

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN NORM WALLIN**, on March 16, 1993, at 3:00 p.m.

ROLL CALL

Members Present:

Rep. Norm Wallin, Chairman (R)
Rep. Ray Brandewie, Vice Chairman (R)
Rep. Ellen Bergman (R)
Rep. John Bohlinger (R)
Rep. Tim Dowell (D)
Rep. Dave Ewer (D)
Rep. Stella Jean Hansen (D)
Rep. Jack Herron (R)
Rep. Ed McCaffree (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Randy Vogel (R)
Rep. Karyl Winslow (R)
Rep. Diane Wyatt (D)

Members Excused: Rep. Dave Brown (D), Rep. Sheila Rice (D)

Members Absent: None

Staff Present: Bart Campbell, Legislative Council
Pat Bennett, Committee Secretary

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

Committee Business Summary:

Hearing: SB 157, SB 364, SB 149, SB 215, SB 358
Executive Action: SB 49, SB 106, SB 112, SB 149, SB 358

HEARING ON SENATE BILL 157

Opening Statement by Sponsor:

SEN. GREG JERGESON, SD 8, Chinook, introduced SB 157 explaining the changes made by the Senate Local Government Committee which made the statute permissive. A county may donate tax deed property to the city with the city's consent. Current statutes prohibit the transfer of property between the city and the

county. SB 157 will give cities and counties the option and flexibility to make this exchange which will also get the property back on the tax roles.

Proponents' Testimony:

Alec Hansen, Executive Director, Montana League of Cities and Towns, stated the League supports SB 157. He noted that the bill was brought to them by Mayor John Liason, Chinook. There are several abandoned homes in Chinook which pose a health & safety hazard. They have tried to get these homes abandoned or removed, however, under existing law were not able to do so because of a lack of funds to pay the delinquent property taxes. SB 157 would allow a county to donate these parcels of land to the city and then the city can deal with these buildings however they deem necessary. If the property is sold, the money will go back to the county against the delinquent taxes.

Paul Stahl, Deputy County Attorney, Lewis and Clark County, distributed a proposed amendment for SB 157. **EXHIBIT 1** The statute, as currently written, gives cities an advantage over other taxing jurisdictions including school districts, special improvement districts, irrigation districts, etc. The proposed amendments suggest that it does not delete the power from the municipalities, but in fact would broaden the power and gives it to jurisdictions eligible for proceeds under Section 7-8-2306. He stated that Section 6 is not possible under the law and should be stricken. If the county does not already have the property it cannot donate it. The county would have to wait until after the tax deed issue to donate property. **Mr. Stahl** requested that the Committee reinsert the language stricken in Section 15-17-317. He also distributed an attorney general's opinion and referred the Committee to page 2 noting that under good government all entities have the right to protect themselves. **EXHIBIT 2** If the Committee adopts the proposed amendments the bill would read as stipulated in **EXHIBIT 3**.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. VOGEL asked **Mr. Stahl** if the original intent of the bill would allow the proposed amendments with regard to changing the multi-jurisdictional ability. **Mr. Stahl** said that in the name of good government the amendments need to be made.

REP. McCAFFREE asked **SEN. JERGESON** for a response to **Mr. Stahl's** proposed amendments. **SEN. JERGESON** said, since it was the first he had seen of the amendments, he would review them and report back to the Committee at its March 23rd meeting.

Closing by Sponsor:

SEN. JERGESON thanked the committee and closed on SB 157.

HEARING ON SENATE BILL 364

Opening Statement by Sponsor:

SEN. DAVID RYE, SD 47, Billings, introduced SB 364 at the request of the Associated Students of the Montana University System. The students of the university system are having a problem renting houses. Local ordinances require that renters be part of the same family. This has caused great difficulty for more than one student to share housing rental charges. He noted that under current law, if any legislator is renting a house and sharing it with another legislator, they could be in violation of local ordinances. This has also affected elderly people who are getting by on social security who at one time were able to team up with friends and share living costs. He distributed copies of an article which appeared in the Missoulian. **EXHIBIT 4**

Proponents' Testimony:

Bruce Barrett, Missoula University Attorney and homeowner/landlord, urged the Committee to support SB 364. He noted that there are some legal issues to be considered. The United States and the state of Montana passed the Fair Housing laws. Housing is a fundamental right. Using an unfair comparison, **Mr. Barrett** gave an example where three students are not allowed to share housing and expenses and yet a husband and wife can move in cousins, aunts and uncles. **Mr. Barrett** stated that, as a landlord, he believes being blood-related has nothing to do with responsibility; it is a notion that has no validity. He noted that the city ordinances are discriminatory.

Jim Bendickson, Missoula, testified in support of SB 364.
EXHIBITS 5 and 6

Clyde Dailey, Executive Director, Montana Senior Citizens Association, testified in favor of SB 364 noting that due to federal law, if two seniors marry while on social security, one winds up taking a substantial cut in benefits which promotes cohabitation. This type of zoning regulation often puts seniors in a compromising situation.

Heather Murray, University of Montana student, stated she is being evicted from her home for the sole reason that she is not related to her roommates. She said the current law is unfair and discriminatory. There are students resorting to camping in vans and tents because they cannot find affordable housing.

Melissa Case, Montana People's Action, testified in support of SB 364 because it increases housing accessibility.

John McCarthy, Associated Students, University of Montana,

pointed out that in the last few years the university has placed up to six students per room in the dorm and even in the basement. There have been tents set up all around campus, and as tuition is increased, affordable housing is even more necessary. SB 364 will allow greater access to housing. He noted that SB 364 does not repeal any noise ordinance laws, health codes and will not have a negative affect on housing values. Students and seniors would be expected to conform to the environment of the neighborhood.

Todd Mitchell, Associated Students, Eastern Montana College, explained that SB 364 is before the Committee as a response to tighter economic times and tighter housing conditions. In the last four years, higher tuition has put a continual strain on the student's budget. Students are required to live on campus their first year unless they have a family member in the area. Many of those students, after the first year, seek an environment more conducive to studying. Living in the residence halls costs approximately \$1,100 per semester. Eastern University owns a number of homes within the proximity of the campus and are not currently allowed to be rented to students because of the zoning restrictions, even though the homes were purchased with revenues generated by the college. Allowing students to rent close to the campus greatly reduces the need for an automobile.

Sheila Stearns, representing the University of Montana, testified in favor of SB 364 saying the University is very concerned about this problem. She stated she lives in an area which has rental property and shares the concern of too many students renting one home, however, that can be controlled.

Opponents' Testimony:

Betty Haddon, Missoula, testified in opposition to SB 364, saying it will have the affect of doing away with all residential zoning in every municipality in the state. She stated that those who live in urban areas impacted by large institutions will be the most affected by this legislation. Noting that she resides near the university, **Ms. Haddon** explained that in the mid 1970's her residential area was on the verge of total collapse from urban decay. Absentee landlords purchased single houses and turned them into rundown flats with as many as 10 people living in a single dwelling. The landlords charged as much as \$250 per month, per person. After a neighborhood organization was formed, they had some success developing a definition for occupancy in residential zones. Within a few years many of these rundown homes were refurbished and returned to family housing. SB 364 will negate all the effort and clean up. **Ms. Haddon** said she sees it as the state's and university's responsibility to furnish housing for students. She suggested, however, that perhaps local ordinances could be amended to allow seniors to live together.

Dorothy Angwin, Missoula, opposing SB 364 stated she is a long-time resident. The residential area in which she resides was

slowly becoming a slum area until they were able to get family zoning. SB 364 will destroy all that homeowners have worked and sacrificed for. It will cause residential areas to deteriorate, home values to decrease and home-loan investors to go elsewhere. She concluded by saying that the supreme court has upheld family zoning.

Jim Tilletson, City Attorney, Billings, opposed SB 364 saying the city believes that if SB 364 passes, it will be the demise of single family neighborhoods. Referring to **Mr. Barrett's** testimony of the legal necessity for the bill to comply with federal and state fair-housing laws, he stated he had reviewed the fair-housing act and regulations, as well as the Montana Housing Discrimination law and regulations and would disagree that the regulations require the action of SB 364. Both the federal and state law prohibit the discrimination of housing based on age, race, handicap, etc., and prohibits discrimination against protected categories of individuals. They do not prohibit restrictions on unprotected categories such as: lawyers, college students, etc. The definition of family status under the federal fair-housing act states that one or more individuals under 18 living with a parent or other person who has legal custody. He noted he had spoken with the attorney for the Department of Housing and Urban Development (HUD) in Denver and also the attorney for the Human Rights Division in Helena and they have both said, in their opinion, a zoning ordinance which restricts the ability of unrelated individuals to live together in a dwelling unit would not automatically violate laws prohibiting discrimination in housing. They would violate those laws only if the ordinance discriminated against a protected category, i.e. group homes for handicapped, and foster homes.

Questions From Committee Members and Responses:

REP. VOGEL asked **Mr. McCarthy** if he owned a home he would really believe that homes rented to a number of students would not change housing values. **Mr. McCarthy** said the bill does not deal with the number of people allowed to live in a single dwelling. The number of renters can be regulated by the landlord.

REP. VOGEL asked **Mr. McCarthy** if it was true that seven or eight students living in one household would result in lowering the property values. **Mr. McCarthy** responded that it could be true in any scenario using an example of brothers who are students living with cousins. He noted that what lowers the value is the lifestyle not the ages or if the tenants are related. It would be up to the landlord to use his discretion.

REP. SAYLES asked **Mr. Campbell** if some cities are in violation of the code with their foster homes and developmentally disabled homes. **Mr. Campbell** answered that, unless the city is making a provision in their law for handicapped homes, etc., they would be in violation of federal law.

REP. BERGMAN asked SEN. RYE what the state law is at the present time. SEN. RYE said the current law is essentially whatever the local government entity says it is; there is no consistency around the state. Municipalities have great latitude as far as what sort of ordinance can be enacted. SB 364 will eliminate the likelihood of discrimination enacted by city governments against a specific type of person.

REP. DOWELL asked Ms. Haddon if the city ordinance was enacted to affect college students. Ms. Haddon replied that it was passed by the city council in the late 1970's in an effort to refurbish the homes surrounding the university.

REP. McCAFFREE asked Mr. Tilletson if there are ordinances requiring the landlord to be responsible for the condition of the home. Mr. Tilletson said he was only familiar with the zoning codes in Missoula and Billings. There is very little in the codes as far as requirements for landlords. For instance in Billings there is nothing requiring the landlords to keep the shrubbery alive, the lawn alive, or to keep the place painted, etc.

REP. HANSEN noted that a landlord/tenant act was passed this session and would address those concerns. She asked Mr. Tilletson if he sees anything in the bill that restricts the landlord from deciding how many people can live in a household. Mr. Tilletson answered that, as the bill is written, the landlord could rent a two bedroom home to ten people if he chose to.

REP. DOWELL asked Mr. Barrett if there are provisions regarding maintenance within rental agreements. Mr. Barrett replied there are requirements. The law will only change one thing, whether the people who live in a home are related or not. It will not stop any of the methods the city or the landlord normally use to regulate property.

Closing by Sponsor:

SEN. RYE closed on SB 364. He also informed the Committee that, due to SEN. HAGER'S ill health, he will be introducing SB 358.

HEARING ON SENATE BILL 149

Opening Statement by Sponsor:

SEN. JACK "DOC" REA, SD 38, Three Forks, stated he is introducing SB 149 at the request of the Gallatin County Commissioners. The bill would give County Commissioners the discretion to survey a road rather than it being mandatory, which is how the law reads currently. The two changes to the law are on line 18 and line 21 to change "shall" to "may."

Proponents' Testimony:

Beverly Gibson, Montana Association of Counties (MACo), expressed support for SB 149 saying it is permissive and gives flexibility to local authorities.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

SEN. REA thanked the committee closed on SB 149.

HEARING ON SENATE BILL 215

Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 30, Missoula, introduced SB 215 as a bill which would permit local governments to donate land obtained by tax deeds to organizations like Habitat for Humanity who are in the business of building or remodeling homes for people who otherwise would be unable to afford housing. SB 215 provides a solution for property which is not producing revenue for local governments and to rehabilitate that property, bringing it back on the tax roles.

Proponents' Testimony:

Tom Payne, Habitat for Humanity (HH), testified in support of SB 215. He stated that in Missoula the HH has built three houses for families, with two more in the progress. The organization has been facing difficulty in acquiring land which is acceptably priced. The city and county have tax deed property which would meet that requirement. Mr. Payne said he has met with city and county officials to explore the possibilities. The bill will not place hardships on anyone and local governments will have the discretion to donate property or not.

Peggy Stellmach, Board of Directors, Habitat for Humanity, Missoula, testified in support of SB 215. EXHIBIT 7 She also submitted written testimony from other proponents who could not attend the meeting. EXHIBITS 8, 9, and 10

Robert Ward, Habitat for Humanity, Gallatin Valley, testified in support of SB 215. EXHIBIT 11

Belinda Rinker, Bozeman Human Resource Development Council (HRDC), testified in support of SB 215. She noted that in Bozeman the HRDC has been trying to develop low and moderate income housing. Four years ago HRDC bought two lots at \$5,000 each; those same lots today are selling for \$20,000. HRDC is trying to build homes which would allow individuals with incomes between

\$18,000 to \$26,000 per year to purchase a home. SB 215 is not limited to the Habitat for Humanity, there are other agencies around the state concerned with the lack of available housing.

Clyde Dailey, Montana Senior Citizen's Association, testified in favor of SB 215, saying this legislation is a good partnership between private entities, private non-profits, government and the financial community.

Beverly Gibson, Montana Association of Counties, (MACo), expressed support for SB 215.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. WYATT asked how this law would impact the Neighborhood Housing Authority. **Ms. Rinker** replied that those authorities incorporated as a nonprofit organization would be able to take advantage of this.

REP. VOGEL asked **SEN. VAN VALKENBURG** if, on page 3, line 4 & 5, they limit it to nonprofits because they are nontaxable. **SEN. VAN VALKENBURG** said a nonprofit organization would not be subject to a corporate license tax. However, the property they own will be subject to property taxes.

REP. VOGEL asked if, once the sale is completed, the property is subject to taxation. **Mr. Ward** explained that the property goes back on the tax role when the first sale is made to Habitat for Humanity. It is not delayed until the house is built.

REP. McCAFFREE asked **SEN. VAN VALKENBURG** what guidelines nonprofits operate under. **SEN. VAN VALKENBURG** said nonprofit corporations have requirements which have been established by law. Montana has a Uniform Nonprofit Corporation Act which requires annual reports to be filed with the Secretary of State. Nonprofits are required to live within their charter of nonprofit status and if not, risk having their nonprofit status revoked by the Secretary of the State. Nonprofit corporations are also subject to audits by the Department of Revenue.

Closing by Sponsor:

SEN. VAN VALKENBURG closed on SB 215 saying **REP. BARNHART** would carry the bill.

HEARING ON SENATE BILL 358

Opening Statement by Sponsor:

SEN. DAVID RYE, SD 47, Billings, introduced SB 358 on behalf of **SEN. TOM HAGER**, who is not able to attend due to ill health.

Passage of SB 358 would give Yellowstone County authority to enter negotiations to sell what was the county nursing home facility to St. John's Lutheran Home, a private organization who has operated the home for the past five years.

Proponents' Testimony:

Ken Heikes, representing Yellowstone County, distributed a letter supporting SB 358. **EXHIBIT 12** He said the county commissioners are in support of this legislation. The only other way to sell this property would be by auction and commissioners do not feel it would be in the best interest of Yellowstone County. The property would be appraised by a professional appraiser and a public hearing held. There is a sunset provision for July 1994 in the event the transaction did not work out. Mr. Heikes distributed a letter from St. John's Lutheran Home supporting SB 358. **EXHIBIT 13**

Beverly Gibson, Montana Association of Counties, (MACo), expressed support for SB 358.

Opponents' Testimony:

Clyde Dailey, Montana Senior Citizen's Association, testified in opposition to SB 358. The Association has continued to be opposed to counties getting rid of their nursing homes. This type of legislation removes the choice for individuals who may see county nursing homes as their last resort. **Mr. Dailey** said he hoped this bill is not a welfare bill for the corporation managing St. John's Lutheran Home. Often when county nursing homes are sold changes are made to the facility, such as cuts in staff.

Questions From Committee Members and Responses:

REP. WINSLOW asked **Mr. Dailey** to clarify his concern of the bill being a "welfare" bill. **Mr. Dailey** said the concern is that even though there will be an appraisal, there is the potential of it being undervalued and there will only be an arm's length transaction because the same entity who is currently operating wants to buy the plant.

REP. BERGMAN asked **Ms. Gibson** to explain how it can be St. John's and yet owned by the county. **Ms. Gibson** replied that some counties own and operate a nursing home; some counties own the nursing home but contract out the operation; and in some counties the nursing homes have been divorced from the county.

REP. BERGMAN asked **Ms. Gibson** about Custer County's sale of its nursing home, noting that Custer County did not come to the legislature to accomplish it and asked why this issue is before the Committee. **Ms. Gibson** said the sale of the Custer County nursing home was a long, drawn out process to the point where there were those who were afraid the nursing home would close.

She said it was her understanding that St. John's has been run very efficiently and it would be in the best interest of the residents to let this continue.

REP. MCCAFFREE asked **SEN. RYE** if he would object to having three licensed appraisers rather than the two the bill calls for.

SEN. RYE said if the Committee were to amend the bill to three appraisers he would not object.

REP. SMITH asked why a single nursing home would come to the state for permission to sell. **Ms. Gibson** explained that there have been instances, such as in Custer County's case, where the county struggled with many bidders, and even attempted to run the home themselves. The reason for this legislation is to avoid the long process of going to bid when the ones who have been running it efficiently want to purchase it.

Mr. Heikes noted that the nursing home had been operated by the county unsuccessfully up until 1985 and decided to do a request for proposal (RFP) from operators in an effort to find someone to operate the home efficiently. RFPs were received and in 1987 a five-year contract was awarded to St. John's which has since been extended. St. John's came to the county saying that in order to run it more efficiently and take care of more disadvantaged people an expansion and updating of the facility was needed. The county, not sure they should still be in the nursing home business, were required to come before the legislature or go to auction. Since they a good relationship had been established with St. John's, the county decided they would prefer to continue the operation under St. John's.

REP. WYATT said Cascade County went through this process by going to auction. She stated she viewed the legislation as extracting the authority from the county commissioners who are more aware of the needs of that county and giving it to the legislators who are much further removed.

Mr. Heikes said he was not familiar with Cascade County's situation. The county commissioners, during an open meeting, discussed the sale of the nursing home and there were not any protests; in fact, there was a sigh of relief that the county would no longer be in the nursing home business. He also said **REP. MCCAFFREE'S** suggestion of three appraisals is acceptable.

Mr. Dailey said the process in Cascade County was very divisive. This legislation would remove the discussion process. He stated the county commissioners did not even inform the Association of this legislation.

Closing by Sponsor:

SEN. RYE closed on SB 358.

EXECUTIVE ACTION ON SENATE BILL 49

Motion: REP. VOGEL MOVED SB 49 BE CONCURRED IN.

Discussion: REP. BRANDEWIE, addressing Rep. Hansen's amendment, noted that the change would make the bill an access bill. Every trace that existed since 1886 across every farm and ranch would be effected. The counties would be expected to maintain all of these roads and cannot afford it.

Motion/Vote: REP. HANSEN moved to amend SB 49 to reinsert the language on page 2, line 7. Motion failed with REP. HANSEN voting for the amendment.

Motion: REP. McCAFFREE MOVED SB 49 BE NOT CONCURRED IN.

Motion/Vote: REP. BRANDEWIE MOVED TO TABLE SB 49. Motion carried on a roll call vote 13-3.

EXECUTIVE ACTION ON SENATE BILL 106

Motion: REP. WYATT MOVED SB 106 BE NOT CONCURRED IN.

Discussion: REP. WYATT said she had concerns about page 1, line 20, and the possibility of the inclusion of livestock, motor vehicles, etc. in addition to net gross proceeds. Another concern is that this bill would change the appeal process. Currently a person goes to the county commissioners, then the State Tax Appeal Board (STAB), then to district court. This legislation would take the STAB out, which would mean a person would go directly to the district court for an appeal. She noted that there was a differentiation being made between gross and net proceeds and protested taxes. REP. WYATT said she had spoken with the STAB who stated they only go back three years and, based on that information, she suggested that is what the law should reflect.

REP. BRANDEWIE said the state can go back ten years on the taxpayer and this legislation would make it possible for the taxpayer to also go back ten years. He said he would have no problem of decreasing the time to three years, however, it should be an equal length of time for the state and the taxpayer.

Motion/Vote: REP. BRANDEWIE made a substitute motion that SB 106 be concurred in. Motion failed on a 9-6 roll call vote.

Motion/Vote: REP. WYATT MOVED TO TABLE SB 106. Motion carried 9-6.

EXECUTIVE ACTION ON SENATE BILL 112

Motion/Vote: REP. VOGEL MOVED SB 112 BE CONCURRED IN. Motion carried on an 11-5 roll call vote.

EXECUTIVE ACTION ON SENATE BILL 149

Motion/Vote: REP. McCAFFREE MOVED SB 149 BE CONCURRED IN. Motion carried unanimously.

Motion/Vote: REP. WYATT moved to put SB 149 on the consent calendar. Motion carried unanimously.

EXECUTIVE ACTION ON SENATE BILL 358

Discussion: REP. BRANDEWIE informed the Committee that there was a question of whether this legislation is even constitutional. Yellowstone County should go through the same bid process as other counties.


Motion/Vote: REP. SAYLES MOVED TO TABLE SB 358. Motion carried on a 9-7 roll call vote.

ADJOURNMENT

Adjournment: 6:30 p.m.



NORM WALLIN, Chairman



PAT BENNETT, Secretary

NW/pb

LOCAL GOVERNMENT

ROLL CALL

DATE _____

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NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDENWIE, VICE CHAIRMAN	✓		
REP. ELLEN BERGMAN	✓		
REP. JOHN BONLINGER	✓		✓
REP. DAVE BROWN	✓		
REP. TIM DOWELL	✓		
REP. DAVID EMER	✓		
REP. STELLA JEAN HANSEN	✓		
REP. JACK HENRON	✓		
REP. ED MCCAFFREE	✓		
REP. SHEILA AICE	✓		✓
REP. TIM SAYLES	✓		
REP. LIZ SMITH	✓		
REP. RANDY VOGEL	✓		
REP. KARL WINSLOW	✓		
REP. DIANA WYATT	✓		

Mr. Speaker: We, the committee on Local Government report that Senate Bill 149 (third reading copy -- blue) be concurred in and be placed on consent calendar.

Signed: Norm Wallin, Chair

Carried by: Rep. McCaffree

Committee Votes:
Yes 16, No 0.

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HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. 5B49 NUMBER 13+3

MOTION: To table made by Rep.
Brandewie - Motion carried

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER	✓	
REP. DAVE BROWN		✓
REP. TIM DOWELL	✓	
REP. DAVID EWER	✓	
REP. STELLA JEAN HANSEN	✓	
REP. JACK HERRON	✓	
REP. ED McCAFFREE	✓	
REP. SHEILA RICE		✓
REP. TIM SAYLES	✓	
REP. LIZ SMITH	✓	
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW	✓	
REP. DIANA WYATT		✓
REP NORM WALLIN, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 106 NUMBER 9-6
 MOTION: Rep Brandie moved to concur
in SB 106. motion failed.

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN	✓	
REP. JOHN BOHLINGER	✓	
REP. DAVE BROWN		✓
REP. TIM DOWELL		✓
REP. DAVID EWER		✓
REP. STELLA JEAN HANSEN		✓
REP. JACK HERRON	✓	
REP. ED MCCAFFREE		✓
REP. SHEILA RICE		✓
REP. TIM SAYLES	✓	
REP. LIZ SMITH		✓
REP. RANDY VOGEL	✓	
REP. KARYL WINSLOW		✓
REP. DIANA WYATT		✓
REP NORM WALLIN, CHAIRMAN		

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT

COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB 112 NUMBER 11-5

MOTION: Rep Vogel moved SB 112 be
concurrent in. Motion carried.

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN		✓
REP. JOHN BOHLINGER		✓
REP. DAVE BROWN	✓	
REP. TIM DOWELL	✓	
REP. DAVID EWER	✓	
REP. STELLA JEAN HANSEN	✓	
REP. JACK HERRON	✓	
REP. ED McCAFFREE		✓
REP. SHEILA RICE	✓	
REP. TIM SAYLES	✓	
REP. LIZ SMITH		✓
REP. RANDY VOGEL		✓
REP. KARYL WINSLOW	✓	
REP. DIANA WYATT	✓	
REP NORM WALLIN, CHAIRMAN	✓	

HOUSE OF REPRESENTATIVES

LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 3/16/93 BILL NO. SB358 NUMBER 9-7

MOTION: Rep Sayles moved to table
SB 358. Motion carried.

NAME	AYE	NO
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓	
REP. ELLEN BERGMAN		✓
REP. JOHN BOHLINGER		✓
REP. DAVE BROWN	✓	
REP. TIM DOWELL	✓	
REP. DAVID EWER	✓	
REP. STELLA JEAN HANSEN	✓	
REP. JACK HERRON		✓
REP. ED McCAFFREE		✓
REP. SHEILA RICE	✓	
REP. TIM SAYLES	✓	
REP. LIZ SMITH		✓
REP. RANDY VOGEL		✓
REP. KARYL WINSLOW	✓	
REP. DIANA WYATT	✓	
REP NORM WALLIN, CHAIRMAN		✓

AMENDMENTS

1. Page 1, line 7, after the word "TO"

Delete: ASSIGN PROPERTY WITHIN A MUNICIPALITY TO THE MUNICIPALITY AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX SALE;

Insert: DONATE PROPERTY TO JURISDICTIONS ELIGIBLE FOR DISTRIBUTION OF PROCEEDS UNDER SECTION 7-8-2306, MCA, AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX DEED;

2. Page 1, line 11, after the word "AMENDING,"

Delete: SECTION 7-8-2301

Insert: SECTIONS 7-8-2301, 15-17-316, 15-17-317, 15-17-318, 15-17-319, 15-17-320

3. Page 1, line 24, after the word "to"

Delete: a municipality, as provided in subsection (6), if the land is within the incorporated boundaries of the municipality.

Insert: jurisdictions eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes.

4. Page 3, line 6,

Delete: Subsection (6) in its entirety.

5. Section 15-17-316, MCA, is amended to read:

"15-17-316. Definitions. Unless the context indicates otherwise, as used in 15-17-316 through 15-17-320, the following definitions apply:

(1) "Improvement fund" means, with respect to any special assessments, assessments, fees, or taxes, the fund of the municipality taxing jurisdiction into which collections of the special assessments, assessments, fees, or taxes have been pledged

or appropriated.

~~(2) -- "Municipality" means, with respect to special assessments levied under Title 7, chapter 12, parts 41 through 46, the city or town that levied such assessments.~~

(2) "Taxing jurisdiction" means, any entity eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes."

6. Section 15-17-317, MCA, is amended to read:

"Section 15-17-317. Municipality Taxing jurisdiction as purchaser. Whenever property has been struck off to the county at a tax sale under 15-17-214, is subject to the lien of delinquent special assessments, assessments, fees, or taxes, and has not been assigned under 15-17-214 or 15-17-323, at the request of the municipality taxing jurisdiction the county treasurer ~~shall~~ may assign all of the rights of the county acquired therein at the sale to the municipality taxing jurisdiction upon payment of any delinquent taxes (excluding assessments, fees, or taxes owing to the taxing jurisdiction) and costs, without penalty or interest. The duplicate certificate of sale must be delivered to the treasurer of the municipality taxing jurisdiction and filed ~~by him~~ in ~~his~~ the treasurer's office records. No charge may be made for the duplicate certificate when the municipality taxing jurisdiction is the purchaser, and in such case the county treasurer shall make an entry "sold to the municipality taxing jurisdiction" on the assessment book opposite the tax, and ~~he~~ the taxing jurisdiction must be credited with the delinquent amount thereof in the settlement. Property sold to the municipality taxing jurisdiction

must be held in trust by the municipality taxing jurisdiction for the improvement fund into which the delinquent special assessments, assessments, fees, or taxes are payable."

7. Section 15-17-318, is amended to read:

"15-17-318. Assignment of municipality's taxing jurisdiction's interest. (1) At any time after a parcel of land has been acquired by a municipality taxing jurisdiction, as provided in 15-17-317, and has not been redeemed, the treasurer of the municipality taxing jurisdiction shall assign all the rights of the municipality taxing jurisdiction in the property to any person who pays:

(a) the purchase price paid by the municipality taxing jurisdiction;

(b) the delinquent special assessments, assessments, fees, or taxes;

(c) interest on the purchase price and delinquent special assessments, assessments, fees, or taxes at the rate of 5/6 of 1% a month; and

(d) penalties and costs as provided by law.

(2) The treasurer of the municipality taxing jurisdiction shall execute to such person a certificate of sale for the parcel, which may be in substantially the form provided in 15-17-212 for the assignment of the interests of the county. If the certificate of sale becomes lost or accidentally destroyed by the assignee, the treasurer of the municipality taxing jurisdiction shall issue a duplicate certificate to the assignee after the assignee delivers to the treasurer evidence satisfactory to him the treasurer,

including an affidavit of the assignee, that the certificate has been lost or destroyed.

(3) An assignment by a municipality taxing jurisdiction under this section discharges the trust created under 15-17-317. The municipality taxing jurisdiction may also discharge the trust created under 15-17-317 by paying into the improvement fund the amount of the delinquent special assessments, assessments, fees, or taxes, and interest accrued thereon."

8. Section 15-17-319, is amended to read:

"Section 15-17-319. Sale or lease and disposition of proceeds from lands acquired by municipality taxing jurisdiction. A municipality taxing jurisdiction may sell or lease property it acquires under 15-17-317 in the same manner as a county may sell or lease tax-deed property under Title 7, chapter 8, part 23. All money received by the municipality taxing jurisdiction from the sale or lease of such land, after payment of the cost of sale, not to exceed \$25, must be paid into the improvement fund to the extent of the delinquent special assessments, assessments, fees, or taxes, interest, and penalties. The surplus, if any, must be paid into any revolving fund that secures payment of such special assessments, assessments, fees, or taxes or, if none, to the general fund of the municipality taxing jurisdiction."

9. Section 15-17-320, is amended to read:

"Section 15-17-320. Taxes and subsequent installments of special assessments, assessments, fees, or taxes on land acquired by a municipality taxing jurisdiction. For property that is

acquired by a municipality taxing jurisdiction as provided in 15-17-317, subsequent installments of the special assessments-~~or~~, assessments, or fees, if any, and other special assessments, assessments, or fees not then delinquent must be levied, and taxes for the following years must be assessed in the same manner as if the property had not been so acquired. If the special assessments, assessments, fees, or installments thereof or taxes are not paid when due, the property must again be sold in the manner provided by law and the levies of special assessments, assessments, fees, assessments of taxes, and the sale of the property for delinquent special assessments, assessments, fees, and taxes must continue until the time when the property has been redeemed from such sale."

EXHIBIT 1
DATE 3/16/93
SB 157

DRAFT

CITIES AND TOWNS - Distribution of proceeds from tax deed sale;
COUNTIES - Distribution of proceeds from tax deed sale;
LIENS - Effect of tax deed sale on special assessments;
TAXATION AND REVENUE - Distribution of proceeds from tax deed sale;
MONTANA CODE ANNOTATED - Section 7-8-2301, 7-8-2306, 15-17-317, 15-17-318, 15-17-319, 15-18-214;
OPINIONS OF THE ATTORNEY GENERAL - 43 Op. Att'y Gen. No. 38 (1989).

HELD: Section 7-8-2306, MCA, which governs the distribution of proceeds from a tax deed sale, requires that city assessments be included and prorated as part of the allocation of monies received from that sale, regardless of when those assessments became payable.

February 23, 1993

David N. Hull
Helena City Attorney
City-County Administration Building
316 North Park
Helena MT 59623

Dear Mr. Hull:

You have requested my opinion regarding the allocation of proceeds from a sale of tax deed. Specifically, you have asked:

When a county sells tax deed land pursuant to section 7-8-2301, MCA, and the proceeds of the sale are not sufficient to cover the taxes and assessments, are city assessments to be included and prorated as part of the allocation of the monies received from the tax deed sale?

This question arises because the City of Helena (City) and Lewis and Clark County (County) have taken contrary positions regarding the interpretation of section 7-8-2306, MCA. This statute governs the distribution of proceeds of tax deed land, and provides in relevant part:

The proceeds of each sale or lease under this part or part 25 must be paid over to the county treasurer, who shall apportion and distribute the proceeds in the following manner:

(1)(a) Upon a sale of the property, the proceeds of each sale must be credited to the county general fund for reimbursement of expenditures made from it in connection with the procurement of the tax deed and holding of the sale.

(b) Upon a sale of the property, if there is any money remaining after the payment of the amount specified in subsection (1)(a) and the remainder is:

(i) in excess of the aggregate amount of all taxes and assessments accrued against the property for all funds and purposes, without penalty and interest, then as much of the remaining proceeds must be credited to each fund or purpose as each fund or purpose would have received had the taxes been paid before becoming delinquent, and all excess must be credited to the general fund of the county; or

(ii) less in amount than the aggregate of all taxes and assessments accrued against the property for all funds and purposes, without penalty or interest, the proceeds must be prorated between the funds and purposes in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes.

The City asserts that its assessments constitute a "fund" or "purpose" to which excess proceeds must be allocated on a pro rata basis in accordance with subsection (b)(ii) of this statute.

The County, on the other hand, argues that the City is not eligible for proceeds under section 7-8-2306, MCA, because it has an alternative means of protecting its interest in tax deed property.

It is true that the City, unlike other entities, has a statutory right to protect its interest in tax deed property. Section 15-17-317, MCA, requires a county, at the request of a municipality, to assign its interest in tax deed property upon payment of all

delinquent taxes, excluding assessments, plus costs without penalty or interest. The municipality is then required to hold the property in trust for the improvement fund into which the delinquent special assessments are payable. § 15-17-317, MCA. Alternatively, the municipality may assign its interest or sell or lease the property, thereby recouping all costs associated with the transfer of tax deed property, as well as delinquent assessments and interest thereon. §§ 15-17-318; 15-17-319, MCA; see also 43 Op. Att'y. Gen. No. 38 (1989) at 120; 123-24.

If a municipality exercises its right of assignment in accordance with section 15-17-317, MCA, it forecloses the right of other entities to share in tax sale proceeds under section 7-8-2306, MCA. In this respect, municipalities enjoy a significant advantage over other entities with similar interests in tax deed property. However, the right of assignment is not the sole means by which the City can cover the cost of delinquent assessments.

There is nothing in the language of section 7-8-2306(b)(ii), MCA, or 15-17-317, MCA, which suggests that the City's failure to exercise its right of assignment constitutes a waiver of its right to receive remaining proceeds on a pro rata basis. To infer this limitation would be contrary to the rule of statutory construction whereby the law must be construed as it is found without inserting what has been omitted. Dunphy v. Anaconda Co., 151 Mont. 76, 80, 438 P.2d 660, 662 (1968).

The language of section 7-8-2306, MCA, is clear and unambiguous:.. If there is any money remaining after the county is reimbursed for its costs associated with the procurement of the tax deed and that money is insufficient to pay the aggregate amount of all taxes and assessments accrued against the property for all funds and purposes, the proceeds are prorated "in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes." § 7-8-2306(b)(ii), MCA. (emphasis supplied). Nothing therein suggests that city assessments are not included or are not prorated as part of the allocation of monies received from the ~~tax~~ ^{sale of tax deed land} sale. Statutes are to be construed according to the plain meaning of their terms, and the plain meaning of the term "all" precludes the county's interpretation of this statute. Norfolk Holdings Inc. v. Montana Department of Revenue, 249 Mont. 40, 43, 813 P.2d 460, 461 (1991). I conclude that city assessments must be included and prorated as part of the allocation of monies received from ~~a tax~~ ^{the sale of tax deed land} sale under section 7-8-2306(b)(ii), MCA. Since the same operative language is used in subsection (b)(i) of that statute, I also conclude that city assessments must be included and credited as provided therein if the remaining money from the sale exceeds the aggregate value of all taxes and assessments.

This conclusion is unaffected by the fact that issuance of a tax deed grants title "free and clear of all liens and encumbrances," including special assessments which become payable prior to issuance of the deed. § 15-18-214, MCA; see also 43 Op. Att'y. Gen. No. 38, supra. In that opinion, Attorney General Racicot held that if either a county or a municipality takes a tax deed to property, the only special assessments which survive issuance of the tax deed are those which first become payable after issuance of the deed. Id at 125. The County suggests that, in light of this statute and corresponding opinion, it need only pro rate those assessments which become payable after issuance of the deed. "While" section 15-18-214, MCA, does in fact extinguish all liens which become payable prior to issuance of the deed, it does not affect the amount to be distributed upon sale under section 7-8-2306, MCA. Section 7-8-2306(b)(i), MCA, states that "the remaining proceeds must be credited to each fund or purpose as each fund or purpose would have received had the taxes been paid before becoming delinquent[" (Emphasis supplied). Likewise, subsection (b)(ii) states that proceeds must be prorated "between the funds and purposes in the proportion that the amount of taxes and assessments accrued against the property for each fund or purpose bears to the aggregate amount of taxes and assessments accrued against the property for all funds and purposes." (Emphasis supplied). "There" is no correlation between the method of distribution outlined in section 7-8-2306, MCA, and the effect of a tax deed in section 15-18-214, MCA.

THEREFORE, IT IS MY OPINION:

Section 7-8-2306, MCA, which governs the distribution of proceeds from a tax deed sale, requires that city assessments be included and prorated as part of the allocation of monies received from that sale, regardless of when those assessments became payable.

Sincerely,

JOSEPH P. MAZUREK
Attorney General

EXHIBIT 2
DATE 3/16/93
SB 157

53rd Legislature

SB 0157/02

SENATE BILL NO. 157
INTRODUCED BY JERGESON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~ELIMINATING THE REQUIREMENT THAT A MUNICIPALITY PAY DELINQUENT TAXES AND COSTS ON PROPERTY LOCATED WITHIN THE MUNICIPALITY IN ORDER TO HAVE THE~~ ALLOWING A COUNTY TO ASSIGN DONATE THE PROPERTY WITHIN A MUNICIPALITY TO THE MUNICIPALITY JURISDICTIONS ELIGIBLE FOR DISTRIBUTION OF PROCEEDS UNDER SECTION 7-8-2306, MCA, AFTER THE COUNTY HAS RECEIVED THE PROPERTY PURSUANT TO A TAX SALE DEED; AND AMENDING SECTIONS ~~15-17-214, 15-17-317, 15-17-318, AND 15-17-323~~ SECTIONS 7-8-2301, 15-17-316, 15-17-317, 15-17-318, 15-17-319, 15-17-320, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and
Insert:

Section 1. Section 7-8-2301, MCA, is amended to read:

"7-8-2301. ~~Auction-sale~~ Disposal of county tax-deed land.

(1) Whenever the county acquires land by tax deed, it is the duty of the board of county commissioners, within 6 months after acquiring title, to:

(a) make and enter an order for sale of the lands at public auction at the front door of the courthouse; or

(b) donate the land to a municipality, as provided in subsection (6), if the land is within the incorporated boundaries of the municipality jurisdictions eligible for distribution of proceeds under section 7-8-2306, MCA, whether such proceeds are special assessments, assessments, fees, or taxes.

(2) A sale may not be made for a price less than the fair market value of the land, as determined and fixed by the board prior to making the order of sale. In determining fair market value, the board shall subtract the amount of outstanding assessments that are a lien on the land from the unencumbered value of the land, but the minimum sale price for a parcel of land may not be less than \$10.

(3) If no bids are received at a sale of tax-deed land, the board shall order another auction sale of the land under this part within 6 months and may, if required by the circumstances, redetermine the fair market value of the land under subsection (2). In the period of time between the auction conducted under subsection (1), in which there were no qualifying bids for the property, and an auction held pursuant to this subsection, the board may sell the land by negotiated sale at a price that is not less than the fair market value that was fixed for the original auction under subsection (1).

(4) If no bid is received at the sale conducted under subsection (3), the board may dispose of the land as provided in 7-8-2218.

(5) Notwithstanding the amount of the fair market value fixed by the board prior to the auction, if the successful sale bidder is the delinquent taxpayer or his the taxpayer's successor in interest, his the taxpayer's agent, or a member of his the taxpayer's immediate family, the purchase price may not be less than the amount necessary to pay, in full, all county costs of conducting the sale, delinquent taxes, assessments, and all interest and penalties.

(6)--A-board-of-county-commissioners-may,-upon-expiration-of
the-redemption-period-provided-for-in-15-18-111,-donate-the-land-to
a-municipality-with-the-consent-of-the-municipality."

EXHIBIT 3
DATE 3/16/93
SB 157

March 15, 1993

Law should lock doors

Don't let government decide what happens inside a home

We support a bill before the Legislature that would prevent cities from passing zoning regulations that keep people who aren't related to one another from sharing a home.

Missoula has such an ordinance, and we recently spoke out against it in the wake of the eviction of four women from a single-family house in the Rattlesnake neighborhood.

Those women, University of Montana students, violated no noise or traffic regulations. They were evicted simply because of an arbitrary and discriminatory law that should not exist.

Missoula's zoning ordinance rigidly defines a family as people living and cooking together who are related by blood, adoption or marriage, or two people unrelated in those ways who live and cook together. Only "families" may live in single-family dwellings. Three or more unrelated people living together under one roof is a violation of the ordinance.

We urge the Legislature to ban such ordinances by passing Senate Bill 364.

No landlord wants to rent property to disruptive, destructive tenants. Senate Bill 364

would not prevent eviction of tenants who violate noise or parking regulations, or who damage property to such an extent that surrounding property values plummet. The bill would not prevent a city from limiting the number of people who may share living space. Fair zoning laws to prevent overcrowding would be permitted.

In 1974, the U.S. Supreme Court upheld a city's right to pass zoning laws based on family relationships. However, since that time, the federal government has passed fair-housing laws that prohibit housing discrimination on the basis of marital status, family status or age.

Missoula's ordinance seems clearly designed to discriminate against university students solely on the basis of their age and marital status. The idea is that young, single people are by nature disruptive and destructive and should be discouraged by any means possible from living in decent Missoula neighborhoods.

Missoula's university students should be outraged by this, especially when the community's rental market is as tight as it is. Zoning regulations based on prejudice and negative stereotyping must not be tolerated, whether the target group is black, Hispanic, Jewish, green-eyed or simply college-age and single.

EXHIBIT

DATE

3/16/93

SB

SB 364

03/16/93

EXHIBIT 5
DATE 3/16/93
SB SB 364

Mr. Chairman and members of the committee. My name is Jim Bendickson, and I own property and live in the Rattlesnake area of Missoula. I appreciate this opportunity to speak to you in support of Senate Bill 364. I am here today representing myself and one other property owner in my neighborhood, who's name is Jacki Burgad. Jacki and I have lived in the same neighborhood for over seventeen years. We are supporting this bill because we believe it will enable cities and towns to develop more responsible zoning regulations. We support limiting the number of people who may occupy a dwelling unit. We support maintaining the fabric and integrity of neighborhoods. We support laws which promote peaceful coexistence among neighbors, whether they be families, single residents, university students or senior citizens. We object, however, to municipalities using the relationship between the residents of a dwelling unit as the single criteria for regulating the number of residents who can live in a dwelling unit.

Zoning regulations in Missoula and other Montana communities restrict the number of unrelated persons who may live in a dwelling unit to not more than two. If more than two unrelated persons live together in the same dwelling unit in Missoula, they violate city zoning regulations, making the property owner subject to monetary penalties which may be invoked each day the violation continues. Senate Bill 364 would make such zoning regulations unlawful.

Restricting the number of people living in a dwelling unit based on their relationship with each other has no basis in common sense. Perhaps the originators of these regulations believed residents related by blood, marriage or adoption would always behave responsibly, and that if they were not so related, they would always behave irresponsibly. This kind of thinking simply does not wash in today's society, and I believe researchers would have difficulty finding correlation between

03/16/93

EXHIBIT 5
DATE 3/16/93
SB 364

Jacki had signed a lease with the girls until the end of the school year. Was the City going to force her to break the lease?

Well, that was in October, and after five months of talking to City officials, visiting with neighbors, collecting petition signatures, consulting attorneys, and negotiating with the City of Missoula, the City, just last week, finally agreed to forego enforcement of the zoning law pending the outcome of Senate Bill 364.

I believe zoning laws which regulate the number of persons who may live together based on their relationship, works an injustice on responsible property owners and prospective renters of those properties. In this case, the law disallows a living arrangement in which no one or nothing is at risk:

- the four student residents fit very nicely into the four-bedroom home
- traffic problems are not an issue since the residents have only one car between them and usually take the bus or ride their bikes
- the residents are delighted to be in a quiet, residential neighborhood, and have conformed their behavior to the family nature of the neighborhood. In actuality, they are hardly ever there.
- the residents are responsible, they pay their rent on time, they keep the property neat and orderly, there are no wild parties.
- all adjacent neighbors have consented in writing to the students' residency.
- safeguards are in place to protect the neighborhood in the event problems arise. I can see the house out my front room window, and I drive by the house no less than four times a day.

The bottom line is that these four students are spending less money

03/16/93

to live in this shared housing arrangement than they would have to spend to comply with the law. Which leads me to the issue of affordable housing. The lack of affordable housing is a big problem in Missoula and many other communities in Montana. I would like to read excerpts from a letter I received recently from Ann Cook, who is Director of Missoula Aging Services in Missoula. Ann has worked with low income seniors for over 20 years, the most typical of which have annual incomes of \$5,000-6,000. Ann writes, "These people often cannot afford the luxury of owning a home. Sharing the rent with just one other person may also be a financial impossibility. The waiting list for any subsidized housing is extensive . . . One of the seniors in my program recently spent two very cold and uncomfortable months living in her car because no housing was available. One of my staff members was recently forced to leave Missoula because no affordable housing was available . . . Changes in our society demand that we re-examine the entire issue of family and the constraints that surround homes zoned single family residences . . . If several seniors were able to live together and share housing costs, housing might become more affordable". Ann believes, and Jacki and I agree, that creating greater opportunities for shared housing would be an important step in meeting the needs of our complex society. Certainly, passage of Senate Bill 364 would be an excellent first step, and the best news of all is that it wouldn't cost taxpayers a dime. Thank you, and I would like to leave a copy of Ann Cook's letter for the record.

03/16/93

to live in this shared housing arrangement than they would have to spend to comply with the law. Which leads me to the issue of affordable housing. The lack of affordable housing is a big problem in Missoula and many other communities in Montana. I would like to read excerpts from a letter I received recently from Ann Cook, who is Director of Missoula Aging Services in Missoula. Ann has worked with low income seniors for over 20 years, the most typical of which have annual incomes of \$5,000-6,000. Ann writes, "These people often cannot afford the luxury of owning a home. Sharing the rent with just one other person may also be a financial impossibility. The waiting list for any subsidized housing is extensive . . . One of the seniors in my program recently spent two very cold and uncomfortable months living in her car because no housing was available. One of my staff members was recently forced to leave Missoula because no affordable housing was available . . . Changes in our society demand that we re-examine the entire issue of family and the constraints that surround homes zoned single family residences . . . If several seniors were able to live together and share housing costs, housing might become more affordable". Ann believes, and Jacki and I agree, that creating greater opportunities for shared housing would be an important step in meeting the needs of our complex society. Certainly, passage of Senate Bill 364 would be an excellent first step, and the best news of all is that it wouldn't cost taxpayers a dime. Thank you, and I would like to leave a copy of Ann Cook's letter for the record.

DATE 3/16/93
SB SB364

MISSOULA Aging SERVICES

Your Local Area Agency on Aging

227 W Front St
Missoula MT 59802-4301
(406) 728-7682

Jim Bendickson
1540 Sunflower Drive
Missoula, MT 59802

March 12, 1993

Dear Jim:

I was informed of your interest in housing issues and would like to provide an additional perspective. I have worked with low income senior citizens for over 20 years. There are a variety of issues which are problematic for elders. However, in recent years, the lack of affordable housing has become particularly serious. Typical seniors in my programs have incomes of \$5-6,000/year. These people often cannot afford the luxury of owning a home. Sharing the rent with just one other person may also be a financial impossibility. The waiting list for any subsidized housing is extensive. The repercussions are more than just unpleasant or inconvenient. One of the Senior Companions in my program recently spent two very cold and uncomfortable months living in her car because no housing was available. One of my staff members was recently forced to leave Missoula because no affordable housing was available.

Changes in our society demand that we re-examine the entire issue of "family" and the constraints that surround homes zoned "single family residences". Over 1/3 of the elders who need daily assistance report a lack of anyone, among their families or friends, available to offer help. Creating opportunities for elders to share a house -- either with their peers or with younger members of a community -- would be a means to both increase needed support and build a sense of family. If several seniors were able to live together and share housing costs, housing might become more affordable.

We have moved from the textbook days of "Mother, Father, Dick and Jane". Although that picture might have been comforting in the early years of our schooling, it no longer resembles the realities of our culture. Creating greater opportunities for shared housing would be an important step in meeting the needs of our complex society.

Sincerely,



Ann Cook

Director, Foster Grandparent and
Senior Companion Programs



EXHIBIT 1
DATE 3/16/93
SB SB 215

*A decent house, in a decent community for God's people in need,
Capital, not charity, & Co-workers, not caseworkers.
It works!*

To Whom it May Concern:

Please find enclosed a petition signed by those attending our Habitat for Humanity Annual Meeting supporting the passage of Senate Bill 215.

Also enclosed is our statement in the form of a letter from President Marjorie Bergan explaining our position on the passage of the above Senate Bill.

Affordable housing is crucial to the well being of our state starting with the smallest community or family.

Thank You,

Peggy Stellmach
Habitat for Humanity Missoula
Board of Directors



EXHIBIT 8
DATE 3/16/93
SB SB 215

*A decent house, in a decent community for God's people in need,
Capital, not charity, & Co-workers, not caseworkers.
It works!*

February 4, 1993

Senate Local Government Committee
Senator Ed Kennedy, Chair
Senator Sue Bartlett, Vice-Chair

I strongly urge the passage of Senate Bill 215 which will allow counties and municipalities to donate land to a non-profit corporation for the purpose of constructing multi-family or single family housing which will be sold to low-income people.

I represent Habitat For Humanity of Missoula which is an ecumenical Christian housing ministry that builds simple decent houses WITH (not for) very low income people and then sells the house to them at No profit and No interest with a typical 30 year mortgage. The mortgage repayment is recycled to build more houses. Jimmy & Rosalynn Carter are the most famous volunteers.

We have built 3 houses in Missoula, putting 18 people (13 children) into simple, decent, safe, warm and affordable shelter. They have become property taxpayers. We plan to build WITH 2 more families this year, 1993 - (16 people-incl 12 children).

(Habitat for Humanity of Missoula has only been in existence 3 years. We were incorporated as a non-profit organization in the State of Montana in May, 1990. Habitat For Humanity International is 17 years old. We are moving to break the cycle of poverty one family at a time.)

After this year, we have no more property and no leads of acquiring property at a price at which we can afford to build a house and sell it to a low income family. No one seems to be willing to donate or even to sell any suitable property at a low cost - we have several real estate agents always looking for us.

Flathead Valley Partners, (the Habitat affiliate in Kalispell-Whitefish-Columbia Falls-Bigfork) is experiencing an even greater escalation of property values than the Missoula Valley has seen.

The passage of Senate Bill 215, would benefit Habitat affiliates all over the state - Kalispell, Missoula, Bozeman, Great Falls, Helena, Billings all have affiliates, with the Butte area and Polson wanting to start. We also hear that some areas of eastern Montana and the Bitterroot Valley are interested in starting Habitat affiliates.

Well built, affordable housing for low income families is greatly needed in this state. This bill has the potential to help us (Habitat For Humanity) build affordable housing. It could allow funds, which are donated to us, to go much farther, much faster.

In partnership,

Marjorie L.C. Burgan
President of the Board of Directors



A decent house, in a decent community for God's people in need,
Capital, not charity, & Co-workers, not caseworkers.
It works!

EXHIBIT 9
DATE 3/16/93
SB 215

February 2, 1993

Senator Ed Kennedy, Chair
Senate Local Government Committee
Room 405 Capitol Building
Helena, MT 59601

Dear Senator Kennedy,

WE THE UNDERSIGNED, ATTENDING THE ANNUAL MEETING OF HABITAT FOR HUMANITY OF MISSOULA, URGE THE PASSAGE OF SENATE BILL 215 WHICH ALLOWS COUNTIES AND MUNICIPALITIES TO DONATE LAND TO A NON-PROFIT FOR THE PURPOSE OF CONSTRUCTING MULTI-FAMILY OR SINGLE FAMILY HOUSING WHICH WILL BE SOLD TO LOW INCOME PEOPLE.

Sincerely, *Debra Johnson* 706 E. Travis MsLA 59802
David Grofstein 2609 Sky Dr. Missoula 59801
Erin 50 Mullan Gulch Road St. Regis, MT. 59801
Tom Fagg 418 Plymouth St. Missoula
Bill Sanore 4321 TIMBERLANE MISSOULA, MT 59802
Joe & Mary Ellen Stubb 9180 Skulptail Trail, MT 59802
Vicki & Walt Tomaszak 143 Fairway Dr. Missoula, MT. 59803.
Larry & Wanda Hanson 626 Palmer Apt B Missoula, MT 59801
Ray & Susan Bisha 302 S. 4th W. Missoula, MT. 59801
Mark 19 GREENBRIER LANE, MISSOULA, MT 59802-3301
Carmellia D. Cooper 116 Wapi Riya Dr. MsLA
M. H. Cooper 116 Wapi Riya Dr. MsLA
Becky Kress 120 Wapikuya Missoula
Fran Higginbotham 3318 Hollis MsLA, MT. 59801
Laura J. Gooley 615 Dickinson St. Missoula, MT. 59802 (over)

Phone: 406-523-4718
March 4, 1993

Norm Wallin, Chair
House Committee on Local Government
Capital Station
Helena, Montana 59620

Dear Chairman Wallin:

On behalf of the Missoula Housing Task Force, we urge you to pass Senate Bill 215, which would allow local governments to donate land to non-profit organizations for the purposes of constructing housing for low income households. The Missoula Housing Task Force includes representation from over 35 community organizations and businesses including: all of Missoula's banks and savings and loans; Montana People's Action; Missoula County Association of Realtors; Missoula Building Industry Association; Missoula Food Bank; Missoula Housing Authority; District XI Human Resource Council; Missoula Habitat for Humanity; Alliance for the Mentally Ill; Aging Services; Summit Independent Living, Inc. (disabled advocate); Missoula Head Start; Poverello Center (Homeless Shelter); Stepping Stones (mentally disabled); WORD; YWCA; Refugee Assistance Council; The University of Montana; and individual property managers, developers, planners, and numerous city and county agency staff.

The Task Force as a whole has developed, endorsed, and is implementing over 35 recommendations to improve the availability of safe, healthy, affordable housing in Missoula. One of these recommendations is that Habitat for Humanity take the lead in pursuing the legislation necessary to permit the donation of land for affordable housing purposes. This ability is particularly critical in Missoula, where land values have increased substantially over the past two years in response to our severe housing shortage.

Missoula's vacancy rate for rental units is effectively less than 1%, and that for single-family homes is estimated to be less than 3%. Data indicates that average rental cost for a moderate 2-bedroom apartment have increased at least 40% since spring of 1990, and average home purchase cost has increased by 20%. In the face of these costs, affordable housing for rent or purchase is in very short supply. New construction of affordable units is a critical need.

Data from the survey commissioned by the Task Force indicates that over half the household in Missoula make less than \$25,00 year. It is not possible for the market to construct new housing inexpensively enough to be affordable to many of these households. Enabling local governments to donate land will provide one tool in helping cut the cost of new construction so that housing will be available to the majority of Missoulians who can not afford more than \$500/month rent or \$600/month in mortgage payments.

Again, we urge you and the members of your committee to pass Senate Bill 215, and give us one tool we need to address our housing affordability needs.

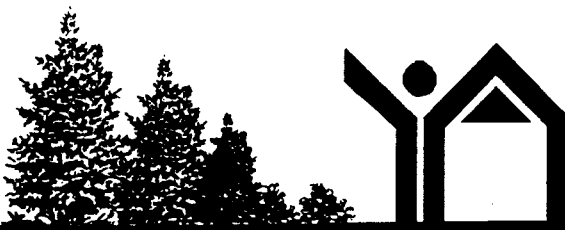
Sincerely:

Fern Hart, Co-Chair
Commissioner, Missoula County

Daniel Kemmis, Co-Chair
Mayor, City of Missoula

EXHIBIT 10
DATE 3/16/93
SB 215

EXHIBIT 11
DATE 3/16/93
SB SB 215



HABITAT FOR HUMANITY OF GALLATIN VALLEY

March 16, 1993

P.O. Box 174
Bozeman, Montana 59771-0174
406/586-6678 • 406/586-6726

House Local Government Committee
Representative Norm Wallin, Chair
Representative Ray Brandewie, Vice Chair

I am Robert Ward of Bozeman and am speaking for the passage of SENATE BILL 215 which will allow municipalities and counties to donate land to a non-profit corporation for the purpose of constructing multi-family or single family housing to be sold to low-income people.

I represent HABITAT for HUMANITY of GALLATIN VALLEY, a non-profit organization dedicated to providing adequate housing for families with low economic resources. In 1991 a family moved into the first house our group built in Bozeman. In February of this year a second family moved into the next house. We plan to build more as land and resources are acquired.

Our most urgent and difficult problem at this time is securing affordable land upon which to build. By the time we purchase land and build homes, the cost becomes prohibitive for the potential homeowner.

A home is sold to the family at no profit with approximately a 20-year, no-interest mortgage. The monthly payments include the full cost of taxes and insurance as well as the amount for gradual repayment of the loan's principal. The potential homeowners do not make a high enough income to obtain a conventional loan.

Therefore, if county and city municipalities can donate land for non-profit housing units, the families' payments can be within their economic means.

Through volunteer labor and donations of money, materials, and management expertise, HABITAT builds these homes with the help of the future homeowners, who are required to invest sweat equity hours. This partnership reduces the cost of the house, increases the pride of ownership and fosters positive relationships within our communities. The homeowners monthly mortgage payments are then "recycled" to support the construction of future homes.

Another important advantage of building these homes will be that the sites and residences will be added to the tax rolls.

I strongly recommend and ask you to vote for the passage of SENATE BILL 215.

In partnership,

Robert R. Ward, Member of the Board of Directors



County of Yellowstone

COMMISSIONERS



EXHIBIT 1A
DATE 3/16/93
SB 358

(406) 256-2701

March 15, 1993

Box 35000
Billings, MT 59107

Chairman Norm Wallin
House Local Government Committee

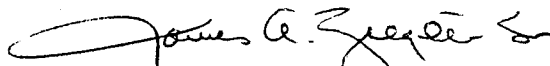
Chairman Wallin and Committee Members,


Please give careful consideration for SB 358. This gives Yellowstone County authority to enter negotiations to sell directly to St. Johns Lutheran Home. St. Johns has successfully operated the former County facility for the past five years. They are now considering expansion plans and ownership of the facility would make planning easier and improve the care for the elderly.

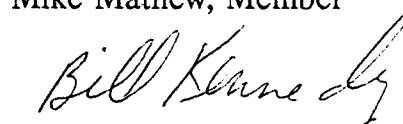
The use of an appraisal and the public hearing will allow the process to be fair and open for public comment. Please vote yes on SB 358.

Sincerely,

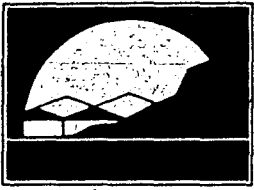
BOARD OF COUNTY COMMISSIONERS,
YELLOWSTONE COUNTY, MONTANA


James A. Ziegler, Sr., Chair


Mike Mathew, Member


Bill Kennedy, Member

SW



St. John's Lutheran Home

3940 Rimrock Road • Billings, MT 59102 • (406) 656-2710

EXHIBIT 15
DATE 3/16/93
SB SB 358

March 15, 1993

To: House Local Government Committee
Chairman Norm Wallin

From: Kent Burgess, Executive Director

Subject: SB 358

Sale of County Nursing Home to St. John's

In 1987 the Yellowstone County Commissioners contacted St. John's Lutheran Home requesting our assistance in managing the Yellowstone County Nursing Home. The County Home had just experienced a poor State survey conducted by the Department of Health and Environmental Sciences. Additionally, Yellowstone County was financially subsidizing the operation of the facility. St. John's began managing the facility on September 1, 1987 and formalized a lease effective January 1, 1988.

The relationship between St. John's, the County Nursing Home, and the Yellowstone County Commissioners has been very successful. St. John's operated the facility without financial remuneration from September 1987 through December 1991. Our efforts were a positive extension of our ministry. The resident population at the County facility was maintained and we have been able to continue serving a low income population. Today, this facility is operating with a 85% Medicaid resident population. The Commissioners have been thankful for the improved operation and service.

In concert with the Commissioners, St. John's now wishes to purchase the facility. We could continue in a long term lease arrangement. However, the facility requires long range planning, additional capital investment, and expansion. The Commissioners wisely believe it would be inappropriate for them to focus on expansion of this facility and that it would be appropriate to sell the facility. By selling directly to St. John's, you can insure continuity for the residents and employees of this facility. You can also insure that the low income elderly residing in Billings Heights will continue to receive quality long term health care. In light of current low interest rates, now is a good time for us to arrange financing. A fair market appraisal would be obtained to determine the purchase price. We appreciate your consideration of this bill. Please feel free to contact me with any additional questions you may have.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT _____ COMMITTEE _____ BILL NO. SB 215
 DATE 3/16/93 SPONSOR(S) Senator Van Valkenburg
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Peggy Helbach 3327 W. Vista Mesa, Ariz.	Habitat for Humanity SB 215	✓	
Thomas Payne	Habitat for Humanity SB 215	✓	
Bob Word	" " " SB 215	✓	
Curt Larsen	Habitat for Humanity,	✓	
Glenn Johnson	" " "	✓	
Belinda Rinker	HRDC - Bozeman	✓	
Judith H. Pearson	HRDC Dir Assn	✓	
Bill & Dorothy Byrne	Habitat for Humanity	✓	
Mary Hunt	Habitat for Humanity	✓	
Everly Gibson	MAC	✓	
Clyde Galy	MSCA	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT _____

COMMITTEE _____

BILL NO. SB149

DATE 3/16/93 SPONSOR(S) Senator Rec

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Beverly Gibson	MACO	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT _____ COMMITTEE _____ BILL NO. SB364
 DATE 3/16/93 SPONSOR(S) Senator Rye
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>1434 Gerald</u> <u>BETTY HADDOW</u> <u>Missoula</u>	<u>Interested Homeowner</u>		<input checked="" type="checkbox"/>
<u>Dorothy Angwin</u> <u>600 EVAN'S AV. MISSOULA</u>	<u>HOMEOWNER</u>		<input checked="" type="checkbox"/>
<u>Bruce Barnett</u>	<u>Homeowner/Att & for stds</u>	<input checked="" type="checkbox"/>	
<u>HEATHER MURRAY</u>	<u>SELF/STUDENTS</u>	<input checked="" type="checkbox"/>	
<u>JAMES O. BENDICKSON</u>	<u>SELF/HOMEOWNER</u>	<input checked="" type="checkbox"/>	
<u>Todd Mitchell</u>	<u>EMC</u>	<input checked="" type="checkbox"/>	
<u>David Rusoff</u>	<u>Human Rights Com'n</u>		
<u>Chaple Bailey</u>	<u>MSCA</u>	<input checked="" type="checkbox"/>	

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**HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER**

LOCAL GOVERNMENT _____ COMMITTEE _____ BILL NO. SB 358
 DATE 3/16/93 SPONSOR(S) Senator Hager

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Beverly Gibson	MACC	✓	
Clyde Dailey	MT Senior City Asso.		✓
Ken Heikes	Yellowstone County	✓	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LOCAL GOVERNMENT _____ COMMITTEE _____ BILL NO. SB157
DATE 3/16/93 SPONSOR(S) Senator Jergeson
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Paul Stahl	Lewis & Clark County	✓	
Alec Hansen	CITIES	✓	
Beverly Gibson	MACO	✓	

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.