

**MINUTES**

**MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By CHAIRMAN TOM BECK, on January 19, 1995, at  
1:00 p.m.

**ROLL CALL**

**Members Present:**

Sen. Thomas A. "Tom" Beck, Chairman (R)  
Sen. Ethel M. Harding, Vice Chairman (R)  
Sen. Sharon Estrada (R)  
Sen. Delwyn Gage (R)  
Sen. Don Hargrove (R)  
Sen. Dorothy Eck (D)  
Sen. John "J.D." Lynch (D)  
Sen. Jeff Weldon (D)

**Members Excused:** none

**Members Absent:** none

**Staff Present:** Susan Fox, Legislative Council  
Elaine Johnston, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 82, SB 92  
Executive Action: SB 82

**HEARING ON SB 82**

**Opening Statement by Sponsor:**

SEN. JOHN HERTEL, SD 47, Moore, presented SB 82. SB 82 would allow for the adjustment of salaries for county officials to be statutorily moved from a July 1 effective date to a August 1 effective date. This date would allow for exact determinations in adjusting salaries as the mill determination for the year are set by July 15.

Proponents' Testimony:

**Gordon Morris, Director, MT Association of Counties (MACO)**, supported SB 82 and suggested an amendment to bring in 7-4-2503, which is relative to county attorneys, would also be effective August 1. (EXHIBIT 1).

**Mona Nutting, Carbon County Commissioner**, supported SB 82. She stressed the importance of knowing what the mills will be before allowing salary adjustments.

**Vern Peterson, Fergus County Commissioner**, supported SB 82. Because Fergus County can no longer mill, an August 1 effective date would be very helpful.

**Alan Horsfall, Ravalli County Commissioner**, supported SB 82.

**Vicki Hyatt, Stillwater County Commissioner**, supported SB 82.

Opponents' Testimony: none

Questions From Committee Members and Responses: none

Closing by Sponsor:

**SEN. HERTEL** stated that SB 82 would alleviate a problem and be very helpful to the counties.

HEARING ON SB 52

Opening Statement by Sponsor:

**SEN. JOHN HARP, SD 42, Kalispell**, presented SB 52. SB 52 would allow a property owner in a first class city the right to protest an annexation. SB 52 would no longer exclude certain taxpayers and property owners that are currently excluded under existing annexation laws. **SEN. HARP** also stated that if you are a second class city in Montana you would get the same privileges as a first class city. Reasons for bringing SB 52 to the legislature was a result of problems in annexation in the Kalispell area as well as Missoula, Billings, and Great Falls. SB 52 would allow for fairness and equality in annexation.

Proponents' Testimony:

**Howard Gipe, Flathead County Commissioner**, gave the support of the Flathead County Commissioners to SB 52. Unless SB 52 is passed, small businesses would be unfairly taxed without representation. He urges the committee to support SB 52

**Gordon Morris, MACO**, testified in support of SB 52. **Mr. Morris** stated that MACO supports SB 52 from the standpoint that it is a much needed clarification of occurrent archaic law in regard to

the use of terminology such as freeholder. Substitution of freeholder to real property owner would clarify any confusion and would then include all in a region to be annexed.

**REP. CAROLYN SQUIRES, HD 68, Missoula**, supported SB 52 as her district has had some problems in the annexation process.

**REP. CARLEY TUSS, HD 46, Black Eagle**, supported SB 52. **REP. TUSS's** area of has had problems in annexation as they do not want to be incorporated with Great Falls. SB 52 would help the people of Black Eagle.

**REP. LINDA MCCULLOCH, HD 70, Missoula**, stood in support of SB 52 for her district.

**Jack Fallon, of Evergreen**, supported SB 52 and presented his written testimony. **(EXHIBIT 1)**.

**Robert LeDuc, a small business owner from Evergreen**, supported SB 52 and presented his written testimony. **(EXHIBIT 2)**.

**John Smithlin, Evergreen resident**, supported SB 52 and presented his written testimony. **(EXHIBIT 3)**.

**Jack Lingle, Fire Chief of Evergreen**, supported SB 52 and presented his written testimony. **(EXHIBIT 4)**.

**James Lofftus, MT Fire Districts Assoc.**, supported SB 52. Under the current annexation laws, the tax base of the fire districts is eroding. Fire districts have invested in equipment and fire protection for their residents and then cities come in and take out the best part of the fire district which makes it very hard to maintain the services they provide. **Mr. Lofftus** also introduced the following people representing various fire districts: **Sandy Close, Belgrade, Bill Reid, Missoula, Jim Balke, Belgrade, Joe Gasaoda, Missoula**.

**Jay Sage, of Missoula**, presented his written testimony in favor of SB 52. **(EXHIBIT 5)**.

**Pam Holmquist, of Evergreen**, presented her written testimony supporting SB 52. **(EXHIBIT 6)**.

**John Brower, of Missoula**, supported SB 52. **Mr. Brower** is in favor of changing the language in annexation law from resident freeholder to real property owner as it is fair and it simplifies the annexation process as well. In the best interest of citizens they should have the right of protest to annexation.

**Carl Prinzing, Missoula Association of Realtors**, support SB 52.

**Paul Laisy, Assistant Chief of Missoula Rural Fire District**, supported SB 52. **Mr. Laisy** stated that the changes in SB 52 are putting the law back to the way it used to be. He felt that this

piece of legislation will put the government back in control of the people and to give people a choice. He noted that right now if you do not live on your property you do not have a choice in annexation. Currently, the state law allows everyone a choice to be added to a fire district and taxed whether they live in the district or not as long as they own property in the district. **Mr. Laisy** feels that the same should be true for annexation which would make the city more responsive to the people and more efficient and competitive. If a city has nothing to offer and services would go down why would a person want to support annexation?

Opponents' Testimony:

**Bruce Williams, City Manager of Kalispell**, opposed SB 52 and presented his written testimony. (EXHIBIT 7).

**Larry Gallagher, Director of Planning & Economic Development for the City of Kalispell**, opposed SB 52 and presented his written testimony. (EXHIBIT 8). **Mr. Gallagher** also presented a tax comparison sheet on Gate Way Mall (EXHIBIT 9) and a population growth graph of Flathead County. (EXHIBIT 10).

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

**Jim Nugent, Missoula City Attorney**, opposed SB 52. **Mr. Nugent** expressed the concern of fairness to businesses and residents in the city limits of urban areas where there are businesses and residents adjoining them in a rural area, which has an urban population, and not paying their fair share. As an example, Missoula has a population of 43,000 and are serving a population that exceeds 65,000 which requires more traffic controls and police investigators. In regards to municipalities, **Mr. Nugent** stated that Montana is among the most anti-municipality according to a study done on 15 states in 1979 and 1980. The study also concluded that no state protected rural fire districts as does Montana. **Mr. Nugent** asked how you can plan orderly development when you are able to have people obstruct so easily? To have a truly fair annexation process where all the effected parties participate you should have a city wide vote. **Mr. Nugent** stated that he did not believe that the language change to real property owner will solve the annexation problem as there is no real definition.

**Alec Hanson, League of Cities & Towns**, opposed SB 52. **Mr. Hanson** noted that Montana currently has some of the most restrictive annexation laws in the country and SB 52 will make annexation even more difficult. He pointed out that the city of Butte in it's consolidation solved the annexation process as everyone pays an equal amount. **Mr. Hanson** felt that with out real property owner defined SB 52 would create a great deal of confusion. **Mr. Hanson** believes that SB 52 was a local issue that started in Kalispell and has reached the legislature.

**Ralph Stone, representing the City Council of Billings,** opposed SB-52. **Mr. Stone** stated that the hearing on SB 52 was just a neighborhood squabble. He stated that the city of Billings will not join Missoula in supporting SB 52. He also pointed out two votes where annexation has been overturned showing that the present law is working.

**Norm Colpan, Deputy Mayor of Billings,** opposed SB 52. He felt that SB 52 was coming from an isolated issue and would impact the whole state. **Mr. Colpan** also stated that in Billings the city residents do pay about \$800,000 of the county Sheriff's patrol. He urged opposition to SB 52.

**Questions From Committee Members and Responses:**

**SEN. DELWYN GAGE** asked what 7-2-4205 and 7-2-4305 apply to as they appear identical? **Mr. Fallon** answered that they are different annexation statutes with certain criteria.

**SEN. GAGE** wanted to know the definition of a first class city. **Mr. Hanson** replied that it must have a population over 10,000.

**SEN. GAGE** asked in regards to page four line 14 that if one person owns over 50% of the area to be annexed if that person may petition the annexation alone? **Mr. Nugent** answered that the governing body has the right to approve or disapprove a petition.

**SEN. GAGE** wanted to know what happens if a petition is disapproved. **Mr. Nugent** answered that there would be no annexation. **SEN. GAGE** asked if there was anything in statute that gives guidelines for the disapproval of a petition? **Mr. Fallon** stated that there is no requirements by the city.

**SEN. GAGE** asked the cities of Kalispell, Billings, and Missoula to provide the committee with a comparison of their mills, non-mill revenue, and taxable evaluations over the last three years.

**SEN. GAGE** asked what section 8 was referring to? **Mr. Akey** answered that section 8 applies to annexation of fully surrounded land which is not allowed to protest an annexation.

**CHAIRMAN TOM BECK** asked if the people of Evergreen put up 30% on an SID for a waste treatment plant? **Mr. Williams** replied that they did put up on the SID and will receive use of 30% of the treatment plant.

**SEN. BECK** wanted to know what other services are provided to Evergreen from the city of Kalispell. **Mr. Williams** answered that there are none but occasionally there is back up for the Sheriff's Department. **Mr. Williams** also noted that the two do have a mutual back up agreements.

SEN. BECK asked Mr. Williams if there was any type of an agreement with the people of Evergreen to not annex them when it was proposed to them to participate in the waste treatment plant? Mr. Williams replied that there was no such agreement but did say that the intent of Kalispell was to reach an agreement with Evergreen that said, we will do these things in exchange for annexation at the time the city feels it is most appropriate.

SEN. J.D. LYNCH asked SEN. HARP what happens to corporate owners that own more than one piece of property, are they considered one entity or more and do they receive more than one vote? SEN. HARP answered that they receive one vote.

SEN. JEFF WELDON asked Mr. Gallagher to respond to the statement that there does not seem to be an adequate demonstration of the need for annexation to the people and therefore people protest. SEN. WELDON asked if this was the case in Kalispell? Mr. Gallagher pointed out that the need in the Evergreen, Kalispell situation accrued whenever the city of Kalispell by agreement allowed 30% of its waste treatment plant to be used by Evergreen. Mr. Gallagher stated that now Evergreen is trying to break there agreement to not protest annexation by using the Legislature.

SEN. LYNCH asked for copies of the agreement between Kalispell and Evergreen. SEN. HARP will be providing the copies.

Closing by Sponsor:

SEN. HARP provided an amendment to SB 52 that gives the definition of real property owner. (EXHIBIT 11). SEN. HARP pointed out that SB 52 was not a special interest bill and SB 52 would benefit real people. He also showed that there were no business owners from the large cities present to oppose SB 52 but there were plenty of small business owners who were being effected by annexation. SEN. HARP feels that SB 52 would enable people to be treated fairly and urged the committees support on SB 52.

EXECUTIVE ACTION ON SB 82

Discussion: CHAIRMAN BECK asked Mr. Morris, of MACO, to confirm that the amendment to SB 82 was to change the salary adjustment date for county attorneys to August 1. Mr. Morris confirmed.

Motion/Vote: SEN. LYNCH MOVED to ACCEPT the amendment to SB 82. The MOTION CARRIED unanimously.

Motion/Vote: SEN. LYNCH MOVED SB 82 DO PASS AS AMENDED. The MOTION CARRIED unanimously.

SENATE LOCAL GOVERNMENT COMMITTEE

January 19, 1995

Page 7 of 7

ADJOURNMENT

Adjournment: 2:43 p.m.

  
SEN. TOM BECK, Chairman

  
ELAINE JOHNSTON, Secretary

TB/ej

ROLL CALL

1-19-95

SEN:1995  
wp.rollcall.man  
CS-09

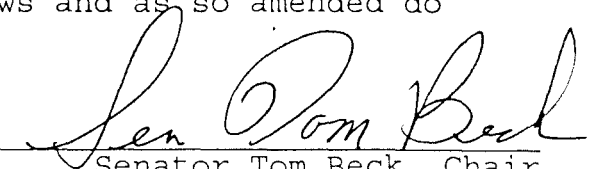


SENATE STANDING COMMITTEE REPORT

Page 1 of 3  
January 20, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 82 (first reading copy -- white), respectfully report that SB 82 be amended as follows and as so amended do pass.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Title, line 5.

Strike: "SECTION"

Insert: "SECTIONS 7-4-2503 AND"

2. Page 1, line 10.

Insert: "Section 1. Section 7-4-2503, MCA, is amended to read:

**"7-4-2503. Salary schedule for certain county officers.**

(1) (a) The salary paid to the county treasurer, county clerk and recorder, clerk of the district court, county assessor, county superintendent of schools, and county sheriff; the county surveyor in counties where county surveyors receive salaries as provided in 7-4-2812; and the county auditor in all counties where the office is authorized, ~~for the fiscal year beginning July 1, 1991, and each year thereafter~~ must be established by the county governing body at no less than 80% of the annual base salary of:

(i) \$25,000 for the counties of the first through fifth class added to the population increment of \$10 for each 100 persons or major fraction ~~thereof~~ of 100 persons included in the county's population as determined by the 1990 federal decennial census; or

(ii) \$18,000 for counties of the sixth and seventh class added to the population increment of \$10 per 100 persons or major fraction ~~thereof~~ of 100 persons in the county's population as determined by the 1990 federal decennial census.

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

(2) (a) An elected county superintendent of schools shall receive, in addition to the salary based upon subsection (1), the sum of \$400 per year, except that an elected county superintendent of schools who holds a master of arts degree or a master's degree in education, with an endorsement in school administration, from a unit of the Montana university system or an equivalent institution may, at the discretion of the county commissioners, receive, in addition to the salary based upon


Amd. Coord.

Sec. of Senate

171138SC.SPV

subsection (1), up to \$2,000 per year.

(b) The county sheriff shall receive, in addition to the salary based upon subsection (1), the sum of \$2,000 per year.

(c) The county sheriff shall receive a longevity payment amounting to 1% of the base salary set forth in subsection (1) for each year of service with the sheriff's department, but years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases. The additional salary amount provided for in this subsection may not be included in the base salary for purposes of computing the compensation for undersheriffs and deputy sheriffs as provided in 7-4-2508.

(3) (a) In each county with a population in excess of 30,000, the county attorney must be a full-time official under 7-4-2704, and the salary for the fiscal year beginning July 1, 1991, is \$50,000 per year. In counties with a population less than 30,000, the county attorney who is a part-time official for a county of the first, second, or third class is entitled to receive an annual salary equal to 60% of the annual salary of a full-time county attorney. A county attorney who is a part-time official for a county of the fourth, fifth, sixth, or seventh class is entitled to receive an annual salary equal to 50% of the annual salary of a full-time county attorney.

(b) In those counties where the office of the county attorney has been established as a full-time position pursuant to 7-4-2706, the salary of the county attorney for the fiscal year beginning July 1, 1991, is the same as that established for full-time county attorneys in subsection (3)(a).

(c) ~~Beginning July 1, 1991, and on July 1~~ On August 1 of each ~~succeeding~~ year, each county attorney is entitled to an increase in salary calculated by adding to the annual salary on July 1, 1991, the percentage change in the previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. However, the county commissioners may, for all or the remainder of each fiscal year, in conjunction with setting salaries for other officers as provided in 7-4-2504(1), set the salary at the prior fiscal year level if that level is lower than the level required by this subsection (3)(c). The cost-of-living increment for the fiscal year beginning July 1, 1983, and for each subsequent fiscal year must be added to all cost-of-living increments granted for previous years unless salaries were set for the fiscal year at the level of salaries received in the prior fiscal year. Unless restored pursuant to 7-4-2504(2), any cost-of-living increment that would have been received for the fiscal year, computed on the prior fiscal year,

may not be added to previous increments.

(d) (i) After completing 4 years of service as deputy county attorney, each deputy county attorney is entitled to an increase in salary of \$1,000 on the anniversary date of employment as deputy county attorney. After completing 5 years of service as deputy county attorney, each deputy county attorney is entitled to an additional increase in salary of \$1,500 on the anniversary date of employment. After completing 6 years of service as deputy county attorney and for each year of service thereafter up to completion of the 11th year of service, each deputy county attorney is entitled to an additional annual increase in salary of \$500.

(ii) The years of service as a deputy county attorney accumulated prior to July 1, 1985, must be included in the calculation of the longevity increase, but, unless longevity increases are restored pursuant to 7-4-2504(2), the years of service during any year in which the salary was set at the level of the salary of the prior fiscal year may not be included in any calculation of longevity increases.

(4) For each 10th year after the fiscal year beginning July 1, 1981, the latest federal decennial census statistics are the basis for computation of population increments under this section. During the intervening 9 years, the computation of population increments applicable on July 1 of each year is based on the most current calendar year's estimates of counties' populations compiled by the federal-state cooperative program for estimates of the university of Montana bureau of business and economic research and the U.S. bureau of the census or other estimate that the bureau of business and economic research may certify.""

Renumber: subsequent sections

-END-

**MONTANA  
ASSOCIATION OF  
COUNTIES**

**SENATE LOCAL GOVERNMENT**  
EXHIBIT NO. 1  
DATE 1-19-95  
BILL NO. SB 82

2711 Airport Road  
Helena, Montana 59601  
(406) 442-5209  
FAX (406) 442-5238

**RESOLUTION 94-36**

**SALARY SCHEDULE FOR COUNTY OFFICES**

WHEREAS, under current law salaries for certain county officials are scheduled to begin July 1 of each year; and

WHEREAS, the county governing body is required to adopt a resolution on or before July 1, uniformly fixing the salaries of these certain officials; and

WHEREAS, the county budget is still being developed and taxable value figures are not available.

NOW THEREFORE, BE IT RESOLVED that all salary adjustments be statutorily moved to an August 1 effective date.

SUBMITTED BY: Resolutions Committee

PRIORITY: MEDIUM

ADOPTED: ANNUAL CONVENTION  
SEPTEMBER 21, 1994

My name is Jack Fallon - an Evergreen community leader. Evergreen is a middle class-blue collar community.

Our concerns before you here today result from the planning and construction of a \$14 million sanitary sewer system to mitigate pollution of an aquifer feeding Flathead Lake.

The sewer system is part of Flathead County Water and Sewer District #1- Evergreen, which was created in 1967. The Evergreen Water Department currently serves 2000 customers.

The sewer system financing consists of an EPA grant and a \$8.5 million RSID. Created in 1991 the RSID was a community effort involving 1400 properties over 3 1/2 square miles. The first RSID assessment occurred in November 1992, increasing real property taxes by at least 24%.

The successful blue-collar middle class community effort - over 1000 easements on private property without cost - required extensive and intensive coordination with EPA, WQB, DNRC, Flathead County, Bond Counsel, Engineers, attorneys, and 3 contractors has so far lasted 6 years - since 1988.

Construction began in January 1993 - two years ago. Annexation proceedings by the City of Kalispell began in January 1994 - one year ago. First hookups to the new sewer system began in July 1994 - six months ago.

If annexation had occurred (before sewage even began flowing), the city would begin netting \$300,000 per year, through mill levy, street maintenance, and storm drainage assessments, and gaming revenues.

The area to be annexed already has street maintenance and storm drainage provided by the State Highway Department on U.S. Highway 2E. The community already has water, sewer, law enforcement, fire protection, and garbage disposal.

Under annexation real property taxes increase by 30%, personal property taxes increase by 16 1/2%. All this, on top of the 24%

increase experienced from the sewer RSID assessment. It may not be double taxation, but it is a whale of an increase in taxation with what increase in services? Where is the fairness? We're not against annexation, we're for getting something for our dollar and fairness.

I believe SB 52 will allow the property owner an appropriate say toward taxation without representation. It will bring some fairness to a system that is currently very unfair.

Thank you,

I would like to introduce Bob LeDuc - a small business owner from Evergreen.

My name is Robert LeDuc. I am one of 90 small business

men at Evergreen next to Kalispell, Montana. I've been

there in business 30 to 40 years paying taxes, etc.

Evergreen is a place like I say of small business and

working people and I am not here representing WalMart or

any big corporation as they can take care of themselves.

But, I am here to give business and landlords the same

protest rights that residents have and also give businesses

around larger cities the same rights as around smaller

communities. We want fairness like first class citizens not

second class citizens because we have a business next to

a first class city. So, please take a hard look at Senate Bill

52 and I hope you vote for it. Thanks

I want to introduce John Smithlin

I am John L. Smithlin and have lived in Evergreen for 48

years and in my current residence for about 18 years. I am one of 3 resident freeholders, who protested annexation. I am concerned I will be gerrymandered out and then be surrounded and never have a say in my destiny.

All I ask is for a fair shake and that's what Bill 52 is all about. I think it's only fair that everyone whose pocketbook is affected ought to have an equal right to participate in this process.

I would like to introduce our long time Fire Chief Jack Lingle. I urge you to support SB 52.

Thank you,



My name is Jack Lingle Chief, Evergreen Volunteer Fire Department. Being an Evergreen Volunteer Fireman for 35 years, I have watched and been active in the community's growth.

We, The community, have installed a water system and brought the fire insurance rate down to a class 5! Exactly the same as the City of Kalispell. Our equipment is up to date.

If annexation would happen it would cut our budget at least 10%.

We would still have to go thru the proposed annexed portion to protect homes and businesses that the city does not want. They only want to take the businesses along the highway strip where the big Revenue exists.

Also Evergreen's response time to these businesses is 1/2 of what the city could supply. There are other communities in Montana experiencing this same Dilemma. They are also represented here today. They are from Belgrade, Bozeman,

Black Eagle, 4 groups from Missoula rural and Lockwood.

I feel to annex to the bigger cities is unfair to the hard working communities as well as to the Fire Department and the businesses.

I would like to introduce Jim Lofftus, President of the Montana Fire District Association.

Jay Sage  
2135 W. Sussex Av.  
Missoula, Montana 59801  
Phone 1-406-721-9494

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 5

DATE 1-19-95

BILL NO. SB 52

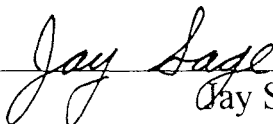
January 19, 1995

Senate Local Government Committee

I support Senate Bill Number 52. The changes made in the annexation laws by substituting Real Property Owners for Freeholders will restore the constitutional rights of some of the people to petition. These are rights that are fundamental to our system of government and should not have been restricted or denied in the first place. I see no reason why a property owner who does not happen to live on the property would be denied their U. S. Constitutional First Amendment Right . . . "to petition the Government for a redress of grievances."

In my opinion the only problem with Senate Bill No. 52 is that it does not go far enough, however I must support this bill because it is a step in the right direction.

Thank You For Allowing Me To Speak.

  
Jay Sage

**This exhibit also contained a petition  
with six (6) pages of signatures.**

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 4

DATE 1-19-95

BILL NO. SB 52

Pam Holmquist, property and small business owner in Evergreen.

I am a proponent of Senate Bill 52 because I don't believe in taxation with representation. My real property taxes would increase by 35.4% if annexed.

Senate Bill 52 is all about fairness. It's only fair that I and every property owner and taxpayer in the State of Montana have a voice. We should be able to make our own decisions on what happens to our property whether we reside on it or not. Thank you.

**SENATE LOCAL GOVERNMENT**EXHIBIT NO. 7DATE 1-19-95BILL NO. SB 52

To: Senate Local Government Committee  
From: Bruce Williams City Manager Kalispell  
Re: Senate Bill 52

My name is Bruce Williams Kalispell City Manager and I am here to express the City of Kalispells opposition to senate bill 52. This special interest amendment to Montana's annexation laws is being sponsored primarily because of Kalispell's attempt to annex approximately 280 acres of commercial property which is adjacent to the city's eastern city limits. The history surrounding this annexation issue is recent and involves the area's need to be served by an EPA approved sewage treatment facility. Because it was significantly less expensive for the area property owners to contract with the city of Kalispell to treat its sewage rather than build their own facility, the city agreed to extend and reserve 30% of the capacity of our new treatment facility for Evergreens exclusive use in exchange for their commitment to pay the debt associated with the reserve capacity and agreement that they would annex when the city decided to initiate the process. The agreement to annex consisted of consent waivers from over 55% of the property owners in the area to be annexed. The area is now fully sewered with its collection system being built and funded by a rural special improvement bond. The city is now receiving and treating the areas sewage. About one year ago the city attempted to annex the area utilizing the very statutes you are now considering changing. The annexation attempt failed because of sufficient resident freeholder protest. Three of the 109 property owners were resident freeholders and all three protested which was more than enough protest to halt the annexation. This certainly should point

out that the present annexation laws provide sufficient protection to halt even annexations that have been previously agreed to by consent. ~~The city will again attempt the annexation this March with or without change to the present annexation laws.~~ It is our opinion that a local agreement between <sup>w</sup><sub>A</sub> consenting parties should not be broken by state legislative policy. However, if you are inclined to amend the annexation laws as represented in SB-52 we would only request that its application only apply to the City of Kalispell because all other Montana cities should not be punished for an agreement they were not a party to. Secondly, if the amendments are favored by the committee you should further amend them by indicating that those property owners signing consent waivers have no protest standing. Third, we would offer that giving all property owners the opportunity to protest annexation would give large retailers many of which have no Montana corporate presence such as Wal-Mart, K-Mart, Shop-Ko and so on operating in the fringes of our communities a distinct business advantage over their smaller counterparts located within our cities. And finally We would offer that if your determined to change the laws by which Montana cities grow and prosper you should also consider in exchange eliminating the requirement that city property owners pay county property taxes for which they receive little or no benefit. Thank You!

City of Kalispell Opposes SB 52

Senator Beck, members of the Local Government Committee, Senator Harp, I am Larry Gallagher, Director of Planning, Economic and Community Development, City of Kalispell. I am here today to speak against passage of Senate Bill 52.

In 1960, only 35 years ago, Flathead County had a population of 32,965.

No one assumed that during that period ---1960-1995... the population of Flathead County would almost double ...a **99.79 percent increase** to 65,862 people in 1995.

Also, in 1960, only 35 years ago, the City of Kalispell had a population of 10,150.

No one assumed then that during the period of 1960-1995...the City of Kalispell population would practically stagnate and increase by only 21.71 percent or 2,204 persons. A paltry .56 annual average increase to only 12,355 people today.

During the same period--35 years--the City of Kalispell's Planning jurisdiction area...that portion of Flathead County just outside the city limits generally, within a two mile radius of the city, thus, ...outside of the city's tax base, experienced a 101 percent increase in population from 13,151 to 26,471.

Table 3-1  
1990-2015 Population Projections

	1960	1995 <sup>1</sup>	2015*
Flathead County	32,965	65,862	86,432
Planning Area	13,151	26,471	35,304
City Limits	10,151	12,355	14,003

There can be no question, almost all of the 26,471 persons living within the city's planning jurisdictional area use and enjoy the benefits of the municipal services provided by the City of Kalispell. They play in the city parks, drive the city streets, drink the city water, call

---

<sup>1</sup> **Kalispell Bypass Feasibility Study**, Flathead Regional Development Office/Carter & Burgess, Inc., October 1993 - page 35 & 36 Table 3-1 **1990-2015 Population Projections**

on the Fire and Police and ambulance when needed, and ---flush their waste into the city's waste water treatment plant or continue contributing to the ground water degradation of the Flathead Valley which eventually has an impact on Flathead Lake.

It would also be safe to assume that a majority of Flathead County residents who are employed, work in the Greater Kalispell area. In 1990, approximately 31,000 persons were employed in the Greater Kalispell area. Employment is expected to go to 39,000 in the year 2000 and 50,000 by 2015. "The majority of county wide job growth is predicted to occur in the greater ...Kalispell area."<sup>2</sup> Fully 2/3 of county-wide jobs have an impact on the City of Kalispell!

The City's 1993 Transportation Plan has recommended and suggested the city needs to invest over \$31 million in alternative traffic upgrades and improvements to transport or move the 86,432 souls expected to reside in Flathead County in the ten short years ahead. I might add that we are also the crossroads for the 2 million plus annual visitors to Glacier National Park, a blessing to our economy but still an impact on local (City) services.

Now, why does the city want to annex Evergreen?

1. Kalispell needs the money...
2. Kalispell needs the tax base...
3. Kalispell needs to grow to accommodate new business and residential demand. To manage and encourage growth by providing adequate municipal services without an adverse impact on existing taxpayers. Particularly, ...residential property owners.

1. Kalispell needs the money:

Kalispell currently provides adequate municipal services for its 12,355 residents and business community. Not only is Kalispell the County seat, it provides the cultural, governmental, financial and medical service center for the majority of the 31,000 + people who work and derive their income in the Greater Kalispell area and the 26,471 persons who reside in the Greater Kalispell area. ...Kalispell has historically provided the business and economic environment, including incentives where necessary, to encourage the expansion of business opportunity. It costs money to provide municipal services, to move traffic, to build and repair streets and other infrastructure which benefit a population far greater than the city population. Right now, only Kalispell taxpayers contribute, ...too many residential taxpayers are paying an ever increasing share of the tax burden.

---

<sup>2</sup> Ibid, page 36



I'll mention again, ...the 2.1 million visitors to Glacier Park, each year... many, after a long delay at the intersection of Idaho and Main Intersection where U.S. Highway's 2 and 93 intersect in the heart of our business district. An intersection that should have been improved over a decade ago. The City and State of Montana did not have the money to rebuild this intersection. Tourists, do not contribute directly to the city tax base.

2. Kalispell Needs the Tax Base:

During the 1994 tax year, commercial property in Evergreen, i.e., Shopko, Superl Food, Kmart and Ernst, representing the largest commercial property held in School District #50, enjoyed lower assessed valuations because appraisals do not yet reflect the dramatic increase in land values over the past 12 months; and thus, paid ad valorem taxes based on a mill levy 17.38% lower than City of Kalispell residents and business property owners. Evergreen commercial property in Rural School District #5, such as the new 125,000 sf Walmart property is assessed at a mill rate 20.22 % lower than a similar commercial property located in the city.

I must add here ...that all of the new growth of giant national box store retailers now located in Evergreen, is possible only because of the City of Kalispell's agreement to treat Evergreen sewage. An agreement executed and offered by the Evergreen commercial property owners and their paid negotiators, in exchange for their signatures on a **CONSENT TO ANNEX AGREEMENT AND NOTICE OF WITHDRAWAL FROM RURAL FIRE DISTRICT**. The Consent Agreements are recorded documents and represent the Evergreen property owner's written agreement to waive their protest to annexation. The Agreements were signed by a majority of all commercial property owners on the Evergreen Strip.

Yes, SB 52 is a money bill... and it is a tax base bill. Its passage will allow giant retailers and satellite businesses to absorb the retail sales dollars and other disposable income of Kalispell and Flathead County residents while devastating Kalispell's commercial/retail property tax base... enjoying Kalispell's municipal services... specifically waste water treatment and police protection ...while being assessed at rates 17.38 - 20.22 percent lower than a City tax payer.

I want to again emphasize my concern that the 400,000 sf of new retail box stores emerging on the Evergreen Commercial Strip and north on LaSalle, plus a new bank, a branch bank and a savings bank will have an adverse impact on the commercial/retail property tax base with-in the existing city limits.

An Example:

Gateway West Mall, located on the city's western edge, has been 50% vacant for the past 13 months. In 1992 this 1960's vintage enclosed mall shopping center was valued at \$7.214 million for tax purposes. Today after its 2nd annual tax appeal, it is valued at \$4.615 million, a 36%

drop in value since 1992. A copy of the valuation comparison is available and will be left with the committee secretary. The new (in 1986) Mountain Mall in Whitefish, has been offered unsuccessfully for sale for the last three years at less than 1/2 of what it would cost to replace it. Successful tax appeals will become a way of life next year for owners of older commercial properties in Kalispell, Whitefish and Columbia Falls. Property that will become more functionally and economically obsolete each year, with the emerging trend to big box discount retail. The income approach to valuation will be the method used to appeal taxes in the future.

The Urban Land Institute, in a ULI Research Working Paper Series dated May 1993, entitled "**THE EFFECT OF THE COLLAPSE OF COMMERCIAL PROPERTY VALUES ON LOCAL GOVERNMENT REVENUES AND TAX BURDENS**" documented the national trend and impacts on local taxing jurisdictions and residential property owners when commercial property is over developed. ULI concluded its study with this statement:

"We emphasize again that these impacts will vary from area to area. Still the situation involves a massive shift in the burden of paying for local government services from the commercial sector to the residential sector. The big winners, of course, are businesses who benefit by virtue of the oversupply of commercial real estate and can significantly reduce their space costs by taking advantage of cheaper rents. Thus, businesses receive a windfall gain and households receive a windfall loss."<sup>3</sup>

Let me emphasize, as the valuation of Gateway West Mall goes down and is not replaced in the City of Kalispell's taxing jurisdiction, other property owners, principally residential property owners will have to pay an ever increasing share of the local tax burden. That is what is happening in Montana and in Kalispell. Without the additional revenue to be derived from the commercial strip in Evergreen, and with an eroding commercial tax base in Kalispell, the city will be forced to choose between reduced services or an increase in the mill levy it has struggled so hard to reduce. Either choice, and/or a little of both, will impact and burden Kalispell's 12,355 resident owners.

Since the early 1970's I have been before the Montana Legislature lobbying and testifying on behalf of municipalities and local development corporations seeking the tools necessary to rebuild ailing cities, stimulate the economy of the state, and in general and foremost to encourage the formation of public/private partnerships to assure and manage the sound growth of municipalities and local economics. Annexation was one of those tools. The sound growth of our municipalities is important to all of us. SB52 is a monkey wrench not a tool we want.

---

<sup>3</sup> ULI Research Working Paper: **Local Fiscal Effects of Commercial Property Deflation**, May 1993, Research and Information Services, ULI the Urban Land Institute, 625 Indiana Avenue, N.W., Washington, D.C. 20004.

For past generations, Montana's future and its economics were decided in corporate board rooms in New York or Chicago or Butte. Today's Montana's retail economy and market share is being decided in board rooms in Bentonville, AK, Green Bay, WS, Redmond, WA, the headquarters for Walmart, Shopko, and Costco. We can't and should not interfere with the process; but we ought to be able to at least assess them for flushing their toilets into the same treatment plant as city residents while they profit from being located and adjacent to our city.

I want to compliment the Evergreen business community for finally agreeing to invest in their own sanitary sewer system. It was a good investment in their future when building permits were denied because they did not have one. They are already realizing a handsome return on their investment in the future of Evergreen, ...land values along the commercial strip have increased by well over 100% and in some instances tripled ...only after the City agreed to allow treatment of the sewage they generate there.

I agree with Senator Harp, ...SB 52 is a fairness issue. Yes we agree, property owners should be treated equally. We just disagree with his legislation to enable Evergreen business owners to enjoy all of the benefits available to Kalispell's business community and residents without paying a reasonable share of the cost.

Thank you for the opportunity to express my views. I will be available for any questions you may have.

SENATE LOCAL GOVERNMENT  
 BILL NO. SB 52  
 DATE 1-19-95  
 EXHIBIT NO. 1

18-Jan-95

GATEWAY WEST MALL: Kalispell, Montana  
 Assessed Valuation comparison:

	1992	1993	1993*	1994
IMPROVEMENTS	\$4,492,256	\$5,582,800	\$3,308,700	\$2,926,400
LAND	\$2,722,062	\$2,722,062	\$2,722,062	\$1,688,386
TOTAL	\$7,214,318	\$8,304,862	\$6,030,762	\$4,614,786
PERCENT CHANGE VALUE 1992-1994		15.12	-16.41	-36.03

SENATE LOCAL GOVERNMENT

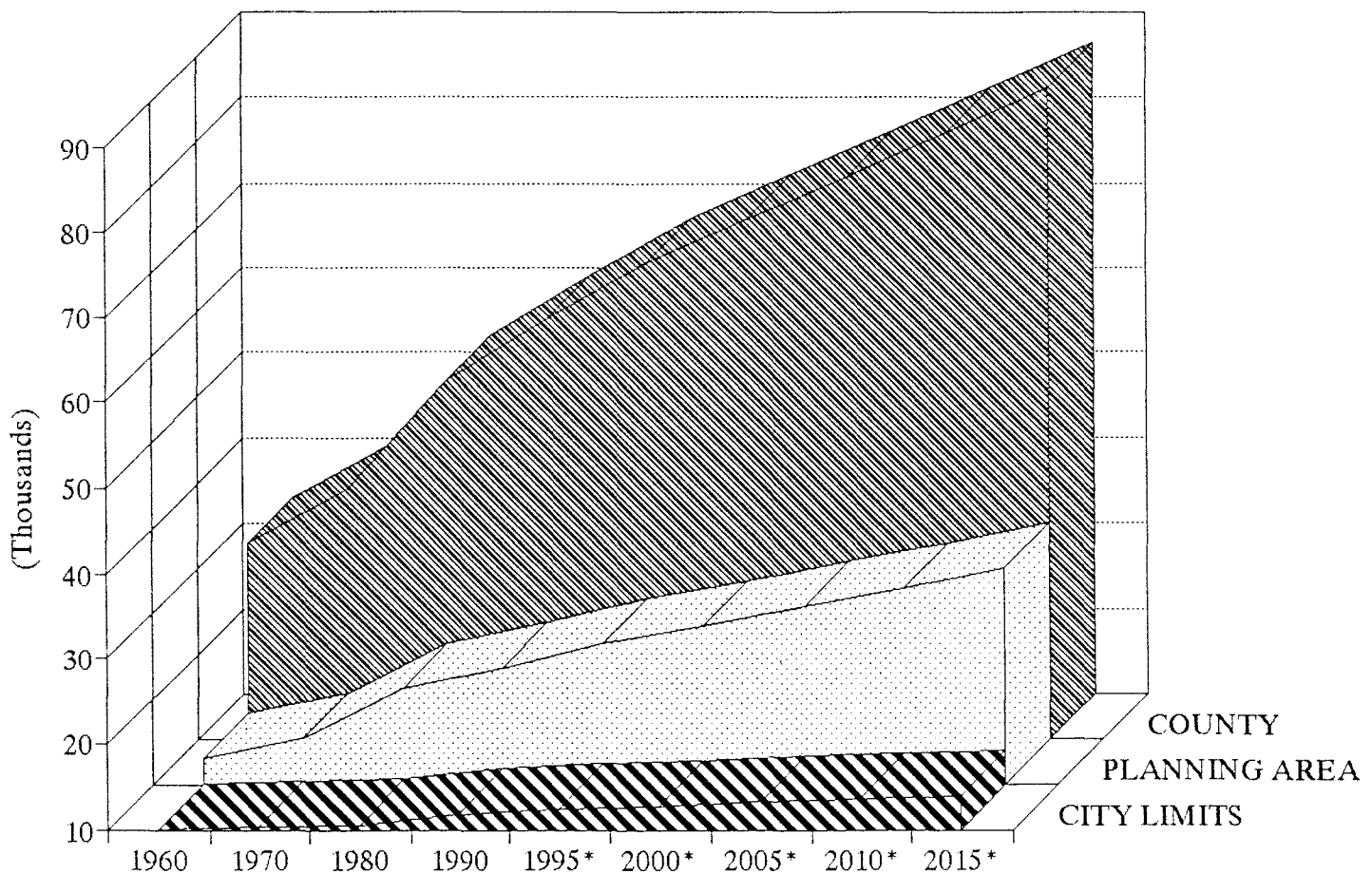
EXHIBIT NO. 10

DATE 1-19-95

BILL NO. SB 52

# FLATHEAD COUNTY/KALISPELL

## 1960 - 2015 POPULATION



18-Jan-95

POPULATION: 1960 - 2015      FLATHEAD COUNTY - CITY OF KALISPELL & CITY PLANNING JURISDICTION

LOCATION	1960	1970	1980	1990	1995*	2000*	2005*	2010*	2015*
FLATHEAD COUNTY	32,965	39,460	51,966	59,218	65,862	71,004	76,147	81,289	86,432
PLANNING JURISDICTION	13,151	15,426	21,147	23,697	26,471	28,680	30,888	33,096	35,304
CITY OF KALISPELL	10,151	10,526	10,648	11,917	12,355	12,767	13,179	13,591	14,003
*KalisPELL Area Transportation Plan: FRDO & CRSS Civil Engineers, Inc., Oct. 1993									
	%CHG 1960-70		%CHG 1970-80		%CHG 1980-90		%CHG 1990-95		
FLATHEAD COUNTY	19.70%		31.69%		13.96%		11.22%		
PLANNING JURISDICTION	17.30%		37.09%		12.06%		11.71%		
CITY OF KALISPELL	3.69%		1.16%		11.92%		3.68%		

Amendments to Senate Bill No. 52  
First Reading Copy

Requested by Senator Harp  
For the Committee on Local Government

Prepared by Bart Campbell  
January 13, 1995

1. Title, line 4.

Following: "AN ACT"

Insert: "CLARIFYING ANNEXATION LAW BY"

Following: "FREEHOLDERS"

Insert: "AND,"

2. Title, line 5.

Following: "ANNEXATION"

Insert: "WITH THE PROVISION OF SERVICES"

Following: "LAWS"

Insert: ", BY SUBSTITUTING REAL PROPERTY OWNERS FOR RESIDENT  
FREEHOLDERS"

3. Page 5, line 30.

Following: "~~recorder.~~"

Insert: "(3) "Real property owner" means a person who holds an  
estate of life or inheritance in real property or who is the  
purchaser of an estate of life or inheritance in real  
property under a contract for deed, some memorandum of which  
has been filed in the office of the county clerk."

DATE - 1-19-95

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: SB 52 SB 82

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
John h. Smithlin	Evergreen	SB 52	yes	
Charles Keller	Evergreen	SB 52	yes	
ARDEN OLSEN	Evergreen	SB 52	Yes	
Howard W Gipe	Flinthemo County	SB 52	✓	
Jack Lingle	Evergreen	SB 52	✓	
Teri Lingle	Evergreen	SB 52	✓	
Jack John T. Fallon	Evergreen	SB 52	✓	
Allen C. Hanfelf Jr.	MACO	SB 52 SB 82	✓	
Robert LeDuc	self	SB 52	✓	
Pam Holmgvist	self	SB 52	✓	
Lynda Holmgvist	self	SB 52	✓	
John Brauer	East-West Protest	SB 52	✓	
Joe Gasveda	Self from Missoula	SB 52	✓	
LAUREN GRANMO	SELF	SB 52		

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY



DATE - \_\_\_\_\_

SENATE COMMITTEE ON \_\_\_\_\_

BILLS BEING HEARD TODAY: \_\_\_\_\_

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Lawrence Gallagher	City of Kalispell	SB52	<del>X</del>	<del>✓</del>
Jay Sage	Missoula MT	SB52	X	
Gordon Morris	MACO	SB 52 52	X	
Mona Nutting	Carbon County <sup>MACO</sup>	82	X	
Dick & Yatt	St. Henry Co	82	✓	
Vern Petersen	Fergus Co.	82	✓	
James Balke	Belgrade Rural FD	SB52	Yes	
Sandy Close	Belgrade Rural Fire Dist.	SB52	X	
Paul LAISY	MSR. Rural Fire Dist.	SB 52	X	
JAMES A. HOFFTUS	MT FIRE DIST ASSAI	SB 52	✓	
RALPH STONE	CITY OF BILLINGS	SB52		✓
Owen Neiter	" " "	SB52		✓
Norm Koplin	CITY OF BILLINGS	SB52		X
Carolyn Guines	H.A. #68	SB52	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE - 1-19-95

SENATE COMMITTEE ON 1-19-95 Senate Local Government

BILLS BEING HEARD TODAY: SB 52 / SB 82

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Carley Juss	HD #46	SB 52	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda McCulloch	HD 70	SB 52	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Alec Hansen	MLCT	SB 52	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bruce Williams	City Kalispell	SB 52	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jim Nugent	City of Missoula	SB 52	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Carl E. Prinzing	MSA City Assoc of Realtors	SB 52	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY