

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By CHAIRMAN TOM BECK, on January 31, 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 182, SB 178, SB 197
Executive Action: SB 178, SB 122

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

HEARING ON SB 178

Opening Statement by Sponsor:

SEN. LOREN JENKINS, SD 45, Big Sandy, brought before the committee SB 178. The reason for SB 178 is that in his area, all races are partisan, however, a Clerk and Recorder race turned rather bitter due to partisan politics. SEN. JENKINS stated that SB 178 allows for all city and court house races be nonpartisan except for the county commissioners. He did note that in larger counties it may be necessary for local elections to be partisan and proposed that at the committee's discretion an amendment may

be added to exempt certain counties over a certain percent of the population.

Proponents' Testimony: none

Opponents' Testimony:

Gordon Morris, Helena resident, who at one time was a political science professor, stated that party politics begins at the grassroots level which in his opinion is the county level. **Mr. Morris** emphasized that SB 178 would damage that grassroots level.

Written testimony was presented by **Nancy Sweeney, Lewis and Clark County Clerk of District Court (EXHIBIT 1)**.

Questions From Committee Members and Responses:

SEN. DELWYN GAGE pointed out that in the last session he carried a bill almost identical to SB 178 which was tabled because of a statute that allows county commissioners to adopt a resolution to make local races nonpartisan. He asked **SEN. JENKINS** if he anticipated the same fate for his bill? **SEN. JENKINS** answered that the political climate has changed since then and he hoped his bill would not be tabled.

CHAIRMAN TOM BECK asked if **SEN. JENKINS** would like to eliminate class one or two counties if he could get back to the committee? **SEN. JENKINS** responded that he would leave the amendment to the committee's discretion.

Closing by Sponsor:

SEN. JENKINS stated that he brought up the amendment because it is a consideration for larger population counties. He went on to respond to Mr. Morris's testimony that grassroots are in the local level but where do grassroots start and where do they stop, with the Dog Catcher or the County Commissioner? **SEN. JENKINS** said that the County Commissioner is grassroots enough to start with especially in rural areas.

HEARING ON SB 182

Opening Statement by Sponsor:

SEN. JEFF WELDON, SD 35, Arlee, presented SB 182. SB 182 came about due to a meeting regarding the large bill boards built between Missoula and Arlee. Several grassroots organizations developed from the Flathead to Missoula to focus on outdoor advertising. A survey conducted by a candidate in the last election indicated that in the Evero area, 75% of the people who returned the survey favored some type of regulation for outdoor advertising. 75% were also against some type of local tax to fix the highway, so these people are not necessarily in favor of more government. Because the issue became so popular, some Missoula

businesses advertised that they would not use outdoor advertising. Lake, Missoula, and Flathead County Commissioners responded to citizen outcry by putting a temporary ban on new bill board construction in unzoned areas. There was also concern about this issue shown in letters to the editor, editorial in local newspapers, and one on a national radio program. A Governor's Task Force was also established to look at the outdoor advertising issue and developed a consensus bill. SB 182 was a response to the citizens as well as a citizen initiative. SB 182 would clarify what power local governments have in the area of bill board regulation. It would give counties, cities, and towns so choosing to do so clear and specific powers to pass sign ordinances and or zoning regulations to manage the erection and maintenance of outdoor advertising in a particular jurisdiction. **SEN. WELDON** pointed out that current law says that nothing in state law should be construed to inhibit local ordinances, regulations, or restrictions from going into effect. However, other parts of the law state that restrictions on that power exist resulting in conflict. SB 182 would clearly and precisely state what power local governments have.

Proponents' Testimony:

Rose Magnuson, representing Citizens for a Scenic Lake County, supported SB 182. **Ms. Magnuson** passed around some pictures of scenic views where bill boards are cutting out the view. She also pointed out that there have been some gross inequities. **Ms. Magnuson** emphasized that there are a lot of good restrictions in the state law based on the Highway Beautification Act and state enforcement has been in place on federally funded roads. **Ms. Magnuson** turned in some more written testimony (**EXHIBIT 2**).

Fern Hart, Missoula County Commissioner, submitted her written testimony in support of SB 182 (**EXHIBIT 3**).

Gordon Morris, Director, Montana Association of Counties (MACO), pointed out to the committee that resolution 94-40-2 by MACO called for the passage of SB 182. **Mr. Morris** noted that he did have the opportunity to work with the sign group on the legislation and asked for favorable action of the committee.

Tom Collins, Missoula, presented his written testimony supporting SB 182 (**EXHIBIT 4**).

Howard Gipe, Flathead County Commissioner, stated that in the Flathead area there have been some problems with bill boards. **Mr. Gipe** pointed out that not all bill board companies are the same, some companies are very cooperative with the local regulations while others are not. He urged the support of the committee.

Gail Kenson, Yellowstone County Planner and Sign Administrator, stated that her area has had a bill board proliferation and Yellowstone County has had a sign code for one year. **Ms. Kenson**

noted that they worked with a couple local sign companies to re-write bill board regulations to allow development of bill boards. SB 182 would allow Yellowstone County to expand their bill board regulation with out having to go through the process of expanding zoning regulations. She mentioned that the zoning for outdoor advertising is very important even for the scenery in Eastern Montana and urged the support of the committee.

Allan Mathews, of Alberton, presented some pictures for the committee to look at that were taken from the town park which showed bill boards blocking the view of the local mountain range. **Mr. Mathews**, pointed out that the Mineral County Planning board has found that the scenery is attracting people to the Alberton area but monster bill boards have been hurting the tourist attraction. He said that the present laws are very confusing as to what authority the counties and towns have in regards to bill boards and SB 182 would help clarify these laws.

Ann Hedges, representing the Montana Environmental Information Center, stated that they consider SB 182 to be a housekeeping bill as this area of the law is unclear. She noted that it makes perfect sense for local governments to be able to regulate the scenery in their community. **Ms. Hedges** urged the committee's support of SB 182.

Joanne Rubie, Save America's Scenic Environment, pointed out that SB 182 empowers local communities to make their own rules about how they want their community to look. She noted that as long as tourism is a big industry in Montana she hoped that each community could make their own rules. She handed out some survey results (**EXHIBIT 5**).

Clair Strickler, Scenic Preservation Committee for Citizens for a Better Flathead, presented her written testimony in support of SB 182 (**EXHIBIT 6**).

Bob Campbell appeared in support of SB 182. He stated that in the preamble of the Constitution it says "the purpose of state government is to improve the quality of life for our people". **Mr. Campbell** pointed out that the people present who testified on behalf of SB 182 are in line with the Constitution. He said that people want to be able to take a Sunday drive and not be bombarded by offensive bill boards. He encouraged the committee to pass SB 182.

Daphne Jones, Missoula, read the following story: "A short time ago, the CEO of a multi-million dollar clean industry was considering corporate relocation to Missoula. The decision was made not to consider the move. One of the major reasons for not considering this relocation was the blight of bill boards encircling the city.

Richard Fevold, Professor of Bio-Chemistry, Emeritus at the University of Montana, read his written testimony in support of SB 182 (EXHIBIT 7).

Sara Busey, representing Save America's Visual Environment (SAVE), presented her written testimony in favor of SB 182 (EXHIBIT 8).

Robin Wilson, Billings, supported SB 182 because she feels that bill boards make the states natural beauty ugly. She stated that when going to the park, families like to look at the beauty of the park and not the bill boards. **Ms. Wilson** continued that bill boards take up the land that deer and elk graze on.

Nancy Gordon, Polson, presented her written testimony which included a letter from the Lake County Commissioners (EXHIBIT 9).

Chris Imhoff, representing the League of Women Voters of Montana, read her written testimony in favor of SB 182 (EXHIBIT 10).

Harriett Meloy, Helena, supported SB 182. She stated that she had just finished serving six years on the City-County Planning Board and that there seems to be some doubt as to what City does and what County does to regulate the signs. She pointed out an example where the City turned down a sign because of it's size so the owner of the sign moved the sign a few feet into the County. **Ms. Meloy** noted that SB 182 would straighten out how Cities and Counties can work together to organize outdoor advertising.

Alec Hanson, League of Cities & Towns, stated their support of SB 182.

Opponents' Testimony:

James Pannell, representing Myhre Advertising, presented his written testimony in opposition of SB 182 (EXHIBIT 11).

Michael Lahr, representing Frontier Advertising, testified in opposition of SB 182. **Mr. Lahr** noted that they do not dispute local control as it is generally a good thing. He continued that they do have some concerns with local control of highway and roadway signage. Of the three companion bills, SB 181, SB 182, and SB 183, SB 181 was the product of the Governor's Task Force which reduces the number, size, and places of signs. He pointed out that SB 181 would take care of many of the proponents concerns. **Mr. Lahr** noted that SB 182 would lead to inconsistency as well as uncertainty with in the sign industry as there may be numerous ordinances to follow in counties and cities. He went on to say that by delegating authority, title 75, chapter 15, part 1 the State Department of Transportation permitting regulation requirements to cities or counties, there is no guarantee as to what regulations will be imposed. Additionally, he said there is no feeling as to what permitting fees would be required. **Mr. Lahr** went on that permitting fees could be used as a weapon

against the sign industry. He stated that they have concern about the just compensation aspect and noted that there are three questions this issue raises: 1) By whom will the just compensation be paid? 2) What type of compensation goes to the land owner? 3) What method will be used for compensation? **Mr. Lahr** expressed his concerns that by simply saying "just compensation" this issue will find its way into the courts. Due to the inconsistencies in SB 182 he recommended it do not pass.

Questions From Committee Members and Responses:

SEN. DON HARGROVE asked if SB 182 is really necessary as some towns now restrict the use and type of signs? **SEN. WELDON** answered that there are conflicting provisions in state law that do not allow for a clear understanding of the power local governments have regarding signs. **SEN. WELDON** referred to **Ms. Hart** who responded that Missoula has had a sign ordinance, Helena has some regulations, and also Billings. She stated that her concern was that the City lies adjacent to the County so when sign boards proliferate right outside the City limits, the County must be responsible in some way for the community that is out there. However, the County does not have very good controls for those areas especially in areas that are not zoned.

SEN. HARGROVE asked that if a City or County decided to regulate signs on county or city roads, is the State opposed to that? **Mr. Gipe** replied that in Kalispell they put in interim zoning for one year and presently they have corridor zoning going in to stop bill boards. However, while they were trying to do some zoning, people came in and put bill boards up and the County could not stop them.

SEN. J.D. LYNCH asked **SEN. WELDON** who will determine the just compensation and who will be paid? **SEN. LYNCH** noted that the land owner and the sign company have an investment and the land owner may plan on renting that spot year after year. **SEN. WELDON** responded that just compensation is to be paid to whoever has an interest in that property being taken or condemned. **SEN. WELDON** referred the question further to **Ms. Busey** who referred to Nick Rotering.

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Mr. Rotering, Staff Council, Department of Transportation, stated that if whoever is acquiring the property right cannot negotiate with the various entities, the entity would have to exercise the right of eminent domain and condemn the matter in court therefore the final arbitrator would be a jury.

SEN. LYNCH stated that **Mr. Rotering** mentioned that the owner would be giving up a property right and the people said that the owner would retain the property but could not put signs on it. He continued that it would not prevent the property owner from using the land for other purposes so he did not feel it was the

same as eminent domain. **Mr. Roterling** responded that he thought the analogy was that the signs were already in place and that because of zoning or other reasons they wanted to take the signs down. At that time, the land owner has a property right. **SEN. LYNCH** interrupted that the local entity is going to buy the property? **Mr. Roterling** replied that they are going to buy the advertising right and he did not see why they would have to acquire the property right unless it was needed for example to widen the street.

SEN. LYNCH asked if the county commissioner changed and a new group changes the ordinances allowing signs, then another new group comes in and says the signs go down, do they have to go through the same procedure for the rights again? **Mr. Roterling** answered that if a local government entity acquires the sign control he assumed that they would have to vote to change.

SEN. DOROTHY ECK referred to the Ice Tea Regulation and asked if there is something in the regulation that part of the fund is designated to buy back bill boards? **Mr. Roterling** pointed out that it should not be confused what Congress imposed on the States with the Highway Beautification Act of 1968, as Montana has had legislation since 1971 to control advertising on the Interstate and primary highways. The problem was what monies could be used to acquire and buy out existing signs. This creates a peak and valley situation for the Highway Commission on whether or not you could use federal matching funds to acquire that right. He went on that there are some statements in the Ice Tea legislation that you can use money for the control of outdoor advertising which has been used for surveillance purposes. **SEN. ECK** asked if they were only doing surveillance and not getting rid of the signs? **Mr. Roterling** stated that the illegal signs were coming down. The nonconforming signs could come down but he did not know if the Highway Commission needed to make a decision on that point and he referred to **Richard Munger, Coordinator Outdoor Advertising, Department of Transportation**. **Mr. Munger** stated that there was some funds available for nonconforming signs and there was some confusion in Congress the way the Federal Highway Administration interpreted that legislation whether the State was required to purchase nonconforming signs. However, it was put in a bill to fix South Central Los Angeles that it was the State's discretion whether to purchase the signs or not. The State of Montana has made the administrative decision to not use the funds.

SEN. ECK asked if as time goes on and more Ice Tea funds are available, could the decision to buy nonconforming signs be changed? **Mr. Munger** mentioned that it could even go further than buying the nonconforming signs to use project money to buy signs. He continued that when talking about just compensation, the procedure used to determination of the value of a sign may vary quite a bit and may possibly only be determined by a court. Basically, he said that the Ice Tea money will not fix the problem if it is a problem.

SEN. GAGE asked if it has been changed that you cannot compensate someone for future of profits? Mr. Roterling responded that SEN. GAGE was correct if you sat on a valued commission where the Highway Department or someone was acquiring a property right to a business, but outdoor advertising has not been resolved by the Montana Supreme Court.

SEN. GAGE asked about a business which loses money because of a sign being taken down, would that business be out of luck unless the Supreme Court allows for compensation? Mr. Roterling noted that due to cases he has pending in court he would not be able to respond to SEN. GAGE'S question.

SEN. GAGE asked SEN. WELDON about part of the bill that ties the purchase or condemnation to eminent domain and if it restricts what people can do in regards to purchase? SEN. WELDON replied that primarily the reason was to afford the protection inherent in the time concerns of eminent domain, but he would look into the question further.

SEN. GAGE asked Mr. Panell to give the committee some kind of idea the amount of revenue generated in Montana from outdoor advertising. Mr. Panell noted that he did not have an answer, but over the United States, other companies use a gross multiplier for the income generated which is usually a multiple of three or six times as payment if the sign is taken.

SEN. LYNCH asked what the cost of removing a bill board would be? Mr. Pannell stated that the cost may vary anywhere from \$5,000 to \$30,000.

CHAIRMAN BECK asked SEN. WELDON if he would have a problem if the work condemnation came out of the bill? SEN. WELDON answered that he was not certain of the Lake County Commissioners concern.

CHAIRMAN BECK asked if SEN. WELDON was carrying SB 181, 182, and 183 and if so what the status was and if one would depend on another? SEN. WELDON answered that he would respond in his closing.

Closing by Sponsor:

SEN. WELDON, in response to CHAIRMAN BECK'S question, answered that SB 181 and SB 182 are related directly to outdoor advertising. SB 182 is a local control bill and SB 181 is from the Governor's Task Force which is a consensus bill that addresses specifically the requirements in State law as they relate to the sized of bill boards. He continued that SB 183 which he is carrying is a scenic bi-way program on behalf of the Department of Transportation dealing with monies and maintenance of highways. SEN. WELDON said that the bills do not depend on one another. SB 181 addresses state wide regulations and SB 182 goes beyond to give local governments the control to possibly make a bill board free area. SEN. WELDON noted that the reason

for the bill was demonstrated with three counties where there is confusion on what control local governments actually have and that SB 182 will clean that up. **SEN. WELDON** added a amendment of an immediate effective date. He also stated that he felt out of state sign companies were causing much of the problem and the Montana sign companies are not a problem. **SEN. WELDON** further noted that the relation between SB 181 and SB 182 is not just a case of bill board removal as just compensation was discussed, and local governments could chose other regulations. He thanked the committee and urged support of SB 182.

HEARING ON SB 197

Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 10, Cut Bank, presented SB 197. He stated that it comes more as a result of concerns generated over Fish Wildlife and Parks acquisitions. What SB 197 does is require state lands and universities primarily to reimburse local governments for the loss of revenue because these properties are not taxable in general. Currently, **SEN. GAGE** noted that the State of Montana is not paying there obligations to local governments according to the fiscal note. Primarily, SB 197 says to the state and its owned properties including the Highway Department and University system you will reimburse county government in total for the loss of revenues as a result of that property being there. SB 197 does exempt the Highways as far as right-a-ways and the University system for facility sites. **SEN. GAGE** noted that it was his understanding that if a county has more than 6% of state land in that county they can get a partial reimbursement for the loss of those taxes and if less than 6% they get nothing. SB 197 will take that 6% limitation provision out. According to the fiscal note, the payments in the past have been \$265,000 and under SB 197 the obligation is 3.25 million dollars that local government is not receiving and local taxpayers are taking on the load. **SEN. GAGE** pointed out that these monies paid by the state would be coming from taxpayers and he saw not reason the state has not been fulfilling its obligation to the counties. He went on to urge the Appropriation Committees to take a look at appropriating the full amount to the counties.

Proponents' Testimony:

Gordon Morris, MACO, supported the concept embedded in SB 197. He pointed out that in this session, there would be three bills all with the same idea, regarding state lands. This issue has been fought for ten years to get counties reimbursed for state lands in excess of 6% of total county land. The \$265,000 is the same amount budgeted for previous bienniums. The appropriation has never been made to fully fund the reimbursements. **Mr. Morris** pointed out that there are three bills on the same topic facing the Legislature, and none of the bills are in the appropriate committee. He continued that the two Senate bills should be held

and **REP. SAM KITZENBERG'S** House bill in House Appropriations should fund the 3.5 million dollars. **Mr. Morris** noted that MACO has been fighting this issue for years and would like to see something done and full reimbursement for the 20 counties that do meet the legal threshold of state land in excess of 6%. He said that an estimate for full reimbursement for the 20 counties based on the 1993 session fiscal note it would cost approximately \$500,000. **SEN. GAGE'S** bill by taking out the 6% requirement would allow all 56 counties to receive a reimbursement but with only \$265,000 there is not enough funding and would hurt counties like Daniels and Beaverhead who currently get money out of the program. He urged the committee to pursue getting **REP. KITZENBERG'S** bill out of House Appropriations.

Don Waldron, representing the Montana Rural Education Association, supported SB 197. He pointed out that in looking at the bill, 60% of \$265,000 was not much but 60% of three million dollars was a lot of money and they needed to get interested in the bill. **Mr. Waldron** noted that they support the concept and something has to be done to keep these things on the tax rolls in the counties. He felt the whole movement is to move things back to the county and then you must move into the same position the federal government is in compensating the counties for the money and that means schools. He continued that if this is to be done state wide the full amount will be needed.

Howard Gipe, Kalispell County Commissioner, supported the concept of SB 197 as he stated it is the right thing.

Opponents' Testimony: none

Informational Testimony:

Bob Kuchenbrod, Administrator of Central Management, Department of State Lands, stated that he would provided some information to the committee if they want regarding payments that have been made counties, and percentages involved.

Questions From Committee Members and Responses:

SEN. WELDON asked **SEN. GAGE** to respond to Mr. Morris's thoughts. **SEN. GAGE** replied that in his closing remarks he would address this.

CHAIRMAN BECK stated that the Montana State Prison Ranch does not pay any taxes and they are farming like any other rancher in the valley. He asked **SEN. GAGE** if he would be willing to amend the bill to get institutions like the Prison Ranch to included in the bill. **SEN. GAGE** answered he would. **CHAIRMAN BECK** continued that the Prison Ranch can afford to pay the tax.

SEN. ECK asked if it would just be the land and not the buildings? **SEN. GAGE** answered that the facilities and the land they are on are exempt.

SEN. ECK asked about the land they are farming? SEN. GAGE replied that buildings on farm land would also be taxed.

CHAIRMAN BECK noted that the Ranch buildings and equipment on personal property and the land be taxed the same as any property owner but not the Prison complex.

SEN. ECK pointed out the various experiment stations of Montana State University (MSU) would those be taxed? SEN. GAGE responded that they are not in competition with any business or in a business mode. CHAIRMAN BECK noted that the Prison Ranch makes a profit which could be put toward offsetting property tax that they should be paying and the experiment stations do there work for experimental purposes.

Closing by Sponsor:

SEN. GAGE in closing noted that he does not have control over where the bill ends up. He said that he did visit with SEN. GARY AKLESTAD who has a similar bill and the understanding was that SEN. AKLESTAD'S bill was only addressing Fish Wildlife & Parks. He said that SB 197 was much broader in perception and SEN. AKLESTAD felt his bill had a better chance if the two bills were not combined. SEN. GAGE stated that there was no question that if the House Appropriations will probably put SB 197 in Appropriations should it get that far. He said that he felt SB 197 was in the proper committee because it is a policy issue that should be determined by the Local Government Committee but at some time may need to be heard by Appropriations.

EXECUTIVE ACTION ON SB 178

Motion: SEN. LYNCH MOVED TO TABLE SB 178

Discussion:

SEN. LYNCH stated that SB 178 is one of the worst bills he has seen because it requires counties that they cannot have a county election. In Butte Silver Bow they do not have partisan elections because the people chose not to and every county, city, or town in Montana has that right to chose.

SEN. GAGE agreed with SEN. LYNCH because that decision is out there with the county commission and that was the same reason his bill in the last session was tabled.

SEN. HARDING noted that right now they are in the process of a study commission.

Vote: The MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 122

Discussion: CHAIRMAN BECK pointed out that the amendments to SB 122 had already been put on the bill January 26 and SEN. WELDON had some questions about the bill.

SEN. WELDON stated that he had wanted to contact the State Preservation Office to see if they had any objections with the bill and they were comfortable with the bill.

Motion/Vote: SEN. WELDON MOVED SB 122 DO PASS AS AMENDED. THE MOTION CARRIED UNANIMOUSLY.

DISCUSSION ON SB 130

Discussion:

CHAIRMAN BECK stated that SB 130 dealt with mobile home lighting districts.

SEN. HARGROVE stated that he opposed the bill and it did not seem like the right place to deal with the issue. There was so much talk about low income housing and some have a lot of mobile homes in there areas that they are trying to stick it to the mobile homes where as the property owner who has the long term asset should be charged.

SEN. WELDON asked Mr. Morris how many street lighting districts Montana has as SEN. ECK mentioned to him that not to many existed? Mr. Morris noted that he would guess there were not more than eight to twelve in the entire state.

SEN. LYNCH asked when does a mobile home become not a mobile home? When they are on a foundation are they no longer a mobile home? If they have a skirt around and on wheels they are still a mobile home? CHAIRMAN BECK answered that it was his understanding that they are still mobile home even if they are on a foundation.

SEN. LYNCH said that he felt there was a point with SB 130 because some mobile homes made now are in excess of older two story brick homes. Some of the new mobile homes are very nice and he did not feel they should be getting off just because they are called "mobile".

SEN. HARGROVE suggested that in the cases that SEN. LYNCH noted those people also own the land the mobile home sits on.

Susan Fox said that she felt there was a distinction between manufactured housing and mobile homes. It is a problem know because people are used to calling them both mobile homes. She

added that in certain bills she has drafted there are some people who make a very great distinction as it is a fine line of interpretation.

SEN. HARGROVE added that this is quite an industry as there is modules, mobiles, and manufactured and all three have some very differences with in the industry. He went on that a mobile home is always a mobile home.

SEN. LYNCH asked if they own there own land they do not have to pay on the value of the mobile home sitting on their land. People who own there own land and put a mobile home on it just have to pay on the land not their "very nice mobile home".

SEN. HARGROVE said they pay on it for the lighting district.

SEN. LYNCH said that the trailer park also pays on the lighting district on the basis of the land.

CHAIRMAN BECK asked **Mr. Morris** if it is an assessment against the property. **Mr. Morris** stated that it is an assessment against the property based on the benefit derived of the service being provided.

SEN. ECK pointed out that she had suggested last time that **Susan Fox** talk to Jeff Martin as this should be looked at because there is a different way that they are taxed. If this is not based on value but based on service it may not matter but she felt it would be a good idea for Mr. Martin to look at it.

CHAIRMAN BECK said that if it is going to be done on value and there is a trailer house that pulls on to a lot and is there for a year and values are juggled so this trailer can put some money towards the lighting district what happens. Is everyone adjusted back to their previous value. He stated that he felt SB 130 is fairly unworkable and the assessment should be against the land only.

SEN. GAGE recalled that **SEN. DARYL TOEWS** commented that in Nashua it is only three or four lots and these lighting districts are only in very small places. He said that if that was the case he would not have much objection to the bill as if it applied to big city folks as well. He said that **SEN. TOEWS** felt his bill would solve the problem in Nashua.

CHAIRMAN BECK asked **SEN. GAGE** to explain the difference between a trailer paying on the trailer court and paying on the land itself. **CHAIRMAN BECK** pointed out that ten trailers may move in and the utilities will be dropped to everyone and then they move it must be adjusted again there for it should be assessed to the land. **SEN. GAGE** stated that the other side is the land owner may live in California and gets no benefit from the street lighting but the trailer does. **CHAIRMAN BECK** said that the guy from California who owns the land is getting some benefit. **SEN. GAGE**

said that he does not receive any benefit from the service but he does by having the lighting available because it increases the value of the land.

SEN. ETHEL HARDING stated that she had asked **SEN. TOEWS** who paid the taxes, the land owner or the mobile home owner? **SEN. TOEWS** answer was that both paid the taxes and it was adjusted on the land in order for the mobile home owner to pay some of the taxes. She stated that she was not sure how the process is to work.

CHAIRMAN BECK stated that the real property tax will be paid by the land owner but the mobile home is usually on a personal property tax paid by the mobile home owner.

SEN. ECK noted that unless the trailer is affixed.

CHAIRMAN BECK said that if the trailer is affixed you usually own the land on which it is affixed.

SEN. ECK noted that in some cases the HRDC will own the land and will lease it to whoever builds a house on it.

CHAIRMAN BECK asked if there was any consensus on the bill? There was not so the meeting adjourned.

ADJOURNMENT

Adjournment: 2:50 p.m.


SEN. TOM BECK, Chairman


ELAINE JOHNSTON, Secretary

TB/ej

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE 1-31-95

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SENATE STANDING COMMITTEE REPORT

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February 1, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 122 (first reading copy -- white), respectfully report that SB 122 be amended as follows and as so amended do pass.

Signed: 
Senator Tom Beck, Chair

That such amendments read:

1. Title, lines 6 and 7.

Following: "ENGINEER;"

Strike: the remainder of line 6 through "REQUIREMENT FOR" on line 7

Insert: "PROVIDING THAT"

Following: "RIGHT-OF-WAY" on line 7

Insert: "IS NOT REQUIRED IN CERTAIN INSTANCES"

2. Page 1, line 19.

Following: "engineer"

Insert: "or surveyor"

3. Page 1, line 28.

Following: "right-of-way"

Insert: "that refers to an established monument within a filed corner recordation form, certificate of survey, or subdivision plat"

4. Page 1, line 30.

Following: "required."

Strike: "A" through "but an"

Insert: "An"

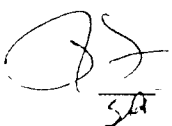
5. Page 2, line 1.

Following: "the opinion of the"

Strike: the remainder of line 1 through "unnecessary"

Insert: "department no heritage properties would be impacted"

-END-



Amd. Coord.
SA Sec. of Senate

271242SC.SRF

NANCY SWEENEY
CLERK OF DISTRICT COURT
Lewis and Clark County Courthouse
P. O. Box 158
Helena, MT 59624-0158
447-8216

SENATE LOCAL GOVERNMENT
EXHIBIT NO. 1
DATE 1-31-95
BILL NO. SB 182

January 31, 1995

Sen. Tom Beck, Chairman
Local Government Committee
Capitol Station
Helena, MT 59620

Dear Chairman Beck and Committee Members,

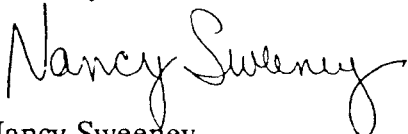
I am submitting this letter in opposition to SB178. There is no need for the legislature to require local government elections to be held on a nonpartisan basis. The voters currently have through the Local Government Review Committees. A modification of the current system would only be appropriate after investigation and due consideration of the committee and approval by the voters.

My opposition to this legislation is also based on personal experience. When I was appointed to my office I was a political neophyte. No one in my office had expected my predecessor to resign during midterm and one of us within the office had any significant political connections. Having 15 years experience in the Clerk of Court's office, I believe I was one of the most qualified people to succeed my predecessor but I was busy working mother and had not been involved in the political scene. Understanding that some assistance was available through the local political party I decided to begin my career as an elected official with the support of my family and many local attorneys. I was appointed in January of 1994 and was required to run for office in June of that year to confirm my appointment. While attempting to learn the finer points of my first budgeting process, I attended a seminar sponsored by the local political party that provided the basics for putting a campaign together. The instruction I received on everything from campaign finances to advertising was invaluable. I am required to run for this office again at the end of my predecessor's term in 1996 and only then will my elections be on a four year cycle. Without the support of a political party, I do not think I would have undertaken such a task.

Local elected officials receive very modest salaries. At least in my mind there is no doubt that the individuals holding these positions do so out of a commitment to public service rather than financial gain. By requiring a candidate to run on a nonpartisan basis, that candidate would have to run an active campaign for both the primary and general elections if only one other person files for the office. Under the present system a candidate does not need to continue a full scale campaign during the general election if there is no candidate from the opposing party. The savings of time and money would be inestimable.

Negative campaign practices, time constraints caused by holding a full time job while running for office and financial costs already discourage many individuals in running for an elected position. Don't increase the burden on local elected officials by limiting whatever partisan help may be available. You will be limiting that already small pool of candidates to those few who are financially well connected enough to support a campaign.

Sincerely,



Nancy Sweeney
Clerk of District Court

S.B.182 A Bill to give Local Governments Options in Outdoor Advertising Control

Why is this bill necessary?

Clear and specific outdoor advertising local control authority has not been given in Montana law. MCA 75-15-1 grants specific sign control powers only to the state. Current laws deal only with control through zoning regulations and emergency powers in unzoned areas, and delegates powers only to certain types of governments. Yet much of Montana chooses not to be zoned or have charter or self government powers. Those areas are penalized in not being able to determine their own community's character nor determine what is best regarding signage for their economic future. This bill will also lessen conflicts caused now by overlapping jurisdictions. It will allow localities who want stricter enforcement to provide it.

What is in the bill?

Section 1 gives counties, incorporated cities and towns (local governments) zoning regulation and/or ordinance making power to set standards to control outdoor advertising adjacent to all roads in their jurisdiction. On Federal interstate and primary highways the standards must be at least as restrictive as Montana's Outdoor Advertising Act (MCA 75-15-1). The right-of-way on those roads remains under state jurisdiction. If a local government chooses to regulate--issue permits, conduct inventories, do surveillance and enforcement of state standards--as well as set local standards, it must have an agreement with the state to do so.

Section 2. If a sign on interstate and primary roads meets state but not local standards when erected, just compensation need not be paid by a local government to have it removed.

Section 3. If a sign on interstate and primary roads has a state permit but is nonconforming under a local ordinance or zoning regulation (It was erected legally but does not meet standards of a more recent local ordinance or regulation), just compensation must be paid by the local government to acquire it or cause it to be removed. A local government may acquire a sign and all property rights pertaining to it by purchase, gift, exchange or condemnation.

Is the bill consistent with other law?

U.S. Supreme Court decisions have already determined that localities have a right to control signs to protect the public safety, welfare and uphold the

aesthetic interest in community appearance as a legitimate basis for sign regulation. Montana Law states, "Nothing in this part shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation, or resolution which is more restrictive than the provisions of this part." (MCA 75-15-104) This bill makes local government ordinances for sign control lawful.

Federal law allows a local control option. Seven out of ten states surveyed have written this option into their state statutes. A provision to allow local governments to take over control already exists in Montana's 1972 agreement with the Federal government.

What are local funding sources?

Most local governments in other states--Texas and South Dakota, for example -- administer their program with permit fees. Colorado Springs voted a bond issue for sign control. Federal funds may be used at state discretion to provide just compensation for nonconforming signs and remove illegal signs on the Federal highway system. Federal funding for highway construction can be jeopardized up to 10% if outdoor advertising is not controlled to standards of the Highway Beautification Act.

Who initiated this bill?

Scenic preservation citizen groups researching how to deal with an alarming increase in the number of huge billboards erected in their localities found already mentioned conflicts and limiting factors in Montana law.¹ After consultation with county and city officials, planners, private and county attorneys and state sign control personnel, our bill was conceived. The Montana Association of Counties endorsed our resolution, which called for clear local authority and implementation tools for sign control, at their summer convention. The Department of Transportation is neither a proponent nor opponent of this bill. The initiative comes from the people.

Information provided by : **Citizen's Coalition for A Scenic Montana***

#1 2nd Ave. East C-153

Polson, MT 59860

***Scenic Preservation Group--Citizens for a Better Flathead, Save America's Visual Environment,
Citizens for Scenic Lake County**

Testimony by Rose Magnuson (883-3083)

¹ Our research showed that although Montana's Outdoor Advertising Law is the most lenient of ten states surveyed, sign industries operating for many years in Montana have shown restraint and consideration for our state's character. New pressures, problems and motivations call for tighter state law as well as giving local governments clearer control. Admirably the sign industry has worked with citizens on state law revisions contained in S.B. 181 and agreed to a rule change to require local approval of a new sign prior to state permitting. The revisions, however, do not solve the problem of clear powers for local governments.



SENATE LOCAL GOVERNMENT

EXHIBIT NO. 3

DATE 1-31-95

BILL NO. SB 182

January 31, 1995

Senate Local Government Committee
Tom Beck, Chair

Mr. Chairman and Committee Members:

I am Fern Hart, Missoula County Commissioner. Thank you for this opportunity to comment on Senate Bill 182. In 1993, during my first year in office, a delegation from the Evaro-Arlee area came in to talk with us about the proliferation of huge billboards along the highway between Evaro and Missoula. We were very clear about the limitations of County government; however we did commit to working with them to research the issue of zoning. Currently, we have an emergency zoning resolution to allow us two years to work through the issues. That resolution expires in August of this year.

One of our conditions when we work with a particular neighborhood or community is that the people in the area be involved and willing to work to solve their own problems. We have found that local government works best when the citizens initiate a request for change. This proposal has come from a citizens' effort. They have circulated petitions, held public meetings and researched the statutes to determine the best solution.

We are pleased to support this legislation. It will allow us to be able to respond more effectively. I presented a similar resolution to MACo last fall at our annual convention and received their support. We are asking that Counties be allowed to enact regulations regarding billboards. You will notice that there are important safeguards for the billboard industry and that we must have an agreement with the Montana Department of Highways before we adopt more specific regulations.

One final comment: Missoula as a City has a sign ordinance and it has worked well. The billboard companies have been able to comply and the local businesses are very cooperative. Since we are becoming more tourist oriented, we feel we must protect our scenic views because folks are coming to Montana to appreciate what is most unique to us. One final, final comment: this legislation does not require Counties to adopt a regulation; it only allows the authority if a County or Counties wish to use it.

Thank you.

*Thomas J. Collins*POST OFFICE BOX 8321
MISSOULA, MONTANA 59807

Jan. 29, 1995

RE - Testimony regarding billboard legislation

My name is Tom Collins and I am here to testify regarding billboard legislation. First, to clarify my background I would like to state that I am neither anti-billboard nor anti-business. I have been in business all of my adult life and have served on the boards of both the Missoula and Montana Chambers of Commerce.

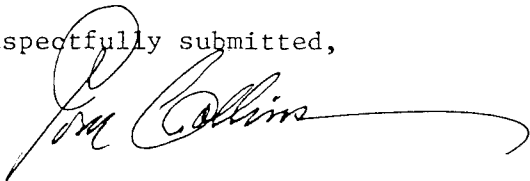
However, with the proliferation of large billboards it has become time for the citizens of Montana to take action. My current involvement in this noble effort was inspired by the chance meeting several years ago with a man and his wife. They were representing an "out-of-state" company and had viewed our state as a fruitful ground to exploit our lax laws regulating outdoor advertising.

A fishing friend and I were floating the lower Clark Fork River and stopped into Quinn Hot Springs for lunch. Seated at the counter were a man and wife who engaged us in conversation. They openly divulged that they were traveling Western Montana to arrange ~~the~~ the placement of large, super billboards. Ours was one of the few states left where it was possible to practice such exploitation. We were astounded and parted in disbelief. Their prediction became a horrible reality when we soon witnessed these monsters cluttering our roadways and blocking the beauty of our state.

Becoming increasingly conscious of this blight my wife and I have often counted large billboards while traveling. Recently while driving between Spokane and Seattle we decided to check conditions in that state. We were amazed to see there was absolutely not one "off premise" large billboard along 300 mi. of interstate. The natural beauty of this drive was most impressive. Upon investigation we learned that State of Washington had some time ago passed legislation prohibiting this insidious practice.

If we can pass laws against roadway litter, we can surely legislate against the uncontrolled litter of our scenery. We urge your support of this legislation.

Respectfully submitted,



WHAT DO MONTANA MOTORISTS AND TOURISTS WANT TO SEE?

<p>Scenery</p>	<p>91.1% of highway travelers surveyed listed viewing scenery as an important benefit of vacationing/recreating in Montana</p>	<p>Institute for Tourism and Recreation Research, U. of M.--1993</p>
<p>Fewer billboards and Commercial Signing</p>	<p>65% favored (only 22% thought these were helpful)</p>	<p>AAA/Travel Montana Survey 1988</p>
<p>Stricter regulation of billboards</p> <p>Elimination of billboards</p>	<p>73%</p> <p>56%</p>	<p>Kalispell Chamber of Commerce Membership Survey 1993</p>
<p>More Regulation of large billboards</p>	<p>75%</p>	<p>Representative Tim Sayles House Dist. 70 Survey--1994</p>
<p>No more billboards on Hwy #93</p> <p>No more billboards anywhere in the area</p>	<p>64.6%</p> <p>58.4%</p>	<p>Salish & Kootenai Resident Survey Oct. 1994</p>

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 5

DATE 1-31-95

BILL NO. SB 182

Economic and Scenic Resources in Montana

excerpts from: *Montana Business Annual*

March/April 1994

"A viable economy comes from maintaining an environment we can live in. Our greatest resource, next to our people, is our land. We are tied to the land."--

Matthias Cohn, director of Travel Montana,
Montana Department of Commerce, Helena

"Montanans understand the state's economy and its relationship to their personal circumstances with greater clarity than they are often given credit for. Their expectations of the economy are both modest and reasonable....Montanans seem reluctant to accept change that is not compatible with those values that they deem most important to their way of life--the good will of their neighbors, the integrity of their communities and the abiding beauty of their natural surroundings."--

Statewide study by the
Liz Claiborne and Art Ortenberg Foundation

"Deterioration of the quality of life could kill economic development."--

Mike Owen
Acting Dean of the School of Business, MSU

"I think the limitations and constraints on access to our natural resources will create a better business people and better products in Montana."

Larry Gianchetta
Dean of the School of Business, U.of M.

"Tourism is now Montana's second-largest and fastest-growing industry. It pumps approx. \$1 billion a year directly into the state's economy....Montana is now one of the top five travel destinations in the country."

Winter Tourists: "The top reasons winter visitors gave for coming to Montana were business, vacation, and visiting family and friends. If they came on vacation, most chose Montana for skiing, snowmobiling, and scenery....aspects of their trip visitors most and least enjoyed (scenery and crowds, respectively.)"--

1993 survey
Institute for Tourism and Recreation Research, U.M.

A PROFILE OF NON-RESIDENT TRAVELERS TO MONTANA: SPRING 1993

RESEARCH NOTE 18 - JANUARY, 1994

ABOUT THE REPORT

This report is the second in a series that describes seasonal non-resident travel characteristics and patterns during 1993. This report describes travel to Montana during the spring season, defined as April, May, and June.

Only those traveling through Montana by highway and air are included in these profiles. Visitors traveling by bus or train, or with charter groups are not included.

The Institute for Tourism and Recreation Research (ITRR) at The University of Montana administers the legislatively funded University Travel Research program. The mission of the Institute is to help both public and private segments of Montana's tourism and recreation industry make informed decisions about tourism planning, marketing, development, and management.

This report was prepared by Michael Yuan and Neal Christensen.

BACKGROUND OF THE STUDY

From April through June, 1993, the Montana Travel Survey sampled non-residents traveling by air and highway. Highway travelers were contacted soon after they entered the state. Travelers on the three Interstate highways were contacted at rest areas. Travelers on the 13 major secondary highways and Canadian border crossings were contacted using highway traffic stops. Air travelers were contacted at four major hub airports serving Montana (Denver, Minneapolis, Salt Lake City, and Spokane).

Visitors contacted were asked to complete a diary questionnaire by recording information about their trip including: travel characteristics, recreation activities, length of stay, and one day of expenditures in Montana.

Visitors completed the diary questionnaire during their trip and returned it by mail.

Of the 2,857 questionnaires distributed, 1,376 were returned for a response rate of 48%.

Observations of highway traffic indicated that 45% of the travel groups entering Montana in the spring were non-residents. Interviews at airport departure areas indicated that 36% of air travel groups entering Montana were non-residents.

All figures presented in this report are estimates produced by the Institute for Tourism and Recreation Research except where noted. The estimates are based on the latest data obtained from a variety of sources. While the figures presented are as accurate as possible given current research limitations, each of the numbers are estimates and contain a margin of error. Therefore, they should not be taken as absolutes.

BENEFITS SOUGHT BY VACATION AND RECREATION VISITORS TRAVELING IN MONTANA

BENEFITS	Percent Important or Very Important*	
	HIGHWAY TRAVELERS	AIR TRAVELERS
Viewing scenery	91%	79%
Exploring new places	81%	57%
Enjoying sounds, smells of nature	79%	76%
Relaxing	76%	88%
Getting away from it all	76%	75%
Being in a natural setting	76%	69%
Escaping from routine	73%	78%
Not having to rush	73%	77%
Being free to make own choice	71%	62%
Learning new things	64%	45%
Releasing tension	60%	76%
Learning about nature	58%	42%
Experiencing tranquility	54%	56%
Having privacy	53%	41%
Learning about local culture	48%	40%
Being able to do nothing	46%	48%
Being away from sights/sounds of others	43%	42%
Doing exciting things	42%	52%
Doing something novel	35%	40%
Being on your own	35%	39%
Sharing a familiar place	30%	42%
Experiencing solitude	30%	42%
Meeting new people	30%	23%
Getting away from people	28%	31%
Being entertained	22%	19%
Learning about myself	20%	33%
Taking risks / challenges	11%	22%

* Based on a four-point scale from not important to very important.

Benefits sought by travelers can indicate underlying motivations for non-resident vacation and recreation travel to Montana. These data, when combined with travel characteristics, give an indication of the types of travelers coming to Montana and how their needs can be better met.

Highway and air travelers on vacation or recreation sought similar benefits related to traveling in Montana. Aspects such as viewing scenery, exploring new places, enjoying the sounds and smells of nature, and relaxation were frequently rated as important or very important.

AMERICA AUTOMOBILE ASSOCIATION
HIGHWAY SIGNING PROJECT

Dept. of Commerce

Travel Montana

1988 Questionnaire to Montana Motorists

EXHIBIT 5
DATE 1-31-95
SB 182

Would you like to see more, the same or fewer signs and do you think these signs are helpful, adequate or fail to meet their purpose:

	Check One			Check One		
	More	Same	Fewer	Helpful	Adequate	Fail
Billboards and commercial Signing	7	28	65	22	47	30
Staffed Visitor Information Centers	44	54	2	49	44	7
Designated Scenic Routes	58	42	0	56	38	6

Source: Legislative Report:
A Statewide Plan For Highway Signing, January 1989

TIM SAYLES for House District 70 **Questionnaire '94**

1. Do you favor annexation for the Reserve Street area?

A. Yes 56

B. No 108

2. Would you be in favor of a sewer and water district in areas currently not sewered by the City of Missoula?

A. Yes 74

B. No 85

3. Do you feel regulations should be put in place to control large billboards similar to those along the Interstate and the Evaro Hill area?

A. Yes 128

B. No 42

4. Basic education is guaranteed by the Montana Constitution. Define basic education:

A. Academic solids (Math, English, Science, etc.) 93

B. Vocational skills (Automotive, Home Economics) 44

C. Sports, Chorus, Speech, Drama 9

D. All of the above 75

5. Do you favor consolidation of school districts?

A. Yes 70

B. No 81

6. Should a gasoline tax be imposed to reconstruct North Reserve?

A. Yes 55

B. No 112

To House Districts 61 and 70, thank you for your support over the past 2 years. It was a pleasure to serve you. **Tim Sayles**

Paid for by Committee to Elect Tim Sayles, 4528 North Ave., W., Missoula, MT 59801.
Ralph Eudaily, Deputy Treasurer.



Area Chamber of Commerce

April 22, 1993

Terese Fox Hash, President
Kalispell City/County Planning & Zoning
723 5th Ave E
Kalispell, MT 59901

Dear Terese Fox Hash:

Please find enclosed the results of our recent membership survey regarding highway sign regulations within Flathead County.

These results are submitted to you for informational purposes only. We hope you might find them useful as you address the highway signage issue.

Sincerely,

Nick A. Haren
Executive Vice President

Enclosure

Membership Survey

There has been much discussion and recent media coverage about the need for some kind of regulation of highway signage within Flathead County. The Kalispell Area Chamber's board of directors would like to know how our members feel about this issue.

Please take just a moment to answer the two questions below and complete the member identification box for survey validification. Then fold, staple or tape closed, place a stamp in the space provided, and drop in the mail. If you like, you may FAX your survey to the Chamber at 752-7161.

Surveys must be returned to the Chamber office by Friday, April 16th.

RESULTS

Do you feel that some kind of regulation for highway signage is necessary in Flathead County?

Yes 67

No 7

Do you feel that billboards should be more strictly regulated than other highway signage?

Yes 54

No 20

Would you favor the elimination of billboard signage in Flathead County?

Yes 42

No 31

Number of surveys returned 74

EXHIBIT 5DATE 1-31-9511 SB 182Ken
Tom M
1/
C...
16
Co. Com
11

Memorandum

To: Janet Camel
CC: Jim Boyer
From: Chris Neher
Date: October 26, 1994
Subject: Billboard Question Responses

Here are the responses on the questions dealing with placement of, and size restrictions on billboards for the two samples.

Q35. "Where do you think different types of future development should be allowed? -- Billboards.		
Response/statistic	Percent responding in category	
	Tribal members	Non-members
Only in or near cities or towns	10.9%	7.9%
Only in rural areas	2.0%	1.2%
Anywhere in this area	7.6%	8.1%
Only in designated areas	21.1%	29.0%
Nowhere in this area	58.4%	53.8%
Sample size	303	420

Note: The precision on the "nowhere in this area" responses at the 95% level of confidence is as follows: Tribal members, 58.4% +/- 5.2%. Non-members, 53.8% +/- 4.8%.

Q36. "Which of the following restrictions on billboard size (if any) would you support for the US Highway 93 corridor through the Jocko and Mission Valleys?"		
Response/statistic	Percent responding in category	
	Tribal members	Non-members
Only 4 by 8 feet or smaller	11.8%	13.2%
Only 8 by 16 feet or smaller	7.4%	12.0%
Only 16 by 32 feet or smaller	2.7%	2.2%
I don't support any restrictions on billboard size	13.5%	13.7%
I am opposed to any additional billboards	64.6%	59.0%
Sample size	297	417

Note: The precision on the "I am opposed to any additional billboards" responses at the 95% level of confidence is as follows: Tribal members, 64.6% +/- 5.1%. Non-members, 59.0% +/- 4.8%.

Let me know if I can give you any more information.

Chris

Johnston and Cole Laboratory Study (1976)

Dealt with the psychological phenomenon of space capacity. Basically this means that the brain does have the capacity to assimilate extra information. However when the driver is so concerned about gas or food he may overload this space capacity and greatly impair his ability to handle a motor vehicle.

The selective attention process may cause an individual to ignore the road when other concerns override his space capacity.

Holahan, et al, Laboratory and Field Studies: 1978

Found that signs in the background of a normal traffic signals cause the rapid reaction time to increase.

The closer the signs are to the roadway the more distracting they are to the driver. Signs do, according to the Holahan Study present a danger to motorist.

Bibliography: Studies Which Conclude Billboards Are A Traffic Hazard.

- 1) Wilmer A. Rusch
Highway Rates as Related to Roadside Business and Advertising. 1947
- 2) Madigan - Hyland
Relationship Between Accidents and the Presence of Advertising Devices. (1963)
- 3) Minnesota Department of Highways
"Rural Trunk Highway Accident Access Point and Advertising Sign Study" (1951)
- 4) D. Jackson Faustman
A Study of the Relationship Between Advertising Signs and Traffic Accidents on U.S. 40 between Vallejo and Davis. (1961)
- 5) Johnston, A.W. and Cole, B.L.
"Laboratory Study" Australian Road. Research Vol 6 No.3. September 1976
- 6) Holahan, C.J., Campbell, M.D., Culler, R.E. "Laboratory and Field study (1978), Human Factors 20 (4)
- 7) National Academy of Sciences, Transportation Research Board, (Jan. 18, 1978). Relationship Between Roadside Signs and Traffic Accidents.

#

Wilmer A. Rusch

Highway accident rates as related to roadside business and advertising (1947)

Found that there were 411 accidents per mile along the highway where 90% of the billboards were located as compared to 1.6 and 2.52 on the sections of the road where there were no billboards or at least relatively few.

Madigan - Hyland

Relationship between accidents and the presence of advertising devices (1963)

Found that there were 1.7 accidents per mile due to driver inattention of the portions of the thru way mainline where advertising devices were visible, and only 0.5 of an accident per mile for the cause on the streets where advertising devices were not visible.

The relative number of accidents per mile in areas with advertising devices, therefore, was three times greater.

Minnesota Department of Highways,

"Rural truck highway accident access point and advertising sign study. (1951)

Study concluded that there was a positive relationship between sign frequency and accident rates with the highest accident rates occurring where frequency of sign per mile was greatest.

Four hundred and twenty miles of all types of roads were analyzed. The study found that no matter what road terrain was under observation there was a strong positive relation between billboards and accidents.

D. Jackson Faustman

A study of the relationship between advertising signs and traffic accidents on U.S. 40 between Valjo and Davis (1961)

Billboards cause drivers to take their eye off the road for varying lengths of time depending upon the sign message. At high driving speed many things can happen on the roadway in this short time while the motorist is looking at the sign. Present operating conditions on our highways are too complex for average drivers. Ultimate success in culminating accidents will occur only through the provisions of facilities which require few critical decisions and upon which critical acts are practically impossible.

The significant finding which corroborates this is that the average accident rate is 0.988 in the sections with billboards (40.9 % higher than without billboards) as compared to the 0.701 in the sections without billboards.

(over)

Harding
Chairman Beck, members of the committee,

My name is Claire Strickler, from Columbia Falls member of the Scenic Preservation Committee of Citizens for a Better Flathead. Living as I do at the Gateway to Glacier Park, I am concerned with the appearance of our highways. However, I am just as concerned that these highways be safe. You know, billboards are well designed, scientifically planned to do just what they are erected for--to catch your attention. Many use the color combinations which you were advised to use for your yard signs so that voters would notice your name. Indeed, the highway department uses many of these colors in their signs to warm motorists: black on yellow, yellow on black, white on red, and day-glo colors. In the last few years the new ones were bigger and taller to be seen from greater distances. They grab your attention--away from the road.

Now this is not just my opinion. In a landmark case, Metromedia vs. City of San Diego, CA, the court held " as a matter of law that an ordinance which eliminates billboards designed to be viewed from streets and highways reasonably relates to traffic safety."

The Raleigh N.C. News and Observer reported on Oct. 18, 1985 that a federal district judge had ruled against Naegele Outdoor, stating "No empirical studies are necessary for reasonable people to conclude that billboards distract drivers and their passengers from maintaining the view of the road."

But empirical studies have been done: A study by. D. Jackson Faustman, consulting traffic engineer, was based on comparative traffic accidents over a 5-year period on ^apair of quarter mile segments of U.S. 40 in Central California. The segments were comparable in every way (width, amount of traffic and access). There were 40.9% more accidents on the segment with billboards.

Please vote to allow local governments to make their roads and highways safer!

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 7DATE 1-31-95BILL NO. SB 182

Tuesday, January 31, 1995

SB-182 - Local Control of Outdoor Advertising
TESTIMONY

Mr. CHAIRMAN, MEMBERS OF THE COMMITTEE, LADIES & GENTLEMEN,
thank you for this opportunity to testify today.

1. Name - H. Richard Fevold

Occupation - Professor of Biochemistry, Emeritus - UM

I am retired and teaching only fall semester; so

I can assure you that I am here on my own, not State, time.

2. I wish to testify **IN FAVOR OF PASSAGE OF SB-182**

3. Moved to Missoula 42 years ago and have been a resident ever since with the exception of a few absences for educational purposes. I realize that I am at a disadvantage not being a native and also being an University Professor; however, I did have the good sense 36 years ago to marry the daughter of a Livingston area rancher - and she is a native.

4. My wife and I are both concerned over the increase, especially in the past 3-4 years, in the number of billboards in western Montana, especially Missoula, Lake and Flathead counties.

5. The highways in these counties are especially scenic and the tourism industry is very important to the economies. We believe that maintaining the inherent beauty of the place is important, and that the proliferation of outdoor advertising, especially billboards, detracts from this beauty. There is no doubt that the visual appeal of our landscape is not only one of our main tourist attractions, but also much appreciated by residents.

6. I will never forget the day in September of 1953 when I first viewed Flathead Lake from the top of the hill coming into Polson from the south. We had driven up from Missoula to visit the Biological Station. The view was so riveting that we had to keep reminding ourselves to watch the road as we drove down into Polson to pick-up supplies. Now on this same stretch of road you often have a hard time seeing the Lake because of the number of signs and billboards.

6. SB-182 would:

a. Allow counties and incorporated cities & towns to decide whether or not to have more strict controls on outdoor advertising than required by State law.

AND

b. Require these counties, cities and towns to provide "just compensation" to the owners of any outdoor advertising required to be removed by any local regulation.

7. Finally, in addition to believing that SB-182 is a worthwhile bill deserving of passage on its own merits, I also believe that the intent of SB-182 is in keeping with the general tenor of the political climate to permit more decisions to be made at the local level and to encourage local control.

THANK YOU FOR YOUR ATTENTION.

Local Control Works in Other States. Can it Work in Montana?

Of ten Western and two Eastern states surveyed*, Texas, Colorado, Arizona, Wyoming, South Dakota, Maryland and North Carolina have provisions in their law to allow local cities and counties to regulate outdoor advertising on the Federal interstate and primary roads within their jurisdictions.

Over 40 Texas cities have chosen local control. Many have been determining the kind of signage they want in their localities since the 1970ies. Cities were approved for local control after the state certified that their outdoor advertising ordinances were as restrictive as state law and that they had a program set up to inventory, do surveillance, issue permits and tags and follow through with enforcement. The state, having ultimate responsibility for outdoor advertising control under their agreement with the Federal government, conducts an annual evaluation of the local program. Cities not adhering to their agreement can become decertified and have been.

Within the last year Sioux Falls, South Dakota, has become a local control city. It and all of the Texas cities, including Houston, Corpus Christi, Dallas and Ft. Worth, fund their programs through sign permit fees and annual business licenses. Most cities set fees higher than the state fee of \$96/yr.

Why would localities want to take on an extra program? It can cut duplication of regulation. It can end confusion caused by overlapping jurisdictions. Marty McLaughlin, at the Texas Department of Transportation, however, said it best. "It's about proximity." About local folks making local decisions. And it works.

Information presented by Sara Busey, Save America's Visual Environment

*Texas, Oregon, Colorado, Washington, Maryland, Utah, Idaho, Arizona, North Carolina, South Dakota, North Dakota, Wyoming

SENATE LOCAL GOVERNMENT

EXHIBIT NO. 9

DATE 1-31-95

BILL NO. SB 182

371 Park Circle Drive
Polson MT 59860

January 31, 1995

Senate Local Government Committee

Hearing on S.R. 182

I wish to submit a letter from our Lake County Commissioners stating their support for the concept of S.P. 182 giving clear control to local governments. The letter contains their request to have the word "condemnation" deleted.

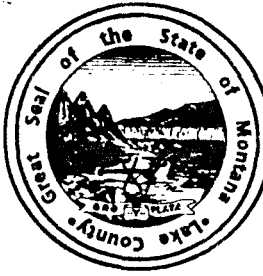
We checked the dictionary which states that ^{COND E M N A T I O N} means "claim for public use". We said we will ask for more constitutional words, if there are some.

I would like to state my strong support for this bill.

It allows localities to determine their own character.

Thank you.

Nancy Gordon



Lake County Courthouse

(406) 888-8211

LAKE COUNTY

108 4th Ave. E.

Polson, Montana 59860

Jan. 30, 1995

SUBJECT: SENATE BILL 182

TO WHOM IT MAY CONCERN:

The Board of Lake County Commissioners support the basic concept of S.B. 182. The reason we do not lend our full support to this bill is the word "condemnation" in section 3, subsection 1. If this word could be deleted, we would feel more comfortable in supporting this bill.

Moreover, we feel that we already have the power to pass sign ordinances and have already passed an ordinance more restrictive in Lake County than proposed in S.B. 182.

BOARD OF LAKE COUNTY COMMISSIONERS

Dave Stipe, Chairman

Mike Hutchin, Member

Barry Baker, Member

jd

League of Women Voters of Montana



SENATE LOCAL GOVERNMENT

EXHIBIT NO. 10

DATE 1-31-95

BILL NO. SB 182

WRITTEN TESTIMONY SUBMITTED BY THE LEAGUE OF WOMEN VOTERS OF MONTANA

Senate Local Government Committee
1:00 p.m., Tuesday, January 31, 1995
Senate Bill 182 by Weldon

The League of Women Voters of Montana has long supported efforts to empower local governments. The 1972 Constitution included much of the League's State-Local Government Relations position including provisions to relax state government control over local governments. The League played an active and informed role in both writing and the adoption of our Constitution.

Senate Bill 182 is a local option bill which gives local governments the flexibility to adjust state outdoor advertising regulations to fit their particular needs and preferences. The bill offers local governments a latitude for innovation whereby they can build upon state standards, yet tailor regulations to suit local conditions and tastes.

The League applauds the effort S.B. 182 makes to protect the property rights of outdoor advertising owners through just compensation options. We encourage the state to pass through Federal funds it would normally spend to control outdoor advertising on interstate and primary highways within a local jurisdiction, to that jurisdiction, once the local jurisdiction has signed an agreement with the state to regulate outdoor advertising. The pass through of such Federal funds would have the mutually beneficial affect of providing a source of revenue to local governments for carrying out regulation functions and simultaneously relieving the state of the 20% match for these Federal monies.

The League of Women Voters of Montana supports Senate Bill 182 and urges a do pass recommendation by the Committee. Thankyou.

Chris Imhoff
Legislative Chair, LWVMT



SENATE LOCAL GOVERNMENT
EXHIBIT NO. 11
DATE 1-31-95
BILL NO. SB 182

January 30, 1995

Mr Tom Beck, Chairman
Senate Local Government Committee
Montana State Senate
Capitol Station
Helena, Montana 59620

SUBJECT: Senate Bill #182 - A Bill for An Act Entitled: "An Act Authorizing Counties and Incorporated Cities and Towns to Adopt Ordinances and Zoning Regulations Governing Outdoor Advertising"

Dear Chairman Beck and Committee Members:

I am writing this letter on behalf of my employer Myhre Outdoor Advertising. We have been in the outdoor advertising sign business in Montana for nearly forty (40) years. Through these many years, we have been subjected to increased restriction in the operation of our business almost annually.

We are one of the most regulated industries in the United States. The outdoor sign industry abides by federal laws, state laws, county zoning codes and city zoning codes.

It now appears that the efforts of the subject legislation is to transfer the authority of the Montana Department of Transportation (MDOT) to counties and cities. This may appear attractive upon initial analysis, however it leads to more restrictions and additional burdens on business.

As a viable Montana industry, we would far prefer to deal with an evenhanded MDOT rather than multiple and varying sign ordinances throughout the state both in counties and cities. In addition, counties and cities already have within their zoning regulations the authority to establish sign ordinances. This legislation definitely appears to stimulate more local regulation.

Passage of this legislation could foster fifty-six (56) different county sign ordinances in the State of Montana. We fail to see the logic of possibly creating a multitude of sign ordinances. Also, we don't really think that the counties realize the implication of taking on the unfunded liability that may occur if they would want to assume the MDOT's sign administration and regulation responsibilities. The certification for a county to assume the responsibilities of the MDOT would be very complicated and very costly. All of this to say that we believe this legislation to be over zealous and ill conceived.

This legislation does nothing to simplify the burden of regulation, but in effect encourages the creation of another layer with the likely result of varying sign rules from county to county. Rather than uniformity, we would be subject to a patchwork of different regulative burdens.

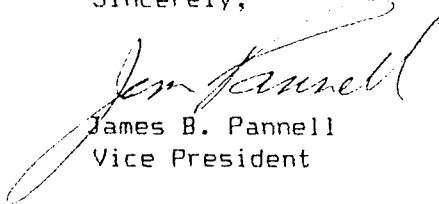
MYHRE ADVERTISING

50 S. PARK • P.O. BOX 151, HELENA, MT 59624 • 406/442-0387
4225 2ND AVE N • P.O. BOX 1067 • GREAT FALLS, MT 59403 • 406/453-6591
315 E. MAIN • BILLINGS, MT 59105 • 406/252-7181

The sign industry has just completed participation on the Governor's Task Force on Outdoor Advertising and this bill is not part of the work of that task force. In the minds of the sign industry this is just another superfluous piece of legislation that could possibly be used in an anti-business and anti-sign manner.

As representatives of the Montana outdoor advertising industry, we sincerely hope this committee will table or give a do not pass recommendation and not encourage further regulation of our industry.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim Pannell", written over the printed name and title.

James B. Pannell
Vice President

NAME Gail Kenson AICP
ADDRESS 2404 Elm St Algs 59101
HOME PHONE 256-1349 WORK PHONE 657-8246
REPRESENTING Yellowstone Cty Bd of Planning
APPEARING ON WHICH PROPOSAL? SB 182
DO YOU: SUPPORT X OPPOSE AMEND

COMMENTS:

Yellowstone Cty supports for the following
reasons:
1. Gives jurisdictions ability to regulate
outside zoning jurisdictions.
2. Allows public input in the development
regulations
3. Local regulation helps prevent construction
of unpermitted billboards
4. The State DOT may pass the
responsibility of permitting to local
agencies, therefore providing a cost effective
& more efficient process.
5. Encourages more responsible construction
by outdoor advertising agencies.

WITNESS STATEMENT

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 01-31-95

SENATE COMMITTEE ON Local Government

BILLS BEING HEARD TODAY: S. B. 182 - S. B. 178 - SB. 197

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Chris Imhoff	League of women voters of mT	182	✓	
Jack Johnson	Self			
Mike La	Frontier Adventure	SB-182		✓
Larry L. Handen	Frontier Outdoor	SB 182		✓
Gordon Morris	MAA	182 40.5	✓	✓
David L. Nielsen	Self	178	X	
Lancy Sweeney	Lewis & Clark County Clerk of Court	178		✓
Anne Hedges	MEIC	182	X	
HARRIET C MELOY	Self	SB 182	X	
Howard W Gipe	Kolipr 11	178 182 197	✓	
DON WADSWORTH	MREA	SB 197	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 01-31-95

SENATE COMMITTEE ON Great Lakes

BILLS BEING HEARD TODAY: SB. 182 - SB. 178 - SB. 197

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Gail Keenan	Yellowstone City Bd of Planning	SB 182	✓	
Claire Strickler	Citizens 4 Better Planning Scenic Preservation Comm	SB 182	✓	
Nancy W. Gordon	Scenic Lake Citizens for County	SB 182	✓	
Daphne Jones	SAVE Save (American) Wild Environment	SB 182	✓	
Rose Magnuson	Citizens for Scenic Lake Co	182	✓	
Jeanne C. Riche	SAVE Save American's Scenic Environment	182	✓	
Richard Steward	SAVE	182	✓	
Lara Buser	SAVE	182	✓	
Tom Cuthbert	SAVE	182		
Bob Campbell	SELF	182	✓	
ALLAN MATHEWS	SELF	182	✓	
Jim Hart	Wishla County	182	✓	
Bill Steadman	Wishla County	182	✓	
Giane Alberts	MT Assoc. of Realtors	197	Monitor	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY