Montana State Legislature

Exhibit Number: 2

The following exhibit is several assorted documents that exceeds the 10-page limit therefore it cannot be scanned. A small portion has been scanned to aid in your research for information. The exhibit is on file at the Montana Historical Society and can be viewed there.

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Explanation of SB 255
Senator Gebhardt, sponsor

Title 67 contains Chapters 4, 5 and 6, each of which addresses control of land and structures around airports. Chapter 4 was enacted in 1977 and is mandatory, Chapter 5 was enacted in 1939 and has been largely ignored and Chapter 6, Airport Zoning, was enacted in 1947 before county zoning had been authorized.

An issue about the relevance and interrelationship of these three chapters occurred when a county attorney refused to sign a Certificate of Sponsor's Attorney for Montana Aeronautics because he could not certify the regulations drafted for the airports in his county complied with all three of these chapters. Most counties are reluctant to zone, and cannot comply with Chapter 6.

With this bill, the Montana Association of Counties is proposing Chapters 4, 5 and 6 be repealed, that the definitions be revised and updated, and the best of each of these chapters be enacted into a new chapter which is mandatory to protect airports on the National Plan of Integrated Airport Systems (about 70 airports in Montana, including the larger ones) and permissive for the smaller airports.

The following table explains the interrelationship between the proposed bill and existing law:

Section in SB 255	Section(s) in Existing Law
Section 1	This is necessary to remove the term "landing fields" from other places in the code.
Section 2, **Definitions**	67-1-101, **Definitions**
Section 3, **Short title** "Airport Compatibility Act"	New

EXHIBIT 7
DATE 3.1.05
SB 255

Section in SB 255 (con't)	**Section(s) in Existing Law** (con't)
Section 4, **Legislative finding and purpose**	67-4-101 and 67-6-102, **Legislative finding and purpose**
Section 5, **Definitions (specific to the new chapter)**	New, defines **Airport Affected Area ("AAA")** and is specific about what the term "governing body" means in this new chapter
Section 6 (1)–addresses NPIAS airports	67-4-203, **Development of criteria for regulations of influence area**; 67-6-201, **Airport zoning power**
Section 6 (2)–addresses non-NPIAS airports for which an AAA and regulations are permissive, not mandatory.	*See* above for NPIAS.
Section 6 (3)–designates the size of the AAA, but allows adjustment	67-4-201 (1), **Designation of airport influence area.** The maximums in this code section are now minimums in the new law.
Section 6 (4)–requires maps and legal description of the AAA be filed with the county and city.	67-4-201 (2), **Designation of airport influence areas.** [Did not require legal description]
Section 6 (5) (a)–requires a hearing before the AAA is designated and regulations are adopted	67-4-201 (1), **Designation of airport influence area;** 67-4-302, **Rulemaking–notice and hearing**
Section 6 (5) (b)–sets forth the notice for the hearing	New, but based on 67-4-302. **Rulemaking–notice and hearing.**
Section 6 (5)(6)–provides for immunity for effects from the airport	67-4-202. **Temporary effect of designation.**
Section 7, Joint AAA regulation board authorized	67-6-201 (2) and (3). **Airport zoning power.**
Section 8 (1) (a)-(e)–mandatory requirements for regulations for NPIAS airports	67-4-203, **Development of criteria for regulations of influence area**; 67-6-203 (1), **Airport zoning regulations – requirements.**

Section in SB 255	**Section(s) in Existing Law** (con't)
Section 8 (2) (a)-(l)–permissive items to be addressed in AAA regulations	New. Derived from regulations being drafted by consultants around the state. Subsections (2)(d) and (2)(e) are from 67-6-201(1), **Airport zoning power.**.
Section 9, **State lands.**	67-4-211, **State lands.**
Section 10, **Procedure for developing or amending regulations–assistance from existing boards or commissions.**	67-6-202 , **Airport zoning regulations–procedure–commission,** as guide, with modifications for counties.
Section 11, **Prior nonconforming uses.**	67-4-303, **Rules to be reasonable–prior nonconforming uses**; 67-6-207, **Permits–variances**
Section 12, **Acquisition of property rights when regulations not sufficient.**	67-5-202, **Regulation or existing structures–power of acquisition**; 67-6-301, **Acquisition of property rights when zoning not sufficient.**
Section 13, **Regulations relative to zoning ordinances.**	67-4-304, **Rules relative to zoning ordinances.**
Section 14, **Permit system.**	67-4-311, **Permit system**; 67-6-207 (1), **Permits–variances.**
Section 15, **Enforcement.**	67-5-211, **Enforcement**; 67-6-205, **Airport zoning regulations–administration**
Section 16, **Appeals.**	67-4-312, **Board of adjustment**, ; 67-6-206, **Board of adjustment.**
Section 17, **Variance.**	67-4-313, **Variance**; 67-6-207, **Permits–variances.**
Section 18. **Penalty.**	67-4-401, **Penalty.**
Section 19. **Injunction.**	67-4-402, **Injunction.**

Sections 21 through 28 make changes in existing law, consistent with the above; Section 29 repeals existing Chapters 4, 5 and 6; Section 30 is administrative; Section 31 makes the new law effective on passage and approval, rather than on October 1, 2005; and Section 32 grandfathers in airport influence areas and regulations adopted pursuant to existing law.

Section 32 specifically says, except for the definitions, the new law does not apply to a governing body that had expended funds to begin the process of designating or had already designated an airport influence area or that had established a zoning district and airport zoning regulations before this law, and it can use the existing law as a guide. However, if a governing body alters an existing airport influence area or amends its regulations, then the new law applies.

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