MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on February 16, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:
Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Joan Andersen (R)
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. Veronica Small-Eastman, Vice Chairman (D)
Rep. Mary Caferro (D)
Rep. Alan Olson (R)

Members Absent: None.

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

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

Committee Business Summary:
Hearing & Date Posted: HJ 20, 2/14/2005; HB 586, 2/8/2005; HB 644, 2/11/2005; HB 570, 2/8/2005; HB 542, 2/8/2005; HB 587, 2/8/2005; HB 613, 2/14/2005
Executive Action: HB 587; HJ 20; HB 586; HB 542; HB 613

CHAIRMAN JENT advised because of time constraints, he would impose a 20-minute limit on each bill.

HEARING ON HJ 20

Opening Statement by Sponsor:

REP. WAYNE STAHL (R), HD 35, opened the hearing on **HJ 20**, Study decentralizing state government. He stated the crux of the bill was on Page 1, Lines 22 through 24, adding the use of technology would create a host of new jobs. He felt this bill represented a cost-savings as well since rent and utility costs could be eliminated or reduced.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses:

VICE CHAIR DEE BROWN, HD 3, HUNGRY HORSE, asked whether this could be accomplished with the teleworking bill which the Committee had heard earlier. **REP. STAHL** agreed that bill had potential but since HJ 20 had already been drafted, he decided to go through with it.

REP. WILLIAM JONES, HD 9, BIGFORK, wondered which interim committee this resolution would be assigned to. **REP. STAHL** was not sure and deferred to **Ms. Heffelfinger, Legislative Services Division**, who advised it would most likely be assigned to the State Administration Interim Committee.

Closing by Sponsor:

REP. STAHL closed.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 6.8}

HEARING ON HB 586

Opening Statement by Sponsor:

REP. WANDA GRINDE (D), HD 48, opened the hearing on **HB 586**, Revise police retirement DROP (Deferred Retirement Option Plan). **REP. GRINDE** explained if an officer retired after twenty years of service, his monthly retirement benefit is calculated based on the twenty years; if he entered DROP, he would continue to make contributions to MPORS (Municipal Police Officers' Retirement System) but would not get any service credit for their

contributions. HB 586 allowed the retired officer to discontinue contributions to MPORS upon enrolling in DROP. She provided the Committee with copies of current statute dealing with DROP.
EXHIBIT(sth38a01)

Proponents' Testimony:

Bill Dove, Montana Police Protective Association, recounted how, during the 2001 Session, the Legislature had created an opportunity for police officers to invest in a deferred compensation account, namely DROP. He handed out a flow sheet, Exhibit 2, to make the issue easier to understand, and reviewed it with the Committee, adding that the numbers were approximate. **Mr. Dove** advised that currently, 31 members were affected by DROP; eliminating the 9% employee contribution would make them whole.
EXHIBIT(sth38a02)

Roy Wickman, Assistant Chief of Police, Missoula, expressed his appreciation for passage of the DROP legislation four years ago, saying it had provided a much needed a benefit. While he was in a position where he could afford to make the contribution of $450 a month, it was creating a hardship for other officers and he asked to terminate this requirement. He added he was losing valuable and experienced officers because they would retire after twenty years rather than lose that much in benefits which left them with only 50% of their original salary. **Mr. Wickman** spoke to the subsequent turnover and high training cost, adding that HB 586 would not only save money by providing continuity but also encouraged officers to stay on longer, ensuring that street knowledge, experience and training were not lost.

Tom Schneider, Montana Public Employees' Association, rose in support of HB 586. He stressed the bill provided for elimination of the 9% contribution because there was no additional benefit.

Brad Doney, Assistant Chief of Police, Lewistown, concurred with Mr. Wickman's testimony, thanking the Legislature for passing the legislation four years ago. He stated he was a twenty-four year veteran and planned to enroll in DROP as he would stay on another five years. He estimated his contributions to be about $4,000, saying he would appreciate being able to spend that amount on his health insurance instead.

Jerry Williams, Montana Police Protective Association, stated he had been instrumental in bringing about the DROP legislation, after having studied more than thirty DROP plans throughout the nation over a period of four years. He stressed that none of these plans required employee contributions to continue once they

enrolled in DROP because there was no added benefit. In closing, he stated that his Association was against this provision when the original bill passed and urged passage of HB 586.

Opponents' Testimony:

Mike O'Connor, Montana Public Employees' Retirement Administration (MPERA), provided a handout explaining DROP's features, a pamphlet for new officers, and an actuary's evaluation, Exhibit 3, as well as written testimony, Exhibit 4. He reviewed DROP's features and requirements with the Committee.
EXHIBIT(sth38a03)
EXHIBIT(sth38a04)
{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.2}

Questions from Committee Members and Responses:

VICE CHAIR BROWN ascertained that Bill Dove and his Association had been the ones promoting DROP in 2001 and had accepted it as written, which **Mr. Dove** confirmed. He added they had crafted the legislation differently, eliminating the required contribution during the time DROP was in effect but accepted the final draft in order to go forward. **VICE CHAIR BROWN** held that the municipal police officers had a choice in whether to enroll in the plan or not. **Mr. Dove** stated this was correct.

Closing by Sponsor:

REP. GRINDE closed, adding that Jim Kembel, Montana Association of Chiefs of Police, had wanted to testify as a proponent but had to leave for another meeting.
{Tape: 1; Side: B; Approx. Time Counter: 9.2 - 12.5. Comments: VICE CHAIR BROWN left at 8:50 A.M.}.

HEARING ON HB 644

Opening Statement by Sponsor:

REP. MICHAEL LANGE (R), HD 55, opened the hearing on **HB 644**, Allow airport police officers to become members of Sheriffs' Retirement System. He stated there were between eighteen and thirty airport police officers, most of whom were former highway patrolmen, sheriff's deputies or city police officers. In this era of heightened security in airports, their presence is absolutely critical. He explained how HB 644 would change their current retirement system.

Proponents' Testimony: None

Opponents' Testimony:

Tom Ebzery, Montana Airport Managers Association, stated while REP. LANGE's goals were laudable, he feared HB 644 would have an adverse impact on both the labor pool, particularly at smaller airports, and the funding mechanism. In its present form, the bill puts the impetus on airports as the employer.

Rick Griffith, Manager, Butte Airport; President, Montana Airport Management Association, stated most airports hire personnel to perform multiple duties, such as maintenance, fire protection and law enforcement; he added most of them are off-duty or retired police officers. He stated it is not possible to segregate their various duties as far as pension plans are concerned; moreover, in order to compete in the job market and to mitigate existing inequities, the Butte airport has negotiated payment to another pension plan in lieu of wages. He opined that HB 644 penalized small airports, adding he stood to lose four of his six officers as they had eighteen years of service and could opt out after another two.

Jani McCall, City of Billings, stated the Billings airport currently employed nine police officers; all are covered under the Public Employees' Retirement System (PERS), and to her knowledge, only one of them was unhappy with the current retirement plan. **Ms. McCall** feared HB 644 would impose additional cost to the airport.

Melanie Symons, Legal Counsel, Public Employees' Retirement Board, reiterated that most airport police officers are members of PERS. The Sheriff's Retirement System's employer and employee contributions are significantly higher, resulting in a fiscal impact of more than $50,000 in FY 2006 as per the fiscal note. **Ms. Symons** related the Board's primary concerns with HB 644, namely the lack of a clear definition of "airport police officer," which makes it difficult to determine which retirement system should cover them; should it be determined they were in an inappropriate system, the Board would have to go back and collect additional contributions, posing a hardship on the employer. The second concern was that if they were sworn and certified police officers, they should already be in the Municipal Police Officers' Retirement System (MPORS). The last concern dealt with those airport officers who are retired members of sheriff's, municipal police officers', game wardens', and the highway patrol's retirement systems; should they be placed into any one of these systems, they could not hold those jobs as no one can be both an active and a retired member of a retirement system.

Informational Testimony:

Mike Kransky, Retired Montana Highway Patrol; Active Duty Airport Police Officer, stated that one of the conditions of employment at the Billings airport was that he be POST-certified (Peace Officer Standards and Training); he added this applied to all nine of the airport police officers. He advised he was astonished to find out that he was not covered under some form of police retirement system as he had been an officer for more than twenty years.

Questions from Committee Members and Responses:

There were no questions.

Closing by Sponsor:

REP. LANGE provided a letter, signed by eight of the Billings airport police officers, in which they expressed their unhappiness with the current pension plan. He added Ms. McCall had indicated there was only one officer; apparently, neither she nor the City Administrator of the City of Billings were aware of this letter. He asked the Committee to pass this legislation but left it up to them to determine which of the law enforcement retirement systems was applicable and stressed the need to erase this inequity.
EXHIBIT(sth38a05)

{Tape: 2; Side: A}

HEARING ON HB 570

Opening Statement by Sponsor:

REP. CHRISTINE KAUFMANN (D), HD 81, opened the hearing on **HB 570,** Revise and clarify state employee holiday pay. She advised that when holiday pay for state employees was created, the typical workday was eight hours; now, many employees work alternative schedules of either four ten-hour shifts or even six twelve-hour shifts in a two-week period. **REP. KAUFMANN** held that a problem arose when a holiday occurred during the time a worker on an alternative schedule was on the job, and received the standard eight hour's holiday pay, leaving the additional two or four hours unpaid. HB 570 provides holiday pay in accordance with the scheduled hours, acknowledging the needs of a flexible workforce.

Proponents' Testimony:

Todd Lovshin, Montana Education Association/Montana Federation of Teachers (MEA/MFT), stated that medical facilities have to be staffed 24 hours a day, and many of the nurses had requested this change in holiday pay. He repeated REP. KAUFMANN's assertion, adding the ten- or twelve-hour shifts were at the employers' convenience and occurred on a regular basis; pay should be commensurate with the schedules.

Tom Schneider, Montana Public Employees' Association (MPEA), contended this was a simple bill, providing holiday pay for holiday hours worked. He made reference to current law, stating employees who work on a holiday are eligible to take a day off in addition to the pay which means, under current law, they are entitled to only eight hours instead of the actual hours worked.

Opponents' Testimony:

Randy Morris, Administrator, State Personnel Division, Department of Administration, stated the Department had three concerns with this bill. First, if passed, this bill would provide a 20% greater benefit to those employees working ten-hour shifts and a 50% percent greater benefit to those working twelve-hour shifts. Second was the imposition of an unfunded mandate on local governments. The third concern was related to the unintended consequences: based on information gleaned from a recent survey of state agencies, approximately 14%, or some 1,500 employees, currently enjoy an alternative work schedule at the convenience of the employee which, for the most part, consists of four 10-hour shifts. If HB 570 was to pass, the fiscal impact would be about $200,000 on the agencies; given the tight budget, it was likely that these arrangements would be discontinued.

Harold Blattie, Assistant Director, Montana Association of Counties (MACo), stated he was not sure of the intent of the bill, whether it was strictly limited to state employees or extended to all public employees, adding the section of law that it amended did apply to all public employees, including city, county and special district employees. New language in Section 1 (c) represented a technical problem as it said specifically, "a full-time state employee." He wondered if this intended to include county employees since a county is a subdivision of the State. He referred to language at the end of this Section, "or appropriate administrative officer under 2-18-604." This statute clearly tied it back to other public employees as it included cities, counties and municipalities. **Mr. Blattie** contended the bill needed to be amended as to whether it intended to include county officers or not; their exclusion would alleviate MACo's

concerns. However, if the bill included county employees, it would have a fiscal impact of more than $180,000 based on 3,000 full-time county employees working a forty-hour week, with the extra two hours for the ten paid yearly holidays. He stressed it would create a huge inequity among county employees and would affect a large number of negotiated labor contracts. In closing, **Mr. Blattie** asked the Committee to clarify that county employees were not included, and if they were, the bill should be tabled.

Harry Payne, Human Resource Director, City of Helena, echoed the concerns in previous testimony. If the bill extended to political subdivisions, it would have a tremendous impact on the City of Helena as well as other cities. He stated all county employees work 2,080 hours per year, but for those working four ten-hour shifts, holiday pay would increase by 20%. The main concern, though, were the firefighters as they typically work 24 hours, and then take off 48; he wondered if they were eligible for 240 hours of holiday pay per year versus the 80 hours paid to employees on non-alternative schedules. As the previous opponent had asked, if political subdivisions were not included in HB 570, he would like to see specific language in the bill.

(REP. MACLAREN left at 9:20 A.M.; REP. JACOBSON left at 9:25 A.M.)

Questions from Committee Members and Responses:

REP. JOAN ANDERSEN, HD 59, FROMBERG, referred to opponents' testimony and asked the Sponsor to clarify who was covered by HB 570. **REP. KAUFMANN** advised the bill applied to State employees only, not those employed by political subdivisions. She was amenable to an amendment which would clarify this and added counties were allowed to set their own rules for holiday and overtime pay.

REP. ANDERSEN asked the CHAIRMAN's permission to address Mr. O'Connor, which was granted. **REP. ANDERSEN** inquired whether the state had to submit retirement contributions based on the higher earnings. **Mr. O'Connor** replied if it was considered compensation, then it would be required.
{Tape: 2; Side: A; Approx. Time Counter: 0 - 16.9}

REP. SUE DICKENSON, HD 25, GREAT FALLS, asked Mr. Schneider to explain holiday pay and the practice of "banking hours." **Mr. Schneider** explained that according to law, employees who are working on a holiday are entitled to take a day off, in addition to their pay. Currently, a person working ten hours only gets the traditional eight hours off, in addition to the pay. **REP. DICKENSON** asked how "banking hours" worked. **Mr. Schneider**

advised that some contracts allowed employees to save, or bank, these hours and take more than a day's worth a later time.

REP. TERESA HENRY, HD 96, MISSOULA, inquired how many Registered and Licensed Practical Nurses (LPNs) were affected under this bill. **Mr. Morris** stated he did not know. **REP. HENRY** asked to defer the question to the representative of MEA/MFT. **Mr. Lovshin** advised that at Warm Springs State Hospital, all Registered Nurses are on twelve-hour shifts because it allowed to staff the facility with fewer nurses. **REP. HENRY** wondered how many worked there. **Mr. Lovshin** replied there were about 30 Registered Nurses, LPNs numbered closer to 70. He added part of the hindrance in devising alternative schedules was the holiday issue.

REP. HENRY asked Mr. Lovshin whether these facilities had been affected by the current nursing shortage, which **Mr. Lovshin** confirmed, adding that some position remained open for a long period of time, forcing the facility to fill these position with direct-care staff.

Closing by Sponsor:

In closing arguments, **REP. KAUFMANN** stated HB 570 dealt with a fairness issue as an employee working eight-hour shifts received compensation time and pay for those eight hours while someone working twelve-hour shifts received the same eight hour compensation. She advised she had not signed the fiscal note, partly because the average hourly wage used to calculate the additional cost was based on $19.61 and she contended it was closer to $16.50.
{Tape: 2; Side: A; Approx. Time Counter: 16.9 - 23.1}

HEARING ON HB 542

Sheri Heffelfinger submitted material consisting of a letter by Frank Cole, a newspaper clipping from the Missoulian, and a copy of her dissertation on retirement systems, all relating to HB 542.
EXHIBIT(sth38a06)

Opening Statement by Sponsor:

REP. ROBIN HAMILTON (D), HD 92, opened the hearing on **HB 542,** Revise post-retirement benefit increases in statewide police pension plan. He stated this bill would affect about two hundred of the most senior retired police officers who are suffering from an inequity in their retirement because they chose the Guaranteed Annual Benefit Adjustment (GABA) instead of the one-half of pay

confirmed benefit. As GABA has not kept pace with inflation, Frank Cole, whose hand-written testimony was included in Exhibit 6, estimated that he and others are receiving $120 less per month as a result of this choice. **REP. HAMILTON** stated this inequity was a result of poor judgement and advice.

Proponents' Testimony:

Randy Vogel, Montana Retired Police Officers' Association, stated his Association was in full support of HB 542 as it was a correction to inequities resulting from bad advice. He advised there was a cost associated with this remedy which begged the question of who would pay for the increased benefit. It was his understanding that there was a cap placed on the police officers' retirement system which was one of the few which were actuarially sound; he opined if the cap was eliminated or changed, the system would be able to absorb the additional cost.

Frank Cole, Retired Police Officer, self, referred to his letter, saying he felt guilty about having encouraged other officers to elect GABA. His advice had been based on information he had received at the time, which lacked in detail as pointed out in his letter.

{Tape: 2; Side: B}

Mr. Cole faulted the Board of Investments for their investment strategies, saying they should have picked safer investments instead of opting for those returning 15%. He claimed the fund contained $2.5 billion in 2001 and had grown to $9.6 billion today. He argued this money should be used and not put away in a lockbox for further investment. In closing, he commended the Sponsor for bringing this bill forward as it would correct an inequity.

Richard Klemencic, Great Falls, self, rose in support of HB 542, asking for the Committee's help to make ends meet.

Jim Cole, Frank Cole's older brother, rose in support of HB 532.

Opponents' Testimony:

Melanie Symons, Legal Counsel, Montana Public Employees' Retirement Board, submitted written testimony, including a chart illustrating different retirement options.
EXHIBIT(sth38a07)

Questions from Committee Members and Responses:

CHAIRMAN JENT did not allow questions as the allotted time had run out.

Closing by Sponsor:

REP. HAMILTON addressed Item Number 3 in the fiscal note, stating the assumed annual salary increase of 5.31% was unrealistic. Referring to Item Number 6 on Page 3, he stated this assumption was the worst case scenario, adding he would be amenable to an amendment which would make HB 542 more palatable.
{Tape: 2; Side: B; Approx. Time Counter: 0 - 20.1}

(**CHAIRMAN JENT** announced a short break, asking the Committee to reconvene at 10:00 A.M. REP. DICKENSON did not return. The 8th Grade class from the Montana City School came in to listen to testimony.)

HEARING ON HB 587

Opening Statement by Sponsor:

REP. BOB BERGREN (D), HD 33, opened the hearing on **HB 587**, Require certain retirement benefits for a minor to be paid to a trust. **REP. BERGREN** reviewed the bill with the Committee, adding it had come pursuant to discussions with a constituent who was in a divorce proceeding and was unable to make his underage child the beneficiary of his life insurance policy.

Proponents' Testimony:

Melanie Symons, Public Employees' Retirement Board, stated the Board had worked with the Sponsor in crafting this legislation as they saw a definite need for its provisions. The three retirement systems named in the bill heretofore had statutory as opposed to designated beneficiaries.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. JONES asked whether there would be an amendment to include the other retirement systems. **REP. ALAN OLSON, HD 45, ROUNDUP**, advised they were included in the bill.

CHAIRMAN LARRY JENT, HD 64, BOZEMAN, inquired about current provisions in the Public Employees' Retirement System (PERS) and

the Teachers' Retirement System (TRS). **REP. BERGREN** replied those systems have the statutory beneficiary, namely the surviving spouse, and deferred to **Mr. O'Connor** who agreed, adding the distinction between the systems was that the highway patrol, firefighters and municipal police officers all have the statutory beneficiary clause while the other systems can elect the beneficiary.

Closing by Sponsor:

REP. BERGREN advised that a designated beneficiary could have a negative impact on someone's retirement fund as it could extend their contributions; therefore, he extended statute by adding in the trust provision.
{Tape: 2; Side: B; Approx. Time Counter: 18.6 - 28.4}

REP. BRUCE MALCOLM, HD 61, EMIGRANT, had a question pertaining to HB 570 which **CHAIRMAN JENT** did not allow as it should be left for executive action. He advised it would have to wait until a quorum was established.

{Tape: 3; Side: A}

(REPS. JACOBSON, DICKENSON, HENDRICK and BROWN returned at 10:15 A.M.)

EXECUTIVE ACTION ON HB 587

Motion/Vote: REP. HAMILTON moved that HB 587 DO PASS. Motion carried unanimously by voice vote; REPS. MACLAREN, A. OLSON, SMALL-EASTMAN, AND CAFERRO voted aye by proxy.

Motion/Vote: REP. HENRY moved that HB 587 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously by voice vote; REPS. MACLAREN, A. OLSON, SMALL-EASTMAN, AND CAFERRO voted aye by proxy.

EXECUTIVE ACTION ON HJ 20

Motion: VICE CHAIR BROWN moved that HJ 20 DO PASS.

Discussion:

REP. BERNIE OLSON, HD 10, LAKESIDE, agreed with VICE CHAIR BROWN in that there already was a teleworking bill, making this Resolution unnecessary.

REP. JONES asked whether this study resolution would cause extra work for the State Administration Interim Committee. **CHAIRMAN JENT** advised that it would in that it would have to be heard and discussed.

REP. GORDON HENDRICK, HD 14, SUPERIOR, wondered how HJ 20 would affect him as Chairman of the Interim Committee. **CHAIRMAN JENT** advised it would require scheduling and work on his part.

REP. HAL JACOBSON, HD 82, HELENA, stressed the importance of knowing the procedures involving study resolutions, especially for first-term legislators. Asking the Chair's indulgence, he explained that at the end of the session, every legislator is given a list of current resolutions in order to rank them by their perceived importance. Only the top-ranked resolutions are then assigned to the appropriate interim committees who in turn work with Legislative Services and the Legislative Fiscal Division. Throughout the interim, research and deliberations are conducted, culminating in the determination whether legislation should be crafted to deal with the respective issues.

VICE CHAIR BROWN stated this was the basis for her questions during the hearing. She added each bill draft request cost between $1,500 and $2,000, and it was this Committee's fiscal responsibility to cull proposed legislation; since a similar bill had been passed out of this Committee, she saw no need for duplication.

Vote: Motion that HJ 20 DO PASS failed 16-0 by voice vote; REPS. MACLAREN, A. OLSON, SMALL-EASTMAN, AND CAFERRO voted aye by proxy.

Motion: REP. B. OLSON moved that HJ 20 BE TABLED AND THE VOTE REVERSED. Without objection, CHAIRMAN JENT ordered it tabled. ***{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.4}***

CHAIRMAN JENT reminded the next sponsor of the 20-minute limit.

HEARING ON HB 613

Opening Statement by Sponsor:

REP. TOM FACEY (D), HD 95, opened the hearing on **HB 613,** Allow city to enforce building codes under contract with owner. **REP. FACEY** explained the bill to the Committee.

Proponents' Testimony:

Bruce Bender, Director of Public Works, City of Missoula, submitted written testimony.
EXHIBIT(sth38a08)

Opponents' Testimony: None

Informational Testimony:

Gene Allison, Business Standards Division, Department of Labor, offered to answer any questions.

Questions from Committee Members and Responses:

VICE CHAIR BROWN asked how much the City of Missoula collected annually on inspection fees. **Mr. Bender** stated he did not know. When pressed for an estimate by **VICE CHAIR BROWN**, he advised it was several hundred thousand dollars. **VICE CHAIR BROWN** wondered if a property would fall under the provisions of this bill if it was annexed, which **Mr. Bender** confirmed, adding current law provided that once a property was annexed, it falls under the City Building Code. He explained the problem arose when the city did not want to annex the property yet because it was too distant from the city, the assumption being that it would be annexed some day; the goal was to maintain the integrity of the infrastructure for the protection of property owners as well as the fire and police departments.

VICE CHAIR BROWN asked whether this was designed to get around the "donut bill." **Mr. Bender** disagreed, as these property owners chose to connect to city services. He emphasized the City was annexing islands of property, or large subdivisions, because building inspections are critical. He stated delaying annexation was a benefit to both property owners and the city because delaying extending city services to a logical time made more sense.

REP. JACOBSON referred to Mr. Bender's statement that currently during a residential inspection outside of city limits, only the electrical and plumbing are inspected, which **Mr. Allison** confirmed. **REP. JACOBSON** ascertained that current State Building Code allows for the review of architectural engineering and drawings for certain types of public buildings outside of the city's jurisdiction, **which Mr. Allison** affirmed. **REP. JACOBSON** surmised that HB 613 was primarily directed towards residential units electing to be part of the public sewer and water programs.

VICE CHAIR BROWN asked about the fees per building inspections and wondered how many of the residential units would fall under this bill. **Mr. Bender** advised the City's primary concern was security and to minimize risk; he added there had been only 30 or 40 inspections, with the most active area being East Missoula which had not been annexed. He added, for the aforementioned reasons, the City would annex subdivisions of 100 units or more unless they were granted the authority provided for in HB 613. **VICE CHAIR BROWN** repeated her question pertaining to the amount of the inspection fee. **Mr. Bender** estimated it to be about $1,000 per house.

REP. DICKENSON requested that Mr. Bender share some of the safety concerns. **Mr. Bender** stated the primary concern was the structural integrity of the building, recounting that one of the homes which only received the plumbing and electrical inspection had been built on poor soils; the City demanded to inspect it and uncovered numerous structural problems. He admitted this was an extreme case but had this law been in place, the City would have required structural engineering and would have realized it was being built on poor soils, necessitating a stronger support system. He maintained the key issue was that without inspections, there was no assurance that a building met all standards, especially in this earthquake-prone zone.

REP. ANDERSEN contended inspections were mandated by lending institutions. **Mr. Bender** replied those inspections were done upon completion and were mainly visual. **REP. ANDERSEN** asked about the cost of hooking up to city sewer and water. **Mr. Bender** advised the average was about $10,000 for each. **REP. ANDERSEN** surmised that with the inspection, a homebuilder was looking at about $21,000, which **Mr. Bender** confirmed, adding this bill did not deal with this aspect. **REP. ANDERSEN** wondered whether this cost would encourage people to put in their own septic system. **Mr. Bender** replied it was controlled by State regulations, adding there was undoubtedly a cost involved in connecting to City services.

Closing by Sponsor:

REP. FACEY closed, adding this bill was not retro-active; it provided the City with the authority to do the detailed inspection on a building for which City water and sewer services were requested, thereby ensuring structural integrity, before the property was annexed.
{Tape: 3; Side: A; Approx. Time Counter: 6.4 - 27.9}

EXECUTIVE ACTION ON HB 586

Motion: VICE CHAIR BROWN moved that HB 586 DO PASS.

Discussion:

VICE CHAIR BROWN recounted how this group had come to the 2001 Legislature, requesting this legislation. The determination was made that the program could be funded and was actuarially sound, and the request was granted. Now, two sessions later, they still want the DROP program but are now looking to have someone else fund it. She opposed this request, entertaining the idea to table the bill.

CHAIRMAN JENT favored more discussion and offered his take on the bill, recalling the same chain of events and discussions during the 2001 Session.

{Tape: 3; Side: B}

He quoted Item Number 2 in the technical notes, stating there was no proposal on financing the entire cost of the program; in addition, it extended the unfunded liability of the system for another year, and he would oppose the bill because it ran counter to the basic principles under which this Committee had done business in the past four years.

Substitute Motion/Vote: REP. BROWN made a substitute motion that HB 586 BE TABLED. Substitute motion carried 13-3 by voice vote with REP. HENDRICK, REP. HENRY, and REP. JACOBSON voting no; REPS. SMALL-EASTMAN, CAFERRO, A. OLSON and MACLAREN voted aye by proxy.

EXECUTIVE ACTION ON HB 542

Motion: REP. B. OLSON moved that HB 542 DO PASS.

Discussion:

CHAIRMAN JENT reviewed the bill, adding he would not vote for it because of its actuarial impact as provided by Ms. Symons.

Substitute Motion/Vote: REP. BROWN moved that HB 542 BE TABLED. Motion carried 9-7 by voice vote with REPS. DICKENSON, REP. HAMILTON, REP. HENRY, HENDRICK, and REP. JACOBSON voting no; REPS. CAFERRO AND SMALL-EASTMAN voted no by proxy; REPS. A. OLSON and MACLAREN voted aye by proxy.

(CHAIRMAN JENT left following the vote; VICE CHAIR BROWN chaired.)

EXECUTIVE ACTION ON HB 613

Motion: REP. EATON moved that HB 613 DO PASS.

Discussion:

REP. JACOBSON advised he had been involved in the building industry for many years and stated that many new buildings did not meet code. Most often, structural concerns were being overlooked despite the fact that Helena lies in a seismic "3" earthquake zone, with only San Francisco and Yellowstone National Park ranking higher at a "4" rating; another concern was "wind-loading" design. The issue HB 613 sought to address and correct was the fact that buildings outside of city limits are not inspected for those structural concerns. If a person agreed to the inspection process, they would be assessed a fee established by the Uniform Building Code, for the plan review as well as for the building inspection.

REP. B. OLSON recalled several related bills which he had heard in the Local Government Committee; one of the issues which had come up was that if city water and sewer was extended to an outlying area, it allowed for that property to be annexed. He was not sure whether or not one bill contradicted the other.

VICE CHAIR BROWN agreed, reminding the Committee that she had asked about the annexation issue because this was her concern also. Her own house was built outside of city limits over 30 years ago, and was never inspected, except for load-tests performed on the trusses. She felt it was the builder's responsibility to hire reputable workers, adding this inspection issue was nothing but a "cash cow" for cities, and she would not vote for it.

REP. MALCOLM surmised this bill applied mostly to new subdivisions which had not yet been built. He added this seemed to be a local issue and the Legislature was charged with creating policy for the State. He felt the city could contract for inspections on an individual basis, once their sewer and water services were requested.

REP. DICKENSON stated, according to testimony, cities felt they were prevented by State law from performing these inspections. She added that many people opted to build their own homes, or additions to existing homes, because of cost. If the home failed, they would be in danger and the sewer and water mains

would sustain damage; it made sense to allow the provider of the services to also perform the inspection to ward off potential issues. She added she would vote for the bill.

REP. HENRY stated that she had lived through times where homes failed and agreed with ensuring structural soundness, adding the bill was a good idea.

REP. EMELIE EATON, HD 58, LAUREL, agreed it was a good bill, recalling that Mr. Bender testified Missoula was weary of having to annex subdivisions just so these inspections could be performed.

REP. HAMILTON noted this bill did not address existing structures but targeted new construction only.

VICE CHAIR BROWN asked Sheri Heffelfinger if this was true. **Ms. Heffelfinger** advised, absent an applicability clause, this bill applied to any city or town which had a contract with the property owner to provide public sewer and water. **VICE CHAIR BROWN** wondered if that meant the city would do an inspection on a 30-year old house if the owner requested to be on public sewer and water. **Ms. Heffelfinger** stated if a contract for water and sewer existed, the city or town could enforce the building code on the tract or parcel which is being served. She explained the city may enforce its building code, no matter how old the structure. **VICE CHAIR BROWN** noted this was how she understood it.
{Tape: 3; Side: B; Approx. Time Counter: 0 - 20.1}

REP. HENDRICK stated he agreed with the way the issue had been presented in Local Government, and it applied here as well: if a builder outside city limits chose to be on public water and sewer and the city had to bypass another parcel to get to that structure, it was allowed to annex the road. Once the road was annexed, it presented the island scenario, and the city was free to annex the rest of the area.

(CHAIRMAN JENT returned.)

CHAIRMAN JENT felt this bill should not have been referred to this Committee but it was because other committees were overloaded. He did not think this bill had anything to do with the "donut bill" and contended subdivisions expected to be annexed if they desired to be on the public water and sewer system. He added the operative word was "contracted", stating if one contracted for the services, he should come under city jurisdiction and building codes.

REP. DICKENSON asked the Chair if he would accept a conceptual amendment dealing with current property owners as opposed to solely new construction.

CHAIRMAN JENT disallowed this as it would be a substantial amendment.

REP. JACOBSON surmised the bill had good intentions but did not address the issue of retro-activity.

Vote: Motion failed 4-12 by roll call vote with REP. EATON, REP. HAMILTON, REP. HENRY, and REP. JENT voting aye; REPS. SMALL-EASTMAN, CAFERRO, MACLAREN, and A. OLSON voted no by proxy.

Motion: REP. OLSON moved that HB 613 BE TABLED AND THE VOTE REVERSED. Without objection, it was so ordered by CHAIRMAN JENT. REPS. A. OLSON, MACLAREN, SMALL-EASTMAN and CAFERRO voted to table HB 613 by proxy.
{Tape: 3; Side: B; Approx. Time Counter: 20.1 - 27.8}

Note: Melanie Symons submitted her testimony on HB 644 after the hearing.
EXHIBIT(sth38a09)

ADJOURNMENT

Adjournment: 11:15 A.M.

_____
REP. LARRY JENT, Chairman

_____
MARION MOOD, Secretary

LJ/mm

Additional Exhibits:

EXHIBIT(sth38aad0.PDF)