

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 9, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on March 9, 1987 at 1:00 p.m. in Room 312-F of the State Capitol.

All members were present with the exception of Rep. Grinde who was excused but joined the meeting at a later time. Rep. Dave Brown and Rep. Ramirez were absent. Lee Heiman, Committee Counsel for the Legislative Council was also present.

CONSIDERATION OF SENATE BILL 274: Senator Swede Hammond, Senate District 9 and sponsor of the bill, stated the bill was an act to allow local government entities to restrict publication of audit reports to just a statement that the report is on file and open to public inspection. He said they must also send one audit report to the newspaper. Senator Hammond stated anyone can receive a copy of the audit by request. He said the bill was brought at the request of cities and towns.

PROPOSERS: Alice Kuehn, Ekalaka and representing the MT Clerks' Association, stated the auditor's comments are 1/3 in the form of a letter from the Department of Commerce stating the town does comply with the generally accepted accounting principles. She stated this letter is written for every audit conducted in the state. She stated the other 1/3 of the comments are in the form of a letter for small towns that says the town does not comply with internal control. She said that is the auditor's term that the town does not have adequate staff to create a check and balance system. She stated the auditor is not saying that this needs to be corrected but that it exists in small towns. Ms. Kuehn stated the auditors' terminology is not always something the public can understand because it is not generally common knowledge to the public.

Ms. Kuehn felt it important to stress that the bill is not aimed at denying the public's right to know. The bill allows communities to make the decision of what should be published. She stated Ekalaka's last audit comments cost \$144. She stated if the money was spent for publishing something about the governmental audit they feel it should not be for just letters that are common to other audits in the state. She commented it would be for something pertaining to Ekalaka personally and its financial condition.

Ms. Kuehn gave examples of other uses for the \$144 if the money was not used for publishing the auditor's comments. She said large and small governments are having a struggle balancing their budgets mainly because of the lack of choices on how to spend the dollars. She stated the bill would allow them the choice of what to publish about their audits and felt it was a cost saving procedure. She presented a witness statement (Exhibit 1).

Don Hackman, City Clerk from Laurel and representing the MT Municipals Clerks, Treasurers and Finance Officers Association, stated most people misunderstand or misinterpret the audit comments as they are published now. He stated one comment that is misinterpreted is the internal control comments. He said with the bill there is a cost savings factor and the money could be put to better use or possibly it could be one of the budget cuts for the new fiscal year (Exhibit 2).

Janet Jessup, City of Helena, stated they were in support of the bill for reasons already stated. She stated for the cost of printing the comments in the newspaper they could mail out 220 copies of the entire audit document. She felt this would be a better way of getting the information out to the people who are truly interested.

Kathy Denke, Thompson Falls Town Clerk and representing the MT Clerks, Treasurers and Finance Officers Association, stated she was confident if the Thompson Falls newspaper saw anything that would be of particular interest it would be in the newspaper because the press is at the council meetings and they do have access to the information. She commented the \$216 price of audit reports represents over 20 percent of the towns publication budget. She stated that is up from \$185 from the 1985-86 fiscal year. She gave examples of where the money could be better spent for them rather than publishing the comments in the paper (Exhibit 3).

Larry Anderson, Administrative Assistant to the Missoula Mayor, stated the cost of the audit in Missoula was \$216. He stated the size of the next audit will be three times the previous one published because the Single Audit Act of 1964 requires the city responses be included in the audit document. He stated this will be an additional burden to the city. Mr. Anderson felt the legislation was a very important step towards making government more efficient and towards reducing the governments cost.

Kelly Reimche, City of Belgrade, presented the committee with written testimony in support of SB 274 (Exhibit 4).

Alec Hansen, MT League of Cities and Towns, stated the large cities and small towns support the bill for the

purpose of reducing the cost of government. He emphasized to the committee that the bill in no way attempts for the cities to hide something or violate the public's right to know.

Jane Campbell, MT Society of Certified Public Accountants, stated in context of more efficient and cost effective government, they support the bill.

OPPONENTS: George Moore, Executive Director of MT Press Association, stated the auditor's general comments are a report card describing how elected and public officials are living up to the public trust. He gave examples of general comments published for the City of Belgrade and the City of Helena. He stated the auditors put their sites on various ways the public's money is not being handled properly. He commented the comments are important and often the only public accounting of how the officials are doing.

Mr. Moore stated the issue is not economic despite what the proponents stated. The cost of publications are minimal: Yellowstone County, \$800; Great Falls, \$265; Libby \$36; Malta \$198. He said those costs are spread over two and sometimes more years. He said it cost some municipalities more to send people to testify at the hearing than to publish the general comments. Mr. Moore stated the real issue is accountability and felt the public officials and lobbyists would prefer that the requirement be eliminated in order to spare public officials that public accountability and in some cases public embarrassment when the auditor's comments criticize their job performance. He commented dissemination of the comments would drop to a fraction of what it is now should the bill pass. He stated units of local governments must be held accountable and the publishing of the general comments plays an important part in accomplishing that. (Exhibit 5).

DISCUSSION (OR QUESTIONS) ON SENATE BILL 274: Rep. Sales asked if the audits are 80 to 85 percent general comments and do not tell where the problems would be, how can the public's right to know be protected? He said just to say that the audit is done and available would not be doing much for the public.

Alice Kuehn responded that the Clerks' Association and the town of Ekalaka feel that giving a copy of the entire audit to the newspaper for them to comment on should answer the public's right to know.

Mr. Moore also responded that referring to percentages or proportions of audits really have no relevance to the

public because it depends on the size of the audit and the audit comments. He stated there is no way to really eliminate the standard accountant language that leads into the general comments of the audit. He suggested that it be discussed by the MT Association of CPA's. He commented that saying that 2/3's of an audit is standard jargon and introductory comments is not the case for example in the Missoula audit.

Rep. Bulger asked for a response on Points 5 and 7 of Mr. Moore's handout (Exhibit 5). He said Point 5 states dissemination of this information would be less under SB 274. Point 7 suggests that while newspapers could publish news stories about the audit that many would not be able to do so. He felt Point 7 was a legitimate concern.

Ms. Kuehn responded that Point 5 is true. She said the ad as required under SB 274 would say that an audit had been conducted and a copy is on file in the business office. She said that would be less dissemination than is required at present.

Rep. Bulger commented that the audit could be sent to all newspapers for them to handle it as a news story but Point 7 states there are many reasons why newspapers might not do the best job. There could be potential conflicts of interest because of printing contracts or for other reasons.

Ms. Kuehn responded that she did not believe the papers would withhold information because it is their responsibility to print it if it is important to the community. She said an informed public is much easier to deal with than one that is not informed. She stated the bill is not aimed at not letting the public know.

Senator Hammond in closing stated during the Senate hearing quite a few newspaper people stated things about books and records in the small towns which he felt were unfair because of many being untrue. He commented that from phone calls he had received from newspaper people, the biggest objection was the bill would be taking money from them. He said it is not a large amount but appears to be bothering the taxpayer. He stated in many instances one mill does not raise \$100 in the small towns and so it takes quite a few mills to cover costs such as the audit printing.

Senator Hammond felt it important that the committee know that the people testifying were on vacation or comp time and some were present on their own time.

He stated the amounts for publishing the audit comments are small but the budgets are small. He said the local governments are having a tough time and in the small towns a few dollars mean an awful lot. He hoped the committee would concur in the bill to let the governments run their businesses.

CONSIDERATION OF SENATE BILL 382: Senator Greg Jergeson, Senate District 8 and sponsor of the bill, stated the purpose for the introduction of the bill was to clarify the law with respect to irrigation facilities, districts and ditch companies. He stated the legislature had made a policy decision to remove irrigation districts from property taxation. SB 382 was to clarify that that exemption applied to SID's also.

Senator Jergeson stated because of the transmittal deadline, the bill went through the Senate with some problems that were recognized during the debates on the bill. He brought amendments to the committee with respect to those problems (Exhibit 6). He stated the amendments would provide that rights of way, ditches, flumes, pipelines, those things listed in the second amendment he proposed, would be exempt from assessments for an SID but property that might benefit from an SID would not be exempted. He presented a second set of amendments which dealt with the effective date for the application of the act (Exhibit 7).

PROPOSERS: Jo Brunner, MT Water Development Association, stated SB 382 was requested by the Association to alleviate some of the problems they feel have happened and could happen in the future with the cities moving out more and more around the irrigation districts. She stated the amendments are the Association's amendments.

OPPONENTS: Jim Tilletson, City Attorney from Billings, stated they opposed the bill because they felt it totally unnecessary. He stated under current SID law for cities and counties, a piece of property must be benefited before it could be included in a SID. He stated once the benefit is determined, the local jurisdiction must also determine the extent of that benefit and structure the assessments to assure that the properties benefit and pay equally.

Mr. Tilletson stated if the intent is to protect properties from special assessments for improvements or services which do not benefit the properties, there is adequate protection under existing SID laws. He stated the law is not a clarification but a change in existing law. He said ditch company property has been subject to special assessments for over 70 years in the state and if they were being abused the legislation would have been seen much earlier than now.

He stated the bill is inequitable since it exempts all property owned by a ditch company. He stated he spoke of the bill passed by the Senate because he had not seen the amendments. He stated the amendments making the bill retroactive are unconstitutional. He stated in cases where a district has been created and bonds sold prior to the effective date of this act, local jurisdictions have entered into a binding contract with the bond buyer. That contract includes the commitment that certain properties within the district are subject to the lien for district assessments. Mr. Tilletson stated that under the federal and state constitution the legislature cannot pass a law that will impair the performance of those existing contractual obligations.

Alec Hansen, MT League of Cities and Towns, stated Mr. Tilletson covered all the issues they were concerned with and the League of Cities and Towns opposed the bill.

Senator Jergeson, in closing, stated he believed the amendments took care of the problems voiced by the City of Billings. He said it was clear to him that a right-of-way or a ditch would not receive any benefits from a SID and therefore that was clarified in the bill that those kinds of properties be exempt from the SID assessment. He said a building or headquarters would in fact benefit and the way the amendments read those kinds of properties would be assessed. He said the final amendment offered should take care of the retroactive objections of the City of Billings.

Senator Jergeson asked the committee's support of the bill and stated he would leave it up to the committee as to who would carry the bill on the House floor should the bill be passed.

CONSIDERATION OF SENATE BILL 309: Senator Joe Mazurek, Senator District 23 and sponsor of the bill, stated the bill was introduced at the request of the City of Helena. He stated the bill gives some additional flexibility to cities on the basis in which they can make assessments for street maintenance districts. He said this was done for special improvement districts in the last session. He stated SB 309 merely extends that flexibility for assessments to street maintenance districts.

Senator Mazurek stated the reason the city requested flexibility in these areas are because they are generally very large districts, possibly an entire city or half of the downtown area. He stated city governments can use either assessable area as defined in Section 1, street frontage or taxable value as a basis for determining the assessments.

He stated the bill would allow use of the term assessable area and would allow a combination of any of those three methods available under SID assessments to determine the assessment for street districts.

PROPONENTS: Janet Jessup, City of Helena, stated Helena has had street maintenance districts since 1983 and sprinkling districts which were basically the same thing for several decades. She stated they have just completed a 2 1/2 year process of going through the district to try and review what is being assessed and to make sure the properties are being assessed accurately. Ms. Jessup stated the bill would give the flexibility that is necessary to tie the assessment that the property owner pays directly to the benefit received.

Don Hackman, MT Municipal Clerk, Treasurers and Finance Officers, stood in support of SB 309.

Larry Anderson, Missoula, stood in support of the bill.

OPPONENTS: None.

Senator Mazurek closed on SB 309.

CONSIDERATION OF SENATE BILL 367: Senator Ethel Harding, Senate District 25 and sponsor of the bill, stated SB 367 was an act to classify family and group day-care homes as a residential use of property for the purpose of all local ordinances. She stated page 12 of the bill includes the relationship of foster homes, youth group homes and community residential facilities and they have added day-care homes which she felt were just left out to start with. Senator Harding presented testimony from Daniel Johns, an attorney from Kalispell, to be entered into record in support of SB 367 (Exhibit 8).

PROPONENTS: Barbara Archer, Womens' Lobbyist Fund, presented written testimony and read from her testimony (Exhibit 9).

Susan Christofferson, Kalispell, presented a witness statement to the committee (Exhibit 10).

Susan Hardy, Flathead County Head Start, presented written testimony (Exhibit 11).

Jeanne Doney, Helena, stated she had appeared to testify as a working parent and had taken annual leave from the Department of Commerce where she worked full-time. She stated Helena has one of the highest percentages of working women in the nation and therefore day-care is a critical problem. She stated she was a former day-care operator and

had opened the day-care because there was not quality care available for her child. She said there is a substantial need for day-care for children who attend school in the neighborhood. She said there is a transportation problem trying to move the children out of the neighborhood child-care into the facilities that exist in the area. She stated this is an incentive for parents to leave children home by themselves from first grade on up. She commented that bringing children back into the mainstream of the neighborhood is very important.

Valerie Westphal, Whitefish, stated she applied for a permit to operate a group day-care in her area. She stated on February 2 of this year, the city council voted unanimously not to issue a use permit. The council stated day-care was a commercial business and not allowed in a residential area. They stated 12 children in the neighborhood would devalue the property, the street could not handle the extra traffic and the children make too much noise. She stated the council again said on March 2 when she went back with a lawyer that she could not operate the day-care.

Ms. Westphal stated she had letters of support from all neighbors in her area except three. She stated her facility was acceptable and described her house and its surroundings which was used for the day-care.

She stated there are 7 homes in Whitefish registered with the state and 12 others including herself that are not. She asked what the point of becoming legal with the state is if they remain illegal with their local governments. She said similar day-care problems exist in every town in MT. She presented letters from supporters of the bill in Whitefish (Exhibit 12).

Katherine Campbell, representing the League of Women Voters of MT, presented written testimony (Exhibit 13).

Lori Adams, Whitefish and representing the Flathead Association for Education of Young Children, presented a witness statement (Exhibit 14).

Mary Nagel, Lewis and Clark County Child Care Team, stated they are a group of concerned professionals that have worked on this issue for the past two years. She presented written testimony (Exhibit 15).

Kathleen Harrington, American Association of University Women, stated they support quality child care and presented her statements to the committee (Exhibit 16).

Mary Zastrow, Helena, stated she ran a day-care home for 7 to 12 children. She presented a witness statement (Exhibit 17).

Linda Hedges, Kalispell, stated she was in support of the bill because of the option of taking her children to a day-care home in her neighborhood where there would not be 30 or 40 children.

Rosemary Miller, parent of a preschooler, stated she would like the preference of keeping her child in the neighborhood and urged the committee's support.

OPPONENTS: Jim Tilletson, City Attorney from Billings, stated they do not have a problem with the basic intent of the bill. He stated the problem is with the language which takes away the ability of local governments to require a conditional use permit for special review when these businesses locate in residential areas. He stated in Billings, if the day-care home services 1 to 6 children, it is an allowed use in all residential zones except R96 which requires a special review. If the facility serves 7 to 12 children, then they have to go through the special review in all residential zones.

Mr. Tilletson said for the committee not to forget these are businesses being put in residential areas. He said when the home has 12 children, it departs from the residential character of the predominant use in the area. He said there may be additional traffic problems, problems with egress and ingress and location of loading and unloading areas. He said there may be a need for signing of those areas. There are off-street parking requirements that should be looked at the staff. He stated there may be a necessity for buffering the outdoor play areas from the neighboring places.

Mr. Tilletson stated under current law the city has the right to require youth group homes and community residential facilities serving 8 or fewer if they choose to locate in a residential area to a conditional use review. He stated they need the same protection in the case of day-care homes.

Kathy Macefield, City of Helena, submitted a letter from Bill Verwolf, Helena Manager (Exhibit 18). She urged the committee to give the local governments the option to decide day-care considerations that relate to safety concerns and compatibility with the residential areas. She said through conditional use permits the day-care homes are still permitted. They would just go through a public hearing process which would address neighborhood concerns. She pointed out in regards to the safety considerations, on page 2, lines 6 and 7, the SRS safety considerations would be eliminated. She said these requirements are minimal and are not adequate. They only address the locations of fire extinguishers and do not address the locations for emergency exits or the number of emergency exits. She stated this was important

especially when a single-family residence is converted into a day-care facility. She said children could be provided for in the basement and without adequate fire or emergency exists, tragic consequences could occur. She proposed that the bill be amended to address the concerns of these safety considerations. She proposed changing the word "home" on page 2, lines 7, 10 and 12 to "facility" and striking the language on page 2, lines 14 through 17. She presented a witness statement (Exhibit 19).

Dave Bishop, MT Association of Planners, stated the proponents have some very real concerns. He stated his concerns were addressed by the opponents. He presented written testimony (Exhibit 20). Mr. Bishop asked the committee to remember that operating a day-care home with more than 6 children cannot be seen as a babysitting service but as a commercial operation. He said the average child pays \$10 per day which would be \$120 per day for 12 children. He said a conditional use permit costing \$375 could be paid for the first week and is a one-time cost. He stood in opposition of the bill.

W. J. Verwolf, Helena City Manager, stated the safety aspect is the primary concern. The other concern is the conditional use permit process which is not a process for denials but one for modification. Mr. Verwolf stated it is important for the people in those neighborhoods to have a chance to voice concerns with the facilities through the public hearings. He stated he did not know of any day-care being denied. He said there have been modifications which included things like places for drop-off, screening, fencing, noise barrier type things. He commented a facility with 7 to 12 children would have enough impact on the residential neighborhoods that those people have a right to get involved to make sure their concerns are met.

Rayleen Beaton, Helena City Commissioner, stated she backed up Mr. Verwolf's statements. She said she appreciated the concerns of the day-care operators. Ms. Beaton asked the committee to permit the elected officials to sit and listen to all concerns through the hearings in order to have the best day-care facility possible.

DISCUSSION (OR QUESTIONS) ON SENATE BILL 367: Rep. Grinde asked if there have been a lot of complaints from neighbors in these facilities?

Dave Bishop responded that there is a liability issue but as far complaints, he did not have those kinds of statistics.

Rep. Grinde commented that Mr. Bishop had eluded that the day-cares could make the CUP charges up in one week. Rep. Grinde stated that was not the point whether they could

or could not. He asked how the CUP costs are determined? He stated it appears that every city can charge whatever they want.

Mr. Bishop stated the least is in Flathead which is \$50 and the highest is Helena which is \$375 and the charges fall in this range throughout the state. He stated it includes the building department inspection, fire marshall inspections, everything. There are no further costs.

Rep. Kitselman commented about the City of Billings adopting a new fire ordinance requiring sprinkling in all commercial buildings. He asked if the day-care operators had difficulties in purchasing liability insurance for the homes?

Susan Christofferson responded that there has been a great deal of trouble. Homeowner policies have been cancelled or not renewed. The cost of the insurance went up in excess of 500 percent in 2 years.

Rep. Hansen asked where the children would go if they were not in the day-care homes?

Barbara Archer responded that many would go to substandard facilities.

Rep. Hansen commented the payoff is whether the children should be left in a less desirable facility or one that is acceptable to the city. She asked how hard it would be to get 12 children out of a home in the case of a fire? She said she had 6 children and could get them all out and wondered if the concern about the fire code was that serious.

Barbara Archer responded these things are covered in the SRS Rules and Regulations. The homes do have to have fire plans, easy access routes, pathways clear to meet the SRS regulations.

Rep. Hansen asked if the day-care homes are inspected by anyone?

Ms. Archer replied it was a self inspection process and in order to be registered, written recommendations are needed and the self inspection list needs to be notarized every year.

Rep. Hansen asked what the average charge was for children in the day-care homes?

Ms. Archer responded \$8 to \$10 per day. She commented that 12 children at \$10 per day would be \$2400 per month

based on a five-day week. Two adults are required by SRS for 12 children. At \$3.61 minimum wage that would be \$1340 to pay the adults. Then there is insurance, taxes, liability insurance, food, wear and tear on the home and other materials.

Rep. Hansen responded then that the job is usually a minimum wage job and is usually not a high profit job.

Rep. Grinde asked Senator Harding if she would be interested in putting the amendments into the bill that were proposed by the City of Helena?

Senator Harding replied she would be interested in working with them. She stated it was her understanding that the safety requirements were taken care of through the SRS registration. She said they would have to be looked at but she would be willing to work with them.

In closing, Senator Harding, stated the homes are already in place and operating with up to 6 children. Adding 6 more children in a residential neighborhood and requiring that they be registered by SRS seems the logical thing to do. She stated she was fortunate when going to work to be able to leave her children in a day-care home that had 6 or 7 children in a residential neighborhood. She felt that very important today where the mothers are working mothers and need to leave their children from the time they are very small. Senator Harding stated this is traumatic enough for the children and the parents. She stated it is very important that they have a setting that is relatively close to a home setting. She said the day-care homes are homes and are properly supervised. All the safeguards are up and these people are not making a large amount of money. She stated big business is not being talked about but future generations of small children being placed in home environments in residential areas. She said it is a proper bill and urged the committee's concurrence.

Chairman Wallin told the committee they would meet for executive action on Wednesday at 12:30 p.m.

ADJOURNMENT: There being no further business to come before the committee, the meeting was adjourned at 2:45 p.m.


Rep. Norm Wallin, Chairman

DAILY ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date

2-7-7

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN			
REP. RAY BRANDEWIE, VICE CHAIRMAN			
REP. BUDD GOULD			
REP. REP. TIMOTHY WHALEN			
REP. PAULA DARKO			
REP. TOM BULGER			
REP. JAN BROWN			
REP. BOB GILBERT			
REP. LARRY GRINDE			
REP. WALTER SALES			
REP. STELLA JEAN HANSEN			
REP. PAUL PISTORIA			
REP. ROBERT HOFFMAN			
REP. LES KITSELMAN			
REP. JACK RAMIREZ			
REP. DAVE BROWN			
REP. CAROLYN SQUIRES			

WITNESS STATEMENT

NAME WILLIE MURKIN BILL NO. 274
ADDRESS 1711 1st St. S.E. DATE 3-9-87
WHOM DO YOU REPRESENT? Young Men's Christian Association
SUPPORT Yes OPPOSE No AMEND No

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am a member of the Young Men's Christian Association and I am writing this statement to support the proposed changes to the constitution of the association. I have read the proposed changes and I believe they are in the best interests of the association. I have discussed this with the other members of the association and we all agree that these changes are necessary. I am sure that these changes will help the association to better serve its members and the community. I am sure that these changes will be accepted by the members of the association. I am sure that these changes will be accepted by the members of the association. I am sure that these changes will be accepted by the members of the association.

DATE 3-9-87
 SB 274

ADDRESS _____
Ekajaka, Montana 59324

I certify that this claim is correct and just in all respects, and that payment or credit has not been received.

(Sign here in ink)

Handwritten signature

TOWN OF EKALAKA
EKALAKA, MONTANA
REPORT ON COMPLIANCE MATTERS

Our audit included tests for compliance with statutes, regulations, ordinances and other requirements that the Town of Ekalaka is required to adhere to. For the items and areas tested, the Town was in compliance with the applicable provisions referred to above, except for the areas listed below. In addition, based on the procedures employed, nothing came to our attention that caused us to believe the untested items and areas were not in compliance with applicable statutes, regulations, ordinances and other requirements.

CASH FUND OVERDRAFT

The Sewer Operating Fund had cash overdrafts on June 30, 1983 and 1984 of \$87.00 and \$1,841.10, respectively. The Sewer Operating Fund had not registered warrants as required by Section 7-5-4001, MCA.

RECOMMENDATION

When there are insufficient moneys in a fund to redeem check/warrants, the check/warrants should be registered. The Town Council should review the revenues and expenditures of each fund having the cash overdraft or cash flow problems to determine what corrective action should be taken.

CONFLICT OF INTEREST

One Town Council member had a construction contract with the Town of Ekalaka. This appears to be contrary to the provisions of Section 7-5-4100, MCA, which states that the Mayor, any member of the Council, any Town officer, or any relative or employee thereof must not be directly or indirectly interested in the profits of any contract entered into by the Council while he is or was in office.

RECOMMENDATION

The Town Council should not enter into a contract with the Mayor, members of the Council, Town officials or any relative or employee thereof.

REPORT ON OTHER FINANCIAL AND INTERNAL ACCOUNTING CONTROL MATTERS

Findings relating to financial or accounting matters, along with our recommendations, are presented below.

REVENUE CLASSIFICATION

Some revenues were not classified properly. Corporation license taxes were recorded as taxes, rather than as intergovernmental revenue. Some motor vehicle fees were recorded as tax revenue, rather than as license and permits.

RECOMMENDATION

The Town should monitor all collections to insure that they are properly classified by source as set out in the Town Accounting and Reporting System.

REPORT ON PRIOR AUDIT REPORT RECOMMENDATIONS

The following is a summary of recommendations contained in the prior audit report and the actions taken on them by the Town:

RECOMMENDATIONS	ACTIONS TAKEN
Fixed Assets-Inventories-Not Implemented	
A complete physical inventory should be taken each year of all Town-owned land, buildings and equipment. The information obtained from the inventory should be used to update the card file and adjust the general ledger fixed asset accounts. Further, the Town Council should adopt a policy defining the assets to be capitalized, records required, how and when a complete physical inventory should be taken, and any other information needed to insure a complete and proper fixed asset inventory system.	
Budget Line-Item Overdrafts-The Town Council should authorize budget transfers to prevent line-item budget overdrafts.	Implemented
Cash Fund Overdrafts-When there are insufficient funds to redeem check/warrants, the check/warrants should be registered.	Not Implemented
Fixed Mileage-The Town Council should authorize all mileage reimbursements to be paid according to the mileage actually traveled in performance of official duties.	Implemented
City Court-Distribution of Collections-The City Judge should review all law changes and their effective dates to insure that all collections are remitted to the proper funds.	Implemented

Published in The Ekalaka Eagle, Ekalaka, Montana on November 22, 1985.

AUDIT PUBLICATION INTRODUCTION

An audit of the affairs of the Town of Ekalaka has been conducted by the Department of Commerce. The audit covered the fiscal years ended June 30, 1983 and 1984.

Section 2-7-521, MCA, requires the publication of the general comments section of this audit report. This law also requires that the publication include a statement that the audit report is on file in the auditor's office open to public inspection at the Town Hall.

The general comments section includes the Auditor's Report, which is the auditor's opinion on the financial statements, and any narrative of findings and recommendations. The following publication of the general comments section may contain references to a table of contents, financial statements, notes to the financial statements, or supplemental schedules which will not be included within this publication. However, this information is a part of the complete audit report on file and open to public inspection at the above location.

BY DONALD L. DOOLEY
Bureau Chief

To the Honorable Town Council
Town of Ekalaka
Ekalaka, MT 58324

We have examined the combined financial statements of the Town of Ekalaka as of and for the years ended June 30, 1983 and 1984, as listed in the table of contents. Except as set forth in the following paragraph, our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

We were unable to obtain sufficient evidence to support the cost of the fixed assets of the enterprise funds and the general fixed asset account group. The Town's records do not permit the application of adequate alternative procedures regarding the cost of the fixed assets. Because of these matters, we were unable to satisfy ourselves by appropriate audit tests or other means as to the fair presentation of the enterprise funds or general fixed asset account group included in the accompanying combined financial statements.

As more fully described in Note 1, the accompanying combined financial statements are prepared on the basis of cash receipts and disbursements, except that enterprise fund user charges are accrued and the related receivables recorded. Consequently, revenue and the related assets are generally recognized when received rather than when susceptible to accrual or earned, and expenditures are recognized when paid rather than when the obligation is incurred. Further, depreciation on enterprise fund fixed assets is not recorded. Accordingly, the accompanying combined financial statements are not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

In our opinion, subject to the effects on the financial statements of such adjustments, if any, as might have been required had we been able to examine the fixed assets of the enterprise funds and the general fixed assets account group, as explained in paragraph two, the combined financial statements referred to above present fairly the assets and liabilities arising principally from cash transactions of the Town of Ekalaka at June 30, 1983 and 1984, and the revenues collected, expenditures paid, and changes in fund balances for the years then ended, on the basis of accounting described in Note 1 to the financial statements, applied on a consistent basis.

Our examination was made for the purpose of forming an opinion on the combined financial statements taken as a whole. The supplemental schedules listed in the table of contents are presented for the purpose of additional analysis and are not a required part of the combined financial statements of the Town of Ekalaka. The information has been subjected to the auditing procedures applied in the examination of the combined financial statements and, in our opinion, is fairly stated in all material respects in relation to the combined financial statements taken as a whole.

March 13, 1985 /s/ DONALD L. DOOLEY
Bureau Chief, REPORT ON COMPLIANCE MATTERS

ACCOUNTING MATTERS

Friday, November 22, 1985, page seven

To the Honorable Town Council
Town of Ekalaka
Ekalaka, MT 58324

We have examined the financial statements of the Town of Ekalaka for the years ended June 30, 1983 and 1984, and have issued our report thereon dated March 13, 1985. As part of our examination, we made a study and evaluation of the Town's system of internal accounting control. Inherent in any system of internal accounting control is the fact that we considered necessary to evaluate the system as required by generally accepted auditing standards. The purpose of our study and evaluation was to determine the nature, timing and extent of the auditing procedures necessary for expressing an opinion on the Town's financial statements. Our study and evaluation was more limited than would be necessary to express an opinion on the system of internal accounting control taken as a whole.

The management of the Town is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles.

Because of the inherent limitations in any system of internal accounting control, errors or irregularities may nevertheless occur and not be detected. Also, preparation of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation made for the limited purpose described in the first paragraph would not necessarily disclose all material weaknesses in the system. Accordingly, we do not express an opinion on the system of internal accounting control of the Town taken as a whole.

However, our study and evaluation disclosed the following conditions that we believe result in more than a de minimis risk that errors or irregularities of amounts that would be material in relation to the financial statements of the Town may occur and not be detected within a three-year period.

FIXED ASSETS - INVENTORIES

Property inventory records consisted of a card file for substantial items of the fixed assets of the Town. The values assigned in the card file did not agree with the general ledger fixed asset accounts. No annual inventory of Town fixed assets had been taken by the Town Council.

RECOMMENDATION

A complete physical inventory should be taken each year of all Town-owned land, buildings and equipment. The information obtained from the inventory should be used to update the card file and adjust the general ledger fixed asset accounts. Further, the Town Council should adopt a policy defining the assets to be capitalized, records required, how and when a complete physical inventory should be taken, and any other information needed to insure a complete and proper fixed asset inventory system.

These conditions were considered in determining the nature, timing and extent of the audit tests to be applied in our examination of the financial statements for the years ended June 30, 1983 and 1984, and this report does not express an opinion on these financial statements dated March 13, 1985.

This report is prepared primarily for the use of the Town Council and its members. It is not intended for any other purpose and its use for any other purpose is not intended to limit the publication of this report which upon issuance is a matter of public record.

March 13, 1985 /s/ DONALD L. DOOLEY
Bureau Chief

WITNESS STATEMENT

NAME Don HACKMANN BILL NO. SB274
ADDRESS Lacuel, mt. DATE 3-9-87
WHOM DO YOU REPRESENT? CITY OF Lacuel & Montana Municipal Clerk's
Treasurers & Finance Officers Association.
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

we support this bill for the
Following Reasons:

1. most people don't understand and misinterpret the comments as they are now published.
2. Any comments about the City's Financial Condition should be left up to each local government entity to publish a report if they so choose. The Audit comments do not reflect the Financial Condition of a city/Town.
3. If there is a notice published that the Audit has been completed and is available at the Clerk's office, this should be sufficient as far as the public has the right to know.
4. Cost Savings - the money spent on publishing the Audit comments could be put to a better use or not spent at all. (Budget cuts).

WITNESS STATEMENT

EXHIBIT 3
DATE 3-9-87
SB 274NAME Kathy Denke BILL NO. SB 274
ADDRESS Box 1245 Thompson Falls MT DATE 3/9/87
WHOM DO YOU REPRESENT? Town of Thompson Falls: MT. Denke Town
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: All Town & Towns in MT are required to submit audit reports in the form newspaper. I support SB 274 for the following reasons.

1) It is a mandatory expense for Towns that can ill afford it.

2) It takes discretion away from the individual towns.

3) The Town of Thompson Falls was required to pay \$216 for the 1985-86 audit.

Kathy Denke

Town Clerk

Town of Thompson Falls

MT. Denke Town & Towns Officers

IN THE DISTRICT COURT, FOURTH JUDICIAL DISTRICT
OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF SANDERS

STATE OF MONTANA

SS.

County of Sanders

Publication Description
AUDIT PUBLICATION INTRODUCTION

An audit of the affairs of the Town of Thompson Falls has been conducted by the Daniel L. Parks, Certified Public Accountant of Thompson Falls, Montana 59873. The audit covered the fiscal year ended June 30, 1986.

Section 2-7-521, MCA, requires the publication of the general comments section of this audit report. This law also requires that the publication include a statement that the audit report is on file in its entirety and open to public inspection at the Town Hall.

The general comments section includes the Accountant's Report, which is the auditor's opinion on the financial statements, and any narrative of findings and recommendations or management letter found to be a part of the report. The following publication of the general comments section may contain references to a table of contents, financial statements, notes to the financial statements, or supplemental schedules which will not be included within this publication. However, this information is a part of the complete audit report on file and open to public inspection at the above location.

/s/Donald L. Dooley
Donald L. Dooley
Bureau Chief

The Honorable Mayor and Town Council
Town of Thompson Falls
Thompson Falls, Montana 59873

I have examined the general purpose financial statements arising principally from cash transactions, of the Town of Thompson Falls, for the year ended June 30, 1986, as listed in the table of contents. Except as explained in the following paragraphs, my examination was made in accordance with generally accepted auditing standards and the standards for financial and compliance audits contained in the *Standards for Audit of Governmental Organizations, Programs, Activities and Functions*, issued by the U.S. General Accounting Office and, accordingly, included such tests of the accounting records and such other procedures as I considered necessary in the circumstances.

As more fully described in Note 1, the Town's policy is to prepare its financial statements on the State of Montana's Uniform Accounting and Reporting System for Incorporated Towns; which is on the basis of cash receipts and disbursements except that Enterprise Fund accounts receivable for user charges are recorded. Revenues (except for Enterprise Fund user charges) are recognized when received rather than when the obligation is incurred. Further, no depreciation is taken on Enterprise Fund fixed assets, nor has a statement of changes in financial position been prepared as required by generally accepted accounting principles. Accordingly, the general purpose financial statements referred to above are not intended to present financial position, results of operations, or changes in financial position in accordance with generally accepted accounting principles.

AFFIDAVIT OF PUBLICATION

Tom Eggensperger being duly sworn, deposes and says:

That he resides at Thompson Falls, Montana, and is the Publisher of the SANDERS COUNTY LEDGER, a newspaper of general circulation, published weekly at Thompson Falls, Montana; and that he printed in said paper the Audit Publication Introduction hereto annexed for 1 consecutive weeks, the first publication being in the issue dated Jan. 1, 1987 and the last publication dated . And that said audit was performed was printed in the regular and entire issue of said paper and not in any supplement thereof.

Signed Tom Eggensperger

Subscribed and sworn to before me this 2 day of January, 1987

Signed Tom Eggensperger

NOTARY PUBLIC in and for the State of Montana, residing at Thompson Falls, Montana. My Commission expires on July 11, 1989

(SEAL)

A substantial portion of the recorded historical cost of General Fixed Assets and Enterprise Funds Fixed Assets was based on an unsupported estimate when the Town's present accounting system was implemented in 1973. Further, the Town does not have detailed fixed asset records nor has an inventory of fixed assets been taken. Consequently, I was unable to satisfy myself by appropriate audit test or other means as to the fair presentation of the General Fixed Assets or Enterprise Funds Fixed Assets included in the accompanying combined financial statements.

In my opinion, subject to the effects on the financial statements of such adjustments, if any, as might have been required had I been able to examine the fixed assets of the enterprise funds and the general fixed asset group of accounts, as explained in paragraph three, the general purpose financial statements referred to above present fairly the assets and liabilities arising principally from cash transactions of the Town of Thompson Falls at June 30, 1986 and the revenues collected, expenditures paid, and changes in fund balances for the year then ended, on the basis of accounting described in Note 1 to the financial statements, applied on a basis consistent with that of the preceding year.

My examination was made for the purpose of forming an opinion on the general purpose financial statements taken as a whole. The accompanying supplemental Combining Schedule of Cash Receipts, Disbursements, and Changes in Fund Balances - Special Revenue Funds and the Schedule of Federal Assistance are presented for purposes of additional analysis and are not a required part of the general purpose financial statements of the Town of Thompson Falls. The information has been subjected to the auditing procedures applied in the examination of the general purpose financial statements mentioned above, and, in my opinion, is fairly stated in all material respects in relation to the general purpose financial statements taken as a whole.

/s/Daniel L. Parks
 Daniel L. Parks
 Certified Public Accountant

The Honorable Mayor and Town Council
 Town of Thompson Falls
 Thompson Falls, Montana

I have examined the general purpose financial statements arising principally from cash transactions of the Town of Thompson Falls for the year 1986. As part of my examination I made a study and evaluation of the Town's system of internal accounting control to the extent I considered necessary to evaluate the system as required by generally accepted auditing standards. The purpose of my study and evaluation as to determine the nature, timing and extent of the auditing procedures necessary for expressing an opinion on the financial statements. My study and evaluation was more limited than would be necessary to express an opinion on the system of internal accounting control taken as a whole.

The Town Council is responsible for establishing and maintaining a system of internal accounting control. In fulfilling this responsibility, estimates and judgements are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide the Council with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with the Council's authorization and recorded properly to permit the preparation of financial statements and necessary accounting records.

Because of inherent limitations in any system of in-

ternal accounting control, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

My study and evaluation made for the limited purpose described in the first paragraph above would not necessarily disclose all material weaknesses in the system. Accordingly, I do not express an opinion on the system of internal accounting control of the Town taken as a whole. My study and evaluation disclosed no condition that I believed to be a material weakness. However, other matters relating to accounting and administrative records and procedures, which I believe merit your attention are discussed in the following paragraphs. The matters noted were considered in determining the nature, timing, and extent of the audit tests applied and this report does not affect my report on the general purpose financial statements mentioned in the first paragraph above.

Matters Other Than Internal Accounting Controls

REPORT OF PRIOR YEARS AUDIT RECOMMENDATIONS

ACTION TAKEN

UNAUTHORIZED LEVIES

Town has budgeted and levied for unallowable items above the 65 mill all purpose general levy. Social security, workmens compensation, and unemployment taxes are being levied for and paid out of special revenue funds in violation of MCA 7-6-4451.

Corrected
 for 85-86
 Fiscal Year

CASH TRANSFERS

Cash transfers between funds are being made without an ordinance or resolution by the Council in violation of MCA 7-6-4123.

Corrected
 for 85-86
 Fiscal Year

MINUTES

Minutes of the meetings of the Town Council were not properly signed by the Mayor and Town Clerk in violation of MCA 7-5-4102(2).

Not
 Resolved

GAS TAX APPORTIONMENT FUNDS

Gas tax monies received from the state were not set aside in a special revenue fund nor used exclusively for the purpose specified under MCA 15-70-101(2).

Corrected
 for 85-86
 Fiscal Year

CURRENT YEARS AUDIT RECOMMENDATIONS BIDDING REQUIREMENTS

The Town purchased equipment for \$15,000.00 and did not request bids as required by the statutes. Any purchase for more than \$10,000.00 or for more than \$4,000.00 when gas tax funds are used, must be advertised for bids per MCA 7-5-4302 and 15-70-101(4).

Recommendation

The Town should review the above Montana statutes and meet the bidding requirements set forth when making large purchases.

MINUTES OF COUNCIL MEETINGS

The minutes of the Town Council do not contain the "substance of all matters proposed, discussed, or decided" as required by MCA 2-3-212, in regards to the following actions:

1. Setting of salaries is not fully disclosed.
2. The complete details of the 1985-86 budget are not set forth in the minutes.

Recommendation

Efforts should be made to achieve more disclosure of Council meetings in the minutes as the above statute requires. In the particular instances mentioned above, all salaries should be noted in the minutes when they are set by the Council. The salary amount should be disclosed, and not merely the percent of raise given. The budget should be fully set forth for all budgeted funds in the minutes of the Council meeting when it is adopted.

POSTING OF REVENUES

Licenses and fees received from other governments are not being posted separately in the general ledger, but are being co-mingled with property tax revenues. The revenues are being allocated to the proper funds, but at year end these revenues must be scheduled out separately to meet full disclosure reporting requirements in the financial statements.

Recommendation

License and fee revenues should be posted separately in the general ledger to facilitate proper reporting in the year end financial statements.

This report is included in the financial report in accordance with the Montana State Department of Administration Standard Audit Contract. The report is intended primarily for the use of the Town Council and its use for other purposes is not appropriate.

/s/Daniel L. Parks

Daniel L. Parks

Certified Public Accountant

Report on Internal Controls (Accounting and Administrative) - Based on a Study and Evaluation Made as a Part of an Examination of the General Purpose or Basic Financial Statements and the Additional Tests Required by the Single Audit Act

The Honorable Mayor and Town Council

Town of Thompson Falls

Thompson Falls, Montana 59873

I have examined the general purpose financial statements arising principally from cash transactions of the Town of Thompson Falls, for the year ended June 30, 1986, and have issued my report thereon dated October 30, 1986. As part of my examination, I made a study and evaluation of the internal control systems, including applicable internal administrative controls used in administering federal financial assistance programs to the extent I considered necessary to evaluate the systems as required by generally accepted auditing standards, the standards for financial and compliance audits contained in the *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions*, issued by the U.S. General Accounting Office, the Single Audit Act of 1984, and the provisions of OMB Circular A-128, *Audits of State and Local Governments*. For the purpose of this report, I have classified the significant internal accounting and administrative controls used in administering

(Please turn to page 11)

DATE

3-9-87

SB

274

(Continued from page 10)

federal financial assistance programs in the following categories:

General Controls
Cash Receipts
Cash Disbursements
Payroll

The management of the Town of Thompson Falls is responsible for establishing and maintaining internal control systems used in administering federal financial assistance programs. In fulfilling that responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of internal control systems used in administering federal financial assistance programs are to provide management with reasonable, but not absolute, assurance that, with respect to federal financial assistance programs, resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and reliable data are obtained, maintained, and fairly disclosed in reports.

Because of inherent limitations in any system of internal accounting and administrative controls used in administering federal financial assistance programs, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the systems to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

My study included all of the applicable control categories listed above. During the year ended June 30, 1986, the Town of Thompson Falls had no major federal financial assistance programs and expended 66% of its total federal financial assistance under the following non-major federal financial assistance programs;

HUD Block Grant

With respect to internal control systems used in administering the above nonmajor federal financial assistance program my study and evaluation included considering the types of errors and irregularities that could occur, determining the internal control procedures that should prevent or detect such errors and irregularities, determining whether the necessary procedures are prescribed and are being followed satisfactorily, and evaluating any weaknesses.

With respect to the internal control systems used solely in administering other nonmajor federal financial assistance programs of the Town of Thompson Falls, my

study and evaluation was limited to a preliminary review of the systems to obtain an understanding of the control environment and the flow of transactions through the accounting system. My study and evaluation of the internal control systems used solely in administering these nonmajor federal financial assistance programs of the Town did not extend beyond this preliminary review phase.

My study and evaluation was more limited than would be necessary to express an opinion on the internal control systems used in administering the federal financial assistance programs of the Town of Thompson Falls. Accordingly, I do not express an opinion on the internal control systems used in administering the federal financial assistance programs of the Town of Thompson Falls.

Also, my examination, made in accordance with the standards mentioned above, would not necessarily disclose material weaknesses in the internal control systems for which our study and evaluation was limited to a preliminary review of the systems as discussed in the fifth paragraph of this report.

My study and evaluation and my examination disclosed no condition that I believe to be a material weakness in relation to a federal financial assistance program of the Town of Thompson Falls.

/s/Dan L. Parks
Daniel L. Parks
Certified Public Accountant

October 30, 1986

Published in Sanders County Ledger
January 1, 1987

7
DATE 3-9-87
58 274

WITNESS STATEMENT

NAME Kelly Reincke BILL NO. 474
ADDRESS P.O. Box 208, Duluth, MN DATE 3/9/87
WHOM DO YOU REPRESENT? City of Duluth
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: See attached

CITY OF BELGRADE
STATE OF MONTANA

4
3-9-87
EB 274

TO THE HONORABLE CLERK OF THE CITY OF BELGRADE
FROM THE HONORABLE CLERK OF THE CITY OF BELGRADE
RE: [illegible]

WHEREAS, the City of Belgrade, Montana, is a city of the State of Montana, and as such is entitled to the same rights and privileges as other cities of the State; and

WHEREAS, the City of Belgrade is a city of the State of Montana, and as such is entitled to the same rights and privileges as other cities of the State; and

WHEREAS, the City of Belgrade is a city of the State of Montana, and as such is entitled to the same rights and privileges as other cities of the State; and

1. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
2. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
3. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
4. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
5. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
6. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and
7. The City of Belgrade is entitled to the same rights and privileges as other cities of the State; and

WHEREAS, the City of Belgrade is a city of the State of Montana, and as such is entitled to the same rights and privileges as other cities of the State; and

WHEREAS, the City of Belgrade is a city of the State of Montana, and as such is entitled to the same rights and privileges as other cities of the State; and

CITY OF BELGRADE
STATE OF MONTANA

DATE 3-9-87
SS 274

TO THE HONORABLE CLERK OF THE DISTRICT COURT OF THE
COUNTY OF BELLEVILLE, MONTANA
FROM THE CITY OF BELGRADE, MONTANA
SUBJECT: [Illegible]

We, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the City of Belgrade, Montana.

3-9-87
SB 274

WITNESS STATEMENT

NAME Google vs. Name BILL NO. 5427
ADDRESS _____ DATE _____
WHOM DO YOU REPRESENT? mt. Press Assoc.
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



DATE 3-9-87
SB 274

FACT SHEET

Senate Bill 274

Sen. H. W. "Swede" Hammond, Sponsor

Hearing Before Local Government Committee

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING LOCAL GOVERNMENT ENTITIES TO RESTRICT PUBLICATION OF AUDIT REPORTS TO A STATEMENT THAT THE REPORT IS ON FILE AND OPEN TO PUBLIC INSPECTION; AND AMENDING SECTION 2-7-521, MCA."

1. SB 274 would eliminate the requirement that the general comments portion of county and municipal audits be published in a newspaper of general circulation.

2. Contrary to some reports, the cost of publishing the general comments is not significant. Over a two- and sometimes three-year period, here are actual costs of publication for some units of local government: Yellowstone County, \$800; Great Falls, \$267.92; Cascade County, \$642; Libby, \$36; Malta, \$198; Phillips County, \$235.63; Polson, \$72.41; St. Ignatius, \$74; Lake County, \$382.50.

3. The general comments in audit reports deal with the handling of public money by elected and appointed officials, and the comments point out faults and weaknesses in accounting procedures and compliance with state law. Typical comments include:

"The Clerk and Records office does not issue receipts unless requested. We recommend that prenumbered receipts be issued for all money received."

"The County does not have adequate supervision and review of edits and data generated by the computer system. This review should be performed by someone other than the operator."

"The nursing home bookkeeper receives, records and deposits all payments. To minimize risk of misappropriation, these duties should be segregated between at least two employees."

"Fees for the board of Federal prisoners, which were billed in May, 1984, were never received."

"The minutes of the meetings of the Board of County Commissioners and the files maintained by the County, which should substantiate decisions made by the commissioners to accept or reject individual bids, were incomplete."

"The City again exceeded the 65 mills (allowed by Section 7-6-4451, MCA) during this audit period and levied 70.18 mills in the 1981-82 fiscal year, 75.70 mills in the 1982-83 fiscal year and 80.88 mills in the 1983-84 fiscal year. ...Our calculations indicate that a budget equal to 105% of the previous year's budgeted expenditures could have been financed with a mill levy of 65 mills or less."

(Over, Please)

4. The unit of local government has it within its power to control the publication costs, to an extent. If public officials comply with state law and standard accounting practices, the general comments tend to be shorter; on the other hand, if public officials do not comply with state law and standard accounting practices, the general comments tend to be longer. It clearly is in the public's best interests for a unit of local government to handle public funds wisely ... and in the process, minimize the cost for publishing the general comments.

5. The proponents of SB 274 say that the general comments would still be available to anyone who asked for them. Obtaining the comments would require action on the part of the citizen, however, and given human nature, it seems apparent that dissemination and public review of the comments would be less under SB 274 than is the case now, with required publication.

6. There is also a question of whether public officials in all local governmental jurisdictions would comply with citizen requests for the general comments. There is a general tendency by some government officials to not release public information. In fact, the MPA was challenged by public officials time and again when we asked for the current costs of publishing the general comments. The average citizen, then, undoubtedly would encounter resistance when submitting a request for a copy of the general comments of government audits.

7. Proponents of SB 274 argue that the general comments would be sent to the newspaper, and the newspaper could publish stories about the comments. That argument does not take into account the reality of running a newspaper. The reality is that some newspapers -- particularly the smaller ones -- are held hostage by units of local government via the process of awarding county printing contracts. If a unit of local government does not like the news coverage it is receiving, officials can (and actually have) threatened to go elsewhere with their printing contract. Such a situation tends to preclude aggressive news coverage.

8. The real issue involved with SB 274 is not economics; rather, it is good government. Would public officials be more, or less, accountable with the passage of SB 274? In our judgment, taking into account all of the foregoing, the answer is "less accountable."

The Montana Press Association
Asks That You Vote Against SB 274.

Thank You.

Amendments to SB 382 (3rd reading bill)

1. Title, line 5.

Strike: "ALL"

Insert: "CERTAIN"

2. Page 1, line 14.

Strike: "All property"

Insert: "Rights-of-way, ditches, flumes, pipelines, dams,
water rights, reservoirs, equipment, machinery, motor
vehicles, and other personal property"

3. Page 1, line 16.

Strike: "irrigation district"

4. Page 1, line 17.

Strike: "is"

Insert: "are"

Amend Senate Bill No. 382, Third Reading Copy

1. Page 2.

Following: line 22

Insert: "(3) This act does not apply to any special assessments for the repayment of bonded indebtedness incurred before the effective date of this act, if the bonds were issued on representations that the property exempted from special assessments by this act would be liable for repayment of the bonded indebtedness."

MURPHY, ROBINSON, HECKATHORN & PHILLIPS

ONE MAIN BUILDING

P. O. Box 759

KALISPELL, MONTANA 59903-0759

CALVIN S. ROBINSON
I. JAMES HECKATHORN
C. EUGENE PHILLIPS
JOHN B. DUDIS, JR.
DANIEL D. JOHNS
DONALD R. MURRAY, JR.
DANA L. CHRISTENSEN
STEVEN E. CUMMINGS
DEBRA D. PARKER
DAVID J. DIETRICH

TELEPHONE
752-6644
AREA CODE 406

JAMES E. MURPHY
OF COUNSEL

March 4, 1987

Representative Richard Nelson
Capitol Station
Helena, Montana 59620

Re: Senate Bill 367

Dear Representative Nelson:

This letter is to encourage your support for Senate Bill 367, which is entitled "An Act to Classify Family and Group Day-Care Homes as a Residential Use of Property for the Purpose of all Local Ordinances".

I have had the opportunity to represent two applicants for Conditional Use Permits for day care activities before the Whitefish City Council during the last two years. The most recent concluded on March 2, 1987.

In that instance, Terry and Valerie Westphal who live at 943 East Second Avenue, applied to the Whitefish City Council for a Conditional Use Permit to allow them to care on a daily basis for children ranging in ages from birth through age 5. The number of children at the facility would not exceed 12 at any given time, which allows them to fall under the definition of a "group day care home" under Montana statute and regulation. The permit process requires them to seek a response from neighbors within a 300 foot radius of their property. The response of those 52 neighbors showed that 43 wholeheartedly supported their request before the Whitefish City Council, three opposed, two were undecided and four properties were either empty or the owner could not be located within the time frame allowed.

In front of the Whitefish City Council the Westphals found themselves confronting a small but vocal opposition which misstated their intended use of the property, including wholesale remodeling of the interior which was absolutely untrue, that surrounding property values would be devalued (unsubstantiated) while at the same time telling an elderly lady that her property taxes would increase, and that the residential character of the neighborhood would be lost forever. Unfortunately, this vocal minority prevailed and the Whitefish City Council denied the Westphals' application for a Conditional Use Permit.

March 4, 1987
Page Two

Upon analyzing the Whitefish Zoning Ordinance, one quickly realizes that to conduct business as a child day care facility, a Conditional Use Permit is required in all zones, except one, which is the mobile home park district - WMP. Unfortunately, there is no WMP zoned district within the entire City of Whitefish. As a result, the Westphals were compelled to request a Conditional Use Permit although their home rests on an oversized lot, is kitty-corner to a residence which previously provided day care facilities, is across the street from a church which also previously provided day care facilities and now provides space for non-church related activities. Their quest was unsuccessful in spite of overwhelming support and the fact that Mrs. Westphal has used the property intermittently for day care services over a 9-year period.

The other situation I handled occurred in the fall of 1985, when Clear Skies Day Care was granted a Conditional Use Permit by the Whitefish City Council after heated debate. At its next meeting, the Council violated its own ordinance and procedural rules when it revoked the previously issued permit without advance notice to the applicants. It was only upon threat of lawsuit, more heated debate and a special meeting called specifically for the purpose of considering the Council's actions that the Use Permit was reinstated. The facility is an asset to the City of Whitefish and continually has a waiting list of youngsters whose parents are seeking to avail themselves of its services.

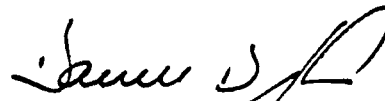
Senate Bill No. 367 will eliminate the need for state registered day care homes (which may care for a maximum of 12 youngsters at any given time) to obtain conditional use permits before they can conduct their activities in residential neighborhoods and being exposed to the arbitrariness of local government. I am constantly amazed how local governing bodies seem to consider children a pariah, and how applications for use permits generate a level of emotional response totally out of proportion to what actually is being requested. Your support of this bill will be greatly appreciated by the small day care providers within the State of Montana, and will force the cities to recognize that the best neighborhoods in which to provide care for a small number of young children are the residential neighborhoods of our communities. It will also allow these small entrepreneurs the opportunity to pursue their worthwhile activity without the necessity of hiring a lawyer to confront city hall.

March 4, 1987
Page Three

If you have any questions or I may be of assistance in this matter, please call.

Very truly yours,

MURPHY, ROBINSON, HECKATHORN
& PHILLIPS, P.C.

A handwritten signature in cursive script, appearing to read "Daniel D. Johns", written over a horizontal line.

Daniel D. Johns

DDJ:jmy

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917



DATE 3-9-87
367

Testimony--House Local Government Committee, SB 367, Barbara Archer, Women's Lobbyist Fund

Mr. Chairman and Members of the Committee:

My name is Barbara Archer and I am speaking on behalf of the W.L.F. The WLF represents 39 organizations and over 6500 individuals in Montana, including a number of groups concerned with child care.

We strongly support SB 367. Our concern is that parents have as many options as possible to provide safe and healthy care for their children. One important option, residential or neighborhood child care, has been very limited, largely due to zoning restrictions placed upon providers. It is estimated that between 70% and 90% of Montana's day-care providers are operating outside the law.

In Montana, day care homes serving over 3 children are required to be registered by the department of Social and Rehabilitative Services. There are two types of day care homes: 1) the registered family day care home which serves 3 to 6 children, and 2) the registered group day care home which serves 7 to 12 children and requires the presence of 2 adults for over 6 children. Registration with SRS insures that at least minimal health and safety standards are met, which include fire protection and adult supervision. I have here a copy of the regulations and check list from SRS, which we find adequate and reasonable for child care providers to meet.

The fact sheet which you received outlines some of the difficulties encountered in the zoning process, the high costs and large expenditures of time to obtain a C.U.P., and so on. A number of parents and child care providers are here to testify to their experiences with this process, with arbitrary enforcement and overlapping regulations, and especially to the necessity to be able to have good residential child care.

In Montana, 50% of children under age 5, 60% of children under age 1, and 63% of school age children have mothers who work outside the home. The most important consideration of parents in choosing child care is proximity to their own neighborhoods.

Child care providers would like to be operating within the bounds of the law. We do not want to lessen the options that parents and children have to seek quality and convenient child care. Public schools are in R1, R2, or R3 zones and are considered an asset to a community. Child care providers and parents and children are a part of community and need the same accessibility.

We ask you to support SB 367. Thank you.

WITNESS STATEMENT

EXHIBIT 10
DATE 3-9-87
SB 367

NAME Susan Christofferson BILL NO. SB 367
ADDRESS 528 3rd Ave East Kal DATE 3-9-87
WHOM DO YOU REPRESENT? I am an advocate for children
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Child Care is not a new idea. It has been around for as long mothers and fathers have had to work outside their homes. It is, however an issue that has received a great deal of media attention. It's about time we noticed children in day care - we simply cannot deny that they exist. We also cannot make that old value judgement that mothers should stay home with their children.

I have 2 brief comments in regards to my support of SB 367.

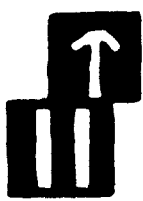
① I will not sleep tonight if I do not make clear to the committee the difference between types of child care. We are in Montana served by 2 types of child care ① Centers ② Homes. This bill does not include Centers. This Bill relates to ^{Regis. Home Day} Family Home Day Care

② Opponents will say that City Government cannot provide adequate fire or safety services without a C.I.I.

I repeat this bill would only
apply to Registered homes. These
homes must meet SRS requirements
to obtain a Reg. Certificate.

The city ~~would~~ should have no
more input with family day care
homes that with any other family
on the block that may or may not
have 5 or 6 of their own children.

I thank you for the opportunity
to ~~to~~ be heard by this committee
and urge you to support ~~this~~
~~but~~ SB 367 ~~and~~ ~~under~~.



HEAD START

DATE 3-9-87
SB 367

P.O. Box 1696

PARENTS' FREE ACTION COMMITTEE, INC.

Kaliispell, Montana 59901

March 6, 1987

Dear Committee Members,

I am urging your support of Senate Bill # 367. I am speaking for this bill as the Director of Head Start for Flathead County and as the mother of a pre school aged child.

We are facing severe problems in our communities finding licensed day care facilities for our children. In Whitefish, there is a special problem. Home child care is deemed a commercial venture, requiring special usage permits and fees to be located in residentially zoned areas. The city council issues these permits with full hearings and votes.

In Whitefish, the special use permits are not being issued to home child care providers, the reason given that it invites businesses to leave the properly zoned areas. The only commercially zoned areas within city limits are bordering state highway 93, a 4 sq. block downtown area and 3 small 1 block areas North of town where commercial businesses existed prior to city annexation.

Children do not belong along highways, in downtown areas, or beside manufacturing sites. They belong in their own residential neighborhoods.

Sincerely,

Susan J. Hardy

Susan J. Hardy, Director
Flathead County Head Start

March 6, 1987

Dear Representatives,

I am writing in favor of Senate Bill 367. I do not wish for my children needing day care services to be sent to commercially zoned areas. I want them to remain in residential areas, close to my home. As a mother of three, I know that these services are badly ~~needed~~ needed in our area.

Thank you,

Janeen Fry

EXHIBIT 12-D
DATE 3-9-87
SB 367

March 6, 1987

Dear Representative.

I think that house Bill 367,
for Day care services in residential
areas, are where they belong.
Not in the crowded business areas.

Thank You
Pat Tucker

March 6, 1987

To whom it may concern:

The City of Whitefish, Montana is seriously in need of Day Care for children. The present ones that are here are over crowded and the waiting list is months, and then they don't take children under 2 years of age. I was put in quite a bind when I had to go back to work with a 2 1/2 year old and a 1 year old. The only woman I could find lived on a busy street with no fence around her yard. I left very un-easy everytime I dropped the boys off. We are in desperate need of child care here.

It is of great importance to me that my children are left each day in an atmosphere of home. That means a kitchen, living room, bedrooms for naps, play rooms and lots of outside play area. I cannot bring myself to leaving my boys in a over crowded building out on Highway 93 where the napping area is a row of beds along one wall, which is exactly what Whitefish has now.

The children of Whitefish (pre-school and school age) deserve a residential area to reside in for the day. Please look closely at our day care problem here. I want so desperately to leave my kids in a residential area rather than a warehouse downtown.

Thank you,

Brenda L. Duty
Brenda L. Duty

3-6-87

To whom It May Concern:

I feel that the Day Care is so limited in Whitefish, Mt. and it is well needed here. It would be important for my son to attend a Daycare in a residential area rather than a commercial area for the home type ~~the~~ environment rather than a commercial area.

Please give this favorable consideration

Thank you
Joan Ifford

To whom it may concern:

I feel day care should be allowed in residential areas for the following reasons

1. To some mothers, a home-type environment is important.
2. A residential area is for the most part safer (eg. traffic).
3. It is hard emotionally for most working mothers to leave their children and should be given the choice of where and with whom to leave their children.

Sincerely,
Joyce McDonald
1704 Waverly Place #4
Whitefish, Mt 59937

To Whom It May Concern:

Young children need day care facilities in residential areas much more than in a business district. They are quite aware of their surroundings and a residential area gives them a home-like surrounding that helps them feel safe & also calms them.

I am sure you will agree that playing in a grassy backyard is much more enjoyable than a concrete playground.

Sincerely,
Peggy Berg

David W. J. and M. Christine Ross
329 Blanchard Hollow Road
Whitefish, Montana 59937

To Whom It May Concern;

We are the parents of a 22 month old boy whose name is Josef. Since the age of four months he has had the opportunity to attend a day care center run by Valerie Westphal of Whitefish, Montana. In choosing to take our son to a day care and in making the decision about the type of day care we wished for Josef our top priority was to find an environment that reflected the structure, interaction, and atmosphere of home. We found such a situation in the day care center run by Valerie.

Other factors that contributed to our decision included social interaction with other toddlers and pre-school boys and girls, family oriented, home-like environment enriched by a nurturing caretaker, and small numbers of children. Since Josef is an only child socialization beyond parent-child has been important to us. Josef has the chance to interact with another authority figure as well as other children of varying ages. As a consequence he demonstrates appropriate skills while playing with others; he is more independent in taking his place with others - children and/or adults. We value this accomplishment.

Valerie's experience in providing day care services extends over nine years. It includes a commitment to both children and parents. It is built on both educational expertise in child development and experience. Day care providers contribute positively to the lives of the children for whom they are responsible as well as to the skills of parents for whom they work. The advantage of day care centers is their ability to create a situation close to that which parents would like to establish and maintain, but can not due to the economic reality of needing two incomes.

We value the fact that Josef is not overwhelmed with lots of kids. A day care center that has between 5 - 12 infants, toddlers, and pre-schoolers is just right. As parents we don't want Josef to experience the stress of too many children with too few caretakers. We feel the physical health and wellbeing of our son as well as his psychological health is balanced appropriately in a day care situation in which numbers are restricted.

The need for more day care centers, appropriately registered, with the advantages such registration brings, is paramount. We urge you, the fiftiety legislature, to pass the necessary legislation allowing the creation of day care centers in residentially zoned areas. Working parents like us need them. Our children need the protection such legislation can provide.

Sincerely,

David W. J. and M. Christine Ross

B.J. WORTH

2200 EAST EDGEWOOD DRIVE • WHITEFISH, MONTANA 59937 • (406) 862-5484

12-K
DATE 3-9-87
SB 367

March 6, 1987

TO: The Legislation of the State of Montana
Helena, Montana

RE: Day-Care Homes

We are the parents of 3½-year-old Sara, who attends day-care. We'd like to express the value of day-care homes to us and our reasons for choosing them for our daughter rather than a commercial day-care center or private care (we have tried all three).

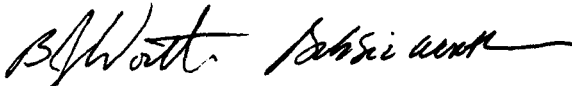
Small groups of children. Sara is happily stimulated by small groups (5-12) of children of various ages with whom she can interact, learn and teach. The larger groups often found at commercial day-care centers are too overwhelming and intimidating for her. Private care, obviously, does not provide the companionship of other children at all.

Individualized care. The small numbers of children at a day-care home enable the caregiver(s) to provide consistent, individual attention and care. When Sara is not at home with us, it is of utmost importance to us that she receive personal attention, and we think that day-care homes do this best.

Home care environment. Day-care homes provide supervised play, care and a total learning experience in a home-like setting. They are organized, yet flexible, and less structured than the formal schooling for which Sara is not yet ready. The familiarity of a home environment, indoors and outdoors, provides her with a security not possible at some commercial centers. We believe that this gradual transition from home to school is the best possible choice for our daughter.

All forms of child care fill a need in the community. We believe that parents deserve to have day-care homes available as a choice.

Respectfully,


B.J. Worth and Bobbie Worth

3/6/87

12-1
DATE 3-9-87
SB 367

To whom it may concern:

It has come to my attention, the problems that working mothers have been having finding a Day Care Center in the City of Whitefish. They're either over crowded or they do not accept children under 2 years of age. Now they're saying that the Center belong in a Business district, rather than residential area.

May I say, I am a mother of a 1 1/2 year old boy. I work in Whitefish, & live in Kalispell. I've been having to take him to Kalispell as they have Day Cares, registered in residential areas. Which is where children belong. We are moving closer to Whitefish in a short while & I will be looking for a new Day Care Center. It would hurt me very much to think that I will be having to leave my son in a building downtown. He loves to play outside and I don't see where that will be possible the way things look. This is much drawn out, but I think the point is clear. Children need to be outdoors when possible,

To Whom It May Concern:

How can a Business District give a Child the chance to romp and play outside?

Children have enough adjustments to make without restricting their freedom to play in a comfortable, homey, back-yard atmosphere.

Safety is another issue that should be examined closely. High traffic area's are not where we want our children growing up, even if it is just to drop them off or pick them up.

As far as I'm concerned the most logical place for a day care center is in a residential area.

Sincerely,

Diana Schaeffer

League of Women Voters of Montana supports SB367.

The League has become increasingly aware that child care is critical in order to assure many women equal access to employment opportunities. As the number of female single heads-of-household has increased, child care needs have grown. State and local leagues across the nation have worked on policies that affect the provision of services at the local level, such as zoning laws, health codes and referral services.

SB367 simply includes day-care homes in the category of residential facilities which already includes foster homes, youth group homes and community residential facilities. It says that a registered day care home is a residential use of property for zoning purposes, and does not allow a city or county to require a conditional use permit for such homes.

The problem is that current zoning restrictions, which are often costly and time-consuming to day-care providers, not to mention inconsistent across jurisdictions, encourage day-care homes to operate without being registered. In fact, the large majority of day care homes are not registered. Such unregistered homes where many of us send our children may thus be operating without even minimal health and safety standards. Obviously, when zoning laws and conditional use permits push providers to operate outside the law, such laws are not working.

Yet we desperately need day-care homes. Child care gives parents the opportunity for employment, and for many families, it is not an option but a necessity. Understandably, parents prefer to have child care in their own neighborhoods. This bill states that day-care homes serving twelve or fewer children is a residential use of property. With this bill, we will take away the ~~tax~~ incentive for these homes to continue unregistered, and will see more day-care homes, and more safe day-care homes.

We urge your support of SB367. Thank you.

NAME Lori Adams BILL NO. 367
ADDRESS 264 Twin Lakes, Whitefish DATE 3-9-87
WHOM DO YOU REPRESENT? Flathead Assoc. for Education of Young Child
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

By making conditional use permits so hard to secure + by requiring family day care homes to obtain them, we have created a situation where there is no quality control over in home care.

Since registered-in-home providers aren't allowed in residential areas without use permits, we are encouraging providers to not be registered.

In Montana an estimated 45-50,000 children under the age of 5 need daily child care. It is a national fact that the largest percentage of children receiving care, are ~~are~~ cared for in family day care homes.

These homes must be supervised and regulated to ensure the health, safety + future of Montanas children.

Conditional use permits have no effect on the quality of child care provided.

We owe it to our children to

provide them with the best.

Thank you

March 9, 1987

House Local Government Committee
Honorable Chairperson

Re: Senate Bill 367

In regards to the above bill, the listed parties below have a dedicated interest in seeing that zoning laws are such that licensed day cares are not restricted by stringent laws that prohibit their existence. Unlicensed day cares exist in residential areas already.

Group homes of 12 children and under in Helena must go through the lengthy costly process of obtaining a Conditional Use Permit to be licensed; therefore, they don't attempt to become licensed.

We are advocating that if the zoning laws are changed so that licensed day care centers are allowed, more quality can be regulated and enforced.

Thank you for your consideration of this matter.

Mary Nagel
Assistant County Extension Agent

Ann Bolstad - SRS Regional Office
Leslie Bracken - CCFR Director
Mona Bracken - Child Care Provider
Kathi Campbell - Early Childhood Project
Jeanne Doney - ICCUW
Elena Fredrick - SR's Preschool Director/Pete's Place
Deanna Johnson - YMCA Child Development
Rosemary Miller - Work Family Director
Diane Person - Home Day Care
Nancy Westerbuhr - Health Department
Claire Cantrell - Health Department
Alison Carter - Children's Center
Linda Stoll Anderson - County Commissioner

WITNESS STATEMENT

16
3-9-87
SB 367

NAME Kathleen Harrington BILL NO. 367
ADDRESS 405 South Beattie Helena DATE 3/7/87
WHOM DO YOU REPRESENT? American Association of University Women
SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Montana Division of the American Association of University Women - representing 17 branches across the state - strongly supports quality day care. AAUW supports SB 367 because it will enable registered day care homes to become established in residential areas without having to go through a costly and time consuming permitting process. AAUW hopes that you will support the development of quality day care. Please support SB 367.

WITNESS STATEMENT

17
3-9-87
SB 367

NAME Mary D. Zastrow BILL NO. 367ADDRESS 1204 Wilder DATE 3-9-87WHOM DO YOU REPRESENT? Myself - a Daycare ProviderSUPPORT Yes OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

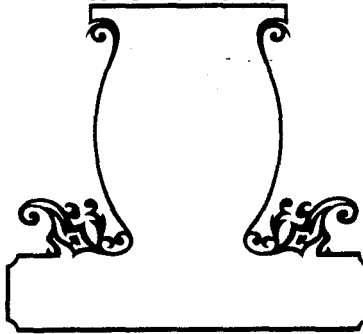
I wish to express my support of SB 367

because as of this time there are no areas within the City of Helena that allow zoning for any Daycare Group Homes (7-12 children). Without having to pay a \$375.00 fee to apply for a Conditional Use Permit and the many problems incurred along the way, I feel sure that more unregistered and unlicensed daycares would become licensed. Right now there are approximately 10 unregistered daycares for every registered one. There is nothing being done to monitor the health and safety of the children and because they are not monitored they can charge what they want and often do not pay taxes on this money, or on only a fraction of their income.

When asking some unregistered providers why they are not registered, they almost always say it is too expensive to fight the city for zoning.

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Michael J. DaSilva
Rose Leavitt
Blake J. Wordal

GUARDIAN OF THE GULCH



SB

3-9-87

367

City-County Admin. Bldg.
316 North Park
Helena, MT 59623

Phone 406/442-9920

William J. Vervolf
City Manager

Mar. 9, 1987

House Local Government Committee
50th Legislature
State Capitol

Dear Members of the Committee:

The City of Helena is concerned about SB367 which recently passed the Senate and has been transmitted to the House. SB367 would classify day-care homes as a residential use and would prevent local governments from requiring conditional use permits for these homes. Our concerns with the bill as written center on two issues:

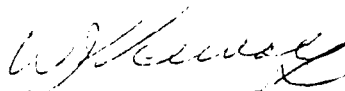
- 1) safety questions related to building code requirements are not addressed in the bill nor are local governments allowed to require safety features;
- 2) the neighborhood is denied any and all input to the establishment of these homes.

By classifying day-care as a residential use for up to 12 children, a municipality cannot require additional fire and safety features that are critical to day-care operations (for example, needed basement fire exits). The existing SRS rules do not address building codes and structural safety.

Furthermore, by eliminating the authority to require conditional use permits, the bill prevents a community and its elected officials from responding to neighborhood concerns as well as the needs of the day-care home. In the City of Helena, the process of using such permits has promoted compromise between the needs of the home and the needs of the neighbors and has resulted in better integration of the home into the community. It has not been used to arbitrarily exclude day-care homes from residential areas.

As SB367 is considered by the House, we urge that it be amended to respond to these serious concerns.

Sincerely,


W. J. Vervolf
City Manager

WITNESS STATEMENT

NAME John Macbald BILL NO. 367
 ADDRESS 316 N. Park Ave., Chicago DATE 3-9-87
 WHOM DO YOU REPRESENT? City of Chicago
 SUPPORT OPPOSE < AMEND ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: ① Issue - allow modification for local governments to consider daycare considerations related to safety and compatibility with adjacent uses. Allow local governments to use the CUP process if they choose - daycare is still permitted through the CUP process, but the public hearing process makes the daycare facility a better neighbor by addressing neighborhood concerns.

② Safety considerations, including fire, needs to be addressed. RS does not adequately address safety from fire on other enagies. The Uniform Building Code and other regulations to be enforced if a daycare facility is going to be provided in a building. Then additional fire safety measures may be required.

ARGUMENTS AGAINST SB367

A. BILL SUMMARY

SB367 would exempt day-care homes serving 12 or fewer children from any safety or sanitary regulation of the Department of SRS or any other state agency or political subdivision which is not applicable to residential occupancies in general. It would also exempt day-care homes registered by the Department of SRS from requiring a conditional use permit in order to be located in a residential zone.

B. WHY SB367 IS UNACCEPTABLE TO THE PUBLIC INTEREST:

1. The proposed bill would prohibit safety measures associated with fire protection or the structural safety of the buildings from being enforced for day-care homes serving 12 or fewer children. In the majority of cases, these children may be babies or preschool children who may need help in exiting a building in case of a fire. If there are only one or two operators of the home to help evacuate these children, the lack of adequate exits will severely limit safe escape. Fire protection measures for day-care homes may be more stringent than those required for a residence in order to protect the lives of children yet this law if passed would prohibit these measures from being enforced. In addition if an existing dwelling is converted to a day-care home or a portion of the dwelling will be devoted to that use, building codes could not be enforced under the proposed law. This means that if the dwelling is two-storys and the railings of the staircase are missing or weak, children could fall and hurt themselves because of the lack of support to help them climb up and down stairs.
2. Some older neighborhoods which were developed before zoning do not have adequate set backs between dwellings. As a result the operation of a day-care home could create a nuisance for neighbors in terms of noise (crying babies, yelling children at play) especially in the summer months when windows are open.
3. Many older neighborhoods do not have off-street parking. Therefore, both residents and visitors park on the road effectively reducing the width of the road available for two-way traffic. The operation of a day-care requires the pickup and drop-off of children. This usually occurs at the busiest time of day, around 8 a.m. and 5 p.m. when parents are going to and returning from work. This is also the time when other traffic is the busiest. Without review under a conditional permit process and the requirement for a safe drop-off and pickup site, a dangerous traffic situation could result with cars parked on both sides, two-way traffic flow and parents double parking to drop-off and pick their children up.
4. A neighborhood may consist of retired people or other childless couples who chose to buy property in the neighborhood because of its character. They may have bought the property with the understanding that a day-care home or center could not be located there unless a

conditional use permit was applied for and received, and that their input would be considered during the review process. The proposed bill would eliminate the conditional use review process for day-care homes serving 12 or less children. Therefore the neighbors would have no say in the location of an activity which may result in increased noise at times when the children are playing in the yard and increased traffic at times of pickup and drop-off. In effect, SB367 would infringe on the rights of these property owners by allowing a use by right in their neighborhood that they may consider a nuisance. On the other hand, the requirement of a conditional use permit for the location of day-care homes in a neighborhood could result in the following reasonable and important mitigation measures:

- a) The provision of a safe pickup and drop-off spot for the children.
 - b) The requirement of a fence and/or hedge for buffering of the day-care home from adjoining properties (reduces noise, keeps children out of the neighbors' yards).
5. An operation of a day-care home in an established residential neighborhood may also reduce the property values of adjoining properties. Preventing property value degradation is a valid legal use of zoning.
6. Many houses in residential neighborhoods front or adjoin busy thoroughfares. The requirement for a conditional use permit would give the governing body the authority to require a fence, if one does not currently exist, to protect the safety of the children by preventing them from playing on the street. (The SMS rules do require a fence or natural barrier to protect play areas from an adjoining highway, drainage ditch or other hazardous areas).

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. SB 367

DATE March 9, 1987

SPONSOR Senator Harding

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
Susan Christofferson	528 3rd Ave E. Kalispell	X	
Susan Hardy	520 E. Col. ... Helena	X	
Valerie Westphal	943 E 2nd Whitefish	X	
Lori Adams	264 ... Whitefish	X	
Linda Parker Hedger	Box 2703 Kalispell, MT	X	
Kathleen Harrington	AAUW 405 South Beattie Helena	X	
Rosemary Miller	2213 Gold Rush Helena	X	
Rayleen Beaton	City Commissioner Helena, MT		X
Peggy Williams	Pinecrest Box 26 Clancy	X	
Brookes Morin	City of Helena		X
Janet Jessup	City of Helena		X
David M. Bishop	MONTANA ASSN. OF PLANNERS		X
Barbara Buehler	Mountain ... Helena	X	
Sandy Chaney	" " "	X	
Kathi Campbell	MT League of Women Voters	X	
Jane-Marie Sauvagey	MT League of Women Voters	X	
Theresa ...	Mountain ... Helena	X	
Joanne ...	Self-Parent	X	
Mary Helena	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

LOCAL GOVERNMENT

BILL NO. SB 274

SPONSOR Senator Hammond

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

LOCAL GOVERNMENT

BILL NO. SB 382

DATE March 9, 1987

SPONSOR Senator Jergeson

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

DATE March 9, 1987

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

LOCAL GOVERNMENT

COMMITTEE

BILL NO. 367DATE March 9, 1987SPONSOR Senator Harding

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
Kathleen MacGill	City of Helena		X
Debra Tamm	WLF	X	
Mary Fortner	Helena	X	
Jim Allston	City of Billings		X
Bill Kernell	City of Helena		X
Frank D. Sato	City of Helena		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT ,

NAME Jeannette Doney BILL NO. SB 367

ADDRESS 14 So. Davis DATE 3/9/87

WHOM DO YOU REPRESENT? Self - Parent

SUPPORT ✓ OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am writing in SUPPORT of Senate Bill 367.

I have a 6 yr old daughter that has gone to babysitter and Day Care since she was 6 weeks old, so I could work and support our family.

A little over a year ago the Day Care that she attends wanted to move into better facilities in a more convenient location. They had to apply for a special use permit and took about a hassle. The neighbors were all there to keep it out and those four neighbors, out of twelve had the worst opinion that a Day Care would totally ruin their lives. Well, now after a year they have realized that the kids have not changed anything. The Day Care is open the usual business hours when they aren't home any way, and the parents picking them up and dropping them off are responsible people, that don't take their parking spots and drive within the laws past their houses.

I think having to obtain a special use permit to babysit 12 children is ridiculous and one more small step in taking away my freedom.

Twelve children playing outside in a fenced yard causes no more disturbance than a dog locked in the house barking. If people don't want kids in residential areas, where do they want them? Where

D. J. Sullivan

I hope you will support SB 367, but that we
have a need for more chapters, however it has become the
trend for the industry to not require no. permits
for private facilities. We are trying to look at it the other
direction. It is a chapter must be a block and could
residential. SB 367 would allow facilities with less than 12
children to open without the need to be permitted.

The question is, is it truly necessary for a small less than
12 child facility to obtain a no-permit? I don't believe so.
The licensing process insures that the facility will be safe
and adequately staffed. Toddler children, properly supervised,
are not a neighborhood nuisance. Moreover, with more than one
child per family, and varying work schedules, such a facility,
does not impose a traffic problem.

As they say, on their time we see our children for
what they are. It is time we give them the daycare
they deserve. Let's talk to more on request number of
facilities who are open individual stories. There is a licensed
center or home? Would it not be ideal to keep our daycare
in our neighborhoods? Please let's support SB 367.

Thank you

Mike, 10/18/07
not it's all good
John H. INT 55937