

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By **CHAIRMAN JOHN C. BOHLINGER**, on April 23, 2003  
at 2:10 P.M., in Room 303 Capitol.

**ROLL CALL**

**Members Present:**

Sen. John C. Bohlinger, Chairman (R)  
Sen. John Esp, Vice Chairman (R)  
Sen. Jerry W. Black (R)  
Sen. Brent R. Cromley (D)  
Sen. Kelly Gebhardt (R)  
Sen. Rick Laible (R)  
Sen. Carolyn Squires (D)  
Sen. Mike Wheat (D)

**Members Excused:** Sen. Jim Elliott (D)  
Sen. Bill Glaser (R)  
Sen. Jeff Mangan (D)

**Members Absent:** None.

**Staff Present:** Leanne Kurtz, Legislative Branch  
Judy Feland, Committee Secretary

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

**Committee Business Summary:**

Hearing & Date Posted: HJ 37, 4/21/2003  
Executive Action: HJ 37

**{Tape: 1; Side: A}**

**HEARING ON HJ 37**

**Sponsor:** REPRESENTATIVE MARK NOENNIG, HD 9, Billings

**Proponents:** Tim Davis, Montana Smart Growth Coalition

**Opponents:** None

**Opening Statement by Sponsor:** **REPRESENTATIVE MARK NOENNIG, HD 9, Billings**, opened HJ 37, a bill requesting an interim review of the Montana Subdivision and Platting Act so that it is clear, concise, logically organized and in conformance with the bill drafting manual; and requesting that the final results of the study be reported to the 59th Legislature. The resolution grew out of HB 370 that was designed to clean up language in the Subdivision and Platting Act. It had become cumbersome after a number of amendments over the years and, particularly on how to deal with the definition of Minor Subdivision and how many Minors there were before a Major was declared and subject to full review. The bill had gotten through the House, but **SENATOR DAN McGEE**, who did this sort of work, had serious concerns. The sponsor said the bill was intended as a procedural bill, but had ended up more a substantive bill. The Real Estate Association had hired counsel to review it, and there was not determined to be any substantive problems with the bill, except that HB 370 eliminated what was commonly known as, "the Remainder Doctrine." This doctrine doesn't appear in statute, but had been used in some counties to imply that, for example: if some of a 160-tract land was removed and subdivided, subsequent subdivisions would be subject to review. The remainder, however, would not be subject to review, which made no sense. HB 370 eliminated that concept, but posed a problem, particularly in agricultural settings. In conformance with the earlier agreement that if there were substantive changes he would not pursue the bill, he had it Indefinitely Postponed. With the other interested parties, they agreed to: take a look at the whole area, re-do the Subdivision and Platting Act language, and address the substantive issues to make sure of clarity and consistency of application.

**Proponents:** **Tim Davis, Montana Smart Growth Coalition**, said his organization had originally asked **REPRESENTATIVE NOENNIG** for HB 370 to clean up the Minor subdivision law. A coalition of their group, surveyors, the sponsor and others had determined that if there were substantive issues, they would put the bill aside and try to get consensus on consistency through the study.

**Opponents:** None.

**Questions from Committee Members and Responses:**

**SENATOR JOHN ESP** asked the sponsor if he and **Tim Davis** were looking for statewide conformity on planning or just platting issues.

**REPRESENTATIVE NOENNIG** said there were a number of things. HB 370 was amended to allow local governments to adopt procedures they wanted to use to implement the act. There was agreement about the extent they could do that. Mostly, however, the bill addressed when the plat was filed, when it needed to be filed, the circumstances under which a subdivision would be created, definition of Minor and Major plats, when a full review of a subdivision would be required, definition of a Minor subdivision either after 1973 when the original act was passed or the first since patented. Different counties treat these differently, but if they were misinterpreting state law, they would either be allowed to do that, or they would not.

**SENATOR RICK LIABLE** asked about discussions with **SENATOR MCGEE**, and if the bill would complement his bill, SB 326.

**REPRESENTATIVE NOENNIG** responded by saying that the Senator was a co-sponsor of HJ 37, and that he was in agreement with the approach, which did not conflict with the growth policy bill.

**Closing by Sponsor:** **REPRESENTATIVE NOENNIG** closed on HJ 37, urging the committee's favorable consideration of the consensus effort of the bill.

#### EXECUTIVE ACTION ON HJ 37

**Motion/Vote:** **SENATOR LAIBLE** moved that HJ 37 BE CONCURRED IN. **Motion passed 8-1 with SENATOR ESP voting no. SENATOR MCGEE** was named to carry the bill in the Senate.

**ADJOURNMENT**

Adjournment: 2:40 P.M.

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SEN. JOHN C. BOHLINGER, Chairman

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Judy Feland, Secretary

JB/jf

**EXHIBIT (1os86aad)**