MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on February 18, 2005 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:
Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Bruce Malcolm (R)
Rep. Bernie Olson (R)

Members Excused: Rep. Alan Olson (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary

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

Committee Business Summary:
Hearing & Date Posted: HB 706, 2/14/2005;
HB 712, 2/16/2005;
HB 655, 2/14/2005;
HB 601, 2/11/2005;
HB 558, 2/8/2005; HB 691, 2/14/2005

Executive Action: HB 712; HB 691; HB 558; HB 706; HB 655; HB 601; HB 640; HJ 31; HB 263; HB 653; HB 649; HB 644; HB 590; HB 616; HB 241

Due to time constraints, **CHAIRMAN JENT** allowed ten minutes for this bill.

HEARING ON HB 706

Opening Statement by Sponsor:

REP. DAVE MCALPIN (D), HD 94, opened the hearing on **HB 706,** Establish Governor's tobacco-free awards. **REP. MCALPIN** reviewed the bill's provisions with the Committee.

Proponents' Testimony:

Jim Ahrens, Chairman, Alliance for a Healthy Montana, rose in support of HB 706.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. WILLIAM JONES, HD 9, BIGFORK, referred to the workplace award and asked whether there would be any workplaces left which would allow smoking, after adjournment of the Legislature. **REP. MCALPIN** replied that he hoped not.

REP. SUE DICKENSON, HD 25, GREAT FALLS, congratulated the Sponsor for bringing this bill. She wondered whether there had been input from other groups and asked how it would benefit Montana's citizens. **REP. MCALPIN** stated he had a few groups and associations who had been supportive and suggested to memorialize certain individuals with the awards which he had declined, favoring a more generic approach.

REP. BERNIE OLSON, HD 10, LAKESIDE, suggested the Governor could do this with a law, which **REP. MACALPIN** affirmed.

Closing by Sponsor:

REP. MACALPIN closed.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 8}

HEARING ON HB 712

The allotted time for HB 712 was fifteen minutes.

Opening Statement by Sponsor:

REP. RALPH HEINERT (R), HD 1, opened the hearing on **HB 712**, Require voter registration applications at fishing and hunting license locations. **REP. HEINERT** reviewed the bill with the Committee, adding the Secretary of State's Office would provide the cards at no cost to participating vendors; he stated the goal was to increase voter participation. He added HB 712 was supported by the Montana Shooting Sports Association and the National Rifle Association.

Proponents' Testimony:

Mark Simonich, Secretary of State's Office, submitted copies of letters by the above mentioned associations. He repeated the bill required vendors who are license agents to also make available voter registration cards and stressed HB 712 provided flexibility and discretion in terms of how vendors make them available. He advised there were no penalties involved and pointed out the section of law being amended required that agencies providing State funded social services also provide voter registration cards. He named numerous other locations where these cards are available, adding was simply an attempt to simplify and encourage voter participation among outdoor enthusiasts. In closing, he recounted that a similar bill failed in a previous session because it required the vendor to attend training sessions and mail the completed cards; this bill required neither.
EXHIBIT(sth40a01)

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. DICKENSON asked Mr. Simonich about the logistics of getting the cards to the licensed agents. **Mr. Simonich** replied that the Department of Fish, Wildlife and Parks (FWP) would supply the Secretary of State's Office with a list of licensed agents, and the cards would then be mailed to them; restocking would occur upon request, and the customers were responsible for turning the cards in to their local court house. **REP. DICKENSON** asked about postage expense, and **Mr. Simonich** stated there would be some expense but certainly no more than the normal expense of distributing voter registration cards to entities around the State.

(REP. ANDERSEN left at 8:15 A.M.)

REP. EMELIE EATON, HD 58, LAUREL, ascertained that the Secretary's office mailed out registration cards. **Mr. Simonich** replied they distributed the cards by mail and/or hand-delivery. **REP. EATON** wondered whether distribution could be achieved without this bill. **Mr. Simonich** advised the goal was for a cost-effective way of making voter registration available for the citizens and stated the expense of voter education campaigns and mass-mailings were much higher, particularly if the recipients were not on any registration list.

Closing by Sponsor:

REP. HEINERT closed.
{Tape: 1; Side: A; Approx. Time Counter: 8 - 19.8}

(The Committee stood at ease while waiting for the next sponsor.)

HEARING ON HB 655

Opening Statement by Sponsor:

REP. RICK MAEDJE (R), HD 2, opened the hearing on **HB 655,** Local commission to review fish and wildlife actions. **REP. MAEDJE** stated the crux of the bill was contained in Section 2, stating that oftentimes, FWP would consult with the Forest Service and request a road be closed; people affected by the closure would not be notified. **REP. MAEDJE** reviewed the requirements for the commission's members and added the commission would greatly facilitate communication.

{Tape: 1; Side: B}

Proponents' Testimony: None

Opponents' Testimony:

Robert Lane, Chief Legal Counsel, FWP, provided written testimony.
EXHIBIT(sth40a02)

Robert Throssell, Montana Wildlife Federation, stated the Federation opposed this legislation; while it attempted to open the lines of communication, the creation of these local commissions added an unnecessary layer of bureaucracy. He was concerned that the incentive to serve on the commission would create a conflict of interest.

Questions from Committee Members and Responses:

REP. B. OLSON pointed out that FWP's Region 1 covered a number of counties and asked the Sponsor why this bill addressed only one. **REP. MAEDJE** replied road closures sometimes affected several counties and it was up to the respective county commissioners to request public input. **REP. B. OLSON** referred to regular meetings between FWP and citizen advisory groups, asking whether this was not sufficient. **REP. MAEDJE** countered that the commission provided for in the bill would have the authority to deal with FWP in a more tangible way.

REP. GARY MACLAREN, HD 89, VICTOR, asked the Sponsor whether the County Board of Supervisors could fulfill this role. **REP. MAEDJE** replied the Board did not have the authority to tell FWP not to close certain roads. He was aware of the fact that some roads were being closed for maintenance or wildlife habitat issues, saying FWP should provide those explanations rather than just doing it.

Closing by Sponsor:

REP. MAEDJE closed, suggesting to strike "private property rights or" on Page 3, Line 14, in order to alleviate FWP's concerns. ***{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.5}***

HEARING ON HB 601

Opening Statement by Sponsor:

REP. PAUL CLARK (D), HD 13, opened the hearing on **HB 601,** Revise FWP Commission membership & districts. **REP. CLARK** provided several handouts which illustrated the reasons for the bill. He pointed out that there were five commission districts and seven administrative regions. Since FWP issues have become more complex, the bill is asking for seven commissioners and for redistricting commission districts to match administrative districts, keeping in mind that the Western regions are more heavily populated. This would simplify the commission's work and facilitate the commissioners' jobs.
EXHIBIT(sth40a03)
EXHIBIT(sth40a04)
EXHIBIT(sth40a05)
EXHIBIT(sth40a06)
EXHIBIT(sth40a07)

Proponents' Testimony:

Robert Throssell, Montana Wildlife Federation, favored the idea of aligning representation on the Board with the populations and areas of interest around the State, adding current districts were too large and difficult to administer. **Mr. Throssell** advised these provisions would increase expenses and assured the Committee that the sportsmen who buy licenses were willing to bear the expense in exchange for better representation.

(REP. ANDERSON returned at 8:50 A.M.)

Opponents' Testimony:

John Bloomquist, Montana Stockgrowers Association, advised the Committee of his Association's policy which required that all legislation which would restructure the Commission was closely monitored to ensure equal representation and consideration of sportsmen's and landowners' interests. **Mr. Bloomquist** stated the redistricting was less of an issue than the increase of the number of members and the potential dilution of landowners' representation. He advised that much of Eastern Montana was private land and provided a great deal of harvest opportunities for sportsmen. He referred to Section 1 (2) and offered a proposal which would add someone owning private agricultural land in order to offer balance and representation of landowners' interest.

Informational Testimony:

Jean Johnson, Montana Outfitters and Guides Association, stated her Association has opposed changes in the commission over the last few legislative sessions. She agreed with previous testimony with regard to landowners and added that tourism should be represented as well. The commissioners regulate, monitor and manage fish, wildlife and parks in Montana which is the draw for tourism. She felt this request was not unreasonable.
{Tape: 1; Side: B; Approx. Time Counter: 9.5 - 24.5}

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked the Sponsor to share with the Committee information about the make-up of the commission and how they were appointed. **REP. CLARK** advised commissioners were appointed by the Governor, in staggered terms. The qualifications are as follows: one has to be experienced in the breeding and management of domestic livestock; all others are required to be experienced, informed and interested in the issues of Fish, Wildlife and

Parks, outdoor recreation, the requirements for the conservation and protection of such resources.

REP. HAL JACOBSON, HD 82, HELENA, asked the Sponsor whether he was familiar with the numerical make-up of surrounding states' commissions. **REP. CLARK** asked to defer to Robert Lane as he did not know. **Mr. Lane** promised to obtain this information within two hours for executive action on HB 601.

REP. B. OLSON asked the Sponsor whether he would allow two members with domestic livestock experience. **REP. CLARK** replied he did not have a position on this. He believed, since the requirements were so flexible, that the commission would take on the character of the Governor's Office. He was certain there was a broad array of people with different interests who would have input fitting into the livestock category.

{Tape: 2; Side: A}

REP. B. OLSON was not satisfied with the answer. He asked if it was possible to add two members with livestock experience in order to alleviate the concerns of the Stockgrowers. **REP. CLARK** stated his concern with this proposal was that it identified a single category within the entire State, adding there were many other interests, such as multi-national corporations, the environmental community or the tourism industry, which were not included and could feel left out. He stated he would leave the composition up to the Committee.

CHAIRMAN JENT advised that starting today, he would not allow any more conceptual amendments.

Closing by Sponsor:

REP. CLARK closed, stating it was not the purpose of the bill to include representation for special interest groups, and he would resist specific amendments on the House floor.

(**CHAIRMAN JENT** announced a ten-minute break; the Committee reconvened at 9:15 A.M.; REPS. SMALL-EASTMAN and CAFERRO did not return.)
{Tape: 2; Side: A; Approx. Time Counter: 0 - 3.6}

HEARING ON HB 558

Opening Statement by Sponsor:

REP. DENNIS HIMMELBERGER (R), HD 47, opened the hearing on **HB 558,** Constitutional Amendment -- run-off non-Federal general

election to get majority winner. **REP. HIMMELBERGER** reviewed the bill with the Committee, saying it offered a constitutional amendment to ensure that elected officers were representative of their districts and it applied to all non-Federal elections. He recounted that in one of the legislative races in the last election, a legislator with 37% of the vote was declared the winner; this bill would eliminate this type of situation. He believed the bill was good policy as it ensured that public officers reflected the views, opinions and values of the majority of the people they sought to represent.

Proponents' Testimony:

Mark Simonich, Secretary of State's Office, stated the bill was requested by the Secretary of State and lauded the Sponsor for his explanation of the bill's concept. He stated the example given by REP. HIMMELBERGER was not an isolated incident in either the last election or previous ones.

Opponents' Testimony:

Bob Ream, Chairman, Democratic Party, cautioned that historically, fewer people participated in run-off elections, and it was conceivable that candidates would receive even fewer votes the second time around. In addition, he objected to the additional cost for a run-off election.

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked the Sponsor whether the run-off election would include new voter registrations or only those electors previously qualified. **REP. HIMMELBERGER** asked to defer to **Mr. Simonich** who advised that currently, voters have to re-register by a certain deadline before the election; if this continued to be the case, the Clerks and Recorders would have to cut off registration at a certain date. He noted there was pending legislation which would provide for registration right up until election day, and if both bills passed, his answer would be different. **VICE CHAIR BROWN** stated therein lay her question; she asked whether to add language to this bill which would qualify this issue so that there was no doubt. Her concern was that there could be artificial delays after the initial election to give new voters a chance to register. **Mr. Simonich** advised his office welcomed any measure which would deal with this issue in the most effective manner, adding various stipulations could be added into the bill. **VICE CHAIR BROWN** ascertained the bill as written did not contain any such language, which **Mr. Simonich** confirmed.

VICE CHAIR BROWN asked whether this whole issue would be put on the ballot as an Initiative. **Mr. Simonich** advised it would be a Referendum as it dealt with a Constitutional Amendment, adding this was spelled out in Section 2 of the bill.

REP. JONES expressed concern that this might include lesser elections, such as conservation district elections. **REP. HIMMELBERGER** stated the bill did include all elections; he would not be opposed if the Committee saw fit to exclude lesser elections.

REP. JONES wondered if the Secretary of State's Office would also count results in primary elections when candidates were victorious with less than a majority vote. **Mr. Simonich** stated his office had mainly looked at the general elections as it determined who would ultimately represent the people. **REP. JONES** asked whether the bill included primaries, which **Mr. Simonich** denied, adding that it did include all municipal elections. Realizing how costly this might become, his office would not object to amending the bill to make it specific to county commissioner races or higher.

CHAIRMAN JENT hypothesized there would be a run-off election for the Secretary of State's position; since elections were held in November and the winner was sworn in January, he asked when and how a run-off election would be held. **Mr. Simonich** advised it would be between election day and the first Monday in January when he would normally be sworn in. He added the bill did not specify how the run-of election would be held; it could be done by mail ballot which would have a single race on it. **CHAIRMAN JENT** wondered if the candidates would be expected to campaign again before the run-off election. **Mr. Simonich** replied, while they are not required to do so, he would anticipate they would make every effort to be victorious.

REP. B. OLSON inquired what would happen if the run-off election produced a tie. **REP. HIMMELBERGER** did not have an answer. **REP. B. OLSON** pointed out there was no fiscal note but assumed there was some cost involved. **REP. HIMMELBERGER** replied there was no fiscal note because the impact would vary depending on whether it involved local or statewide races.

Closing by Sponsor:

REP. HIMMELBERGER addressed the cost concern, stating it could easily be done through mail ballot. He reminded the Committee that a vote for the bill would merely give the people of Montana

an avenue to pursue as the current system was not all that efficient.
{Tape: 2; Side: A; Approx. Time Counter: 3.6 - 23.8}

EXECUTIVE ACTION ON HB 712

Motion: REP. HENDRICK moved that HB 712 DO PASS.

Discussion:

VICE CHAIR BROWN had not been not present during the hearing and was concerned that every small vendor of hunting and fishing licenses now had to allow for space to display voter registration cards.

REP. TERESA HENRY, HD 96, MISSOULA, stated it was her understanding that vendors would receive the cards in the mail, and the National Rifle Association (NRA) and the Shooting Sports Association would do the advertising.

REP. B. OLSON reminded the Committee of REP. EATON's question whether this could be done without this law. **CHAIRMAN JENT** said that it could.

REP. EATON stated registration cards were currently available at various places, including health care facilities, and she did not see a need for this bill as NRA could supply cards to vendors if they so desired.

REP. JONES pointed out that clinics were required by law to provide voter registration cards; this would just duplicate things.

Vote: Motion carried 12-4 by roll call vote with REP. DICKENSON and REP. EATON voting no; REP. CAFERRO and REP. SMALL-EASTMAN voted no by proxy, and REP. A. OLSON voted aye by proxy.
{Tape: 2; Side: A; Approx. Time Counter: 23.8 - 29.7}

HEARING ON HB 691

Opening Statement by Sponsor:

REP. SCOTT SALES (R), HD 68, opened the hearing on **HB 691,** Revise term limits. While he generally favored term limits, he brought this bill because of concerns with the significant decrease in the amount of institutional knowledge in the Legislature. **REP. SALES** proceeded to review the provisions of the bill. He

expressed hope that this compromise would satisfy voters on either side of the issue.

{Tape: 2; Side: B}

Proponents' Testimony:

Bob Ream, self, agreed with the Sponsor, stating he had served on the House Taxation Committee as a legislator and it had taken him three or four sessions to really get comfortable with taxation laws. He was concerned with the lifetime limitation proposed in HB 691 as there were several young legislators whose political careers would be cut short. **Mr. Ream** opined term limits should be decided at the ballot box.

Opponents' Testimony: None

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked the Sponsor how he would respond to Mr. Ream's concern about the limitations placed on young legislators. **REP. SALES** replied that we live in an imperfect world; the institutional knowledge was sorely needed and he felt this was the only chance to change term limit laws. **REP. SALES** added that people's ability to serve was not greatly impaired by HB 691 as a very small number of legislators served for more than sixteen years. He also pointed out that people can serve the State in other capacities, such as in statewide offices.

REP. JONES asked how many times this issue had been put before the voters. **REP. SALES** replied it had been at least twice. **REP. JONES** wondered about the voters' reaction to it. **REP. SALES** stated that voters have demonstrated repeatedly that they like the concept of term limits.

REP. MACLAREN asked the Sponsor if someone would be term-limited after serving fourteen years in the House of Representatives. **REP. SALES** advised he could serve two more years in the Senate, but would have to be replaced by the county commissioners at mid-term.

Closing by Sponsor:

REP. SALES closed.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 8.7}

EXECUTIVE ACTION ON HB 691

Motion: REP. BROWN moved that HB 691 DO PASS.

Discussion:

REP. JONES stated he would oppose this bill because it left many questions unanswered but, more importantly, the voters had rejected this issue over and over; he was concerned that they would resent the Legislature for bringing it before them again and might feel it would be brought back time and again until it passed.

VICE CHAIR BROWN advised she would vote for the bill but would like to see the wording on Page 2 changed to facilitate voter understanding. She felt strongly that the change would be a positive statement for term limits because the lack of institutional knowledge was significant.

REP. JOAN ANDERSEN, HD 59, FROMBERG, recalled the advantage of having longtime legislators there to help her in her freshman year and added institutional knowledge was also helpful with regard to bills which would re-appear session after session. She agreed this bill would be a positive.

VICE CHAIR BROWN agreed, citing the extreme number of bills introduced this Session alone. She contended this would not have happened if the memory had not lapsed.

REP. DICKENSON agreed with the memory issue as well but stated she would not vote for the bill because of the lifetime limitation. She cited REP. DAN VILLA's situation, saying he might want to serve again after having raised his family. She also agreed with REP. JONES' statement about voter resentment.

REP. B. OLSON stated he thought introducing term limits had been a terrible mistake but agreed with REP. JONES that voters would not go back and undo the law, saying he would not vote for the bill, either.

REP. MACLAREN stated he respected REPS. JONES and B. OLSON's comments as well as the people's wishes last November, but had an obligation to his constituents to tell them about the huge loss of institutional memory. **REP. MACLAREN** contended it was right to keep putting it on the ballot.

REP. A. OLSON recalled that only six legislators were termed out last session but 37 freshmen were serving now. He submitted that

a 30% turnover was normal, adding he had not decided yet which way to vote.

REP. BRUCE MALCOLM, HD 61, EMIGRANT, advised he would vote for HB 691, citing there were seven freshman on this Committee, and as a sophomore himself, he was not ready to lead. Due to the loss of institutional memory, he felt that agencies and lobbyists were "running the show."

Vote: Motion failed 8-8 by roll call vote with REP. ANDERSEN, REP. BROWN, REP. HENDRICK, REP. JACOBSON, REP. JENT, REP. MACLAREN, REP. MALCOLM, and REP. A. OLSON voting aye; REP. CAFERRO voted no by proxy.
{Tape: 2; Side: B; Approx. Time Counter: 8.7 - 20}

EXECUTIVE ACTION ON HB 558

Motion: REP. B. OLSON moved that HB 558 DO PASS.

Discussion:

CHAIRMAN JENT asked Sheri Heffelfinger, Legislative Services Division, to explain the Legislature's authority regarding constitutional amendments. **Ms. Heffelfinger** advised that the Legislature was prohibited from adding statutory changes through constitutional amendments. Therefore, the amendment had to be presented to the voters first; upon its passage, a second bill would have to be written, specifying the desired changes.

REP. B. OLSON felt the bill was poorly researched and written, and he would not vote for it.

REP. JONES advised he would vote against the bill as well because it could set up problems as follows: assuming there were six contested ballots in a race, waiting for a ruling from the Supreme Court which would not come until late in December; the run-off election could not be done in time before the winner would have to be sworn in. He agreed this was not well-thought out.

CHAIRMAN JENT agreed with REP. JONES and advised the reason for his earlier question arose from a friend's situation who had won 49% of the vote in the primary election. Most Southern states have run-off elections for primaries but they are held in November which severely limits the time left before the swearing-in.

Vote: Motion failed 4-12 by roll call vote with REP. BROWN, REP. HENDRICK, REP. MACLAREN, and REP. A. OLSON voting aye; REP. CAFERRO voted no by proxy.

Substitute Motion: REP. B. OLSON moved that HB 558 BE TABLED AND THE VOTE REVERSED. Motion carried.
{Tape: 2; Side: B; Approx. Time Counter: 20 - 26.3; Comments: REP. A. OLSON left at 10:10 A.M.}

EXECUTIVE ACTION ON HB 706

Motion: REP. HENDRICK moved that HB 706 DO PASS.

Discussion:

VICE CHAIR BROWN wondered whether the Governor could implement this without the bill, which **CHAIRMAN JENT** confirmed.

REP. HENDRICK felt the Legislature should demonstrate to the public that they were in support of no-smoking legislation, especially since it was uncertain which of the related bills would pass.

REP. MALCOLM agreed that the Governor could do this without HB 706.

Vote: Motion failed 6-10 by roll call vote with REP. DICKENSON, REP. HENDRICK, REP. HENRY, REP. JACOBSON, and REP. SMALL-EASTMAN voting aye; REP. CAFERRO voted aye by proxy, and REP. A. OLSON voted no by proxy.

Substitute Motion: REP. B. OLSON moved that HB 706 BE TABLED AND THE VOTE REVERSED. Motion carried.

EXECUTIVE ACTION ON HB 655

Motion: VICE CHAIR BROWN moved that HB 655 DO PASS.

Discussion:

REP. JACOBSON recognized REP. MAEDJE for his hard work on behalf of his constituents. He felt that these were situations were legislators could step in and help as he himself had done on numerous occasions. He opined the problem addressed in the bill could be achieved through legislator intervention.

{Tape: 3; Side: A}

VICE CHAIR BROWN stated her first priority was to pass bills which would affect all of Montana, adding she would not support this one.

Vote: Motion failed 3-13 by voice vote with REP. HENDRICK and REP. JONES voting aye; REP. A. OLSON voted aye by proxy; REP. CAFERRO voted no by proxy.

Motion: REP. B. OLSON moved that HB 655 BE TABLED AND THE VOTE REVERSED. Motion carried.

EXECUTIVE ACTION ON HB 601

Motion: VICE CHAIR BROWN moved that HB 601 DO PASS.

Discussion:

CHAIRMAN JENT advised that personnel in regional offices were relatively easy to work with. He added because of the prohibitive size of the current districts, it made sense to increase their number from five to seven and tie them to regional headquarters. He did anticipate floor amendments with regard to the commission's membership make-up. He favored passing the bill out of Committee so it could be debated in the House.

VICE CHAIR BROWN argued that had this been a true priority, the bill number would be much lower; additionally, it did not address representation from the landowner and tourism communities and in her opinion, floor amendments were a poor way to go. She added she might vote for the bill if it was re-worked.

REP. MALCOLM stated he did not see any urgency to pass it this Session; if the problem was critical, it should be rewritten and presented again next session. He advised he would vote against it.

REP. HENRY voiced her support for the bill because it made sense to have maps match.

Vote: Motion carried 10-6 by roll call vote with REP. ANDERSEN, REP. BROWN, REP. JONES, REP. MACLAREN, and REP. MALCOLM voting no; REP. A. OLSON voted no by proxy, and REP. CAFERRO voted aye by proxy.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.2}

EXECUTIVE ACTION ON HB 640

Motion: VICE CHAIR BROWN moved that HB 640 DO PASS.

Discussion:

REP. JACOBSON reminded the Committee that there was no accountability when the POINTS System was purchased from an out-of-state company. He added that the follow-up was extensive and quite costly as consultants had to be hired deal with its problems; a Montana presence, as provided for in HB 640, would have helped. **REP. JACOBSON** pointed to the issue of retaliation which had come up during the hearing and stated that MITA members, who would be the victims of retaliation, were the strongest supporters of the bill.

VICE CHAIR BROWN concurred with the Sponsor as it was a positive statement to Montana businesses and added she would support the bill.

REP. HENRY agreed it was a worthwhile bill.

Vote: **Motion carried unanimously by voice vote; REPS. A. OLSON and CAFERRO voted aye by proxy.**
{Tape: 3; Side: A; Approx. Time Counter: 6.2 - 11.2; REP. JACOBSON left}

EXECUTIVE ACTION ON HJ 31

Motion: **REP. BROWN moved that HJ 31 DO PASS.**

Motion: **REP. BROWN moved that AMENDMENT HJ003101.alm BE ADOPTED. EXHIBIT(sth40a08)**

Discussion:

Ms. Heffelfinger stated that with the amendment, the Committee would be required to evaluate the role of advisory groups implementing SB 131.

REP. JONES asked whether this study resolution would be assigned automatically. **CHAIRMAN JENT** said it would not; after passage, a list of all resolutions would be handed out to be ranked by the legislators.

REP. ANDERSEN clarified this would only apply to resolutions requiring action by an interim committee, not those involving the congressional delegation.

Vote: **Motion carried unanimously by voice vote; REPS. CAFERRO, JACOBSON and A. OLSON voted aye by proxy.**

Motion: **VICE CHAIR BROWN moved that HJ 31 DO PASS AS AMENDED.**

Discussion:

VICE CHAIR BROWN stated she would not vote for the bill because agencies resented Information Technology oversight when it was instituted as they had been in charge of the IT programs before; she thought it was unnecessary to study the issue again.

Vote: **Motion failed 8-8 by roll call vote with REP. DICKENSON, REP. EATON, REP. HAMILTON, REP. HENRY, and REP. JENT voting aye; REPS. CAFERRO and JACOBSON voted aye by proxy.**

CONTINUED EXECUTIVE ACTION ON HB 263

Motion: **VICE CHAIR BROWN moved that HB 263 BE RECONSIDERED. Motion carried unanimously; REP. A. OLSON voted aye by proxy.**

(The previously introduced a conceptual amendment contained a technical error, therefore the motion to reconsider. HB 263 as amended was first passed out of Committee on February 17, 2003. **Ms. Heffelfinger** advised that both previous amendments had to be stripped off the bill before action could be renewed.)

Motion/Vote: **VICE CHAIR BROWN moved that HB 263 DO PASS AND BOTH PREVIOUS AMENDMENTS BE STRIPPED OFF THE BILL. Motion carried.**

Motion: **VICE CHAIR BROWN moved that AMENDMENT HB026302.alm BE ADOPTED.**
EXHIBIT(sth40a09)

Discussion:

VICE CHAIR BROWN restated the bill's purpose and advised this amendment was the correct amendment.

Vote: **Motion carried unanimously by voice vote; REPS. A. OLSON, CAFERRO, and JACOBSON voted aye by proxy.**

Motion: **VICE CHAIR BROWN moved that HB 263 DO PASS AS AMENDED.**

Discussion:

As requested by the Chairman, **VICE CHAIR BROWN** explained the bill to the Committee in more detail.

REP. EATON asked when the discovery was made that the amendment was in error as nothing in her notes indicated it. **CHAIRMAN JENT**

advised that he had not signed the Standing Committee Report because Ms. Heffelfinger had discovered the error after the Committee vote; the technical error consisted of a lack of coordinating language.

VICE CHAIR BROWN stated, as Ms. Heffelfinger had been so busy, she was not expected to check an amendment to a bill she thought would not pass out of Committee. When it did, she was obligated to check it over to make sure everything was in order.

REP. HENRY advised that the vote had taken place during REP. EATON's absence the day before; her vote had been "no."

REP. DICKENSON asked why the bill had been taken off the table and for the reason behind the Public Service Commission (PSC) clause as she had not been at the hearing, either.

Ms. Heffelfinger explained that during the original hearing, the Department of Administration had offered an amendment as a way to avoid potential conflicts with agencies who already had a complaint process in place, and the Committee had adopted it. The PSC issue came about because the bill exempted the PSC from the complaint process concerning their regulatory duties and hearings. She had drafted the amendment, and both were adopted prior to the tabling motion. Subsequently, the bill was taken off the table, without her realizing anything needed to be done. After the bill was passed as amended, she noticed that the retroactively, she asked the Chairman not to sign it and to have the Committee reconsider its actions.

{Tape: 3; Side: B}

(REPS. CAFERRO and JACOBSON returned at 10:45 A.M.)

Vote: Motion carried 12-4 by roll call vote with REP. DICKENSON, REP. EATON, REP. HENRY, and REP. B. OLSON voting no; REP. A. OLSON and REP. CAFERRO voted aye by proxy.

EXECUTIVE ACTION ON HB 653

Motion: REP. EATON moved that HB 653 DO PASS.

Discussion:

CHAIRMAN JENT reviewed the bill.

REP. ANDERSEN added there was an important clause in the bill that stipulated workers' compensation claims were exempt from the three-year statute of limitations.

VICE CHAIR BROWN stated the importance of the time limits for the insurance industry, adding she appreciated the exemption clause and would vote for the bill.

CHAIRMAN JENT stated his support for the bill because it would streamline procedures; a three-year time limit was standard with regard to personal injury actions in Montana.

REP. HENDRICK wondered who would protect people who were diagnosed late with catastrophic illnesses, such as those incurred in Libby. **CHAIRMAN JENT** advised this bill dealt with claims against the fund which steps in for defunct insurance companies only. **REP. HENDRICK** withdrew his question.

Vote: Motion carried 15-1 by voice vote with REP. A. OLSON voting no by proxy.

EXECUTIVE ACTION ON HB 649

Motion: VICE CHAIR BROWN moved that HB 649 DO PASS.

Motion: VICE CHAIR BROWN moved that AMENDMENT HB064901.ash BE ADOPTED.
EXHIBIT(sth40a10)

Discussion:

Upon **CHAIRMAN JENT's** request, **Ms. Heffelfinger** explained the amendments.

VICE CHAIR BROWN held that the problem had arisen because the Association was not paying their taxes; she wondered who was accountable to whom and asked Ms. Heffelfinger to explain. **Ms. Heffelfinger** advised that, at the Sponsor's request, she had stricken the developer's responsibility. She referred to the developer's letter in which he indicated he did not want to be subject to HB 649 with the argument that as soon as the development was done and the sale final, he was out of the picture because the payment responsibilities then fell to the Timeshare Association which, in this case, defaulted on the payments. She added it was difficult to determine who should be watching the Association.

VICE CHAIR BROWN felt that therein lay the problem: owners must be responsible for some things; if an Association was to default, it was not likely that timeshare holders would be notified. She felt bad for the plaintiffs but held out hope that a bill could be brought that would better address this problem.

Substitute Motion/Vote: VICE CHAIR BROWN made a substitute motion that HB 649 BE TABLED. Substitute motion carried 13-3 by voice vote with REP. HAMILTON, REP. HENRY, and REP. JONES voting no; REP. A. OLSON voted aye by proxy.
{Tape: 3; Side: B; Approx. Time Counter: 0 - 14.7}

EXECUTIVE ACTION ON HB 644

Motion: VICE CHAIR BROWN moved that HB 644 DO PASS.

Discussion:

VICE CHAIR BROWN stated REPS. LANGE and PARKER had identified a valid problem which should be worked out by the involved cities , adding she would not vote for the bill.

CHAIRMAN JENT listed all of the opponents to the bill and agreed it could be worked out locally. He added the term "airport police officer" was not defined well in this bill, which could pose a problem.

Substitute Motion/Vote: REP. EATON made a substitute motion that HB 644 BE TABLED. Substitute motion carried; REP. A. OLSON voted aye by proxy.

EXECUTIVE ACTION ON HB 590

Motion: REP. BROWN moved that HB 590 DO PASS.

Discussion:

Ms. Heffelfinger reminded the Committee of REP. BROWN's question about the practice in other states and stated Elaine Graveley polled surrounding states by email; she received about fifteen responses of which one hundred percent were affirmative.

VICE CHAIR BROWN noted this meant that one-third of the states had this type of re-activation in statute.

Vote: Motion carried unanimously by voice vote; REPS. CAFERRO and A. OLSON voted aye by proxy.

EXECUTIVE ACTION ON HB 616

Motion: REP. BROWN moved that HB 616 DO PASS.

Discussion:

VICE CHAIR SMALL-EASTMAN reminded the Chairman that the letter from the Confederated Salish and Kootenai Tribes should be entered into the record.
EXHIBIT(sth40a11)

CHAIRMAN JENT advised it was in opposition to HB 616, and summarized the first paragraph.

VICE CHAIR BROWN recapped that the bill's goal was to have the office dealing with reclamation and restoration located in Butte; the Upper Clark Fork issue was a separate issue.

REP. MACLAREN agreed, saying the work was going to be done anyway, and it was the consensus of the Butte people that the office should be located there as well.

VICE CHAIR BROWN believed Chairman Matt was right in requesting an office in his area when the reclamation on the Upper Clark Fork would begin, because otherwise, it would be located in Helena.

CHAIRMAN JENT ascertained that the Sponsor had not requested an amendment, which **Ms. Heffelfinger** confirmed.

REP. DICKENSON referred to parts of the letter dealing with the collaboration between the tribes and certain agencies, which said the office should be centralized in Helena because responsibilities could be carried out more cost-effectively.

REP. MALCOLM saw definite problems with some of the bill's language, specifically where it described the duties of the Department of Justice with regard to reclamation of natural resource damage other than the Superfund site in Butte. He held that the bill required the office in charge to be located in Butte, no matter where the damage had occurred.

{Tape: 4; Side: A}
REP. HENDRICK concurred with REP. MALCOLM, adding he anticipated increased costs if the office was located in Butte as all the agencies involved in clean-up were in Helena.

REP. DICKENSON recalled that a Deer Lodge representative had testified against HB 616, despite the fact that there was an equal amount of degradation in their area. She stated it was not untypical for the Butte delegation to ask for a little more.

CHAIRMAN JENT stated he was remotely associated with the clean-up and would vote to keep the offices in Helena as it was the Attorney General's responsibility, and he was based in Helena.

Vote: Motion failed 5-11 by roll call vote with REP. ANDERSEN, REP. BROWN, REP. EATON, and REP. MACLAREN voting aye; REP. A. OLSON voted aye by proxy, and REP. CAFERRO voted no by proxy.

Motion: REP. HENDRICK moved that HB 616 BE TABLED AND THE VOTE REVERSED. Motion carried.

(REP. CAFERRO returned at 11:35 A.M.)

EXECUTIVE ACTION ON HB 241

CHAIRMAN JENT advised he was reconsidering the Committee's action on HB 241 which stalled in a tie vote on February 4, 2005; all that was required was a DO PASS motion.

Motion: CHAIRMAN JENT moved that HB 241 DO PASS.

Discussion:

CHAIRMAN JENT advised this bill was brought at the Governor's request as it dealt with the reorganization commission he had promised during his campaign. He reminded the Committee that at REP. MALCOLM's request, the Committee had taken off amendments brought by REP. WANZENRIED and the Governor's Office, which left the basic organization of the commission, namely four senators, four representatives and the Lieutenant Governor. **CHAIRMAN JENT** asked that the bill be passed out of Committee for debate of the House floor, adding that while the Governor could achieve this by Executive Order, he wanted the Legislature to be part of the process.

REP. JONES asked whether the bill would die if it did not make transmittal, which **CHAIRMAN JENT** confirmed.

VICE CHAIR BROWN interjected that it could be brought to the floor with a Silver Bullet.

Ms. Heffelfinger was not clear whether a Silver Bullet could suspend the transmittal deadline.

VICE CHAIR BROWN advised twelve Silver Bullets were available throughout the Session; she added this was not a Revenue bill and

it would die by missing transmittal *unless* a Silver Bullet was used.

REP. JONES referred to the fiscal note; **CHAIRMAN JENT** advised the cost had been amended out of the bill.

Ms. Heffelfinger clarified that passage of the bill would not appropriate any money; this would have to be done through HB 2.

VICE CHAIR BROWN stated she would vote against HB 241 because she believed that the $60 million had already been "found," namely through an audit report on vacancy savings. She suggested Committee members read the report, adding this bill was not necessary.

CHAIRMAN JENT noted that reorganization was not the same as vacancy savings. He used the Department of Health and Human Sevices (DPHHS) and attempts to eliminate duplication as an example.

REP. DICKENSON agreed, adding there was a human and societal cost attached to vacancy savings. This bill had potential in that it sought to eliminate waste and duplication.

REP. JACOBSON recounted Governor Anderson's reorganization in 1968 to 1972 which resulted in major changes in the way government conducted business. Governor Schwinden undertook a similar reorganization by which State employment actually dropped by two or three hundred people.

REP. CAFERRO advised she would vote for the bill as she was privy to government waste in her capacity as an advocate. She stated that despite the significant drop in the TANF (Temporary Assistance for Needy Families) case load from 17,000 families in 1996 to its current 4,500, nobody lost their jobs. She was in favor of someone taking a closer look at agencies to see whether some jobs had not become unnecessary.

Vote: Motion carried 9-7 by roll call vote with REP. ANDERSEN, REP. BROWN, REP. HENDRICK, REP. JONES, REP. MACLAREN, and REP. MALCOLM voting no; REP. A. OLSON voted no by proxy.

ADJOURNMENT

Adjournment: 11:45 A.M.

_____
REP. LARRY JENT, Chairman

_____
MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT(sth40aad0.PDF)