MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **SEN. LYNDA MOSS**, on March 10, 2005 at 3:09 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: Sen. Jeff Mangan, Chairman (D)

Members Absent: None.

Staff Present: Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

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

Committee Business Summary:
Hearing & Date Posted: HB 212, 2/23/2005; HB 220, 2/23/2005; HB 371, 2/23/2005; HB 230, 2/23/2005
Executive Action: None.

HEARING ON HB 212

{Tape: 1; Side: A; Approx. Time Counter: 0.2}

Opening Statement by Sponsor:

REP. JON SESSO (D), HD 76, opened the hearing on **HB 212**, Energy performance contracting for public buildings.

{Tape: 1; Side: A; Approx. Time Counter: 0.2 - 5.2}

REP. SESSO explained the concept of Energy Performance Contracting. He said that schools and energy service companies partner at the local level, the energy service company arranged the financing of a project, designed a method of energy savings, and installed the machinery. The energy service companies then guarantee the payback from the energy savings instead of the schools or local government having to pay the money up front. **REP. SESSO** stated that **HB 212** removes some contractual obstacles and provides a model contract and a procurement procedure. **REP. SESSO** testified that **HB 212** would provide an alternative to the bid process and encourage conservation in public building. He said that once the money to install the project is paid back, the energy savings could be used to fund other important projects. **REP. SESSO** called the bill a helpful tool to economic development.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 5.2 - 8.9}

Art Compton, Department of Environmental Quality, handed out a packet explaining energy performance contracting.

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Mr. Compton told the committee that 32 states have the program implemented and it has been very successful.

Bob Vogel, Montana School Boards Association and the League of Cities and Towns, said that it would improve schools' and local governments' energy efficiency.

Gordon Morris, Montana Association of Counties, supported the bill.

Mike Pichette, Northwestern Energy, stood in support of **HB 212**.

Leslie McClain, Montana Environmental Information Center, stated that the bill made sense and would encourage conservation.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 8.9 - 11.0}

SEN. BOB HAWKS, SD 33, BOZEMAN, asked **Mr. Compton** if there was a guarantee for the contract. **Mr. Compton** answered that there was a contractual agreement between the companies and the energy companies. The energy companies would have an obligation to pay the upgrading and construction cost because they would get their money repaid over a period of time in saved energy consumption. The energy companies would have to be confident that their measures would save money in the long run. **Mr. Compton** noted that the risk would all be on the energy companies.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 11 - 11.4}

REP. SESSO said the bill would save energy and money. He encouraged the committee to concur.

HEARING ON HB 220

{Tape: 1; Side: A; Approx. Time Counter: 11.6}

Opening Statement by Sponsor:

REP. BOB LAKE (R), HD 88, opened the hearing on **HB 220,** Authorize electronic fund transfers between state and local governments.

{Tape: 1; Side: A; Approx. Time Counter: 11.6 - 14.4}

REP. LAKE explained that the state was modernizing. He said that the state of Montana has created websites for citizens to pay their fees online. **REP. LAKE** felt that the time had come to make electronic transfer of funds the standard practice in Montana. **REP. LAKE** stated that the bill would save time and money and allow counties and the state access to their funds immediately.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 14.4 - 15.3}

Steve Bender, Deputy Director of the Department of Administration, supported the bill. **Mr. Bender** said the bill was consistent with the goals of working smarter, faster, and better.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 15.3 - 23.7}

SEN. MICHAEL WHEAT, SD 32, BOZEMAN asked **Mr. Morris** if the Montana Association of Counties had any problems with the bill. **Mr. Morris** answered that he had some concerns that some of the smaller counties might struggle with sending funds electronically. He noted that the bill did contain the words "if requested" but he was unsure how that translated to practical application.

SEN. WHEAT questioned the sponsor about what "if requested" meant. **REP. LAKE** said that if the counties or cities had the capability, they would be required to do the transfer electronically. If they lacked the capability, than it would be a small process to fix the problem and give the counties and municipalities the capability. **REP. LAKE** commented that the bill would encourage them to get the capability for electronic funds transfer.

SEN. WHEAT asked **Mr. Bender** if there would be a problem adapting the counties and cities to an electronic system. **Mr. Bender** responded that there should not be. He told **SEN. WHEAT** that the focus of the bill was on encouraging sister agencies to transfer funds electronically.

SEN. JERRY O'NEIL, SD 3, COLUMBIA FALLS, wanted to know if there was a bank charge for electronic funds transfers. **Mr. Bender** answered that he was not aware of one.

SEN. KELLY GEBHARDT, SD 23, ROUNDUP, asked **Mr. Bender** if there could be more latitude in the bill to recognize that not every local government has the means. **Mr. Bender** called the bill a directional move to further the process of electronic transfer. He said that there was no intention to force communities to

comply but to encourage local governments and sister agencies to work through the issues.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 23.7 - 24.8}

REP. LAKE thanked the committee for a good hearing and noted that there were similar concerns in the House of Representatives. He stated that it was a directional move to encourage electronic fund transactions.

HEARING ON HB 371

{Tape: 1; Side: A; Approx. Time Counter: 24.9}

Opening Statement by Sponsor:

REP. CAROL LAMBERT (R), HD 39, opened the hearing on **HB 371,** Revise funding mechanism for county predator control.

{Tape: 1; Side: A; Approx. Time Counter: 24.9 - 28.5}

REP. LAMBERT told the committee that **HB 371** was really an amendment that would not fit into the title of its sister bill, **HB 37. REP. LAMBERT** explained that **HB 37** allowed the county predator boards, which were made up of self-assessed funds for predator control, to keep the interest on the money they garner rather than turning it in to the county. **REP. LAMBERT** stated that **HB 371** would allow local contributions to also stay in the Predator Board account.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 28.5 - 29.5}

John Youngberg, Montana Farm Bureau, supported the bill. He said that predator boards could not accept local contributions and **HB 371** would allow them to.

Gordon Morris, Montana Association of Counties, stood in support of the bill. He stated that the bill appropriately allowed money to stay in the Predator Board fund.

Karla Johnson, Montana Stockgrowers Association and Montana Cattlewomen, supported the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 29.5 - end of tape}
{Tape: 1; Side: B; Approx. Time Counter: 2.1 - 5.2}

SEN. CAROLYN SQUIRES, SD 48, MISSOULA, asked the sponsor what self assessed meant. **REP. LAMBERT** answered that the stock-growers formed a Predator Board and agreed on an amount of money that they would pay per head of livestock to support the Board.

SEN. SQUIRES questioned **Mr. Youngberg** if llamas were covered under the Predator board's provision. **Mr. Youngberg** said that llamas were currently covered but a group of llama producers could petition their county commission and if that passed, the county commission would begin to charge a per animal fee for the predator board fee.

SEN. RICK LAIBLE, SD 44, VICTOR, asked **Mr. Morris** what the Predator Boards do with the money. **Mr. Morris** answered that they hire bounty hunters and hire airplanes.

SEN. KIM GILLAN, SD 24, BILLINGS, wanted to know if there was any way to shift money from the Predator Board account to another account or if it went strictly to predator control. **REP. LAMBERT** replied that it was strictly for predator control.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 5.2 - 5.9}

REP. LAMBERT told **SEN. SQUIRES** that predator boards do not ignore llama ranches if there are predators on the premises. She reiterated that the fees were self-assessed and the boards should be allowed to keep their funds.

HEARING ON HB 230

{Tape: 1; Side: B; Approx. Time Counter: 6.4}

Opening Statement by Sponsor:

REP. HAL JACOBSON (D), HD 82, opened the hearing on **HB 230,** Revise laws governing municipal subdivisions.

{Tape: 1; Side: B; Approx. Time Counter: 6.4 - 12.3}

REP. JACOBSON explained that currently in a class 1 or class 2 city, a developer can request a municipal exemption from the Department of Environmental Quality (DEQ). In class 1 or class 2 cities, a development may fall under the city's review and the city can do the review instead of DEQ. **REP. JACOBSON** called it "efficient government". Under current statutes, cities must request the exemption within 20 days of preliminary plat approval but it was impossible to get done in that amount of time. Currently, cities request exemption and DEQ has been granting approval but it has been well outside of the 20-day period. **REP. JACOBSON** said that his bill rectified a problematic situation by getting rid of that time window.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 12.3 - 16.2}

David Nielsen, Helena City Attorney, supported **HB 230** because it benefits cities, developers, and the Department of Environmental Quality. **Mr. Nielsen** stated that currently the government must review plans that are not generally part of a preliminary plat. **Mr. Nielsen** contended that the bill modifies two time frames: one that is unworkable and one that did not agree with Subdivision Law. **Mr. Nielsen** believed that the statutes conflict because the 20-day time frame was not modified when the Subdivision Act was amended.

Opponents' Testimony: None.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 16.2 - 16.4}

John Dilliard, Department of Environmental Quality, stated that he was available for questions.

Questions from Committee Members and Responses:

{Tape: 1; Side: B; Approx. Time Counter: 16.4 - 21}

SEN. HAWKS asked **Mr. Nielsen** if removing the time frame would affect the time line of development. **Mr. Nielsen** answered that current law accelerates development and **HB 230** would make the time lines comparable.

SEN. WHEAT wanted to know if **HB 230** did not pass, would cities and DEQ ignore the law. **REP. JACOBSON** responded that it would continue as it does now.

SEN. GILLAN questioned **Mr. Nielsen** about any possible unintended consequences of the bill, such as developers building out beyond the time frame. **Mr. Nielsen** answered that situation would not happen because if developers go beyond the time frame, they must financially guarantee the project.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 21 - 23.2}

REP. JACOBSON said that **SEN. WHEAT** had brought up a good point. He noted that latitudes are taken when current law does not work. **REP. JACOBSON** stated that when the problems are found, they should be fixed. **REP. JACOBSON** noted that they would need to draft coordinating amendments between **HB 320** and **SEN. LAIBLE's** bill, **SB 116. REP. JACOBSON** asked **SEN. WHEAT** to carry his bill on the Senate floor if it passed out of committee.

ADJOURNMENT

Adjournment: 4:02 P.M.

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SEN. JEFF MANGAN, Chairman

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JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT(los53aad0.PDF)