MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on January 25, 2005 at 3:00 P.M., in Room 317 Capitol.

ROLL CALL

Members Present:
Sen. Jeff Mangan, Chairman (D)
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: None.

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: SB 185, 1/11/2005; SB 158, 1/11/2005
Executive Action: None.

SEN. JEFF MANGAN, SD 12, GREAT FALLS, announced that **SEN. MICHAEL WHEAT, SD 32, BOZEMAN,** would chair both hearings. He told the committee that they should have a new schedule. **SEN. MANGAN** informed the committee that they may take executive action after the hearings, dependent on how long the hearing ran. He said that **SEN. SAM KITZENBERG, SD 18, GLASGOW,** would be addressing the committee at the next meeting regarding a tabled bill. **SEN. MANGAN** informed the committee that he had decided to put the local option tax bill (**SB 184**)into a subcommittee. The subcommittee would be chaired by **SEN. WHEAT** and its members would be **SEN. MANGAN** and **SEN. JOHN ESP, SD 31, BIG TIMBER. SEN. MANGAN** noted that they would be hearing two competing bill on impact fees and that both **SB 185** and **SB 158** would be put into another subcommittee. That subcommittee would be chaired by **SEN. LYNDA MOSS, SD 26, BILLINGS** and the other members would be **SEN. KELLY GEBHARDT, SD 23, ROUNDUP; SEN. BOB HAWKS, SD 33, BOZEMAN; SEN. RICK LAIBLE, SD 44, VICTOR;** and **SEN. KIM GILLAN, SD 24, BILLINGS.**

SEN. MANGAN told the committee that the staff had made comparison sheets on the two competing bills.

SEN. MANGAN passed the gavel to **SEN. WHEAT.**

SEN. WHEAT decided to wait for the comparison sheets to be copied and handed out to the committee.

Leanne Kurtz, Legislative Services, gave the committee members a spreadsheet comparing and contrasting **SB 158** and **SB 185.**

EXHIBIT(los19a01)

HEARING ON SB 185

{Tape: 1; Side: A; Approx. Time Counter: 6.5}

Opening Statement by Sponsor:

SEN. JEFF MANGAN (D), SD 12, opened the hearing on **SB 185,** Revise and clarify laws on impact fees.

{Tape: 1; Side: A; Approx. Time Counter: 6.7 - 12.2}

SEN. MANGAN explained that impact fees were fees that local governments charged to help pay for public facilities and services that allow areas to accommodate new development. He noted that Montana did not have an impact fee statute but some cities charged the fees based on a 1990 Supreme Court decision. **SEN. MANGAN** said that both bills gave cities and counties the

right to charge impact fees but in different ways. He supposed that **SB 185** was supported by local governments and **SB 158** would be backed by builders and contractors. **SEN. MANGAN** referred to the compare/contrast sheet that had been given out and promised to make the sheet available to any interested party. **SEN. MANGAN** argued that impact fees were necessary to the maintenance of fair and equitable government and development. **SEN. MANGAN** noted the major differences in the two bills: including twenty years versus ten years, what facilities and services could local governments charge impact fees for, and whether or not there should be an advisory board. **SEN. MANGAN** felt that **SB 185** and **SB 158** were closer to each other than previous impact fee bills. He expressed his confidence that the subcommittee would strive for consensus and develop an impact fee bill that would work for all parties.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 12.2 - End of Tape}
{Tape: 1; Side: B; Approx. Time Counter: 2 - 27.4}

Elaine Mann, Broadwater County Commissioner, said that she appreciated the work of both Senators and the committee. She noted that it was difficult for small counties that were staffed by either part-time employees or volunteers. **Ms. Mann** told the committee that the counties around them were growing, as was Broadwater county, and they had concerns about growth. **Ms. Mann** expressed her desire to be fair to the developer but also be fair to the residents and felt that impact fees would work for them. **Ms. Mann** thought that it was important that volunteers start getting paid to handle the coming development.

Harold Blattie, Montana Association of Counties, rose in support of **SB 185**. He committed to work with the subcommittee to get something passed this session. **Mr. Blattie** passed out a letter of support from Gallatin County.

EXHIBIT(los19a02)

Chris Kukulski, Bozeman City Manager, discussed the need for impact fees. He explained that fast-growing communities had to have a way to continue to provide public services with the influx of new people. He noted that to repair and maintain infrastructure, Bozeman alone was looking at a conservative estimate of $125 million worth of improvements. **Mr. Kukulski** said that he and other elected officials began to push for the cost-causers to be the cost-payers. He told the committee that property owners could not continue to be the sole bearers of the

burden of paying for the needed infrastructure. He commented that the Federal government has ended its practice of appropriating mass amounts of money for infrastructure projects. **Mr. Kukulski** emphasized that Bozeman taxpayers have paid their fair share. He declared that the building industry and the city needed each other to maintain a level of growth. He said that it was not good for either entity when growth is slowed or halted because of a lack of infrastructure. **Mr. Kukulski** gave the examples of Big Sky and Belgrade. **Mr. Kukulski** discussed the opposition's agreement against impact fees. He said they argued that impact fees drive up the cost of housing. **Mr. Kukulski** contended that prices were driven by the market and law of supply and demand, not by impact fees. He noted that in order to build houses, they had to have the infrastructure and impact fees were the only way to earn the money. **Mr. Kukulski** bragged that Bozeman and other cities in Montana were great places to live and that Bozeman had been ranked number one for cities with a population under 100,000 people. **Mr. Kukulski** said that the rankings showed that Montana was doing something right at the local level. He told the committee that Bozeman just approved $5.7 million to widen Babcock Road, about a one-mile stretch of road and that it was due partially to commercial traffic. **Mr. Kukulski** felt that the cause of the growth should help pay for that infrastructure. He confessed that Bozeman's waterworks needed to be updated in order to deal with the coming growth and that was part of the reason they strongly supported **SB 185.**

Chris Saunders, Impact fee coordinator for the City of Bozeman, called impact fees "a good tool to support growth." **Mr. Saunders** said that impact fees were predictable while the current system was not. Impact fees were also location specific and they take care to not be too restrictive. He noted that impact fees were open to public comment. With impact fees, the public held elected officials accountable for imposing the cost of development on the developers. He asked the committee to watch for artificial standards. **Mr. Saunders** declared that impact fees made several large developments possible in Bozeman.

Alan Towlerton, City of Billings, read his testimony into the record.

EXHIBIT(los19a03)

Joe Mazurek, City of Great Falls, noted that the city did not currently impose impact fees but felt they may have to in the future. **Mr. Mazurek** expressed their preference for **SEN. MANGAN**'s bill, **SB 185,** because it was simpler and more concise. He said that the city looked forward to working with the subcommittee to design a bill that would work for everyone.

Raymond Carroll, Bozeman resident and former Chicago City Planner, told the committee that he had downloaded a guide on impact fees off the National Association of Planners website. He then compared the two competing bills with the guide and concluded that **SB 185** was far more in accordance with the American Planning Association's guide. He felt that planners were more likely to do what was best for the general public and so he supported **SB 185.**

Kaarem Jacobson, Private citizen from Bozeman Montana, informed the committee that she had recently retired from her work at Montana State University. **Ms. Jacobson** noted that her retirement check was not extravagant. She expressed concern about the rising property taxes and what they would do to people, especially those on a fixed income. **Ms. Jacobson** asked the committee to make it easier for local governments to assess impact fees. **Ms. Jacobson** urged the committee's support of **SB 185.**

Shirley Powell, Private Citizen from Bozeman, Montana, supported **SB 185. Ms. Powell** said that citizens could not afford more property taxes and that impact fees were needed to help citizens. She asked the committee to pass the bill and allow the city to help its property owners and alleviate some of the burden on current residents.

Mike Kadus, Mayor of the city of Missoula, told the committee that last spring Missoula adopted a scaled back version of impact fees. He said it was due to sympathy for the development community. **Mr. Kadus** expressed his concern that local governments could not expand infrastructure without either implementing impact fees or raising taxes. He noted that the state did have a cap on Mills. If Millage reached its cap, without impact fees, there would simply be no more development. **Mr. Kadus** predicted that the committee would hear testimony that impact fees were not needed for parks, recreation, and open space. He disagreed with this idea and felt that they were an essential part of the city's infrastructure. **Mr. Kadus** believed that without parks and recreation and open space, cities could not attract people. **Mr. Kadus** said that the development community was willing to pay for wastewater treatments, public health, and public safety but was unwilling to devote money to parks. **Mr. Kadus** informed the committee that Missoula collects impact fees for all of these things, including parks. **Mr. Kadus** discussed the case law surrounding impact fees and noted that many restrictions were already in case law. He said that the law revolved around two themes: nexus and proportionality. Nexus was the location, the development must have a connection to the fee. Proportionality meant that existing residents must pay for the services that they

receive, new residents should not have to bear the whole burden. **Mr. Kadus** maintained that the real dilemma was that if cities do not have revenue streams, like impact fees, they could not continue development or add infrastructure. **Mr. Kadus** hypothesized that the areas that would implement impact fees were big cities and high-growth areas. He felt that it was important that communities have the flexibility and ability to implement impact fees. He said that cities needed impact fees in order to build houses and meet the demand for growth.

Jim Patrick, City of Kalispell, stood in support of **SB 185.** He said that local government was all about fair and equitable treatment for everyone and that impact fees helped that balance. He called impact fees "cost based" and insisted that the fees were necessary to extend infrastructure out to new development. **Mr. Patrick** maintained that it was not fair and equitable for long-time residents to pay for the new development. He felt that residents should pay for the running and maintenance of public facilities and that developers should pay for their extension and upgrades. **Mr. Patrick** said that there were ways to make impact fees work for everyone. He commented that it was good that the fees were on the local level and were a local option.

Steve Golnar, City Manager for the city of Livingston, supported **SB 185.** He told the committee that Livingston did not currently charge impact fees but they did have some development fees. He noted that Livingston was growing and that they would see systematic and development concerns in the near future. **Mr. Golnar** said that Livingston did not have self-governing powers and would need **SB 185** to charge impact fees. He reminded the committee that small communities were growing as well as the big communities and would need **SB 185** in the future.

Tim Davis, Montana Smart Growth Coalition, stood in support of **SB 185. Mr. Davis** expressed his appreciation to Chairman Mangan for already agreeing to put the two bills into a subcommittee. He said that one bill could be crafted and everyone could meet in the middle. **Mr. Davis** was confident that consensus could be reached on the issue.

Alec Hansen, League of City and Towns, discussed the monetary value of the bill. Without impact fees, residents are stuck with paying for development. With impact fees, developers defray part of the cost. **Mr. Hansen** stressed the importance of balance and working together for a bill that will work for both the residential and development communities. **Mr. Hansen** was very much in favor of a subcommittee working on the bills.

Jennifer Pomnichowski, Bozeman Resident and member of Bozeman Inter-neighborhood council, offered support to **SB 185** on behalf of the neighborhoods. She said that it was important for development to pay its own cost and not just burden residents. **Ms. Pomnichowski** felt that impact fees allow local governments to control their own destinies.

Susan Johnson, Bozeman Small Business Owner, supported **SB 185** on behalf of Bozeman small businesses. She noted that these were small "Mom & Pop" businesses. **Ms. Johnson** said for these businesses to continue, they needed impact fees to reduce the financial burden on small businesses.

Marcia Youngman, Bozeman City Commission, spoke on behalf of **Russ Squire, former President of the South West Business Industry Association** and passed out a guest opinion by **Mr. Squire** from the *Bozeman Daily Chronicle*.

EXHIBIT(los19a04)

Ms. Youngman felt the article helped refute the agreement that impact fees reduce affordable housing. She said that growing communities need impact fees. Impact fees increase supply and, therefore, reduce housing costs. **Ms. Youngman** commented that affordable housing does not happen without help from government, through things like impact fees. **Ms. Youngman** stated that impact fees help, not hurt, affordable housing.

Opponents' Testimony: None.

Informational Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 27.4 - End of Tape}
{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 0.3}

Tim Rirdund, Department of Transportation, expressed some concern over the bill's description of public facilities. He warned the committee to be wary of the inclusion of parts of state and federal roadways in the description of public facilities. **Mr. Rirdund** said that they did not want to have a jurisdictional issue regarding highways and roadways. He informed the committee that current state policy already require developers to complete and pay for a traffic study. The study could result in needing to improve or change existing traffic areas and the developer would be required to pay for any of these improvements associated with their development. He noted that local governments would need to clarify these sections to secure their roadway system. **Mr.**

Rirdund wanted the committee to be aware of possible jurisdictional problems.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 0.5 - 2.7}

SEN. KELLY GEBHARDT, SD 23, ROUNDUP asked **Mr. Rirdund** to leave his contact information for the committee. **Mr. Rirdund** agreed to do so.

Closing by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 2.7 - 6.4}

SEN. MANGAN expressed his appreciation to the witnesses, especially the community of Bozeman. **SEN. MANGAN** noted that what he liked best about his bill and hoped to preserve was its flexibility and its provisions to assist local governments in managing their growth. **SEN. MANGAN** shared a story about the Great Falls Builders and himself. He attended a party that the builders hosted and was the only Great Falls legislator there. They spent the entire time discussing the two competing impact fee bills. **SEN. MANGAN** sponsored the competing legislation to the builders so he said it made for an interesting time. **SEN. MANGAN** said that the plan, from the beginning, was to send both bills into a subcommittee and get consensus. **SEN. MANGAN** was confident that the subcommittee would produce a bill that worked for everyone.

HEARING ON SB 158

{Tape: 2; Side: A; Approx. Time Counter: 6.4}

Opening Statement by Sponsor:

{Tape: 2; Side: A; Approx. Time Counter: 6.4 - 15.5}

SEN. RICK LAIBLE (R), SD 44, opened the hearing on **SB 158,** Regulate impact fee assessments for development.

SEN. LAIBLE commented on the irony that the competing bill numbers should be 158 and 185. He expressed his desire to work for consensus and said that he felt there was more in the two bills that united them than divided them. **SEN. LAIBLE** noted the major difference between **SB 158** and **SB 185** was that **SB 158** had an oversight committee. He compare the oversight committee to what communities already have in a planning board. **SEN. LAIBLE** said his goal was to grow and prosper for the future and utilize

impact fees to help local communities. **SEN. LAIBLE** stated that it was important that the development that caused the cost should pay a proportional amount to defray the cost. He expressed his commitment to the subcommittee and ensuring that there was a consensus. **SEN. LAIBLE** was confident that with the leadership of **SEN. MANGAN** and the hard work of the subcommittee, they could achieve these goals.

Proponents' Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 15.5 - end of tape}
{Tape: 2; Side: B; Approx. Time Counter: 0.3 - end of tape}
{Tape: 3; Side: A; Approx. Time Counter: 0.1 - 4.6}

Curt Chishom, Montana Building Industry Association, agreed with **SEN. MANGAN** that this session the communities and the developers are closer on impact fees than any time in the past. He noted similarities in the use of nexus and proportionality, and the implementation of a planning guide. **Mr. Chishom** told the committee why the building industry wanted impact fees. He felt that current statutes vary between cities and counties and there was very little predictability in the system. **Mr. Chishom** thought that the impact fee bill would increase fairness and consistency. **Mr. Chishom** insisted that the building industry was willing to pay for the impacts that they create. He noted that, while they were willing to pay their fair share, they did not want impact fees to become just a new source of revenue for local governments that are strapped for funding. He discussed nexus and proportionality and commented that the terms were well-founded in legal statute. **Mr. Chishom** said that impact fees affect housing affordability when they are arbitrary. He stated that fees should be limited to facilities that are absolutely necessary. He named five areas: public water, public sewer, transportation facilities, emergency services, and storm water. **Mr. Chishom** encouraged the committee to limit impact fees to those five areas because the building industry would be passing those costs off to the consumer, many of which were long-term residents of the community or first-time home buyers. He stressed the importance of accountability and fairness.

Michael Kakuk, Montana Association of Realtors, gave the committee a legal memo on the framework of impact fees.

EXHIBIT(los19a05)

Mr. Kakuk called impact fees an "exaction." He said that exactions were legal as long as they met three tests. There must be due process so that the local government must have the

authority to charge an impact fee, **Mr. Kakuk** stated that both bills grant the necessary authority for local governments to charge an impact fee. Second test was equal protection under the law, if one development pays an impact fee then all developments do. He noted that it was guaranteed in both bills. The third test was whether or not it constituted a taking. Impact fees are not takings if they adhere to the nexus. **Mr. Kakuk** explained that a nexus could be both geographical and topographical. The bill needed to insure that the impact fee was connected to the spending of that revenue. He said that the fee would have to be proportional to the impact or it would also constitute a taking. **Mr. Kakuk** agreed with **Mr. Chishom** that nexus and proportionality both had a firm basis in current statute.

Byron Roberts, Montana Building Industry Association, explained the reasons behind their support of **SB 158.** He said that the bill allowed the implementation of impact fees, designated how they would be charged, and gave a standard of fairness for their use. He noted that a number of the local governments in Montana already imposed fees under the self-governing charter but the bill would allow all cities to do it and be consistent. He commented that the developers already pay a number of fees when they subdivide and he thought that the general public was unaware of that. **Mr. Roberts** stated that they had to change the perception of who pays for the infrastructure. **Mr. Roberts** handed out a page on the essential elements of **SB 158.**

EXHIBIT(los19a06)

Mr. Roberts said one of the important things for the building industry was assurance that the necessary infrastructure would be in place to accommodate development. The fees were needed for critical infrastructure. He declared that libraries and parks were not necessary infrastructure and that was a main reason they preferred **SB 158.** He felt they were already adequately funded through other means. He noted that Montana was a tax-based state. **Mr. Roberts** said that the bill would ensure that there was a finite connection between the fee assessed and the development. **Mr. Roberts** went over his handout. He commented that the housing industry added value to Montana communities. **Mr. Roberts** declared that the building industry was willing to pay its fair share but that the fees needed to be fair and equitable.

Dab Dabney, Farmhouse Partners, supported **SB 158. Mr. Dabney** told the committee that he developed restrictive rent and low income housing. He shared a story of one of his developments in Bozeman. **Mr. Dabney** said that two years earlier, he finished the first stage of the project - 46 units. He paid $187 thousand in impact

fees. **Mr. Dabney** currently had under construction a 46-unit project, the second stage of the complex. He said that the fees were slightly higher, $191 thousand. The major difference, according to **Mr. Dabney**, was that he was required to pay $210 thousand in road improvement. He informed the committee that he was forced to charge an extra $30 a month. That was significant for low income tenants. **Mr. Dabney** said that all costs get passed to the consumers and that there were inequities in the assessment of fees. He asked the committee to add something to the bill to take into account when developers are required to make significant offsite improvements, they could offset some of the impact fees.

Elaine Mann, Broadwater County Commissioner, gave her support for the impact fee bills. She offered the subcommittee any assistance and expertise. **Ms. Mann** brought up the fact that citizens have already done their part to replace schools and jails. She hoped that the citizens and developers could work together to come up with a fair and equitable solution.

Travis Schnicke, Montana Building Industry Association, told the committee that he was a small Business owner and has paid impact fees in Bozeman. **Mr. Schnicke** commented that their desire was to create a fair and equitable system and correct the quagmire of current impact fees. He noted that impact fees were being assessed unfairly and that the city judge had ruled that seventy-five percent of the impact fee assessments were done improperly. **Mr. Schnicke** stated that they were willing to pay their fair share but not more than their fair share.

John Harding, S&H Aluminum Products and Home Builder's Association of Great Falls, applauded **SEN. MANGAN** for his attendance at their building meeting, especially considering that the Senator was sponsoring the opposing legislation to the builders. **Mr. Harding** reviewed why the builders supported impact fees. He wanted to ensure that when impact fees are implemented that they are fair. He noted that they were watching for consistency. **Mr. Harding** wanted the fees to be justified. He felt that they should go towards paying for growth and development.

Chip Pigmann, Hamilton Home Builder, told the committee that most of the homes that he builds are for young families and seniors. He said that he had asked the local government about the fees that he was charged to hook into the current infrastructure and maintained that no one was able to tell him where that money goes. **Mr. Pigmann** stressed that he was looking for predictability and consistency. He noted that builders do not pay the impact

fees, they are merely passed on to the consumer. **Mr. Pigmann's** number one priority was accountability for Montana families.

Jim More, Hamun Construction and Helena Building Industry Association, introduced himself as a laborer. **Mr. More** wanted equitable assessments and affordable housing. **Mr. More** stated that he saw every stage of the process of building for his clients. He said that it was sad when people could not afford to do everything that they wanted with their dream home because they had to pay fees. **Mr. More** declared that he was happy to pay and everyone needed to give their fair share. He called building a noble profession and said that builders were not in the business for the money but because they wanted to be.

Mike Hughes, Mike Hughes Builders, noted that he specialized in homes for first-time buyers. **Mr. Hughs** said that a problem in Helena was the increase in building lot prices. One of the primary reasons that young people were able to afford homes was because of low mortgage rates. He mentioned that his niece was a page in the capital that week and he was afraid that she would be unable to afford a first home if impact fees were not fair and equitable.

SEN. CAROLYN SQUIRES, SD 48, MISSOULA exits.

Don Garramone, Garramone Builders of Missoula and Montana Building Industry Association, said that he had seen a dramatic increase in the regulations and fees involving development in Missoula over the last few years. **Mr. Garramone** declared that the Missoula fees were inequitable and they needed control. He also objected to the double tax in regards to parks. **Mr. Garramone** stated that developers had to set aside land for parks and also pay fees for parks, which he felt was unfair.

Ronald Elliot, Montana Association of Realtors, said that if growth has an impact on an area, the development community was willing to pay for it. **Mr. Elliot** supported **SB 158** over **SB 185** because it prevented local governments from placing a disproportionate burden on the development community. He expressed his hope that differences can be worked out in the subcommittee.

Opponents' Testimony:

{Tape: 3; Side: A; Approx. Time Counter: 4.6 - end of tape}
{Tape: 3; Side: B; Approx. Time Counter: 2.2 - 7.4}

Mike Kadus, Mayor of Missoula, gave the committee a sheet about impact fees in Missoula.

EXHIBIT(los19a07)

Mr. Kadus discussed the charts on the sheet. He opposed **SB 158** because it would eliminate parks and city services and would seriously reduce funding for police and fire services. **Mr. Kadus** talked about the twenty years or more regulation of infrastructure. He said that clause would eliminate rolling stock of equipment, like fire engines, street sweepers, road building equipment, and snow plows. **Mr. Kadus** said that parks and community services would be out of the bill. He discussed the half-mile limit for Nexus in **SB 158.** He told the committee that the clause would have prevented Missoula from charging impact fees for the problem intersection of Reserve Street and Mullan Road. **SB 158** would not allow local governments to collect for traffic congestion problems, like his example. **Mr. Kadus** discussed the mandate that impact fees be determined by a neutral or independent consultant. He felt that the city could learn and employ someone for the job less expensively. **Mr. Kadus** commented on the previous discussion of builders having to pay twice. They pay impact fees on one house, move and then they have to pay fees again. **Mr. Kadus** felt this was fair because the owners would get their impact fee money back in the resale. He said that it also adds value to the property. **Mr. Kadus** discussed housing appreciation. He said that land was becoming more and more valuable. The market laws of supply and demand would work and everyone would benefit from appreciation and impact fees in the long term.

Tim Cooper, Bozeman City Attorney, agreed with **Mr. Kadus** on many points. He warned the subcommittee to be aware of the case law, especially regarding self governing power. **Mr. Cooper** expressed his delight that almost everyone supported impact fees. He opposed **SB 158** because it limits local government authority. He liked the flexibility that **SB 185** provides over **SB 158.** He noted that proportionality was not defined and was actually misleading in **SB 158. Mr. Cooper** was most concerned about the loss of Local Government authority in **SB 158. Mr. Cooper** said that **SB 185** was better because it provides for the cash system. Currently, if developers did not have water rights or park land, they gave local governments money instead. **Mr. Cooper** was concerned that **SB 158** would destroy the system. He responded to arguments against impact fees. **Mr. Cooper** said that impact fees were an inherent equalizer. He reiterated that the subcommittee needed to be aware and careful with the possible loss of authority. **Mr. Cooper** declared that impact fees worked in Bozeman and now there was a

need for something more. **Mr. Cooper** objected to **SB 158** because it took away more than it gave. **Mr. Cooper** gave an example of playing basketball and playing soccer. He said that **SB 158** is basically like giving someone permission to play basketball while taking away their rights to play any other sport.

Alan Towlerton, City of Billings, read his testimony into the record.

EXHIBIT(los19a08)

Chris Kukulski, City Manager of Bozeman, opposed **SB 158.** He felt that communities of one (one hospital, one police station, one fire station, etc.) would suffer terribly under **SB 158.** He said that the half-mile nexus provision would kill development and bankrupt infrastructure funds. **Mr. Kukulski** responded to the accusations of "sloppy" impact fees in Bozeman. He contended that he knew to the penny what was in each of the infrastructure funds. He declared that the rumor of sloppy administration in Bozeman were false.

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

{Tape: 3; Side: B; Approx. Time Counter: 7.4 - 16}

SEN. LAIBLE refuted **Mr. Kadus's** opposition to the bill. He said that impact fees should have a rational reason to be implemented. He responded to the comments that **SB 158** was taking away local government authority. He noted that the impact fees were set on a facilities plan that the local governments adopted and set. **SEN. LAIBLE** commented that the objection to the neutral party clause was misguided. He said that Missoula had already done an independent study and would not need to do it again. **SB 158** used Generally accepted accounting principles and **SEN. LAIBLE** questioned what other principles would be used. **SEN. LAIBLE** refuted the argument that a half-mile nexus was not enough. He maintained that the bill allowed local governments to assess fees outside of one-half-mile but that they needed to document why. **SEN. LAIBLE** stated that his bill provided an oversight committee, which was important. He felt that local governments needed to look farther out and his bill encouraged that. **SEN. LAIBLE** contended that **SB 158** was flexible and changeable and that local governments were the ones that could change the plan. He said that everyone wanted a consistent and equitable impact fee system

and that they would need to work together to accomplish that goal. **SEN. LAIBLE** complimented **SEN. MANGAN** on his proactive approach to the competing impact fee bills. He was pleased that the bills were going to subcommittee to work for consensus. **SEN. LAIBLE** was confident that they could put together a bill that would work for everyone.

ADJOURNMENT

Adjournment: 5:54 P.M.

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SEN. JEFF MANGAN, Chairman

_____
JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT(los19aad0.PDF)