing units that are in need. He said the non-profits are going to have to meet certain criteria and there is protection in the bonds as the principle will be guaranteed by the federal government but not the interest. He said they would require that low income housing be available so the mission can be preserved. He said they will have a capital reserve account and if it gets depleted then the Governor has the power to ask the legislature for the money.

Peter Blouke, Chamber of Commerce, rose in support of HB 248.

Carroll South, Board of Investments, passed out a sheet explaining intercap loans (EXHIBIT 4). He said the intercap program was established in the 1980 and is a program in which the board sells low interest bonds and lends the proceeds to local governments.

Maureen Rude, Board of Housing, said she started talking to non-profits last fall when it was clear that HUD would not have the money to fund the plans that these people had spent a lot of money and time putting together. She said they also brought the Board of Investments in to help find ways to fund this project as the Board of Housing didn't have the funds to do it alone. The Board of Housing would be a big player in putting this project together because they have the authority under the federal laws to allocate low income housing tax credits. The low income housing tax credits would bring in \$3.5 Million of equity to this program. She said whenever they do a low income housing tax credit they look very carefully at who is going to be the owner and the cost. She said they also monitor and make sure the owner is living up to their end of the deal. The maximum the Board of Housing could lend is 40 to 50 percent of the total cost of the project and this is why the Board of Investments was brought in.

Doug Rauthe, Northwest MT Human Resources, said they are involved as a non-profit in trying to buy these properties. He is encouraging the sale of these low income units to non-profits and preserve the affordability. He said they were selected as the super priority purchaser of five of these housing projects. He said the plans were approved by HUD and the transfer of the value was ready except it did not get funded. He said rather than assuming the current mortgages they are still fighting this measure. He said on these nine units there are 532 units and 327 of the units are occupied by senior citizens and 205 are occupied by families. He said these projects total in an excess of \$16 Million worth of property. He said non-profits would like to preserve affordability for low income people. He said if Kalispell lost those two units, that would be 120 units, and they are already short of low income housing.

Rand Kennedy, Human Resource Council, said many of the low income housing projects are occupied by senior citizens who have incomes of less than \$520 per month.

Ed Mayer, Missoula Housing Authority, said the Housing Authority in Missoula is interested in purchasing Parkside Village in Missoula. He said right now it is privately owned and they want to sell out to profit measures and these units would go to market rate. He said the waiting list for affordable housing is over 700. He said this is a creative use of funds where there is no federal resources available. He said by allowing non-profits to purchase these projects it will ensure long term affordability and benefit the community.

Ron Osborn, Haven House Food Bank, said he is an advocate for the poor and hungry and has come to understand the needs of the poor. He said the number of people who are using the food bank has grown 44 percent in the past two years. He said low income housing is getting less and less available.

Lorna Randolph, Self, said she lives in Parkside Apartments in Hamilton and has lived there since 1979 and is on a very low income. If these apartments were sold on the market she would have no place to go.

Wanda Church, Self, said she has low social security income and doesn't know what she would do if these apartments went to market value.

Thomas Reagan, Self, said he has lived in Parkside Apartments for 11 years and the affordability of those apartments were taken care of in section 8 and now the funding is gone. He encouraged passage of this bill.

Connie Griffith, Department of Administration, said she had some concern with section 2 of the bill. She said the state agency needs to have the authorization to borrow from the intercap program and she said this needs to be clarified.

{Tape: 1; Side: A; Approx. Time Count: 4:10 p.m.; Comments: .}

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR J.D. LYNCH asked who the owners of the Northwest Human Resources are. **Doug Rauthe** said there are two owners in a partnership.

SENATOR LYNCH asked if they will only sell these units in a group. **Doug Rauthe** said that was correct. The process to purchase these units are very expensive for non-profits. They had five properties and they wanted to sell them together.

SENATOR LYNCH asked if these were originally built be federal HUD funds? **Doug Rauthe** said they had HUD low interest loans.

SENATOR LYNCH asked if they were paid off already? **Doug Rauthe** said no they were 40 year loans.

SENATOR LYNCH asked if they would run the Deer Lodge complex from Kalispell. **Doug Rauthe** said each of these properties require subsidiary single asset non-profits to be formed. There will be a non-profit that will run the one in Deer Lodge.

SENATOR LYNCH asked who oversees that state agencies don't duplicate loans and one agency is not getting all of the loans etc. **REP. EWER** said the only financing they have done is a

computer system for the Legislative Auditors. **Carroll South** said they try and prohibit state agencies from making an end run around the Legislature. He said the Long Range Building Committee does give an appropriation of bond proceeds to the university system. The board fills the other funds that they may need if it is appropriate.

SENATOR LYNCH asked if the State Auditor came to the board for money and they loan them money, does the legislature have any oversight on this transaction. **Carroll South** said no, and the reason is that state law permits state agencies to do installment buying.

SENATOR DON HARGROVE said why do they need to buy these homes and why do they need to sell them. **Maureen Rude** said the old HUD programs were set up to provide an FHA insured loan, provide an interest rate subsidy, and they may also provide section 8 subsidies. There are private owners who own these buildings and they get help from HUD. In some of these contracts, HUD put in a 20 year opt-out in which the section 8 contracts would expire and the owners after 20 years could turn it into market rate housing or they could sell it. She said many of these owners want out because the federal funding is gone and there is no profit in it. To try and replace these with new housing would be very expensive.

SENATOR HARGROVE asked why the State of Montana couldn't come in a fill HUD's gap. **Maureen Rude** said it is very expensive and would cost \$16.6 Million to purchase these projects.

SENATOR HARGROVE asked if the state could provided the same services as HUD is doing now of guaranteeing loans and subsidizing rent. **Maureen Rude** said that takes money.

SENATOR HARGROVE said the management of these projects has not been very good and most are not worth fixing up again. He asked if the State of Montana has any experience in doing this. **Maureen Rude** said the Board of Housing has outstanding bond financing on eight HUD projects. The Department of Commerce does provide rental assistance through HUD money. The board does housing quality inspections to make sure that they are decent, safe and sanitary.

SENATOR HARGROVE asked how come all of the testimony just came from one part of the state. **Maureen Rude** said these nine projects were ones that met all of the requirements that HUD had put into them. These projects received buy-sell agreements from the non-profits and then HUD didn't fund it. She said they don't want to wait for HUD, because they don't feel HUD will come through with their funding.

SENATOR DOROTHY ECK asked how they check on the creditability of these agencies. **Maureen Rude** said working with the Board of Investments they look very carefully at non-profits.

SENATOR MIKE SPRAGUE said the original buyer bought these properties on a 40 year and the maximum tax credit was for 20 years. He asked why they couldn't do the loans directly to the non-profits. **Maureen Rude** said that is part of the idea, they would keep the existing loans but extend them out to 30 years.

{Tape: 1; Side: B; Approx. Time Count: 4:28 p.m.; Comments: .}

SENATOR SPRAGUE said somebody has to be in second place and who is that going to be. **Maureen Rude** said HUD will let them pay off the current lender, then restructure the loan and fund it with bonds.

SENATOR SPRAGUE asked if the board is going to be equal with the current mortgage holder. **Maureen Rude** said they would take the current mortgage holder out of the picture and pay them off.

SENATOR SPRAGUE asked if the State of Montana is in the first mortgage position or is the Board of Investments in the first mortgage position? **Maureen Rude** said the Board of Investments would be in the first mortgage position and that would be their goal.

SENATOR SPRAGUE said he is not convinced that a non-profit is the only who could do this structure and keep the rent low. Up to this point they have been privately owned and can't a private person come in and buy this also. **Maureen Rude** said if a for-profit was to purchase these, then HUD would not allow for a mortgage interest subsidy to continue, and they would have to pay off the loan and raise the rent just to pay off the debt.

SENATOR SPRAGUE asked for an example of the rent. **Maureen Rude** said Parkside Apartments in Hamilton are at 54 percent of fair market rent.

SENATOR LYNCH asked if any of the other low income housing is in trouble in other areas. **Maureen Rude** said there are 4500 units of HUD subsidy private owned housing in Montana and all of them have contracts that will expire in the next few years. She said most of those, however, are already at fair market rent.

SENATOR LYNCH asked if HUD pays the difference on this rent. **Maureen Rude** said that was correct.

SENATOR SPRAGUE said if these agreements were for 40 years with an opt-out provision in 20 years, who is opting out. **Maureen Rude** said HUD gave themselves a 20 year contract under the section 8 program and they are expiring. The owners could also opt-out if they choose.

SENATOR HARGROVE asked what determines the \$25 Million increase in this bill. **REP EWER** said bonds are sold by the Board of Investments to fund this program. When the bonds are rated, they look at the board's resources. The enhancement is the coal

severance tax and the bonds have an A rating. He said over the past four years the university system and the state have also come into the picture. The intercap loan rate for the last year was 4.85 percent and this year it is at 5.25 percent.

SENATOR LYNCH asked if they are going to see this every session. **REP. EWER** said they haven't asked for an increase in intercap since 1989. He said the Board of Investments has a \$75 Million capacity. Trying to put these together is a real issue and very difficult. He said people might come back the next session and have 12 units put together and ask for funding.

CHAIRMAN TOM BECK said this bill is asking for a \$25 Million increase plus the two amendments that were put in and is there enough cap to cover this. **REP. EWER** said under the variable rate option the bond issue will be \$13 Million for the low income housing. If people come back and want funding for other units there is still going to be a gap.

CHAIRMAN BECK said there was \$800,000 put in HB 2 and is that to cover the gap. **REP. EWER** said yes it was. There is quite a bit of rehab money that can be used and if it is not used there will be a savings there. The Board of Investments will get an enhancement fee and the last place they will go to cover this gap is the elderly, which they will try and avoid.

CHAIRMAN BECK asked if there was any floor in the rate. **REP. EWER** said no.

CHAIRMAN BECK asked if they put a three percent floor would that enhance the total outcome. **REP. EWER** said they wouldn't want to floor this because it works at a fixed rate. The lower the rate goes the more protection the Legislature will have.

CHAIRMAN BECK asked if the interest rate goes down to two percent, is it passed on to the people **REP. EWER** said no it is not. He said they are proposing a fixed rate of five percent.

SENATOR SPRAGUE said when the non-profits buy these they won't be able to be managed the same as HUD did in terms of renting them at 40 percent. He asked if they would have to raise the rent. **Doug Rauthe** said they want to run it the same way as HUD did and they will have to in order to qualify to buy them.

SENATOR SPRAGUE asked if they would be able to rent a \$329 apartment for \$160? **Rand Kennedy** said a one bedroom apartment in Missoula at fair market value is \$365 per month. At Parkside Village the units that are not section A subsidies, the rent for a one bedroom apartment is \$313 per month.

Closing by Sponsor:

REP. HARPER said this bill will increase the bonding authority for the Board of Investments, it will verify the state agency

lending authority and it will allow the board to initiate this deferred loan and use other financing options. The element of risk is comfortable and the need is there.

{Tape: 1; Side: B; Approx. Time Count: 4:47 p.m.; Comments: .}

HEARING ON HB 140

Sponsor: REP. BILLIE KRENZLER, HD 17, Billings

Proponents:

Mike Mathew, Yellowstone Co. Commissioner
Gordon Morris, MT Assoc. of Counties
Robert Throssell, MT Assoc. of Clerks and Recorders

Opponents: None

Opening Statement by Sponsor:

REP. BILLIE KRENZLER, HD 17, Billings, presented HB 140. She said this bill will let an elected official take the oath of office the last working day of December so they can take office on January 1, at 12:01 a.m. They did not include county commissioners which are elected for six years and she would like to include them.

Proponents' Testimony:

Mike Mathew, Yellowstone Co. Commissioner, said commissioners are paid several different ways around the state and this addresses payroll issues on the transition of office. He said under current statute it says the swearing in has to take place on the first Monday in January. On occasion that first Monday is January 1, which is a legal holiday, and they still have to be sworn in. This bill would allow those oaths to be taken the last working day of December and take office January 1, and all transitions will work more smoothly.

Gordon Morris, MACo, rose in support of HB 140.

Robert Throssell, MT Assoc. of Clerks and Recorders, said it will make it easier to prepare the records for the outgoing and incoming officers.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR LYNCH asked if this would include consolidated governments? Gordon Morris said this would cover them.

Closing by Sponsor:

REP. KRENZLER said this bill would make it easier for elected officials and those doing the payroll.

HEARING ON HB 315

Sponsor: REP. BILLIE KRENZLER, HD 17, Billings

Proponents:

Mike Mathew, Yellowstone Co. Commissioner
Gordon Morris, MT Assoc. of Counties

Opponents: None

Opening Statement by Sponsor:

REP. BILLIE KRENZLER, HD 17, Billings, presented HB 315. She said under current statute there is a requirement that public notice be posted in five places. She said any time they have a sale they run this advertisement in the official newspaper that has the contract to carry these types of things. She said over the years, places to post these notices have dwindled. It is a real nuisance to post notices and they are asking that it be changed to three places.

Proponents' Testimony:

Mike Mathew, Yellowstone Co. Commissioner, said the reason they are asking for three is it will create some consistency in law. He said if they have a county wide newspaper they have to post in five places. If they don't have a newspaper then it only has to be placed in three places.

Gordon Morris, MACo, said if a county does not have a newspaper they have to post in three places and this would make it consistent through the laws.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked if they lower posting from five to three would it be fair to say that a third of the city would get left out. Mike Mathew said the posting places are usually the city hall, the courthouse, and the city library and they are all in close proximity of one another.

SENATOR SPRAGUE said no notice will be given to the Heights in Billings where a third of the people live. Mike Mathew said they would put it in the paper.

SENATOR HARGROVE asked if anyone has ever fought this in court if they didn't get proper notice. **Gordon Morris** said he couldn't think of anytime where complaints have been filed against the posting of someplace other than the bulletin board. He said people do watch for postings and there have been lawsuits where there hasn't been a posting.

SENATOR FRED VAN VALKENBURG asked if Yellowstone Co. had a web site and could they post it on there. **Mike Mathew** said yes they do and this could be a very good idea.

SENATOR VAN VALKENBURG said this could be amended to say one of the posting places could be an electronic site. **Mike Mathew** said he would not object.

Closing by Sponsor:

REP. KRENZLER closed on HB 315.

HEARING ON HB 316

Sponsor: REP. BILLIE KRENZLER, HD 17, Billings

Proponents:

Mike Mathew, Yellowstone Co. Commissioner
Gordon Morris, MT Assoc. of Counties

Opponents: None

Opening Statement by Sponsor:

REP. BILLIE KRENZLER, HD 17, Billings presented HB 316. She said this bill is asking to increase the threshold to \$50,000 on which bidding is required on bridge and road work. She said most of the bridge and road projects run \$50,000-\$60,000. She said not many bid on these small projects and therefore they often only get one bid on such small projects. If they get a bid, then they have to award that bid and it is not competitive and doesn't allow them to negotiate for a lower price. She said they would like to do this work for up to \$50,000 without having to bid it out. It will help cut cost and the work can be done more timely.

Proponents' Testimony:

Mike Mathew, Yellowstone Co. Commission, said this statute does not prohibit just roads and bridges, but it also includes building repair. He said currently, they have a higher bid limit for repair than they do for new construction and this would put both of those items at the same level. To bid on a small project does require that they get it designed or engineered. He said they are replacing their irrigation crossings in their county with concrete boxes. He said as a county, they don't like to do this type of work, but in order to avoid engineering costs they

do it themselves rather than bidding it out. If they raise this limit they could go to private contractors to do a lot of those projects and this would be a savings to the taxpayers.

Gordon Morris, MACo, rose in support of SB 316.

Opponents' Testimony: None

Questions From Committee Members and Responses:

SENATOR SPRAGUE asked if this is approved it doesn't apply that there will be no competitive bidding. Mike Mathew said that was correct and they can still bid if there is some interest.

SENATOR SPRAGUE said as long as there would be no favorite contractor getting it everytime without the bid process. Mike Mathew said they like to keep good relations with their contractors because if they don't, the contractor will quit bidding and this will hurt them.

SENATOR LYNCH asked what the school district law reads about competitive bidding. SENATOR SPRAGUE said it is at a \$60,000 limit.

Closing by Sponsor:

REP. KRENZLER closed on HB 316.

{Tape: 2; Side: A; Approx. Time Count: 5:10 p.m.; Comments: .}

EXECUTIVE ACTION ON HB 315

Motion:

SENATOR LYNCH MOVED TO TABLE HB 315.

Discussion:

SENATOR LYNCH said they have to post it in three places and if they put it on the internet they can find one more place to post it.

The committee said they would like to wait until the next meeting to do executive action.

SENATOR LYNCH said he would withdraw his motion.

EXECUTIVE ACTION ON HB 316

Motion:

SENATOR ECK MOVED HB 316 BE CONCURRED IN.

Discussion:

SENATOR SPRAGUE asked what the amount of the school repair was without bidding. SENATOR GLASER said he thought it was \$75,000.

Vote:

MOTION THAT HB 316 BE CONCURRED IN PASSED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 190

Amendments:

Martha Colhoun passed out amendments to HB 190 (EXHIBIT 5).

Motion:

SENATOR VAN VALKENBURG MOVED TO ADOPT THE AMENDMENTS (EXHIBIT 5).

Discussion:

SENATOR VAN VALKENBURG explained the amendments.

Vote:

MOTION TO ADOPT THE AMENDMENTS PASSED UNANIMOUSLY.

Discussion:

SENATOR VAN VALKENBURG said in section 2 of the bill he wanted to strike this so that schools would still have to get the approval of the Local Government Records Destruction Sub-committee.

Martha Colhoun said by striking section 2 it wouldn't make the written retention schedule count as the approval. The schools would still have to go through the approval process for each record. She suggested leaving section 2 in.

SENATOR VAN VALKENBURG said schools should be on the same level as local governments.

SENATOR SHARON ESTRADA said everything is not put on a computer and historians don't want certain records on a computer. She said she would feel more comfortable if they knew exactly what they are destroying.

Martha Colhoun said section 1 establishes a process where these retention schedules say what kind of document may be destroyed etc. She said right now any time anybody wants to destroy a record they have to ask for written approval whether there is a retention schedule or not. As it stands now there is a local government record committee and a destruction sub-committee. If a local government wants to destroy a record they submit a request and get approval from the sub-committee. This bill would allow

the sub-committee to put forth a schedule of what documents may be destroyed and then they wouldn't have to receive approval every time.

CHAIRMAN BECK asked if the language in section 2 should be re-inserted. **Martha Colhoun** said a person would still have to get approval by the committee, they couldn't go by the retention schedule.

SENATOR ESTRADA asked **Lynda Brannon**, to comment on this. **Lynda Brannon, MT Assoc. of School Business Officials**, said if they can get the retention schedule put together, dumb requests would no longer have to be approved.

SENATOR ESTRADA asked who will make the retention schedule. **Lynda Brannon** said the destruction sub-committee will do it.

Motion:

SENATOR VAN VALKENBURG MOVED A CONCEPTUAL AMENDMENT THAT ON PAGE 2, LINE 13 AFTER "SCHEDULES" INSERT "AND WITH WRITTEN APPROVAL OF THE LOCAL GOVERNMENT RECORDS DESTRUCTION SUBCOMMITTEE PROVIDED FOR IN 2-6-403 AND RECORDS NOT REFERENCED IN THE RETENTION AND DISPOSITION SCHEDULE.

Discussion:

SENATOR VAN VALKENBURG said if there is something that isn't addressed in the retention schedule then the schools can take it to the committee to get approval.

Vote:

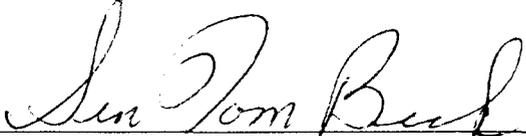
MOTION TO ADOPT THE AMENDMENT PASSED 8-1 WITH SENATOR LYNCH voting no.

Motion/Vote:

SENATOR VAN VALKENBURG MOVED THAT HB 190 BE CONCURRED IN AS AMENDED. MOTION PASSED 8-1 WITH SENATOR LYNCH voting no.

ADJOURNMENT

Adjournment: 5:30 p.m.



SEN. THOMAS A. "TOM" BECK, Chairman



JODI JONES, Secretary

TB/jj