

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Senator Kennedy, on March 9, 1993, at
3:00 p.m.

ROLL CALL

Members Present:

Sen. Ed Kennedy, Chair (D)
Sen. Sue Bartlett, Vice Chair (D)
Sen. Dorothy Eck (D)
Sen. Delwyn Gage (R)
Sen. Ethel Harding (R)
Sen. John Hertel (R)
Sen. David Rye (R)
Sen. Bernie Swift (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Jeff Weldon (D)

Members Excused: None.

Members Absent: None.

Staff Present: Connie Erickson, Legislative Council
Rosalyn Cooperman, Committee Secretary

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

Committee Business Summary:

Hearing: HB 189, HB 299, HB 440, HB 631
Executive Action: HB 186, HB 189, HB 254, HB 440, HB 631

HEARING ON HB 299

Opening Statement by Sponsor:

Representative Norm Wallin, House District 78, stated HB 299 would recognize the Local Government Center (Center) at Montana State University (MSU) and would allow the Center to receive legislative appropriations. He said the Board of Regents has approved the Center as an outreach program within the Department of Political Science at MSU which provides local governments with training, on-site technical assistance and applied research. Representative Wallin submitted to the record a copy of the

Center's *Montana Policy Review* which is published biannually. (Exhibit #1) He concluded HB 299 does not request a legislative appropriation but leaves open the possibility for such funding if the financial status of Montana were to improve.

Proponents' Testimony:

Ms. Beverly Gibson, Montana Association of Counties (MACo), stated her organization's support for HB 299. She said MACo has worked with the Local Government Center and has been pleased with the services the Center offers.

Mr. Alec Hansen, Montana League of Cities and Towns, stated his organization's support for HB 299. He said the educational programs offered by the Center have taught municipal governments how to spend their money more efficiently. Mr. Hansen stated the Center deserves to be recognized for its contribution to municipal government in Montana. He stated HB 299 does not request any funds at this time.

Representative David Ewer, House District 45, stated his support for HB 299. As Bond Program Officer for the Board of Investments, he has often used the services provided by the Center and believes it provides a vehicle for government officials to learn how to economize local government. Representative Ewer stated passage of HB 299 would help the Center secure grant funding from additional private sources.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Harding asked Representative Wallin why HB 299 was necessary if the Local Government Center operates without legislative funding. Representative Wallin said the passage of HB 299 would recognize the contributions of the Local Government Center and would give it additional credibility when applying for private foundation grants.

Senator Harding asked Representative Wallin how the Local Government Center was operating without legislative funding. Representative Wallin replied the Center relies on gifts and grants.

Senator Harding asked Representative Wallin if he would object to deleting subsection d of Section 1 which permits the Center to receive legislative appropriations. Representative Wallin stated he would not object but added he would prefer that subsection d be retained.

Senator Hertel asked Representative Wallin if the Center received any MSU funding. Dr. Ken Weaver, Director of the Local Government Center, replied the Center receives no funding from MSU. He said he is paid \$17,000 each year to teach part time at MSU, but, the work he does for the Center is not compensated by MSU.

Senator Swift asked Representative Wallin if the Local Government Center would be considered a part of the University system if it was authorized to receive legislative appropriations. Representative Wallin replied it would. Senator Swift stated he would prefer to delete subsection d so the Center would not be part of the University system funding base.

Senator Rye asked Dr. Weaver why the Center would seek University system money given the shortage of funding for higher education. Dr. Weaver replied HB 299 was requested by local governments and not by MSU. He said the Center will almost be assured to receive a three year, \$500,000 grant from the Northwest Areas Foundation if HB 299 is passed. He added that the passage of HB 299 would also help them as they apply for additional funding.

Senator Kennedy asked Dr. Weaver if the Center charges a fee for its services rendered. Dr. Weaver replied the fees depend on the size of the community and its financial status. He said fees can range from a tank of gas to \$100 per person for a three day workshop.

Senator Kennedy asked Dr. Weaver if any of the other universities in Montana had a local government center similar to the one at MSU. Dr. Weaver replied he was not aware of an active outreach program at any of the other universities in Montana focused on local government. He said there was a Bureau of Government Research program at the University of Montana but stated he did not think it was active at the current time. Senator Kennedy stated he had benefitted from the services of the Local Government Center when he was Mayor of Kalispell.

Senator Weldon stated he did graduate work at the University of Montana (UM) and added that the Political Science Department does have a Bureau of Government Research. He asked Dr. Weaver if would be appropriate to also recognize the Bureau of Government Research at UM. Dr. Weaver replied it would be inappropriate for him to answer the question because he did not know if the Bureau was still active or had any future research plans.

Senator Eck asked Dr. Weaver if he anticipated his Center would ever receive funds from MSU if HB 299 was passed. Dr. Weaver

replied HB 299 was introduced to recognize the value of the Center's existence to Montana's local governments. He said he hoped the work of his Center would be recognized as important to local governments and would receive funding on that basis.

Closing by Sponsor:

Representative Wallin concluded it was important to pass HB 299 to get recognition of the Center in the law books.

HEARING ON HB 631

Opening Statement by Sponsor:

Representative Norm Wallin stated the Airport Authority Act was passed in 1970. He said this act gave the Airport Authority's Board of Directors the authority to operate the airport. Representative Wallin stated HB 631 would expand the Board's authority to borrow money. He said the most important revision to HB 631 was contained in Section 1, subsection 2 which reads, "if a board, commission, or other governing entity, other than a port authority created under Title 7, Chapter 14, Part 11, issues bonds and pledges to the payment of bonds, taxes, revenue, or fees in accordance with the statutes authorizing the issuance of the bonds, the taxes, or fees and the levy or appropriation of the taxes, revenue, or fees are not subject to approval by the local government appointing the board, commission, or governing entity". Representative Wallin concluded HB 631 would give these entities the authority to sell revenue bonds but not general obligation bonds.

Proponents' Testimony:

Ms. Mae Nan Ellingson, Dorsey & Whitney, spoke from prepared testimony in support of HB 631. (Exhibit #2)

Mr. Tom Ebzery, Montana Airport Management Association, stated his organization's support for HB 631.

Ms. Beverly Gibson, Montana Association of Counties, stated her organization's support for HB 631.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Gage stated Ms. Ellingson has more credibility with the Legislature than any other person in the state of Montana.

Closing by Sponsor:

Representative Wallin concluded HB 631 would not give these governing entities any additional authority. Instead, HB 631 would allow these governing entities to pledge taxes or revenue to the repayment of bonds without first seeking their approval from their city council or county commission.

Discussion:

Senator Kennedy stated he was a sponsor of the committee bill requested by the Committee shortly before transmittal. He said Ms. Ellingson was helping him move the bill, SB 426, through the Taxation Committee.

HEARING ON HB 440

Opening Statement by Sponsor:

Representative Norm Wallin, House District 78, asked Representative David Ewer to present the hearing on HB 440.

Representative David Ewer, House District 45, stated HB 440 would define water and sewer districts as a unit of local government. He said HB 440 defines a district as a unit of local government separate and distinct from a municipality, and added that a district may be treated as a municipality when applying for a grant, loan or other financial assistance from the state. Representative Ewer stated HB 440 was drafted in response to a law suit in the Bozeman area over the establishment of a water district. He said a court recently ruled that the way in which the water district was assessing fees was unconstitutional.

Proponents' Testimony:

Representative Norm Wallin, House District 78, stated his support for HB 440. He said HB 440 would clarify the status of water and sewer districts.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Eck asked Representative Ewer why HB 440 defines "county" as one or more counties or a city and a county. Representative Ewer replied he did not know why county was defined in such a manner. Connie Erickson replied the language is consistent with existing water and sewer law. She said a water and sewer district may be formed by two counties or by a county and a city. Representative Ewer added that once a water and sewer district is formed, it becomes autonomous. He said most water and sewer districts he has dealt with have been formed by counties.

Senator Harding stated many counties and towns in the Flathead Lake area have joined together to form water and sewer districts.

Senator Gage asked Representative Ewer what he meant when he said water and sewer districts were autonomous. Representative Ewer replied these districts are autonomous with regard to water and sewer provisions only.

Closing by Sponsor:

Representative Ewer stated he did not anticipate the passage of HB 440 would completely resolve the law suit in Bozeman, however, he stated its passage would clarify the status of water and sewer districts in law.

HEARING ON HB 189

Opening Statement by Sponsor:

Representative Norm Wallin, House District 78, stated current law requires the Department of Commerce to report to the Legislature their plans for economic development in Montana. He said HB 189 would allow the Department to work with local development associations in Montana's communities and assist them with such development planning.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Harding asked if existing law required the Department of Commerce to create and adopt a comprehensive plan for the physical development of the state. Mr. Rob McCracken from the Department of Commerce stated the process required in existing law no longer applies to local governments and is obsolete. He submitted to the Committee copies of the Department of Commerce's comments on HB 189. (Exhibit #3)

Senator Swift asked why Section 2, subsection 5 was not deleted from HB 189. Mr. McCracken replied the Department of Commerce still administrates the Community Development Block Grant (CDBG) program. He added the CDBG brings in approximately \$7 million each year for public works facilities in Montana.

Closing by Sponsor:

Representative Wallin stated HB 189 was a housekeeping bill and hoped the Committee would pass it to the Senate floor.

EXECUTIVE ACTION ON HB 189

Motion/Vote:

Senator Eck moved HB 189 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Eck will carry HB 189 on the Senate floor.

EXECUTIVE ACTION ON HB 440

Motion/Vote:

Senator Harding moved HB 440 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Harding will carry HB 440 on the Senate floor.

EXECUTIVE ACTION ON HB 299Motion:

Senator Rye moved HB 299 BE CONCURRED IN.

Discussion:

Senator Weldon asked why proponents of HB 299 believe statutory recognition of the Center is necessary. Senator Eck replied statutory recognition would be helpful to them as they apply for grants in the future.

Senator Weldon stated he was concerned that if HB 299 was passed, the remaining twenty plus bureaus within the University System would want to be statutorily recognized as well. He said if such recognition would be helpful to these bureaus, the Legislature may want to consider recognizing all university-related bureaus to assist them with seeking private funding. Senator Weldon stated the Bureau at UM is more closely tied to the University than the Center at MSU. As a result of cutbacks, he said funds for the Bureau have been substantially decreased to the point where the Bureau has ceased most of its research activities. Senator Weldon noted the Bureau had at one time actively assisted local governments and added he thought it should be recognized for its contributions as well.

Senator Eck stated she agreed with Senator Weldon but added his concerns should not affect the status of HB 299. She said it would be a good idea to contact the universities to see if there were any other bureaus which would benefit from recognition, but said there was not enough time to do this before the end of the session.

Senator Rye stated the Local Government Center at MSU has been the only entity to ask for the recognition. He agreed with Senator Eck's argument that there was not enough time to see if all the other bureaus want to be recognized. Senator Rye concluded the Center has assisted local governments and elected officials and stated his support for HB 299.

Senator Harding stated she agreed with Senator Weldon's comments and added the Committee would be helping to create another bureaucracy if they passed HB 299. She said she would prefer to delete the subsection which would allow the Center to receive legislative appropriations because she was concerned they would eventually try to get legislative funding.

Senator Kennedy agreed and stated he was concerned that private foundations would be less likely to fund the Center's projects if they knew the Center was authorized to receive legislative appropriations.

Senator Vaughn stated her county commissioners had asked her to support HB 299. She said she was also concerned about the authorization to receive legislative appropriations.

Senator Hertel stated he agreed with Senator Harding's comments and said he was concerned the Committee would set a precedent if HB 299 was passed.

Senator Gage asked if the Center was unable to receive and administer private grants and gifts. Senator Eck replied it was from those sources the Center derived its funding.

Senator Gage asked why HB 299 was necessary if the Center received its funding from private sources. Connie Erickson replied the Center will receive a substantial grant from the Northwest Areas Foundation if their Center is recognized by the state for its contributions. She said the language for HB 299 is consistent with the language currently in place for all other statutorily recognized bureaus. Ms. Erickson stated an important consideration when deciding if other entities should be recognized is whether or not they receive state funding. She said the Center at MSU and the Bureau at UM are distinct in that the Center has never received university funding.

Senator Swift stated he remembered the struggle in past legislative sessions over the status of the Museum of the Rockies at MSU and said he would like to avoid any similar situations. He said if the services provided by the Center are so valuable to local governments, it would be a mistake to make the Center dependent on University System money for its existence. He said it was for this reason he would oppose HB 299.

Senator Kennedy asked Connie Erickson if the Center could still be recognized by the state if the Committee struck subsection d which authorized them to receive legislative appropriations. Connie Erickson replied she did not think state recognition would be affected if subsection d was struck.

Senator Rye withdrew his motion.

Senator Gage asked if the Center was currently authorized to receive private monies without having a budget to expend the money. He said governments can only spend to the extent of their budgeted authority and asked if the Center had similar limitations. Ms. Marilyn Wessel, Montana State University, stated the Local Government Center must first submit a budget to the University for approval and then to the granting authority. She said if the Center receives a grant, they are required to expend those dollars based on the budget approved by both the University and the granting authority. She said the Center does not need prior approval from the Legislature to spend any funds as long as the money does not come from the state.

Senator Weldon stated he did not want to discourage the activity of the Center at MSU but said if the Center is to be recognized for its contributions, the Bureau at UM should be recognized as well.

Senator Kennedy asked Senator Weldon if the Bureau at UM was a part of the Political Science Department, to which Senator Weldon replied it was. Senator Kennedy stated such an association differs it from the status of the Center at MSU.

Senator Rye stated "Them that asks, gets. Them that don't ask, don't get."

Senator Weldon stated he had spoken with Senator Harry Fritz who had wanted to introduce a similar measure for the Bureau in the last legislative session, but was persuaded against doing so. He said he did not know why Senator Fritz did not proceed with his idea.

Senator Gage asked if the Board of Regents testified as proponents or opponents to HB 299 during either the House or Senate hearings. Representative Wallin stated the Board of Regents did not testify on HB 299.

Senator Vaughn stated the Bureau at UM received university funding while the Center at MSU did not. It was her opinion the Center wanted recognition, not funding, from the state.

Senator Weldon asked the Committee to pass consideration on HB 299 until he had the opportunity to talk with individuals from the University of Montana Political Science Department.

EXECUTIVE ACTION ON HB 631

Motion/Vote:

Senator Eck moved HB 631 BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Kennedy will carry HB 631 on the Senate floor.

EXECUTIVE ACTION ON HB 186

Discussion:

Connie Erickson explained the amendments offered to HB 186. (Exhibit #4) She said the amendments to HB 186 would increase the penalty for delinquent taxes to 4 percent.

Motion:

Senator Weldon moved the amendments to HB 186.

Discussion:

Senator Weldon stated he did not have any strong feelings about the amendments to HB 186 but said he offered them as a possible solution to the problems expressed by the county treasurers.

Senator Vaughn stated while the increase in penalty might act as an incentive for people to pay their taxes on time, she added in most instances, this penalty would hit the group of people who could least likely afford to pay it.

Senator Swift stated he agreed with Senator Vaughn's comments and added he viewed this problem as a dog fight between the cities and the counties and preferred to let them settle it. He said he did not want to be known as a "tax-raiser". Senator Eck reminded Senator Swift that a penalty, not a tax, would be increased.

Senator Rye stated the whole purpose for the amendments to HB 186 was to avoid having to take sides between municipalities and counties. He said the amendments to HB 186 were well intended but stated there was no solution to the concerns raised by the city and county representatives. Senator Rye stated he would prefer to pass consideration on HB 186 for the session.

Vote:

The motion to adopt the amendments to HB 186 FAILED with Senator Eck voting YES.

Motion:

Senator Gage moved HB 186 BE NOT CONCURRED IN.

Discussion:

Senator Harding stated she thought the revenue collected from the interest on penalties stayed with the county while the revenue derived from the penalty went to the different taxing jurisdictions. Connie Erickson stated she did not think that assumption was correct. She said current law that requires interest and penalties on delinquent school taxes be credited to the school districts.

Senator Weldon asked Mr. Morris if the county kept the interest collected on the penalty. Mr. Morris replied the interest

follows the taxes so the taxing jurisdictions would ultimately end up with the interest.

Vote:

The BE NOT CONCURRED IN motion PASSED with Senators Eck, Harding and Rye voting NO. Senator Gage will carry the adverse committee report.

EXECUTIVE ACTION ON HB 254

Discussion:

Connie Erickson stated HB 254 would increase the fee for filing a motor vehicle lien from \$4 to \$8. She said \$4 would go to counties' general funds while the other \$4 would go to the State Fund.

Senator Kennedy stated HB 254 was supported by the County Treasurers Association and opposed by the auto industry and credit unions.

Senator Hertel asked how much money the fee increase would generate. Senator Weldon replied he remembered hearing that motor vehicle liens generated \$470,000 for the state.

Senator Kennedy said the credit unions opposed HB 254 because they would not be allowed to pass on the fee increase to their members. Senator Vaughn stated banks and credit unions would find a way to pass the fee increase on to their members.

Senator Gage asked if the \$470,000 generated by liens for the state applied to all vehicle liens. Several Committee members responded it applied to motor vehicle liens. Senator Gage replied the increase proposed by HB 254 would result in a \$470,000 increase in costs to the consumer.

Motion/Vote:

Senator Weldon moved HB 254 BE NOT CONCURRED IN. MOTION CARRIED UNANIMOUSLY. Senator Weldon will carry the adverse Committee report.

ADJOURNMENT

Adjournment: 4:40 p.m.



SENATOR JOHN "ED" KENNEDY, Jr., Chair



ROSALYN COOPERMAN, Secretary

JEK/rlc

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 189 (first reading copy -- blue), respectfully report that House Bill No. 189 be concurred in.

Signed: John Ed Kennedy Jr
Senator John "Ed" Kennedy, Jr., Chair

M Amd. Coord.
W Sec. of Senate

Ed
Senator Carrying Bill

541029SC.Sma

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 440 (first reading copy -- blue), respectfully report that House Bill No. 440 be concurred in.

Signed: John Ed Kennedy
Senator John "Ed" Kennedy, Jr., Chair

My Amd. Coord.
of Sec. of Senate

Flaunting
Senator Carrying Bill

541030SC.Sma

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 631 (first reading copy -- blue), respectfully report that House Bill No. 631 be concurred in.

Signed: John Ed Kennedy, Jr.
Senator John "Ed" Kennedy, Jr., Chair

M- Amd. Coord.
W Sec. of Senate

Kennedy
Senator Carrying Bill

541031SC.Sma

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 186 (first reading copy -- blue), respectfully report that House Bill No. 186 be not concurred in.

Signed: John Ed Kennedy Jr.
Senator John "Ed" Kennedy, Jr., Chair

M. Amd. Coord.
DL Sec. of Senate

NA (Gage)
Senator Carrying Bill

541025SC.Sma

ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 10, 1993

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 254 (first reading copy -- blue), respectfully report that House Bill No. 254 be no concurred in.

Signed: John Ed Kennedy Jr
Senator John "Ed" Kennedy, Jr., Chair

Exhibit 1
3-9-93 - - HB-299

MONTANA

Policy Review

A Publication of the Local Government Center

Volume 2, Number 2 Fall 1992

A TIME FOR DECISION

Montana Land Use Policy: Managing and Debating Growth in Gallatin County
Gordon Meeks, Jr.

Municipal Survival Under Federalism: The Revenue Crisis in Small Montana Cities
Richard Haines

The Treasure State Endowment: A Question of Incentives
Kenneth L. Weaver

REGULAR FEATURES

Reflections on Local Governance

Local Government News
Judy Mathre

Local Government Calendar

Ask Us
ADA Checklist

*A biannual analysis of public policy issues confronting Montana's communities and those who serve them.
Made possible by the Northwest Area Foundation.*

GENERAL WORKS CORPORATION
EXHIBIT NO. 2
DATE 3-9-93
BILL NO. HB 631

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402
(612) 340-2600

201 FIRST AVENUE S. W., SUITE 340
ROCHESTER, MINNESOTA 55902
(507) 288-3156

1200 FIRST INTERSTATE CENTER
BILLINGS, MONTANA 59103
(406) 252-3800

507 DAVIDSON BUILDING
GREAT FALLS, MONTANA 59401
(406) 727-3632

801 GRAND, SUITE 3900
DES MOINES, IOWA 50309
(515) 283-1000

127 EAST FRONT STREET
SUITE 310
MISSOULA, MONTANA 59802
(406) 721-6025
FAX (406) 543-0863

MAE NAN ELLINGSON

350 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 415-9200

1330 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036
(202) 857-0700

3 GRACECHURCH STREET
LONDON EC3V 0AT, ENGLAND
44-71-929-3334

36, RUE TRONCHET
75009 PARIS, FRANCE
33-1-42-66-59-49

35 SQUARE DE MEEÛS
B-1040 BRUSSELS, BELGIUM
32-2-504.46.11

TO: Members of the Senate Local Government Committee

FROM: Mae Nan Ellingson

DATE: March 9, 1993

RE: House Bill 631

HB 602, introduced in the 1991 legislative session, has been codified in Sections 7-6-2348 and 7-6-4259. As originally introduced, the legislation contained only section (1). We raised the concern that if enacted in its then existing form, it would raise questions about the validity of the pledge of certain tax and other revenues to the repayment of bonds by governing entities who would by definition be subject to the act, but which were authorized in other sections of the law to issue bonds and to pledge both fees, taxes and other revenues to their repayment in accordance with specific statutory compliance.

As we understand it, section (2) was added to HB 602 at the last minute in an effort to clear up this problem. This is reflected by the addition to the title of the bill, the term "exemption for bonds." Because of the language actually used in section (2), questions remain. As we see it the two issues are as follows:

1. If, as the legislative history suggests, section (2) was added to make an exclusion for funds pledged to the repayment of bonds, the use of the term tax levies may be too narrow. As you can see in section (1), the term tax and fee money is used. In the case of airport authorities issuing bonds, it is primarily fees, in the form of rents, leases, landing fees and the like that are pledged to the repayment of bonds, so failure to also include fees in the exception presents a conflict. The solution, as reflected in HB 631, would simply provide that if the authority, when it issues its bonds, pledges taxes,

DORSEY & WHITNEY

Members of the Senate Local Government Committee
March 9, 1993
Page 2

revenues or fees in accordance with the statutes, those taxes, revenues and fees would be included in the exception.

2. The second confusion is the use of the term "must be approved". When HB 602 is read in its entirety, as amended, it appears that the use of the term "must be approved" means there is no discretion not to approve. We believe this interpretation is bolstered by the use in the first section of the term "subject to approval." If the legislature had intended "must be approved" to mean "subject to approval", it arguably would have used that term. But on reading the statute as it is now codified, without tracing the legislative history, there is a real question as to what is meant by those terms, and the fact that there is a question raises questions as to validity of the pledge of certain taxes and revenues by an airport authority, for example, which in turn rises questions about the marketability of the bonds for which such revenues are pledged.

House Bill 631, as originally proposed, does not attempt to alter the purpose of HB 602, as approved, but rather attempts to clarify the amendment made to HB 602, simply by saying if a governing entity that is appointed by a city council or county commission, as the case may be, and is otherwise authorized by statute to pledge taxes or revenues to the repayment of bonds, that the annual appropriation of such taxes and revenues to the repayment of such bonds is not subject to the appointing governing body's approval.

DEPARTMENT OF COMMERCE
LOCAL GOVERNMENT ASSISTANCE DIVISION

1424 9TH AVENUE



STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0522

DEPARTMENT OF COMMERCE COMMENTS ON
HOUSE BILL 189

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 3
DATE 3-9-93
BILL NO. HB 189

State Comprehensive Plan Requirement

This bill would clarify the Department of Commerce's (DOC's) responsibilities in regard to state planning and community development.

In its audit for the 1990 - 1991 biennium, the Office of the Legislative Auditor cited DOC's failure to comply with a statutory requirement in DOC's enabling legislation to "develop and adopt a comprehensive plan for the physical development of the state"...(90-1-102, (1) MCA.)

This wording was first incorporated in the original legislation which created the Montana State Planning Board in 1935. The language was derived from model language published by the federal Public Works Administration. That model language was adapted from the "Standard City Planning Enabling Act" published by the U.S. Department of Commerce in 1928 which directed city planning commissions to "make and adopt a master plan for the physical development of the municipality."

Forty-three states, including Montana, established state planning boards to administer public works projects during the Depression. This language has been carried forward in subsequent amendments to Montana's state planning legislation, including the 1967 law which abolished the State Planning Board and replaced it with the Department of Planning and Economic Development (now Commerce).

DOC considers the requirement to "develop and adopt a comprehensive plan for the physical development of the state" out of date since the authority to adopt comprehensive plans for guiding land use development was delegated by the Legislature to municipalities in 1957 and to county governments in 1971. As of 1991, 44 municipalities and 36 counties had developed and adopted comprehensive plans for the physical development of their jurisdictions.

DOC believes that the Department's proper role is to support and assist local government efforts in local comprehensive planning and land use regulation, rather than to plan for them from the state level.

Public Facilities Technical Assistance

This amendment would clarify the Department of Commerce's (DOC's) responsibilities for providing technical assistance to local governments regarding the planning and financing of public facilities, such as water systems, sewer systems, solid waste systems, and other infrastructure.

Under 90-1-103(3) MCA, DOC has the responsibility to provide technical assistance regarding financing needs of local governments. This is the general statutory authority for our assistance to local governments on planning and financing public facilities. However, DOC suggests that a specific statutory reference to planning and financing of public facilities needs to be made to recognize the DOC's role in this area. This clarification is in response to the many requests we have received over many years from local governments in the area of public facility planning and financing. For example, in a survey of all cities and towns in Montana, 70% of municipal officials said that they needed additional technical help assembling financing packages to repair worn out community facilities. In response, DOC has published handbooks on how to package different sources of funds for local public facilities and has sponsored regional interagency funding workshops.

For nine years, DOC has coordinated and provided staff support for a committee of the primary government and private organizations that are involved in water and sewer finance, technical assistance, and regulation in order to coordinate state/federal financing of local projects.

DOC has created a computerized database to assist local government officials, engineers, and consultants in tracking down funding options for financing various public facilities. This database has helped local officials to locate funding for projects which would have been very difficult to finance without such a systematic information system.

Working with EPA and other agencies, DOC has analyzed statewide problems with financing local government facilities and made recommendations to improve state and federal funding programs and procedures. In addition, DOC administers the federally-funded Community Development Block Grant Program which provides over \$2.5 million per year for public facilities. DOC also administers the new Treasure State Endowment Program for funding public facilities projects.

In summary, at the request of local government officials, DOC has been providing many forms of technical assistance to enable local governments to obtain funding for public facilities and to establish cost-efficient planning techniques. HB 189 would simply clarify that one of our roles in providing technical assistance is to pay particular attention to the planning and financing of public facilities.

Amendments to House Bill No. 186
Third Reading Copy

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 4
DATE 3-9-93
BILL NO. HB 186

Requested by Senator Weldon
For the Committee on Local Government

Prepared by Connie Erickson
March 5, 1993

1. Title, line 4.

Following: "ACT"

Insert: "GENERALLY REVISING THE PENALTY ON DELINQUENT PROPERTY
TAXES; INCREASING THE PENALTY TO 4 PERCENT;"

2. Title, line 5.

Strike: "THE"

Following: "PERCENT"

Insert: "OF THE"

3. Title, lines 5 and 6.

Strike: "ON" on line 5 through "TAXES" on line 6

4. Page 2, line 4 and line 9.

Strike: "2%"

Insert: "4%"

5. Page 3, line 3.

Following: "deposit"

Insert: "one-half of"

6. Page 3, line 4.

Strike: "2%"

Insert: "4%"

7. Page 4, line 23.

Following: "penalties"

Insert: "and one-half of the penalties"

DATE 9 March 1993

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: HB 189 - Wallin; HB 299 - Wallin
HB 440 - Wallin; HB 631 - Wallin

Name Representing Bill No. Check One Support Oppose

Name	Representing	Bill No.	Support	Oppose
Robb McCracken	Dept. of Commerce	HB 189	✓	
Beverly Gibson	MACO	HB 299	✓	
Beverly Gibson	MACO	HB 431	✓	
Kew Weaver	Loc Gov CR	HB 299		✓
Tom Ebzevy	Mont Airport Mgt Assn	HB 631	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY