

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
54th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN WILLIAM BOHARSKI**, on March 7, 1995,  
at 3:00 P.M.

**ROLL CALL**

**Members Present:**

Rep. William E. Boharski, Chairman (R)  
Rep. Jack R. Herron, Vice Chairman (Majority) (R)  
Rep. David Ewer, Vice Chairman (Minority) (D)  
Rep. Chris Ahner (R)  
Rep. Shiell Anderson (R)  
Rep. Ellen Bergman (R)  
Rep. John C. Bohlinger (R)  
Rep. Matt Brainard (R)  
Rep. Matt Denny (R)  
Rep. Rose Forbes (R)  
Rep. Antoinette R. Hagener (D)  
Rep. Bob Keenan (R)  
Rep. Linda McCulloch (D)  
Rep. Jeanette S. McKee (R)  
Rep. Norm Mills (R)  
Rep. Debbie Shea (D)  
Rep. Joe Tropila (D)  
Rep. Diana E. Wyatt (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Bart Campbell, Legislative Council  
Evelyn Burris, Committee Secretary

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

**Committee Business Summary:**

Hearing:	SB 82; SB 87; SB 117; SB 208
Executive Action:	SB 2 DO CONCUR
	SB 8 DO CONCUR AS AMENDED
	SB 82 DO CONCUR
	SB 87 DO CONCUR
	SB 117 DO CONCUR
	SB 121 DO CONCUR AS AMENDED

{Tape: 1; Side: A; Approx. Counter: 000; Comments: N/A.}

HEARING ON SB 82Opening Statement by Sponsor:

**SEN. JOHN HERTEL, SD 47, Moore,** said this bill was requested by the Montana Association of Counties (MACO) to change the date for setting salaries of county officials. One of the duties of the county commissioners is setting the salaries for the county officials whom they represent, and under present statute the commissioners are to make adjustments and set the salaries by July 1st of each year. By July 1st, the commissioners do not know exactly what the budget is because the mill has not been determined at this point. This bill would allow all salary adjustments to be statutorily moved to the effective date of August 1st instead of July 1.

Proponents' Testimony:

**Gordon Morris, Director, Association of Counties (MACO),** referred to page 2, line 19, and page 3, line 23, and explained the language which moves the resolution and the adoption of that resolution fixing the salaries for each year from July to August. **Mr. Morris** reiterated previous comments by **SEN. HERTEL.**

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

**REP. SHIELL ANDERSON** questioned how they would know how much money they will have and to then set the salaries. He explained they need to know how much to spend for the salaries and the final adjustment to be made in the mill. **Mr. Morris** explained the terms of county situations and the role that the mill value plays in fixing the budgets. When the department certifies the value that says that the mill is going to raise so many dollars, using that value can act upon the budget. The same applies in terms of salaries.

**REP. JACK HERRON** asked **Mr. Morris** if the county superintendent of schools is done away with or passed to another office would that affect any of the data in Section 1 (2)(a) or would it remain the same. **Mr. Morris** answered that if the county superintendent bill, that is currently working its way through HB 221, changes anything by way of the status of the county superintendents, it will then be coordinated with this section by virtue of the code commissioner's work for the session.

Closing by Sponsor:

The sponsor closed and noted this allows the county commissioners more knowledge to perform this required function of their office.

HEARING ON SB 117Opening Statement by Sponsor:

**SEN. JOHN HERTEL, SD 47, Moore,** said this bill also comes from MACO and is an act allowing county commissioners to set the cost-of-living adjustment (COLA) increment for salaries at a percentage of the consumer price index. Presently the county commissioners must establish the salary schedules and they now have the option to determine salary increases at two different levels. The first level is at 100% of the previous calendar year's consumer price index and on the second level they have the option to do zero percent, which is a freeze in salary increases. **SEN. HERTEL** explained how the increases are determined.

Proponents' Testimony:

**Gordon Morris, MACO,** said this bill is in the same section of law as SB 82. He referred to page 2, line 21, and page 3, line 28, and explained the change in language which would give the authority within the range of zero to 100% as well as authority to set salaries. The salaries used to be set at 70% of the COLA as determined by the Bureau of Business at the University of Montana. In working with the elected officials, they went to 100% a few years ago and as a result, they have found since then the phenomena of either giving 100% of the CPI or freezing. He urged the committee to support SB 117.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

**REP. MATT BRAINARD** noted this bill is based on the assumption there will always be an increase in the consumer price index. He asked **Mr. Morris** if there was a decrease, would he be willing to take a decrease in wages as well. **Mr. Morris** responded he would not be willing, because there is another statute of law that says an elected official cannot have his salary reduced during his term in office.

**REP. ANDERSON** asked how long it has been that either a zero or 100% of CPI has been given. **Mr. Morris** answered they had the salary legislation passed by the 1991 legislative session and that was after working on it for four years. That legislation then changed the schedule and the base amount.

**REP. ANDERSON** questioned what the trend has been across the state on pay increases. **Mr. Morris** said in 1992-93 there was extensive salary surveying in terms of what was happening relative to the bill passed in the 1991 session. At that time, commissioners had the authority to adopt the base within the range of 80 to 100% of the appropriate salary. That established the base from that

point on. In his opinion, since then the counties alternate back and forth between freezing and providing the COLA.

**REP. ANDERSON** asked if they are batting for a 50% increase every year. **Mr. Morris** said he believes that is a fair conclusion. This bill would allow commissioners to do something rather than freezing, thus giving everybody an opportunity to enjoy a slight adjustment in salary.

**REP. DAVID EWER** questioned if it is permissive and not required that county commissioners can set cost-of-living increments for salaries at the percent of consumer price index or if it is mandatory. **Mr. Morris** said it is permissive in current law insofar as the two choices commissioners have, as stated by **SEN. HERTEL**. This bill will put in a third option and it would also be permissive that commissioners would be able to adopt a salary resolution with some percentage of the CPI within the range of zero to 100% as opposed to zero or 100%.

**REP. EWER** questioned if state law prescribes the base salaries for elected officials. **Mr. Morris** agreed.

**REP. EWER** asked **Mr. Morris** to comment on the fairness to encourage legislation where cost-of-living increases are allowed for elected officials and yet many government workers receive very small increases, and state workers have not kept up with cost-of-living increases for ten years. **REP. EWER** professed a bias against COLAs and questioned the fairness of legislation versus what local government employees can bring to the bargaining table. He questioned if they can bring enough sufficient power to the bargaining table allowing them automatic cost-of-living increases.

**Mr. Morris** explained that what happens in terms of the decision made by commissioners relative to elected officials is going to bear directly on any other county employees whether they are covered under a bargaining unit or otherwise. If the commissioners set the standard for elected official it's not impossible to argue that should not be extended to all other employees. **Mr. Morris** attested that the committee decision on this issue will set a condition that is generally going to have to follow across the county and that is part of the problem with 100% or freezing it right now.

**Mr. Morris** replied to the question of whether this is the best way to set salaries at a local level, from his personal perspective and said, no, it is not. However, given the alternative, this is the only way they have. In his opinion, the alternative would be to have salaries a matter of vocal discretion in entirety and not within the codes. MACO has worked with the other elected officials and if they came in with a bill that would propose to eliminate all the language of the code dealing with salaries and they had a bill saying county commissioners shall establish elected officials' salaries, this

room would not be big enough to hold everyone opposing that issue.

**REP. NORM MILLS** asked **Mr. Morris** to define what the basis is on the factor the university is going to develop. **Mr. Morris** explained the factor is the percentage of the consumer price index for all urban consumers, U.S. Department of Labor and the Bureau of Labor and Statistics. For other indices, the Bureau of Business and Economics Research at the University of Montana has to provide this on an annual basis. The urban data from January to January as provided by the U.S. Department of Labor is available.

**REP. MILLS** asked if the factor that is supplied by the University of Montana is based on national figures and not just fake figures. **Mr. Morris** said they are national figures but they do reflect what's happening within the state. He explained the consumer price is determined by the U.S. Department of Labor with the Bureau's determination that they are applicable to Montana relative to the price indexing in Montana. The Bureau at the University of Montana provides information annually.

**REP. MILLS** replied that he did not get his answer.

**CHAIRMAN BOHARSKI** referred to line 22 to the bottom of the page and asked where it says the numbers as applied to the state of Montana. He gave the scenario if the consumer price index for all urban consumers across the country is 4%, and for the state of Montana specifically it is 3.5%, does this say they use the 4%? **Mr. Morris** explained the price index is not a national figure, but a regional figure. The figure typically used in Montana is the one found relative to the area, including Seattle. The figure for that region is adjusted relative to the specific area of reference. He explained it is not 4% in all fifty states in the country, but is based upon the Department of Labor statistics for the urban area. The area Montana is in includes Washington, Idaho and Oregon.

**REP. MILLS** attested he has signed a lot of contracts with added factors in them. He asked how the Montana University System can make the adjustment because they take their information from national or regional figures. The economy of Montana can be many points different than the economy of Washington or California, which includes industrial enterprises and how can Montana compare. **Mr. Morris** answered this is current language and has been in the codes since 1979. From his experience in working with it, it is directly related to Montana's own unique economic conditions, and is not a total departure in terms of Montana's unique economy, relative to what is happening within the region. **Mr. Morris** said he could not be more specific and apologized.

**REP. JOE TROPILA** attested to **REP. MILLS** that the local government center at the University of Montana works closely with the economic department at the University in Missoula and Bozeman.

Professor Ken Weaver and his staff come up with the figure for Montana every year.

**CHAIRMAN BOHARSKI** expressed his surprise to **SEN. HERTEL** that no one from the county attorneys association was in attendance, because this bill allows the county commissioners to set salaries as a percentage but another section in the bill says the county attorneys get an annual increase automatically and that is gone and they are the only county officials who get this. **CHAIRMAN BOHARSKI** asked if any county attorneys had contacted him. **SEN. HERTEL** referred this question to **Mr. Morris**.

**CHAIRMAN BOHARSKI** rephrased his question asking what the language on page 2, lines 19-21 would do. **Mr. Morris** explained this language would put the county attorneys in the same position as other elected officials and in the same fashion that other elected officials have with CPI now or the freeze. He said it is not doing anything to them it isn't doing to everybody else.

**CHAIRMAN BOHARSKI** referred to the section in question and asked if it was written solely for the county attorneys and not for all the elected officials. **Mr. Morris** referred to line 26 and quoted the written language and said that language is the same language used on page 4, lines 4 and 5 and applies to both the county attorneys and other elected officials.

**CHAIRMAN BOHARSKI** said it was brought to his attention and perhaps his information source was mistaken that county attorneys are granted by statute a cost-of-living increase every year. **Mr. Morris** said the language is in Section C and is consistent with what they are doing for all the other elected officials.

*{Tape: 1; Side: A; Approx. Counter: 31.0; Comments: n/a.}*

**Closing by Sponsor:**

The sponsor closed saying he felt this particular measure would give the county commissioners more help with employees and officials with the salary issue and addresses these concerns.

**HEARING ON SB 87**

**Opening Statement by Sponsor:**

**SEN. DELWYN GAGE, SD 43, Cut Bank**, said this bill is small but an important amendment in the municipal finance consolidation act. He said basically the sections are changing local government units to eligible government units.

He reviewed Section 2 of the bill and explained the issue of using money on a short term basis and borrowing until such time as bonding or other long-term financing is set up. This bill

says state agencies can also go through the InterCap program with the Board of Investments.

**Proponents' Testimony:**

**Ray Beck, Administrator, Conservation Resource Development Division, Department of Natural Resources and Conservation (DNRC)**, stated they asked **SEN. GAGE** to carry this legislation. This bill authorizes state agencies to use the InterCap program of the Board of Investments. In the Department of Natural Resources and within their division, they have three bond programs: water development public loans where they have \$250 million in authority, water development private loans with \$10 million in authority, and a state revolving fund in the SRF program which has \$10 million in authority. Potentially, they will be administering the safe drinking water program which could have another \$10 million in authority. **Mr. Beck** explained the situation they have when borrowers are ready to take delivery of the funds in a very short time period and the options of issuing short term notes.

This bill allows state agencies to go through the InterCap Program of the Board of Investments to borrow funds on a short-term basis for projects and this will allow the state to save funds and be more efficient by lowering the cost of borrowing the funds and would allow the communities to work through one set of loan papers instead of two.

**Mr. Beck** submitted written testimony from Governor Marc Racicot and Attorney General Joe Mazurek, endorsing the proposal made in SB 87 to allow state agencies to use the InterCap program for short-term financing. **EXHIBIT 1**

**Connie Griffith, Administrator, County and Management Support Division, Department of Administration**, reiterated their support of SB 87. The Capital Finance Advisory group consists of representatives from each of the agencies within the state that issue bonds to the Board of Investments. They also include legislators and the bond council which is the legal advisor to the state. **Ms. Griffith** spoke about the problem they had this past year when work on the women's prison was underway and the bonds were going to be issued in October and they opted to purchase the ribbon bill in Billings in August. Funds were not going to be available so they had to determine the alternatives to provide funding for this purchase. This bill would have been beneficial for this project.

**Carroll South, Executive Director, Board of Investments**, explained the InterCap program and stated that for over a decade the Board of Investments has been selling bonds and lending the proceeds from the bonds to local governments in the state for various purposes; e.g., fire trucks, police cars, infrastructure improvements such as water, sewer, landfills. It also makes short-term loans available to local governments. This bill would

allow the state to participate in this program. The university was made eligible to participate during the 1991 session. Their interest is to accommodate state agencies in the same way they accommodate local governments.

**Stuart Doggett, Montana Innkeepers Association**, requested to go on record in support of SB 87. This bill was called to their attention by the governor's office. During the interim, they worked with representatives in the governor's office and the advisory council to develop ideas for enhancement of expenditures of bed tax revenues. During that time, they developed a three point plan that has proceeded down through the governor's budget. The three point plan includes enhancement for customer service, funding for tourism in rural areas, and a grants program.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions From Committee Members and Responses:**

**REP. MATT DENNY** asked **Mr. South** if state units wanting to borrow money have to be authorized by the legislature. **Mr. South** responded that several state agencies have standing authorizations under state law. The Department of Natural Resources and the Department of Administration are the biggest. They issue general obligation bonds as well as trans-issue which gives the state cash flow bonds. Under the terms of this they would not be able to generate their own.

**CHAIRMAN BOHARSKI** referred to page 2, line 6, regarding this issue.

**REP. DAVID EWER** said the governor's office approached him regarding questions and the language on page 2, line 6. He asked **Ms. Griffith** if these concerns have been answered. **Ms. Griffith** responded she was not aware of any concerns. **REP. EWER** explained the language that would restrict it to those agencies that are authorized by law.

**Closing by Sponsor:** The sponsor closed.

**EXECUTIVE ACTION ON SB 82**

**Motion:** **REP. DEBBIE SHEA** MOVED SB 82 BE CONCURRED IN.

**Discussion:** **REP. NORM MILLS** referred to page 3, of SB 82 and said, in addition, county attorneys get several more rate increases.

**Vote:** Voice vote taken. The motion carried unanimously.

**REP. JOHN BOHLINGER** will carry this bill to the House floor.



EXECUTIVE ACTION ON SB 117

Motion: REP. BRAINARD MOVED THAT SB 117 BE TABLED.

Substitute Motion: REP. BOB KEENAN MADE A SUBSTITUTE MOTION AND MOVED SB 117 BE CONCURRED IN.

Discussion:

REP. ANDERSON voiced his opposition to SB 117 and discussed the county commissioners being in the same building and having a zero to 100% CPI pay adjustment. He wondered if this is taken away if the people will be negotiating whether it be 17% or 35% and if they are going to get an adjustment each year, whether or not the county has additional revenues coming in.

REP. BRAINARD spoke in opposition of SB 117 and said this only allows flexibility for increases and doesn't provide for any decline in the economy. He said no one else, including the labor unions get locked into a "no loss" situation such as this.

CHAIRMAN BOHARSKI questioned the last time the consumer price index went down. REP. EWER responded there is a precedence for it. He acknowledged it has been one or two years since the Great Depression.

REP. HERRON and REP. BRAINARD discussed the consumer price index and the topics of increases and the statements that there is the flexibility of from zero to 100% CPI pay adjustment and agreed there is some built-in safety, so the commissioners can look at it reasonably.

REP. BRAINARD said taking the consumer price index as a percentage from year to year is fine, but that is not the way to reverse the trend. If the consumer price index somehow turned resulting in a deflationary cycle, decreases could not be applied to wages.

CHAIRMAN BOHARSKI commented that current law does not allow that.

REP. BRAINARD responded he is also speaking against current law, and this adds into it.

REP. EWER spoke in support of SB 117 and said his personal view is he would "outlaw cost of living adjustments," but this is not a COLA bill. This is a bill that would allow county officials to increase county-elected officials' salaries within a range of zero percent and no higher than the cost of living increase. He said one of the reasons local government has problems is because they are unable to pay enough to county clerks, auditors, etc. Because of the tremendous responsibilities, more competitive salaries should be offered which would result in better work performance. This bill is a fairer way for elected officials to get people to stay and to have the salaries. When they provide

collective bargaining of a 2% increase to their local government workers for themselves, they are stuck between 0% and the cost of living adjustment.

REP. DENNY asked why not use the national consumer price index rather than Montana consumer price index or is there one.

CHAIRMAN BOHARSKI said there was considerable questioning on this subject and the response to that question from **Gordon Morris** was that there is a regional number that is released for the state of Montana, not a statewide number.

REP. BOHLINGER explained his views on the ways this would be a useful tool for county commissioners in wage negotiations.

REP. HERRON agreed with the fairness of this bill.

**Vote:** Motion carried 10-5 with REPS. AHNER, ANDERSON, BRAINARD, FORBES and MILLS voting no.

REP. BOHLINGER will carry to the House floor.

{Tape: 1; Side: B}

#### EXECUTIVE ACTION ON SB 87

**Motion:** REP. ANDERSON MOVED THAT SB 87 BE CONCURRED IN.

**Discussion:** REP. DENNY spoke in favor of SB 87.

**Vote:** Motion carried with REP. EWER abstaining.

#### EXECUTIVE ACTION ON SB 8

**Motion:** REP. HERRON MOVED SB 8 BE CONCURRED IN.

**Discussion:**

REP. EWER questioned whether Mr. Campbell had an amendment for the language on lines 23-24.

CHAIRMAN BOHARSKI said there was testimony during the hearing that the new language inserted on lines 23-24 by the Senate does not make any sense. He recalled a suggestion made on what needed to be done in terms of an amendment and that was to take out the new underlined language on 23-24 because it is already in Title 7, Chapter 12.

REP. ANDERSON discussed this further.

**Motion:** REP. HERRON MOVED THE AMENDMENT.

**Discussion:** REP. EWER spoke in favor of the amendment in Title 7, Chapter 12, in the part of the code that talks about improvement districts.

**Vote:** Voice vote taken. Motion to adopt amendment carried unanimously.

**Motion/Vote:** REP. HERRON MOVED THAT SB 8 BE CONCURRED IN AS AMENDED. Voice vote taken. Motion carried unanimously.

REP. EWER will carry to the House floor.

EXECUTIVE ACTION ON SB 2

**Motion:** REP. EWER MOVED THAT SB 2 BE CONCURRED IN.

**Discussion:**

CHAIRMAN BOHARSKI stated his concern that as the language reads now if the reserve accounts are set up, when the bonds are retired and there is no longer need for the money in the reserve account, the money reverts to the revolving fund.

REP. EWER referred to and read the language stated on page 8, line 9.

CHAIRMAN BOHARSKI discussed the possibility if there is \$200,000 left and as the bond issue approaches the date to be paid off, why not use the money left in and call those bonds; why put it in the revolving fund.

*{Tape: 1; Side: B; Approx. Counter: 8.4}*

REP. EWER answered this can be done. He explained the philosophy of the revolving fund and where the reserve comes from. He acknowledged that it is common practice in local bonding matters to have reserve funds used for the very last payment on principal. REP. EWER said he favors anything that can keep the revolving fund healthy so it doesn't go back on the general taxpayers. He discussed the two serious "train wrecks" they have had with SIDs in a Columbia Falls district going bankrupt and in Carbon County. There have been many other cases in Montana where general taxpayers had to subsidize a substantial amount of taxpayers' dollars to subsidize the revolving fund for basically raw land development deals that went sour.

CHAIRMAN BOHARSKI said it was his understanding that the money that goes into the revolving fund stays in the revolving fund, so it is on a continual basis of beefing up the revolving fund with revolving fund monies.

REP. EWER explained under current law a local government can take excess monies out of the revolving fund.

**REP. DENNY** discussed the reserve fund.

**CHAIRMAN BOHARSKI** discussed how the specific language would be phrased on page 8, lines 28 and 29. His concern in putting what is left in the reserve account into the revolving fund at the end of the period on the SID. He reiterated it should be used for paying off the remaining debt there is.

**REP. EWER** alerted the committee to the fact that under current law the SID bonds can be prepaid at anytime. The bond holder takes the risk of having the bonds paid off at anytime they can be called. He discussed the problem of having SIDs not being paid off uniformly and questioned who would benefit from the reserve.

**REP. MILLS** shared the concerns of **CHAIRMAN BOHARSKI** and talked about the problems that have occurred in Billings regarding SIDs and the revolving fund.

**REP. EWER** reiterated that current law states SIDs can be paid off early and he discussed that the issue has not been the revolving funds being "over-juiced," rather the issue is the revolving funds being too underfunded.

**CHAIRMAN BOHARSKI** described a scenario and said if he should go out as a local government unit and set up an SID next year and it turns out that this law has the affect they want and starts to build up revolving funds that are adequate, and has solved the problem (fifteen year bonds) and someone wants to come in two legislative sessions and change the language to say "we don't need to worry about the revolving funds, we're doing fine, we want to use that; could the law be changed in this section in the future if it turns out we're doing fine at that time?"

**Mr. Campbell** responded it would depend on what the change was in terms of bond holders or in terms of people in the district.

**CHAIRMAN BOHARSKI** restated his concern with the language that currently those bonds could be called up at any time.

**REP. EWER** responded yes. It is an open question as to whom can call the bonds.

**REP. HERRON** said in listening to the testimony and the hours that went into this bill, he concurred with the language and suggested SB 2 pass as is and at some future date if it needs amending this can be done.

**REP. DENNY** stated his support of this being a good bondage bill.

**Vote:** Motion carried 15-2 with **REPS. BRAINARD** and **MILLS** voting no.

**REP. EWER** will carry to House floor.

EXECUTIVE ACTION ON SB 121

Motion: REP. BOHLINGER MOVED SB 121 BE CONCURRED IN.

Discussion:

REP. BOHLINGER spoke to his motion that SB 121 will help counties to save money in the sense that they would no longer have to publish their annual report in the newspapers.

REP. DENNY reiterated prior testimony that this bill would be a better bill if it was amended on line 21 for "after available" and insert the words "and be provided".

CHAIRMAN BOHARSKI questioned if this would this mean the county clerk and recorder would be responsible for paying the postage for the entire annual report being sent.

REP. DENNY explained the wording would not say they are going to ship it.

REP. DENNY and Mr. Campbell discussed clarification of the language.

Motion: REP. DENNY WITHDREW HIS AMENDMENT.

Discussion:

REP. BOHLINGER readdressed the amendment REP. DENNY was going to provide. He suggested adding the language to say it would be available upon request at the requester's expense.

CHAIRMAN BOHARSKI said that is current law.

REP. BOHLINGER withdrew his request to reconsider the amendment.

CHAIRMAN BOHARSKI reminded the committee that they were discussing the Do Concur motion of REP. BOHLINGER.

REP. MILLS contended that a lot of money will be saved by not making this report published so they should be able to provide copies to people requesting them.

REP. DENNY agreed with the amendment.

REP. MILLS stated his support of the amendment.

CHAIRMAN BOHARSKI asked if the amendment would read "available at no cost". REP. DENNY responded F.O.B the county courthouse.

REP. ANDERSON explained why he feels the amendment is not necessary. People have access to this information and for the few people wanting this information they should be able to afford the \$5.

REP. MILLS noted that he reads these reports published in the newspaper.

REP. EWER suggested to stay with the language in the amendment "and be provided" because the notion is already in law and the public will know they will be provided.

CHAIRMAN BOHARSKI discussed the amendments in the section of codes of what it will say in the newspaper and asked Mr. Campbell if the code section that deals with giving a copy of the report to an individual allow them to give it free of charge. Mr. Campbell agreed to run a search regarding this question.

Motion/Vote: REP. DENNY MOVED TO ADD ON LINE 21, AFTER THE WORD "AVAILABLE", INSERT "AND WILL BE PROVIDED". Motion to adopt amendment carried 11-6 with REPS. ANDERSON and MCCULLOCH voting no.

Motion: REP. EWER MOVED SB 121 BE CONCURRED AS AMENDED.

Discussion:

CHAIRMAN BOHARSKI stated his concerns with passage of this bill and stated that all this bill requires is that a summary can be published and he said he did not support this bill.

REP. BRAINARD said he agreed with CHAIRMAN BOHARSKI adding that the public already has the idea that government is trying to hide things and even though there is the freedom of information act and copies are available, it would be better to publish this once a year summary in newspapers, so people can be notified.

REP. DENNY asked REP. MILLS if he reads the report in the paper or gets a copy at the county. REP. MILLS responded he reads the report in the paper.

REP. DENNY asked if the public knows when this report is going to be published. REP. MILLS said a person can't miss it while going through the paper.

Vote: Motion carried 11-6 with REPS. BOHARSKI, ANDERSON, BRAINARD, KEENAN MILLS and WYATT voting no.

REP. FORBES will carry to the House floor.

HEARING ON SB 208

Opening Statement by Sponsor:

SEN. KEN MESAROS, SD 25, Cascade, said SB 208 is an act to revise the laws relating to confinement costs including medical payment by an inmate. There is currently a confinement cost set for \$25.

The daily rate of incarceration will be established annually by the Board of County Commissioners.

**SEN. MESAROS** explained the language in the bill and noted there are some cases where the inmates do have the ability to share in the costs of their confinement. This would lessen the burden to taxpayers and allows the local authorities to defer these costs.

**Proponents' Testimony:**

**Gordon Morris, Director, Montana Association of Counties (MACO)**, said this bill has been jointly worked on and developed prior to the session by MACO as well as the Montana Sheriff and Police Officers Association (MSPOA). This is an effort to clarify the existing law relative to the expenses for incarceration and medical costs. He explained the added language on page 3 and the sections addressing medical concerns. **Mr. Morris** said this bill has been carefully crafted and more time has been spent on it than any other bill brought before this committee. He encouraged favorable consideration on SB 208.

**Chuck O'Reilly, Sheriff, Lewis & Clark County**, representing the **Montana Sheriffs and Peace Officers Association (MSPOA)**, said SB 208 is an effort of the MSPOA to ease the burden on taxpayers by requiring inmates incarcerated in local detention centers to pay their incarceration and medical costs when they have the financial resources to do so. They often see individuals jailed, particularly drug dealers, that have several thousands of dollars in their commissary or personal property accounts but the taxpayers foot the bill for all of the associated costs with their incarceration. This includes food, personal hygiene items, clothing, bedding, nursing care, dental care, medical care, supervision costs, programmatic and recreational costs.

Existing law allows a sentencing court to order, as part of a sentence, the inmate to pay confinement costs as determined during a sentencing hearing. This bill would provide a mechanism whereby the Board of County Commissioners can establish the dollar figure for the daily rate of incarceration based upon actual costs of operating the detention facility. **Sheriff O'Reilly** urged the committee's support for SB 208. **EXHIBIT 2**

**Charles Brooks** appearing on behalf of the **Board of County Commissioners, Yellowstone County** and the **City of Billings**, agreed with previous testimony in support of SB 208. Currently the cost to operate and house prisoners in the Yellowstone County jail is \$42 a day and this does not include the capital recovery for the building itself. With that added, the cost is approximately \$55 per day. They believe this bill is a proper approach to recover costs.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions From Committee Members and Responses:**

**REP. DIANA WYATT** questioned when the county sets the fees, how it impacts the other entities such as the taxpayers that are already paying and the state who may have a joint venture with some of the counties that they have contracted to pay a particular rate. **Mr. Morris** referred to Section 1 and explained the language and concluded that it is very clear.

**REP. BOHLINGER** questioned the financial savings that might be available to counties under the provisions of SB 208. **Mr. Morris** referred to the fiscal note with the bill that states it is very difficult to determine what kind of recovery would be realized in the terms of incarceration. He believed in most cases there would be no recovery because the incarcerated people will be determined to be indigent to start with. There is the potential in this bill for something to be gained back from the county relative to medical costs.

**Mr. Morris** gave an example of people in the county jail that have not yet had their day in court and are innocent until proven guilty who should not be charged prior to being sentenced. This bill would allow an assessment of all of their medical costs to be paid by the individuals.

**REP. BOHLINGER** asked if there were records of medical costs that have been paid. **Mr. Morris** said he publishes a county statewide analysis of budgets and the sheriff's budget is the single largest component of the county general fund assessed on a statewide basis. The single largest component within the sheriff's department is budgeting jail costs. Medical costs are becoming astronomical in virtually every county. **Mr. Morris** cited the example of a detainee that gave birth while in jail and the cost to the county was well in excess of \$100,000.

**REP. EWER** questioned if a person has to pay that is not convicted. **Mr. Morris** referred to page 3 and explained what makes the distinction on medical costs.

**REP. HERRON** referred to page 2, line 29, and asked if parents would be responsible for the expenses for a child under the age of 21. **Mr. Morris** explained the provisions under the youth court act expressly provides for parental obligations in terms of the cost of a youth in need of supervision. He also discussed the scenario of youths under 21 being tried as an adult based upon the charges against them.

**REP. BRAINARD** asked for clarification on page 3, line 8. **Mr. Morris** explained people who are Medicaid-eligible and have such a determination and people who are Indian Health Service-eligible, would be third-party payers and the county would collect from the third party payer.



**REP. McCULLOCH** followed up on the question if a person was beaten up while incarcerated and needed medical attention and was found innocent upon trial would they have to incur the cost while incarcerated. **Mr. Morris** answered that the sheriff and officers of the jail would potentially be liable while the individual was incarcerated.

**REP. EWER** questioned if a person is jailed and the stress causes them a heart attack, who would pay. **Mr. Morris** explained that the individual would be taken to the hospital and if they had their own health insurance coverage, they would take the responsibility of any medical costs incurred.

*{Tape: 2; Side: A}*

**REP. EWER** questioned since the new jail was built, how many people in Lewis and Clark County have attempted or committed suicide. **Sheriff O'Reilly** responded as far as attempted, this is a regular event in almost every case and happens numerous times during the year.

**REP. EWER** asked if he agreed that this is a very significant public policy of who bears the cost. **Sheriff O'Reilly** agreed.

**REP. EWER** asked if the four people who committed suicide were waiting for their trials or had been convicted. **Sheriff O'Reilly** answered one was waiting for trial and the other three had been convicted.

**REP. EWER** asked what the offense was for the one waiting to be tried. **Sheriff O'Reilly** said that was several years ago and he did not recall.

**REP. EWER** asked if it was not a common phenomenon that the people they most worry about committing suicide are young people brought in on a DUI charge where the trauma is so great. **Sheriff O'Reilly** responded the single greatest category of risk is the juvenile and they are not held in adult jails any longer. They view all inmates coming in as suicide risks. They utilize various procedures and documents to try to determine if an individual has suicidal tendencies. The Mental Health Service is called immediately to deal with those individuals.

**Sheriff O'Reilly** explained this bill was designed at the request of the sheriffs who constantly see individuals such as drug dealers come in with \$20,000, have not been to a dentist in years and while incarcerated they want dentures, a hernia operation, or have a pre-existing condition and this is the main concern.

**Closing by Sponsor:**

The sponsor closed and urged the support of the committee.

ADJOURNMENT

Adjournment: 5:30 PM.

*William E Boharski*

\_\_\_\_\_  
WILLIAM BOHARSKI, Chairman

*Evvy Burris*

\_\_\_\_\_  
EVY BURRIS, Secretary

WB/eb

# HOUSE OF REPRESENTATIVES

## Local Government

ROLL CALL

DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan			
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		



## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 2 (third reading copy -- blue) be concurred in.

*Wm E Boharski*

Signed: \_\_\_\_\_

*Bill Boharski, Chair*

Carried by: Rep. Ewer

Committee Vote:  
Yes 15, No 2.

540934SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 8 (third reading copy -- blue) be concurred in as amended.

Signed: Wm E Boharski  
*Bill Boharski, Chair*

Carried by: Rep. Ewer

And, that such amendments read:

1. Page 1, line 23.

Following: "~~or~~"

Insert: "or"

2. Page 1, lines 23 and 24.

Strike: "OR" on line 23 through "TOWN," on line 24

-END-

Committee Vote:  
Yes 18, No 0.

541209SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 82 (third reading copy -- blue) be concurred in.

Signed: Wm E Boharski  
*Bill Boharski, Chair*

Carried by: Rep. Bohlinger

Committee Vote:  
Yes 16, No 0.

541211SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Local Government** report that **Senate Bill 87** (third reading copy -- blue) be concurred in.

Signed: Wm E Boharski  
*Bill Boharski, Chair*

Carried by: Rep. Anderson

Committee Vote:  
Yes 17, No 0.

541210SC.Hbk



## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Local Government** report that **Senate Bill 117** (third reading copy -- blue) be concurred in.

*William E Boharski*

Signed: \_\_\_\_\_  
*Bill Boharski, Chair*

Carried by: Rep. Bohlinger

Committee Vote:  
Yes 10, No 5.

541211SC.Hbk





## HOUSE STANDING COMMITTEE REPORT

March 8, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that Senate Bill 121 (third reading copy -- blue) be concurred in as amended.

Signed: William E. Boharski  
*Bill Boharski, Chair*

Carried by: Rep. Forbes

And, that such amendments read:

1. Page 1, line 21.  
Following: "available"  
Insert: "and will be provided"

-END-

Committee Vote:  
Yes 11, No 6.

541212SC.Hbk

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

EXHIBIT 1

DATE 3-7-95

SB 87

LEE METCALF BUILDING  
1520 EAST SIXTH AVENUE

MARC RACICOT, GOVERNOR

STATE OF MONTANA

DIRECTOR'S OFFICE (406) 444-6699  
TELEFAX NUMBER (406) 444-6721

PO BOX 202301  
HELENA, MONTANA 59620-2301



MEMORANDUM

TO: Members of the Legislative Committee

FROM: Board of Examiners  
Marc Racicot, Governor <sup>(B)</sup>

Joe Mazurek, Attorney General *JM*

DATE: January 19, 1995

SUBJECT: SB #87 - An Act revising the Municipal Finance Consolidation Act to all state agencies to participate in the Issuance of Bonds

We endorse the proposal made in SB #87 to allow state agencies to use the InterCap program for Short Term Financing. We feel this will give state agencies more flexibility and will result in the program efficiencies and cost savings to the State of Montana.

EXHIBIT 2  
DATE 3-7-95  
~~SB~~ 208

SB 208

Senate Local Government

Hearing

SB 208 is an effort of the MSPOA to ease the burden on taxpayers by requiring inmates incarcerated in local detention centers to pay their incarceration and medical costs when they have the financial resources to do so. As sheriffs we oftentimes see individuals jailed, particularly drug dealers, that have in their commissary or personal property accounts several hundred or even several thousands of dollars and the taxpayers foot the bill for all of the associated costs with their incarceration. This includes food, personal hygiene items, clothing, bedding, nursing care, dental care, medical care, supervision costs, programmatic and recreational costs, etc.

Existing law allows a sentencing court to order, as part of his sentence, an inmate to pay confinement costs as determined during a sentencing hearing. SB 208 ~~with the proposed amendments~~ provides for an inmate to pay costs for all incarceration including pre-trial. It further provides a mechanism whereby the Board of County Commissioners can establish the dollar figure for the daily rate of incarceration based upon actual costs of operating the detention facility. This will be accomplished by resolution annually.

Further this bill changes the existing rate of credit for time served from \$25.00 per day to the daily rate as established by the County Commissioners. This section specifically relates to those inmates who have been sentenced to a fine and who elect to "sit it out" rather than pay.

*Chuck O'Leary*  
Sheriff  
Int. Sheriffs & Peace  
Officers Assn

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government

COMMITTEE

BILL NO. \_\_\_\_\_

DATE 3-7-95

SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
W. James Kembel	City of Billings	SB SB 208		✓
Ray Beck	DNR	SB 87		✓
Ann M. Miller	DNR	SB 87		
Charles R. Brooks	Yellowstone County	SB 208		✓
Gordon Morin	MALs	SB 82 : 117 SB 208		✓
Chuck Rulby	Mt Shamp's & Perry Officers Assn	SB 208		✓
Carroll South	Board of Investments	SB 87		✓
Stuart Doyt H	Mt Truckers Assoc.	SB 87		✓
Lee Haverfield	Flathead Co.			

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