

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By DIANA WYATT CHAIR, on February 19, 1991, at 3:00 P.M.

ROLL CALL

Members Present:

Diana Wyatt, Chair (D)
Jessica Stickney, Vice-Chair (D)
Joe Barnett (R)
Arlene Becker (D)
Vivian Brooke (D)
Dave Brown (D)
Brent Cromley (D)
Paula Darko (D)
Tim Dowell (D)
Budd Gould (R)
Stella Jean Hansen (D)
Harriet Hayne (R)
Ed McCaffree (D)
Tom Nelson (R)
Jim Rice (R)
Sheila Rice (D)
Richard Simpkins (R)
Norm Wallin (R)

Staff Present: Bart Campbell, Legislative Council
Lois O'Connor, Committee Secretary

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

Announcements/Discussion: REP. WYATT said Executive Action on remaining bills would be taken on Saturday, February 23, 1991, if necessary.

EXECUTIVE ACTION ON HB 497

Motion: REP. DARKO MOVED HB 497 DO PASS.

Motion: REP. DARKO moved to amend HB 497. EXHIBIT 1

Discussion:

REP. DARKO explained the amendments which renumber sections and cleanup the bill.

Vote: Motion on amendments carried unanimously.

Discussion:

REP. D. BROWN asked for a clean-up amendment to simplify the bill in terms of the COLA. He proposed on Page 7, Line 9, following July 1, strike "1991 through July 1" on Line 10. On Line 10, after year, strike "thereafter". On Line 15, following salary strike the line through Line 19 up to 100% of, and insert "except as provided in Subsection 3, the salaries fixed must be no less than 80% of the annual base salary provided for in 74-25-03 Sub 1 plus a cost of living increment based on". This amendment does not change the intent or concept of the bill.

Motion/Vote: **REP. D. BROWN** moved amendment Nos. 8, 9, and 10. Motion carried unanimously.

Motion: **REP. DARKO MADE A SUBSTITUTE MOTION THAT HB 497 DO PASS AS AMENDED. EXHIBIT 2**

Discussion: **REP. BECKER** asked **REP. DARKO** to clarify Section 1, Subsection 2. **REP. DARKO** stated there were concerns about the County Commissioners making the decisions about their salaries, but they are elected officials and need to be responsible and responsive.

REP. D. BROWN asked at what the Clerks and Recorder's salary is in comparison to County Commissioners. **REP. DARKO** replied that County Commissioners; in first, second, and third class counties, receive an annual salary equal to the annual salaries established for Clerk and Recorders plus \$2,000. **County Commissioner Ray Harbin** stated Clerks and Recorders are paid by a fixed base salary plus ten dollars for every 100 people in the county. Elected sheriffs and commissioners are paid \$2,000 incremental salary above that. Clerks and Recorders receive the same pay increase that County Commissioners receive.

REP. SIMPKINS stated county employees do not get an automatic COLA unless it is negotiated in their contracts. It should be placed at the county level as the county employees want the automatic COLA. **REP. DARKO** stated salaries of people who work in county government are based on the elected official salaries. If the COLA percentage is changed, it would affect many people and wanted it left as stated. **REP. BROWN** stated if they said "up to 100%", it would create disparity between county officials across the state.

REP. McCAFFREE asked **REP. DARKO** if the salaries can be frozen. She replied yes.

Vote: Motion of Do Pass As Amended carried 13 to 5 with **REPS. HAYNE, SIMPKINS, J. RICE, BARNETT, and WALLIN** voting no.

HEARING ON HB 716

Presentation and Opening Statement by Sponsor:

REP. CONNELLY, House District 8, Kalispell, stated HB 716 will allow counties in dog control districts to access a fee for local dog control programs and would establish a \$5.00 fee for services per household.

Proponents' Testimony:

Marilyn White, Director, Flathead County Animal Control and Shelter, stated animal control in the counties is out of control. Counties do not have the funds to do the job. Flathead County has a license fee, but it is difficult to get residents to license their animals. To license animals, they must have a rabies shot.

Mark Langdorf, Helena Resident, said when he was the Lewis and Clark County's animal control officer, the budget was for 30 hours a week; but he was working 48 to 50 hours. HB 716 would send a strong message to the counties to pay more attention to a program that is underfunded.

Rob Micken, Animal Control Supervisor, Missoula, said the purpose of animal control is to protect the general public from rabies as well as other serious health threats. Written testimony was provided. EXHIBIT 3, 4

Paul Spengler, Lewis and Clark County Dog Control Supervisor, provided written testimony. EXHIBIT 5

Carolyn Doering, Lewis and Clark Humane Society, offered an amendment and provided written testimony. EXHIBIT 6, 7

Opponents' Testimony:

Bruce McCandles, Assistant City Administrator, Billings, supported the intent of HB 716 but the language does not make it clear that the fee to be accessed by County Commissioners is for animal control in an unincorporated area of the County. Cities should not be charged for a service being provided by a county.

Alec Hansen, Montana League of Cities and Towns, agreed with Mr. McCandles. The language must be changed to make sure that a levy is not applied inside incorporated boundaries if this is a county control program.

Questions From Committee Members:

REP. DOWELL asked Marilyn White to expand on the statistics in her testimony. Ms. White said Flathead County took in 1,810 dogs in 1990 of which 1,496 were destroyed. Those figures are

approximately the same for cats and the blame lies on the irresponsibility of the residents.

REP. DARKO asked REP. CONNELLY if she would amend the bill by saying "animal control" instead of dog control. REP. CONNELLY said yes.

REP. BROOKE asked Alec Hansen if there were any incorporated cities in agreement with their counties on animal control. He said if there is a cooperative agreement, a city-county dog control program, it should be assessed inside the incorporated area. If it is a separate program, fees should not be assessed.

REP. McCAFFREE asked REP. CONNELLY if any attempt was made by the counties to, by ordinance, set a license on cats or dogs at the same time they receive a rabies vaccination. REP. CONNELLY said Flathead County has a county license fee. REP. WALLIN asked if the fee would be an annual, monthly, or a one time fee. REP. CONNELLY replied an annual fee and should be clarified on the bill.

REP. CROMLEY asked REP. CONNELLY what was meant by "districts" on Page 2, Line 3. She stated that would be amended to "county". Some animal control ordinances in the state are set up by districts.

Closing by Sponsor:

REP. CONNELLY stated everyone would benefit from HB 716 and amendments could be worked out.

HEARING ON HB 483

Presentation and Opening Statement by Sponsor:

REP. KADAS, House District 55, Missoula, stated HB 483 will allow municipalities to create fire service areas.

Proponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, said HB 483 allows for the creation of a fire service area within the city limits. Under current law, fire service areas are allowed outside of city limits. The advantage is that it would allow funding of fire service through fees based on square footage of structures rather than taxation based on value of property. This system is more fair because it equalizes the cost between well maintained property with high value; and a rundown, abandoned building that has very low value, but represent the major cause of fires in the community. There are consequences to the bill. These special fees will not be classified as property taxes. They will be special assessments which would create flexibility for cities under I-105. The fees would go to fund fire service. The amount of the general fund currently committed for the fire

department budget could be reduced. These fees, unlike property taxes, will apply to tax exempt properties and government properties. An amendment should have language that would delay the imposition of fees on state property until July 1, 1991, to allow for negotiation and any additional fees needed from the Legislature in the next budget.

Ray Harbin, Montana Association of Counties, would support the bill if it were amended after the word boundaries insert a "period" and delete the rest of the sentence. The cities don't have the authority to go beyond the city limits.

Charles Gibson, City of Missoula, said fire departments are funded from property taxes and are operating under the restraints of I-105. The cost of operations is increasing with inflation. HB 483 would give the cities the latitude to develop a fee system based upon the needs of fire service areas. The taxpayer should be given another option for which to pay for fire services besides taxes.

Lyle Nagel, Montana Volunteer Fire fighters Association, stated the rural areas are less opposed to a fee than to a tax. Fire districts are funded through mill levies.

Edward Flies, Montana State Fireman's Association, supported HB 483.

Don Hurni, Fire Chief, Helena Fire Department, said some counties have no fire service or if they do, it is very limited. Some unincorporated areas would like fire protection but have no means to get it.

Opponents' Testimony:

Sheila Stearns, University of Montana, stated the University has concerns about its fiscal impact or potential assessment to the campus and budget. The University has no funds in the budget if they were to be designated fire service areas. The University receives free fire service and has a great relationship with Missoula. They are supportive of the amendments as it allows for negotiation instead of outright fee assessment.

Ken Heikes, Administrative Vice President, Eastern Montana College, asked that requests for general fund appropriations language be included in the bill. There will be a general fund impact for the Appropriations and Legislature to address.

Questions From Committee Members:

REP. BECKER asked **Alec Hansen** if the current property tax assessment would be dropped. He said it wouldn't be required but it could be dropped. The bill includes a protest provision.

REP. S. J. HANSEN asked if people already paying property taxes will have to pay the fee on top of the taxes. **Mr. Hansen** said

their intent is to equalize the cost of fire protection. To make it acceptable to the public, a corresponding reduction in property taxes is a must. **REP. HANSEN** asked if cities can negotiate a contract if an entity such as the University decides it needs more fire protection. **Mr. Hansen** said yes. HB 483 would require negotiation.

REP. DOWELL asked **REP. KADAS** the dollar figure to provide the University of Montana with fire service. He said a similar situation happened at Montana State University. MSU did negotiate with Bozeman and it cost them \$80,000 annually.

REP. BROOKE asked **Charles Gibson** if HB 483 would equalize the protection in fire service districts. **Mr. Gibson** said he was addressing properties who don't pay any fire service fees and receive equal protection. **REP. BROOKE** asked if the properties not paying in an area can be delineated as a district. **Mr. Gibson** said it would be difficult. Exempt buildings are located all over the cities.

REP. CROMLEY asked **Alec Hansen** if the cities entire fire budget could go to taxes on the assessments. He said yes. The entire fire operation could be funded with the fees.

REP. BARNETT asked **Mr. Hansen** to explain the difference between a fee and a tax. **Mr. Hansen** said a tax is a millage levied against the value of the property. A fee is like a user fee. It is not imposed against the value of the property but the square footage of the structure. **REP. BARNETT** asked if the cost could be balanced out by a bill that would address those not currently paying fees without placing a fee on those that are paying a fee. **Mr. Hansen** said no one has done an assessment of the properties in question. No one has determined the taxable value of the University of Montana.

REP. SIMPKINS asked **Mr. Hansen** if there is any city charging a service fee for fire protection on land owned by the Federal Government. He said it is difficult to collect from the Federal Government. If they lease the building, they will pay. If they own the building, it is difficult to collect. **REP. SIMPKINS** asked if language could be incorporated that states whatever amount of money is appropriated out of the General Fund of a city, for fire service protection, will be eliminated if this system is put into effect. **Mr. Hansen** said that is one of their intents as they do not want to increase anyone's taxes. If some of the tax exempt properties begin to pay, there will be additional money available. Cities are in financial difficulty. If some of the money could be used for other purposes, it would help.

Closing by Sponsor:

REP. KADAS said HB 483 addresses the problem of fire protection for institutions.

HEARING ON HB 722Presentation and Opening Statement by Sponsor:

REP. GRADY, House District 47, Canyon Creek, stated HB 722 allows members who are in the governing body, with land that is included in a noxious weed management area and does not have a conflict of interest, to abstain from the board or governing body deliberations related to the project area. A person who is a member of a district weed board, a board of supervisors of a conservation district, or the governing body of a community or other entity, shall abstain from all deliberations and decisions by the board or governing body to apply for funds for a noxious weed management project. If a person has land within the project area and applies for a grant and is a County Commissioner or on the advisory committee, they must abstain from votes or action pertaining to the grant.

Proponents' Testimony:

David Burch, Montana Weed Control Association, provided written testimony. EXHIBIT 8

Opponents' Testimony: None

Questions from Committee:

REP. BROOKE asked REP. GRADY if HB 722 presents a conflict of interest. REP. GRADY said the bill would avoid a conflict of interest because it says that a person must abstain from any voting in regards to grant applications.

Closing by Sponsor:

REP. GRADY urged committee support of HB 722.

HEARING ON HB 714Presentation and Opening Statement by Sponsor:

REP. S. RICE, House District 36, Great Falls, stated that Montana has two transportation districts which operate bus systems in Missoula and Great Falls. Other areas have city owned bus systems. Currently, the boards of the urban transit districts are elected. HB 714 proposes than an option be created where the districts can have elected boards or appointed boards.

Proponents' Testimony:

Charles Gibson, City of Missoula, provided written testimony.
EXHIBIT 9

Opponents' Testimony:

Paul Eastman, Chairman, Great Falls Transit District, stated the boards are in danger of being swayed on certain issues. The voters should be allowed to vote for whom they want.

Rick Brown, General Manager, Great Falls Transit District, stated members of his board are elected, provide a service to the community and do not get paid. The voters have the right to choose who should sit on their boards. If the boards are elected, it makes them less susceptible to political influences.

Questions From Committee Members:

REP. STICKNEY said HB 714 is an option bill; either elect or appoint a board member. She asked REP. S. RICE what the problem was. REP. RICE stated the decision is left up to the City and County Commissioner. The people from the Great Falls Transit District do not want the city and county making those decisions whether or not they are elected or appointed.

Closing by Sponsor:

REP. S. RICE asked the committee to table HB 714.

HEARING ON HB 487**Presentation and Opening Statement by Sponsor:**

REP. WYATT, House District 37, Great Falls, stated HB 487 would protect shooting range locations and exempt shooting ranges from certain laws relating to litter control, community decay, disorderly conduct and public nuisance. A community should not encroach on a preexisting facility.

Proponents' Testimony:

Clyde Byerly, Montana Rifle and Pistol Association, provided written testimony. EXHIBIT 10

Bill Bigelow, National Rifle Association, stated many shooting facilities are finding neighborhoods growing up around them; and they decide, after the fact, that they can't tolerate the noise. They are able to bring public pressure upon the ranges to close them. Between the Fish, Wildlife and Parks and individual clubs in the state. \$300,000 has been spent building shooting facilities. HB 487 is needed to protect their investment.

Gary Marvitt, Montana Shooting Sports Association, said 85% of Montana households contain firearms. The people who own these firearms need to be safe in their use and ownership which means having adequate range space to use. There is a national problem

of encroachment and closure of shooting ranges. Shooting ranges need to be recognized as a property right protection. If a shooting range must be relocated, HB 487 provides protection in that the range cannot be out of operation for more than six months. Currently exempt from planning and zoning laws are agricultural, mining, timber, and federal properties. HB 487 states that planning and zoning cannot be used as an excuse to shut down a shooting range.

Forrest Pole, Missoula, stated safe shooting ranges are a benefit to the community and supported HB 487.

Alfred Elwell, Montana Weapons Collectors, said people who buy land and build around the shooting ranges, should take the responsibility for their own actions. They should use reasonable and prudent caution in the purchase of the property.

Robert Lovegrove, President, Western Montana Fish and Game Association, said his organization is in the process of acquiring property for a shooting range that has been in operation for 10 years. They would like to have the assurance that they wouldn't risk their investment as a result of being zoned out of existence. Shooting facilities in the proximity to population centers are critical. The need for replacement of property rights associated with a shooting range is important.

Opponents' Testimony:

Robert Rasmussen, Montana Association of Planners, said the association does support the concept of HB 487 with regard to the protection of investments. The approach to the problem is backwards. The prohibition of planning and zoning laws would prohibit the protection that is afforded by the statutes. The planning process provides the necessary guidance for compatible development in the area of existing uses. The title of the bill is inaccurate. It does not reference the substantive section of the bill that affects planning and zoning.

Ray Harbin, Lake County Commissioner, said local governments cannot afford to pay the entire cost of relocation of shooting ranges. He would support the bill with amendments. **EXHIBIT 11**

Cheryl Patton, Assistant City Manager, Great Falls, said HB 487 restricts local control and enforcement of shooting ranges. The bill is protectionistic to a special interest group and if passed, will be challenged by the city of Great Falls as unconstitutional. **Ms. Patton** opposed the section that states the local governments will bear the full cost of relocation. HB 487 denies the city its private property rights and compromise local governments authority to exercise its police power for the good of all citizens.

Alec Hansen, Montana League of Cities and Towns, said the bill gives the most incompatible uses of land the highest level of

protection under law. The cities and counties should not have to pay the entire cost of relocating a shooting range.

REP. WALLIN, House District 78, Bozeman, provide written testimony from constituents. **EXHIBIT 12**

Kathy Macefield, City of Helena, provided written testimony. **EXHIBIT 13**

Bruce McCandles, City of Billings, went on record in opposition of HB 487.

Closing by Sponsor:

REP. WYATT stated that there is no place for people who want shooting ranges to go to have a shooting range. Section 3 and 4 refer to pre-existing, in-operation shooting ranges so the zoning would affect future sights and locations but not zone out of existence those ranges in currently in operation.

EXECUTIVE ACTION ON HB 714

Motion: **REP. S. RICE** MOVED HB714 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 155

Discussion:

REP. D. BROWN stated the County Attorney's salary bill requested their salary be 100% equal to a judge's salary. The subcommittee drafted the following amendments. Salaries will be 95% of judge's salaries and leave the part-time County Attorney's salary as is. They can take advantage of outside incomes; and in legislation passed, they will get advantage of the COLA increases. This will cut the fiscal note to a third. A revised fiscal note will be requested upon approval of the committee and will go to Appropriations.

Motion: **REP. D. BROWN** MOVED HB 155 DO PASS.

Motion: **REP. D. BROWN** moved to amend HB 155. **EXHIBIT 14**

Discussion:

REP. D. BROWN explained the amendments.

REP. McCAFFREE asked **REP. BROWN** if the part-time County Attorneys' salaries will remain the same under the salary bill **REP. BROWN** said yes. **REP. McCAFFREE** asked if the bill would increase the percentage for deputy county attorneys to 95%. **REP. BROWN** said their percentage would stay the same.

Vote: Motion to amend carried 17 to 1 with REP. McCAFFREE voting no.

Motion/Vote: REP. D. BROWN MADE A SUBSTITUTE MOTION THAT HB 155 DO PASS AS AMENDED. Motion carried 11 to 7 with REPS. CROMLEY McCAFFREE, WYATT, WALLIN, DARKO, BARNETT, and SIMPKINS voting no.

EXECUTIVE ACTION ON HB 328

Discussion:

REP. S. RICE stated HB 328 would create a state central audit. She explained the amendments.

REP. DARKO asked if OPI would take up the cost of the audits for school districts and if they had been in contact with OPI to see if they would assume this in their budget. REP. SIMPKINS said that OPI will take the funds out of the state equalization fund. When it comes back for review, they are going to have to look at the funding sources. REP. DARKO asked if it will be paid for by filing fees or surtaxes on filing fees. Scott Seacat, Legislative Auditor, stated these audits are not done by his office but by local government service auditors or agencies. At the close of the fiscal year end, the Department will start billing for the filing of reports and desk review for various audits. There will be a five year General Fund loan. REP. SIMPKINS said they are not dealing with the cost of the audit but with a filing fee for the DOC to collect all audits and financial reports to come into one central location.

REP. McCAFFREE asked if the increase from \$100,000 to \$200,000 in amendment #4 meet federal requirements. Mr. Seacat said under the Federal Single Audit Act, any agency requiring \$25,000 of federal money must have an audit. An agency under that amount needs no audit. REP. McCAFFREE said local governments have not received any relief from I-105. These governments will still have to pay for their audits. Mr. Seacat said because of the amendment from \$100,000 to \$200,000, local governments will get a substantial savings.

Motion/Vote: REP. S. RICE moved the amendments to HB 328. Motion carried unanimously. EXHIBIT 15

Motion/Vote: REP. GOULD MOVED HB 328 DO PASS AS AMENDED. Motion passed 17 to 1 with REP. McCAFFREE voting no.

EXECUTIVE ACTION ON HB 106

Motion: REP. D. BROWN MOVED HB 106 DO PASS.

Discussion:

REP. BROWN stated the HB 106 allows self-governing counties and

consolidated local governments, to have local option gambling. REP. DARKO asked if the bill would expand to include the seven reservations. REP. BROWN stated there are three levels of gaming allowed in the Indian Gaming Law. (1) Traditional Native American games such as stick games. (2) Games like bingo and keno. (3) Those areas where the state has laws on gambling. The reservations may have the same laws for the same amount of gambling. A contract is required between the Attorney General and the tribe in order to establish the limits. If they cannot agree they go to an independent arbitrator. The agreements then have to be approved by the Secretary of Interior who has jurisdiction over the Indian reservations. REP. DARKO asked if local governments would regulate their own gambling under HB 106. The bill would have to be amended to come under the regulations of the Attorney General. REP. BROWN said the state maintains gambling at present. HB 106 gives counties their own choice by vote.

Vote: Motion failed 5 to 13 with REPS. BECKER, D. BROWN, GOULD, McCAFFREE and WYATT voting aye.

Motion/Vote: REP. D. BROWN MADE A SUBSTITUTE MOTION TO TABLE HB 106 ON REVERSE VOTE. Motion carried 13 to 5 with REPS. BECKER, D. BROWN, GOULD, McCAFFREE and WYATT voting no. EXHIBIT 16

EXECUTIVE ACTION ON HB 483

Motion/Vote: REP. DARKO MOVED HB 483 BE TABLED. Motion carried 17 to 1 with REP. D. BROWN voting no.

EXECUTIVE ACTION ON HB 487

Discussion:

REP. D. BROWN stated HB 487 was close to legislation introduced in the last session. With amendments, it could be cleaned up.

REP. DARKO asked if the Legislature fixed the bill over the interim. They did nothing to fix the Senate's objections and didn't include the amendments the committee put on. REP. WYATT said it was not addressed or amended as it was in the Senate committee. REP. SIMPKINS said he would like to see the amendments offered by REP. BROWN. He was concerned that in Great Falls all the city had to do was terminate the lease on a shooting range. Since it is a lease, they don't have to pay for the movement of the range.

Motion/Vote: REP. STICKNEY MOVED HB 487 BE TABLED. Motion failed 5 to 13 with REPS. STICKNEY, BROOKE, CROMLEY, S, J. HANSEN, and WALLIN voting aye. EXHIBIT 17

Discussion:

REP. D. BROWN submitted an amendment. On page 3, strike "lines 3 through 19" and reinsert "the agency unit of local government or

court order ordering the closure shall pay the appraised cost of land and improvements to the range operators; and the range operators shall relinquish their property interests to the agency unit of local government or court." **Bart Campbell** stated he had removed language ordering the court to pay for relocation. There is a separation of powers problem; does the Legislature have the authority to order a court to do something. **REP. BROOKE** stated the Missoula County Commissioners opposed the bill and didn't feel it could be fixed, amendments or no amendments.

Motion/Vote: **REP. BROWN** moved to amend HB 487. Motion carried 16 to 2 with **REPS. BROOKE** and **CROMLEY** voting no.

Discussion:

REP. D. BROWN submitted an amendment. On Page 5, Line 15, after disorderly conduct, discharging firearms except at a shooting range, add the language, "during established hours of operation". On Page 7, Lines 17 and 18 which reads, noises resulting from the shooting activities at a shooting range, insert "during established hours of operation".

Motion: **REP. D. BROWN** moved to amend HB 487.

Discussion

REP. SIMPKINS asked if there was a way to add "within the curfew hours of minors". **REP. BROWN** said the amendments put responsibility on the shooting ranges to establish reasonable hours. If they don't, they face the language the committee passed before.

Vote: Motion to amend HB 487 carried 16 to 2 with **REP. BROOKE** and **CROMLEY** voting no.

Discussion:

REP. STICKNEY expressed concern about Page 2, Sections 3 and 4. The language sounds as if one can never, through zoning, choose not to have a shooting range. **REP. SIMPKINS** agreed and asked if the committee should insert "established shooting range". **REP. WYATT** said their concerns would be addressed in Amendment #2 and 3.

Motion: **REP. S. RICE** moved to amend HB 487.

Discussion:

REP. S. RICE said on Page 5, Line 7, before activities; insert "normal".

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. D. BROWN MOVED HB 487 DO PASS AS AMENDED.
EXHIBIT 18 Motion carried 16 to 2 with REPS. BROOKE and CROMLEY
voting no.

EXECUTIVE ACTION ON HB 716

Motion: REP. BROOKE moved HB 716 Do Pass.

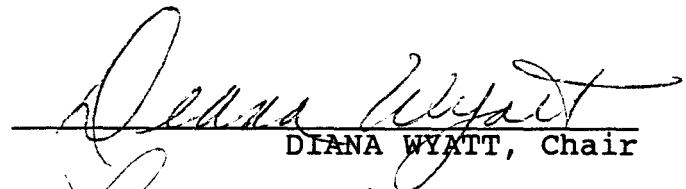
Discussion:

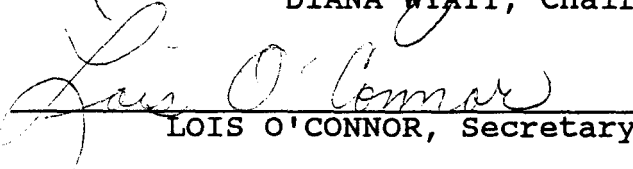
REP. SIMPKINS said language must be included to insure that incorporated cities are excluded if they have an animal control program. Bart Campbell stated there would be a conceptual problem. In the section dealing with districts, the state establishes districts for dog control; these are multi-jurisdictional districts. If he changes it, it must be changed in all areas of the bill to make sure there is no double taxation. REP. DARKO asked if "animal" control could be set up or does it have to be "dog" control. Mr. Campbell stated he would rather not amend HB 716 on the spot as Title 7 varies widely; and he wants to be sure everything is correct.

Motion/Vote: REP. GOULD MADE A SUBSTITUTE MOTION THAT HB 716 BE TABLED. Motion carried 13 to 5 with REPS. BROOKE, D. BROWN, DOWELL, DARKO, and STICKNEY voting no.

ADJOURNMENT

Adjournment: 6:30 P.M.


DIANA WYATT, Chair


LOIS O'CONNOR, Secretary

DW/lo

**HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE**

ROLL CALL

DATE 2-19-91

NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown	X		
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

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Mr. Speaker: We, the committee on Local Government report that House Bill 497 (first reading copy -- white) do pass as amended

Signed: 

Diana Wyatt, Chairman

And, that such amendments read:

1. Page 2, lines 5 and 7.

Strike: "(1)(b)"

Insert: "(1)(a)(ii)"

2. Page 2, line 19.

Following: "(1)"

Insert: "(a)"

3. Page 3, line 4.

Strike: "(a)"

Insert: "(i)"

4. Page 3, line 5.

Following: "class"

Insert: "added"

5. Page 3, line 9.

Strike: "(b)"

Insert: "(ii)"

6. Page 3, line 10.

Following: "class"

Insert: "added"

7. Page 3, line 13.

Following: line 12

Insert: "(b) The annual base established by the county governing body in subsection (1) must be uniform for all county officers referred to in subsection (1)."

8. Page 7, lines 9 and 10.

Following: "resolution"

Strike: ", "

Following: "July 1"

Strike: ", "

Following: "~~1982~~"

Strike: "1991, and on or before July 1"

9. Page 7, line 10.

Strike: "thereafter"

10. Page 7, lines 15 through 19.

Strike: "for" on line 15 through "of" on line 19

Insert: ". Except as provided in subsection (3), the salaries
fixed may be no less than 80% of the annual base salary
provided for in 7-4-2503(1) plus a cost-of-living increment
based on"

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 722 (first reading copy -- white) do pass.

Signed: *Diana Wyatt*

Diana Wyatt, Chairman

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 155 (first reading copy -- white) do pass as amended.

Signed: 
Diana Wyatt, Chairman

And, that such amendments read:

1. Title, line 8.

Strike: "THE SAME AS FOR"

Insert: "95 PERCENT OF"

Strike: "JUDGE"

Insert: "JUDGE'S SALARY"

2. Title, lines 8 and 9.

Strike: "INCREASING" on line 8 through "ATTORNEY" on line 9

3. Page 4, line 18.

Strike: "the same as"

Insert: "95% of"

4. Page 4, line 23.

Strike: "80%"

Insert: "60%"

5. Page 4, line 25.

Strike: "or"

Insert: " , "

Following: "fifth,"

Insert: " , "

6. Page 5, lines 1 through 4.

Strike: "class" on line 1 through "the" on line 4

7. Page 5, line 4.

Following: "sixth,"

Insert: " , "

8. Page 5, line 5.

Strike: "60%"

Insert: "50%"

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 3

Mr. Speaker: We, the committee on Local Government report that House Bill 328 (first reading copy -- white) do pass as amended.

Signed: 
Diana Wyatt, Chairman

And, that such amendments read:

1. Title, line 10.

Following: ";

Insert: "AUTHORIZING AN INTERFUND LOAN FROM THE GENERAL FUND;"

2. Title, line 15.

Strike: "AND"

Insert: ";

3. Title, line 16.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

4. Page 2, line 7.

Strike: "recipient"

Insert: "local government entity"

5. Page 3, line 4.

Strike: "public"

Insert: "licensed"

6. Page 4, line 17.

Strike: "and"

7. Page 4, line 18.

Following: "districts"

Insert: "; and

(xxvii) grazing districts"

8. Page 7, line 18.

Strike: "\$100,000"

Insert: "\$200,000"

9. Page 8, line 4.

Following: "department"

Insert: ", or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction"

10. Page 13, line 13.

Following: "department"

Insert: ", or, in the case of a school district, if directed by the department at the request of the superintendent of public instruction"

11. Page 17, line 22.

Following: "department"

Insert: ", in consultation with the board,"

12. Page 24, line 17.

Following: "fee"

Insert: "to any local government entity required to have an audit under [section 3], which fee must be"

13. Page 24, line 18.

Following: "part."

Insert: "The filing fees for school districts required by this section must be paid by the superintendent of public education from the funds appropriated for state equalization aid as defined in 20-9-343."

14. Page 26, line 18.

Following: "fee"

Insert: "to any local government entity required to have an audit under [section 3], which fee must be"

15. Page 26, line 19.

Following: "part."

Insert: "Notwithstanding the provisions of 20-9-343, the filing fees for school districts required by this section must be paid by the superintendent of public instruction from the state equalization aid account."

16. Page 27, following line 1.

Insert: "(4) The department is authorized under this part to charge a surcharge on the filing fee to generate the necessary revenue to repay the general fund loan over a 5-year period."

17. Page 29, line 11.

Following: "2-7-503(1)"

Insert: ", unless an extension has been granted by the department for good cause shown,"

18. Page 33, line 17.

Following: "report"

Insert: "of the significant issues of noncompliance"

19. Page 43, following line 3.

Insert: "New Section. Section 27. Estimate of cost savings.

The governor shall include in his proposed budget submitted to the 53rd legislature an estimate of cost savings to state agencies resulting from the implementation of [this act].

New Section. Section 28. Interfund loan from the general fund. Costs incurred by the department of commerce during fiscal year ending June 30, 1992, in adopting rules to implement [this act] and in preparing for the implementation of [this act], up to the approved appropriation for this purpose, are to be funded by an interfund loan from the general fund that must be repaid over a 5-year period from the revenues from the filing fees provided for in [this act]."

Renumber: subsequent sections

20. Page 43, following line 13.

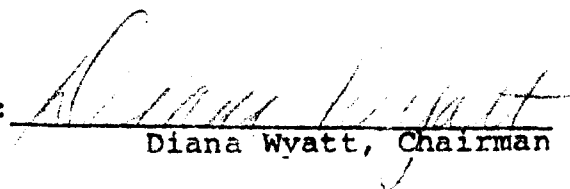
Insert: "New Section. Section 31. Termination date. Section 2-7-514(4), as added in [section 12], terminates June 30, 1997."

HOUSE STANDING COMMITTEE REPORT

February 20, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Local Government report that House Bill 487 (first reading copy -- white) do pass as amended

Signed: 

Diana Wyatt, Chairman

And, that such amendments read:

1. Page 2, line 7.

Following: "would"

Insert: ":"

2. Page 2, line 8.

Following: line 7

Insert: ": (1)"

Strike: "or inhibit"

Following: "operation of"

Strike: "a"

Insert: "an existing"

Following: "range"

Insert: "as a nonconforming use;

(2) prohibit the establishment of new shooting ranges, but it may regulate the construction of shooting ranges to specified zones; or

(3) prevent the erection or construction of safety improvements on existing shooting ranges"

3. Page 2, lines 11 and 12.

Following: "may not"

Insert: ": (1)"

Strike: "or inhibit"

Following: "operation of"

Strike: "a"

Insert: "an existing"

Following: "range"

Insert: "as a nonconforming use;

(2) prohibit the establishment of new shooting ranges, but it may regulate the construction of shooting ranges to specified zones; or

(3) prevent the erection or construction of safety improvements on existing shooting ranges"

4. Page 2, line 19.

Strike: "(a)"

5. Page 2, line 24.

Strike: "(i)"

Insert: "(a)"

6. Page 3, lines 3 through 19.

Strike: lines 3 through 19 in their entirety

Insert: "(b) the agency or unit of local government obtaining the closure pays the appraised cost of the land together with improvements to the operators of the shooting range. In return the shooting range operators shall relinquish their interest in the property to the agency or unit of local government obtaining the closure."

7. Page 4, line 12.

Following: "deposits"

Insert: "directly"

Strike: "the"

8. Page 5, line 7.

Following: "(b)"

Insert: "normal"

9. Page 5, line 15.

Following: "range"

Insert: "during established hours of operation"

10. Page 7, line 18.

Following: "range"

Insert: "during established hours of operation"

Amendments to House Bill No. 497
First Reading Copy

Requested by Representative Darko
For the Committee on Local Government

Prepared by Bart Campbell
February 19, 1991

1. Page 2, lines 5 and 7.

Strike: "(1)(b)"

Insert: "(1)(a)(ii)"

2. Page 2, line 19.

Following: "(1)"

Insert: "(a)"

3. Page 3, line 4.

Strike: "(a)"

Insert: "(i)"

4. Page 3, line 5.

Following: "class"

Insert: "added"

5. Page 2, line 9.

Strike: "(b)"

Insert: "(ii)"

6. Page 3, line 10.

Following: "class"

Insert: "added"

7. Page 3, line 13.

Following: line 12

Insert: "(b) The annual base established by the county governing
body in subsection (1) must be uniform for all county
officers referred to in subsection (1)."

8. Page 7, line 9.

Strike: "1991"

Insert: "1992"

EXHIBIT 2
DATE 2-19-91
HB 497

Amendments to House Bill No. 497
First Reading Copy

Requested by Representative Darko
For the Committee on Local Government

Prepared by Bart Campbell
February 19, 1991

1. Page 2, lines 5 and 7.

Strike: "(1)(b)"

Insert: "(1)(a)(ii)"

2. Page 2, line 19.

Following: "(1)"

Insert: "(a)"

3. Page 3, line 4.

Strike: "(a)"

Insert: "(i)"

4. Page 3, line 5.

Following: "class"

Insert: "added"

5. Page 3, line 9.

Strike: "(b)"

Insert: "(ii)"

6. Page 3, line 10.

Following: "class"

Insert: "added"

7. Page 3, line 13.

Following: line 12

Insert: "(b) The annual base established by the county governing
body in subsection (1) must be uniform for all county
officers referred to in subsection (1)."

8. Page 7, lines 9 and 10.

Following: "resolution"

Strike: ", "

Following: "July 1"

Strike: ", "

Following: "1982"

Strike: "1991, and on or before July 1"

9. Page 7, line 10.

Strike: "thereafter"

10. Page 7, lines 15 through 19.

Strike: "for" on line 15 through "of" on line 19

Insert: ". Except as provided in subsection (3), the salaries
fixed may be no less than 80% of the annual base salary
provided for in 7-4-2503(1) plus a cost-of-living increment

EXHIBIT 2
DATE 2-19-91
PS 497

based on"

HB049701.ABC



February 19, 1991

EXHIBIT 3
DATE 2-19-91
HB 716

House Local Government Committee
Montana House of Representatives
Capitol
Helena, MT. 59620

Chairman Wyatt, honorable Committee members,

On behalf of the Missoula City/County Health Department, I am writing in SUPPORT of HB 716 allowing county commissioners to establish a per household fee to help offset the cost of maintaining local dog control programs.

The primary purpose of animal control is to protect the general public from rabies, as well as many other serious health threats. By maintaining programs that control the number of owned dogs that run at large, remove strays, assure proper rabies vaccinations, and investigate all animal bites, local governments can minimize the effect of these animal related health issues. According to the Centers for Disease Control, procedures such as these have reduced the number of laboratory-confirmed cases of rabies in dogs from 6,949 in 1947 to 128 in 1988. Simply put, these programs have been, and continue to be, extremely effective.

Missoula City and County has had an animal control program for many years now, and it has been essential in building a safe, attractive environment for its residents. Unfortunately, since the passage of I-105, the program's budget has remained unchanged as the population within its jurisdiction has continued to grow. Missoula County, according to the latest census figures, is now the second largest county in Montana, and the funds available to the program are falling far short of being able to keep up with the growing demands. HB 716 would afford Missoula, as well as other counties, the opportunity to meet the demands of their individual area.

Animal control programs exist for the benefit of all local residents, whether they are dog owners or not. We must be able to protect these people within our jurisdiction by minimizing the effects that uncontrolled animals have upon their safety and well-being. However, without adequate resources, this task becomes impossible. I strongly urge a "do pass" recommendation on HB 716.

Sincerely,

Rob Micken, Supervisor
Missoula City/County Animal Control



(406) 721-5700

BCC-91-121
February 19, 1991

FILE 4
DATE 2-19-91
RE 716

Representative Diana Wyatt
Chairman, Local Government Committee
Montana State House of Representatives
Capitol Station
Helena, MT 59620

Dear Representative Wyatt,

The Missoula County Commissioners wish to support House Bill 716 "An Act to Allow Counties and Dog Control Districts to Assess a Fee for Dog Control Programs".

Missoula County receives more complaints concerning dogs than any other issue. Our current staff of three animal control officers are responsible for animal control complaints over an area of approximately 2,600 square miles. The animal control officers respond to twice as many complaints, per officer, as the County Sheriff's Department or the City Police Department. Even at this hectic pace they are not able to respond to all of the complaints filed with the City and County of Missoula.

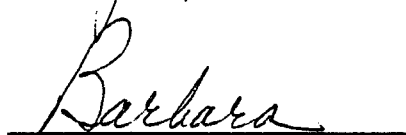
This bill is an appropriate way to ensure that the concerns of Montana's citizens are responded to in a timely and appropriate fashion. The concerns handled by animal control include dog bites, rabies control, barking dogs, dogs-at-large, cruelty to dogs and dogs chasing livestock. We urge you to support the passage of House Bill 716.

Sincerely,

BOARD OF COUNTY COMMISSIONERS


Ann Mary Dussault, Chair


Janet Stevens, Commissioner


Barbara Evans, Commissioner

BCC/SS:ss

TESTIMONY SUPPORTING HB 716 (COUNTY FEES FOR DOG CONTROL PROGRAMS)

Paul Spengler, Lewis & Clark Co. Dog Control Supervisor, 447-8285

2-19-91
5
DATE 2-19-91
HB 716

Lewis and Clark County has had a dog control program for ten years and supports HB 716 as the only alternative to seeking funding each year through an emergency mill levy or dropping the program completely.

This will be the third year that the county must ask the voters to fund the important dog control program through the emergency mill levy election. This is extremely risky, because failure of the levy means the elimination of the program, since we could no longer fund the dog control officer's position.

Even now, with the passage of last year's levy, the county can only afford a 3/4 time program, because our total budget is \$20,000. Fines, license and impoundment fees contribute only up to \$8,500 annually to the program, or less than half of the revenue required to keep the program going.

Dog control has become a necessity in the county for the protection of public health and safety. Without a dog control program, packs of dogs present a clear danger to children especially, as well as to pedestrians, joggers, farm animals and other dogs. Lewis and Clark County adopted dog control ten years ago to address the dog problem, and we have learned that the program is too valuable to be left to the whim of the public at the annual emergency mill levy election.

In conclusion, I ask you to vote to pass HB 716 to allow counties to assess fees for dog control programs, which have become a necessity to protect the public health and safety in our urban counties. Thank you.

EXHIBIT 6
DATE 2-19-91
HB 716

Mr. Chairman - Members of the Committee

HB716

For the record, my name is Carolyn Doering. I serve on the Board of Directors for the Lewis & Clark Humane Society (LCHS).

I am here representing the Board in support of HB716, however I have an amendment which I would like to offer at the end of my testimony.

The LCHS is a non-profit organization providing services to Lewis & Clark County, Broadwater County, and Jefferson County. We also care for animals brought to us from White Sulphur Springs in Meagher County and Deer Lodge in Powell County.

Our shelter has a statewide reputation for excellence in providing humane care for unwanted, abandoned and abused animals.

We operate our shelter on a budget of approximately \$109,000 per year - 50% which is funded from Lewis & Clark County and the cities of Helena and East Helena, and \$1,000 from Broadwater County. We receive NO funding from Jefferson County although they brought us 167 unwanted or abandoned animals in 1990. The other 50% of our funding is raised through memberships, shelter fees and fundraising.

We take in an average of 3300 animals a year. The average stay for an adoptable animal can be 10-12 days. Sometimes longer if space allows.

We vaccinate all our animals to control the spread of disease.

We sponsor a Rabies Clinic each spring in conjunction with local veterinarians.

We investigate cruelty cases and assist local prosecutors in taking those cases to court.

We, as citizens, need to take a serious look at what animal control really is -- its much more than an officer picking up a dog without a license or an animal that's a nuisance and running at large. Of course, those animals picked up by a city or county dog control officer end up at your local shelter for the shelter to care for and feed. Those animals may or may not be retrieved by their owners.

Animal control is really gained by an effective spay-neuter program which all Humane Societies pursue - however all Humane Societies, like us, face a funding problem.

The LCHS spends about \$2400 annually to help eliminate the overpopulation problem in our community. Financial help is given to those people who cannot afford to alter their animals.

With increased funding through this bill we can put together an aggressive s/n program through educational programs, which are so important, and increased financial assistance. We, as well as other shelters around the state, would also be able to provide a better facility and environment for our animals.

House Bill 716 assesses a \$5.00 fee per residence, per year to help with animal control and maintenance -- It costs us \$300 per day to run our shelter

On a daily basis we have boxes of kittens and puppies and older unwanted and abused animals that overflow our shelter. ~~animal control and maintenance.~~

In one single day this last summer, our staff had to euthanize 23 cats to make room for more. That's a painful task for the staff that has to do it.

53.6% of the animals taken in in 1990 had to be euthanized.

This winter - during the -40 weather, we received a call from the County Attorney in Jefferson County that there were 57 pigs at Whitehall with no shelter, straw, or water. Our shelter manager and a volunteer rancher from the Helena Valley took 2 horse trailers to Whitehall and brought the pigs to his ranch. Some piglets had died and some sows were too frostbitten to feed their young. Some pigs were missing tails and ears, not only from frostbite but also from being eaten off due to overcrowding. We kept the pigs for 1 1/2 months - the cost was around \$2,000. Jefferson county has ignored our request for reimbursement. It would have cost them much more than \$2,000 if they had not had the Humane Society and a caring rancher to solve their problem.

I ask you to support HB716 with the following amendments:

EXHIBIT 6
DATE 2-19-91
HB 716

Representative Mary Ellen Connolly

Amendments to House Bill 716

Page 2 - line 3

Delete: district

Insert: county

Page 2 - following line 4

Insert:

At least 30% of the fee assessed in each county receiving animal control services shall be allocated to the non-profit Humane Society/Animal Shelter providing those services.

EXHIBIT 7
DATE 2-19-91
HB 716

Representative Mary Ellen Connolly

Amendments to House Bill 716

Page 2 - line 3

Delete: district

Insert: county

Page 2 - following line 4

Insert:

At least 30% of the fee assessed in each county receiving animal control services shall be allocated to the non-profit Humane Society/Animal Shelter providing those services.

MONTANA WEED CONTROL ASSOCIATION

EXHIBIT 8
DATE 2-19-91
HB 722

February 19, 1991

WRITTEN TESTIMONY FOR HB 722
MONTANA WEED CONTROL ASSOCIATION
DAVID BURCH, PRESIDENT ELECT

The Montana Weed Control Association would like to go on record in support of HB 722. We feel that a person who is a member of a Board (Weed or Conservation) or who is part of a governing body should be allowed to participate in the noxious weed trust fund grants program. People who sit on these boards, are people who have an interest in doing something to help there community.

If these people are not allowed to apply for funds from the noxious weed trust fund, we feel the County Weed District Boards would be in jepordy. People who care and are concerened about weed control should not be discouraged from applying for these grants. This bill would eliminate the posibility of this happening.

This bill is, as stated a clarifying act and we hope you will strongly support HB-722.

Thank you



DANIEL KEMMIS
OFFICE OF THE MAYOR

435 RYMAN MISSOULA, MT 59802-4291 (406) 523-4601 FAX: (406) 728-6690

EXHIBIT 9
DATE 2-19-91
714

February 19, 1991

Representative Diane Wyatt
Chairperson, Local Government Committee
Capitol Station
Helena, MT 59620

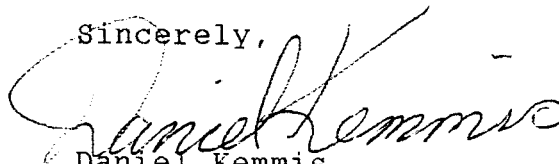
Dear Representative Wyatt:

I want to encourage your favorable consideration of H.B. 714, introduced by Representative Rice.

This bill would give local governments the option of appointing rather than electing urban transportation district boards. In 1975, my first term in the Legislature, I sponsored the bill allowing for the creation of these districts. At that time, I thought elected boards were a good idea, and I still think they may be in some circumstances. But in Missoula we have found it very difficult to inform voters about candidates, or even to get candidates to run. Often very special interests are the only ones paying any attention, or urging candidates to run.

Under those circumstances, we believe an appointed board may better serve the interests of the entire community. We do not want to mandate this for any community, but we believe it would be a wise option. That is all this bill provides. We urge your support of it.

Sincerely,


Daniel Kemmis
Mayor

8 February 1991

Testimony of Clyde G. Byerly

Subject: House Bill 487, Shooting Range Protection Bill.

I wish to express support for the bill. I represent the Montana Rifle and Pistol Association, a large membership organization of shooting sports enthusiasts and hunters in the state. We are the umbrella organization for many organized local shooting clubs throughout the State.

This bill will benefit the general public as well as sport shooters in that there will be shooting ranges near our cities for the foreseeable future. In many cities, these existing ranges are used for training of law enforcement personnel and other private agencies that must be proficient in the handling of firearms. The use of ranges for shooting sports activities will minimize the possibility of shooters practicing in public areas and other areas that could be detrimentally affected by litter and noise problems. Without ranges designated for sport shooting, there could be safety as well as environmental problems in areas surrounding our cities.

If cities determine that it is necessary to encroach on existing ranges, it is logical and correct that the range be relocated at the expense of the benefitting party.

This bill will also benefit the Dept of Fish, Wildlife and Parks by ensuring that ranges are available to support the hunter safety program for the training of our youth to qualify them to participate in shooting sports and hunting activities.

The safe use of firearms has been part of our public heritage for generations, let's continue this for future generations.

In conclusion, the Montana Rifle and Pistol Association would like to commend Representative Wyatt for her efforts and we urge your favorable consideration of this bill.

HOUSE OF REPRESENTATIVES

WITNESS STATEMENT

PLEASE PRINT

NAME Ray Harkin ~~BUDGET~~

ADDRESS 106 4th AVE E., Polson, MT 59860

WHOM DO YOU REPRESENT? MACO

SUPPORT OPPOSE AMEND X

COMMENTS: Suggested Amendments to HB-487

PAGE 2 Line 23 delete 'all of', delete 's' on conditions
and change 'are' to 'is'.

Page 3 Line 2. delete semi-colon and add the word 'and';

Page 3 Line 3 delete from line 3 through line 19
and replace with

"the agency, unit of local government, or court
ordering the closure shall pay the appraised cost
of land and improvements to the range operators, and
the range operators shall relinquish their property
interest to the agency, unit of local government, or
court."

EXHIBIT 12

DATE 2-19-91

HB 487

MESSAGE TO MONTANA LEGISLATOR

DATE: 2/18/91

TIME: 4:25

TO: Rep Norm Wallin

MESSAGE: Please vote
against HB 487
in the Local
Government Committee
meeting tomorrow.
This is the shooting
range bill that
was defeated last
session.

Thanks

Mary Kay Peck

Butte County Planning Com.

Commissioners
Russell J. Ritter, Mayor
Margaret A. Crennen
Tom Huddleston
Mike Murray
Blake J. Wordal



EXHIBIT 13
DATE 2-19-91
487

City-County
Administration Building
316 North Park
Helena, MT 59623
Phone: 406/442-9920

William J. Verwolf
City Manager

City of Helena

February 19, 1991

Chairman Diana Wyatt
House Local Government Committee
State Capitol Building
Helena, Montana 59620

Dear Chairman Wyatt and Members of the House Local Government Committee:

This letter is written to express concerns about -- and opposition to -- HB 487, "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, 7-2-5-2110, 45-8-101, 45-8-111, and 76-2-206, MCA; and Providing an Effective Date."

The City of Helena opposed this bill last legislative session, and I am speaking in opposition to this bill again today. As this bill was introduced in 1989, and again in 1991, I regret that the title of the proposed bill does not specifically state that it would exempt shooting ranges from the planning and zoning statutes.

The planning and zoning statutes (Title 76, Chapters 1 and 2 respectively) are intended "to promote the orderly development of [Montana's local] governmental units and environs." The purpose of Chapter 1 is to "encourage local units of government to improve the present health, safety, convenience, and welfare of their citizens and to plan for the future development of their communities to the end that ... residential areas provide healthy surroundings for family life...." (76-1-102, MCA)

Chapter 2 states that zoning is authorized "for the purpose of promoting health, safety, morals, or the general welfare of the community" and that a city and a county are empowered to regulate and restrict the location and use of buildings, structures and land.... The statutes further state that zoning regulations "shall be made in accordance with a comprehensive plan and designed to secure safety from fire, panic and other dangers; to promote health and the general welfare.... Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of the land...." (76-2-203 and 76-2-304, MCA)

The planning and zoning statutes are intended to maintain 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 -- and inappropriate -- in certain locations. Eliminating this local government review does not allow compatibility with the adjacent land uses to be considered. A shooting range

could negatively affect property values if noise and safety concerns cannot be adequately addressed -- which is contrary to protecting the public's safety and general welfare.

As a result, HB 487 would essentially reduce the rights of private property owners to protect their property values, and provides an unfair advantage to shooting ranges the expense of the people. The laws are intended to provide for the health, safety and general welfare of all of Montana's citizens, and should not be allowed to give an unfair advantage to a special interest group at the general public's expense.

If the proposed bill is intended to address existing shooting ranges, it does not clearly state that purpose. Page 2, Section 3, "Planning -- effect on shooting ranges" (as presented in the bill) states: "The laws of this state concerning planning, master plans, or comprehensive plans may not be construed to authorize an ordinance, resolution, or rule that would prevent or inhibit the operation of a shooting range."

Section 4, "Zoning -- effect on shooting ranges" states: "A planning district master plan, recommendation, resolution, rule or zoning designation may not prevent or inhibit the operation of a shooting range."

Because the bill does not state that these zoning and planning laws affect only existing shooting ranges, the interpretation is that these exceptions would also apply to new shooting ranges.

Any existing use -- even if it becomes a non-conforming use after the zoning regulation is adopted -- would be allowed to continue. This provision is already stated in the existing law: "Existing non-conforming uses may be continued although not in conformity with such zoning regulations" (76-2-105, MCA). Therefore, a use that was established before the zoning regulation was adopted -- even if it should be non-conforming for the zone -- and would be allowed to continue ("grandfathered in") at that location. When the law already provides this consideration, why would HB 487 even be necessary?

The proposed bill states that the only way a shooting range could be prevented from operating is if it presents "a clear and provable safety hazard." Does that mean that a pedestrian, jogger, bicyclist, or a motorist has to be hurt by a stray bullet to show that "a clear and provable safety hazard" exists? This safety concern -- in addition to noise and litter -- is especially important if the shooting range is an open outdoor range and these concerns cannot be even considered through the zoning process.

The proposed bill would exempt shooting ranges from any litter control. Considering that the bill would allow shooting ranges to be located in any area, leaving lead, copper, or brass deposits -- whether they be shells that have been fired or not -- so that they could easily be picked up by children would not contribute to the safety of the general public.

Diana Wyatt
Chairman ~~Rethor Bengsten~~
HB 487
Page 3

The proposed bill would exempt shooting ranges from ordinances intended to control noise. As a result, people could be subjected to the noise of rifles, and even semi-automatic rifles, at any time of the day or night! Lastly, referring to the policy statement of HB 487, I question if exempting shooting ranges from planning and zoning statutes would sincerely provide for the health, safety, welfare of the citizens of the state.

Again, I would like to restate the following comments: The planning and zoning statutes are intended to maintain some protection for the public's safety and general welfare while also protecting their property values. Zoning also affords this same protection to shooting ranges. Through the public hearing process, a community can determine which new uses are compatible and appropriate -- and inappropriate -- in certain locations. Eliminating this local government review does not even allow the public's safety (through compatibility with the adjacent land uses) to be considered.

I SINCERELY HOPE THAT YOU WILL CONSIDER THE NEGATIVE EFFECTS OF THIS BILL AND NOT PASS HB 487.

Sincerely,

Kathy Macefield
Kathy Macefield, City of Helena

File: HB487.'91

Amendments to House Bill No. 155
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell
February 20, 1991

1. Title, line 8.
Strike: "THE SAME AS FOR"
Insert: "95 PERCENT OF"
Strike: "JUDGE"
Insert: "JUDGE'S SALARY"
2. Title, lines 8 and 9.
Strike: "INCREASING" on line 8 through "ATTORNEY;" on line 9
3. Page 4, line 18.
Strike: "the same as"
Insert: "95% of"
4. Page 4, line 23.
Strike: "80%"
Insert: "60%"
5. Page 4, line 25.
Strike: "or"
Insert: ", "
Following: "fifth₇"
Insert: ", "
6. Page 5, lines 1 through 4.
Strike: "class" on line 1 through "the" on line 4
7. Page 5, line 4.
Following: "sixth₇"
Insert: ", "
8. Page 5, line 5.
Strike: "60%"
Insert: "50%"

15
DATE 2-19-91
HB 328

Amendments to House Bill No. 328
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell
February 20, 1991

1. Title, line 10.
Following: ";"
Insert: "AUTHORIZING AN INTERFUND LOAN FROM THE GENERAL FUND;"
2. Title, line 15.
Strike: "AND"
Insert: ", "
3. Title, line 16.
Following: "DATE"
Insert: "AND A TERMINATION DATE"
4. Page 2, line 7.
Strike: "recipient"
Insert: "local government entity"
5. Page 3, line 4.
Strike: "public"
Insert: "licensed"
6. Page 4, line 17.
Strike: "and"
7. Page 4, line 18.
Following: "districts"
Insert: "; and
(xxvii) grazing districts"
8. Page 7, line 18.
Strike: "\$100,000"
Insert: "\$200,000"
9. Page 8, line 4.
Following: "department"
Insert: ", or, in the case of a school district, if directed by
the department at the request of the superintendent of
public instruction"
10. Page 13, line 13.
Following: "department"
Insert: ", or, in the case of a school district, if directed by
the department at the request of the superintendent of
public instruction"
11. Page 17, line 22.
Following: "department"
Insert: ", in consultation with the board,"

12. Page 24, line 17.

Following: "fee"

Insert: "to any local government entity required to have an audit under [section 3], which fee must be"

13. Page 24, line 18.

Following: "part."

Insert: "The filing fees for school districts required by this section must be paid by the superintendent of public education from the funds appropriated for state equalization aid as defined in 20-9-343."

14. Page 26, line 18.

Following: "fee"

Insert: "to any local government entity required to have an audit under [section 3], which fee must be"

15. Page 26, line 19.

Following: "part."

Insert: "Notwithstanding the provisions of 20-9-343, the filing fees for school districts required by this section must be paid by the superintendent of public instruction from the state equalization aid account."

16. Page 27, following line 1.

Insert: "(4) The department is authorized under this part to charge a surcharge on the filing fee to generate the necessary revenue to repay the general fund loan over a 5-year period."

17. Page 29, line 11.

Following: "2-7-503(1)"

Insert: ", unless an extension has been granted by the department for good cause shown,"

18. Page 33, line 17.

Following: "report"

Insert: "of the significant issues of noncompliance"

19. Page 43, following line 3.

Insert: "New Section. Section 27. Estimate of cost savings.

The governor shall include in his proposed budget submitted to the 53rd legislature an estimate of cost savings to state agencies resulting from the implementation of [this act].

New Section. Section 28. Interfund loan from the general fund. Costs incurred by the department of commerce during fiscal year ending June 30, 1992, in adopting rules to implement [this act] and in preparing for the implementation of [this act], up to the approved appropriation for this purpose, are to be funded by an interfund loan from the general fund that must be repaid over a 5-year period from the revenues from the filing fees provided for in [this act]."

Renumber: subsequent sections

20. Page 43, following line 13.

10
DATE 2-19-91
PAGE 328

Insert: "New Section. **Section 31. Termination date.** Section 2-7-514(4), as added in [section 12], terminates June 30, 1997."

EXHIBIT 16
DATE 2-19-91
LB 106

HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 1-19-91 BILL NO. 106 NUMBER _____

MOTION: DO PASS Motion Failed 5-13

NAME	AYE	NO
REP. PAULA DARKO		X
REP. JESSICA STICKNEY, VICE-CHAIR		X
REP. JOE BARNETT		X
REP. ARLENE BECKER	X	
REP. VIVIAN BROOKE		X
REP. DAVE BROWN	X	
REP. BRENT CROMLEY		X
REP. TIM DOWELL	X	X
REP. BUDD GOULD	X	
REP. STELLA JEAN HANSEN		X
REP. HARRIET HAYNE		X
REP. ED MCCAFFREE	X	
REP. TOM NELSON		X
REP. JIM RICE		X
REP. SHEILA RICE		X
REP. RICHARD SIMPKINS		X
REP. NORM WALLIN		X
REP. DIANA WYATT, CHAIR	X	

17
DATE 2-19-91
HB 487

HOUSE OF REPRESENTATIVES
LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 1-19-91 BILL NO. HB 487 NUMBER
MOTION: TABIE Failed 5-13

NAME	AYE	NO
REP. PAULA DARKO		X
REP. JESSICA STICKNEY, VICE-CHAIR	X	
REP. JOE BARNETT		X
REP. ARLENE BECKER		X
REP. VIVIAN BROOKE	X	
REP. DAVE BROWN		X
REP. BRENT CROMLEY	X	
REP. TIM DOWELL		X
REP. BUDD GOULD		X
REP. STELLA JEAN HANSEN	X	
REP. HARRIET HAYNE		X
REP. ED MCCAFFREE		X
REP. TOM NELSON		X
REP. JIM RICE		X
REP. SHEILA RICE		X
REP. RICHARD SIMPKINS		X
REP. NORM WALLIN	X	
REP. DIANA WYATT, CHAIR		X

18
2-19-91
487

Amendments to House Bill No. 487
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell
February 20, 1991

1. Page 2, line 7.
Following: "would"
Insert: ":",

2. Page 2, line 8.
Following: line 7
Insert: ":", (1)"
Strike: "or inhibit"
Following: "operation of"
Strike: "a"
Insert: "an existing"
Following: "range"
Insert: "as a nonconforming use;
(2) prohibit the establishment of new shooting ranges,
but it may regulate the construction of shooting ranges to
specified zones; or
(3) prevent the erection or construction of safety
improvements on existing shooting ranges"

3. Page 2, lines 11 and 12.
Following: "may not"
Insert: ":", (1)"
Strike: "or inhibit"
Following: "operation of"
Strike: "a"
Insert: "an existing"
Following: "range"
Insert: "as a nonconforming use;
(2) prohibit the establishment of new shooting ranges,
but it may regulate the construction of shooting ranges to
specified zones; or
(3) prevent the erection or construction of safety
improvements on existing shooting ranges"

4. Page 2, line 19.
Strike: "(a)"

5. Page 2, line 24.
Strike: "(i)"
Insert: "(a)"

6. Page 3, lines 3 through 19.
Strike: lines 3 through 19 in their entirety
Insert: "(b) the agency or unit of local government obtaining
the closure pays the appraised cost of the land together
with improvements to the operators of the shooting range.
In return the shooting range operators shall relinquish

their interest in the property to the agency or unit of local government obtaining the closure."

7. Page 4, line 12.

Following: "deposits"

Insert: "directly"

Strike: "the"

8. Page 5, line 7.

Following: "(b)"

Insert: "normal"

9. Page 5, line 15.

Following: "range"

Insert: "during established hours of operation"

10. Page 7, line 18.

Following: "range"

Insert: "during established hours of operation"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Gov.
DATE 8-19-91

COMMITTEE

BILL NO.

487

SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Gordon Morris</u>	<u>MAA</u>		<u>X</u>
<u>Clyde Beverly</u>	<u>mt. R. fl. & P. stl assoc</u>	<u>✓</u>	
<u>Bill Bigelow</u>	<u>NAA</u>	<u>✓</u>	
<u>A. M. Elwell</u>	<u>WCSMA</u>	<u>✓</u>	
<u>Mered PATTON</u>	<u>City of GF</u>		<u>✓</u>
<u>Robert Rasmussen</u>	<u>MT Assoc. of Planners</u>		<u>✓</u>
<u>Kathy Macefield</u>	<u>City of Helena</u>		<u>✓</u>
<u>Dagmar Sanders</u>	<u>Cascade County</u>		<u>X</u>
<u>Ray HARBIN</u>	<u>LAKE County</u>		<u>X</u>

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Govt. COMMITTEE BILL NO. 714
DATE 2-19-91 SPONSOR(S) S. Rice

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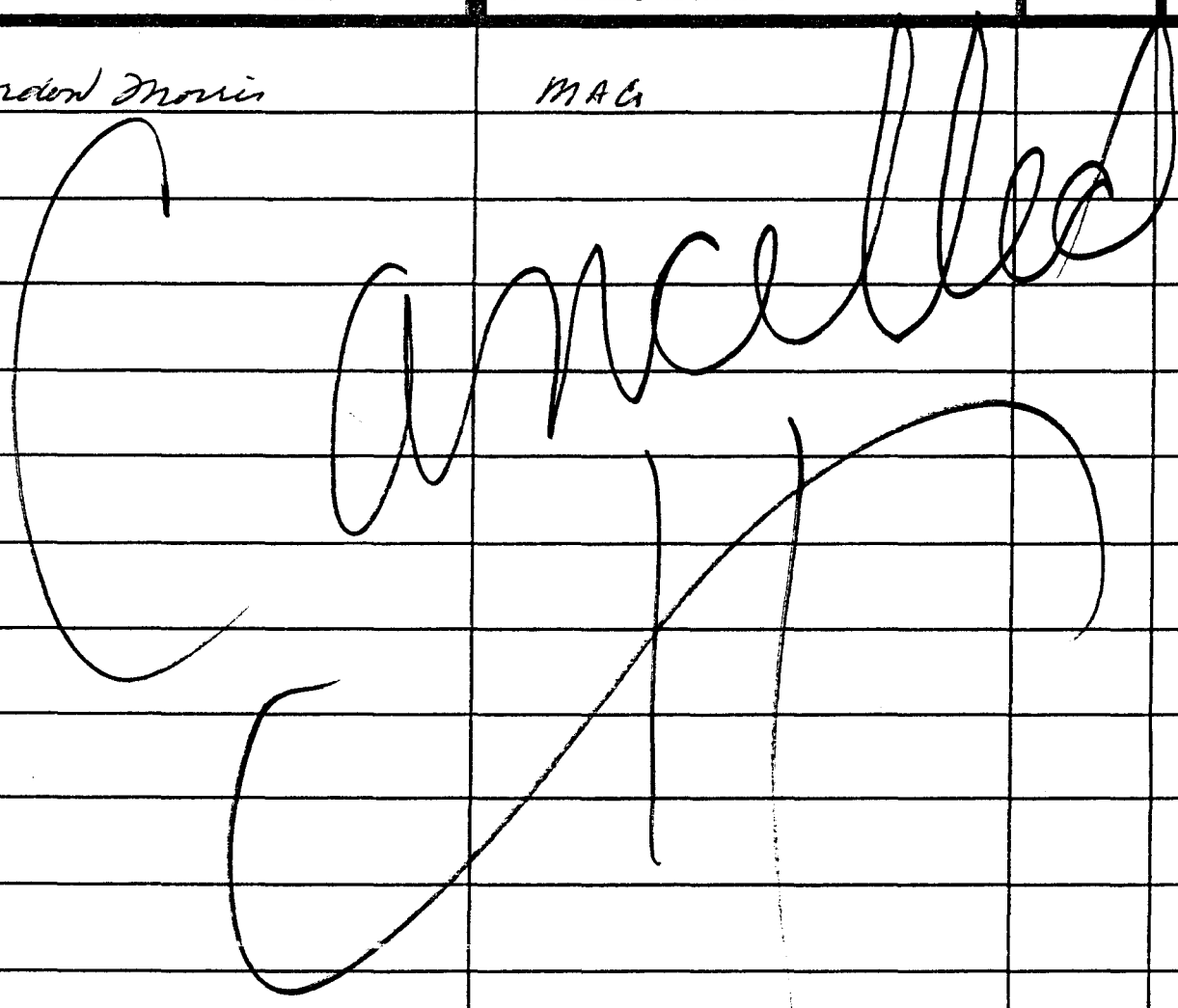
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Charles H Gibson	City of Missoula	✓	
Gordon Morris	MACs		
Bruce Eastman	Great Falls Transit		✓
William R. Brower	GREAT FALLS TRANSIT		✓
Mary J. Plunkey	Missoula Urban Trans Dist.		✓
James Dolan	" " " "		✓

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Loan COMMITTEE BILL NO. 657
DATE 2-19-91 SPONSOR(S) J. Johnson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE		
<u>Gordon Morris</u>	<u>MAC</u>				
					

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Gov. COMMITTEE BILL NO. 716
DATE 2-19-91 SPONSOR(S) Connelly
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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gordon Morris	MACO		
Rob Micken	Missoula City/Co Health Dept	X	
Colleen Clark	Kalispell Animal Cont	X	
HARON LANSDORF	LEWIS & CLARK HUMANE SOC.	X	
Paul Spengler	Lewis + Clark County	X	
Carolyn Doering	L & C Humane Soc	X	
MARK LANGDORF	Self	X	
BRUCE McCANDLESS	CITY OF BILLINGS		✓
Marilyn White	Kalispell	✓	
Judith Kenton	Federated Humane Societies of Mt	✓	
ALAN HANSEN	MIC T	Amend	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Gov.

COMMITTEE

BILL NO.

483

DATE 2-19-91

SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Charles H. Gibson	City of Missoula F.D.	✓	
Don Hurni	City of Helena F.D.	✓	
Gordon Morris	MACO		
Alec Hansen	MLCT	✓	
Ken Hikes	EMC		✓
Lyle Nagel	MT. ST. VOL. FIREFIGHTER ASSN	✓	
Shela Stearns	UM		✓
JAMES A. LOFTUS	MT FIRE DIST ASSN		✓
Edward L. Flier	MT STATE COUNCIL OF PROF. FIREFIGHTERS	✓	
Ray HARBIN	MACO	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Local Gov. COMMITTEE BILL NO. 722
DATE 2-19-91 SPONSOR(S) Grady
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Gordon Morris</i>	<i>MHC</i>		
<i>David Burch</i>	<i>Mt. Wood Control Assoc.</i>	<i>X</i>	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.