

1 BEFORE THE SENATE AND HOUSE LOCAL GOVERNMENT COMMITTEES

2 45TH LEGISLATIVE ASSEMBLY

3 STATE OF MONTANA

4 * * * * *

5 IN THE MATTER OF THE HEARING ON)
6 HOUSE BILL 122, A BILL FOR AN)
7 ACT ENTITLED: "AN ACT FOR THE)
8 GENERAL REVISION OF LAWS RELATING)
9 TO COUNTY AND MUNICIPAL GOVERNMENT;)
ENACTING A LOCAL GOVERNMENT CODE;)
AND PROVIDING AN EFFECTIVE DATE.")

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14 TRANSCRIPT OF HEARING

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17 **AUG 10 1979**

18 **OF MONTANA**

19
20 January 22, 1977
21 Helena, Montana

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27 H & H SECRETARIAL SERVICE
28 Helena, Montana

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10 * * * * *

11 TRANSCRIPT OF HEARING

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13
14 A Hearing on the above-entitled matter was held on
15 January 22, 1977, at 11:30 A.M. in the House Chambers,
16 Montana State Capitol Building, Helena, Montana, before the
17 Joint House and Senate Committees on Local Government.
18 Senator George McCallum presided over the hearing.

19 SENATE LOCAL GOVERNMENT COMMITTEE MEMBERS PRESENT:

20 SENATOR GEORGE MCCALLUM, Chairman
21 SENATOR ROBERT WATT
22 SENATOR PETE STORY
23 SENATOR FRANK DUNKLE
24 SENATOR LLOYD LOCKREM
25 SENATOR BOB PETERSON
26 SENATOR CORNIE THIESSEN
27 SENATOR BILL THOMAS

28 SENATE LOCAL GOVERNMENT COMMITTEE MEMBERS ABSENT:

NONE

HOUSE LOCAL GOVERNMENT COMMITTEE MEMBERS PRESENT:

REP. HERSEL M. ROBBINS, Chairman

1 REP. HELEN G. O'CONNELL
2 REP. VERNER L. BERTELSEN
3 REP. GARY L. COLBURN
4 REP. HAROLD E. GERKE
5 REP. R. BUDD GOULD
6 REP. EDNA A. GUNDERSON
7 REP. BURT L. HURWITZ
8 REP. WILLIAM RAY JENSEN
9 REP. BOB PALMER
10 REP. PAUL G. PISTORIA
11 REP. JACK RAMIREZ
12 REP. AUDREY Q. ROTH
13 REP. CARROLL V. SOUTH
14 REP. CHRIS H. STOBIE
15 REP. ORREN C. VINGER
16 REP. STEVE WALDRON

17 HOUSE LOCAL GOVERNMENT COMMITTEE MEMBERS ABSENT:

18 REP. ORA J. HALVORSON

19 The following proceedings were had:

20 SENATOR McCALLUM: The purpose of this Joint Senate and House
21 Local Government Committee is to take up
22 House Bill 122, the revision of the
23 local government codes. All of those who
24 wish to testify should present to the
25 secretary, their request that they be
26 allowed to testify, either as a proponent
27 or an opponent. We'll take a break at
28 approximately 12:30 for lunch for a 30
minute break for lunch. Rep. Robbins --
Chairman Robbins will now make the announce-
ment of some other hearings on this bill.

REP. ROBBINS: Members of the Committee, the House Local
Government Committee tentative schedule
has gone out to the press and will be in

1 all the papers, all over the state. I
2 passed out these hearings to the Committee.
3 There are copies available for anyone that
4 wants them. They're scheduled from the
5 24th to February 4, and they're scheduled
6 in the House Committee Room in 225, down in
7 the Treasurer's Office. That's Monday,
8 Wednesday and Friday, through February 4th,
9 and they're posted on the board -- they're
10 posted and they're also going to be heard
11 by the chapters. For instance, I'll just
12 give you one; on the 24th, it's on Monday
13 at 3:30 p.m., Chapter 3 on Local Government
14 Structure and Organization; Chapter 5,
15 Powers and General Powers of Local Govern-
16 ment, and it goes on this way. At that
17 time we will hear testimony on the bill.

18 SENATOR McCALLUM:

19 The rules that we will abide by today
20 will be that when you wish to speak, you
21 will stand up, address the chair, state
22 your name, where you're from, whether you
23 represent yourself or a group, and if you
24 have written testimony, if you will bring
25 it forward, or have it brought forward by
26 a page and give them to the secretaries,
27 either of the Senate or of the House Local
28 Government Committee. At this time the
Chair recognizes Rep. Harold Gerke, sponsor

1
2 REP. GERKE:

of the bill -- House Bill 122. Rep. Gerke.
My name is Harold E. Gerke, State Representative, House District #62, and I am the principal sponsor of House Bill #122. Before we -- before I go ahead with the testimony on the bill and explain a little bit of the bill, with your permission Mr. Chairman, I would like the opportunity to introduce to you, and to the people here, the State Commission on Local Government that was appointed by the Governor of Montana, two years -- a little over two years ago, and this Commission, as those of you that were serving in the Legislature then know, was authorized by the Legislature, so if it's alright with you I'd like to do that, so that the people here will know who they are.

19 SENATOR McCALLUM:

Permission is granted.

20 REP. GERKE:

The legislation called for four people from the legislature; Senator Thiessen and Senator Drake were appointed. Two from the House of Representatives; Representative South, right here, and myself. Two from the County Commissioners; John Nesbo is in the crowd -- John Nesbo and Mel Wolland, the other County Commissioner; city officials, Mayor Lynch from the city of Dillon and,

1 at that time, the Manager of the city of
2 Bozeman, Mr. Harold Fryslie. I don't know
3 if Mr. Fryslie is here today or not. Then
4 one member of the public, Professor Thomas
5 Payne from the University of Montana.
6 These are the people who were appointed at
7 that time to make the study of local govern-
8 ment, and to come up with this proposal
9 that we have here today. Thank you, Mr.
10 Chairman. Now, with regard to House Bill
11 122 -- it might be better if I get around
12 on this side so I can face the people that
13 are here -- I'm pleased to see the turnout
14 here today. It indicates the interest that
15 we have in local government. Local govern-
16 ment, I think, is one of the most important
17 considerations that you and the legislature
18 will have, that we, the people in Montana,
19 should have, for quite some time to come.
20 House Bill #122 represents the culmination
21 of about three years of work by your
22 State Commission. As many of you know,
23 we have had hearings all over the state of
24 Montana on several occasions. Those
25 hearings were attended by county commissioners,
26 city council members, elected officials,
27 business people, and the public in general.
28 We have tried in every way to get as much

1 input into this proposed legislation from
2 every level of society that we possibly
3 could get. I can assure you that it was a
4 quite difficult task. Some of you may be
5 somewhat awed by the size of the bill,
6 and there has been some question as to why
7 we couldn't have offered it to the legislature
8 in separate bills, and I suppose that could
9 have been done. I don't know how many
10 separate bills it would have taken but it
11 would have taken quite a number. As you
12 can see from reading the bill, those of
13 you that have a copy, or checking through
14 the index, there's 701 sections, but that's
15 reduced from 2,552 sections that we started
16 out with, so those of you that work with
17 local government from day to day, know
18 what an improvement that will be. Now,
19 we do not profess that this is a -- is the
20 answer to everything. We think it's the
21 best possible bill to revise local govern-
22 ment laws, that will be, or can be, in-
23 troduced at this session. It's not meant
24 to imply, as I said, that there are not
25 areas in which there are differences of
26 opinion. We know of some of the differences
27 of opinion -- we have heard some of the
28 testimony, and even lately in the halls

1 around here. We feel the legal framework
2 proposed here permits the legislature to
3 maintain its supervisory authority over
4 local government in Montana in a systematic
5 fashion. Many of you in attendance may not
6 appreciate how -- exactly how confusing
7 and ambiguous the existing city and county
8 laws are, but those of you who have worked
9 with these laws can readily understand the
10 problem. Personally, I think I can speak
11 from some experience having been a depart-
12 ment head at one time in one of the cities.
13 In Billings I found the laws to be con-
14 fusing and ambiguous, who are you responsible
15 to, where do they receive their authority,
16 who do you report to, how do you get changes,
17 who is responsible to me when I was in that
18 office? Further than that, serving as a
19 city council member for several sessions,
20 in one of the larger cities in the state,
21 I found the laws to be, in a lot of cases,
22 rigid, inflexible and incapable of address-
23 ing and resolving local problems. It
24 seems like we always had to go back to the
25 legislature to get our problems solved.
26 Many times we were prevented from utilizing
27 local resources to our advantage, because
28 the state laws contained extraneous,

1 procedural requirements. In some in-
2 stances, much more expensive services were
3 the result. Further than that, as a former
4 mayor, I found that the result of 70 years
5 of legislative enactment of local govern-
6 ment laws resulted in a confused admini-
7 strative structure, and contained boards
8 and bureaus with varying degrees of authority,
9 none designed by the legislature to work with
10 any other board. Some boards, because of
11 their strong interest groups, won so much
12 autonomy from the enabling legislation that
13 their decisions could override the decisions
14 of locally elected officials. Now, this
15 proposed legislation does not abolish the
16 boards. The local -- if this legislation
17 is adopted, the local government authorities
18 themselves can appoint whatever boards they
19 deem fit to carry out the work that they
20 want done at the local level. These boards
21 can be either administrative or advisory.
22 But, at that point, it will be up to the
23 local government to decide whether they
24 want boards or not -- not up to the legisla-
25 ture to say that you shall have one, whether
26 you like it or not. Furthermore, as a
27 legislator, and as a former Speaker, I have
28 found that the existing system of laws

1 require the introduction of, what I call,
2 nuisance bills, for local government --
3 bills that deal essentially with admini-
4 strative deals for local government. For
5 instance, the legislature sometimes passes
6 laws setting salaries for different people
7 in local government. Seldom do they ever
8 provide the funds to take care of those
9 salaries. Many times they require services
10 to be provided on the local level -- seldom
11 does the legislature ever provide the funds
12 for that purpose. They provide -- when the
13 legislature does adopt a law, it's one that
14 applies to all of Montana. It may be one
15 that would apply, and work well, in Missoula
16 County but probably wouldn't be needed at
17 all in Carter County, but Carter County
18 would have to come under that law regardless.
19 If this code is adopted, Carter County
20 could take whatever tax they wanted. With
21 powers that they would have, and now do
22 have in some cases, they could adopt what
23 they thought was better for Carter County
24 and let Missoula do the same. These are
25 important decisions but decisions that
26 should be made locally, not here in Helena.
27 It's the time, I think, that the state
28 ought to recognize local governments as

1 what they are as governments. People at
2 the local level know the problems, know
3 the resources and they know the need. This
4 bill won't solve all the problems, nor
5 will it solve all of the local problems --
6 the problems in local government in the
7 state. It does, however, provide, as I
8 said before, local governments with a tool
9 to address the unique problems that exist
10 within their jurisdiction. We all point
11 out that our cities or counties are
12 different than other cities or counties in
13 the state, but we currently operate under
14 a system of laws that treat all cities and
15 counties the same, that prevents us from
16 taking unique circumstances into consider-
17 ation when making our decisions. I realize
18 that this bill does contain some provisions
19 that may be unpopular with some. Some of
20 you may say that the Commission did not
21 change sections that you may have testified
22 for or against at some of our public
23 hearings, and this may be true. There's
24 no doubt some reasons for that. But as you
25 also know, any section of this bill can be
26 amended or deleted, and that is why we are
27 here today. All of you will have a chance
28 to speak your piece and testify as to what

1 you think is good or bad about the bill.
2 As a deliberative body, we in this House
3 and in the Senate, are charged with hearing
4 measures introduced by anyone of the 150
5 legislators. As sponsor of this bill, I
6 ask that all of you in attendance, but
7 especially those of you who must make the
8 decision concerning the fate of this bill,
9 listen to this testimony with an open mind.
10 The essential question that you should con-
11 tinually ask yourself is, "Shouldn't local
12 governments make these decisions for them-
13 selves? Shouldn't local governments be
14 given the basic authority to make decisions
15 about basic services, and then make the
16 decisions related to the administration and
17 the funding of these services? Should not
18 each community decide for itself exactly
19 how much government is necessary to carry
20 out the demands of the citizenry. Shouldn't
21 local governments be given a single concise
22 source of authority to act, and shouldn't
23 every citizen be given the same source to
24 check on the activities of local decision
25 makers?". I thank you very much for your
26 attention. I reserve the right to close,
27 and I would like, with your permission Mr.
28 Chairman, to enter into the record, a

1 letter that I have from The Public Service
2 Commission, who support the bill. I won't
3 take the time today to read it but it will
4 be -- with your permission, it will be in
5 the record, and the main part that they
6 support is the rate-making, at the local
7 level, on water. The other -- I have
8 another letter that I would like to enter
9 in support of the bill, from the city of
10 Poplar. Thank you, Mr. Chairman.

11 SENATOR McCALLUM: You may enter your letters as evidence.
12 Rep. Gerke, do you have other people that
13 you wish to testify?

14 REP. GERKE: Yes, Mr. Chairman. I would now like to
15 introduce Senator Thiessen, who has, as I
16 said before, served on this Commission and
17 also is going to testify in favor of this
18 bill. Senator Thiessen.

19 SENATOR THIESSEN: Mr. Chairman, members of the two committees,
20 the Senate and the House, I am Senator
21 Thiessen from District #27, and I am a
22 member of the Local Government Committee
23 in the Senate, appointed so by the Committee
24 on Committees, and I have also not been
25 seated, but the Governor sought me out to
26 serve on this nine-member commission to
27 review local government in the state of
28 Montana. We've been at it since the year

1 1974, and we had a mandate to perform, by
2 the new constitution, "The Commission shall
3 make a detailed and thorough study of local
4 government structure, powers, services,
5 finance and state and local relations. The
6 Commission shall prepare a revised code of
7 local government law based on its study,
8 and may make other recommendations for the
9 improvement of local government", and we
10 did take the opportunity to make some
11 suggested improvements, not all with my
12 accord or the other, but by the vote of the
13 committee, they were put into the recodi-
14 fication and also, to the new bill.
15 House Bill 122 represents the fulfillment
16 of the mandate that was given us. It's a
17 large bill -- 700 sections and it repeals
18 2,554 sections of law, and I want to declare
19 to you -- regardless what may be said --
20 this bill has been drafted in the open. It's
21 been discussed and refined in the open in
22 17 formal public hearings across the state
23 and they were chaired by local -- the
24 members of the Commission -- the State
25 Commission, and we met with countless groups
26 and worked out solutions to existing problem
27 areas. Some groups chose not to work with
28 the Commission and give it the benefit

1 of their judgment. This was unfortunate.
2 House Bill 122 would possibly be even
3 better if they had given us their input.
4 The Commission worked principally through
5 its staff, under Commission supervision and
6 direction, and Harold -- Rep. Gerke has
7 already explained to you the makeup and
8 introduced you to members of the Commission,
9 which is a bipartisan Commission; four
10 legislators, then members of the cities and
11 local governments, and also one from the
12 public. Monthly meetings since January,
13 1976 -- the Commission met two days a
14 month, revised every section -- reviewed
15 every section and changed many, and it was
16 not developed in isolation. Many groups
17 attended our meetings with hearings and we
18 received and reviewed all viewpoints and
19 made our decisions in public. More work
20 has gone into this particular bill than
21 any bill that I can recall, having served
22 in the Senate since 1959. I've gone
23 through many recodification bills, and I
24 remember the Insurance Code that we re-
25 codified, and I want to tell you it was a
26 tremendous piece of work, too, and we had
27 an on-rush of amendments, but we finally
28 took the procedure to not amend this bill

1 but to put into effect, effective two
2 years later when the session would meet
3 again -- convene itself, and you know,
4 that next session we didn't receive one
5 amendment out of the many that had been
6 submitted two years prior, because people
7 had a chance to look at the code and what
8 we had done, and it was a good masterpiece.
9 Well, anyway, we're called upon here, as
10 legislators, to vote upon this bill, and
11 I want to tell you we're going to deliberate
12 on it, and regardless of the publicity
13 that's been given that this bill is only
14 going to be heard for 12 days, is absolutely
15 erroneous; we're going to give it our full-
16 time attention, we have a 90 day session
17 and I imagine -- of course, the bill didn't
18 get printed until about 10 days ago, but in
19 anyway, the bill is available and we hope
20 that you can take a good look at it. If
21 you can't avail yourself of a copy, I
22 presume you'll have to kind of share, maybe,
23 because this is a very costly bill to
24 submit and therefore, we hope that you will
25 use the copies that you have expeditiously
26 with others. This bill removes a lot of
27 ambiguity and it clarifies many areas,
28 maintains our responsibility as a legislature

1 to specify and adjust the powers of local
2 governments. It makes local governments
3 true governments, with elected officials
4 given the basic authority to make decisions
5 that we, as legislators, currently make for
6 them; make those same officials responsible
7 for their decisions to the local voters.
8 This bill asks the legislature to consider
9 delegating powers to local governments that
10 we currently exercise out of necessity.
11 Many of us don't want to make the minute
12 decisions that we are now forced to make.
13 When I first came into the legislature in
14 1959 they terminated the -- ambulance
15 service over in the county of Richland, so
16 I was asked to bring about the possibility
17 of the county and the city to serve that
18 area, and we had to come up and get special
19 legislation for them to do that. For
20 instance, right now, we have a bill here
21 that asks us to enlarge the board of a
22 cemetery. Now, why should we, as legislators
23 have to deal with these problems. Why
24 can't that decision be made locally? That
25 is an important administrative decision.
26 Why not permit local governments to make
27 their own individual decision on these
28 types of matters, and free the legislature

1 to spend more time on appropriations,
2 energy questions and matters of statewide
3 concern? So we ask you to have an open
4 mind. The bill has certain areas that are
5 unpopular but take the time to understand
6 what the bill contains, why it contains
7 those provisions, what the specific ob-
8 jections to the bill are. I ask you to
9 reject statements such as, "The bill is
10 bad", like I heard the other day, and I
11 had a letter to that effect. "Please vote
12 against House Bill 122", and I'm sure they
13 haven't even seen it, because you know,
14 really, that's the lazy man's way of
15 opposing anything -- choosing to remain
16 uninformed, and I know you won't have to
17 read all these sections on this bill be-
18 cause you may be concerned only with certain
19 sections, and it's well indexed so you
20 can find the sections that you're concerned
21 with, and I would hope that you will
22 constructively work with it. If you have
23 any language changes that you would like
24 to make, please bring them to the Committee.
25 We will give them consideration. Finally,
26 I would say, judge the bill from an in-
27 formed standpoint and ask questions. I'm
28 confident that this bill is the best

1 possible bill that the Commission -- we
2 nine members and it's staff, can deliver
3 in fulfilling it's mandate. It can stand
4 continued public scrutiny, it can be easily
5 amended, it is something that needs to be
6 done, so I plead, let's get with the job
7 to make it even better. Let's be con-
8 structive in our attitude.

9 SENATOR McCALLUM: Thank you, Senator Thiessen. Rep. Gerke?

10 REP. GERKE: Yes. I would now like to introduce
11 Senator Drake -- former Senator Drake. He
12 worked with us all this time on the code,
13 too. Senator Drake.

14 MR. DRAKE: I learn how to -- this button -- never
15 having been in the House -- you have a
16 different mechanism over here. Thank you
17 Mr. Gerke. Mr. Chairman and members of the
18 Committee, for the record I am Glen Drake,
19 former senator from Lewis and Clark County.
20 I chose not to run this last election and
21 have been a member of the Commission on
22 Local Government since its inception. I
23 will not speak at length on it today. I
24 know there are many people here that do
25 want to speak and address the issues in the
26 bill. I would, however, wish to address
27 a couple of issues. One being, the fact
28 that I believe that the code, as presented

1 to the legislature, will relieve the
2 legislature of a great deal of the so-
3 called nuisance bills, or bills involving
4 strictly local problems. As an example
5 of what I'm saying, we'll take for instance
6 the mill levy problem. Under the proposed
7 bill, cities would be able to levy an all
8 purpose mill levy up to 65 mills which is
9 the existing law. The counties would be
10 allowed, under the bill, to have an all-
11 purpose mill levy of 55 mills. At present
12 time, small counties through a special mill
13 levy effort, can levy as much as 74 mills
14 and the large counties 64 mills. The
15 question, however, is why should it be
16 necessary for elements of local government
17 to come to the legislature each time they
18 wish to change one of the permissive mill
19 levies. Now as an example of what I speak,
20 I saw a bill, I believe in the Senate,
21 here last week, in which a bill was sub-
22 mitted to raise the permissive mill levy
23 from 2 to 6 mills, I believe, for cemetery
24 districts. Now, that's a purely local
25 item and should not require acts of this
26 legislature. Under the bill this problem
27 would be eliminated. There are 71 special
28 mill levies on the present books. If it

1 is necessary to change any of these mill
2 levies we must, of course, come to the
3 legislature to accomplish that. Now, under
4 the bill, if the bill is adopted, with the
5 all purpose mill levy, this will not be
6 necessary. Now, one other thing in relation
7 to the all purpose mill levy that I think
8 should be brought out again is that there's
9 been criticism of the all purpose mill levy
10 from the standpoint of the reappraisal of
11 property that is now going on, and what
12 the effect of that reappraisal will be.
13 I will submit to you, that it will be a
14 great deal simpler to make a necessary
15 adjustment of one all purpose mill levy
16 than it would be to make the same adjust-
17 ment of 71 special levies that exist now
18 on the books. So, that, I think, is an
19 example of the manner in which this bill
20 will relieve the legislature of what now
21 is a heavy burden. One other area I would
22 like to touch on briefly, is the -- another
23 area of controversy involving the authority
24 of the county commissioners to consolidate
25 offices and to assign duties. Now, in the
26 last session we passed House Bill 176
27 which is effective May 2nd. Now, under
28 Bill 176, the granting of ordinance granting

1 power to elements of local -- of counties
2 was granted. We did that last session.
3 This bill merely sets forth the manner in
4 which the ordinances must be adopted and
5 how it can be accomplished. Now, as to
6 the consolidation of offices within the
7 county, there can be, under the proposal
8 here -- there can be no consolidation of
9 elected offices -- or functions, rather --
10 well, excuse me -- of elected offices,
11 without a vote of the people, and I would
12 also call your attention to the fact that
13 as far as setting salaries, that under the
14 bill that we present the salaries of
15 elected officials, and others, must be --
16 can only be established by giving of notice
17 within 90 days -- having a public hearing
18 within 90 days prior to the election --
19 primary election, I should say, and having
20 a public hearing. Thereafter, if the
21 people are dissatisfied with what the
22 county commissioners have done in that
23 regard, they could have an initiative
24 petition, 15% of the people, overriding
25 action of the commissioners. Now, under
26 the bill as proposed, elected officers do
27 hire their own subordinates within the
28 budget that is presented. Now, that hasn't

1 changed. Right now the present system is
2 the same -- that the budget is presented
3 and the elected official hires his own
4 subordinates, so we really haven't changed
5 anything in that area to any particular
6 degree. As to duties again, the duties
7 under the proposal, can be set by the
8 county commissioners. However, again that
9 law allowing this was passed in the last
10 session, and again in this bill we are
11 again setting forth the manner in which
12 that could be accomplished. Mr. Chairman,
13 and members of the Committee, I want to
14 thank you for the opportunity to appear
15 before you.

16 SENATOR McCALLUM: Thank you, Senator Drake. Rep. Gerke?

17 REP. GERKE: Mr. Chairman, those are the two that I
18 wanted to introduce. You may proceed now.

19 SENATOR McCALLUM: Mr. Zinnecker?

20
21 TESTIMONY OF MR. DEAN ZINNECKER

22 MR. ZINNECKER: Mr. Chairman, I am Dean Zinnecker, Executive
23 Director of the Montana Association of Counties. County govern-
24 ment has served as a whipping boy and scapegoat of our govern-
25 mental system long enough. It's time to bring counties out
26 of the dark ages, to make them a fullfledged partner in our
27 governmental system and to quit treating them as forgotten
28 stepchildren with dirty diapers. The Montana Association of

1 Counties has often said, "Counties are small enough to care
2 yet large enough to cope". There should be general agreement
3 that there is a need for a viable level of government below
4 the state and above principalities. Counties are ready, willing
5 and able to fill that missing role. Counties were created so
6 citizens would not have to go to the State Capitol to handle
7 their business with government. Legislators realized that
8 travelling to Helena to file deeds, birth certificates, death
9 certificates and other papers required would have been an un-
10 necessary hardship. However, today the system is different.
11 The federal government has the money, state government has
12 control and local government has to provide the services. In
13 addition, counties are being forced to provide both state and
14 municipal services, but have not been granted the flexibility
15 to provide those services either efficiently or effectively.
16 Mr. Chairman, we support House Bill 122. We support it because
17 it provides flexibility of service delivery. The proposed
18 government code authorizes that the decision to provide a
19 service or facility be made by the local government, that the
20 method of service delivery be determined by local elected
21 officials, and that the amount of financing for the service
22 would be determined by local elected officials. These
23 determinations, currently, are made at the legislature and
24 applied uniformly to the 56 counties. Different localities in
25 this large diversified state of ours are characterized by different
26 needs and desires. Yes, Mr. Chairman, we support House Bill
27 122. It provides that salaries would be set at the local
28 level. Local government bodies would set salaries after

1 consideration of their own unique job requirements, structure
2 and financial resources. It also provides assurance for elected
3 officers that nobody's salary could be decreased and that
4 salaries must be set before the filing date for the office.
5 Yes, Mr. Chairman, we support House Bill 122. It provides
6 local responsibility to assigned duties. It specifies control
7 over the multitude of boards, bureaus and commissions. "Buck
8 passing" in the courthouse would be stopped. Yes, Mr. Chairman,
9 we support House Bill 122. It provides limited financial
10 flexibility. Local elected officials would establish their
11 own priorities and finance those priorities. Financing would
12 be authorized at a rate even lower than the current rate but
13 more flexibility is provided with that reduced financing.
14 Local government committees -- there is something in this
15 code for everyone to complain about. The county officers will
16 ask for a two year study of the code, a bill that has already
17 received three years of study. They don't know what's in it
18 but they've memorized the chapter that allows their salaries
19 to be set locally, or the part that allows their duties to be
20 established locally, or the section that permits consolidation
21 of offices. I bet they can't tell you what section of the present
22 law permits consolidation of offices. Those boards, bureaus
23 and commissions want to be mandated again as administrative
24 agents of the county. I would submit, it is unreasonable to
25 allow authority without responsibility. The governing body
26 of the county has the responsibility, therefore, it should
27 also be given the authority. The press association will want
28 to maintain the printing monopoly. If the state wants to

1 authorize and pay a subsidy to the papers, that's your
2 business, but local governments should not be forced to provide
3 that subsidy anymore than they should be required to subsidize
4 the local cattleman. Then there are those who will oppose
5 local option taxes. We believe the property tax has become
6 burdensome to all property owners in Montana, yet it is not
7 adequate to support the demands of education and public
8 assistance. Local option taxes are one method to allow a
9 decreased dependence on the property tax. House Bill 122
10 brings counties to the point where cities and towns have been
11 for years. The legislature remains supreme. The power of
12 county governments to pass an ordinance setting the price of
13 dog licenses means nothing unless the legislature authorizes
14 local units to control dogs. House Bill 122 does not give
15 blanket legislative authority. House Bill 122 does not give
16 unlimited taxation. House Bill 122 merely gives a flexibility
17 for local governments to solve local problems and provide
18 local services in accordance with local needs. It would take
19 300 bills in this legislature to satisfy those local needs
20 under the present system. Members of the Local Government
21 Committee, county government may still be a stepchild, but we
22 have grown out of those dirty diapers. We're adult and we
23 need to be treated that way. Thank you, Mr. Chairman. With
24 your permission I would like to call on the county commissioners
25 that are present and members of our Association to testify.

26 SENATOR McCALLUM: You have permission, Mr. Zinnecker.

27 MR. ZINNECKER: Mr. Chairman, I would first like to call on
28 Mr. Dale Skaalure, Commissioner in Chouteau

1 County and President of the Montana
2 Association of Counties.
3

4 TESTIMONY OF DALE SKAALURE

5 MR. SKAALURE: Mr. Chairman, ladies and gentlemen, for
6 the record, I am Dale Skaalure, Commissioner from Chouteau
7 County and also President of our Montana State Association of
8 Counties, and it's my privilege to tell you that at the last
9 convention we had in Big Sky in June, that this matter has been
10 discussed and brought up, and at that time there was not one
11 opposing vote in our convention assembled, in favor of this
12 proposed change for our local government. I think this says
13 quite a bit because you all know that as county commissioners
14 you have quite a rugged bunch of individuals. Really they
15 come from 56 different kingdoms and they speak their own mind
16 quite readily, and I think this is the way it should be because
17 we have a lot of different economic and geographical differences
18 amongst us that takes the local government group to operate
19 and define the need and deliver the services at that particular
20 level. I'm sure that we will be somewhat repetitious as we
21 talk about local government this afternoon, but one of the
22 concerns that bothers me is this fact that these numerous mill
23 levies have gone from $\frac{1}{4}$ up to about 24 mills, and I think this
24 is a boxed in thing that doesn't allow the people in govern-
25 ment to put the money where it needs to be. Then some of our
26 pressure groups say, "Well, you could levy another two mills
27 for this. Why don't you fill up the bill?" So, you've got
28 pressure even at the local level with a restricted mill levy.

1 I think with our proposed codes we also have the advantage
2 of operating much as you people do here in the legislature
3 with petitions, with hearings, with people coming and are
4 heard, and then if it comes to any matters of consequence,
5 there's a vote by the people themselves. So, I think the
6 people who are at home determine who is going to be their
7 officials, they also determine what is going to happen in
8 the area of local government services. I think one of the
9 things that scares many of us is when we look at this House
10 Bill 122, and it's a rather voluminous kind of bill with some
11 800 and some pages, and any of you people that have tried to
12 find something in the present codes, will suddenly realize
13 that it is equal to about one-quarter of what we presently
14 have scattered from Chapter 1 to 94, and these things have
15 been accumulating since our state became a state, and there's
16 nothing, I don't think as constant as change, and I think
17 this is one of the periods we're in today. It would seem to
18 me that, we know, we're going to have some bugs in this
19 present bill, and I'll tell you, we've got a whole lot of
20 bugs in the present statutes as they are. There's a duplication
21 of effort and some pretty hard to understand things. Once
22 in a while you have a deuce of a time trying to find what
23 you're looking for. Even our county attorneys -- seems like
24 they can't always agree on where you look for some of these
25 things. Thank you, Mr. Chairman. I think that our Association
26 has gone on record as supporting this particular piece of
27 legislation. Thank you.

28 SENATOR MCCALLUM: Would the gentlemen give his name and

1 where he's from, please?

2 MR. SKAALURE: Commissioner Dale Skaalure, Chouteau County,
3 Big Sandy.

4 SENATOR McCALLUM: Mr. Zinnecker?

5 MR. ZINNECKER: Mr. Chairman, if I could call on the Past
6 President of the Montana Association of
7 Counties, the Commissioner of Flathead
8 County, Joe DeLong.

9
10 TESTIMONY OF JOE DeLONG

11 MR. DeLONG: Members of the Committee, I am Joe DeLong,
12 Flathead County Commissioner, Past President of the Montana
13 Association of Counties and a member of the State Advisory
14 Council on Local Government, which I am here today representing
15 a part of. Our State Advisory Council is indeed in support
16 of House Bill 122. We helped in the setting up of the structure
17 of the State Commission on Local Government, we felt there was
18 a real need to cut down on the laws that are on the books now.
19 We felt there was a real need to have flexibility to set priorities
20 on the local level. We feel that these needs have been met
21 in House Bill 122. I would say again that there are some
22 concerns in this bill. I do not know of the legislature of
23 the State of Montana that has ever passed a perfect bill. It
24 has to be amended at times, and there's some things that people
25 cannot agree on. I would also say, if my information is
26 correct, there's 1600 bills that have been introduced to this
27 legislature. How can we keep on going increasing the number
28 of bills? How many of them bills affect county government?

1 How many of them bills should not have been sent here at all,
2 but could have been settled on the local level? Cities have
3 had ordinance making powers for years. Cities have had all
4 purpose mill levies. I would state to you, there are a good
5 number of counties in the state of Montana that are at their
6 mill limit on the general fund. What are they going to do with-
7 out an all purpose mill levy? The problems of Flathead County
8 and the problems of Daniels County, or Carter County, or
9 Stillwater County, are entirely different. We have 56 counties,
10 we have 56 different sets of priorities, we have -- these
11 priorities could be settled on the local level. We hope the
12 Committee -- we hope the legislature will see things that can
13 be accomplished in House Bill 122 and the Flathead County
14 Board of County Commissioners does hereby support House Bill 122.
15 I thank you, Mr. Chairman.

16 SENATOR McCALLUM: Mr. Zinnecker?

17 MR. ZINNECKER: Mr. Chairman, I would like to call on
18 Charles Painter who is the Director of
19 Administrative Services, Missoula County.
20

21 TESTIMONY OF CHARLES PAINTER

22 MR. PAINTER: Mr. Chairman, members of the Joint Committee,
23 Dean has indicated my name is indeed Chuck Painter, Director of
24 Administrative Services for Missoula County. In that role I
25 serve as the left hand to the Board of County Commissioners in
26 Missoula County. I would like to address perhaps two issues;
27 one general, one specific, this afternoon. The business of
28 government is service. It's a long way from Helena -- to

1 Helena, from most parts of the state. I think we need to
2 address then, the impact on the citizenry constituency of each
3 of the local governments. Provisions in House Bill 122 control,
4 set forth and establish uniform procedures gaining public input
5 into the governmental process. That, in itself, is significant
6 improvement over the various committee vagaries in terms of
7 the current law. The secret to effective government, at any
8 level, is public input in addressing the needs of the people.
9 The second perhaps, in my view at least, secret of effective
10 local government is to have the local -- any government -- have
11 that government have the power to respond effectively and
12 efficiently to problems as they are perceived by that local
13 constituency. I think House Bill 122 creates the vehicle for
14 both of those. It provides a uniform system for guaranteeing
15 public input. It provides the local authorities to address
16 effectively, those problems, as they are perceived by the
17 citizenry through their elected officials and through the public
18 process. The only other comment I wish to make this afternoon
19 is regarding a matter than Dean has touched on briefly. There
20 is a monopoly existing at the local level in Montana now, that
21 being the monopoly regarding printing for counties. There is
22 no reason in my mind why the printing section of any state
23 law, any county government, should be constrained in a monopoly
24 situation. We are not in a monopoly situation in dealing with
25 vendors for road equipment, or for vehicles, or for any other
26 services or supplies. You must separate, when you consider
27 printing for public information -- public information is a
28 very critical point and it needs to be handled effectively at

1 the local level. The printing issue needs to be one handled on
2 a competitive basis. Again, in summation, I too, completely
3 support House Bill 122, recognizing that it does have some
4 faults, but the vehicle is there to provide effective public
5 input into the process and to allow the local units effective
6 authority to address local issues.

7 SENATOR McCALLUM: Mr. Zinnecker?

8 MR. ZINNECKER: Mr. Chairman, I would like to call on
9 Larry Anderson, Commissioner of Liberty
10 County.
11

12 TESTIMONY OF LARRY ANDERSON

13 MR. ANDERSON: Mr. Chairman, members of the Local Govern-
14 ment Committees, I am Larry Anderson, Liberty County, Chester.
15 I would like to express unanimous support of the Liberty
16 County Board of Commissioners for House Bill 122. I would also
17 like to summarize a letter I received from the Hill County
18 Board of Commissioners. "In reference to House Bill 122 dealing
19 with the codes, we, the Hill County Commissioners, feel that
20 House Bill 122 should be passed in its entirety. We are unable
21 to attend the meeting on Saturday, January 22nd, and as
22 Larry Anderson is a member of District 4, we would like him to
23 express support for Hill County". I would like to submit to
24 the Committee that under the enactment of House Bill 122, the
25 public would have more say in local government than at the
26 present time. It's a real chore for the taxpayers -- the
27 electorate of our counties to get down to Helena and lobby
28 their pet little things when the people interested in the same

1 thing from the larger or smaller counties see it a little
2 differently, so we just hit an average. I submit that our
3 friends and neighbors will have a better hearing on their
4 specific problems right in the county courthouse. I would
5 like to point out too, that the session of the Montana legislature
6 the Montana Association of Counties followed and took position
7 on 256 pieces of legislation. I would say that your time
8 could be much better spent. I'm not saying that we won't
9 continue to get blamed for some things that may happen down here.
10 In fact I, in a way, like Chapter 16 in the Revised Codes. You
11 can look in there and get out any darn thing you want to.
12 There's an out for everybody, but I would submit that we
13 really get the blame anyway, and I would sure like to earn it
14 once. Thank you.

15 SENATOR McCALLUM: Mr. Zinnecker?

16 MR. ZINNECKER: Mr. Chairman, I would like to call on
17 Commissioner Browman from Missoula County.
18 Commissioner Browman is wearing two hats
19 today. He's representing Missoula County
20 and he's also representing the Class I and
21 II counties.

22 SENATOR McCALLUM: Mr. Browman?

23
24 TESTIMONY OF MR. LUDVIG BROWMAN

25 MR. BROWMAN: At the meeting of the first and second class
26 counties yesterday, I was elected to be spokesman for a
27 resolution, so I'll read the statement that I've prepared as
28 a result of that. "At a meeting of the first and second class

1 counties in the Lewis and Clark County Courthouse Friday,
2 January 21, 1977, it was moved, seconded and passed without
3 dissent that the County Commissioners of first and second
4 class counties of Montana do support and endorse House Bill
5 122, 'An Act For the General Revision of Laws Relating the
6 County and Municipal Government; Enacting a Local Government
7 Code; and Providing an Effective Date'." I can't make any
8 extensive comments of the discussion we had which was an
9 extensive discussion because there were a number of points of
10 view. I will merely report on the formal action. However,
11 representing Missoula County as County Commissioner, I have
12 a signed document of all three of the County Commissioners
13 from Missoula County. I'll read this statement that we have
14 prepared in support of House Bill 122. "Missoula County does
15 support the enactment of House Bill 122, the local government
16 code bill. House Bill 122 should be enacted this session
17 because it benefits the general public and far outweighs
18 any gains that might possibly accrue to any individual or
19 special interest from postponing action on the bill. The
20 final version of House Bill 122 has gone far in attempting to
21 meet special interests but it definitely has retained the basic
22 element of permitting local government to enact ordinances
23 and resolutions to meet the real and peculiar needs of each
24 local community. The proposed code permits a flexibility
25 approach within individual communities and retains full account-
26 ability of local government in its attempt to meet these needs.
27 Basically, the counties have more to gain than municipalities,
28 where the revised condensed code does give both municipal

1 and county government essentially the same ordinance and
2 resolution making powers to meet the basic needs of its
3 citizens, and we look with envy in Missoula County, at the
4 city government, who can immediately pass ordinances that
5 can meet their problems." A comment was passed on to me
6 this morning at the breakfast table -- can you imagine 56
7 counties passing laws? Yes, I can, because there are 126
8 organized municipalities in the state of Montana right now
9 who are passing ordinances and are solving immediately the
10 needs of their communities, and we're asking the privilege
11 of 56 counties in the state to have the same opportunity
12 to meet our local needs rather than the constant frustration
13 that we have, as county commissioners, because we're unable
14 to meet these local needs. We have to wait two years to go
15 to the legislature and hope we can convince enough of the
16 legislators to prove action is necessary to meet the needs of
17 the county. This statement has been signed by all three
18 county commissioners. Thank you.

19 SENATOR McCALLUM: Mr. Zinnecker?

20 MR. ZINNECKER: Mr. Chairman, I would like to call upon
21 Ed McCaffrey of Rosebud County.

22
23 TESTIMONY OF ED McCAFFREY

24 MR. McCAFFREY: Mr. Chairman, my name is Ed McCaffrey,
25 Rosebud County Commissioner. I am also legislative coordinator
26 for District #3 in the Association of Counties. I am here
27 to testify on behalf of those six counties in that district.
28 I would like to mention a few of the advantages of House

1 Bill 122 as we see them. This bill will give local government
2 ordinance making powers; all purpose mill levy would give
3 the county commissioners the flexibility needed. This would
4 eliminate most emergency budgets or transferral from one fund
5 to another, thus eliminating interest and much paper work.
6 House Bill 122 could and should mean greater efficiency in
7 county government, delegating duties, equalizing workload.
8 This legislation will grant certain powers. It will give
9 county government the flexibility and authority to enact
10 ordinances, setting salaries according to needs and workload.
11 On behalf of District #3 County Commissioners, and myself,
12 I thank you.

13 SENATOR McCALLUM: Mr. Zinnecker?

14 MR. ZINNECKER: Mr. Chairman, Commissioner John St. Germaine
15 of Cascade County.
16

17 TESTIMONY OF MR. JOHN ST. GERMAINE

18 MR. ST. GERMAINE: Mr. Chairman, Committee members. I am
19 John St. Germaine from Cascade County, Great Falls, Montana.
20 Along with our District 5, Cascade County supports House Bill
21 122. I want to repeat the same statements of Senator Thiessen.
22 Maybe this is not perfect but it's a lot better than what
23 we've got now. Let's pass it and then we will amend it-- we
24 will all get together and amend it to a better bill.

25 MR. ZINNECKER: Mr. Chairman, Mr. John Nesbo of Toole
26 County, and also a member of the State
27 Commission on Local Government.
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SENATOR McCALLUM: Mr. Zinnecker, the hour is fast approaching for adjournment for lunch, so do you have a great many more speakers?

MR. ZINNECKER: Mr. Chairman, we'll try to cut this brief.

MR. ZINNECKER: Mr. Chairman, we'll try to cut this brief.

1 I would like to have the following people
2 stand up and be recognized as proponents,
3 and as time allows later, they would like
4 to say something. I would like to have
5 the following people stand up. Tom
6 Gerard, Toole County; Ed Miller, Big Horn
7 County; Scott Lockwood, Administrative
8 Assistant of Lewis and Clark County;
9 George Sager, Commissioner in Gallatin
10 County; Jim McKinley, Commissioner of
11 Ravalli County; Bob Barber, Commissioner
12 in Fergus County; Fritz Thibadeau in
13 Missoula County; Everett Elliott, Commissioner
14 in Pondera County; Mel Wolland, Commissioner
15 of Flathead County and a member of the
16 State Commission on Local Government;
17 John Moreland, Rosebud County; George Zigg,
18 Meagher County; Bob Tomcheck, Toole County;
19 Dick Ostergen, Missoula County; Doug
20 Debroth, Ravalli County, and Irvin Riis,
21 Broadwater County. Thank you, Mr. Chairman.

22 SENATOR McCALLUM:

23 Thank you, Mr. Zinnecker. The Chair wishes
24 to thank, at this time, the spectators
25 for their good behavior and well mannered
26 behavior to the people who are testifying
27 and I hope that it will continue through
28 the afternoon. Mr. Zinnecker -- or
Mr. Mizner, I would like to call adjournment

1 at this time for lunch for a half hour,
2 and I will have you on the agenda the
3 first thing at 1 o'clock. Adjourned.

4 (LUNCH RECESS 12:30 P.M.)

5
6 (HEARING RESUMED 1:00 P.M.)

7 SENATOR McCALLUM: I wish to announce to all of you who wish
8 to testify to please fill out the slip of
9 paper and have it brought forward, or send
10 it forward, to the secretary so that we
11 will know who wishes to testify and who
12 does not. At this time, proponents are
13 still being heard, and I would like to call
14 Mrs. Fitzpatrick, who will speak a little
15 out of turn but she has a broken shoulder
16 and would like to testify so that she may
17 return home. Mrs. Fitzpatrick.

18
19 TESTIMONY OF MRS. NATALIE FITZPATRICK

20 MRS. FITZPATRICK: Thank you, Mr. Chairman, for allowing me
21 to speak at this time. I am Natalie Fitzpatrick from Anaconda
22 and have been a member of the Deer Lodge County Study Commission
23 for the past two years, and I speak as not only as a member of
24 the Study Commission, but as a citizen -- an ordinary citizen
25 within our great state. I would like to speak and urge
26 passage of House Bill 122, the local government codes, because
27 I think it gives us a measure of accountability at the local
28 level which has not always been a part of our government system.

1 It gives us flexibility so that local problems can be handled
2 on the local level and it also gives a measure of efficiency
3 which has been too long lacking in our -- at the local govern-
4 ment stage, particularly. I feel that in Deer Lodge County,
5 where we will now have a unified city-county government, that
6 the passage of House Bill 122 is something that is vital to
7 the success of our newly designated government. The first
8 two or three years, I am sure, you realize will be critical
9 and we feel that the local government codes will give to the
10 new government in our county, and in other counties as well,
11 a measure, or a step towards success, which otherwise may be
12 lacking. However, I do feel that whether there's a new govern-
13 ment or the government that we're used to at the county level,
14 that certainly the recodification of this -- that this local
15 code has given to us will be a factor in making them, as well
16 as the new governments, much more responsive to the citizens.
17 I feel that any delay in passage of this would be certainly
18 harmful to the infant governments that are just starting out
19 as a result of the new process, and I certainly hope that the
20 Committee and the legislature will see fit to give us this
21 additional boost, and as a citizen, I think that we must
22 realize that government has become, indeed, too complicated
23 for most of us. We have mandated boards which are beyond the
24 reach of the ordinary citizen, as well as to the commissioners
25 or the council sometimes that has appointed them. We have
26 mill levy qualifications at the local level so that the ordinary
27 citizen cannot look in the newspaper and discover the cost of
28 virtually anything because you jump from so many mills in the

1 general fund to so many mills in the road fund and another
2 millage in some other fund, so that you have to have a
3 computer mind in order to discover the cost of anything at the
4 local level. I feel too, that the legislature which has always
5 had, and should maintain, of course, a supervisory role over
6 local governments -- I think that their time has too often
7 been misspent, in the past, by taking the time of the entire
8 body to handle a matter which, at the local level, could be
9 handled by the three to five commissioners. I think that
10 within our great state we have tremendous problems and re-
11 sponsibilities, that the legislature in its wisdom, could
12 deal much more effectively with, were they not subjected to
13 what I have heard this morning, called nuisance bills. I
14 therefore, hope that this House Bill 122 will pass. I'm sure
15 I'm not alone in not having read the entire code. Those
16 particular sections that we delved into as study commissioners
17 certainly met with our approval. There may be others that
18 perhaps, had we looked up them, we might not have been so
19 approving of. However, all bills can be amended. The same
20 legislature that passes a bill has also the right to repeal
21 it if it sometime proves to be ineffective or something that
22 might be better done away with. Therefore, I thank you again
23 for the privilege of testifying, and hope that this will meet
24 with your approval. Thank you.

25 SENATOR McCALLUM: Thank you, Mrs. Fitzpatrick. Mr. Mizner?
26

27 TESTIMONY OF MR. DAN MIZNER

28 MR. MIZNER: Mr. Chairman and members of the Committee.

1 For the record, I am Dan Mizner, Executive Director of the
2 Montana League of Cities and Towns. I would like to take
3 just a quick few minutes, and I know that this is drawing
4 out a long time and the Committee has heard many repeats of
5 the values for the bill, but there has been some concern
6 about the consideration of delay and so forth. I would like
7 the Committee to know, and as was pointed out by the chief
8 sponsor of the bill, Rep. Gerke, there were public hearings
9 held. In fact, I attended at least 20 public meetings all
10 over the state, myself. I talked to, and worked with, various
11 groups outside of city government, not just the city govern-
12 ment. Those were meetings that I attended to talk to the
13 public -- Kiwanis, Rotary or Chamber of Commerce or other
14 meetings, to let the public know about House Bill 122, as it's
15 now known. In addition to that as Committee members, that
16 this is not something that I designed or worked at on behalf
17 of the cities and towns. We had committees made up and this
18 bill was being drafted in the form of the supplements that
19 were put out by the Commission, and working with the Commission
20 in the meeting with them, there were 61 individuals in city
21 government appointed on committees and those committees were
22 broken down into one or two chapters to work the local levels
23 so that the people at the local level had an input in what
24 was going into those chapters. We had representatives from
25 the large cities, small cities and towns, and from all over
26 the state, and I would like you to note today that some of
27 those people are here, and representing the areas of the
28 state as far away as Scobey in the northeast corner to Dillon

1 in the southwest corner, and Columbia Falls in the northwest
2 down to as far as Miles City and Broadus and the Ekalaka
3 country in the southeast corner, so it's not just a big city
4 bill or small town bill, and there has been input into the
5 committee, and these committees have worked on them. We've
6 also had input from a meeting of 21 city attorneys that
7 attended and went through the proposals by -- with a page
8 by page and line by line discussion, and that information was
9 taken back to the committees. We had 17 public works
10 directors, and we have some of those public works directors
11 here, who had input into the operation, as far as the cities
12 and towns are concerned. I point this out so that you, as
13 Committee members, know that there has been input into it,
14 and those people who wanted to participate, and those people
15 who had the opportunity to participate, and to get their two
16 bits worth in, had the opportunity to do so, and on behalf of
17 the cities and towns we did have some input, and we think that
18 the legislation itself, as now being presented to you, in
19 general, has support across the state. There are some areas
20 that we think you're going to have to look at, and you'll
21 hear some objections to certain parts of it. You'll have to
22 weigh those things and determine which is the best for the
23 people of the State of Montana, not the special interest
24 group that's representing itself, but what's the best for the
25 whole state, and how can you best handle it? And rather than
26 me talk to you for a long time about what's happening with
27 this bill, we have asked our people to come from the cities
28 and towns, that you represent, as representatives, and to

1 have them and the chairmen that worked on these committees,
2 to tell you what they think of the bill. You members get to
3 see me every day and I get to talk to you all the time, but
4 I would like my people, who are my bosses, to tell you why
5 I say these things. First, I would like to call on Jerry
6 Hawkins, who's an alderman from Dillon, and has been chairman
7 of one of the committees.
8

9 TESTIMONY OF MR. JERRY HAWKINS

10 MR. HAWKINS: Mr. Chairman, members of the Committee,
11 I am Jerry Hawkins. I am president of the council of the
12 city of Dillon. I will be very brief if I can. I've been a
13 member of that body for 12 years and everytime something comes
14 before our council, or nearly everytime, we must table it
15 to search the law to see whether we can do this or not. I
16 really believe that House Bill 122 gives the small town council
17 the vehicle they need to govern their cities. I realize it
18 is not a perfect bill and there's parts of it that need
19 amending, but it's sure a step in the right direction, and
20 I urge you not to throw the baby out with the wash water.
21 Thank you very much.

22 MR. MIZNER: Mr. Clark Towsley, the mayor of Scobey,
23 Montana.
24

25 TESTIMONY OF MR. CLARK TOWSLEY

26 MR. TOWSLEY: Mr. Chairman, my name is Clark Towsley,
27 I am the mayor of the city of Scobey. The city of Scobey is
28 an active member of the Montana League of Cities and Towns.

1 I was chairman of the review committee for Chapter 3, Local
2 Government Structure and Organization and Chapter 4, Admini-
3 strative Provisions. The purpose of our committee was to
4 review the contents of Chapters 3 and 4, and to comment at our
5 annual Convention last September. I also attended the public
6 hearings when they were held in my area, along with many other
7 local government officials. We in local government, have
8 spent many hours following this document from the drafting
9 stage to the book you have in front of you today, as House
10 Bill 122. I have travelled 475 miles to be at this hearing
11 and to demonstrate that small cities such as Scobey are deeply
12 interested in our future. Generally, cities and towns have
13 many powers mentioned in Chapters 3 and 4, but House Bill 122
14 will give the counties and cities an opportunity to work
15 together to really cooperate, as they will share the same
16 powers. I would recommend -- I would commend the Commission
17 on Local Government and their director, for what I think is
18 a big step forward in local government. I would like to have
19 the opportunity to operate my city, for the next 2 years,
20 with these new codes. Thank you.

21 MR. MIZNER: Mr. Chairman, Al Thelan, City Manager
22 and Chairman of the Committee.
23

24 TESTIMONY OF MR. AL THELAN

25 MR. THELAN: Members of the Committee, my name is
26 Al Thelan, City Manager in Helena. I appear on behalf of a
27 special committee created by the Montana League of Cities and
28 Towns to study Chapters 5 and 7, of the new code, relating

1 to general powers and self-government powers. One of the
2 major advantages of the code as it relates to the powers issue
3 is the consolidation of all the powers in these two chapters.
4 Present statutes regarding powers of local government are
5 scattered throughout the statutes, and many officials are not
6 sure what powers really exist. This is particularly true of
7 part-time officials in small cities and citizens that are
8 interested in local government. A number of units of local
9 government have adopted the self government powers by a vote of
10 their citizens. I urge you to keep the restrictions on self-
11 government as they were enacted by you two years ago, so that
12 the dictates of the legislature can be implemented. It is
13 important to recognize that these units that have elected the
14 self-government powers will operate under the general pro-
15 visions until they provide local ordinance to replace the
16 general provisions. There will be no gap of controlling
17 regulations as suggested by some opponents of the code. For
18 example, the metropolitan police law will control police
19 operations in the city of Helena, a self-governing city,
20 until the city governing body adopts alternate provisions.
21 On behalf of my committee, composed of 10 city officials of
22 large and small cities throughout the state, I urge you also
23 to support the provisions of the code that gives county govern-
24 ment legislative powers. Intergovernmental cooperation be-
25 tween cities and counties will be enhanced if both can operate
26 from the same legislative base. The power section of the
27 new code offers local government an opportunity to explore
28 new methods and find innovations to improve the delivery of

1 services to its citizens. I urge your support of this general
2 concept. Before closing, I would like you to know that many
3 local officials, and citizens, have been involved in the
4 development of this code. The opportunity for citizen's
5 input in the development of this legislation is unparalleled
6 in Montana state government. The State Commission insisted
7 on extensive hearings throughout the state at several different
8 stages of the development of this major piece of legislation.
9 Few people would agree with all these provisions, as is the
10 case in any major piece of legislation. It will, however,
11 give local government an opportunity to do a better job, and
12 will allow you state legislators to concentrate on matters of
13 statewide interest, relieving you of the concerns of the local
14 legislation. I urge your support of this bill on behalf of
15 my committee. Thank you.

16 MR. MIZNER: Mr. Chairman, Marie McAlear, an alder-
17 woman from Twin Bridges.
18

19 TESTIMONY OF MS. MARIE MCALEAR

20 MS. MCALEAR: Mr. Chairman and members of the Committee,
21 I am Marie McAlear from Twin Bridges, where I am a member of
22 the Town Council, the Local Government Study Commission, and
23 I'm Chairman of the Montana Children's Center Project there.
24 I'm to speak to you on Chapter 6. You've just heard Mr. Thelan
25 briefly describe the chapters dealing with powers and structures
26 which will be available to local governments. Chapter 6 deals
27 with the services through which local governments can act.
28 Services are probably the most visible form of government to

1 the local citizenry. If your streets are bumpy or if your
2 water is bad, it's the local government that you come to and
3 put on the line for improvement. The new code outlines seven
4 different chapters -- different areas of services. First is
5 agricultural services. This covers fairs, shows, control of
6 pests like plants, animals, insects. The second part deals
7 with community development and offers options in zoning,
8 planning, housing, any other -- any of the areas that the
9 local government might want to function in. The next three
10 parts deal directly with the people that live in communities
11 and counties. Under emergency services, are listed such
12 things as the police service, the fire prevention; under
13 human services, you can provide such things as health care,
14 day care centers; in community services, you will find areas
15 like library, parks and museums. The last two categories are
16 the water, sewer and waste departments and the last one
17 covers transportation, dealing with streets and busing or
18 any other options you might want to provide in the way of
19 services. Although most of these services have long been
20 provided by the communities already, the revision of the local
21 codes clarify just what we can do and offer a very simplified
22 version of method to offer these services. Up to this time,
23 if the local government wanted to operate a specific service,
24 there was also a very specific method to do this. The first
25 of the services chapter outlines eight ways, or methods, that
26 these services can be delineated to the citizenry. It is the
27 policy of the state of Montana to grant maximum authority to
28 general powers local government to provide the services

1 desired by their citizens and to determine locally the
2 appropriate method for administering and financing these
3 local services. With this purpose at the very beginning of
4 the services chapter stated clearly, we have a chance to
5 offer the most important thing to local government officials.
6 It is easily understood and easily worked. There are 127
7 incorporated towns and cities in Montana, and over half of
8 these cities and towns have less than 1,000 population, so
9 it's easy to see that an attorney is not necessarily available
10 for the small towns, in advisory capacity, to read and inter-
11 pret the current codes. We need our laws gathered into one
12 place so that we can offer a workable government. The town
13 officials that I know are sincere in doing the best job they
14 can and are sincere in wanting to follow the law. The way
15 they are spread now, throughout all the volumes of the Revised
16 Codes of Montana, makes an inaccessible approach for local
17 government officials. I ask that you please vote for the
18 passage of the revision of the local government codes and
19 give us all accessible and clear laws so that we can better
20 work our local government.

21 MR. MIZNER: Mr. Chairman, Mr. Harold Mercer, Public
22 Works Director, Sidney and chairman of
23 one of our committees.

24
25 TESTIMONY OF MR. HAROLD MERCER

26 MR. MERCER: Mr. Chairman, members of the Committee, my
27 name is Harold Mercer. I am the director of public works in
28 the city of Sidney. I want to tell you that my boss, Mayor

1 Harris, is across the aisle here and myself, we drove 500
2 miles just to urge you for a couple of minutes here, to consider
3 House Bill 122 favorably. I happened to chair the Finance
4 Chapter #9 of the bill. We held many meetings. There was
5 17 members on that particular board. There were -- I attended
6 meetings in Wolf Point, Miles City and at our state convention
7 in Kalispell. Most of those people were very favorably im-
8 pressed with this section of the bill. Now, I would like to
9 point out that most cities in the State of Montana are hard-
10 pressed. Sidney, Montana is one of the very few cities in
11 the state of Montana that is not that hardpressed. I feel
12 that I am here representing the taxpayers of the State of
13 Montana, as well as the League of Cities and Towns. It is
14 so important to make you people realize that the position of
15 the cities today put up against the blades has come home to
16 roost because it has been this illustrious body, both in the
17 House and in the Senate, that has mandated many of the bills
18 that says to the cities, "You will do it", regardless of our
19 ability to raise the funds to do that particular job. Now,
20 in this particular bill there are alternative forms of revenue
21 which is desperately needed by the cities, and I certainly
22 wouldn't insult the intelligence of this body by saying that
23 that bill presented to you in 800 pages is perfect, and I'm
24 not going to tell you that if you pass it we won't be back
25 because I think we will be, but I think that if you will pass
26 it, you're taking a giant step forward to alleviate a lot of
27 your problems up here. And all we're asking from you people
28 is a chance to govern ourselves, to prove that we're capable

1 of managing local affairs, as you are capable of handling
2 state affairs. Thank you.

3 MR. MIZNER: Mr. Chairman and members of the Committee,
4 those were the chairmen of our committees.
5 We do have some other people that we want
6 to talk to you about, in special. We do
7 not want to have everybody repeating every-
8 thing, but I would like some of our members
9 of the League and the officers, Mayor
10 Lynch, who is mayor of Dillon and president
11 of the League and also a commission member.

12
13 TESTIMONY OF MAYOR LYNCH

14 MAYOR LYNCH: Mr. Chairman, it has been my pleasure to
15 serve on the State Commission on Local Government, and I can
16 assure you it's not been an easy job, as was said here today
17 by Representative Gerke and Senator Thiessen. Many of our
18 decisions were weighed very, very carefully. We know we made
19 some mistakes. We'll admit to those mistakes when you find
20 them. Hopefully, you won't find them. I represent the
21 Montana League of Cities and Towns as their President, and
22 at our conventions and at our many, many meetings and hearings
23 we've had around the state the last two years, they have told
24 me, as a body, that the Montana League of Cities and Towns
25 goes on record in support of House Bill 122, and we encourage
26 your support to pass this. Thank you.

27 MR. MIZNER: I have Harry Simons, the Mayor of
28 Shelby.

1 TESTIMONY OF MAYOR HARRY SIMONS

2 MAYOR SIMONS: I am Harry Simons, the Mayor of Shelby.
3 Mr. Chairman, members of the Local Government -- the State
4 Committee on Local Government, ladies and gentlemen, I urge
5 your support to pass House Bill 122. True, there's a lot of
6 areas in it that are going to be questionable, but I do
7 believe it will give local government more authority, there
8 will be more involvement, more interest from the local people.
9 Truly, I believe with more involvement we will have a stronger
10 local government - decisions that we now pass on to the state,
11 or blame the legislature for, we can no longer do that. We
12 would have to stand up and make the decisions ourselves. We're
13 all elected officials, and if those officials at home don't
14 like what we're doing in our management of the city affairs,
15 they'll darn well tell us and likely they'll get rid of us.
16 So, once again, I urge your consideration to take the band-aids
17 off the local codes. And that's what they are. There's one
18 upon another in the local codes we have today. Thank you.

19 MR. MIZNER: Polly Prechal, alderwoman from Billings.
20 Also vice-president of the League.

21
22 TESTIMONY OF POLLY PRECHAL

23 MS. PRECHAL: Mr. Chairman, for the record I am Polly
24 Prechal, President of the Billings City Council, second vice-
25 present of the League of Cities and Towns, and also a member
26 of the Advisory Commission on Local Government. For the past
27 three years in any one of those positions, I have fought with
28 the local staff, or the staff of the government commission,

1 and going through this page by page as to what it means and
2 what it would do to the local elected officials. One thing
3 I would like to quickly address -- two points quickly address
4 to you. In the present codes of over 3,000 that we look at
5 in order to put together SID's, it's amazing how many different
6 percentages are required for the signing of a petition, for an
7 SID, for a curb, gutter and sidewalk, as it is to repair a
8 street. The percentage necessary to protest an SID differs
9 with the type of an SID you wish to put in. In House Bill 122
10 you will find them all put together with one method. It will
11 not take a bunch of sidewalk attorneys elected to a position of
12 alderman to figure it out, let alone an entire legal firm to
13 keep us halfway legal. Another one I'd like to address is the
14 fact that both the County Commissioners and the local municipal
15 officials set the budget; and to that I would like to speak to
16 you about autonomous boards. I'm sure you're well aware than an
17 autonomous board in our town has cost us \$55,000.00 to prove to
18 them they are not. It is items like that in which you have
19 policy fragmentation, and yet it is your local elected official
20 that has to set the budget and tax the people; and when you send
21 out the tax bills, it's almost as much fun as putting in a leash
22 law. I also give to you the fact that for 365 days a year we're
23 on the carpet. There's nothing worse than to face your constitu-
24 ency the morning after the City Council meeting; and if we are
25 going to take that for the magnificent price we are paying, I
26 think then we ought to have the authority and we'll face it.
27 You keep on with your business, we'll do ours; and if we want to,
28 in Billings, raise taxes because our people would rather do it

1 that way on property tax, all right. If, however, our property
2 taxes are too high and we want to put on a wheel tax, that
3 should be the prerogative of the citizens of Billings. I do
4 not ask the citizens of Dillon to necessarily put on a wheel
5 tax. If the City Council puts on a wheel tax and the citizens
6 don't like it, we'll hear about it; and so we ask that the
7 optional taxes be given to us. You are looking at ways to re-
8 duce the property tax; that's fine, statewide. But in the City
9 of Billings, we'd like to keep on with the municipal services
10 at the level that they now have them; and if the property tax,
11 which finance the city government, is not available to us, we
12 need more dollars in the coffers. And if my citizens will put
13 up with me for putting a wheel tax on them, I'll thank them;
14 but if they don't like it, they'll get out a petition and I'll
15 either be recalled or it will be up on a referendum. They'll
16 get to us. And that's what the codes will do; they'll hand it
17 back to us and you won't have to worry about whether Billings or
18 Dillon, first-class cities, third-class cities. The terminology
19 is there, the definitions are there; we are local governing
20 bodies; we'll take the fiscal responsibility and we'll extend
21 the services to the best of our fiscal ability. I do urge the
22 passage of House Bill 122. Thank you.

23 MR. MIZNER: Mr. Chairman, I have Marie Thompson,
24 alderwoman from Billings.

25
26 TESTIMONY OF MARIE THOMPSON

27 MS. THOMPSON: Mr. Chairman, members of the Committee:
28 I'm speaking in favor of this bill as well. Gentlemen and

1 ladies, I think it's time. And further, one request I'd like
2 to make, in regard to that portion of the codes which refer to
3 libraries, I'm very pleased that the words "autonomous" and
4 "autonomy" have been stricken. That is as it should be.
5 However, I would like to ask that you give consideration for
6 allowing the words, that the codes would provide for advisory
7 boards in libraries. I mean advisory as opposed to autonomous,
8 as opposed to administrative, and as opposed to in authority.
9 Advisory only for one purpose, and that is in the selection of
10 books and materials. That function has never been political
11 nor should it be.

12 MR. MIZNER: Mr. Chairman.

13 SENATOR McCALLUM: Mr. Mizner.

14 MR. MIZNER: And I have two other specific speakers,
15 and then I would like to have any of the
16 mayors or aldermen that are here.
17 Specifically, if they want to talk, if
18 you'd kind of work your way around by a
19 mike, we will pick you up; and then we
20 will have those that are here who will
21 speak on their own, in addition to what we
22 have. I'd like to call on George Beardslee,
23 who is president of the Clerks and Finance
24 Officers Association for the State.

25
26 TESTIMONY OF GEORGE BEARDSLEE

27 MR. BEARDSLEE: Mr. Chairman, members of the Committee,
28 I am George Beardslee, president of the Montana Municipal

1 Clerks, Treasurers, and Finance Officers Association. We are
2 an association composed of 72 members, coming from 56 of the
3 cities and towns of Montana. We would like to support this new
4 local government code and we believe it will result in a better
5 performance of local government. Thank you.

6 MR. MIZNER: Mr. Chairman.

7 SENATOR McCALLUM: Mr. Mizner.

8 MR. MIZNER: And I call on Mr. Keith Keller, the attorney
9 for the League and assistant attorney of the
10 City of Helena.
11

12 TESTIMONY OF KEITH KELLER

13 MR. KELLER: Keith Keller. I'm assistant attorney in
14 Helena and attorney for the League of Cities and Towns. Mr.
15 Chairman, members of the Committee, I think one of the important
16 things in reviewing this bill is that it rationalizes and organ-
17 izes the statutes relating to state government so that they can
18 be useful, and useful for the local government officials. Now,
19 Senator Drake addressed one area, taxation, that was better
20 organized and rationalized. Mrs. Percahl addressed the area of
21 special improvement district laws, which again are better organ-
22 ized and more usable. Another area is annexation. The current
23 law provides three different methods of annexation for three
24 different situations. It is confusing; it is jumbled; it provides
25 a number of exemptions, such as those for islands within commun-
26 ities, within cities and towns, for such diverse uses as indus-
27 trial enterprises, mining, agricultural and golf courses and
28 recreational fields. This has been changed in the proposed bill.

1 There are six different situations, but only one procedure for
2 annexation. Certainly some of the exemptions have been done away
3 with and some have been retained. The agricultural exemption for
4 surrounded areas; that is, an agricultural island within a commun-
5 ity, is still exempt from annexation. Other exemptions, such as
6 that for fire districts, and that for industrial enterprises, have
7 been done away with. In addition, the definition of "surrounding
8 an area" has been clarified as current law exists, and I think
9 this is important. A city can annex by annexing a very thin
10 strip of land and surrounding an area and annex it. There is no
11 very good reason for this. The proposed law provides that the
12 strip by which a city surrounds an area must be at least 200 feet
13 in width or one lot wide, so that the very narrow kind of
14 encircling there is can be avoided; but I think this is important.
15 Thank you.

16 MR. MIZNER: Mr. Chairman.

17 SENATOR McCALLUM: Mr. Mizner.

18 MR. MIZNER: I have Mr. Dean Holmes, Mayor of Miles City.
19 Dean.
20

21 TESTIMONY OF DEAN HOLMES

22 MR. HOLMES: Mr. Chairman, For the record, Dean Holmes,
23 Mayor of Miles City, speaking for ourselves of the City Council.
24 We'd like to go on the record in particular matter for the
25 special improvement type taxes that are allowed in the new codes
26 that are proposed before you. We feel that the property tax has
27 been attacked too long and have been relied upon way too long;
28 and we feel that there should be some other forms of revenues

1 available for our communities. We do want to go strongly on
2 record in favor of this bill, House Bill; and I thank you very
3 much.

4 MR. MIZNER: Mr. Chairman.

5 SENATOR McCALLUM: Mr. Mizner.

6 MR. MIZNER: I have Mayor Mike Micone, the Mayor of Butte.

7
8 TESTIMONY OF MIKE MICONE

9 MR. MICONE: Mr. Chairman, I'm Mike Micone, Mayor of the
10 City of Butte, also a member of the Governor's Local Government
11 Advisory Council. Although I certainly believe that House Bill 122
12 is going to assist all the cities and counties of Montana, I
13 would like to address myself to the specific problems that we in
14 Silver Bow County are faced with. As many of you know, Butte and
15 Silver Bow County have voted last November to combine their forms
16 of government; so in May we will be dealing with a consolidated
17 form of government the study commission wrote and the people
18 enacted as charter. This charter, as I see it, is going to deal
19 with providing services for the people. I think the critical
20 areas to our government -- but the fact that our people will only
21 be paying for the services that they receive. And I think our
22 government must have the opportunity to provide the services and
23 to what degree those services will be offered. I don't believe
24 this can be done under the present constraints of the codes that
25 we now live under. I think it can only be done with proper plan-
26 ning and good programs. We need the flexibility in Silver Bow
27 government, as we cannot be operating under the constraints of
28 both the restrictions of county government and city government.

1 Our new charter also speaks to the fact of boards and commissions.
2 Under its charter we say that all boards and commissions will
3 continue in force until July 1979, at which time the local legis-
4 lative body will determine their future; and they will adopt by
5 ordinance whether or not any board or commission will continue,
6 what responsibilities and duties they will have. Under the
7 definitive mill levies that now exist under state law, it is
8 going to be impossible for the community to set priorities and
9 allow flexible funding for the particular area in our community
10 where we will need it. If we need more help than is allowed in
11 the health field, I feel that we need that flexibility to provide
12 the funds for that service. The 1975 session of the Montana
13 Legislature, I believe, initiated the process that brought us to
14 this point of where we're hearing a piece of legislation that is
15 going to have massive changes in our local government. And I
16 might say that the preamble of our charter in Silver Bow County
17 addresses itself to the unique problems of our community and for
18 the improvement of the quality of life for the present and future
19 generations. I believe that the spirit of House Bill 122 returns
20 the decision making to local government and allows local govern-
21 ment in all parts of the state to address itself to its unique
22 problems and improve their quality of life. I certainly urge
23 your support of House Bill 122. Thank you.

24 MR. MIZNER: Mr. Chairman.

25 SENATOR McCALLUM: Mr. Mizner.

26 MR. MIZNER: In order to speed up this, and now I know I
27 have other people on my list I'm going to
28 call on and some of them may want to repeat

1 some; but I would like to -- if you mayors
2 and aldermen and public works directors
3 would get close to a mike, we'll start over
4 with Mayor Brown and ask him for his testi-
5 mony.

6
7 TESTIMONY OF ROBERT E. BROWN

8 MR. BROWN: I am Robert Brown, Mayor of Missoula, speak-
9 ing for the city administration. The city council will not vote
10 upon this problem until Monday night; and at that time, on Tuesday,
11 we will send the results of that vote directly to both committees.
12 The city administration supports House Bill 122, although there
13 are details with which we do not agree. It would seem best to
14 give this proposal a two-year workout before proposing any amend-
15 ment or other changes. There is one part of this bill with which
16 we most heartily agree. Mr. Keller has mentioned this briefly.
17 This is the set of annexation provisions. The legislature three
18 years ago decreed by its action that Missoula would never grow
19 any larger when it placed in the Planned Communities and Develop-
20 ment Act the sentence that a rural fire district could hamstring
21 the growth of a city when it had been in existence for a minimum
22 of ten years. The metropolitan area adjacent to Missoula would
23 make up a city about fifth or sixth in size in the state of
24 Montana. It uses our services and costs us several hundred thou-
25 sand dollars a year to support, yet contributes nothing to our
26 support. Due to its density, its sewage presents a distinct
27 health problem to the whole community. We need to annex to over-
28 come the problems that this area presents. The Missoula City

1 Administration supports House Bill 122 completely.

2 MR. MIZNER: Mr. Chairman, I have Mr. Crowley from
3 Missoula.

4
5 TESTIMONY OF TOM CROWLEY

6 MR. CROWLEY: Mr. Chairman and members of the Committee;
7 my name is Tom Crowley and I serve as city engineer and director
8 of public works for the City of Missoula. In my job I often serve
9 as a go between for the citizens and the local officials; and I
10 deal with the laws and the public for public work projects every
11 day, which includes improvement districts, annexation, utility
12 fees, street vacations, and so forth. I support House Bill 122
13 as a definite improvement over our present laws. I've worked
14 with other city engineers and directors of public works throughout
15 the state and provided input to the Commission for laws that are
16 more responsive to the needs of the people. There are two
17 specific areas that I suggest amendment. First, the law dealing
18 with the fact that local government should set utility rates
19 without the involvement of the Public Service Commission. I don't
20 think that we should burden the Public Service Commission. If the
21 people do not like the rates that have been set, then they'll
22 come to the City Council. Also, there's a section on page 406,
23 line 10 of section 47A-6-9271. This particular section deals
24 with the fact that if a city receives federal funds on a project,
25 that work is to be done within a public right-of-way, whether
26 the contract is to be let jointly with the highway department or
27 independently from the highway department, that that contract has
28 to be released by the highway commission. I don't think you

1 would want that; in fact, this actually points out the facts and
2 the problems of existing laws. This portion of the law is an
3 existing law and it didn't come into light until we brought the
4 laws together into the new form that we now have. I would suggest
5 that that portion be stricken, that it will allow local governments
6 to contract the work on their own streets, if they receive federal
7 funds, without the involvement of the highway commission. Thank
8 you.

9 MR. MIZNER: Mr. Chairman. I have Alderman Toole from
10 Missoula.

11
12 TESTIMONY OF JOHN TOOLE

13 MR. TOOLE: My name is John Toole. I'm an Alderman from
14 Missoula. I represent the League of Cities and Towns. I really
15 stand here as a past first vice-president of the Montana Consti-
16 tutional Convention of 1972. I am terribly pleased that the
17 Commission and the Legislature is undertaking to bring forth a
18 mandate for the Convention with respect to local growth. I can
19 congratulate the Commission on its work. The bill, I think,
20 provides flexibility, which our cities desperately need, to give
21 them some control over their own destiny. This was the Conven-
22 tion's intent. I suspect there are Convention delegates in the
23 room who don't agree with me, but that is my interpretation. I
24 contratulate the committee -- the Commission for undertaking the
25 work and the Legislature for tackling it. Thank you.

26 MR. MIZNER: Mr. Chairman.

27 SENATOR McCALLUM: Mr. Mizner.

28 MR. MIZNER: I have Mr. Harley Warner, a commissioner

1 from the City of Helena.

2
3 TESTIMONY OF HARLEY WARNER

4 MR. WARNER: Mr. Chairman, members of the Commission -- or the
5 Committee, I'm Harley Warner. I'm a city commissioner here in
6 Helena. I'm here as a representative of the Helena City
7 Commission. The local government code, if enacted, will make it
8 much easier for persons who are in a rural fire district to be
9 annexed to the city. The present system is expensive and cumber-
10 some for the persons who are outside the city but wish to have
11 city services provided to them. The cost of the mailing and the
12 legal fees alone has prevented some individuals from gaining
13 city services. The provisions for a local tax option are very
14 good. Who better could decide what forms of taxation they wish
15 to bear than the local elected officials. If new forms of taxa-
16 tion are not available, the local governments have no choice
17 but to increase the property taxes; and you, the Legislature,
18 will be a party to that increase. Let's face it, property taxes
19 are the most critical issue facing local government. This code
20 relieves the conflict between city and county governments. With
21 the passage of the code, the local voter can be in a better
22 position to control their local government. The Helena City
23 Commission supports this code as written and urges its enactment.
24 Thank you.

25 MR. MIZNER: Mr. Chairman.

26 SENATOR McCALLUM: Mr. Mizner.

27 MR. MIZNER: Are there any other mayors or aldermen? If
28 all our mayors and aldermen will please

1 stand up and get by a -- mayor-elect from
2 Columbia Falls -- I couldn't find you; there
3 you are.
4

5 TESTIMONY OF RAY BARNHART

6 MR. BARNHART: Mr. Chairman, ladies and gentlemen, I am
7 Ray Barnhart, Mayor of Columbia Falls; and we support House Bill
8 122, particularly in the area of annexation, which will make a --
9 this procedure will allow the smaller cities to grow in a better
10 pattern and allow them to plan for future development a lot
11 better. Thank you.

12 MR. MIZNER: Why don't you leave that mike on. Mayor --
13

14 TESTIMONY OF COLLEEN ALLISON

15 MS. ALLISON: Mr. Chairman, Committee members, I am
16 Colleen Allison, president of the City Council of Columbia Falls,
17 and mayor-elect. We support this bill and I will not choose to
18 go into specifics on this bill at the moment. I will remind you,
19 however, the natives are restless; and by that, you know what
20 I mean, that the people feel they have lost control of all levels
21 of their government. And I feel this is one bill that will give
22 us the vehicle to give the government back to those who put us
23 where we are.

24 MR. MIZNER: Mr. Chairman.

25 SENATOR McCALLUM: Mr. Mizner.

26 MR. MIZNER: The rest of you mayors, will you please
27 stand up? Mayors and aldermen.
28

1 TESTIMONY OF BRUCE HARRIS

2 MR. HARRIS: Mr. Chairman, members of the Committee, I
3 am Bruce Harris, Mayor of the City of Sidney. I have been mayor
4 for the last five and a half years. As Harold said a moment ago,
5 we traveled 500 miles to get here today; and you can be readily
6 assured that we believe in this thing. We believe it should go
7 through. Eighty percent of the laws proposed in this new book
8 have been on the books all the time, as far as the cities and
9 towns are concerned. There's a few changes, about twenty percent
10 changes; but we believe with this book, it will be easier to
11 operate and run our towns. I respectfully submit and ask your
12 support for this bill, House Bill 122. Thank you.

13
14 TESTIMONY OF RAY THRAILKILL

15 MR. THRAILKILL: Mr. Chairman, I'm Ray Thrailkill, Mayor
16 of Hamilton, and I would also like to urge you to support House
17 Bill 122. The small towns as well as the cities and the counties
18 need help, and I think this can give it to us. Thank you.

19 MR. MIZNER: Do we have some other mayors and aldermen?
20 Oh, yes, an alderman back there from Columbia
21 Falls.

22
23 TESTIMONY OF ROGER J. BERGSTROM

24 MR. BERGSTROM: Mr. Chairman, my name is Roger Bergstrom,
25 from Columbia Falls. I'm a City Councilman there; and for just
26 pure simplicity in government, I'd urge you to support House Bill
27 122. Thank you.

28 MR. MIZNER: Mr. Chairman.

1 SENATOR McCALLUM:

Mr. Mizner.

2 MR. MIZNER:

3 I'd like now, if you would, we can say many
4 more things about the bill and I know that
5 these people have come a long ways; and I
6 would ask that you mayors and aldermen here,
7 if you'd all please stand up. Those of you
8 that are on the pro side, or for the bill,
9 just stand up, and then we'll see that you
10 are and get your name. One other thing,
11 when you do stand up, we want you to be sure
12 and fill out one of these forms. If you've
13 not filled out the form, fill it out, see
14 me and we'll turn it in, so you'll have it.
15 Summing up then, let's have you people stand
16 up. Where's all my mayors and aldermen, my
17 bosses? They're around here someplace.
18 Mayors -- okay -- they're all over the place,
19 Mr. Chairman. Those of you who didn't get
20 to speak, if you have any specific, if you'd
21 kindly contact me, we'll make arrangements
22 for your testimony. Let me say to the
23 Committee, it's taken a little while with
24 all these people; we could have had some
25 more mayors and aldermen in here and people
26 from the local level who are concerned about
27 this legislation. It's been presented to
28 you that this is a long, hard job of over
two years of compiling the laws that are

1 on the books, that the cities and towns had
2 to operate under. And we have added some
3 things; we know there is some controversy
4 and we know we don't have one hundred percent
5 for everything. But we think if you will
6 give it your honest consideration to the
7 passage of House Bill 122 and to provide for
8 and give us the opportunity to meet with the
9 Committee and to discuss those controversial
10 areas that you're going to hear about, and
11 to work out some kind of a compromise and
12 put this law on the books so that we can
13 work with it and we can find out where the
14 bugs are and come back to you in two years;
15 but I beg of you, do not consider putting it
16 off. And when people come to me and say that
17 we haven't had the opportunity to look at
18 this bill, it's too massive, I think we
19 pointed out to you today that some of the
20 people that stood here that can tell you
21 page and chapter and where that is in that
22 bill. We've had people at the local level
23 take their time and their interest in seeing
24 to it that the language in that bill is what
25 local government wants. And we have done it
26 on a broad base; we've done it on a concern
27 for the local level and for the people and
28 the citizens in the community. There's

1 checks and balances in the bill. There's
2 nothing in the bill that we want to hide;
3 and we've worked with communities, we've
4 worked with the citizenry, and we've had
5 input from the local level. And on behalf
6 of the cities and towns in Montana, ask the
7 Committee for a do pass on House Bill 122.

8 SENATOR McCALLUM: Thank you, Mr. Mizner. Is there any other
9 proponent for House Bill 122? Yes, if you'll
10 rise, state your name and whether you're
11 speaking for a group or for yourself and
12 where you're from.
13

14 TESTIMONY OF MARY EL-NEGOUMY

15 MS. EL-NEGOUMY: My name is Mary El-Negoumy. I come from
16 Bozeman. I am an educator and a member of many civic organi-
17 zations and I've always been concerned about the improvement of
18 local government. On the whole, I support House Bill 122.
19 However, I feel that there is one important exception which
20 should be taken note of. In section 47A concerning the need for
21 exemption in governments of library boards. Library boards are
22 more important than museum boards, rodeo commissions, cemetery
23 boards, things like this; and I think it's important for the
24 Legislature, and this Committee, in particular, to realize that
25 libraries and library boards are more important than most of
26 these other things. After all, gentlemen, we have had a democracy
27 here for 200 years; we want to have a democracy for much more
28 than 200 more years. To a democracy, an informed citizenry is

1 absolutely essential. For all of us who are not students in
2 the public school system, public libraries are most basic and most
3 essential. For your public schools to recognize the fact that
4 the state must set some standards for school boards, I feel the
5 need, just as importantly, to set some standards for library
6 boards, that they should not be left entirely up to local
7 initiative or local whim or local cronyism, or any of the other
8 things which oftentimes adhere to something so important in
9 small communities. I'm not saying that library boards need to be
10 autonomous; I'm saying that they do need some minimum standards
11 for regulation from the state, such as the fact that there needs
12 to be a certain amount of turnover, that there should be maximum
13 terms of office so that library boards do not deteriorate into
14 organizations made for the old-time, long-time friends of the
15 mayor. And I think if we're going to have a good democracy,
16 library boards have to be considered and libraries have to be
17 considered as more essential than rodeo boards, museum boards,
18 park boards, and so on.

19 SENATOR MCCALLUM: The gentleman back there -- you.

20
21 TESTIMONY OF LAUREN MCKINSEY

22 MR. MCKINSEY: Mr. Chairman, I am Lauren McKinsey of the
23 Department of Political Science at Montana State University, and
24 I teach the students there local government; and although they
25 don't know it yet, they urge passage of this bill this session
26 so they won't have to repeat the course two years from now.
27 Seriously, I think as someone who, with many others here, has
28 taken a very close look at this project over the last three years,

1 and has attempted to find ways to promote ways to increase flexi-
2 bility and accountability and efficiency at the local level, I
3 think I can strongly endorse this bill as the best product at
4 this time in terms of Montana's needs of local government. I
5 would address my testimony, not from the point of view of the
6 ease of cities and towns and counties, perhaps, solely to exer-
7 cise their prerogatives of local government, but look at it from
8 the point of view of citizens of this state. And I think that
9 it's important to balance the kinds of things that a local
10 government has to do in terms of standardized procedures so that
11 citizens are guaranteed access and participation in local govern-
12 ment, as well as providing local governments the opportunity to
13 deliver services most efficiently. And I would strongly recom-
14 mend close consideration of areas of this code where citizen
15 access is promoted in the areas of expanded public hearings,
16 notice, protest, petition, ordinance procedure, and so on. After
17 all, this is the local government of the citizens of Montana,
18 as well as of the officials who run for cities, towns and
19 counties. Thank you.

20 REP. ROBBINS: Any other proponents? Yes, a young lady over
21 here.

22
23 TESTIMONY OF DARLENE GROVE

24 MS. GROVE: That was a compliment. Thank you. I'm
25 Darlene Grove and I represent the League of Women Voters of
26 Montana. And I think at this moment it's appropriate for a
27 citizen's group to speak since we've heard from so many local
28 officials. The League of Women Voters of Montana has many areas

1 in our position statements that place us in support of House
2 Bill 122. We believe that local governments should be allowed
3 to assume any powers not denied by constitution or law; that
4 governmental structures and services should be adjusted to fit
5 particular areas and needs; that provision be made for local
6 governments to adequately fund their needs; that revenue sharing
7 be available from state government; and that government should be
8 accessible, accountable and responsive to the people. In addi-
9 tion, the League positions have always favored local control,
10 especially when we feel the local unit is structured to cope
11 with it. These aspects of government are addressed in the pro-
12 posed codes. And, we, like many of you, see areas that we feel
13 need clarifying and we may suggest some changes. But that comes
14 in the progress of the bill through the legislature and that's
15 why we're all here. We agree with many who have said this before,
16 that the study time is over. A large amount of state funds have
17 been expended on the research and study process handled by the
18 state commission. There has been ample opportunity for citizen
19 input and reaction; and as a citizen's group, we can say this.
20 So, at this point in time, we all need to get on with the process
21 of passing the law, amending and clarifying it where necessary,
22 but moving it along. And we also know that after the implemen-
23 tation of such a major bill, there will be upheavals and problems
24 but we're not afraid of this. The dust will settle and we'll
25 have a much better local government code to deal with. I have
26 two more people that represent the League: Mrs. Margery Brown,
27 who initiated the study originally for us; and they came from
28 Missoula, and I would like them to speak. Also, Lucile Speer,

1 who is a constitutional convention delegate. Thank you.

2 SENATOR McCALLUM: The chair recognizes the gentleman over here
3 with the paper in his hand.
4

5 TESTIMONY OF JIM NYBO

6 MR. NYBO: First, I'm Jim Nybo; I'm a resident of
7 Helena; I'm a concerned citizen; and I'm a candidate for the
8 Helena City Commission. I'm here primarily today to better
9 inform myself on the proposed local government code, but I have
10 a few remarks to make. With the adoption of the new Constitution
11 and the vast changes we have experienced in the 60's and 70's,
12 it is time to reassess and update our local government codes.
13 With the growing interests and rights of the public, it is im-
14 portant to simplify the organization of the code so that the
15 non-lawyer can begin to understand the laws relating to his
16 local government. In my own city of Helena, we voted for self-
17 government powers. It is important that local governments who
18 have chosen home rule be allowed to exercise those powers. In
19 these days of mass media and standardization, there is a real
20 need for diversity, and self-government offers an opportunity
21 for that. I believe that the greatest single challenge facing
22 the next Helena City Commission is the full recodification of
23 our Helena codes to bring them into line with our new charter
24 and with the local government codes. It's important to local
25 government to clarify those laws that grant powers to local
26 governments with general powers and those that limit local
27 governments with self-government powers. While I'm sure that
28 there are many details which will have to be hammered out by

1 your committees, it is well worth the effort. Thank you.

2 SENATOR McCALLUM: Will the lady that spoke preceding the gentle-
3 man, would she rise?
4

5 TESTIMONY OF MARGERY BROWN

6 MS. BROWN: I'm Margery Brown. I'm a member of the
7 Montana League of Women Voters and a former member of the two
8 commissions whose work was done as a preliminary to the convening
9 of the Montana Constitutional Convention in 1972. It's been
10 pointed out here that House Bill 122 has not developed in a
11 vacuum; and I think that I would like to add to that and speak
12 very briefly to the point that House Bill 122 also is a result of
13 a long continuity of effort and citizen involvement in improve-
14 ment of local government in Montana. Twenty years ago when the
15 League of Women Voters first reorganized in Montana, each of its
16 local leagues had to undertake a know-your-town study as a
17 preliminary step. It was readily found that there was no such
18 thing as a purely local problem; but each local issue and local
19 problem led and was concerned with state law. Those local
20 studies and that fundamental lesson contributed to the League's
21 tackling early in the 1960's a study of state local relations
22 in Montana with great emphasis on finance and structure and the
23 necessary flexibility of local government to meet specific local
24 problems. The 60's were much like the 70's in Montana. We saw
25 most of the state's counties losing population, the major urban
26 areas gaining, and little that was new and innovative in state
27 law regulating localities to deal with that change. Over and
28 over again when a specific solution was needed, the only recourse

1 was to come to Helena, get a specific statutory solution, and
2 then observe -- well, that specific solution had to serve as a
3 general remedy for the next years ahead. The league joined the
4 Montana League of Cities and Towns and the Association of Counties
5 in realizing that more than legislative improvement was at stake
6 if localities were to enter a new day in Montana. We were very
7 tentative in those years. We would come very timidly and suggest
8 that there should be an overall state law authorizing interlocal
9 agreements and local study commissions. Surely those forces and
10 citizen forces and those people within local government were a
11 major factor in the coalescence of pressures that led to the
12 preliminary steps to the Montana Constitutional Convention of
13 1972 to the decision that we needed more than a revision and
14 tinkering; that we needed a new article on local government,
15 which was achieved in '72, and it has mandated the careful work
16 of the government commission and the really unprecedented work
17 in the nation at large of local government review commissions.
18 I think as an observer that one of the great gains in House Bill
19 122 is its clarity itself in making clear what are the powers,
20 what are the financial resources that localities can use, how
21 can services be provided. Certainly a great gain is in common
22 terminology itself. I hear it suggested that Montana is somehow
23 not yet ready to assume this much local initiative. No one who
24 would attend this hearing today could subscribe to that view.
25 There would have been no way in the 1960's to gather this many
26 people together to speak knowledgeably and in a committed way
27 about local government. If any state in the union should be
28 ready to trust itself in using local governments in the best way

1 possible to solve local problems, Montana seems to be at cross-
2 roads now.

3 SENATOR McCALLUM: Does the lady wish to introduce other people?

4 MS. GROVE: I would like to introduce at this time Lucile
5 Speer from Missoula, who was an early author
6 of state local studies in this state and pre-
7 constitutional convention studies, was a mem-
8 ber of the 1972 Constitutional Convention,
9 and a member of the Convention Committee on
10 Local Government.

11
12 TESTIMONY OF LUCILE SPEER

13 MS. SPEER: Mr. Chairman, most of my points have been
14 covered, probably. I want to say that I think to me the most
15 important thing, probably, in this is the grant of legislative
16 planning for the counties. Ever since state or counties have
17 labored under the restrictions of the old, old concepts for the
18 power of counties, and this had been upheld by the Montana Supreme
19 Court for many, many times, in this new revised code, the county
20 is given the authority to pass ordinances. The constitution said
21 this county shall have legislative, administrative and such
22 other powers as provided by law. It was not an outright grant,
23 then, of legislative power. Neither was it a mandate to the
24 legislature, but it did authorize the legislature to proceed and
25 give this power to county governments -- the legislative power,
26 so that they would be enabled to take care of their own affairs;
27 and it would also provide the flexibility so much needed to pro-
28 vide the services that are needed in various sizes and conditions

1 of all of our 56 counties in Montana. It is not a broad grant of
2 power, however, such as the self-government counties' local
3 government units receive under the '72 Constitution. The legis-
4 lature must define the functions under which counties can perform;
5 but then the local government -- the locally elected officials,
6 then, may, or do ask the ordinances to provide the methods by
7 which this power is to be exercised. And this is really of the
8 greatest importance, I think, in the whole code, because it seems
9 to me that our local governments have suffered from the lack of
10 the power to do anything. It seems to me that it's a far more
11 efficient and economical system also because local governments
12 are not forced to go, and the citizens are not forced to go, to
13 the legislature to seek power to proceed to provide various
14 services. If the power is enumerated as defined in Chapter 6
15 of the code, and it's a very broad list of the powers of counties'
16 local governments, then it can be achieved at the local level to
17 fit the needs of that particular local government. In essence,
18 it would seem to me that this code then is to local governments
19 almost the same powers as the self-government power received,
20 only they have to -- the power has to be defined by the legis-
21 lature and state law. I don't know, I'm sure estimates were
22 made -- had figures during the Convention, as to the amount of
23 time, the number of bills this would remove from legislative
24 consideration. I don't have the material; it's probably filed
25 over in the state archives. But I know that it is a tremendous
26 number and in this sense it would be an economy both to the
27 state legislature and to the local government. The second thing
28 of major importance, I think, is for the counties or local

1 governments to provide for their administrative authorities;
2 and I think that's an important thing because if you are going
3 to have services provided adequately, if you are going to exer-
4 cise power efficiently, then you need efficient administrative
5 machinery. I think the rest of this on the administrative
6 structure has been already brought out at various times. Also,
7 though, I'd like to add again, it does provide a clear line of
8 authority and responsibility, which I feel are a great improve-
9 ment over the past. I don't think it's been mentioned the pro-
10 vision for the service districts. It may be that a certain area
11 of a county or municipal jurisdiction that wishes additional
12 services to that provided countywide or municipalwide, service
13 districts of one can be created by the governing body, the
14 county, and the financing of that will then be levied on those
15 receiving the services. This is one of the common complaints
16 about our local government, that people pay for services they
17 don't receive. This gives -- the local government code gives the
18 local government authority power to exempt service districts
19 from this countywide or municipalwide service, and therefore for
20 taxation. Another thing that perhaps has not been mentioned is
21 the authority given to the local governments to create the dis-
22 tricts. We now have a maize, a complex maize of authorizations
23 on the operation and the financing and the authority of special
24 districts to provide different types of service. These are not
25 mentioned, that is, replaced by the service districts, and under
26 the structural framework of the local government body, which I
27 think brings a unification into local government that is very
28 much needed, is very much simpler, and is far more understandable

1 to the public. I would like to add one other thing, and I think
2 Margery Brown did mention that, that as a former documents
3 librarian, I appreciate very much the improvement of some of the
4 technical features of the new legislative code. The organization
5 in the chapters, bringing together all of the administrative
6 machinery provisions, all of these matters relating to services.
7 I also highly approve the standardization of terms. If you have
8 used the Montana Codes in trying to identify something under
9 municipality and all the different words used in the index and
10 for these different units of local government, you will under-
11 stand my appreciation of the uniformity that is now replacing a
12 lot of complexity of terms in the laws of the local government.
13 I would say that I think the whole thing provides flexibility,
14 both now and for the future; that I think it establishes clearer
15 lines of authority and responsibility; and I think it will en-
16 courage citizen participation because it will be more understand-
17 able. I do urge your support for this.

18 SENATOR McCALLUM: The chair would like to announce that the
19 proponents have had two hours and twenty
20 minutes. The chair feels that this here is
21 a matter of great concern to all the people in
22 the State of Montana, and we would hope the
23 proponents, if they could make it as brief as
24 possible, so that the opponents will have a
25 chance to have their say in the matter, because
26 many of them have come from a long distance
27 and probably desire to go home tonight. Are
28 there any other proponents? The lady back

1 there with the orange blouse.

2
3 TESTIMONY OF BARBARA EVANS

4 MS. EVANS: Thank you, Mr. Chairman. I have a few comments
5 I would like to make. I am Barbara Evans and I'm from Missoula.
6 I'm a police commissioner for the city. I am presently on the
7 city local government study commission and I have been a member
8 of the governor's task force on the courts of the Montana justice
9 project. One of the things I would like to ask in suggestions
10 to you for this code is that you do strongly consider the section
11 on the courts. I do favor it, although I did help to write the
12 sections on the courts for the Montana justice project. I do
13 favor the proposed codes section on the courts over what we are
14 suggesting on the task force. I also feel that your sections on
15 law enforcement and the courts were very well done, the staff
16 members were very receptive to suggestions, and I feel they have
17 done a very, very good job in drafting this entire code. Surely
18 there are things that people will not like, that they will feel
19 are wrong and should be taken out or omissions that should be
20 included. And since this has so recently been put in finished
21 form, I do hope you will consider suggested amendments from the
22 people who are interested, because there certainly are a few
23 omissions that I would like to see included in the code; and
24 rather than go on with them at this point, I would just make
25 them in a xeroxed copy and give them to someone to get to the
26 right committee. I thank you for listening. Thank you.

27 SENATOR McCALLUM: The lady in green.
28

1 TESTIMONY OF BETTY BOETTGER

2 MS. BOETTGER: Mr. Chairman, members of the Committee, my
3 name is Betty Boettger. I live in East Helena. I'm a member
4 of the Lewis & Clark County Local Government Study Commission,
5 but I'm speaking as an interested citizen today. I have been
6 studying county government for approximately four and a half
7 years, first with the Helena League of Women Voters, then as a
8 member of the Interlocal Co-operation Commission in this county,
9 and finally on the Study Commission. I have been following the
10 development of the new code since the first meeting of the
11 State Commission on Local Government in the spring of 1974.
12 During the development of the major ideas and wordings of the
13 code, I faithfully attended the meetings of the State Commission.
14 Thanks to the courtesy of the chairman, Representative Gerke,
15 and of the other members of the Commission, I was able to join in
16 their discussions. This sometimes included lively debate. I
17 lost some but I won some also. I include this background so you
18 will understand that I have more than a casual interest in the
19 new code. I strongly urge your support for the new code. I
20 don't personally agree with everything in it, but the overall
21 thrust of it could herald a new and better day for local govern-
22 ments in Montana and for the people of Montana. The code is so
23 comprehensive that it probably touches some aspect of every state
24 and local agency, as well as dozens of other interest groups. My
25 fear is that you will hear from people representing many of these
26 agencies and groups and that most of them will want "just a small
27 change" to accomodate their own viewpoint. In short, I'm afraid
28 this code might be "pecked" to death. I know that Commission

1 members and staff have made every effort to work with these
2 diverse groups and have seriously considered, and many times
3 adopted, the recommended changes where they did not negate the
4 basic principles behind this document. The proposed code is an
5 integrated document, carefully worked out over a period of some
6 two and a half years. You have been given a rare opportunity to
7 make local governments more responsible and responsive to the
8 people they serve. Many of us are convinced that local prob-
9 lems should be solved at the local level. You as legislators have
10 a difficult and important job, solving statewide problems. You
11 should not have to spend your time dealing with problems that
12 could better be solved by individual cities and counties. The
13 legislature would still retain a necessary overall control. The
14 temptation to keep all the reins of power in your own hands will
15 be great. I urge you not to give in to that temptation. Give
16 local governments a fair chance to show what they can do when
17 given the responsibility. The code could be changed in the future
18 if local governments and local people demonstrate that they
19 cannot handle the responsibility. After all, "the legislature
20 giveth and the legislature taketh away." Thank you.

21 SENATOR McCALLUM: There will be about a five minute recess.

22 Please don't leave. The girls have to
23 change their tape.

24 (RECESS: 2:30 P.M.)

25 SENATOR McCALLUM: The meeting will now be back in order. Will
26 the lady in the purple dress back there --
27

28 TESTIMONY OF JEAN M. BOWMAN

1 MS. BOWMAN: Mr. Chairman, May I have permission to speak
2 very briefly as a citizen, and also to present the testimony for
3 the Billings Chamber of Commerce. My name is Jean Bowman; I'm
4 a citizen of Billings; I was the secretary of the Constitutional
5 Convention. I'm well aware of the constitutional intent of the
6 local government article. I will not belabor you any longer with
7 those various aspects of that. However, I have two points which
8 I'd like to make, which I do not believe have been made, or if
9 they have been made, not strongly, about House Bill 122. Obviously
10 I am in favor of House Bill 122. However, I think that the pro-
11 posed code in its present form does not distinguish between its
12 grants of taxing power to various kinds of local governments.
13 There's no distinction in the form of government to which the
14 taxing powers are delegated. In my judgment, such grants of power
15 should be limited to those local units that have a distinct legis-
16 lative and executive and provide for adequate representation. One
17 form of local government in Montana which does not have these
18 characteristics is the commission form. To repeat, I think that
19 powers must be related to form. The power to legislate as it
20 relates to taxation is quite important. The constitutional pro-
21 visions for county legislative powers does not say that counties
22 must have unlimited legislative powers, nor does it say that they
23 must have broad taxing powers through legislative decisions. The
24 decision to levy an additional tax via local ordinances should not
25 be made by two people. I respectfully urge you to consider
26 granting broad legislative and taxing powers, only to those forms
27 of local government which have definite legislative and executive,
28 which are representative and which are structured so that there

1 is at least some measure of accountability and responsibility.
2 I'm extremely happy with the aspect of the codes which provide
3 for the subordinate service districts. Those have been touched on;
4 I will not dwell on that. I hope that the provisions for subor-
5 dinate service districts are retained. I would like to present
6 testimony in behalf of the Billings' Chamber of Commerce, which is
7 a volunteer community development organization made up of over
8 900 business and professional people in Billings. This organi-
9 zation is dedicated to the orderly growth and development of our
10 city. The Chamber recognizes that good governmental structure at
11 the local level can further that objective. House Bill 122
12 addresses itself to that objective also, by making it possible
13 for local government to be able to deal with local problems at
14 the local level. As most of you know, in September of 1976, the
15 City of Billings, in a charter election, supported a change to the
16 charter form of government with self-government powers. At that
17 time when the Billings charter was submitted to the voters in its
18 final form, the proposed taxing provision of the local government
19 codes -- proposed codes -- were somewhat broader than they are in
20 the present proposal. We respectfully urge the legislature to
21 consider this proposed bill in a careful manner to assure the
22 residents of Billings that more of the self-government powers
23 which they voted to assume are not deleted. The vital elements
24 of well-defined and separate responsibilities for legislative and
25 administrative functions are present in the Billings' charter. The
26 powers that House Bill 122 grants to the city governments are
27 supported by the Billings' Chamber of Commerce. However, we have
28 some serious reservations about the proposed bill as it addresses

1 itself to the powers of commission form of county governments.
2 Yellowstone County operates under the traditional county commission
3 form. That body is an elected body that historically is adminis-
4 trative in form. House Bill 122 grants to the commission form
5 legislative powers that conflict with this administrative role.
6 We believe that broad taxing powers should be granted only to
7 those units of local government that have separate and distinct
8 legislative and administrative bodies. For this reason, we cannot
9 support those portions of House Bill 122 that would grant the
10 county commission form of government the power to levy taxes by
11 local ordinance. The Chamber of Commerce will testify on speci-
12 fics of the bill during the following week. Thank you very much.
13 SENATOR McCALLUM: Thank you. The lady in the white dress, or
14 the white coat.

15
16 TESTIMONY OF SANDRA WHITNEY

17 MS. WHITNEY: Thank you. My name is Sandra Whitney. I am
18 a Helena housewife and I am strictly speaking for myself. I do
19 have a little bit of insight into these codes, however, as for
20 a year and a half I was researcher for the Lewis and Clark County
21 local government study commission. I think the State Commission
22 has done an excellent job researching, revising and compiling
23 these proposed codes. I'll give you just one example of why I
24 support House Bill 122, why there is a need to have this bill
25 enacted into law. As a researcher, I found that the finances in
26 a county are handled by four separately elected officials: The
27 county commissioners, the auditor, the clerk and recorder, and
28 the treasurer. I found that right now there is duplication.

1 Some records are handled as many as twelve times. There is a
2 lack of cooperation in this county, and this is just one example,
3 and I'm sure that in many others it could happen. The treasurer
4 could, with very little extra work, make it much easier for the
5 clerk and recorder, much less labor intensive, when it comes to
6 handling tax bills. And number three, in this county, under this
7 system, there is inefficiency. Many of the records are hand-
8 written or recorded by antiquated machines. The county commission-
9 ers have no control now over this archaic, inefficient process.
10 Give to the county commissioners the control as established in
11 47A-9-301 of the proposed codes. Give the commissioners the
12 authority to establish a modern, efficient finance department.
13 Then when they have the authority and the responsibility to
14 act, we, the taxpayers and the voters, can demand action and
15 know who to hold accountable for that action. This is only one
16 instance in which the authority must, for efficient, accountable
17 and responsive local government, be delegated by the state to
18 local government. Once again, I ask for passage of these codes.
19 Thank you.

20 SENATOR McCALLUM: Thank you. Would the lady repeat her name?

21 MS. WHITNEY: I'm Sandra Whitney.

22 SENATOR McCALLUM: Did you get it? Thank you. Would the lady
23 there who just stepped up and took Mrs.
24 Whitney's place, would you care to speak?

25
26 TESTIMONY OF IRENE SNELL

27 MS. SNELL: Thank you, Mr. Chairman, and the Committee.

28 I am Irene Snell from Butte and I'm here representing the Silver

1 Bow County study commission. We are in favor of House Bill 122,
2 and the reason for this is we have spent many hours on improving
3 our local government. After these long hours of study and public
4 hearings, we wrote a charter, in which we tried to bring to the
5 people of Butte, Silver Bow, at the best of our ability, the
6 government for the people and by the people. We found that the
7 people are sick of government that they feel they have no part in.
8 We kept this in mind in writing our charter. Now the people in
9 Butte, Silver Bow, can have a say in their local government,
10 especially now that the ordinances can be passed to take care of
11 our local needs. We agree that a local matter should be handled
12 locally and not burden the legislators in Helena with our local
13 problems. It is too bad that the timing was such that we got
14 the cart before the horse, so to speak. The study commissions
15 had to work on local government before these codes were passed;
16 but we feel that House Bill 122 will compliment most of the
17 problems that we have dealt with locally in our charter. We
18 realize that there is no utopia in any bill, but we feel House
19 Bill 122 to be a good bill. It can be amended and we support it.
20 Please vote for House Bill 122. Thank you.

21 SENATOR McCALLUM: The lady in the black suit there.

22
23 TESTIMONY OF MARGARET LEARY

24 MS. LEARY: Thank you. My name is Margaret Leary. I'm
25 a member of the Butte local government study commission and I
26 represent them in supporting House Bill 122. The local government
27 study commission designed their new government and wrote their
28 charters believing that if self-government powers were adopted

1 we would be allowed to deal with problems peculiar to our own
2 community on a local level. If you are familiar with the Butte,
3 Silver Bow charter, you know that it is absolutely critical that
4 we be allowed -- that our commissioners be allowed to have ordin-
5 ance-making powers. With these powers, we will be able to pro-
6 vide our people not only with the government that they wanted,
7 but also one that is responsive and accountable. We sold our
8 charter to the people on the basis of these new codes. We told
9 them our local legislative body would be allowed to deal with
10 local problems at a local level. Our opponents told the people
11 that they were buying a pig in a poke, but we assured them that
12 they were not. And if these codes are not passed, we will appear
13 to be liars because even though we acted in good faith, believing
14 that the proposed codes would be enacted, allowing us local con-
15 trol, we will have spent two years of our lives in vain, studying
16 our local governments, defining their faults, correcting them in
17 the charter, if these codes are not passed, because we will find
18 that the new government doesn't work any better than the old if
19 we have the same old rules and regulations. I don't wish to be
20 facetious, but if you fail to pass these codes, you will be in
21 effect saying to our voters, as the commercial on TV says,
22 "gotcha"; and I think that's why some of the voters feel so
23 frustrated with government. They're promised one thing and
24 they receive something entirely different. So we, therefore,
25 urge you to pass House Bill 122. Thank you.

26 SENATOR McCALLUM: Thank you. The lady -- yes.
27
28

1 MS. HEALD: Thank you. My name is Carol Heald. I serve
2 as the chairman of the Billings City Study Commission and this
3 testimony is given on their behalf. House Bill 122 is a very
4 necessary piece of legislation that will give local government
5 the flexibility and local control that we've heard so much about.
6 It carries out the intent of the 1972 Constitution. In Billings,
7 as you know, we did pass the -- the citizens voted on and adopted
8 the self-government charter which our commission had proposed.
9 We decided to write the charter, not so much because of the
10 self-government powers, but because the alternate forms that were
11 offered to us in the laws were not exactly what we felt Billings
12 needed. However, we did believe that the self-government powers
13 that we claimed by writing the charter would place our city in
14 an extremely advantageous position to take advantage of the
15 opportunities for even further flexibility as they do become
16 available, and thus to have the maximum amount of local control
17 in the State of Montana. It is our contention that House Bill
18 122 should not be altered in any way that might further dilute
19 the self-government advantages which our charter made possible.
20 In fact, this proposal does not contain as many optional, alter-
21 native sources of revenue as the earlier draft which was circu-
22 lated prior to the time of the final printing of our charter
23 proposal. We are in favor of increasing the flexibility of local
24 government and believe that many provisions of House Bill 122 do
25 just that. If any more of these provisions in part 4 of Chapter
26 9 should be amended out of the proposal, our achievement of self-
27 government in Billings has not gained for the voters what we and
28 they expected it to. By the same token, I want to reenforce

1 what Mrs. Bowman has said about the taxing powers being granted
2 to governments operating under the commission form. Cities or
3 municipalities, whether they have general or self-government
4 powers, must during the next decade be in a position to handle
5 problems they've never had to face before in the State of Montana.
6 The ability to fund local government will become more and more
7 crucial; and unless the local unit has some alternate sources of
8 revenue, they will find themselves unable to cope. Municipal
9 governments have separate and distinct legislative branches,
10 and granting new taxing powers to them will enable them to decide
11 locally whether and how to use their options and alternates to
12 the property tax. The commission form of government, on the
13 other hand, which is not representative and which is historically
14 established to administer, should not be granted such broad
15 taxing powers as those governments which have adequate and sepa-
16 rate legislative and executive structures. Very briefly I would
17 like to mention three specifics which our study commission dealt
18 with in our deliberations while writing the charter. We favor
19 being able to pass an emergency budget without a unanimous vote.
20 The two-thirds vote provided is adequate to guard against hasty
21 decisions. We have seen in Billings the havoc that one obstinate
22 councilman can play by using his power to vote against a much
23 needed emergency measure. We favor revenue sharing with the
24 state as one further alternate source of revenue; and we favor
25 keeping the proposal in Chapter 3, part 404, allowing local units
26 to decide for themselves whether to make boards and commissions
27 advisory rather than administrative. We are opposed to any
28 mandatory administrative boards or commissions. Thank you.

1 SENATOR McCALLUM: The gentleman back there.

2
3 TESTIMONY OF ROBERT R. JOHNSON

4 MR. JOHNSON: Mr. Chairman, for the record, my name is
5 Bob Johnson. I'm the Lewis & Clark city-county health officer
6 and director of the local health department in Lewis & Clark
7 County. Today I am representing the Association of Local Public
8 Health Departments. I've set aside my speech, itemizing the
9 specific reasons why we're strongly in favor of this measure; but
10 I would like to have that association and the local health depart-
11 ments and the people responsible for providing local health
12 services across the state, on record strongly in support of this
13 measure. We are prepared to attend your subcommittee hearings
14 to provide you with more specific testimony. Thank you.

15 SENATOR McCALLUM: The chair would like to make a statement, if
16 I may. The hour is growing late and I would
17 like the people from the immediate vicinity,
18 if they would prevail not to present any more
19 testimony, they will be able to testify at
20 both the house local government committees
21 and at the senate local government committees.
22 But I would like to have all the people,
23 proponents and opponents both, who have come
24 a great deal of distance, be able to present
25 their testimony. So if there is anybody from
26 outside of the City of Helena that wishes to
27 speak, we would be glad to have them have
28 their day in this thing. The gentleman back

1 there --

2
3 TESTIMONY OF JAMES S. FREEMAN

4 MR. FREEMAN: Mr. Chairman, members of the Committee, I
5 speak for several people as the chairman of the State Mosquito
6 Abatement Advisory Council, vice-president of the Montana Mosquito
7 and Vector Control Association and vice-chairman of the Triangle
8 Council Montana Weed Control Association, and also as an employee
9 of the Cascade County weed control and abatement districts.
10 We feel that the proposed recodification of the local government
11 codes, HB 122, is basically an important and much needed improve-
12 ment in state law. The new codes are in many ways more versatile
13 and responsive to the needs and desires of local communities than
14 is the present system. Greater responsibility and greater free-
15 dom of activity are entrusted to local governing bodies, allowing
16 them the much needed authority to respond quickly, effectively
17 and efficiently to the changes in local situations. The pre-
18 vious legislature recognized the need for changes in the area of
19 local government codes by creating the commission to study this
20 law and prepare revised codes for the improvement of local govern-
21 ment. The present legislature should not forget to recognize that
22 the need for change has not decreased since that time, and that
23 the proposed legislation, HB 122, is the most logical vehicle
24 for that change. Over the past three years, probably more
25 individuals, groups and agencies had regular input in the
26 development of these proposed codes than most laws currently in
27 the books or otherwise proposed. We realize that some problems
28 exist yet in the bill as drafted, and that further amendments

1 and compromise are necessary to make the proposal a smooth func-
2 tioning law, but these are very minor in relation to the work
3 which has already been done. We have some specific amendments
4 which we would like to see in the area of agricultural services,
5 pertaining specifically to administration services and special
6 powers. These are to clarify and/or to provide for easier
7 functioning. These requests are attached; I won't go through
8 them at this time, but I would like to submit them to you. We
9 have given these attached amendments to our representatives, and
10 we would urge your affirmative consideration. We feel that the
11 bill is basically good, and with the minor amendments requested,
12 would be a workable, smooth functioning vehicle to provide for
13 effective local government; and to this end we would urge your
14 support. With your permission, I would enter these in the
15 record without reading them further.

16 SENATOR McCALLUM: Yes. Would you state your name and where
17 you're from, please?

18 MR. FREEMAN: James Freeman.

19 SENATOR McCALLUM: James Freeman?

20 MR. FREEMAN: Yes.

21 SENATOR McCALLUM: Thank you. The gentleman back here. The
22 gentleman that's standing, back in the
23 checkered suit.

24
25 TESTIMONY OF JOHN P. WEIGAND

26 MR. WEIGAND: Thank you, Mr. Chairman. Mr. name is John
27 Weigand. I'm a game research biologist for the Montana Department
28 of Fish and Game. I'm stationed in Belgrade, Montana. As a

1 representative of the Montana Department of Fish and Game, I
2 would like to first of all commend those responsible for their
3 tremendous effort in producing House Bill 122. My personal
4 exposure has been in working with the commission field staff, a
5 truly dedicated, overworked group of young people, who compiled,
6 organized, edited, and reorganized the material in this bill.
7 They also guided and refereed in many of the public meetings and
8 hearings. The fruit of their labor, House Bill 122, because of
9 its widespread impact on many facets of our everyday lives,
10 deserves our undivided attention and consideration. I am pro
11 wildlife, perhaps altruistically so; but I am pro wildlife because
12 I realize that certain forms of wildlife reflect the very high
13 quality of environment in which you and I may pursue our various
14 ways of life and maintain our freedom. I also recognize de-
15 creases in certain forms of wildlife and increases in other forms
16 reflect a deteriorating environment, in which we make these same
17 pursuits. Thirdly, I recognize the elimination of wildlife
18 as a close prelude to extinction of the human race, and therefore
19 am vitally concerned with the provisions of Chapter 6, agricul-
20 tural and other pests, and the potential affects of this
21 legislation on perpetuating desirable wildlife in Montana. By
22 law, all wildlife belongs to all of the people. This legal
23 sanction dates back at least to the Magna Carta during the
24 eleventh century in Great Britian. Prior to this great charter,
25 wildlife, other natural resources, and the very lives of most
26 of the populace, belonged to the nobility, the kings, the queens,
27 the princes, and so forth. Furthermore, the people were taxed
28 for every effort to raise their financial and social status.

1 The Magna Carta and subsequent law enactments provided more
2 equitable distribution of rights and privileges among all citi-
3 zens. It also provided that all people own in common wildlife
4 and other natural resources on private estates. These provisions
5 have been carried through into our present national and into
6 Montana law. House Bill 122, I believe, inspires to assure these
7 rights and privileges and advances responsive government to
8 county and other local government levels. However, the wildlife
9 inhabiting a county or municipality does not belong only to that
10 government nor to only the citizens of that county or municipality.
11 It belongs to every citizen of Montana, man, woman and child.
12 Provisions of Chapter 6 do not address themselves specifically
13 to wildlife, but they do direct attention to possible alteration
14 of critical sources of food and shelter for wildlife. Without
15 food and shelter, wildlife does not exist. The Montana Fish and
16 Game Commission was established for the purpose of protecting,
17 propagating and perpetuating the fish and wildlife within the
18 State of Montana for the benefit and recreational enjoyment of
19 the people of Montana. It recognizes that many fish and wildlife
20 species embraced under this authority are dependent at some time
21 in their life cycle upon a large number and variety of plants
22 for their propagation and perpetuation. Most of the plants pre-
23 sently occurring in Montana are native to this state, forming
24 individual and often unique vegetation communities which provide
25 food and shelter for our fish and wildlife. The arrangements and
26 positioning of these vegetation communities provide a naturally
27 diverse stable environment, not only for fish and wildlife, but
28 also for the people of Montana. Native plant species and

1 introduced species compete among themselves for nutrients,
2 moisture and space in these natural communities, and the native
3 fish and wildlife evolved as an integral part of these communities.
4 Cultivation of land for growing of domestic crops, grazing of
5 land by domestic livestock, and cutting of timber are legitimate
6 and economically beneficial cropping of naturally renewable
7 resources when conducted in a manner which sustains land produc-
8 tivity for future generations. The Fish and Game Commission
9 recognizes that there are situations when agriculture or other
10 pests can cause genuine problems. When such situations exist,
11 the Commission would hope the problem can be dealt with efficient-
12 ly and expeditiously at whatever government level is appropriate.
13 On the other hand, the Commission is obligated to protect wild-
14 life and wildlife habitat and therefore is reluctant to support
15 legislation that might result in deleterious effects upon wild-
16 life unless there is an overriding necessity for the program or
17 legislation. We hope that input from our Commission and Depart-
18 ment hearings on those provisions which do affect wildlife will
19 provide a basis for perpetuating wildlife at minimum costs to
20 Montana taxpayers, will provide some relief from economic losses
21 to agricultural pests, and will prevent the wasteful expenditure
22 of taxpayer money on those programs which are unrealistic and
23 whose objectives are unattainable. Thank you.

24 SENATOR McCALLUM: The gentleman right in front there.

26 TESTIMONY OF DANIEL L. BURKHART

27 MR. BURKHART: Thank you, Mr. Chairman. My name is Dan
28 Burkhart, and I'm editor of The Stillwater News in Absarokee,

1 Montana; and I've distributed an editorial I wrote, but since it
2 was fairly lengthy, I thought I ought --

3 SENATOR McCALLUM: Mr. Burkhart, are you testifying as a pro-
4 ponent?

5 MR. BURKHART: Yes.

6 SENATOR McCALLUM: Go ahead.

7 MR. BURKHART: Specifically because of the changes in the
8 code that would enact changes in the present laws dealing with
9 county printing contracts. I think it's important to understand
10 that county printing contracts now go only to newspapers that
11 have second-class mailing permits. That might not be so bad,
12 except in most counties there's only one second-class newspaper,
13 which means there's only one newspaper that can bid on the
14 county printing. It creates a virtual monopoly. The other as-
15 pect of the law has to do with how that came about; I think
16 that is more important, and that has to do with the principle of
17 the free press. The law came about because second-class news-
18 papers were able to lobby effectively to get a law that said only
19 second-class newspapers could bid on county printing. That com-
20 promises the freedom of the press, because freedom of the press
21 is a freedom also. It's a freedom from being entangled in
22 politics and from having to influence legislators. If you don't
23 have that, you begin to have newspapers that wield less their
24 independent pens and more their organizational arm over the legis-
25 lators' shoulders. So I think for those that ask for the change
26 in House Bill 122 are worthy of your consideration because they
27 would change the present laws that set up a monopoly. Thank you.
28 SENATOR McCALLUM: Thank you. Do we have any more proponents?

1 Yes, the gentleman over here.

2
3 TESTIMONY OF THOMAS PAYNE

4 MR. PAYNE: Mr. Chairman, my name is Tom Payne, and I'm
5 a member of the State Commission on Local Government. I was a
6 public member of the Commission, and as such, I think I've had a
7 unique opportunity to observe the process over the past three
8 years. I'm very gratified today that so many of those who've
9 testified have testified about the specific substance of our
10 bill, so I'm not going to belabor you any further, although I
11 have a very long speech I could give on that side too. But I
12 would like to say that this bill did not come into being by any
13 kind of magic process of simply rubber stamping anybody's ideas.
14 I would like to say, rather, that it came out of a great many
15 deliberations in which there were a great many disagreements on
16 the Commission. And if you'll look at the minutes of our meetings
17 for the past three years, I think you'll find that all of us were
18 on the losing side of quite a few of those votes. I probably was
19 on the losing side of more votes than any other member of the
20 Commission, but I'm very happy today to be able to support the
21 bill because I believe it is part of an ongoing process of govern-
22 mental reform that I've been witnessing in this state for over
23 twenty-five years. And I think that with all of its shortcomings
24 that it still has great merit. I think that we need to give it
25 a chance. I feel that I would like to take a text from what
26 Benjamin Franklin said about the Constitution after it was adopted
27 in 1787. In essence he said, "I'm not so sure that this is the
28 best, but I'm pretty sure that nobody else is going to write a

1 better one." And I have, for that reason, the greatest confidence
2 in urging the support for this bill. Thank you.

3 SENATOR McCALLUM: The gentleman back there.

4
5 TESTIMONY OF JOHN RICHARDS

6 MR. RICHARDS: My name is John Richards. I'm director of
7 the Great Falls City-County Planning Board. I'm here today
8 representing the Legislative Committee of the Montana Association
9 of Planners, and I found out this morning I was also asked to
10 represent the entire association. The legislative committee of
11 that group has been working on the planning legislation portions
12 of this bill for about two years. The product that we presented
13 to the State Commission on Local Government is one with which
14 none of us agreed fully, but all of us agreed was far better than
15 what we had. Our group was composed of planners from many differ-
16 ent types of jurisdictions, so we had many different perspectives.
17 I am not going to -- I'm going to skip over some notes here,
18 because they're repetitious of what you've heard before about
19 flexibility and local control, and so forth. Just to come down
20 to the final part, we note that the State Commission modified
21 some of our proposals. If the mood of the Committee is such to
22 accept constructive amendments, we will be pleased to submit
23 several minor ones. However, in fairness to the Commission, the
24 amendments to the changes they made were in the spirit of letting
25 the local municipality, the local organization, decide how they
26 wanted to run their own show. In the interest of avoiding con-
27 troversy, we are perfectly willing to accept those portions of
28 the bill as they now stand and we would urge the earliest passage.

1 One other thought I'd like to share with you. I'm sure it's
2 been said many times before, I just haven't heard it today. As
3 I was driving over this morning and regaling in the beauties
4 of Montana one more time, I also thought that while we tend to
5 think of Montana as a rather sparsely populated state, in 1977
6 it actually contained in equivalent numbers approximately twenty
7 percent of the population of the United States at the time of
8 independence. In other terms, that's the equivalent of about
9 two and a half to three of the average-sized original thirteen
10 colonies. Our major cities are as large or larger than the
11 largest cities of that era. Now, our forefathers, and I'm glad
12 to say some of my ancestors, fought a rather lengthy and bitter
13 war over 200 years ago over the matter of local control and home
14 rule; and I'm as glad as anybody else here that our methods have
15 changed, but the parallel is obvious. Montana is a big girl now
16 and she's big enough for local control of local destinies. Thank
17 you.

18 SENATOR McCALLUM: Are there any other proponents? If not --
19 excuse me, Mr. Rosetta.
20

21 TESTIMONY OF NOEL ROSETTA

22 MR. ROSETTA: Mr. Chairman, my name is Noel Rosetta, and
23 I represent the local chapters of the Audubon Society, the Sierra
24 Club, the Environmental Information Center and the Montana Wild-
25 life Federation. We recognize that a great deal of time and
26 effective effort has been put into the local code, House Bill 122.
27 In general, we support the intent of the local code, but will
28 offer some amendments regarding Chapter 6 at the appropriate time.

1 Our overall concern is that the public has the fullest opportunity
2 to participate from the planning stage to an effective periodic
3 review of the operations. It is also our intent to comment on
4 this in writing in a short time. One lady said that we paid for
5 services that we do not receive. Sometimes we receive services
6 that we pay for but neither desire nor deserve, and I think that
7 we -- the thing is that this responsiveness of local government
8 is important to segregate what is important.

9 SENATOR McCALLUM: Thank you, Mr. Rosetta. Would the lady be
10 brief and go to it.

11
12 TESTIMONY OF JUDITH H. CARLSON

13 MS. CARLSON: Thank you. Mr. Chairman, members of the
14 Committee, I'm Judith Carlson, presently a special assistant
15 to the Governor. Previously I served as director of the Depart-
16 ment of Community Affairs and was director for the Model Cities
17 Department for the City of Helena; thus I've been able to observe
18 state-local relations from both sides of the fence. Montana has
19 been a leader in the nation in many areas, certainly in the field
20 of natural resource conservation, we have led the way. In devising
21 new methods of executive management, we have led the way. Our
22 new constitution is a model to the nation in a number of areas,
23 and most notably, in providing freedom for local governments to
24 develop their own structures and exercise their powers in a
25 manner which is suitable for each city, town or county. This
26 new attitude towards local government and the process established
27 by the legislature for voter review and code revision, has led
28 Governor Judge to call the 1970's the decade of local government.

1 In state government we have a myriad of problems with the federal
2 government that severely decrease our ability to manage state
3 programs. Likewise, local governments have been fettered with
4 state laws and regulations which have decreased their ability to
5 manage local programs. The proposed local government code which
6 you have before you is an attempt to correct many of the problems
7 which local governments have faced and continue to face today in
8 their relationship with state government. Therefore, I echo
9 Governor Judge's comments in the State of the State Address when
10 he said, "The state must strengthen the partnership we have
11 been building in recent years between state and local governments."
12 The new local government code represents the crowning achievement
13 of nearly three year's work by the State Commission on Local
14 Government, chaired by Representative Gerke, in acting at the
15 direction of the 43rd Legislature. I urge your approval of the
16 new code. Thank you, Mr. Chairman.

17 SENATOR McCALLUM: Thank you, Mrs. Carlson. At this time we
18 will hear from the opponents, and I have been
19 asked by two people who have to get a way,
20 they have quite a distance to travel; the
21 first is Dean Neitz. Is he here?

22
23 TESTIMONY OF DEAN A. NEITZ

24 MR. NEITZ: My name is Dean Neitz and I appreciate the
25 opportunity to be here, for the record. I'm from Philipsburg
26 and president of the Montana Press Association, which has 77
27 member newspapers in the state. My wife and I publish the
28 Philipsburg Mail. I'm a native of Philipsburg, and the Mail

1 has been in the family for 51 years. I also publish the
2 Anaconda Leader and have been a resident of this state all of my
3 life, and like the rest of you, pay a few taxes. We have county
4 printing contracts in Granite and Deer Lodge Counties. Like most
5 all of my weekly friends, I'm very disturbed about the fact that
6 House Bill 122 would not only take out the county printing law,
7 but it would also take with it the publication of county commis-
8 sioner proceedings. As is true with most counties, I have a
9 close working relationship with the county clerk and the county
10 commissioners, and certainly I like to have a contract with the
11 county people and I think they like the service they get from the
12 local newspaper, the local printer. If you want to call it a
13 monopoly or subsidy or an incentive, I think it is one that
14 serves the counties and the communities as well. Incentive to
15 local newspapers is not new to Montana law. This incentive was
16 included in the original code of Montana. Our early lawmakers
17 included this provision into the law to encourage local news-
18 papers. They felt these papers were an important part of the
19 community life. In addition to providing news about local events,
20 advertising is an important part of the commerce of a small
21 town. The ads for the grocery store, the latest clothing sale,
22 make up the only method of communication between the merchant and
23 the local customers. In addition to news and advertising, the
24 agenda of events for the coming week, such as the local church
25 bazaar, the annual boy scout dinner, are items of important inter-
26 est. Many of these papers are marginal -- these weekly papers,
27 I'm referring to -- marginal in operation and would be severely
28 handicapped if this incentive is removed. That means the smaller

1 counties would have no voice at all without a weekly paper. What
2 will happen if the county printing law is wiped out? Will it end
3 so-called monopoly or will the counties by some miracle get
4 cheaper printing? What will probably happen is that the cream of
5 the printing will go to four or five large concerns in the state,
6 and maybe even out of the state; thus the money will be lost
7 locally. The county may not have access to the services of a
8 local printing plant. Prices are certainly not going to go down.
9 The present county contract printing system is not a bribe to
10 the county paper. They continue to be independent in their news
11 columns and to point out the irregularities in county government.
12 In this field, I can think of such news in the past year at
13 Wolf Point, Red Lodge, and even Butte. There was no coverup
14 from any news that the public should know. I also want to men-
15 tion the commissioner's proceedings. Our readers tell me that
16 they like to know what the county commissioners are doing. We
17 give a great deal of space in our news columns of the county
18 affairs. We also gave a lot of space to the proposed changes in
19 local government; but we don't have time to keep someone sitting
20 in the commissioner's office during their meeting session. The
21 average citizen gets a good look at the county business and who's
22 getting paid through the medium of the proceedings. Contrary
23 to some contention, recent surveys show that this so-called
24 legal advertising is one of the best read sections of the news-
25 paper. And that's the experience that I've had when we visit the
26 local people. Speaking here of the voice of the local newspaper,
27 I hope the Committee will give full consideration to our request
28 to preserve the county printing law.

1 SENATOR MCCALLUM: Thank you, Mr. Neitz. Now, Mr. Hal Sterns.

2
3 TESTIMONY OF HAL STERNS

4 MR. STERNS: Amidst all the clamor for home rule, I stand
5 in endorsement of the general principle of House Bill 122, but I
6 would like to have you give consideration to the fact that by the
7 jeopardization of the county printing contract that you will
8 possibly diminish at least fifteen counties in Montana, counties
9 like Carter and Golden Valley, Powder River, and so forth, who
10 without some way of being able to keep a newspaper going will
11 then be deprived of a voice. As an amateur historian, I can tell
12 you that the original concept of the county printing contract
13 was to assure that there would be a voice for each county in the
14 system of government. And in the nearly forty years that I've
15 labored in the vineyard of country journalism, I want to tell you
16 you that at no time do I feel that my voice was stilled as a
17 watchdog of the county over county government. I think it is
18 imperative that you see to it that we maintain a free press and
19 that there is a press that exists so that we will continue to have
20 the kind of people in Montana, who I found during the Bicentennial
21 to be people who are innovative, imaginative, and proud of their
22 communities. We are not asking for a subsidy; we are merely
23 calling attention to the fact that a newspaper and a town, a
24 newspaper of stability, a newspaper that is not a Johnny-come-
25 lately, an advertising sheet or a throwaway which will come and
26 go; but this payroll is kept in this community and that the money
27 would otherwise go to the big city printing plants, which is one
28 more way of diminishing what I think is the spiritual strength of

1 Montana, and that is the talents of its great people. Thank
2 you.

3 SENATOR McCALLUM: Thank you, Mr. Sterns. The gentleman with
4 the whiskers.

5
6 TESTIMONY OF MERRILL H. KLUNDT

7 MR. KLUNDT: I'm Merrill Klundt, county clerk and recorder
8 at Billings, and, of course, I've been in government for quite a
9 few years, and I'd like to commend the committee on the fine job
10 that they've done on recodification. I cannot argue that point
11 at all. But I'm beginning to wonder if maybe too much local
12 government power is being authorized in this code. We realize
13 that we have a lot of local problems. We know we must pay for
14 the services in these districts. I hope the people realize it,
15 but I am of the opinion that a lot of people like to think that,
16 well, we've got local government and they can do anything, but
17 they don't want to pay for it. So maybe we have too much power,
18 I feel, in the hands of too few of the board of county commission-
19 ers. Some work full time and some part time. I'd like to speak
20 personally from the county that I come from, that I find it a
21 full-time job; and believe me, with all the ordinances that they
22 are going to be passing, it's going to be a full-time job plus.
23 But again, one area of concern to me is that we know part of our
24 problems of the past have been the rules and regulations set down
25 by the various boards and bureaus here in Helena. I served on
26 the planning board, and it seems like the rules and regulations
27 are just running rampant. You think you know what you're doing
28 in subdividing and platting or state board of health, and the

1 month you've got another set and you don't know what's going on.
2 Whether the ordinances are going to supersede the regulations
3 stated by the boards and bureaus, I hope so. If it is, I'll go
4 along with it. I know we have to have a certain amount of state
5 control. In this area, I hope that it's checked out very care-
6 fully. I have not had full time to review the 811 pages, but I
7 have worked with the various -- the past year and a half with
8 the local boards here in Helena and I've enjoyed it. I've been
9 at some of the State Commission local government meetings and
10 hearings and we get a lot of input in it. So there is a lot of
11 good merit in this bill, but there's areas that are still gray.
12 Maybe we should do a little further study in it; that's going to
13 be up to you people to determine. I hope in the future that
14 before this bill gets through the Senate, if it should pass the
15 House, that we can give you more input. The county clerks in
16 the state have been just swamped with elections, five in ten
17 months, and that's where we're at. I got a day off so I thought
18 I'd come up to Helena here and sort of voice my opinion; but next
19 week I cannot appear at any of the hearings due to the fact that
20 we've got to set machines up for every type of election you can
21 think of again, so we are charged with that burden and that respon-
22 sibility comes first. So it's up to you people also. We'll
23 provide all the input, the county clerks in the state, to you,
24 in a short period of time. Thank you.

25 SENATOR MCCALLUM: The gentleman back -- Mr. Stearns.
26

27 TESTIMONY OF WESLEY W. STEARNS

28 MR. STEARNS: Mr. Chairman, members of the Committee, my

1 name is Wesley W. Stearns from Sanders County. I was a member
2 of the House in the 1961 session, and am familiar with your
3 problems here. At that time we recodified the insurance codes
4 of Montana at that session. For the last twelve years, I have
5 been a county commissioner in local government under the laws
6 being discussed here today. I think here today that the propo-
7 nents should have convinced the Committee by saying that this
8 bill is not perfect. We have to assume then that it needs some
9 revision, we need some amendments, we need some improvements.
10 Because when we do pass this bill, it will become part of the
11 Revised Codes of Montana; and if you don't make these amendments
12 now before you print them in the Revised Codes, you'll have a
13 supplement in the back of the Revised Codes in two years that's
14 almost as big as the statutes. So every consideration should be
15 given by the Committees and the legislature itself to make sure
16 that this bill is proper when you pass it. I think that nearly
17 all of us here today would agree that these laws should be recod-
18 ified. However, when the last legislature authorized the study
19 commission to make substantive changes, and they did, then the
20 people and you and I should be very concerned about the substan-
21 tive changes that they made. I am opposed to this bill in its
22 present form for the following reasons, and it appears every-
23 body else had reasons, even the proponents. First of all, the
24 title of the bill does not adequately describe what is happening
25 in the next 811 pages. You've got a simple little title there
26 of three sentences to describe what's in this bill, and that
27 title is certainly not adequate to cover this bill. Item two,
28 the proponents say that this bill will give the counties home

1 rule, and it does to a minor degree; but the home rule now is
2 vested in the 19 bureaucratic departments and the State Adminis-
3 trative Code. The legislature will have to decide -- and you
4 have three or four other bills in here to do it -- whether to
5 leave it there with the state departments or whether you're
6 actually going to give home rule to the counties. In this
7 present house bill, it leaves basically most home rule with the
8 state departments, who are political appointees and in no way
9 are elected officials of the people. And I refer you now to
10 Concurrent Power, Page 191, Line 16, and you should all read
11 Sections 1, 2, 3 and 4. We won't have time to go to these now
12 and I'll leave this with you so you can refer back to it. It's
13 merely to help prepare you for the hearings next week. Item
14 three, if you think that you're having troubles with one set of
15 administrative codes now, and it appears that you are because you
16 have three or four bills in there, if you think the people are
17 going to have a little bit of trouble or you'll have some trouble
18 later when you have 56 sets of administrative codes; and this is
19 something I think we should think about, and this is Page 19,
20 Line 8. Item 4, the section on study commissions needs amending.
21 Page 78, Line 2, states, the commissions must submit budgets to
22 the governing body, yet the finance administrator is authorized
23 to disburse appropriated monies of the commission on its order.
24 Now, this has caused some problems in some of the counties al-
25 ready. There's no checks and balances here with this wording
26 and it is causing confusion. Another thing that should be amend-
27 ed in this section is that there is no money actually appropriated
28 for the minority on a study commission to expound their problems;

1 and it happened in Missoula County this year. We've got trouble
2 in Billings. We may have a lawsuit in Sanders County over this.
3 And in a democracy, that's one thing we surely do is we give both
4 sides equal opportunity to expound their philosophies before a
5 vote is taken. Another thing in this particular section, that
6 there's -- in stating when you're going to petition for another
7 study commission in the counties, there's no percent of electors
8 stated in the bill as to what percent of the electors have to
9 sign the petition. Item five is salaries, Page 176, Line 2.
10 This is a very substantive change in the law. This particular
11 section has been voted down by the last two sessions of the legis-
12 lature; and so I'm calling it to your attention to take particu-
13 lar attention to this section. Item six, trafficways, Page 383,
14 Line 15, calls for a three-year plan of construction before you
15 can approve your annual budget. Well, idealistically this is
16 fine, but with the financing in the counties of Western Montana,
17 relying on off-system money, forest service receipts and disas-
18 ters and snow removal and all that, this is an impossible thing.
19 I would surely recommend that you amend that to one year of
20 construction -- we may be able to reasonably come up with a one-
21 year plan. A one-year maintenance plan, I don't think there's
22 anything wrong with that. Then you refer us, of course, then,
23 that all of these are additional powers, but they are superceded
24 by Title 32. Well, here again, in this bill you've filled 127
25 sections of Title 32; so it takes a little research on our part
26 to see whether you've actually repealed some important parts of
27 this law that governs our trafficways and also traffic regula-
28 tions. I haven't had time to do that because these bills have

1 just been given to the people. Item seven, assessment of proper-
2 ty, Page 472, Line 1. This section, in my opinion, is absolutely
3 contrary to the Montana Constitution, because the Constitution --
4 this section says that the governing body shall designate a de-
5 partment or appoint an employee as the assessor and as the clerk
6 and recorder. Under our general government power of counties,
7 which there are 54 of them left, the Montana Constitution says
8 that the assessor and all of these other people are duly elected
9 constitutional officers of the county; and therefore I think your
10 statute appointing one has to be cleared up to cover your other
11 forms of government, but it surely does not apply to these other
12 54 forms you have left. Number eight, open burning, Page 475,
13 Line 23 to Page 476, Line 18. And here we have trouble in
14 Western Montana where we wanted some local control and I thought
15 we was going to get it; but at the end of this section you've
16 inserted that we must comply with the state and federal law,
17 which means again that we have no local control. We do have a
18 problem over there and it should be corrected. But the way it's
19 written now, it does not solve our problem for our spring burn-
20 ing. State administration, Page 477, Line 8, says, each county
21 shall retain and maintain a set of state administrative codes.
22 There's nothing wrong with that, but it further assures me that
23 we're still going to have state control and state codes, and this
24 is what I'm complaining about. If you're going to give us home
25 rule, and I realize you have to have some state codes governing
26 certain things, but right now we're subservient to the nineteen
27 departments and the present Administrative Code, and we still are
28 under this bill. Item ten, noxious weeds, Page 231, Line 22. I

1 think whoever wrote this into this bill has made a real mess out
2 of it, and I would certainly recommend that this section on
3 noxious weeds we amended and the entire section deleted, and the
4 present weed law be amended into the bill. Item 11, it's in
5 relation to competing with private enterprise by our governmental
6 units, Page 201, Line 24, Section 47A-6-109. This is merely an
7 ambiguous statement, a one-sentence ambiguous statement there
8 that can get any of us into trouble as far as competing with
9 private enterprise. And all I'm saying is -- recommending is --
10 that you define and clarify the language so we know exactly what
11 we're talking about. Item 12, ambulance, Page 422, Line 11.
12 This bill merely refers the governing body to proceed under
13 Title 69, Chapter 36, which is a very poor law that does not
14 give us flexibility to create ambulance districts. The law says
15 that the city can create a district or you can have a county
16 district, but this is the only authorization we have under that
17 title; and it should be amended to read that we can create any
18 feasible ambulance district. I would like to dispute some of the
19 things that were said by the Association of Counties from county
20 commissioners. Referring to these newspapers, giving them a sub-
21 sidy, there could be nothing further from the truth. Did you
22 ever think what we would do if you put fifteen of these little
23 newspapers out of business, how would you inform the people under
24 representative government, how would you publish legal notices
25 and all of this? It's absolutely necessary that you protect the
26 small newspapers in the counties of Montana. There's one more
27 thing, being as I live on an Indian reservation, just off the
28 reservation, that I'm real concerned about Section 47A-1-202,

1 under general definitions. The first one is subsection 30,
2 governing body, Page 13, Line 1. It seems to me that this
3 definition, when you say a confederation -- confederated unit of
4 government means the confederated and Salish Tribes, and I'm not
5 sure this won't fit all other Indian reservations. Whether the
6 committee meant it to be that way or not, I don't know; but I'd
7 like to point out that these Indian reservations are sovereign
8 nations and the people on it are wards of the federal government
9 and that they are not, in my opinion, units of local government.
10 And I hope that subsection 30, 35, 58, and 73, tribal councils,
11 public agencies, local government, and governing body, that you
12 pay particular attention and clarify this so that we know whether
13 you intend to have them in or whether they shouldn't have been.
14 There are many more defects in House Bill 122. I've only had
15 two or three days to study this complex bill. There's no index.
16 This complex bill has not been distributed to the people for
17 review of this state. No person or legislator can intelligently
18 testify on a bill in this short of period that proposes to
19 enact 701 sections, amend 181 sections of current law, and repeal
20 2,554 sections of the present law. Anyone studying this bill
21 would have to have access to the statutes to see what you're
22 repealing before he could tell if what you did is proper. There-
23 fore, we need lots of time; and therefore, I would recommend to
24 the Senate and House Committees on Local Government that if there
25 are as many amendments as I think there are going to be, that this
26 bill be placed in an interim committee because the revision of
27 these codes to become the Revised Codes of Montana is important
28 to the people of Montana, and should not be a hurried piece of

1 legislation. Afterall, these laws are not for the legislature,
2 they're not for the county commissioners, they're not for
3 elected officials; these are laws that are being made for the
4 people of Montana. Thank you.

5 SENATOR McCALLUM: The chair recognizes the gentleman over
6 there.
7

8 TESTIMONY OF JOHN JUSTIN SULLIVAN

9 MR. SULLIVAN: Mr. Chairman, members of the legislative
10 committees, my name is John Justin Sullivan. I am first vice-
11 president of the Montana Association of County Superintendents.
12 I am also on the Executive Board of County Elected Officials.
13 The gentleman preceding me brought out several points that we
14 had in mind. We are opposed to the passage of this legislation,
15 House Bill 122, not so much to the bill, per se, but to the
16 method in which it is being done. We did make our recommendation
17 to the State Commission on Local Government that because of the
18 complexity and the seriousness and the ramifications of this
19 bill, that action be postponed until the legislature could give
20 full attention to this bill, not have it being considered as
21 one of 1500 or more bills coming through. We are going to have
22 to live with this at the local level. I as an elected official
23 have some very serious doubts about certain sections. The
24 section concerning the qualifications of the county superintendent
25 we had left as they were under the state rule. There was an
26 attempt to remove all qualifications for county superintendents
27 of schools simply so that the local governments could expedite
28 combining different offices. I personally have no interest in

1 becoming the treasurer of the county or the clerk of the court
2 or the dog catcher or anything else. I took an oath of office
3 for a specific job and specific duties, and I resent any attempt
4 to change those duties in midstream. There have been steps made
5 to take care of that problem. I still have a hearty distaste
6 personally of an association of Montana Association of County
7 Commissioners who are funded through taxpayers' money to set up
8 this terrific organization who presented a very strong case in
9 favor of local government. I am in favor of local government;
10 I do think that we need a lot of changes. I agreed wholehearted-
11 ly with many things I heard this morning. I say again that we
12 are opposed to going into it too hastily without full consider-
13 ation. I am an elected official; I am an elected officer of an
14 association; I have yet to see the final draft of the recommen-
15 dations of this commission. I have no copy. I got the original
16 one that I borrowed during the hearings, Section 10, or whatever
17 they referred to it as, from the clerk of the court. I think
18 this is a mistake. We need time to study this and I heartily
19 recommend to the two groups listening today that they consider
20 another hearing; not just hearings, but convening of the legis-
21 lature to give full, undivided attention to something that is
22 this important. There are a lot of people here from the Consti-
23 tutional Convention. I happen to be the wife (sic.) of one of
24 those delegates; she is also here. They gave full attention to
25 that most serious set of laws and to the changes affecting this
26 government. I think we at the local level deserve full undivided
27 attention just as well. I thank you very much.

28 SENATOR McCALLUM: The chair recognizes the gentleman here in

1 black.

2
3 TESTIMONY OF WILLIAM CONKLIN

4 MR. CONKLIN: Mr. Chairman, my name is William Conklin.
5 I am chairman of the State Library Commission. I speak in
6 opposition of House Bill 122 as it is presently constituted.
7 While I am in general support of expanded home rule for cities
8 and counties, I cannot support this bill so long as it fails to
9 require that local libraries shall be operated and administered
10 by lay library boards. We on the State Library Commission faced
11 this same challenge several years ago during the reorganization
12 of state government. At that time we were able to convince the
13 legislature that the library commission was essential to the
14 protection and preservation of the state library and its pro-
15 grams. And we on the library commission have been called upon
16 on many occasions to do just that, in fighting severe budget
17 cuts and challenges to the library programs for the State of
18 Montana. Local libraries are even more vulnerable to budgetary
19 and program challenges. While I served as city attorney in
20 Great Falls, the library board there had to fend off serious
21 challenges from city officials on several occasions. Why are
22 lay library boards important? They are absolutely essential
23 to preserve the integrity of the library and its staff. Lay
24 library boards insulate the library from political demands and
25 compromises. They can and do stand up to the community when
26 serious problems of censorship arise, in a way that most poli-
27 ticians are simply unwilling to do. Libraries are an essential
28 part and play an essential role in our democracy and in our

1 system of personal freedom. They guarantee easy and complete
2 access to all kinds of information -- free and easy interchange
3 of controversial ideas. In fact, libraries are just one step
4 from freedom of the press; a place for books, magazines and
5 newspapers of all philosophies to be made available to the
6 citizens of this state. We can't afford political control and
7 domination of this vital part of our democracy, not without some
8 form of check and balance; and that form of check and balance
9 rests in the lay library board. I firmly believe that the city
10 managers and city councils and mayors should not be empowered
11 to run our libraries. Libraries would soon become the forgotten
12 stepchildren of government, giving way to fire departments,
13 roads and bridges. There has been mention made this morning
14 that there were seventeen public hearings on this bill through-
15 out the State of Montana. At every one of those hearings,
16 people from the local library boards and users testified in
17 support of retaining the requirement that there be library
18 boards if the city or county was offering library service. An
19 amendment to that effect was offered. Their expressions of dis-
20 content, however, had been disregarded. The lay library board is
21 an institution which has developed through wisdom and experience
22 over the years. It is an institution of proven effectiveness
23 in preserving the integrity of this vital part of our free
24 society. I strongly object to the ease with which we, today,
25 throw out ideas and institutions of the past without an analysis
26 of the philosophical roles of those institutions and with little
27 thought other than superficial concepts of logical order and
28 governmental simplicity. I urge you to reject House Bill 122

1 so long as it fails to require that local public libraries be
2 operated and administered by semi-autonomous lay library boards.
3 When we should be moving toward greater involvement of our
4 citizens in government, this bill will make it possible for less.
5 I convey to you that the lay library board is more than another
6 board or a commission. It is an institution of this United States
7 of America and it should definitely be preserved as part of the
8 institutions of the State of Montana. Thank you.

9 SENATOR MCCALLUM: The gentleman in the green jacket, Is there
10 a button on your mike? Can you move over
11 and take another mike? Try that one.
12

13 TESTIMONY OF DON JUDGE

14 MR. JUDGE: Mr. Chairman, members of the Committee, for
15 the record, I'm Don Judge, field representative for the
16 American Federation of State, County and Municipal Employees,
17 AFL-CIO, and I'm here today representing public employees for
18 the cities of Billings, Laurel, Miles City, Glendive, Butte,
19 Anaconda, Livingston, Kalispell, Whitefish and Havre, and
20 employees in the counties of Roosevelt and Fergus. We are not
21 here today to do a battle as a special interest group, but rather
22 I rise as a reluctant opponent of House Bill 122 for want of a
23 better term. We cannot support House Bill 122 in its present
24 form. We understand and sympathize with some of the problems
25 presented by the proponents of this measure and tend to agree
26 with the concensus of opinion that this bill would be much
27 easier to work with than current statutes regarding local govern-
28 ment. However, we question some of the language used in this

1 measure in its regard to public employees. We are concerned in
2 the areas of minimum wage coverage for police and also in the
3 insurance coverage provided these employees. We are concerned
4 about the language in the areas in regard to collective bargain-
5 ing for public employees, and also in the area regarding the
6 benefits for public employees. We are concerned about the police
7 and sheriff retirement system, as it pertains to consolidation
8 and to new employees hired; and we understand that that question
9 is still being worked on by the members of the PERS division.
10 We want to review and receive clarification on the language
11 contained concerning civil service or merit system employees
12 and its effect on collective bargaining. We want assurance that
13 the worker's compensation coverage is not reduced. In general,
14 Mr. Chairman and members of the Committee, we are expressing
15 concern over the amount of authority being given the local public
16 employers, perhaps in deference to years of effort by public
17 employees to make gains in their status of employment. We be-
18 lieve there is need for such legislation as this and hope that
19 through explanations and amendments, that they may be made,
20 which will allow us to become proponents of this measure. We
21 have been meeting with staff members of the Commission and will
22 be testifying on the chapter breakdown hearings during this
23 session. I want to cut it short at this time, Mr. Chairman, and
24 thank you for the time to present this.

25 SENATOR McCALLUM: The chair would like to remind people who
26 are the opponents, have you filled out your
27 form and presented it to the secretaries in
28 front? If not, would you please get one and

1 make sure that it's up here? Mrs. Price.

2
3 TESTIMONY OF SALLY JO M. PRICE

4 MS. PRICE: Thank you, Mr. Chairman. Mr. Chairman,
5 members of the Committees, ladies and gentlemen, I'm here as
6 three people today. I'm representing the Montana Association
7 of Assessor's Association, a County Assessor, and then myself
8 as a member of the public. The Montana Assessor's Association
9 I will speak for first. We are in opposition for the following
10 reasons: The final report was not given to us in ample time
11 to make an in-depth study of the affects on our official duties
12 and responsibilities, and we could not, then, go ahead and make
13 a study comparing the existing proposed codes and what changes
14 would be made. And so, for these reasons, we just cannot go
15 ahead and support this. I'm changing roles now and trying to
16 do this very quickly. I'm speaking now as the County Assessor.
17 Last evening I was given a copy of House Bill 122, and upon
18 looking over it, I found some very, very sad items for the as-
19 sessors. We've been striving for a few years to unify the tax
20 assessment program statewide, so that as the taxpayer moves from
21 one county to another, he basically knew what his tax liabilities
22 were going to be. Boy, you sure have blown it apart. Upon
23 reading 47A-9-406 we find that you are going to be able to
24 impose upon us an additional motor vehicle license fee, up to
25 50 percent of fees as established in 53-122. In 47A-9-407,
26 Paragraph 1, we find a tax on use of motels and hotels of up
27 to 10 percent of the rental. And here's a joyous one for any
28 of you who commute a great deal to and from work. In Paragraph

1 2 of that same part, a fuel tax of up to two cents per gallon.
2 Now, where I live, it isn't that far to Missoula County or
3 for Missoula to come into Mineral. Mineral does not pass this
4 and Missoula does. With all these new rigs and all these extra
5 storage tanks, Missoula is going to lose taxes and lose gas
6 sales. Business is going to be hurting and the county isn't
7 going to like it; but just looking at it, it's just not quite
8 fair. And then we get down to 47A-9-405, local income tax,
9 which this time the people have a right to vote on; but it's
10 up to 20 percent of our state income tax liability. Well, as you
11 can see if you stop and think about this, we have been trying
12 as I said, we assessors, to unify Montana. These three portions
13 of this bill will throw us right back into 56 little states
14 again, and I'm very unhappy. But it's the assessor's preroga-
15 tive --

16 SENATOR McCALLUM: You'll need to hold the mike closer to you.

17 MS. PRICE: Oh, fine. I was warned not to get it too
18 close. As you know, the majority of our counties all have
19 three county commissioners. Well, upon reading what little
20 time I had to read last night, I find that they're going to
21 become full control, and it's only a majority of those three.
22 That gets it down to two men having full control in our counties.
23 And as you know, some people have stronger personalities than
24 others and that could come down to one little man; we're back
25 to a dictatorship and not a democracy. And then when I read
26 the part where most interested me, not only because I'm an
27 elected official, but because I am an American citizen, I'm
28 finding that my right to vote and to elect my officials who

1 are going to do the work for me is being taken away. Let's
2 take care of our government; let's not lose the right to vote.
3 And for these reasons I do strongly oppose House Bill 122.
4 Thank you.

5 SENATOR McCALLUM: The gentleman in the --

6
7 TESTIMONY OF AL SAMPSON

8 MR. SAMPSON: My name is Al Sampson, and I represent the
9 Montana State Firemen's Association; and I'm also a member of
10 the Missoula City Study Commission, but I am not speaking on
11 their behalf at this time. We have some objections to this
12 bill. We rise in opposition to it quite reluctantly, because
13 there are a great many good parts to the bill. However, there
14 are certain places that we feel it must be changed before we can
15 give it support; and we will bring amendments to the Committee
16 hearings at a later time and present to it testimony explicitly
17 on those. The one area is the minimum wage for fire fighters.
18 By Supreme Court decision, fire fighters and policemen are not
19 covered under the state minimum wage, and we have been our own
20 minimum wage. And also our minimum pension system for our old-
21 time widows, orphans and otherwise, is set by the state minimum
22 wage for fire fighters, and if we lose the state minimum wage,
23 we have, in effect, perhaps did a great disservice to some of the
24 retirees. We are also somewhat concerned -- before the legis-
25 lature has always treated firemen and policemen somewhat simi-
26 larly. The section regarding law enforcement does specify that
27 you shall not contract out law enforcement to a private vendor.
28 No such thing is said on the fire section. I do not think that

1 the basic government functions of fire and police service should
2 be contracted to private vendors. I think this is a function
3 to the government itself. The same thing is true that my
4 friend, Mr. Judge, said regarding the health insurance part.
5 The health insurance portion is stricken out on it; and not only
6 is the health insurance stricken out, but also the funding for
7 the health insurance. Presently there is funding specifically
8 for the health insurance, and even though the health insurance
9 would be allowed, the funding is not there, so we, in all likeli-
10 hood, would not receive it. If some of these minor things can be
11 taken care of, then we could give wholehearted support to this
12 legislation. The other area where we were not treated the same
13 as the police where we have been in the past is the police have
14 a section that says that the special law enforcement officer
15 shall not be replaced by reserves or volunteers, and we would
16 certainly feel that we should be treated in the same manner;
17 that paid professional firefighters should not, in effect, be
18 replaced by volunteers. Thank you.

19 SENATOR McCALLUM: Is there any other opponent? Senator Warden.
20

21 TESTIMONY OF SENATOR MARGARET S. WARDEN

22 SENATOR WARDEN: If there's anyone else from out of town, I
23 would yield my time at this time to them.

24 SENATOR McCALLUM: You don't have very much and we have to take
25 a break at 4:00 to change the tape, so you go
26 right ahead.

27 SENATOR WARDEN: Thank you. Senator McCallum and members of
28 the Local Government Joint Committee, I am Senator Margaret S.

1 Warden, District 18, Cascade County. I'm appearing before you
2 because I've been working for libraries for many years and I'm
3 representing the Montana Library Association. I will be pro-
4 posing an amendment next week to the committee on the library
5 section of the bill. I am proposing to delete the section
6 starting on page 339, line 17, extending to line 18 on page 340.
7 This section is 47A-6-5601 through 5604 that deals with libraries.
8 My amendment will propose that the codification of all libraries
9 under Title 22, Libraries, Arts and Antiquities, that has al-
10 ready been done by the office of the Code Commissioner will
11 prevail. Although libraries are a part of the local government,
12 libraries in these local areas are a part of the larger picture.
13 Forty-one counties are presently buying library services of some
14 kind under contract with library federations. These networks
15 are part of a larger system and work directly with the Montana
16 State Library to provide books, materials and reference services.
17 The extension of networking also involves the Pacific Northwest
18 Bibliographic Center in Seattle. Title 22, already codified,
19 deals with the Montana State Library Commission, the Montana State
20 Library, the public libraries, the Montana Law Library and the
21 Interstate Library Compact Laws. I would suggest to you that to
22 determine what the library laws of Montana are and find these
23 laws in one place would be of benefit to the citizens. During
24 the period of your hearings, library friends, trustees and users
25 testified at all of your hearings to keep the present laws
26 governing libraries intact. Freedom of information available
27 in the public library plays an essential role in the preservation
28 of our democracy. I have worked for better library service for

1 25 years. I do not feel that change for the sake of change is
2 better. Because libraries are doing a great job of serving
3 citizens and government, I believe that an exception must be
4 made in the proposed laws. At a time when citizen involvement
5 with libraries is as important as it is, I urge you to consider
6 our request. Thank you.

7 SENATOR McCALLUM: There will be a five-minute recess.

8 (RECESS: 4:00 to 4:05.)

9 SENATOR McCALLUM: Will all the Local Government Committee mem-
10 bers please take your seats? Are there any
11 more opponents to House Bill 122? Sheriff
12 Dye.

13
14 TESTIMONY OF DALE E. DYE

15 MR. DYE: Mr. Chairman, I'm Dale Dye, sheriff of
16 Ravalli County and I'm here representing the Montana Sheriff's
17 and Peace Officer's Association. We're opposed to House Bill
18 122, particularly the section that refers to law enforcement in
19 the bill. I feel that it sets up a bureaucracy that is hard to
20 understand and would be hard to deal with on a local level. It
21 was my understanding that this bill was to put government back
22 to the people. It would appear under this section that it would
23 remove law enforcement further from the people than it is at
24 this time. Thank you.

25 SENATOR McCALLUM: Any other opponents? A gentleman from Conrad,
26 I believe.

27
28 TESTIMONY OF WALTER L. HAMMERMEISTER

1 MR. HAMMERMEISTER: My name is Walter Hammermeister, Pondera
2 County Sheriff from Conrad. I not only represent the Sheriff's
3 Association, but I'll also be speaking as a private individual.
4 We are -- and I'm going to have to apologize for not having
5 my notes put together on this. I'm going to try and keep this
6 short.

7 SENATOR McCALLUM: Would you please hold the microphone a little
8 closer to your mouth? Thank you.

9 MR. HAMMERMEISTER: I'm going to try and keep this short. We
10 are absolutely opposed to this complete House Bill 122. The
11 main reason that we're opposed to this thing, not that we know
12 everything about it -- no way can we -- but what we are aware
13 of, we feel is so detrimental, not only to the law enforcement,
14 but to the people and the public in general, that we assume that
15 what we are aware of also carries over into the other parts that
16 we're not aware of. One thing also that I would like to start
17 out with and later on I will get into this, and as I make my
18 comments I will give you the page number of the absolute bill
19 here, House Bill 122, in which it's found on and its proposed
20 codes, as I give a comment; and then if there are any questions,
21 you can look these up yourself to clarify to see if I am inter-
22 preting things right or not. Before I get to that, I do want to
23 make some comments here. I feel this bill is absolutely in re-
24 verse. This bill should have been studied by legislature two to
25 four years ago and then if the legislature felt that it was good,
26 had it passed so that in turn the public could have voted on
27 this type of government last fall, rather than what they did.
28 They voted -- the majority of the people voted to retain their

1 present form of government; and there was four or five that did
2 change their form of government, but the majority of the people
3 in Montana voted to keep the same form of government. And then
4 they come into legislature after they've already voted and they
5 present a bill here that literally completely changes the form
6 of government, changes it to the way the people voted against --
7 the majority of them. This bill also is spoken of as returning
8 the power to the local people, to the county commissioners. I
9 do not believe this. From reading this bill -- and again, I
10 didn't have that much time. I got the bill on Wednesday; I
11 scan-read the thing. It took seven hours just to get through
12 it, so I haven't had time to properly compare on it. But from
13 reading this, it very much appears to me that rather than being
14 return of the government to the people, it is taking it away
15 from the people. It's not giving it to the county commissioners;
16 it's not giving the county commissioners the right to rule it.
17 If this bill goes through, most of these elements will be ruled
18 by different boards and bureaucracies at the state level; and as
19 we go through this, I will point out some of these things and
20 the possibilities for them. One thing, too, that us sheriffs
21 are quite strongly opposed to on page 7, line 11, if it goes
22 through the revised codes, it will be 47A-1-111; in my opinion,
23 and I'm sure the sheriffs, once they get a chance to read this
24 bill, would set up a complete gestapo-type government at local
25 level. This particular portion of this bill provides up to a
26 six-month jail sentence and \$500 fine for all private citizens
27 that do not jump to the whims and the whines of not only the
28 elected officials, but their employees. This bill and this

1 whole thing is supposed to be construed quite liberal. Now,
2 when you check into that particular section of state law that
3 they're referring to, which is 94-7-302, basically provides
4 that law offices -- that's the way it's originally written but
5 it also goes into all other public officials, but it refrains
6 from that name. All county employees are absolute dictators
7 to all private individual people. When a public official has
8 the right, whether it's legal or not, to enter into any people's
9 property, now this to me leaves it wide open to let them go
10 into your house, the assessor, the sanitarian, and look things
11 over, whether they have any business or not, and also, whether
12 they even have a search warrant. It's this law that they're
13 referring back to says whether the law officer is right or
14 wrong. There was a comment that these particular -- there was
15 comment that this particular section of law will delete a cut
16 of approximately 25 percent. Again, when you get into the
17 administrative codes that the county governments are going to
18 have to set up, it will not cut the actual laws, it will enlarge
19 it. It will basically set up 56 individual states within the
20 State of Montana. This particular part that I'm speaking about,
21 the Administrative Codes, is on page 19, part 3. It will be
22 47A-1-301. Another thing this will set up, it provides that the
23 county commissioners can make ordinances. This is fine; I think
24 they should, but on page 29, which would be section of law
25 1-317, the chairman of the board of county commissioners
26 can grant pardons, remit fines back to local citizens for the
27 violation of those same ordinances that have been set up. My
28 God, this sets up a beautiful thing for continuously retaining

1 himself in office. On page 31, this section of law will be
2 1-405(3), that section of law will basically close all law
3 enforcement records to the public, 'cause these laws will be
4 construed liberally. I want to point out one thing right now,
5 at our district judge level, he has issued an order denying
6 anybody access to the criminal laws that are on file in our
7 district. So you can see how liberally these things can be
8 construed. In my opinion, it's absolutely violating the state
9 laws, which even go so far as to provide for a felony on the
10 thing. He's using a federal law, but apparently, in my opinion,
11 he hasn't looked at one that completely exempts state boards
12 and state governments from that law. This I'm sure that in
13 time will be set up for a court case in which, if this is not
14 withdrawn, the county commissioners are going to have to pay
15 the cost not only of the defense of that order, but also the
16 prosecution of it, the way the state laws are set up. And this
17 law here even sets down more secrecy in government. One of
18 the reasons I was saying that this particular law is not letting
19 the county commissioners do the ruling, but the bureaucracy is
20 going to be starting here. For example, on page 33, section
21 1-405, it requires the filing of all reports and information
22 required by state law with the states. As I go through it, I
23 find similar things on this. This law also is supposedly
24 simplifying things; yet, for example, on the issue of petitions
25 alone, it throws out that basically, at first -- which would be
26 on page -- I don't have that -- but the basic idea of the peti-
27 tions would be that all petitions would be standard. It would
28 take 15 percent. Yet on page 34, they're throwing out that it

1 takes 25 percent on petitions. On page 53 it's requiring 50
2 percent petitions to do another item of work. Another one is
3 three-quarters or a majority of a municipality. And then they
4 go back to 15 percent. Page 203 it gets down to 10 percent
5 petition, and it's not standardizing things like the original
6 intent of this bill is. Another thing, on page 70, the section
7 of law would be 3-101, a new government or a new study commission
8 can be initiated at anytime, not like the constitution says,
9 but every ten years; but that's in there, that a new study
10 commission can be initiated. One thing, too, part 3 of that
11 particular section, it puts the chairman of the governing body
12 and one other elected official on that study commission as
13 an ex-officio voting member. This to me helps set up a bureau-
14 cracy. Page 93, a governing body official may be removed by
15 his other officials by missing two consecutive regular meetings,
16 unless the other officials want to accept his excuse for
17 not being there. Page 112, section of law will be 3-401 and 402,
18 the governing county officials assigned to jobs and duties
19 basically by ordinance. It also goes on on page 161, which is
20 3-404, it sets up qualifications for department heads. Now,
21 this to me means that the county commissioners could set up
22 qualifications for an individual who's going to be running for an
23 elective office at a lower level. Page 121, Section 3-409, it
24 consolidates any two elected offices. Now, it does this at
25 the end of that particular elected term or if an individual
26 dies. However, over a period of three or four elections, the
27 county commissioners, by resolution, can completely do away with
28 all other elected officials. This is in general basic powers.

1 And, again, the people voted what type of government they wanted,
2 yet later on in this bill, when it gets into self-government
3 powers, those self-government powers refer you right back to the
4 same ones that were set up for general power operation. It
5 sets up for a possibility of two different attorneys. You've
6 got a civil attorney and a prosecuting attorney. I mentioned
7 this briefly to our county attorney. He was not aware whatso-
8 ever that a bill of this sort was going through legislature. He
9 thought that it was done strictly at the voting level last fall.
10 In his opinion, and he spoke it very highly, this is going to
11 cost the county a heck of a lot more money than it presently
12 does for the legal advise. I've got a question here on the
13 thing, although I don't expect to be answered in public here,
14 but something that you can look at and remember. Page 124,
15 3-413, why must the local government or local authorities file
16 organizational charts of the executive branch with the Department
17 of Community Affairs? This to me again is just pointing out the
18 fact that I've mentioned before. It's not the local people or
19 the county commissioners that's going to be running it, it's going
20 to be at the state level. Page 166, 3-517, this provides for
21 the recall system. It sets up 25 percent of the electors. It
22 seems to me that last fall we voted on an amendment that took
23 somewheres around 10 or 15 percent of the electors. So this law,
24 before it's even passed, is obsolete. One thing that we definite-
25 ly object to, page 168, section of law is 4-101, by ordinance
26 the government body can set requirements for hiring employees
27 of all other elected officials, other than by number. They also
28 set the salaries for all elected officials and employees. If

1 this bill goes through -- and I want to make a comment here --
2 as our association was in front of the House Local Study
3 Commission yesterday for \$100 a month pay raise. We feel that
4 this is adequate at this time. We feel that this is proper.
5 If this bill goes through, it's not going to save the county
6 money like they're intending and hoping it will do. Rather than
7 my deputies getting approximately \$8 or \$9,000 a year, they're
8 going to be getting \$16,000 a year. And I'll point this out to
9 you a little later on, 'cause the state is going to have control.
10 The man that you hire -- and I'll get you the section of law
11 when I get to it -- The Montana Board of Crime Control is going
12 to set your standards as to how you're hiring your men, your
13 organization of it; and there's another item in here which I
14 forget right off the top of my hat -- when I get there I will.
15 This Montana Board of Crime Control sets down these requirements
16 and the three man appointed board for the sheriff is required
17 to uphold these things. It also does away with the deputy
18 tenure law. The sheriff's association for years has been working
19 to upgrade professional law enforcement, and this bill is going
20 to act absolutely -- knock law enforcement down. What deputy
21 are you going to get that won't have any job security? One
22 thing this bill is going to do when it goes through, if they've
23 got to talk to the county commissioners, the union -- and I was
24 surprised to hear was against this basic bill -- if this goes
25 through, they're going to have to put on extra help in order to
26 sign up all the departments they will unionize. And when the
27 county commissioners get to talking with the unions on collective
28 bargaining and such, they're going to find that no way, even in

1 the worst counties and people who aren't qualified for it,
2 they're going to be paying a wage that is mighty good, especially
3 where that deputy has no tenure. It's going to hurt law enforce-
4 ment and it's going to cost the law enforcement, rather than
5 the present salary which we're asking, which is very legitimate,
6 it's going to double the salary that we're getting just to have
7 to put up with the lack of job security on it. This collective
8 bargaining is on page 170, section of law is 4-104. Page 191,
9 and this again reverts right back to what I first started out
10 commenting about setting up gestapo tactics. Section 5-104(17)
11 provides, to enter private property for the purposes of enforcing
12 ordinances that affect the general welfare and public safety;
13 and with liberal construing of these laws, man, I'll tell you,
14 your imagination is the limit on it. And that is the second
15 time it's brought out in this particular law. The law enforce-
16 ment part that we're basically concerned with starts on -- the
17 beginning of it starts on page 353. It sets up this law enforce-
18 ment board that's over the top of the sheriff, an elected
19 official, they've got an appointed board, a board that doesn't
20 have to answer to anybody because they've got a three-year term.
21 So even the county commissioners, after they put them in,
22 couldn't remove them. This board is set up, starting on page
23 359, section of law is 6-6319(1), I believe, this board will be
24 done when a sheriff's office has three officers or more. Section
25 2, we are ruled by the Montana Board of Crime Control for organ-
26 ization and operation. It also specifies in there that they'll
27 put out a manual on how to do this. And it's this three-man
28 board that sees to it the sheriff complies with it. The section

1 of law that basically does away with the deputy's tenure is on
2 page 362, section of law is 6-6323. One other question I've
3 got to -- why I question this bill. On page 419, section of law
4 is 6-9285(12), this restricts or appears to restrict the GVW
5 only that local government can enforce. Now, this may not be
6 of any interest to many of you folks, but I'm going to spit out
7 a thing here that happened a few years ago by a previous governor.
8 Pondera County was between the devil and the deep blue sea. We
9 had minute men missiles coming in there; there was a contract
10 between the State of Montana, the Highway Department, the
11 county commissioners and the Army Corps of Engineers. The roads
12 had to be tested to see what condition they were in. One of
13 the requirements of this particular agreement was, any damage
14 to those roads in Pondera County would be reimbursed by the
15 Federal Government. But we had to absolutely enforce those laws,
16 not just put down a resolution on paper. They had to be ab-
17 solutely enforced. The Highway Patrol was requested to do this.
18 They was working the GVW, and it just so happens it turned out
19 the patrolmen kept continually writing a trucker that shouldn't
20 have been wrote; he wrote a ticket and then he went on a few
21 days off. In turn, the Highway Patrol had two other tractor
22 GVW men coming in to replace him. They got halfway to Conrad.
23 One was coming out of Missoula; one was coming out of Havre,
24 and they was stopped absolutely dead in their tracks and turned
25 around. The county commission we had at that time worked a
26 solid month trying to get them back in. We couldn't even get
27 in contact with people; they wouldn't return the telephone call,
28 the people that were to get the patrolmen in here to enforce

1 that thing. Luckily, this commissioner had some pull with some
2 individuals, and they, on the side, got us in portable scales
3 and our sheriff's office started working GVW, and we've run that
4 particular truck route out of the state -- not out of the state,
5 but out of the county. That's how we got to enforce that thing
6 in order to get federal money to reimburse us for damage to our
7 roads. And then I wonder -- and we had to go through these
8 particular GVW laws and enforce them all, not just strictly
9 three of them that I see designated down here that's limiting
10 the amount of GVW laws in the state where the counties can work.
11 Page 423, section of law is 8- -- it looks like it's 10, it makes
12 the governing body of county commissioners responsible to the
13 state for, and as prescribed by the Department of Community
14 Affairs. So again the county commissioners have to answer abso-
15 lutely to the state for what is being done. And, of course, the
16 county commissioners then also have to do all these other things
17 because they're responsible to the state. Page 446, section of
18 law is 8-308(4), the state may -- now, I'm reading this slightly
19 reversed from how it's actually printed in the law -- the state
20 may provide health services if they determine that the county is
21 not doing an adequate job on health service. And then the state
22 bills the county and they have to; so even on health service,
23 the county is losing on what say they've got there. Page 478,
24 section of law is 9-102, the Department of Community Affairs --
25 that's a state office -- shall establish an advisory council
26 on local government finances. So it's even setting up a larger
27 bureaucracy within the state government here. Another thing that
28 you might look at -- I couldn't answer the question, but if

1 you're looking for bureaucracy or trying to cover it up or
2 anything, on page 489, section of law 9-201; and my question is,
3 why is the officer or officers specified in the form of govern-
4 ment designated as a budget administrator? The way I read that
5 law, it looks to me like that's an absolutely separate person
6 that is set up to do this within the local government. And as
7 a private citizen and taxpayer, not only do I complain about it
8 with the possibilities and the undoubtedly probabilities of the
9 increase in the Law Enforcement Bill; but again, on page 544,
10 section of law 9-513(2) it requires that no election is required
11 to authorize the issuance and sale of revenue bonds. Now, it
12 follows on through later on at page 547, section of law is 9-514
13 (3), however, nothing therein -- and this is a quote from it --
14 "However, nothing therein shall preclude the use of the local
15 government taxing power for the payment of principal or interest
16 on revenue bonds." This takes it away from the vote of the people
17 on these different bonds. Commissioners can set up a revenue
18 bond and have them sold without even requiring a vote. The
19 reason -- now, I had originally said that some of these parts
20 here may be good. Personally, and also for the Sheriff's
21 Association, we are strong supporters of the JP courts as they
22 currently stand. The way that they are referred to in this
23 section of law is nothing more than language speaking, except
24 there's conflicts in this particular law on that. In one place
25 in this code, it sets up that the JP will be paid by the fee
26 system for what they do. Now, this is a step backwards, several
27 years prior to the constitution. They had been on a fee system
28 then. Then in the new section of law in this book, which starts

1 on 565, section 11-50-101 through page 570, it's exactly the
2 way that the current laws are written on JP courts, so why
3 include it in here, except for the language that is putting it
4 underneath this law for this. The one exception is that it
5 takes the authority of the commissioners, basically, for setting
6 their salaries away from them. They can set it more, but there's
7 a minimum salary set by the State Supreme Court for JP's.
8 So then the only thing a JP can do -- or the county commissioners
9 can do on a JP salary is go above the minimum salary set by the
10 State Supreme Court. Yet earlier in this same law is in it,
11 JP's would be paid by a fee system. Until I got a chance to
12 read this book, and I just -- and I'd like to say I got the
13 thing on Thursday. I was made aware of it and got it ordered on
14 Wednesday, but by the time it got to me, it was Thursday, to get
15 through this. I had wondered why this particular commission
16 was needing grants from different organizations, different
17 Federal Government agencies, rather than what amounted to
18 several hundred thousand dollars that the legislature had set
19 up; and if one of the employees on this commission quoted this
20 right, it cost somewhere around \$430,000, which took grants
21 from Traffic Safety Institute, Public Health Service, Department
22 of Health and Education for health and education, and CETA.
23 And then as I went through this, I found out the reason why one
24 of these people particularly was interested in that. On page 631,
25 section of law will be 32-1215, it supposedly specifies that
26 local governments may require accident reports. However, later on
27 at page 645, section of law will be 32-2410(5), each local
28 government chief executive shall make reports relating to traffic-

1 ways -- that's a new terminology for streets, highways, roads,
2 county roads -- under the local government supervision, which
3 are requested by the Department of Highways. So apparently the
4 counties are going to have to start compiling and putting in
5 input into the accidents that are on the county roads. One
6 thing that was surprising in this bill is the county commission-
7 ers don't set the salaries for all officials. For example,
8 they don't set the salaries for the JP's. One thing that
9 surprised me, it doesn't set the salaries also for the county
10 assessors. On page 778, section of law 84-402(4), it takes
11 the salary of the assessor from under the county commissioners
12 and puts them under the Department of Revenue. And at this
13 time, that's as far as I've had a chance to study into this
14 particular code; but I will be back at different times, and I
15 intend to put these things into writing. I thank you.

16 SENATOR McCALLUM: Is there any other opponent to the House Bill
17 122? Mr. Bell.

18
19 TESTIMONY OF JOHN BELL

20 MR. BELL: Mr. Chairman, members of the Committee, I
21 signed my witness statement as an opponent to this bill. In
22 my capacity, as obvious, for the County Clerks and Recorders
23 Association, I was in error in that. I'm not an opponent
24 really, but I do see room for lots of amendments. Looking at
25 page 431, it states on line 15, "Any document offered for re-
26 cording must be legible. The office of the county record's
27 administrator may refuse any illegible document." This
28 legislature in '74 and in '75 refused to pass such legislation.

1 I don't know how many other instances such as this there are in
2 here.

3 SENATOR McCALLUM: Thank you, Mr. Bell. Are there any other
4 opponents? The gentleman back here.

5
6 TESTIMONY OF DONALD F. McKEEVER

7 MR. McKEEVER: Thank you, Mr. Chairman. My name is Donald
8 McKeeever. I represent nobody except me, and I kind of think
9 everyone of you. I'm really concerned about House Bill 122,
10 not because it's possibly going to correct a lot of duplicate
11 laws, laws that are hard to find, laws that are hard to inter-
12 pret, laws that have in a way hamstrung county government, city
13 governments in their daily operation. However, I think it would
14 be fair to say that I'm scared to death that a law that covers as
15 much as this does may very well turn out to be worse than what
16 you have now. In the short time that I've had to look it over,
17 I've seem innumerable references to the Department of Community
18 Affairs. It appears that almost everything that any county
19 government or city council is going to want to do is going to
20 have to be approved in some way by that Department. In talking
21 with one local county commissioner, he had to agree that at
22 least under the present menagerie, or whatever you want to call
23 it, of laws, a county commission does have laws to follow.
24 They do not answer to a bureaucrat who may or may not agree with
25 what they want to do and grant them supposedly the permission
26 to do it or not to do it, which supposedly is in accordance with
27 the people they represent, the local people. I haven't heard
28 anything by anybody that tells me, as a taxpayer, what is this

1 thing going to cost me? Isn't it going to cost me anything?
2 I bet it does; I bet it costs you, too, everyone of you, and
3 I think it's going to cost us plenty. There are no fiscal
4 figures attached to this bill, that I could find, on what it
5 will bring in; no figures telling me what the Association of
6 Counties think they need that they don't have now in the way
7 of money; no figures to tell me that the Association of Cities
8 and Towns is needing X number of dollars. Where is the limit,
9 or is there a limit? Frankly, I see in passage of this bill,
10 more or less a blank check, subject to the Department of
11 Community Affairs, naturally. For taxing hotel and motel
12 accommodations, income tax, whatever, and, of course, these are
13 the tax provisions that are in the bill now. Lord knows what
14 tax provisions or taxing authorities will be granted to the
15 same people later on. But I just don't feel that it accomplishes
16 the problem. To me it is not going to untie the hands of the
17 county commissioners and the city councilmen, nor is it going
18 to solve their money problems. The solution lies, I believe,
19 in this legislative body to recodify it. The laws are scattered
20 all through the law books and there are duplicate laws; why
21 doesn't someone go through that menagerie. These people appar-
22 ently did. Why didn't they bring them into one code; not change
23 them, just bring the ones we have into a code that could be
24 followed, could be used more efficiently and so on by the
25 various county and city governments? Why can't the legislature
26 give the cities and counties the money they need, if they
27 really need it? You're giving them a lot of money now. You're
28 giving them some gas tax money. Maybe they need some revenue

1 sharing money. Maybe they need some more gas tax money. They
2 must, I think, convince you people that they need this and then
3 you people have got to hand down the source anyway from this
4 level. I don't like the idea of having to keep income tax
5 information for the city that I live in, the county that I live
6 in. The bill says that if I perform services or derive my
7 earnings in a jurisdiction that does not have an income tax,
8 that I shall pay my jurisdiction of residence, if they do. If
9 the jurisdiction that I reside in does not levy an income tax
10 but the one I perform my services in levies an income tax, I
11 shall pay it there. What do you do when you take a load of
12 cattle across the county line and you sell it in Billings,
13 Montana and you live in Forsyth, Montana? Who do you have to
14 file with and prove what you did, how much you got for them?
15 Maybe some of those cattle were raised in Treasure County, I
16 don't know. The gas tax, it says there can be as much as two
17 cents per gallon levied by -- I think it's on a county-wide
18 basis, so long as all municipalities within that county also
19 levy it. It's called an excise tax. I think that there's a
20 difference between excise tax and license tax. Right now we
21 have, and we had had for a long time, gasoline tax imposed upon
22 the seller of the gasoline as a license tax. The tax was not
23 imposed on you or I as users of that gasoline; it was imposed
24 on people who made the gasoline. An excise tax, I believe,
25 differs in that tax in that a license tax is paid to the State
26 of Montana by the United States Armed Forces, by the United
27 States Government, by every city, every county; it's paid by
28 everybody. An excise tax, I do not believe, would be or could be

1 imposed upon the Federal Government, any other county, any other
2 city, or any other governmental agency that operates vehicles.
3 Another question on the gas tax, it doesn't say anything about
4 being refundable to a farmer for using it off the road. Is it?
5 It doesn't say so in this bill, that I can see. What does he
6 have to do to get it? Does he file another gas tax refund
7 claim to the city that he bought the gasoline in, to the county
8 that he bought it in? Does he keep records for them as well as
9 the state. I just feel, gentlemen, that this bill has come up
10 quite fast and while there's been a lot of study and a lot of
11 time spent drafting it, there has been very little time for any-
12 one to actually evaluate the impact it will have on each and
13 everyone of us sitting here. I strongly recommend that you
14 people on this committee advocate the formation of a study group
15 or an interim study group, or whatever you want to call them,
16 to do just that. We've got a proposed revision of all these
17 laws. I think we need somebody to evaluate these revisions.
18 We've heard a lot of comments about various parts of it. Even
19 the proponents of the bill, in general, say they know there's
20 some bugs in it. Well, I say there might very well be some
21 worms in it in addition to the bugs. So I would ask you to
22 consider recommending an interim committee to study this thing.
23 Give it a little time. Let's not pass it just because parts of
24 it are good. Let's wait until it's all good and then pass it.
25 Thank you.

26 SENATOR McCALLUM: Would you state where you're from, please?

27 MR. McKEEVER: Oh, yes, I'm sorry. I live at 830 Fifth
28 Avenue here in Helena.

1 SENATOR McCALLUM: Are there any other opponents of House Bill
2 122? Representative Gerke, would you like to
3 have your rebuttal time?

4 REP. GERKE: Thanks, Mr. Chairman, and I won't take up
5 really very much time. I certainly appreciate
6 your patience and that of our chairman
7 and members of the Committee that had the
8 duration to outlast a number of the other
9 committeemen here and even some of the
10 witnesses. This is an important considera-
11 tion, and I just can't over-emphasize the
12 importance of learning really what's in the
13 bill. And I think it was demonstrated here
14 today in some of the testimony -- especially
15 some of the last testimony -- that the bill
16 really hasn't been read and studied yet by
17 those particular people. Almost any kind of
18 a law you could pick a few holes in it. Eighty
19 percent of this that we're proposing here, or
20 close to that, is already existing law. Much
21 of what was quoted by one of the witnesses
22 here is already existing law. So you have to
23 know those things. And those of you that are
24 working with it, I'm sure you know that. Now,
25 this particular piece of legislation, House
26 Bill 122, was not cooked up by the State
27 Commission on Local Government as such, not
28 by Dan Mizner and his group, not by Dean

1 Zinnecker and his group, not by the firemen
2 or the policemen or anyone else, any one
3 particular person. We have had extensive
4 meetings and hearings around the state. I
5 think it's the only board, only commission --
6 committee, if you want to call it that --
7 that has had wide open meetings. There has
8 never been, in the three years that this
9 thing has been on the road to be looked at
10 to take testimony, and all the rest of it,
11 there has never been a closed meeting, never
12 once. There has never been, to my knowledge,
13 anybody that spoke up and wanted to testify,
14 wanted to make a suggestion or ask a question
15 in any of those meetings that was every re-
16 fused that opportunity. It's the most demo-
17 cratic and wide open meetings that we could
18 possibly hold, and we intended to have it that
19 way because it affects the people and we
20 wanted it to be for the people. It has been
21 said here -- and I'm going to jump around
22 a little because I said I don't want to cover
23 all of it because this is just taking too
24 much time. We'll get that later on -- but
25 it's been said that this law puts us under
26 the Department of Community Affairs.
27 Nothing could be further from the truth; just
28 nothing could be further from the truth.

1 We're not under the Department of Community
2 Affairs in any way, shape or form. The only
3 place that the Department of Community
4 Affairs is mentioned is wherever reports are
5 made, that's the place they'll go, insofar
6 as the state is concerned. They have to go
7 someplace if you're going to make reports.
8 And I think people in this state are entitled
9 to know what's going on in the various
10 counties. Some other county might want that
11 information. We have a central point for it;
12 that's where it will be. Some suggestion
13 made of a delay, that we should delay it a
14 couple of years or so and study it some more.
15 We've been after this for four years, or three
16 years now; it's been studied and it's offered
17 here now for the legislature to make a deci-
18 sion on. It's been said that copies of the
19 bill haven't been distributed to the citizens
20 of the communities, to the constituents.
21 Well, neither has any other bill. This has
22 just about as wide a distribution as almost
23 any other bill, or any other bill. The
24 reason that it has been a little bit slower
25 is simply because of the size of the bill,
26 the press of the printing, the deadlines down-
27 stairs, and the expense of printing the bill
28 itself and the mailing. But it is available,

1 we're not withholding it from anybody. Now,
2 some have complained about the ordinance-
3 making power or powers that the county
4 commissioners will have if this goes through
5 now. In 1975 session, they already have
6 been given a lot of these powers. They'll
7 become effective in May, regardless of what
8 you do here, unless you repeal that law.
9 All this does is to outline those powers,
10 to define the power, and to let people know --
11 let them know, let the county commissioners
12 know and others know just what they are.
13 City councils have had this power for sixty
14 years. They seem to get along with it all
15 right; it's just widening their powers, giving
16 them a little more authority. As far as terms
17 are concerned, it's mentioned that some
18 places it says 15 percent, some places it
19 says 25, some places 30 percent, to hold
20 various vote. This is all put in to one
21 new code so that it will be uniform, whatever
22 your proposition is. Library boards --
23 strong, it has been all through. We've been
24 accused of not putting in mandatory legislation
25 for library boards; but we felt on the
26 Commission and the people that have drawn
27 the bill now feel that they're not treating
28 the library boards any less or any more than

1 any other board. It's stated here by some
2 of the witnesses that they were most important.
3 I'm sure they're the most important in the
4 view of those people, but I can point out other
5 people that feel that their board or commis-
6 sion is just as important. The bill does not
7 exclude, does not prohibit the boards; all
8 it does is to make them responsive to their
9 appointing authorities, which I don't think
10 is any more than fair. The elected official
11 is the one that ought to be responsible when
12 things go wrong. That's the one you want to
13 appeal to. It isn't some person that's
14 appointed to a board that you can't reach or
15 even an employee that you can't reach. The
16 employee -- you can go to the people that
17 hired him and do something about it. So I
18 think we've treated all of them fair. I
19 guess I would have to wind up, Mr. Chairman,
20 by saying that we do appreciate all of your
21 coming from whatever distance you do and have,
22 and we've lost a lot of people here now; but
23 we'd like for you to consider with an open
24 mind, it is a change, it's something that
25 we've talked about for years. I've been
26 around this legislature for a long time; I
27 was in city government before that. I've
28 heard county people talk about the same thing,

1 home rule; we want home rule; we want to be
2 able to govern ourselves; we want to be able
3 to have something to say about what we are
4 doing on the local level. This is a real
5 honest effort to give them that home rule,
6 the first time in ten or twelve years that
7 I've been around here, and I'm sure that's
8 true for a number of others. This gives them
9 the home rule. And I think this is the thing
10 that's hard for the people that's receiving
11 the home rule to understand that they now might
12 get it; and it's equally as difficult for the
13 legislature to understand that they're giving
14 up some of their authority. It has been
15 testified here today that you should put some
16 limits on it. Why should you put some limits
17 on it? The limits are in the hands of those
18 people at home who will have the authority
19 and responsibility for that government. If
20 they use it unwisely, the people there will
21 take care of them, just the way they do any
22 other elected official. In addition to that,
23 you have the tools of recall, you have the
24 tools of initiative and referendum; so you're
25 well protected. But it's a -- I just want to
26 impress that it is a real sincere effort for
27 home rule, toward giving the people at home
28 a chance, once, for all to participate in the

1 decisions made on the local basis, that
2 should be made there, and responsibility be
3 placed on the people that had to make those
4 decisions. I want to thank you again very
5 much for your time and attention.

6 SENATOR McCALLUM: Thanks, Representative Gerke. Do any of the
7 Committee members have any questions of any
8 of the witnesses? (NO RESPONSE) If not,
9 I would like to thank you for being so
10 attentive; those of you who have traveled a
11 great deal of distance, we appreciate it.
12 This bill will be heard in the Local Govern-
13 ment Committee of the House and Representa-
14 tive Robbins did give you the schedule. It
15 will be posted again. Representative Robbins,
16 would you like to make a further announce-
17 ment relative to your hearings?

18 (REPRESENTATIVE ROBBINS MAKES ANNOUNCEMENT)

19 SENATOR McCALLUM: This bill will proceed the same as any other
20 bill. After the House acts on it, it will
21 have to be transmitted to the Senate within
22 45 days or the rules would be suspended;
23 and the Senate Local Government Committee
24 will hold the same hearings on it as what the
25 House does, so it will have a good hearing.
26 If there is no objection, the meeting is
27 adjourned.

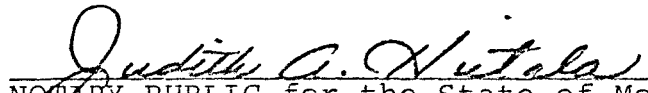
28 (HEARING ADJOURNED - 5:00 P.M.)

C E R T I F I C A T E

STATE OF MONTANA)
County of Lewis and Clark) ss.

I, Judith A. Hietala, a Notary Public for the State of Montana, do hereby certify that I am the reporter who took the above proceedings and that the foregoing is a full, true and correct transcript of the proceedings had, to the best of my abilities.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this 22nd day of February, 1977.


NOTARY PUBLIC for the State of Montana.
Residing at Helena, Montana.
My commission expires August 15, 1978.

(Notarial Seal)