

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Ethel M. Harding, on March 16, 1989, at 1:00 p.m. in room 405, State Capitol

ROLL CALL

Members Present: Chairman Ethel M. Harding; Vice Chairman Bruce D. Crippen; Senators R.J. "Dick" Pinsoneault, Tom Beck, Eleanor Vaughn, H.W. "Swede" Hammond, Mike Walker, Gene Thayer, Paul Boylan

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council;
Dolores Harris, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 682

Presentation and Opening Statement by Sponsor:

Representative Mark O'Keefe, house district 45, down town Helena and Unionville, stated HB 682 will allow for 2 tenants of each housing authority to serve on the governing housing board. Under 1976 A.G.'s. opinion the state of Montana stated that because of the conflict of interest tenants could not serve on housing boards. The federal statute as amended in 1974, states that no person should be barred from serving on the board of directors of the local housing agency because of his tenancy in a low income housing project. Public housing is not in the business for profit, but it's purpose is to serve low income people by providing the basic necessity of housing. He passed out a fact sheet to each committee member and a copy of a federal HUD circular, which states the need and desirability of tenant commissioners to sit on public housing boards. See exhibits # 1 and # 2. This is a basic democratic right in society to be represented in the group that govern you, whether it's housing authorities, or any other government entity.

List of Testifying Proponents and What Group they Represent:

Virginia Jellison, MCIC
Rod Burch, Mt for Social Justice
Joseph Moore, MT Rainbow Coalition, Legislative
Coordinator
Susan Good, Rep. H.D. 36, Great Falls and a landlord
Lisa Zier, M.S.J.
Jim Smith, Human Resource Development Council
Don Reed, M.A.P.P.
Richard Sprung, Butte
Earl J. Reilly, MT. Seniors Association

List of Testifying Opponents and What Group They Represent:

Gene Vuckovich, Anaconda-Deer Lodge County, MGR
Robert D. Vine, Anaconda Housing Authority
Henry D. Smith, Exec. Dir. Anaconda Housing Authority
Robert Goff,
Shelly Laine, Director of Administrative Services,
Helena
Charlene Hagan, Anaconda, MT

Testimony:

Susan Good stated that the person who can best explain the needs and position of the tenants of a project is one of their own number. The person who can best communicate the rationale and actions of the board to the tenants is again one of their own number.

Lisa Zier is a member of Montanans for Social Justice and a tenant of Helena Housing Authority and she urged support of HB 682. She read written testimony. See exhibit 3.

Jim Smith stated that for the past 25 years federal law has required the Human Resource Development Councils to have low income people represented on their boards of directors. He stated that the low income representatives on his boards of directors make an excellent contribution to the agency. And it is his belief that those agencies make an excellent contribution to the communities that they serve. He told of a board meeting yesterday afternoon where there were county commissioners, private business people, community people, low income people, elderly people who come to the agency every day for their noon meal, a young woman with children who are enrolled in Headstart, and a mother of a youth in the youth employment program. It is this mix of representation from the community that enables his agency to respond to their needs. I support this bill.

Virginia Jellison, lobbyist for the Montana Low-Income Coalition, passed out a flyer and her written testimony. See exhibits #4 and #5. She supports this bill.

Tony Casiano gave written testimony in support of HB 682. See exhibit #6.

Joseph Moore gave written testimony in support of HB 682. See exhibit #7.

Angela Russell, representative from house district 99, Lodge Grass, stated she supports this bill.

Rodger Burch gave written testimony in support of HB 682. See exhibit 8.

Don Reed is a proponent of HB 682 as he believes people should be represented in their governing bodies.

Richard Sprung from Butte came in support of HB 682. It is a well written sensible piece of legislation that allows people to have some control of their lives. Allowing them to control their lives helps them rebuild their lives.

Earl Riley from Helena Montana Senior Citizens Association supports this legislation.

Marcia Schreder gave written testimony in support of HB 682. See exhibit #9.

Gene Vukovich is an opponent to HB 682 in it's present form. He objects strongly to the manner in which the "tenant commissioners" are to be chosen. He doesn't think there is a need for this legislation and no need to increase the members of the housing board. During the past 15 years the Anaconda Housing Authority has operated with no problems, thus they question the need for this bill. Nothing contained in the by-laws of the housing authority of Anaconda would preclude a tenant from being appointed to serve on said board at the present time. To the best of his knowledge no tenant has expressed a desire to serve. If any tenant member names were given to the commissioners to offer to serve on the housing board, he's certain they would be given equal consideration. He objected to two types of commissioners, 1. those appointed by the duly elected representatives of Anaconda, and 2. those elected by and answerable only to the tenants, which could have special interest in the operation and maintenance of

the housing authority. He understands there are states that require tenants on their boards or allow them to serve. But in all instances the representatives are appointed by the duly elected representatives of the community. They are not elected by a special interest group. He cannot find any instruction in HUD which instructs them to include tenants on the board. He urged this committee to do not pass this legislation or amend same to allow the duly elected representatives of the communities to appoint the tenant commissioners in the same manner as the other members of the housing authority boards are appointed.

Robert D. Vine stated he had written two letters explaining his position as chairman of the board for the Anaconda housing authority. He stated Gene Vuckovich, Anaconda City-County Manager, is one of their former tenants. He is available for questions. See exhibit #10.

Henry Smith as director of the Anaconda Housing Authority has an open door policy with his tenants. He brings the problems to the board. It would be alright to have a tenant on the board, but the board member tenant should be appointed the same as the other board members.

Robert Goff chairman of the Great Falls Housing Authority stated his problem is that there is a conflict of interest and it does exist. He said the tenants have a "vested interest" in what goes on, and thus they would be voting on things that directly effect themselves. They would vote on collection problems, eviction problems, on general residence policies, dealings with staff members, and they would have access to confidential information. How can staff evict a commissioner? That puts an incredibly impossible burden on the other commissioners. He thinks there is no way you can eliminate the conflict of interest. There is no question in his mind that tenants want representation, but that issues has to be solved through membership on the board. I believe that the commission in Great Falls has a good open door policy. They have a system whereby tenants can bring there concerns to the board or staff or both. He urged do not pass this bill.

Shelly Laine said Helena has a housing authority with a 5 member commission. The members are appointed by the mayor with commissioners concurrent. The commission includes one designated tenant seat. The city encourages tenant participation and recognizes the

importance of it. The system works very well. Helena's concerns with this bill are as follows. The tenant turnover is 48% per year. It takes any member a year to two years to get up to speed in understanding the operation of the authority. This arrangement would make the continuity difficult to achieve. This would require a quota of tenant representation. Two members would be required regardless of tenant interest. The authority would have to find tenant representation. This bill makes the election the responsibility of the housing authority. The mayor and city commission urge you to consider amending the bill to provide for at least 1 member of the 5 member board to be a tenant and allow local governments to set their own election procedures. Please consider these concerns.

Dr. Hagen objects to the divisiveness this legislation brings to any board. They should work as a team and not a we and they philosophy.

Questions From Committee Members: Senator Crippen stated you testified that 13 states have tenant laws, 10 of which require; how do they do that? Gene Vuckovich explained that California requires 1 or more board members to be tenants in addition to the 5 housing authority members, the mayor shall appoint 2 additional members from the tenants to be members of the board. One tenant commissioner shall be over 62 if the authority has tenants of such age. Conn. says at least 1 of the 5 commissioners appointed by the chief executive officer of the municipality shall be a tenant of the authority for at least 1 year. Every state has them appointed by the governing body. How do they get the names Sen. Crippen asked. The tenants nominate 3 individuals and the governing body choose from those 3. Senator Crippen asked how they avoid the conflict of interest, say in raising the rent, etc.? Some attorneys made a survey to obtain this information. He said the chairman of the Butte Housing Authority is a tenant. Senator Crippen said whatever we do with this bill will change the A. Gs. opinion. Both sides have good points.

Senator Thayer asked Mark O'Keefe if he thought the board should remain at 5. He responded that representation is needed and whatever the committee decides would be fair.

Senator Beck asked Gene Vuckovich how many years his commissioners sit on the board. He answered it's a 5 year term and they are staggered so that 1 goes off at one time. The county commissioners choose the board.

Dr. Hagen who's been there 20 years had his father there before him.

Lucy Brown of Billings reiterated the conflict of interest problem. She thinks tenants should have a voice. Senator Beck thinks that we can not address conflict of interest in this bill.

Senator Thayer asked whether the by-laws have a confidentiality requirement? It is in the by-laws and when we accept the position we state that we will honor confidentiality. Senator Walker asked if the decisions made at the authority meetings have to be unanimous? Majority vote is fine. Mr. Vuckovich stated they usually all agree to the direction they must go. They have a tenant association that was created through a set of by-laws and they meet monthly and someone from the authority meets with them and consider their suggestions. HUD regulations are explained through that group. Senator Beck asked if their meetings are open to the public. Yes, they are bound by the open meeting law.

Senator Harding asked Shelly Laine about their tenant member on their board? Why you have a tenant member and how that member is appointed. The tenants submitted the names to the city commission and they made the selection based on applications received from tenants.

Closing by Sponsor: Representative Mark O'Keefe stated he learned some things and the testimony was informative. He has a copy of a page from HUD circular and it states they have responded to the conflict of interest in 1981 to closely examine their own operating policies and relevant state laws, and make changes in order to remove barriers to tenant appointments to local housing authorities. If necessary tenant organizations should advocate statutory reforms. He said the tenants had to bring this legislation forward when the housing authorities knew they should, but didn't. He called his Congressional offices and HUD even suggested tenant management. Montana doesn't have the legal right to have tenants on the board so we need to fix that part of the law. Please arrange so that these people have a voice in the government of the place where they live. I close.

DISPOSITION OF HOUSE BILL 682

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 667

Presentation and Opening Statement by Sponsor:

Representative Good, house district # 36, Great Falls, stated that the Mayor of Great Falls asked her to bring this legislation. This is an act to allow a business improvement district to assess costs based upon the occupied or income-producing area above the first floor of a building.

List of Testifying Proponents and What Group they Represent:

Mike Rattray, City of Great Falls
Alex Hansen, League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mike Rattray stated the city of Great Falls is working with the downtown businesses to create an assessment formula. The main problem is trying to create a formula that is fair and agreeable to all the owners in the district. The crux of the problem is how do you treat a 1 story building and an 8 story building that are on the same size parcel? Current state statutes do not allow you to levy an assessment based on height, it allows them to levy an assessment based on the parcel area. The bill before you will allow the flexibility to take into account the density of building on the parcel. In other words, an 8 story building can be assessed accordingly.

Alex Hansen stated the Montana League of Cities and Towns supports this legislation because this bill makes assessment equitable. It gives the city another option of assessing costs of benefits provided by the city and is a more accurate method of assessing.

Questions From Committee Members: Senator Crippen asked why wouldn't taxable evaluation work here? Senator Thayer answered that Cascade County has had some problems with evaluations. There appears to be a discrepancy among similar type buildings and because of that Great Falls has had a great deal of difficulty in convincing the

downtown property owners that that would be an equitable means of assessment.

Senator Crippen asked about the right of protest. Senator Thayer stated current statutes have a right to protest. Business improvement districts can only be created by a petition of 60% of the property owners. Senator Crippen asked if you can switch from one method to another method after a business district is in place? Senator Thayer stated that given the type of assessment that Great Falls has, they would be recalculating the assessment every year any way. Senator Thayer stated the protest language is already in the language.

Senator Pinsonneault asked if when the petition is initiated, do those people who are affected know generally what the assessment is going to cost them? Senator Thayer stated yes they do know as they have done a computer print out on every parcel in the BID boundary. Senator Pinsonneault said if they sign the petition knowing what the assessment is why do they need to protest? Senator Crippen said if you go for the square footage assessment, and you take the square feet in an 8 story building, that should be a weighted vote according to total assessment of the district.

Senator Beck asked if you go with square footage, do I have more clout in objecting to the improvement district? Senator Thayer stated the language in the city statute says you have more clout if you have more parcel area. Apparently, that doesn't take into account someone with 1 parcel but a 10 story building. Where they have tried to make up this discrepancy is in the assessment evaluation. There is a check and balance in the statutes.

Closing by Sponsor: Representative Susan Good thanked the committee for their time and courtesy. Please pass HB 667.

DISPOSITION OF HOUSE BILL 667

Discussion: Senator Thayer said he would carry this bill to the Senate floor.

Amendments and Votes: None

Recommendation and Vote: None

Presentation and Opening Statement by Sponsor:

Representative Mike Kadas, house district 55, Missoula, stated HB 647 will allow cities and towns to issue small denomination general obligation bonds, to be known as "citizen bonds", once they have gotten voter approval to issue these bonds. This is used in addition to the large bonding mechanisms. It allows cities to sell bonds to people in their own communities. He offered an amendment that prevents a conflict of interest; see exhibit 1.

List of Testifying Proponents and What Group they Represent:

Chuck Sterns, Finance Officer, Missoula City
Alex Hansen, MT League of Cities and Towns
Colleen Allison, Mayor of Columbia Falls

List of Testifying Opponents and What Group They Represent:

Mark Semins, V. P., D.A. Davidson, Great Falls

Testimony:

Chuck Sterns gave each committee member a handout. Citizen bonds are also known as "mini bonds" and Missoula supports this bill. These are small denomination bond issues that are sold directly to citizens, not at a public bid, but at pre-determined interest rate. When you are selling them, you follow the market or hire a financial advisor who knows the market, and you set an interest rate that is comparable to the market interest rate. Then call for buyers to come to a public sale, either by phone subscription, by city treasurers, or by city hall. Since cities sell the bonds directly, there are no underwriter commissions, no broker's fees. So small investors can buy these bonds very easily. This is for G.O. bonds; very safe issues.

He also describes "zero-coupon" or "capital appreciation bonds". These are bonds that are sold at a discount from the face value, then the interest that is earned accumulates over time. See exhibit 2 for examples and "benefits to investors" and "benefits to municipal issuers" and "drawbacks or risks" and "safety and security features written into HB 647". Please support this bill.

Alex Hansen stated this bill will allow the citizen to make a direct investment in their home town. That's good public policy.

Colleen Allison said Columbia Falls has had some bond problems. She heartily supports HB 647.

Mark Semins opposes HB 647 because it promotes an inefficient capital raising function, and this could affect an efficient capital raising function that Montana presently has. DAD has financed more improvements in Montana, both by underwriting bonds and serving as financial consultants than any other firm. We do not feel this would adversely affect our business. We are concerned that if this measure passes and we did not express our concerns here, that we would be held in judgment that we were complacent where we should have voiced a concern. These are G. O. bonds and are subject to an election. In current processes the local government structures the bond issue, advertises the sale of the bonds, and then notices a competitive sale. Bonds sold at that appointed time to the lowest interest rate. The purchasing firm then resells the bonds to their customers, and that investment firms is required to comply with federal securities laws, as to adequate disclosure, proper procedures, etc.

He stated HB 647 removes the competitive sale procedure. They establish interest rates and offer the bonds directly to the public. It encourages denominations of less than \$5,000.00, although current law does not restrict smaller denominations. It establishes the process for local governments to offer the bonds; basically a subscription process. It allows "zero coupon" bonds which is not corporately allowed. This could cost taxpayers more on local government debt that would arise primarily from higher interest rates. Interest rates are a commodity, the price of that commodity is effected by supply and demand. Firms have distribution systems established with investors that wish to purchase municipal bonds. Cities will have to have a higher interest rate to attract capital. He said there are costs associated with putting out interest checks every 6 months. Cutting 1000 checks every 6 months and keeping track of all that is costly. The federal securities law is the insurance to the investors that suitable safe investment procedures are followed. That insurance would be removed when the cities do the sale themselves. The subscription process is costly, lengthy, and spreads over a broad public. DAD doesn't sell a lot of bonds by advertising in local papers and having people walk in and purchase. They have an investment net work. The risk of cancellation without collection is a potential problem. The risk of partial subscription is very real and

increases the cost to the taxpayer.

Zero coupons bonds is another problem. The final issue he discussed with the Attorney General's office as currently drafted this bill subjects the state to some liability and risks as section 5 does require the A.G. to "impose requirements he considers necessary to adequately protect both the issuing city or town and the purchasers of the bonds." There is risk to the state associated with the responsibility and it's a legislative function establishing what the procedures are to the judiciary. Currently their roll is interpreting state statutes. The overriding question is, if it's more costly, if it subjects cities and towns and the state to greater liability, is it necessary or desirable? In 1984 the state of Montana commissioned a study by the state's financial advisor, Evanson Dodge, who examined capital markets in Montana, and concluded that Montana's markets are efficient. The small non-rated bond issues in Montana are placed at attractive interest rates, comparable to AA or AAA rated bonds, and are done so at low costs. Citizens of Montana are overwhelmingly funding Montana infrastructure as it is. He estimates the infrastructure comes 90% from Montana citizens, often from the community raising the capital. They buy issues as low as \$100,000 and use \$1,000 bonds presently. Is this bill appropriate?

Questions From Committee Members: Senator Crippen asked Mark Semins if they sell many "zero coupon bonds"? No, "zero coupon bonds" aren't allowed for local governments. We've sold some for the state housing board and there is pretty good interest in them. Senator Crippen asked him to tell him the difference in the interest rate that you would see between the bond issuance for your company and a similar bond issue by the city. Mark said interest rates are determined by several things; 1. the general rates at the time. 2. the rate is determined by how actively those bonds can be placed with investors. They have several firms that have very strong distribution networks in place. This allows us to bid a lower rate. Senator Crippen said cities think they can offer that same bond at a more attractive interest rate.

Senator Crippen asked Chuck Sterns why do you want to get into this thing and go to that hassle? Can you offer a better deal to the public? Chuck said he thinks they can offer as good as or better than deal to the public, but the real benefits are public participation. He said you can't get an underwriter to touch an issue

under \$100,000. In citizen sales you have to monitor them very carefully and often hire an advisor, who among other things, will help set the interest rate.

Senator Thayer asked did you give consideration to marketing these bonds? Chuck Sterns answered that when you're trying to sell small denomination bonds to a variety of people, it would be very hard to put restrictions. You have to let them know what their yield is going to be, and what their bonds are worth at certain times. Senator Thayer asked why is it important to sell to individuals when you can sell to the people in that business? As long as the job gets done, what difference who buys them? Chuck Sterns stated this is more efficient than has been portrayed. You can hold the sale in 1 day and that gives good will. The citizens then support your bond issue, they support your city. This is enabling legislation and allows other options.

Senator Pinsoneault asked in section 5 if you are substituting the A. Gs. office with a function for the federal securities laws? Chuck Sterns answered that in section 5 the first 2 subsections are not changed. The third subsection adds security, but does not mandate that he does so. In order to prevent problems the A.G. may invoke requirements. He ran this bill by the A. G. rep., Dorothy McCarter, and by DAD and got their technical comments on it. He said the city of Missoula issues bonds right now.

Senator Hammond asked Representative Kadas what are the benefits. Mr. Kadas responded that when a city is building something new, the community members can buy a bond and feel a part of that venture. It might be a high risk. Mr. Kadas doesn't want to do a high risk thing because they would loose money. If the city sees an opportunity to get the capital they need and build community support with similar interest rates, they can do it.

Senator Vaughn asked Chuck Sterns did you say that if you had an emergency and needed your money that you could turn your bond back in to the city? Chuck Sterns said mechanisms like that are often allowed, so that they can cash it out in some instances. Senator Vaughn asked if that could cause quite a problem if someone purchased a considerable amount of them? Chuck Sterns said you limit the amount 1 person might invest. On page 2, line 16 you specify the denominations of the bond, and the maximum, amount of the bond that any one buyer might purchase. So by spreading out the bond

issue you spread out your risk. You structure your bond issue to eliminate as much risk as possible and make it a desirable sale. A financial advisor helps with this area.

Closing by Sponsor: Rep. Kadas stated this is a fairly complicated issue that offers cities an option. There is nothing wrong with the current bonding system. This will involve cities own citizens in their own government. Other cities have been doing this for a long time and it works fine. Thank you.

DISPOSITION OF HOUSE BILL 647

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 656

Presentation and Opening Statement by Sponsor:

Representative Norman Wallin, house district 76, Gallatin County, stated HB 656 gives cities the ability to handle some SID problems. This bill allows for deceleration of SID delinquencies and to waive delinquent penalties and interest in order to negotiate with a buyer. Acceleration of some of those SID payments got so large that the buyers went out of the picture. If these items don't work, then there is the mechanism in this bill for selling refunding bonds to take care of the original issue. The refunding bonds could go for 30 years from the original date and they would have to be at an interest rate at least 1/2 of 1% a year less than the rate of interest on the bonds to be refunded. Basically, it gives cities that are stuck with SIDs the ability to negotiate and try to sell that property or save some money. Bozeman has been stuck with \$375,000 interest on SIDs, and this law may help other cities save situations like this.

List of Testifying Proponents and What Group they Represent:

Colleen Allison, May of Columbia Falls
Alex Hansen, League of Cities and Towns

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Colleen Allison stated that Columbia Falls has had trouble with SIDs for a period of 10 years and we have been struggling to resolve them. Briefly, it starts where the cities are the vehicle by which the money passes for paid SID districts and pays off the bonds. There has been in the past nothing to say what happens if no one pays them off, and the city is still responsible. So all the city residents end up paying off for a specific group who had the benefit of the SID. She is in favor of this bill, because they need as many tools as possible to bring about a solution to these and get on with the business of running a city. And to find a way to take the troubled properties and make something happen. This would be a tool to help.

Alex Hansen stated with this bill two things happen. The first it allows the deceleration of the SIDs and it allows the waiver of penalty and interest and it allows for refinancing. These are important tools to prevent the total taxpayers from picking up the tab for a select group. Just about every city has a problem with SIDs. This may get some troubled SIDs into new ownership and get people to resume payments and property back on tax paying basis.

Questions From Committee Members: None

Closing by Sponsor: Rep. Wallen stated he hoped this committee will pass this bill.

DISPOSITION OF HOUSE BILL 656

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 704

Presentation and Opening Statement by Sponsor: Senator Crippen, Senate District 45, Billings, is opening the hearing on HB 705 which is an act requiring that an action challenging the creation of a county planning and zoning district or of a county zoning district must be filed by October 1, 1994, or within 5 years after the date of the order creating the district.

List of Testifying Proponents and What Group they Represent:

Mary Kay Peck, Gallatin Co. Commission
Colleen Allison, Mayor of Columbia Falls
Robert Rasmussen, L & C Co. Planing Dept.
Carol Dailey, Flathead Co. Development Corp.
Mona Jamison,
Grace Edwards, Yellowstone County Commissioner

List of Testifying Opponents and What Group They Represent:

None

Testimony: Mary Kay Peck stated Gallatin County Commissioners support HB 704. This district is formed by citizen petition land owners. They have about 20 zoning districts in Gallatin Co. This bill puts a statute of limitations on the ability to challenge the creation of the district. Please support this bill.

Colleen Allison stated they have found that zoning challenging has been reoccurring more frequently. She supports this bill.

Robert Rasmussen stated Lewis & Clark Co. has 30 zoning districts and in reviewing the procedures they found technical flaws. This legislation will cover those flaws from challenge and change. I urge your support of this bill.

Carol Dailey stated this has been a problem in Flathead County, and an expensive in the past. As a business issue it is important that when they have zoning for consistency, that when the zone is there for 5 years it is assumed that it is as designed. They've had the problem that people come in, buy the property, and later try to change the zoning conditions. This is a good bill and I urge you to pass it.

Mona Jamison, representing the Montana Association of Planners, added that people rely on the zoning, and many people's property values are established in relationship to the established zone.

Grace Edwards stated Yellowstone County supports everything that's been said so far.

Questions From Committee Members: Senator Beck asked why the date of October 1, 1994? Senator Walker stated this bill will go into effect on Oct. 1, 1989 and that is 5 years from that date. Senator Pineseault asked

about a notice of public hearing about challenging. Mona Jamison hadn't thought about this bill in terms of notifying the public. She said there is a statute of limitations in so many areas, and people should not be ignorant of the law, so this bill shouldn't be singled out so that they can't have it. Senator Beck asked if this allows a 20 year old zoning district 5 more years to be challenged? Senator Crippen stated it just puts a statute of limitations into effect.

Closing by Sponsor: Chairman Harding closed the hearing on HB 704 and recessed until 5:00 p.m.

DISPOSITION OF HOUSE BILL 704

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 244

Presentation and Opening Statement by Sponsor:

Representative Bernie Swift, house district 64, Ravalli, stated this is an act protecting shooting range locations, exempting shooting ranges from certain laws relating to litter control, community decay, disorderly conduct, and public nuisance. The objective of this legislation is to preserve and protect those shooting ranges that we have in place. Some are in a completely safe, and totally designated range. The Fish Wildlife and Parks have been going through a preliminary survey, since Sept. 1988. We have on record now 51 designated ranges that are in a safe and controlled condition. There are numerous others that are in varying conditions of meeting standards. Most ranges, 39 of them, are open only to club members, and 12 are open to the public. There are 12 to 15 in unsafe conditions and people are working on them. This bill grandfathers shooting ranges into law so that they will not be in jeopardy of being closed because of certain legal processes that are on the books. He refers to the language on nuisance, noise, and proximity to shooting. He wants to protect the shooting ranges and give them the same posture of other things that are in place, in relation to zoning laws, etc.

List of Testifying Proponents and What Group they Represent:

Gary S. Marbut, MRA, MASC, WMFGA, BSBC
Brian D. Whitehorn, MRPA, MRSA,
Alfred M. "Bud" Elwell, Mt. Weapons Collectors & N.W.
Weapons Collectors.
Rob Braach, Western MT F & Game Assn.
Tim Pierson, Last Chance Handguns

List of Testifying Opponents and What Group They Represent:

Mona Jamison, MT Taxpayers Association
Mary Kay Peck, Gallatin Co. Commission
Ellen Woodbury, Belgrade City-County
Robert Rasmussen, L & C. Co. Planning Dept.
Alex Hansen, League of Cities and Towns
Roger Sanders, Cascade Co.
Carol Daily, Flathead Co.
Colleen Ellison, May Columbia Falls,
Grace Edwards, Planning & Zoning
Gordon Morris
Jeffrey Smith, Butte Silver Bow

Testimony: Gary Marbut from Missoula stated this bill has been introduced to protect the shooting sports. All have been faced with the problem of establishing and maintaining shooting ranges in Montana. 85% of the households in Montana contain firearms. 35% of all the residents purchase hunting licenses. These people need places to shoot. There is increasing conflict with landowners, increasing problems with hazardous shooting, thus we need ranges in the state. There has been a reticence to invest in shooting ranges if they don't have the security of staying there for a length of time.

Bozeman has had two problems. The Law Enforcement Academy's firing range has been closed and they bus their students to Lewistown to practice shooting. The civilians looked for 5 years for a suitable place to establish a range, and they could only be on a site for 2 to 5 years. We would like to say that if a group finds a good site for a range that they could stay there without being squeezed out.

He said there is a section where local governments could deal with problem ranges. The first, if the range is unpopular, there is an opportunity in the bill in section 5 (2) page 3 and top of page 4, the local government can relocate that range with duplicate facilities, and pay the full cost of the range. They want ranges for the public of Montana. Secondly, the

other alternative, on page 4, line 24 (3) (A) if a shooting range presents a clear and provable safety hazard to the adjacent population and if the range fails to meet the minimum range safety standards established by the Fish and Game Commission, the range may be closed down. Range operators have to have the opportunity to rectify the problems. The statement of intent uses the NRA as minimum range safety standards, so that's offered as a guideline for the FW&P to apply to a range for safety standards. They ask that the ranges be immune from noise standards and assertions of lead pollution. He asks that ranges be exempt from planning and zoning authorities. Currently 95% of Montana is exempt from planning and zoning under the mining, agriculture and timber laws. Generally ranges establish far from communities and communities move in around them, like airports. He wants planning, too, but he wants protection for a long term investment. Please pass this bill.

Brian Whitehorn stated Great Falls has 6 different ranges; a trap range, a skeet club, Missouri River Shooters Association, McGivern Pistol and Golf Club, Great Falls Rifle and Pistol Club. As of this date 2 of those, the skeet club and McGivern, operations have been threatened by closure because of potential development. Law enforcement in Great Falls uses the McGivern Range for practice; Custom officials, FBI, and sheriff's dept. Several hundreds of residents use those 6 ranges. Missouri River Shooters Association provides sight-in days prior to hunting season for hunter's use. Each of those 6 facilities represents thousands of man hours of volunteer time and several thousand dollars in donations and dues or membership fees. Any one of them would be difficult to replace. They hate to face closer after the investment of money, time, and sweat. I urge your support of this bill.

Alfred M. "Bud" Elwell stated that his group puts on the gun shows. His groups want to protect safe places to shoot guns. He said in 1948 the Helena Gun Club located a facility on North Montana. At that time there was nothing there. The closest building was 900 yards away, the little red school house. A developer came in the 1960s and built homes. They get criticism from the nearby home owners. For the protection of shooters and protection of children we need a safe place to shoot.

Rob Brock from Western Mt. Fish and Game Association in Missoula and he speaks for 600 members in the area. The Deer Creek Rifle Range is located 3 miles east of Missoula; and the Missoula Trap & Skeet Club is about 9

miles west of Missoula. Missoula Trap & Skeet Club is the best facility in the state, 18 trap ranges, 7 skeet fields and international bunker, which is the Olympic version of shooting, and we are in the planning process of putting in another \$100,000 investment. They are hoping to host Olympic trials for the shooting events. They presently have over a quarter million dollars invested in equipment and site development at that location. It is in no immediate danger by home development because a stock yard just went in east of them. This legislation is important to both those facilities because of substantial investment they have. He feels this bill is fair and equitable, and developers should realize the impact they are putting on shooters in that situation.

He said that ranges provide a safe place to shoot, and keep the sports shooter away from other peoples land. The land owner conflict with where is there a safe place to shoot.

Tim Pierson from the Last Chance Handgunners of Helena stated it's getting harder and harder to find a safe place in Montana to shoot. He thinks we owe something to future generations to preserve this for them. He urged support.

Mona Jamison said her group opposes this bill. Please look at the grandfather clause on page 10, section 12, lines 12, 13, 14. It says this act applies to shooting ranges in operation on or after the effective date of this act. She fears that this language applies to future ranges. Is this a grandfather clause or does it apply to existing and future shooting ranges?

Please look at page 1, section 1, lines 22 - 25. Go on to page 2, lines 1 - 3. She asks if the policy to protect and serve the public health, welfare and benefit, should be placing this particular activity as opposed to all others. Look at page 2, section 4, line 18 - 25 and on to page 3, lines 1, 2. This states that any master plan and resolution adopted pursuant to Title 76 (which are the subdivision laws) do not prevent or inhibit the operation of a shooting range. Then on line 23 (2) it says you may prevent or inhibit the operation of a shooting range. The regulation or resolution may be adopted only once and be effective for a maximum of 6 months. She stated that in a master zoning plan there is a lot of input by citizens and it should be valuable for more than 6 months, better for 6 years, or 10 years.

On page 4, line 7 it says a suitable alternative site for the range is located and obtained by the agency, unit or local government or court involved. Further, line 10 says the agency, unit or local government, or court ordering relocation pays the entire cost of relocating the range, including replacement of improvements. Why is this activity so important that we would want to single out this one. Shouldn't we provide this to all other activities?

This bill provides that shooting ranges are exempt from public nuisance laws. Why should this activity be exempt from public nuisance laws? The purpose of this bill is understandable. Everybody wants to protect their investment, but this bill is not the way to do it. This bill asks for preferential treatment. Do not pass this bill.

Mary Kay Peck stated the Gallatin County Commissioners asked her to appear here in opposition HB 244. They too object to Section 12. It's true that agriculture, mining, and forestry are exempt from zoning and planning but they are not exempt from noise control, community decay, public nuisance, and pollution by lead, copper and brass, such as this bill would do. Commissioners believe that zoning provides for the health, safety, and welfare for the public. This bill puts a special interest above that. Zoning is to protect property values, and separate incompatible usage. She opposes this legislation.

Ellen Woodbury from Belgrade stated this bill does not address shooting firearms in the city limits. She said 45-8-623 MCA enables cities and towns to regulate shooting ranges in the city limits, and 45-8-351 also allows cities to regulate for public safety purposes discharge of guns within the city limits. She gave a bunch of letters from her area to the secretary for exhibits.

Robert Rasmussen is familiar with shooting ranges. He also is familiar with the local government and their problems regarding this bill. He thinks promoting safety is an excellent idea. He disagrees with the approach of exempting this activity in this broad fashion. Exempting them from planning statutes and the zoning statutes. We have different aspects of zoning in the statute, 2 formats of county zoning, and municipal zoning, and in each section of those statutes the law clearly addresses prior non-conforming uses, and uses that are in place before zoning comes into effect. In each situation the law provides that they

are allowed to continue. The situation that the proponents described has occurred elsewhere; in Milwaukee, Wis. He does not think they should be exempt for special treatment. He suggests that we include ranges in the zoning and planning so that in the process they are given a rightful place. He mentioned airports, trucking terminal all need a place in our world. Adjacent usage should be compatible. He personally opposes this bill as a property owner, which is in zoned areas. He urged opposing this bill.

Alex Hansen opposes this bill because it creates a special class of property that is above and beyond the law. Shooting ranges under this act will be exempt from planning, zoning, noise, pollution regulations and this is not fair to the majority of the population. This bill could open a wide door to other operations asking for special treatment. The other problem is the cost of relocating being assumed by local governments or courts. He believes if someone develops property around a shooting range, they may have some responsibility for the incompatibility. Obviously, it's not the local government. These ranges should be included in county and city planning and zoning, and we should find places where ranges can be located with reasonable assurance that they will be compatible with surrounding activity. These people will not be driven away as they fear. We respect their investment, their sport, but there is a better way.

Roger Sanders planning director of Cascade County commissioners and planning board oppose this bill. Until this evening he didn't know of the problems in the Great Falls area regarding shooting ranges. He thinks there should be protection for existing ranges. His problem is proposed shooting ranges. He believes this bill protects them also. He believes the nuisance laws should apply to shooting ranges. They have a responsibility for upkeep and operation of their facility. But this law will tend to make them less responsible. There are only 5 or 6 counties that have county wide zoning. There are another 20 that have partial county zoning. About a year ago Cascade County reviewed and denied a shooting range application, because of project impacts to surrounding land use. It wasn't an easy decision. Shooting ranges do provide a needed function, but they need to be operated in a responsible manner. He opposed this bill.

Carol Daily asks for better planning and zoning.

Colleen Allison understand the proponents stand and they

need to work with local government to accommodate what needs to be done. This bill ties the hands of local government.

Grace Edwards said Yellowstone County Commissioners reiterates what has been said. In their plan for the county they have a place for shooting ranges, and those places are protected for existing and for future ranges. The non-conforming use came into effect for the older ranges. Do not pass this bill.

Gordon Morris stated shooting ranges are not being zone out of existence in Montana. This bill creates a different and exceptional standard for shooting ranges from any other private enterprise conducted in Montana. Do not pass.

Howard Gipe said Flathead County Commissioners strongly oppose HB 244.

Jeffrey Smith gave written testimony opposing HB 244. See exhibit 2.

Questions From Committee Members: Senator Crippen asked, Do the local governments when zoning plan for these types of facilities? Yes, they can petition for a zoning district. Helena is an example. What happens to their firing range? Are they exempt? Not necessarily. The same thing happens to them as a chicken farm, or any other nuisance. Their neighbors take them to court. Senator Crippen commented that Mr. Marbut should get involved in the planning process. He said the local governments were not cooperative in this area. There are very few clear standards in zoning and planning that apply. Sen. Crippen asked about lead, brass and copper residue. Mr. Marbut said that isn't a problem in Montana. Sen. Crippen doesn't feel the NRA standards are what we need here. Mr. Marbut said you use the National Fire Protective Association standards, what is different about this? Statute refers to private organizations on the national level for recognized expertise.

Senator Boylan asked why aren't there any peace officers here testifying? Gary Marbut stated they are concerned for a place to practice their shooting skills. In most of the cities they use the private ranges that are available to them. Senator Boylan asked if the Police Academy had a place in Bozeman to shoot. Mary Peck stated that the police academy in Bozeman does not have a range. Senator Beck said he'd never seen a bill before that held the court

responsible. The problem is with the subdivider, not the local government. Gary Marbut responded that local government would have a number of possibilities of how they could get the home owners to pay. Before local government approves a subdivision they require the subdivider to relocate the problem range. If citizens around the range have a problem, the local government can offer them the option of having an SID to pay for the relocation. He wants the local government and the courts to deal with the problem.

Senator Vaughn asked Rep. Swift if he meant all future shooting ranges by use of this language? Rep. Swift answered that you can be involved in planning, and if there is suitable disposition of that it can be worked out, but we don't want to be dealt out of the situation. Senator Beck asked if there is a place for ranges in town? Mary Kay Peck said, no, we wouldn't allow them and if there is a problem, they will have to move.

Senator Pinsonneault said this bill sounds like a national security range. The language in this bill is extreme. Mr. Petesch, our chief drafter, should have checked this matter. Rep. Swift said that if they don't like what a proposed use is going to be, they will zone it out to begin with. We only heard from 2 people not involved in government here today, and they are saying they are not going to allow or accept that use. We want the investment safe.

Senator Beck asked in the applicability section do you mean on or after? Rep. Swift said that is the intent we are after. Senator Beck asked if we shouldn't put the protection in the subdivision laws.

Closing by Sponsor: Rep. Swift stated that the people proposing this bill aren't planners. The concern here is the taking of private property, which is being done today, and stop that. It gives the people who own the property the ability to develop it. We train young people to shoot and handle firearms, roughly 225,000 in the past 30 years. They train about 6300 youngster every year in this activity. We want shooting ranges in a safe, secure condition, and not have plunking at a tree or hillside. We want standards, done properly, safely. We need a shooting range at the Police Academy in Bozeman. The property must be protected. These are the real reason for this legislation. Thank you for your courtesy.

DISPOSITION OF HOUSE BILL 244

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

ADJOURNMENT

Adjournment At: recessed at 2:55 p.m. until 5:00 and
adjourned at 6:30 p.m.

SENATOR ETHEL M. HARDING, Chairman

EMH/dh

Minutes.316

ROLL CALL

LOCAL GOVERNMENT

COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date March 16, 1989

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

page 1 of 2

March 16, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 440 (third reading copy -- blue), respectfully report that HB 440 be amended and as so amended be concurred in:

Sponsor: Brown, D. (Walker)

1. Title, line 5.

Following: "EXCLUDING"

Insert: "THAT"

2. Title, line 6.

Strike: "AMOUNTS"

Insert: "AMOUNT"

3. Title, line 8.

Following: "UNDERSHERIFFS;"

Insert: "ALLOWING A COUNTY GOVERNING BODY TO RESTORE ALL OR PART OF THE LONGEVITY INCREASES THAT WERE LOST AS A RESULT OF COUNTY WAGE FREEZES;"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "7-4-2503"

Insert: "AND 7-4-2504"

4. Page 2, line 18.

Following: "year"

Insert: "."

Strike: "plus"

Insert: "(c) The county sheriff shall receive"

5. Page 2, line 20.

Following: "department"

Insert: ", but years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases"

6. Page 2, line 20.

Strike: "amounts"

Insert: "amount"

7. Page 5, line 16

Following: "certify.""

Insert: "Section 2. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments. (1) The county governing body shall by resolution, on or before July 1, 1982, and on or before July 1 of each year thereafter adjust and uniformly fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and the clerk of the district

court; the county auditor (if there is one); and the county surveyor (if he receives a salary) for cost-of-living increase by adding to the annual salary computed under 7-4-2503 an increment calculated by applying to the annual salary established by 7-4-2503(1) plus previous cost-of-living increments, 70% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The county governing body may, however, for all or the remainder of each fiscal year, in conjunction with setting salaries for the same action on the salaries of justices of the peace (if applicable), the county governing body, county attorney, and coroner, set the salary at the prior fiscal year level if that level is lower than the level required by this subsection. The cost-of-living increment for the fiscal year beginning July 1, 1983, and for each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years unless salaries were set for the fiscal year at the level of salaries received in the prior fiscal year. In such case the cost-of-living increment that would have been received for such fiscal year, computed on the prior fiscal year, may not be added to previous increments.

(2) The county governing body may, in any subsequent fiscal year, restore for 1 or more years the annual cost-of-living increments withheld pursuant to subsection (1). If cost-of-living increments are restored, the longevity increases provided for sheriffs in [section 1] must also be restored for the years for which the cost-of-living increment was restored.

~~(2)~~(3) If the application of 7-4-2503 does not qualify a county official for a salary increase of at least 7% on July 1, 1981, his salary on that date shall be increased by an amount sufficient to provide him total salary equal to 7% more than during the previous year.

~~(3)~~(4) The county governing body shall by resolution, prior to July 1 of each year, establish the salary of the coroner and may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in subsection (1), set the salary at the prior fiscal year level. The salary must be in effect upon the first day of each ensuing fiscal year."

Renumber: subsequent section

AND AS AMENDED BE CONCURRED IN

Signed: _____
Ethel M. Harding, Chairman

MONTANA LOW-INCOME COALITION



P.O. BOX 1029
HELENA, MONTANA 59624
(406) 449-8801
(406) 443-0012

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 3-16-89

BILL NO. 682

BUTTE
COMMUNITY UNION
113 HAMILTON
BUTTE 59701 • 782-0670

BOZEMAN
HOUSING COALITION
228 EAST KOCH
BOZEMAN 59715 • 567-3736

CONCERNED CITIZENS
COALITION
825 THIRD AVENUE SOUTH
GREAT FALLS 59402 • 727-9136

LAST CHANCE
PEACEMAKERS COALITION
107 WEST LAWRENCE
HELENA 59601 • 441-8580

LOW INCOME
SENIOR CITIZENS ADVOCATES
BOX 897
HELENA 59624 • 443-1630

MONTANA ALLIANCE FOR
PROGRESSIVE POLICY
324 FULLER
HELENA 59601 • 443-7283

MONTANA LEGAL SERVICES
EMPLOYEES ASSOCIATION
201 N. MAIN
HELENA 59601 • 442-9830

MONTANA
SENIOR CITIZENS ASSOCIATION
BOX 423
HELENA 59624 • 443-5341

MONTANANS
FOR SOCIAL JUSTICE
436 NORTH JACKSON
HELENA 59601 • 449-3142 • 227-8594

POWELL COUNTY
NEIGHBORHOOD
SUPPORT GROUP
BOX 342
DEER LODGE 59722 • 846-3437

FACT SHEET ON HB 682

An Act providing for the electionship of two tenants of each Housing Authority as Housing Authority Commissioners; and amending sections 7-15-4406,-4431,-4432,-4435,-4436, and -4439,M.C.A.

MAJOR POINTS:

1. Expands the Housing Authority board from 5 to 7 Commissioners.(Section 1)
2. The 2 additional Commissioners are tenants residing in public housing who are elected by the tenants themselves. The bill also provides for 2 alternates to be elected at the same time in case the current tenant commissioner is no longer able to serve.
3. If there is no tenant, who wishes to be elected or serve as an alternate, the appointed Commissioners will appoint a tenant and an alternate to serve in that position to fill out the term until a tenant can be elected. (Section 2 & 3, sub.(4))
4. One elected tenant and one alternate shall represent elderly and/or handicapped residents; the other tenant commissioner shall represent family residents.
5. The current appointed commissioners will adopt by-laws outlining the election process and will hold the first election. Subsequent elections will be held by the tenant commissioners at an annual meeting of the tenants.(Section 3, sub(2); Section 5)
6. Each tenant will have one vote. Tenants are both eligible to run for the position and to vote if they have lived in public housing at least 30 days prior to the election and are 18 years or older. (Section 4)

7. Section 6 which refers to the establishment of a new housing authority and Section 7 is mostly clean-up but includes language specifying the election of two tenant commissioners. The mayor is still responsible for the appointment of the 5 non-tenant commissioners and still designates the first chairman. (Section 6 & 7).

8. Section 8 outlines the term of office and provides for staggered terms, when tenant commissioners are first elected the same as for appointed commissioners.

9. Any conflict of interest question for tenant commissioners is addressed in section 9 which also addresses conflict of interest of appointed commissioners. Section 9 states that tenants do not have a conflict of interest by serving on a Public Housing Authority Board.

10. In Section 10 there is the provision for removal of a tenant commissioner due to inefficiency, neglect of duty or misconduct by a recall petition signed by at least 20% of the tenants. It also contains a process for appeal for that tenant commissioner.

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
RENEWAL AND HOUSING MANAGEMENT

CIRCULAR

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

DATE 3-16-89

BILL NO. B1082

RHM 7401.1

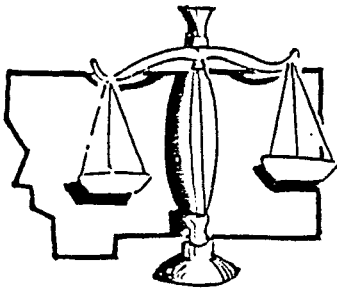
1/28/71

Cancellation
Date:

SUBJECT: Appointment of Tenants as Local Housing Authority Commissioners -
Section 211 of the Housing and Urban Development Act of 1970

1. PURPOSE: The purpose of this Circular is to supplement RHM 7401.1 and call to the attention of local communities the policy statement concerning the appointment of tenants as Local Housing Authority commissioners contained in Section 211 of the Housing and Urban Development Act of 1970.
2. GENERAL.
 - a. Section 211 of the Housing and Urban Development Act of 1970 reads:

"Section 1 of the United States Housing Act of 1937 is amended by adding at the end thereof the following: 'It is the sense of the Congress that no person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a low-rent housing project.'"
 - b. The Department of Housing and Urban Development wishes to re-emphasize its strong commitment to the practice of appointing tenants to the Boards of Commissioners of Local Housing Authorities, as outlined in its Circular RHM 7401.1, dated 7/14/70. The declaration of the Congress in Section 211 complements the previously expressed policy of the Department.
 - c. All Local Housing Authorities are urged to closely examine their own operating policies and relevant state laws, as appropriate, and to make or recommend changes in those policies and laws in order to remove barriers to tenant appointment as Local Housing Authority Commissioners.



Montanans For Social Justice

436 North Jackson
Helena, Montana 59601
(406) 442-7752

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 3

DATE 3-16-89

BILL NO. HB682

TESTIMONY IN SUPPORT OF HB 682

Senator Ethel Harding, Chair

Good afternoon Madam Chair and Committee Members. My name is Lisa Zier and I am an active member of Montanans for Social Justice and a tenant of the Helena Housing Authority. I'm here today to urge your support of House Bill 682.

When tenants in Montana came together to discuss problems within the current Housing Authority structure, we all agreed that one issue of concern was the lack of tenant representation on housing boards. We felt that this bill addressed tenant and management rights to fair representation and democratic processes. The election process within this bill allows tenants to choose their representatives, and further, the bill overall creates a vehicle for better interaction and cooperation.

The Housing Authority enacts and enforces the policies affecting me and my children. I believe I have the right to fair representation and the right to choose who shall represent my interests and concerns. I trust that the representatives chosen will understand the importance of their elected positions and, beyond this, I trust in all matters of confidentiality they will honor the necessity to protect this piece responsibly. It is not so unlike you who represent us today, or unlike the trust we as citizens of this state have that you will also respect our confidential matters. I urge you to vote yes on House Bill 682

Viewpoint

By John Yates . . .

It was, to say the least, somewhat of an over-reaction when the Anaconda Housing Authority and the Anaconda-Deer Lodge County Commission went through the roof about legislation calling for the election of two tenants to housing boards.

Commissioners and authority members spoke of the legislation in terms befitting the Japanese attack on Pearl Harbor — and, in fact, literally likened it to Pearl Harbor.

It was a classic case of fear of rocking the boat. The commissioners and authority members spoke in terms of the state usurping their power to make appointments, but what they really meant is that they fear change. First of all, they took the legislation as a slap in the face.

I have heard no one criticize the dedication of local Housing Authority members. I checked with some friends who live in public housing here, and none of them had any major complaints.

Anaconda's Housing Authority members have worked hard for many years at what must be regarded as a thankless task.

Instead of rapping housing boards, the legislation simply is a statement that tenants have a right to representation on boards that hold substantial power over their lives.

Let us forget, that's what the Boston Tea Party was all about: Control without representation.

It also was the major cause of the American Revolution. To say that Americans should have a voice — that is, of, official representation — on any governmental body that affects their lives is as American as apple pie.

Moreover, it is a fundamental of Americanism that people should have the right to vote for their leaders. The Twentieth Century profusion of appointed officials, regardless of their quality, is an insult to the ideas of representative government.

Actually, one of my biggest regrets about the legislations is that tenants themselves did not demand representation on housing boards. Instead, a statewide coalition of poor people did all the work.

It's pretty sad when people don't take control over their lives, but rely on some organization to do it for them.

In many regards, the issue really centers around power. The commissioners are worried that their power to make appointments to boards might be impinged by the legislation.

While I might say their power should be impinged in the name of democracy, the legislation doesn't alter the commissioners' right to appoint whomever they want to five board posts.

Remember, the tenants would be allowed to elect only two board members.

It also is arguable that people have more trust for officials they elect directly. I know I do.

A continual complaint around Anaconda is that the same faces are found on most boards and commissions here. Local people largely believe that boards and commis-

Who's afraid of the big, bad tenants

sions should attract new blood to widen their responsiveness to various segments in the community. I agree, and the proposed legislation would do much to accomplish what many see as an important local goal.

Power is also at stake for the housing board members (or at least, that's how they perceive it).

How can that be? The two elected representatives could be outvoted by the five Commission appointees on any issue.

A 5-4 vote can hardly be called a threat to power. My preference would be to see a housing board of five members, either tenants or non-tenants, all of whom are elected by the general public.

I think the power issue the authority members really fear is a loss of control caused by the election of possible dissidents.

Certainly, tenants will be much more likely to question and challenge Authority decisions than appointees. I think that's great. The best decisions come out of an atmosphere of open debate. The worst decision tend to come out of an atmosphere of unquestioning agreement.

Moreover, the authority members are worried that they might lose control over their meetings.

They would at times, but remember this: Control — rather than freedom — is the hallmark of totalitarianism, and the antithesis of democracy. Totalitarian regimes control people, purportedly "for their own good."

Democratic governments allow people to control their own lives.

Of course, democracy sometimes gets a little messy and it can't be called efficient.

For the Housing Authority, elected tenants probably will mean that more time will be spent addressing complaints, and policies that don't raise an eyebrow today probably will become controversial. Moreover, it probably means that some stormy issues will recur like a bad dream.

Such messiness is the price of democracy and political freedom.

And, I think, messiness is a very small price to pay for freedom and democracy, which are treasures indeed.

In discussion of the legislation, I detected a disturbing tone of condescension and paternalism among the commissions.

Authority members said they didn't mind "good tenants" like a "wonderful little lady" on the Board.

That's a good way to start a war.

A "good" tenant is really a way of saying a "lame" tenant; in essence, an emasculated "yes man."

And calling someone a "wonderful little lady" is the best way I know of to stand a lot of woman's hair on end. That means she smiles serenely, keeps her mouth shut and votes with the majority.

Paternalism creep in when the Authority members implied — and sometimes said — that they were best qualified to decide matters pertaining to tenants.

Poor people are just that: Poor. But poverty doesn't mean a person is incapable of making wise decisions about matters affecting their lives.

In fact, just the opposite might be true. I doubt if any of the commissioners or authority members could cut the mustard for a fifth on a welfare budget.

Poor people need help to make their lives better. But they don't need paternalism. They need a helping hand rather than a "father knows best" attitude.

No one knows better than tenants about the problems of tenants. If anything, the membership of tenants on the Authority should be seen as a distinct asset.

The commissioners should have appointed several tenants to the Authority years ago. I guess that the fact that they didn't says something.

Power also is an issue for the tenants.

All people need to feel they have power and control over their lives. That is especially true for people who've been dealt some hard knocks.

As a former counselor, I can say that the first step in helping someone overcome a problem — any problem — is to help them find a sense of empowerment over their lives.

To accomplish anything, people simply must believe they have the power to influence their destinies.

When people are empowered, miracles can happen — both for themselves and, in this case, for the good of public housing in Anaconda.

There's another issue the commissioners and authority members must consider, even though it is no ill reflection on them. In many other parts of the country, people have some very valid complaints about housing authorities.

In a Pennsylvania town where I once reported the news, there's another issue the commissioners and authority members must consider, even though it is no ill reflection on them. In many other parts of the country, people have some very valid complaints about housing authorities.

In a Pennsylvania town where I once reported the news, there's another issue the commissioners and authority members must consider, even though it is no ill reflection on them. In many other parts of the country, people have some very valid complaints about housing authorities.

Cookout/Poker Run

Anaconda Snowmobile Club will hold a cookout with refreshments for the club or paid up members

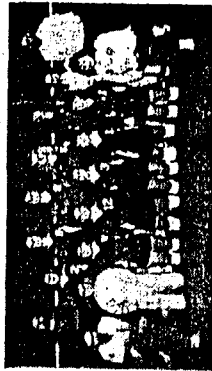
Sunday, March 12 • 11-4
Cabin at Peterson Meadows

Poker Run Extra Attraction
\$5 per hand

NEW MEMBERS WELCOME!

ATHLETE of The WEEK

Good Luck Copperheads!



City Drug
119 MAIN ST. ANACONDA, MONT. 59711

MONTANA LOW-INCOME COALITION



P.O. BOX 1029
HELENA, MONTANA 59624
(406) 449-8801
(406) 443-0012

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 5

DATE 3-16-89

BILL NO. 42682

BUTTE
COMMUNITY UNION
113 HAMILTON
BUTTE 59701 • 782-0670

BOZEMAN
HOUSING COALITION
226 EAST KOCH
BOZEMAN 59715 • 587-3736

CONCERNED CITIZENS
COALITION
825 THIRD AVENUE SOUTH
GREAT FALLS 59402 • 727-9136

LAST CHANCE
PEACEMAKERS COALITION
107 WEST LAWRENCE
HELENA 59601 • 449-8680

LOW INCOME
SENIOR CITIZENS ADVOCATES
BOX 897
HELENA 59624 • 443-1630

MONTANA ALLIANCE FOR
PROGRESSIVE POLICY
324 FULLER
HELENA 59601 • 443-7283

MONTANA LEGAL SERVICES
EMPLOYEES ASSOCIATION
801 N. MAIN
HELENA 59601 • 442-9830

MONTANA
SENIOR CITIZENS ASSOCIATION
BOX 423
HELENA 59624 • 443-5341

MONTANANS
FOR SOCIAL JUSTICE
436 NORTH JACKSON
HELENA 59601 • 449-3140 • 227-8694

POWELL COUNTY
NEIGHBORHOOD
SUPPORT GROUP
BOX 342
DEER LODGE 59722 • 846-3437

TESTIMONY IN SUPPORT OF H B 682 BEFORE THE SENATE LOCAL GOVERNMENT COMMITTEE ETHEL HARDING, CHAIRMAN

Madam Chair and Members of the Committee:

My name is Virginia Jellison; I'm the Lobbyist for the Montana Low Income Coalition and MLIC requests your support and the passage of H B 682.

MLIC is a coalition of member-based groups that deal with issues of social justice, equity and peace. Many of our members, and the people we speak for today, are low income; some lucky ones are tenants in public housing. It is on behalf of public housing tenants that we ask your support for H B 682.

Another part of my testimony has to do with my experience with public housing.

As a Missoula City Council member, I authored the legislation establishing the Missoula Housing Authority in 1978. Later, I became the Executive Director of Missoula PHA; and then Exec. Dir. for a county PHA in Eastern Oregon and then the Principal Manager of the St. Paul Public Housing Agency. In St. Paul, I ran the management division that provided the property management functions for over 4,300 public housing units.

In Oregon the state law requires a tenant on the PHA board. I found the tenant commissioner to be a valuable asset to the authority--her participation provided much needed input in management and policy decisions.

Tenants can become more familiar with and understanding of HUD regulations and constraints effecting PHAs through their tenant commissioners.

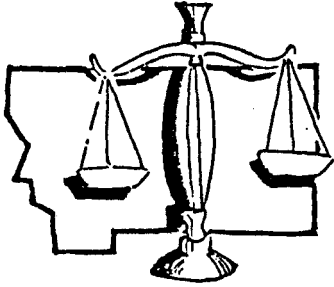
I .

Housing Authorities will find that tenants, overall, will make responsible decisions about serious and complex issues when they have a vested interest in the decision making process. Allowing tenants to become PHA commissioners will insure that. Tenants become strong allies for public housing and more vocal in expressing critical issues to HUD on behalf of the local PHAs. Many times, a PHA may be unable to resist or protest a ridiculous and unreasonable demand from HUD, but the tenants can and will protest loudly on behalf of the PHA. And both HUD and congress will listen when the tenants speak.

That actually happened in St. Paul. Congress would have taken an adverse action on all public housing if it had not been for the tenant's protest. Our elderly tenants wrote 700 letters to their congressmen and the governor of Minnesota and along with other tenants nationwide, that adverse decision was not made.

Some people are concerned that tenant commissioners might make unreasonable demands on the PHA. I don't believe that will happen. Their request may express a true need of tenants that the PHA may or may not be able to fulfill--at that time. But surely, the tenants have a right to be heard. And even if a request can not be met then, maybe it can be met sometime in the future. At least the PHA will be aware of tenant needs and concerns and can make an attempt to serve those who they are mandated by law to serve--the tenants.

Madam Chair and Members of the Committee, I urge your support for H B 682 and request that you give it a "do pass". Thank you.



Montanans For Social Justice

436 North Jackson
Helena, Montana 59601
(406) 442-7752

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 6

DATE 3-16-89

BILL NO. HB 682

TESTIMONY IN FAVOR OF HOUSE BILL 682

Senator Ethel Harding, Chair

My name is Tony Casiano and I am a member of Montanans For Social Justice, and a tenant of the Helena Housing Authority. I want to get involved in my community and I feel if House Bill 682 passes people who live in my community will get involved and make it a better place to live. Thank you, and I ask you to vote yes on House Bill 682.

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 7

DATE 3-16-89

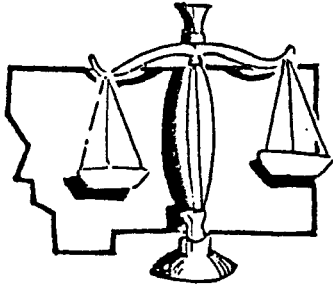
BILL NO. HB 682

March 16, 1989

TESTIMONY IN SUPPORT OF HOUSE BILL 682

The Montana Rainbow Coalition supports H.B. 682 because we believe that this legislation promotes good government. The Random House Dictionary of the English Language defines government as "The political direction and control exercised over the actions of the members, citizens, or inhabitants of communities, societies, and states." Madam Chair and members of the committee, people who live in housing authority units are members of a community. This particular community is governed by a board of commissioners, appointed by the local Mayors. We believe that it is important that members of a community, citizens, should have the opportunity to elect in a democratic fashion the representatives who will be making decisions about matters that effect their daily lives. That is exactly what this piece of legislation will allow. Tennant representatives, democratically elected will enhance the administration of the housing authority by providing a responsible and responsive voice for tenants. We urge you, in the name of good government and democratic principles to support House Bill 682.

Joseph Moore
Legislative Coordinator
Montana Rainbow Coalition
58 s. Rodney, Helena Mt.



Montanans For Social Justice

436 North Jackson
Helena, Montana 59601
(406) 442-7752

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 8

DATE 3-16-89

BILL NO. HB-682

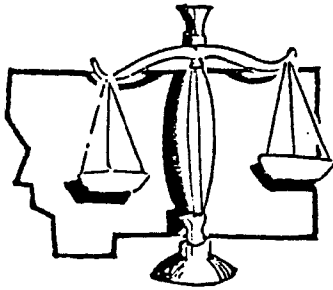
TESTIMONY IN SUPPORT OF HOUSE BILL 682

Senator Ethel Harding, Chair

My name is Rod Burch and I live in Public Housing in Helena. I strongly support House Bill 682 and urge you to vote in favor of its passage.

If House Bill 682 passes it would mean that I could help elect two tenants from Stewart Homes to represent me as a Housing Authority Commissioners. Tenants need a stronger voice in making decisions that affect our lives, and this bill will go a long way in doing that.

I urge your support of House Bill 682. Thank you.



Montanans For Social Justice

436 North Jackson
Helena, Montana 59601
(406) 442-7752

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 9

DATE 3-16-89

BILL NO. HB 682

TESTIMONY IN FAVOR OF HB 682

Senator Ethel Harding, Chair

My name is Marcia Schreder. I'm an active member of Montanans For Social Justice and chair of the Montana Low Income Coalition. I have lived in public housing approximately four years; three years here in Helena.

As one of the people instrumental in initiating HB 682, I think I can help you sift through some of the negative arguments you will hear later from the opponents.

I'm sure you'll hear that in the 1970's the Montana Attorney General Mike Greeley, at that time, released an opinion that a tenant on a public housing board would be a conflict of interest. Upon questioning he can't remember giving that opinion. Are tenants destined to be ruled by an old forgotten opinion. Because of the existence of this opinion and the apparent influence it has had on housing boards across the state, we felt it was important to introduce this bill to remove this barrier from a tenant sitting on a public housing board.

To my knowledge there is no opinion out there against a board member being a landlord of Section 8 housing. Now that would be a conflict of interest. Federal law regulates rent rates at 30% of your income and utility allowance policies are set by the whole board, so I find it hard to imagine a low-income person profiting from being a board member, at least financially profiting.

The opponents of HB 682 will try and convince you that a housing board will handle sticky issues involving other tenants and there is a

question of privacy with tenants on the board. What do the opponents think we expect a housing board member's duties to entail. This board determines policies for their housing. They know its important and any board member has to understand the importance of confidentiality while on this board.

By having only two tenant seats out of seven, as this bill outlines, means a tenant's vote is just that--one vote. By having a tenant's point of view in handling difficulties with tenants can be very helpful and beneficial to a board who most likely have never lived in public housing and are unfamiliar with its difficulties.

I will go out on a limb and assume our opponents would not be so bold as to outright admit to this assembly that they are afraid a tenant would not be intelligent enough to understand the intricate working of a public housing board. There are college graduates, people who have owned their own businesses, and people who have held high profile jobs living in public housing. Due to circumstances beyond their control, they now find themselves in need of the safety net public housing gives them to provide safe and affordable housing for senior citizens and low-income families.

I've given you some reasons our opponents may use as a smoke screen to prevent you from seeing the attributes to tenant's being involved in the processes that affect where they live. Now let me suggest some positive reasons.

One of the best examples I can give you as to the positive affects from direct tenant/board involvement is my own experience. When I got involved with tenant's issues three years ago, I viewed Helena's Board as the enemy. I've offer gone toe to toe with Gene Fenderson, the present chair, over issues I was sure that every member of that board was heartless and didn't have the best interest of the tenants at heart. I'm sure they thought of me as the enemy and a bit hostile as well.

But over the three years of my direct contact with the board, a strange thing has happened. We're not enemies anymore. We've gained each other's respect and have gained insight into each other's points of view. We still disagree and there's still things I hope to improve in my housing complex but by just getting to know the people on my housing board better, there is more of a commitment on everyone's part to find compromises and solutions to difficult and complex problems. The unwarranted fears both sides held for the other have been dispelled.

You can help break down the walls between tenants and housing boards. By tenant involvement, tenants will take more ownership and pride in their surroundings, and continue to make their housing a better place to live. Please vote yes on House Bill 682, for my family's sake.



Housing Authority of the City of Anaconda

P. O. BOX 1350

ANACONDA, MONTANA 59711

March 03, 1989

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 10

DATE 3-16-89

BILL NO. AB 682

Senator Ethel M. Harding
Chairperson, Senate
Government Committee
Capitol Station
Helena, Montana 59620

Re: House Bill #682, "An Act providing for the election of two tenants of each Housing Authority as Housing Authority Commissioners."

Dear Senator Harding:

Representative William (Red) Menahan has informed us that HB #682, introduced by Representative O'Keefe and others, and approved by the House Committee on Services and Aging, with amended sections of the Montana codes, has been referred to your Senate Committee for review and further action.

Unfortunately, we didn't learn that this bill was introduced in the House of Representatives until it had reached the third reading. We have, therefore, strongly voiced our opposition to the Anaconda/Deer Lodge County Board of Commissioners and our City/County Manager, as well as all of Montana's Housing Authorities. We have also forwarded a copy of our letter of February 21, 1989 to all members of the Montana Senate. (In case you have mislaid your copy, another is enclosed.)

On March 1st, the Anaconda/Deer Lodge County Board of Commissioners by unanimous vote, supported our position as outlined in the above letter, and after learning of additional information we provided them, we would like to share with you and your committee such additional information.

We have contacted Dr. Leo Dauwer of Dower Associates, regarding HB #682. Dr. Dower is a nationally recognized management consultant for the National Association of Housing and Redevelopment Officials (NAHRO) in association with the Federal Housing and Urban Development (HUD) Department. Dr. Dauwer conducts numerous training seminars for Housing Authority Commissioners and Executive Directors throughout the United States.

Dr. Dauwer has contacted NAHRO's Washington D.C. headquarters and he was told they were "amazed" such a bill had been introduced in Montana where there are no large housing authorities and a relatively low percentage of minorities. (For instance, our ratio of minorities in Deer Lodge County is 2.8% (1980 Census), and we would assume this figure would be comparable with the average of all Montana counties with Housing Authorities.)

Further information provided us by Dr. Dauwer, reveals that there are only six (6) northeastern states that have mandated one (1) tenant commissioner. One western state (California) had mandated two (2) tenant commissioners. These states have large Housing Authorities and a high percentage of minorities, which is in sharp contrast to Montana.

In all of the above states, tenant commissioners are not elected by tenants, as provided in HB #682, but are appointed by the local city/county government. This time-honored procedure should be maintained and supported.

Our major objection to HB #682, is the mandatory election by tenants of tenant commissioners, and alternates to all Montana Housing Authorities. This raising of the traditional number of five (5) commissioners to seven (7) is far beyond the need of a state such as Montana for reasons delineated above.

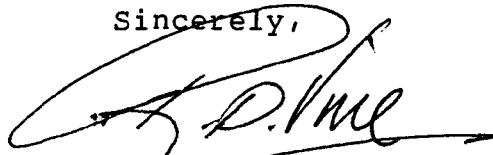
We believe such violates the law, if not in fact at least in spirit. Further, we challenge the capricious amendment of six (6) Montana codes to accommodate the wishes of a relatively small percentage of Montana citizens. This could be construed as being an ill-advised and potentially dangerous precedent.

It is our belief that anyone acting in a judicial capacity, be it judge or legislator, who would ignore this aspect of an introduced bill would indeed be departing from Montana's finest legal and legislative traditions.

As the Supreme Court Justice Joseph Story (1779-1845) wisely observed, "equity in its true and genuine meaning is the soul and spirit of all law. Positive law is construed and rational law is made by it. In this, equity is synonymous to justice."

In conclusion, we respectfully ask you to please consider HB #682 in the glaring light of equity. As citizens of this great state, we look to our representatives to preserve equity. This should be the guiding light and ultimate goal of any legislative body representing fellow citizens in a democracy.

Sincerely,

A handwritten signature in black ink, appearing to read "R. D. Vine", with a large, sweeping flourish extending from the end of the signature.

R. D. Vine
Chairman of the Board

P. S. Should you wish to contact Dr. Dauwer, his address is:

20 Shady Lane
Needham, Massachusetts 02192
Telephone (617) 449-1362

xc: Montana Housing Authorities
Anaconda Housing Authority Commissioners
Anaconda/Deer Lodge County Manager and Commissioners
Representative William Menahan
Representative Robert Blotkamp
Senator Robert Pipinich
Senator J. D. Lynch
Senator Harry H. McLane
Senator Tom Beck
Senator Paul F. Boylan
Senator H. W. Hammond
Senator R. J. Pineseault
Senator Gene Thayer
Senator Eleanor L. Vaughn
Dr. Leo Dauwer

Enclosure



NAHRO

National Association of Housing and Redevelopment Officials

1320 Eighteenth Street, Northwest, Washington, D.C. 20036-1803 (202) 429-2960

Fax (202) 429-9684

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 11

DATE 7-16-89

BILL NO. HB682

March 8, 1989

Mr. Henry D. Smith
Executive Director
Housing Authority of the City of Anaconda
Box 1350
Anaconda, Montana 59711

Dear Mr. Smith

This letter confirms the discussion we had concerning tenant commissioners. There is no requirement in Federal law (U.S. Housing Act as amended) which requires residents to be represented on PHA Boards. The only reference is a provision in Section 2 of the U.S. Housing Act which states, "No person should be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a lower income housing project".

To the best of my knowledge there is no directive from HUD instructing PHAs to include residents on Boards.

While there are some jurisdictions which have requirements for residents on Boards, I don't know which state laws do or don't require such action. As I mentioned, you might contact the Housing Development Law Institute for the information they have on this subject.

Let me know if there is anything else we can do.

Sincerely,

Richard Y. Nelson, Jr.
Executive Director

SPRENGER & LANG

ATTORNEYS AT LAW

1614 TWENTIETH STREET, N.W.
 WASHINGTON, D.C. 20009
 (202) 288-0010
 FAX (202) 332-6852

325 RIDGEWOOD AVENUE
 MINNEAPOLIS, MINNESOTA 55403
 (612) 871-8910
 FAX (612) 871-9270

REPLY TO:

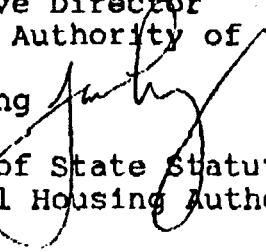
Washington

IS WEISSBRODT
 PAUL C. SPRENGER
 JANE LANG
 MYRA H. BARRON
 REBECCA K. TROTH
 JEAN M. BOLENT

M E M O R A N D U M

ADMITTED IN THE DISTRICT OF COLUMBIA
 ADMITTED IN MINNESOTA
 ADMITTED IN NEW YORK AND VIRGINIA

To: Henry D. Smith
 Executive Director
 Housing Authority of the City of Anaconda

From: Jane Lang 

Re: Survey of State Statutes
 On Local Housing Authority Tenant Commissioners

Date: March 14, 1989

We have examined the 50 state housing authority statutes with respect to the issue of tenant commissioners. Of these, 13 state statutes have a specific reference to a tenant serving as a commissioner of a local housing authority. All other state statutes are silent with respect to tenant commissioners. It can be assumed in those states that with no specific reference that tenants, solely because of their status as tenants, would not be precluded from serving as housing authority commissioners. Furthermore, the United States Housing Act of 1937, as amended, provides in Section 2 that

"no person shall be barred from serving on the board of directors or similar governing body of a local public housing agency because of his tenancy in a lower income housing project."

Following is a more detailed analysis of this statutory survey.

A. The following 13 state statutes specifically reference a tenant commissioner:

<u>State</u>	<u>Code citation</u>
California	CAL. [health and safety] CODE secs. 5-34270, 34271, and 34271.5 (West 1988)
Connecticut	CONN. GEN. STAT. ANN. sec. 8-41(a) (West 1988)
Florida	FLA. STAT. ANN. sec. 421.05, 421.27 (West 1988)
Illinois	ILL. ANN. STAT. ch. 67 1/2 sec. 5 (Smith-Hurd 1988)
Louisiana	LA. REV. STAT. ANN. sec. 401 (West 1988)
Maine	ME. REV. STAT. ANN. 30 sec. 4602 (1988)
Nebraska	NEB. REV. STAT. sec. 71-1524(2) (1984)
North Carolina	N.C. GEN. STAT. sec. 157-5 (1988)
Ohio	OHIO REV. CODE ANN. sec. 3735.27(c) (1988)
Oklahoma	OKLA. STAT. ANN. 63 sec. 1058(A) (West 1989)
Oregon	OR. REV. STAT. sec. 456.095(b)(4) (1987)
Rhode Island	R.I. GEN. LAWS sec. 45-25-10 (1988)
Tennessee	TENN. CODE ANN. sec. 13-20-117 (1988)

B. These 13 state statutes can be grouped into two categories: those that require one or more commissioners to be a tenant, and those that specifically allow one or more commissioners to be a tenant.

1. Requirement for one or more tenant commissioners:

<u>State</u>	<u>Summary</u>
California	In addition to 5 housing authority commissioners, the mayor of a city or governing body of a county shall appoint 2 additional commissioners who shall be tenants of the authority. One such tenant commissioner shall be over the age of 62, if the authority has tenants of such age.
Connecticut	At least one of the 5 commissioners appointed by the chief executive officer of the municipality (or governing body of the town) shall live in housing owned or managed by the authority. A tenant commissioner must have been a tenant of the authority for at least one year.
Florida	The mayor, with the approval of the governing body of the city, appoints at least 5 commissioners, at least one of whom shall be a resident current in rent in a housing project or recipient of housing assistance through the authority. No tenant commissioner shall be appointed until 10% of units in the first project of the authority are occupied. Cessation of tenancy in a housing project constitutes removal of the tenant commissioner from office. (See also Sec. 421-27).
Louisiana	In municipalities with populations of 500,000 or more, 7 commissioners shall be appointed by the mayor of the municipality, at least 2 of whom shall be tenants of the authority.

<u>State</u>	<u>Summary</u>
Maine	One of the 6 commissioners, appointed by the appointing authority, in a municipality with housing which is subsidized or assisted by HUD, one shall be a resident of such housing.
Ohio	At least one of the commissioners appointed by the chief executive officer of the most populous city shall be a resident of a dwelling unit owned or managed by the authority. At no time shall residents constitute a majority of the authority.
Oklahoma	At least one of the 5 commissioners, appointed by the mayor with the consent of the governing body (for a city) or by the board of county commissioners (for a county), shall be a tenant of the authority.
Oregon	One of the 5, 7, or 9 commissioners appointed by the governing body shall be a tenant of the authority, provided that the authority has at least 25 units occupied or 75% occupancy of the units available for occupancy, whichever occurs first.
Rhode Island	Three commissioners, appointed by the mayor, shall be occupants of public housing.
Tennessee	Any city or county with a metropolitan form of government shall have 2 commissioners, in addition to the 5 or 7 commissioners appointed by the mayor or county legislative body, who shall be residents of low-rent public housing or housing projects.

2. Optional provisions that allow one or more tenant commissioners:

<u>State</u>	<u>Summary</u>
Illinois	A tenant of the authority is not precluded from serving as a commissioner, provided that such tenancy is disclosed. No more than one tenant shall serve as a commissioner at any one time, except in a municipality having a population of more than one million.

StateSummary

Nebraska

Tenancy in authority housing shall not preclude appointment as a commissioner, and may be a requirement for one of the commissioners.

North Carolina

No person shall be barred from serving as a commissioner because that person is a tenant of the authority or a recipient of housing assistance through the authority. No more than 1/3 of the 5 to 9 commissioners shall be tenants of the authority or recipients of housing assistance through the authority. Certain specified counties are exempt from any provision allowing a tenant to serve as a commissioner.

C. Special provisions dealing with how tenant commissioners are selected are as follows:

StateSummary

Connecticut

Tenant organizations can indicate a desire to be notified of pending appointments. The Authority shall consider tenants suggested by such tenant organizations. (See Sec. 8-41(b)).

Louisiana

Tenant commissioners shall be chosen from a list submitted to the mayor by the Citywide Tenants Council, Inc. of the authority. The number of names submitted shall be 3 for each vacancy to be filled by a tenant commissioner.

Maine

Where tenant associations exist, the appointing authority shall give priority consideration to nominations made by the associations.

Nebraska

Tenant commissioners may be appointed in the same manner as other commissioners, except that tenant commissioners may be appointed from those nominated by the tenants. A tenant may be considered nominated when a petition signed by not less than 25 adult tenants of the authority, or 25% of the tenants, whichever is less.

<u>State</u>	<u>Summary</u>
Ohio	If there is an elected representative body of all residents of the authority, the chief executive officer shall notify this representative body whenever there is a vacancy in the resident commissioner's term. If such representative body provides the chief executive officer, within 60 days, a list of at least 5 residents willing and qualified to serve as commissioner, the chief executive officer shall appoint the resident commissioner from that list.
Rhode Island	The tenant commissioners are appointed by the mayor from a list of nominees chosen yearly by the occupants of public housing in open elections, each project choosing 3 nominees from among its occupants. The mayor shall remove any such commissioner not an occupant of public housing for six consecutive months.

- D. Voting limitations or other references to tenant commissioners are found in the following state statutes:

<u>State</u>	<u>Summary</u>
Connecticut	No tenant commissioners shall have the authority to vote on any matter concerning the establishment or revision or rents to be charged in any housing by such authority. (Sec. 8-42).
Florida	A leasehold interest held by a tenant commissioner is exempt from the prohibition of a commissioner acquiring any interest in authority projects. (Sec. 421.06).
North Carolina	No tenant commissioner shall be qualified to vote on matters affecting his official conduct or his own individual tenancy.

Madam Chairwomen and Members of the Committee

SENATE LOCAL GOVERNMENT

We represent the Butte Community Union:

EXHIBIT NO. 12

DATE 3-16-89

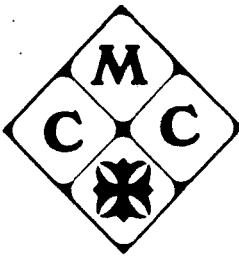
House Bill 682 is a good and timely piece of legislation. The election of tenant representatives is necessary to breath new life and interest into the care and maintenance of Public Housing by the people who benefit from the service.

BILL NO. H B 682

Butte-Silver Bow currently has a Tenant Commissioner on the board. This Commissioner has lived in two of the four low-income projects in Butte. She has served on the board approx. 15 years.

We feel the proposed legislation will help the residents of Public Housing take more direct charge of their lives, which is the starting point of self determination.

THANK YOU
BUTTE COMMUNITY UNION



Montana Catholic Conference

March 16, 1989

CHAIRWOMAN HARDING AND THE SENATE LOCAL GOVERNMENT COMMITTEE

I am John Ortwein representing the Montana Catholic Conference.

This past year in testimony before both the Republican and Democratic platform committees, Frank Monahan of the United States Catholic Conference offered the following testimony regarding the question of housing in this country.

Public policy must give direction and set basic criteria that will establish a commitment to decent housing. Among the various housing policy recommendations of the United States Catholic Conference was the policy to encourage wide participation of tenants, community groups and consumers in the housing decisions that affect their communities.

House Bill 682 affords tenants the right to be a part of the decision making process in decisions that will affect their lives. We hope that this committee will recommend a "do pass" on H.B. 682.

Amendments to House Bill No. 682
Third Reading CopyRequested by Senator Walker
For the Senate Committee on Local GovernmentPrepared by Connie Erickson
March 21, 1989

1. Title, line 7.
Strike: "ELECTION"
Insert: "APPOINTMENT"

2. Page 1, line 13.
Strike: section 1 in its entirety

3. Page 1, line 16.
Strike: section 2 in its entirety

4. Page 1, line 24.
Strike: section 3 in its entirety

5. Page 2, line 16.
Strike: section 4 in its entirety

6. Page 3, line 3.
Strike: section 5 in its entirety
Renumber: subsequent sections

7. Page 3, line 19.
Following: "~~appoint~~"
Insert: "mayor to appoint"
Strike: "appointment of five"
Insert: "seven"
Strike: "and the election of two tenant commissioners"

8. Page 4, line 7.
Following: "~~official.~~"
Strike: the remainder of line 7 through "chairman" on line 9
Insert: "An authority shall consist of seven commissioners appointed by the mayor, and he shall designate the first chairman. A commissioner may not be a city official"

9. Page 4.

Following: line 9

Insert: "(2) Two of the commissioners must be tenants of the housing authority. One tenant commissioner shall represent family tenants and one tenant commissioner shall represent elderly and handicapped tenants. Nominees for tenant commissioner shall submit to the city clerk a petition signed by not less than 25 adult tenants of the authority or 25% of the adult tenants of the authority, whichever is greater. The city clerk shall submit a list of the tenant nominees to the mayor for appointment to the housing authority. The staff of the housing authority may not involve itself in the nomination or appointment of tenant commissioners."

10. Page 4, line 10.

Following: "~~2~~"

Insert: "(3)"

11. Page 4, line 21.

Strike: "elected"

Insert: "appointed"

12. Page 4, line 23.

Strike: "election"

Insert: "appointment"

13. Page 4, line 24.

Strike: "5"

Insert: "2"

14. Page 5, lines 1 through 4.

Strike: "A" on line 1 through "appointed" on line 4

15. Page 5, line 24.

Strike: section 10 in its entirety

Renumber: subsequent section

16. Page 7, line 19.

Strike: section 12 in its entirety



**HOUSING
AUTHORITY OF
BILLINGS**

2415 1ST AVENUE NORTH
BILLINGS, MONTANA 59101
406-245-6391

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 15

DATE 3-16-89

BILL NO. HB 682

February 22, 1989

Ethel M. Harding
Representative of
Senate District No. 25
Capitol Station
Helena, Mt. 59620

Dear Representative Ethel M. Harding,

House Bill #682, that will be on the floor for second reading on Saturday, February 18, 1989, is in direct conflict with a former Attorney General's opinion #110, Vol. #37. State Attorney General Mike Greely stated that it is a conflict of interest for a tenant of a Public Housing Authority to serve as a Commissioner of a Public Housing Authority.

I am enclosing a copy of the opinion with the pertinent conflict of interest paragraphs highlighted in yellow. I hope that you will take this State Attorney General's opinion into consideration when voting for Bill No. 628.

Please share this letter and opinion with your colleagues in the House.

Thank you for your time and attention in this matter.

Respectfully,

John P. Gerharz
Chairman
Housing Authority of Billings



EXHIBIT NO. 16DATE 3-16-89 CrosbyAttorney General Opinion Service
2210 E. 6th Helena, MontanaBILL NO. HB 682

VOLUME NO. 37

OPINION NO. 110

CONFLICT OF INTEREST - Tenant in a housing authority is ineligible to serve as commissioner of the housing authority.

SECTION - 35-107, R.C.M. 1947.

HELD: A tenant in a housing authority is ineligible to serve as a commissioner of the housing authority.

27 January 1978

David V. Gliko, Esq.
City Attorney
City of Great Falls
Great Falls, Montana 59403

Dear Mr. Gliko:

You have requested my opinion concerning whether a tenant in a housing authority may serve as a commissioner of the housing authority. A housing authority is a public body consisting of five commissioners, created pursuant to the Housing Authorities Law, Section 35-101, et. seq., R.C.M. 1947, and delegated powers to build and maintain safe and sanitary dwelling accommodations for persons of low income. The commissioners are appointed by the mayor. Section 35-105, R.C.M. 1947.

Your request is governed by Section 35-107, R.C.M. 1947, which states:

No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of any authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he shall immediately disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

The Montana Supreme Court has not construed this statute in the situation posed in your request. However, two states, Connecticut and Illinois, have interpreted similar statutory language as prohibiting tenants in a housing authority from serving as commissioners of the housing authority. Although decisions of sister states are not binding upon the Montana Supreme Court, the Court has stated that when a Montana statute is similar to one in a sister state, the Supreme

Court will give consideration to construction placed on that statute by courts of the sister state. Dept. of Highways v. Hy-Grade Auto Court, 169 Mont. 340, 546 P.2d 1050 (1976).

In Housing Authority of City of New Haven v. Dorsey, 164 Conn. 247, 320 A.2d 820 (1973), cert. denied 414 U.S. 1043 (1973), the Connecticut Supreme Court interpreted a statute identical to Section 35-107, R.C.M. 1947. The problem presented by a tenant of a housing authority serving as a commissioner is best stated in Dorsey at 822:

Within the context of this common-law standard the General Assembly has provided by statute that no commissioner of a housing authority shall acquire any interest, direct or indirect, in any housing project. General Statutes §8-42. An "interest" has been defined as having a share or concern in some project or affair, as being involved, as liable to be affected or prejudiced, as having self-interest, and as being the opposite of disinterest. (Citation omitted.)

The interests of a housing authority commissioner would center on the points at which management policies and functions of the authority come into contact with individual tenants. These include the selection and retention of tenants, the determination of rents to be charged, the services and other benefits to be furnished, and the enforcement of the rules governing the conduct and rights of the tenants. In fixing rents the commissioners must consider the payments on the principal and interest on the bonded indebtedness, the cost of insurance and administrative expenses, the amounts to be set aside in reserve for repair, maintenance and replacements, and vacancy and collection losses. (Citation omitted.)

The task of fixing rent charges is such that a tenant commissioner might be called on to vote to increase his own rent in order to amortize and service the housing authority's debt obligation. If he is reluctant to increase rents which include his own, the housing authority might fail to pay its bonded indebtedness and permit unchecked physical depreciation of the properties. Matters on which the housing authority votes include the setting and the enforcing of its policies as to delinquent rents and the eviction of tenants. As a housing authority commissioner, a tenant would also be required to participate in voting on decisions involving the hiring and firing of housing authority personnel who deal with him and his family from day to day.

Thus, whether or not the tenant as a housing authority commissioner is in fact benefiting himself individually by his vote, his personal interests are always directly or indirectly involved in his vote on the commission. This is not to say that his personal interests are inevitably and on all occasions antagonistic to the interests of the housing authority. The fact, however, that he is a tenant makes it possible for his personal interests to become antagonistic to the faithful discharge of his public duty. (Citation omitted.)

Section 35-109, R.C.M. 1947, presents this same conflict of interests by granting housing authority commissioners the same powers discussed in Dorsey.

Support for this rationale is found in Brown v. Kirk, 64 Ill.2d 144, 355 N.E.2d 12 (1976), wherein the Illinois Supreme Court, citing Dorsey, held tenants of a housing authority ineligible to serve as commissioners.

In construing legislative intent, statutes must be read and considered in their entirety and legislative intent may not be gained from wording of any particular section or sentence, but only from consideration of the whole. Vita-Rich Dairy Inc. v. Dept. of Business Regulation, Mont. , 553 P.2d 980 (1976). Reading Section 35-107, R.C.M. 1947, in its entirety, the disclosure requirements found in the second sentence only apply to pre-existing interests. Otherwise, the first sentence of Section 35-107, R.C.M. 1947, serves no useful purpose. There would be no bar to a commissioner or employee from acquiring an interest in a housing authority because he could simply disclose this interest after acquisition. Section 35-107, R.C.M. 1947, prohibits any commissioner from acquiring an interest in property included or planned to be included in a housing authority after his appointment, but does not require a commissioner to divest himself of interests acquired prior to his appointment. A commissioner is only required to disclose the latter type of interest.

The argument could be made that a person who is already a tenant of the housing authority remains eligible for appointment as commissioner. This argument was rejected by Brown. The court stated at p. 14:

However apt this distinction between a newly acquired and pre-existing interest may be in cases where the question is purchase of property to be included in a project, we think that it is not appropriate in the case of a tenant, who retains a continuing contractual relationship with his landlord subject to periodic renewal.

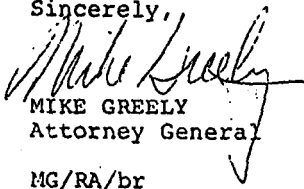
This continuing contractual relationship between landlord and tenant is also prohibited by Section 59-501, R.C.M. 1947, which states:

Members of the legislature, state, county, city, town, or township officers or any deputy or employee thereof, must not be interested in any contract made by them in their official capacity, or by any body, agency, or board of which they are members or employees.

THEREFORE, IT IS MY OPINION:

A tenant in a housing authority is ineligible to serve as a commissioner of the housing authority.

Sincerely,


MIKE GREELY
Attorney General

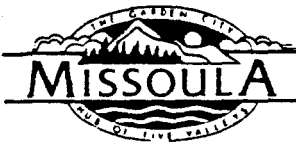
MG/RA/br

Amendment to House Bill 647

1. Page 1, line 22.

Following: line 21

Insert: " (4) No officer, employee, contracted financial consultant or contracted advisor may purchase citizen bonds sold by a city or town by which they are employed or retained."



FINANCE/CITY CLERK OFFICE

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

FINANCE AND DEBT MANAGEMENT
BUDGET AND ANALYSIS
ACCOUNTING
CITY CLERK
UTILITY BILLING
RISK MANAGEMENT

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2

CITY OF MISSOULA
CHUCK STEARNS TESTIMONY ON HOUSE BILL #647

DATE 3-16-89

BILL NO. HB 647

The City of Missoula supports House Bill #647 and thanks Representative Kadas for sponsoring this bill. The issuance of Citizen Bonds or Mini-Bonds by municipalities has grown in popularity during recent years. Citizen bonds are small denomination bonds, often \$500.00 denominations, that cities issue directly to citizens over the counter. As there is no sealed bid involved, the interest rate and yields are pre-determined prior to the advertising and sale of the bonds. As the cities sell the bonds directly, there are no underwriters' commissions and no brokers' fees.

Two additional forms of bonds would also be allowed when issuing citizens bonds. These types of bonds are called "zero-coupon" or "capital appreciation bonds. These bonds are the concept of U.S. Savings Bonds and being considered in HB 500, the College Savings Bond bill. Basically, rather than paying a regular interest payment to the bondholders, the bonds are sold at a discount below their face value and, when the bond maturity date occurs, the full face value is paid. For example, in the July, 1987 sale of \$1,700,000 of mini-bonds by the City of Forth Worth, Texas, a 20 year bond was sold for \$226.51 and the holder of the bond in the year 2006 will be paid \$1,000, thus paying an 8% return.¹ A bond that matures in 1990 was sold for \$834.97.² Zero coupon bonds require much less administrative expenses than do bonds with semi-annual payments.

BENEFITS TO INVESTORS

- * Allows small scale investors to purchase tax-exempt investments without fees or commissions. With the decline of IRA's, this type of investment, for the small investor to begin tax free capital accumulation, may increase in the future.
- * Is a Tax-exempt "savings bond" that helps people plan for future money requirements such as retirement. With zero-coupon bonds, there are often no provisions for an early call or redemption of the bonds, so the investor knows exactly how long (s)he will hold the bonds and how much they will be worth at maturity.
- * Encourages citizens to participate in the city's capital projects and community development.
- * Is a local solution to the nationwide problem of insufficient savings rates by making small investments more beneficial and easier to purchase.

¹ Lawrence Pierce et al, *Minibonds: Bringing Tax-Exempts from Wall Street to Main Street*, working paper, Government Finance Officers Association, (Washington, D.C.: 1988), p.36.

² *ibid.*

BENEFITS TO MUNICIPAL ISSUERS

- * Expands the market for purchasers of bonds. As the Tax Reform Act of 1986 has restricted institutional purchasers of bonds and lowered corporate income tax rates, thus making tax-exempt bonds less attractive, there is a need to expand beyond the traditional buyers of bonds.
- * Encourages citizens to participate in the city's capital projects and community development. Helps the city generate positive public relations and citizen involvement.
- * Although the first such issue by a city may have increased costs, as time goes by, issuers can save on issuing costs by selling the bonds directly. The following chart provides an example³:

	FIRST \$2 MILLION MINIBOND SALE	ADDITIONAL MINIBOND SALES	REGULAR \$2 MILLION G.O. SALE
Underwriter Costs	\$0	\$0	\$25,000
Paying agent and registrar	0	0	2,000
Bond Counsel	8,000(A)	2,500	2,500
Financial Advisor	5,000(A)	3,500	3,500
Software	7,000	0	0
City Personnel	1,500	500(C)	500
Equipment	6,030(B)	0	0
Bond/O.S./Promotional Printing	7,750	7,750	1,000
Advertising	5,000	10,000	1,500
	\$40,280	\$24,250	\$36,500

The table reflects the assumptions that:

- (A) costs of bond counsel and financial advisor for minibond sale are comparable to regular G.O. sale after initial minibond sale;
- (B) the cost of rating the minibonds or the traditional sale would be equal;
- (C) the equipment purchases apply only to first-time sale; and
- (D) the need for staff training drops significantly after the first sale.

DRAWBACKS OR RISKS

- * There is a limited secondary market in which to sell citizen bonds, especially zero-coupon bonds. This drawback may diminish as more and more bonds are sold because the demand for a secondary market will increase. A "put option" whereby the citizens can cash in the bonds early can also be used.
- * If the city cannot sell the entire issue of citizen bonds, it needs another mechanism to sell the bonds. For this reason, and to allow some participation by underwriters, citizen bonds are often issued in conjunction with and backed up by a regular underwritten issue. This aspect also addresses one of the points raised in the fiscal note to HB500.

³ Lawrence Pierce et al, *Minibonds: Bringing Tax-Exempts from Wall Street to Main Street*, working paper, Government Finance Officers Association, (Washington, D.C.: 1988), p.24.

SAFETY AND SECURITY FEATURES WRITTEN INTO HB647

- * Only for general obligation bonds, thus investors have the pledge of the city's full faith and security. They do not have to investigate the income stream of a revenue bond or the riskiness of a Special Improvement District.
- * Section 5 provides for an enhanced review by the Attorney General and the A.G. can impose new requirements, if necessary.

EXAMPLES OF ISSUES:

<u>ISSUER</u>	<u>DATE</u>	<u>AUTHORIZED DOLLAR AMOUNT</u>	<u>TYPE OF BOND</u>
East Brunswick, NJ	9/78	\$ 529,000	Semi-annual Interest
State of Massachusetts	1/79	\$ 1,000,000	Zero Coupon
Framingham, Mass.	3/79	\$ 600,000	Semi-annual Interest
Ocean City, NJ	4/79	\$ 1,000,000	Semi-annual Interest
Stonington, CT	12/79	\$ 500,000	Annual Interest
Rochester, NY	12/79	\$ 500,000	Semi-annual Interest
Southern Minnesota Myny Power	1984	\$ 10,000,000	Semi-annual Interest
Southern Minnesota Myny Power	1985	\$ 6,000,000	Semi-annual Interest
Germantown, TN	11/85	\$ 2,000,000	Zero Coupon & Interest
Fort Worth, TX	7/87	\$ 1,700,000	Zero Coupon
Southern Minnesota Myny Power	1984	\$ 6,000,000	Semi-annual Interest
Salt River Project, Arizona	1979 - 1987	\$160,000,000	Zero Coupon & Interest
Eugene, OR	9/86	\$ 1,000,000	Capital Appreciation Bonds
Eugene, OR	4/88	\$ 2,000,000	Capital Appreciation Bonds
Virginia Beach, VA	4/88	\$ 2,000,000	Capital Appreciation Bonds

Sources:

Lawrence Pierce et al, *Minibonds: Bringing Tax-Exempts from Wall Street to Main Street*, working paper, Government Finance Officers Association, (Washington, D.C.: 1988), ppg. 35-39.

John E. Petersen & Wesley C. Hough, *Creative Capital Financing*, (Chicago, Municipal Finance Officers Association: 1983), p. 241.

HB647 is based on Oregon's enabling legislation (ORS 287.029) and is modified to add the enhanced review by the Attorney General's office. We feel that we have both a safe and well tested, but still innovative method of issuing bonds that Montana cities should be able to use. The City of Missoula thanks you for your consideration and encourages your support of HB647.

GOVERNMENT FINANCE REVIEW

Government Finance Officers Association Volume 2, Number 4 August 1986



GIVE US A THOUSAND DOLLARS, AND WE'LL GIVE YOU \$2,952.58 CHANGE. TAX FREE.

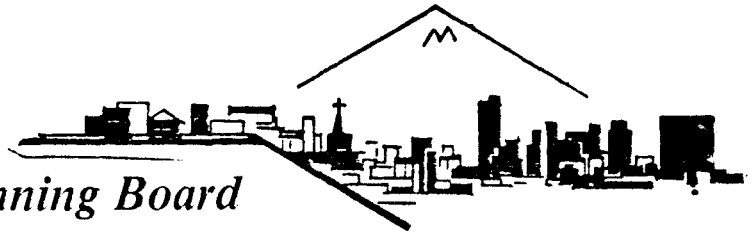
INVEST AS LITTLE AS \$1,000. Or as much as \$25,000. It's a sound investment in a sound community... Germantown. We've got a Aa credit rating with Moody's and we'll pay you 8 3/4% interest, compounded annually, when you purchase our Zero Coupon Bonds.

THERE'S NO FEE, NO COMMISSION. Every penny is pure investment. That gives big returns in only 11 years. Just in time for the kids' college, retirement or that dream house. All tax-free.

CALL 756-4086. Or come by the Germantown Municipal Center, 1930 South Germantown Road. We're open 9 AM-6 PM Monday-Friday, 9 AM-Noon Saturday. We've got the complete details for you. But act quickly. This opportunity ends Wednesday, November 27, 1985. Then the big investors and brokers will snap up what's left. It's that good an investment. But we're giving you the first shot.

PAYS IN	INVESTMENT		
	1000	5000	10,000
1996	590.52	2,952.58	5,905.16
1997	590.52	2,952.58	5,905.16
1998	590.52	2,952.58	5,905.16
1999	590.52	2,952.58	5,905.16
2000	590.50	2,952.58	5,905.16
TOTAL	2,952.58	14,762.90	29,525.80

GERMANTOWN'S ZERO COUPON BONDS



Butte-Silver Bow Planning Board

March 16, 1989

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 1

DATE 3-16-89

BILL NO. HB 244

Honorable Ethel Harding, Chairwoman
Senate Local Government Committee Members
Montana Centennial Legislature
Helena, MT 59601

RE: HB244 - Testimony in
Opposition

Ladies and Gentlemen:

I am before you today to offer testimony in opposition to House Bill 244 exempting shooting ranges from all planning, zoning, public nuisance, community decay, noise and pollution laws, in addition to requiring local governments to pay for the relocation of shooting ranges found to be incompatible with other surrounding land uses.

I believe this bill should receive a do not pass recommendation from the Committee for several reasons. First, this legislation eliminates local government's ability to reasonably protect people from the unacceptable impacts of an adjacent land use. Local government must have the capability to establish land use policies which meet the needs of their community. Exempting a particular type of land use, especially one like a shooting range which could have profound adverse impacts on surrounding property, diminishes significantly the government's ability to plan for the orderly development of an area and to establish basic expectations about future land use and land value.

Second, provisions in this legislation which require a local government or agency to pay for the relocation of a shooting range if it is found to be incompatible with surrounding land uses, points out this bill's inconsistency with logic. By applying established review criteria to a shooting range proposal, it can be determined prior to the operation of the shooting range whether it is going to be incompatible with surrounding land uses or not. Knowing a problem exists before substantial investment takes place will save money - Taxpayers' money. Passage of this legislation will place an unfair and unnecessary burden on the budgets of local government if a shooting range must be relocated after a determination of incompatibility is established. Existing review criteria can prevent a shooting range from locating in an inappropriate place before substantial money is spent to develop it.

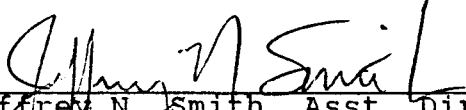
Honorable Ethel Harding, Chairwoman
Senate Local Government Committee Members
Page Two
March 16, 1989

Third, there is no need to exempt either existing or proposed shooting ranges from these important areas of public interest law. Zoning ordinances contain provisions for the protection of existing (grandfathered) uses which may become nonconforming through the passage or expansion of zoning districts. Proper planning and subdivision review can identify potentially incompatible land uses and either mitigate them or at least notify land buyers of their existence. Community decay, public nuisance, disorderly conduct, noise and pollution laws are intended to apply to everyone for the benefit of everyone. Exempting special interests from their responsibility to abide by these community standards hurts the entire community and damages its credibility for fairness and justice.

Thank you for this opportunity to address the Committee on this very important issue.

I urge you to recommend do not pass to the full Senate in the matter of House Bill 244.

Sincerely,



Jeffrey N. Smith, Asst. Director
Butte-Silver Bow Planning Board

JNS/dka

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 2DATE 3-16-89BILL NO. HB 244

March 16, 1989

To: Kathel Harding, Chairman, Senate Local Government Committee

From: League of Women Veterans of Ravalli County

Re: H. B. 244

We are concerned about certain aspects of this bill which would give undue protection to shooting ranges. The provisions for exclusion from zoning regulations, noise control regulations and for shifting the responsibility and costs for relocation to local governments all take from local governments the ability to plan for orderly growth.

Especially difficult is the requirement for finding a comparable site, relocating and paying costs and doing so in six months. Costs for fulfilling this requirement could be great as landowners interested in selling would be in a position to inflate their prices. This also sets a precedent for local governments that will be costly without giving them the ability to pay such costs.

We urge that this bill be amended in the Local Government Committee.

Commissioners
Russell J. Ritter, Mayor
Rayleen Beaton
Tom Huddleston
Rose Leavitt
Blake J. Wordal



SENATE LOCAL GOVERNMENT

EXHIBIT NO. 3

DATE 3-16-89

BILL NO. HB244

City of Helena

City-County
Administration Building
316 North Park
Helena, MT 59623

Phone: 406/442-9920

William J. Verwolf
City Manager

Madame Chairman/Members of the Committee:

My name is Shelly Laine, and I am the Director of Administrative Services for the City of Helena. The City of Helena strongly opposes HB244.

The bill would essentially exempt shooting ranges from planning and zoning statutes. These statutes are intended to provide some protection for the public's safety and general welfare while also protecting their property values. Through the public hearing process, a community can determine which uses are compatible and appropriate in certain locations. A shooting range in a residential area may clearly pose a threat to the public's safety and well as negatively affect property values.

HB 244 states that a local government cannot prevent or inhibit the operation of a shooting range with its zoning regulations for more than six months. Essentially, this eliminates any local government authority.

After this six month period, a shooting range could be located in an inappropriate location. Given that situation, it is unreasonable to require a local government to pay for relocating this range! HB244 provides an unfair advantage to shooting ranges at the expense of the people.

The bill states that a shooting range could be prevented from operating only if it presents a clear and provable safety hazard and also fails to meet the minimum range safety standards established by the Fish and Game Commission. The intent of the bill states that "the minimum safety standards may not be more restrictive than those adopted by the NRA." What are these standards? Who would enforce them? And do these standards protect people travelling in the area of a shooting range?

The City of Helena would strongly urge you to consider the negative effects of this bill and give a do not pass recommendation.

Thank you.

Gary S. Marbut

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 4

DATE 3-16-89

BILL NO. HB 244

March 17, 1989

Senator Bruce Crippen
Capitol Station
Helena, Montana 59620

Dear Senator Crippen,

After the hearing on HB244 (Shooting range protection) in Senate Local Government Committee, it is apparent that this bill will require some adjustment before the Committee will be comfortable with the bill. Frankly, our opposition to changes is because we have serious concerns about returning the measure to the House, and not because we are inflexible or because we don't think the measure can be improved.

However, it appears that some adjustment will be essential. The bill's effects can be divided into two general topics:
1) what to do about ranges currently in operation, and
2) what to do about new ranges as they come on line.

The question concerning new ranges being established seems to be a more complex topic, and might best be addressed by additional legislation next session. Therefore, I respectfully suggest that HB244 be amended to apply only to ranges in operation on the effective date of the bill. Proposed amendments that accomplish this are enclosed for your consideration.

Because of various concerns expressed, the enclosed amendments remove courts from the formula for unpopular range relocation. This has been suggested because courts will not have resources to pay for relocation. Also, since the bill will be retrospective only, the one-time, emergency zoning ordinance provision is removed since it will be unnecessary.

Having amended HB244 so that it applies only to ranges currently in operation, there are still some topics that came up during the hearing upon which I would like to make brief comment. One opponent was concerned about a city's ability to enforce a prohibition against the discharge of firearms under the bill and in relation to a range currently within a city's limits.

MCA 45-8-351 allows a city to "regulate" the discharge of firearms within its limits, except for lawful personal defense. This is NOT changed or affected by HB244. Thus, a range within a city would still be subject to the city's ability to regulate discharge of firearms.

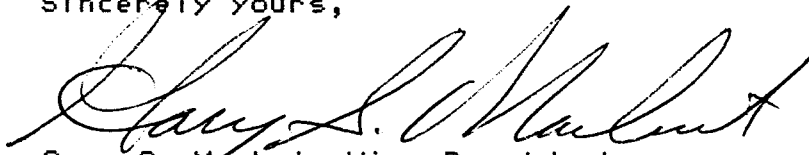
Some concern has been expressed about how a local government would pay for the relocation of an unpopular range. To clarify this issue, I'll include an amendment that will state something like, "a unit of local government relocating a shooting range may tax the net costs of such relocation to nearby properties or nearby subdividers through RSID or other means."

Allow me to reiterate that NONE of the protections detailed in HB244 are intended to apply to ranges that are unsafe. We ask for no protection of such ranges; only reasonable opportunity to be advised of and correct safety defects. The only remaining question about these ranges is, how can an unsafe range be quantified? This is why the reference to the NRA range standards is important.

Shooters and range operators feel strongly that reference to the shooting range standards of the National Rifle Association should be retained, as quantification of safety criteria. There are virtually no other recognized standards in existence. The NRA standards are very thorough, complete, and have been developed over a period of several decades. They are THE standard in the United States, if not the world. By requiring safe ranges, and without the NRA standards, we would simply be inviting a morass of litigation to attempt to define safe ranges.

Thank you for your consideration of HB244 and these issues. If you adopt the enclosed amendments, we can live with this bill, and we believe you will find the bill acceptable.

Sincerely yours,



Gary S. Marbut, Vice President
Montana Rifle and Pistol Association
also for the Western Montana Fish and Game Association
the Montana Action Shooting Council
the Big Sky Practical Shooting Club

Enclosure, draft amendments

cc: each Committee Member
MRPA, WMFGA, MASC, BSPSC files
Weapons Collectors
REP. SWIFT

MONTANA RIFLE AND PISTOL ASSOCIATION

AMENDMENTS FOR HB244

Submitted to the: Senate Local Government Committee

Amendment # 1:

On page 2, line 17

Following the words "operation of a"

Insert "n existing"

Amendment # 2:

On page 2, line 19

Strike "(1) Except as provided in subsection (2), a"

Insert "A"

Amendment # 3:

On page 2, line 22

Following the words "operation of a"

Insert "n existing"

Amendment # 4:

On page 2, lines 23, 24, 25 and page 3, lines 1, 2

Strike subsection 2 entirely

Amendment # 5:

On page 4, line 10

Following the word "agency"

Strike ", "

Insert "or"

Strike ", or court"

Amendment # 6:

On page 4, between lines 15 and 16

Insert a new subsection to read as follows:

"(IV) A unit of local government relocating a shooting range because of population encroachment may tax the costs of relocation to nearby properties or proposed subdivisions through RSIDs or other means."

On line 16, renumber subsection "(IV)" as "(V)"

Amendment # 7:

On page 9, lines 6 to 18

Strike Section 10 entirely

Amendment # 8:

On page 10, line 13

Strike the words "or after"

CITY OF BELGRADE
STATE OF MONTANA

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 5
DATE 3-16-89
BILL NO. HB 244

15 March 1989

Local Government Committee
Capitol Station
Helena, MT

With respect,

Re: HB 244

It is difficult for me to understand why legislation is even being considered to exempt shooting ranges from existing laws. Those laws and regulations, ranging from reasons such as public safety, nuisance, and zoning, were enacted for a purpose. Any kind of exemption is basically a loophole. Certain exemptions make sense, but this one does not.

It would appear that this legislation would serve a vested, special interest. It appears that it would be detrimental to the majority of Montanans. Therefore, HB 244 should not be passed.

Mack Borden
City Manager

Belgrade City - County Planning Board

88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

Local Government Committee
Capital Station
Helena, MT

Re: House Bill 244

I am against House Bill 244, "An act protecting shooting range locations; exempting shooting ranges from certain laws relating to litter control, community decay, disorderly conduct, and public nuisance; amending sections 7-5-2109, 7-5-2110, 45-8-101, 45-8-111, and 76-2-206 MCA; and providing an effective date" for the following reasons:

1. The act is contrary to the purposes of zoning, which is to prevent incompatible land uses in the same area, and assure compatible land uses. Shooting ranges are not compatible with many residential and commercial land uses.

2. The purpose of zoning, litter and pollution laws is to protect the public health, safety, and welfare of the population. This bill would not protect the general public health, safety, and welfare.

3. It is not in the public interest to locate shooting ranges in areas of high population density. They could pose a threat to the general population. High noise levels have proven dangerous to hearing, and a shooting range in a high population density area would be a dangerous to children, who would be attracted to the area.

4. Most municipalities have ordinances against the discharging of firearms within the city limits. This bill would prevent municipalities from regulating firearms under 45-8-343 MCA

which enables cities and towns to regulate shooting ranges within city limits. 45-8-351 MCA also enables cities to regulate for public safety purposes the discharge of rifles, shotguns and handguns within the city limits.

Belgrade City Police Officer

I feel the way this bill is written that it incredibly penalizes a citizen from even making a Complaint if he is bothered by discharging firearms near his residence. The way this bill is written it would make it impossible to complain for fear of being financially responsible for the moving of the range. Besides what if someone decides he wants to target practice at 4 in the morning. What to stop him if this bill is passed.

This bill would negate any existing Disorderly conduct laws etc. What will be the next special interest group to have laws negated for their own Purpose.

I feel the citizen as a whole in any community should have a say in what happens in their particular area. Each community may have different needs special to their own area.

I feel the bill in its Present form is wholly
ridiculous and Poor.
Harvey Patton

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

Local Government Committee
Capital Station
Helena, MT

Re: House Bill 244

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BELGRADE CITY COUNCIL MEMBER

Jack A. Joyner

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

Local Government Committee
Capital Station
Helena, MT

Re: House Bill 244

I am against House Bill 244, "An act protecting shooting range locations; exempting shooting ranges from certain laws relating to litter control, community decay, disorderly conduct, and public nuisance; amending sections 7-5-2109, 7-5-2110, 45-8-101, 45-8-111, and 76-2-206 MCA; and providing an effective date" for the following reasons:

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A handwritten signature in black ink, appearing to read "Henry D. Hathaway". The signature is written in a cursive style with a prominent initial "H".

Belgrade City Superintendent

Belgrade City - County Planning Board
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

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Member, Belgrade City-County Planning Board

Nick Sub, Chairman

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

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Helena, MT

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A handwritten signature in cursive script that reads "Sandra Lee". The signature is written in black ink and is positioned above the printed name.

Member, Belgrade City-County Planning Board

Belgrade City - County Planning Board

88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

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Delvin R. Allsop

Member, Belgrade City-County Planning Board

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

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Barbara J. Shider

MAYOR, CITY OF BELGRADE

Belgrade City - County Planning Board
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

Local Government Committee
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Helena, MT

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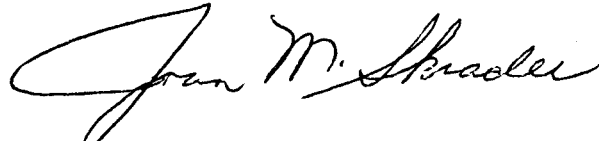
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A handwritten signature in cursive script, reading "Joan M. Strader". The signature is written in black ink on a white background.

BELGRADE CITY COUNCIL MEMBER

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

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Bill Anjer

BELGRADE CITY COUNCIL MEMBER

Ward # 2

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

March 15, 1989

Local Government Committee
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Helena, MT

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Mark D. Weber
BELGRADE CITY COUNCIL MEMBER

Belgrade City - County Planning Board

**88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994**

March 15, 1989

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BELGRADE CITY COUNCIL MEMBER

Cam Christensen

Belgrade City Council
88 NORTH BROADWAY
BELGRADE, MONTANA 59714
TELEPHONE (406) 388-4994

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A handwritten signature in black ink, reading "Tom H. Filzani". The signature is written in a cursive style with a large, stylized initial "T".

Belgrade City Council

Belgrade City - County Planning Board

88 NORTH BROADWAY
BELGRADE, MONTANA 59714
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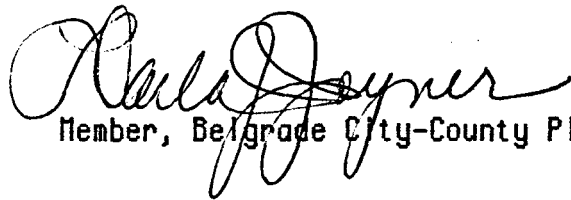
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A handwritten signature in cursive script, appearing to read "Paula J. Jeyner". The signature is fluid and somewhat stylized, with a large initial "P" and "J".

Member, Belgrade City-County Planning Board

Belgrade City - County Planning Board
88 NORTH BROADWAY
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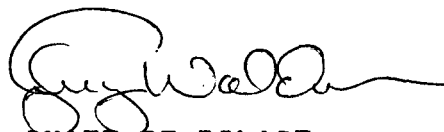
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A handwritten signature in black ink, appearing to read "Guy Walden". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**CHIEF OF POLICE
CITY OF BELGRADE**

Belgrade City - County Planning Board
88 NORTH BROADWAY
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John Q. Woodland

DATE

March 16, 1989

COMMITTEE ON

Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Carol Daly	Flathead Econ. Dev. Corp.	244		✓
"	"	704	✓	
Colleen Allison	Mayor Columbus Falls	244		✓
		704	✓	
		647	✓	
Bob Carr	FWP	244		
Gordon Morris	MALC	244		✓
N.M. Price	Helena - Planning Bd.	244		✓
Greg Vuckovich	Aureanda-Deer Lodge Co	682		✓
Robert D. Vine	Anaconda Housing Auth.	682		✓
Henry D. Smith	ANACONDA HOUSING AUTH	682		✓
Carmie Sullivan	Anaconda Housing	682		✓
Mike Stasch	Anaconda Housing	682		✓
Cherlene Hagan	Anaconda MT.	682		✓
Don Reed	MAPP	682	✓	
H. J. Hagan	Anaconda Housing Auth	682		✓
Angela Purcell	HD 99	682	✓	
John M. Dallegre	BCU - Butte, MT	HB 682	✓	
Robert B. Young	24 N MAIN Butte	682	✓	
John Otwell	St. Catharines Cong	682	✓	
GARY S. MAREBUT	MRPA, MASC, WMPFA, BSE	HB 244	✓	
Brian D. Whitehorn	MADA, MASA, MCGovern	HB 244	✓	
BRIAN JUDY	NRA	HB 244	✓	
Tom Hanson	Mont Sheriff's & Peace Officers	244	✓	✓
Rd Braach	Western MT F+Game Assn	244	✓	✓
Ray Foster	City of Billings	244	✓	✓

DATE March 16, 1989

COMMITTEE ON

Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
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Chuck Stearns	City of Missoula	HB 647	✓	
Bob Goff	GT Falls Home Assn	HB 682		✓
Mike Patterson	GT Falls	HB 667	✓	
Kevin Hayer	GT Fall	HB 682		
Roger Sanders	Cascade County	HB 244		✓
Lucy Braun	Housing Auth. of Billings	HB 682		✓
Tom Marshall	Montanans for Social Justice	HB 682	✓	
Marcie Schreder	Montanans ^{MJC} for Social Justice	HB 682	✓	
Virginia Jackson	MJC	HB 682	✓	
Tom Casano	Montanans for Social Justice	HB 682	✓	
Rob Burch	Mt for Social Justice	HB 682	✓	
Howard Gipe	Flathouse Co. Comm.	HB 244		✓
Joseph Moore	Mt. Rainbow Coalition	HB 682	✓	
Robert Keller	Private Citizen	HB 682		✓
Janice McCade	✓	HB 682		✓
H. Terry Smith	Billings	HB 244		
A. M. Elwell	WESTERN NWWC	HB 244	✓	
Tracy M. Edwards	Yellowstone Co.	244		✓
Shelly Laine	City of Helena	244		✓
Shelly Laine	City of Helena	682	generally	
Sharon Macomber	Helena Housing	682	general	
MARY KAY PECIK	GALLATIN Co Comm.	244		✓
JEFFREY N. SMITH	BUTTE SILVER BOW	244		✓
Ellen Woodbury	Belgrade City-County	244		✓
LISA ZIER	MS J	682	✓	
EARL J. REILLY	Mont. Seniors Assoc.	282	✓	

