MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on March 29, 2005 at 6:33 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:
Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Mike Wheat (D)

Members Excused: Sen. Kim Gillan (D)
Sen. Carolyn Squires (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 359, 3/7/2005; HB 73, 3/7/2005
Executive Action: HB 73; HB 359; HB 431

SEN. JEFF MANGAN, SD 12, GREAT FALLS welcomed all the people watching from the video conference sites. **SEN. MANGAN** explained that the meeting was part of a pilot project involving the use of video conferencing to conduct committee hearings. He thanked Vision Net, Information Technology Services, Partners in Health-tel network, and the Eastern Montana Telemedicine Network. **SEN. MANGAN** announced that evening the sites were in Butte, Cut Bank, Great Falls, Miles City, and Missoula. He said that the committee would follow normal procedure for the committee hearings but with six sites, instead of just one. **SEN. MANGAN** reviewed how the committee would call for witnesses. **SEN. MANGAN** asked that witnesses to keep their testimony brief as the committee had three bills to hear and take executive action on that night.

HEARING ON HB 359

{Tape: 1; Side: A; Approx. Time Counter: 3}

Opening Statement by Sponsor:

REP. GAIL GUTSCHE (D), HD 99, opened the hearing on **HB 359,** Revise pesticide notification laws.

{Tape: 1; Side: A; Approx. Time Counter: 3 - 5.6}

REP. GUTSCHE told the committee that the bill was a lot more ambitious in the House but was amended heavily. She said that the bill just changed the local control of pesticide notification. **HB 359** would add the common active ingredients and product name to the notification sign at a pesticide spraying. She explained the bill was important because people can avoid any chemicals that they are sensitive to, and pregnant women can also avoid the area. She noted that applicators are already required to post notification and **HB 359** was a minor change.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 5.6 - 21.4}

SEN. MANGAN called for proponents in Butte.
SEN. MANGAN called for proponents in Cut Bank.
SEN. MANGAN called for proponents in Great Falls.
SEN. MANGAN called for proponents in Miles City.

Wade Sikorski said that it was a good idea for herbicide signs to post the active ingredients.

SEN. MANGAN called for proponents in Missoula.

Dorey Gilels, Women's Voices For the Earth, supported **HB 359** because it was a crucial step in helping women to avoid pesticides. She said that it a minor addition to the sign and would assist pregnant women in reducing exposure. She gave an example of an exposure case. **Ms. Gilels** felt that it would provide information to astute physicians.

Alexandra Gormam, Director of Science and Research for Women's Voices for the Earth, noted that the bill was not about whether or not to spray pesticides but in reducing exposure. She said that no one would choose to expose themselves to chemicals but it would help to avoid exposure. She felt that it was not a big thing to ask.

Tony Tweedale, Toxic Activist, supported the bill but noted that it was largely amended. She stated that the government had an obligation to protect its citizens and pesticides needed the regulations. She noted that it was illegal to say pesticides are safe under any circumstance because they contain dangerous chemicals. She said that people have the right to know the hazards. She suggested that the committee strengthen the bill by making the signs more informative, note when the pesticide is a restrictive use pesticide, list the phone number for the National Poison Center, and require the brand name of the chemical to be listed.

Leanne Crowley, Missoula City Council, called the bill the beginning of the educational process.

SEN. MANGAN called for proponents in Helena.

Linda Stoll, Missoula County, supported the bill.

Gordon Morris, Montana Association of Counties, stood in support of **HB 359.**

Opponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 21.4 - 30.4}
{Tape: 1; Side: B; Approx. Time Counter: 2.4 - 15.9}

SEN. MANGAN called for opponents in Butte.
SEN. MANGAN called for opponents in Cut Bank.
SEN. MANGAN called for opponents in Great Falls.

Kevin Ferguson opposed **HB 359.**

SEN. MANGAN called for opponents in Miles City.

Mike Garvey, Association of Montana Turf and Ornamental Professionals, told the committee that their members strive for higher standard in the chemical application business. He opposed **HB 359** because it only applied to commercial applicators and homeowners could apply the same chemicals without regulation. He felt that it gave the impression that Professional applicators were at fault. **Mr. Garvey** contended that professional were better suited to apply the chemicals. He predicted that **HB 359** would destroy small businesses. He told the committee that pesticides are not dangerous when applied correctly and the problem was untrained, unlicensed, applicators.

SEN. MANGAN called for opponents in Missoula.

Robin Nelson, TruGreen ChemLawn, told the committee that she was a single mother and **HB 359** would hurt her business. She noted that ingredients were already listed on invoice. She said that licensed applicators apply chemicals at diluted rates while homeowners private applications were more dangerous.

Andy Lake, TruGreen ChemLawn, opposed the bill.

Judy Stevers, Lawn care company owner, told the committee that licensed applicators put out flags to notify the public that chemicals have been applied and the products were already listed on invoices. She noted that after Missoula adopted the ordinance, the applicators added information to the flags and said that no other city had adopted the Missoula ordinance.

SEN. MANGAN called for opponents in Helena.

Paul Newbie read his testimony into the record.

EXHIBIT(los66a01)

Jared Landby, Director of Grounds for Carroll College, opposed the bill because it was unnecessary.

Scott Selstad, Association of Montana Turf and Ornamental Professionals, told the committee that the labeling would not add any pertinent information because there are several different names for the same product. He said that there would be too much information on one sign and the Environmental Protection Agency numbers would not help either. He noted that the phone number was available on the signs and all the information would be available with a single phone call. **Mr. Selstad** opposed the bill because it

was also unfair in the way it treats professionals verses unlicensed homeowners.

Pam Langley, Association of Montana Turf and Ornamental Professionals, stated that a bill was passed in 1997 to bypass local pesticide law. She commented that forty states had bypassed local control and employed statewide laws, only Missoula chose to adopt. She said that it would be a hassle for small businesses. **Ms. Langley** said that the flags are supposed to keep people away. She told the committee that companies would lose the ability to pre-print their flags because they do not apply the same product to every lawn. She feared that regulations would be applied to Montana agriculture next.

Boyd Morgan, Montana Aerial Applicators Association, stood in opposition to **HB 359.**

Informational Testimony: None.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

{Tape: 1; Side: B; Approx. Time Counter: 16.9 - 22.9}

REP. GUTSCHE noted that current law only applied to commercial applicators and she did not change that. She noted that commercial applicators did most of the big jobs and work in public parks and schools. She commented that applicators have to put up a sign, and it can be larger to easily fit the chemical names. She stated that it was no a pre-emptive state law. She expressed surprise that there were just as many opponents to the bill as before it was gutted in the House committee. **REP. GUTSCHE** contended that people deserved to know and choose whether to expose themselves. She commented that the signs would assist physicians in increasing the antidotal response. She said that some people were sensitive and choose to expose themselves or not to expose. She asked the committee to not read too much into the bill and urged a do concur.

HEARING ON HB 73

Opening Statement by Sponsor:

REP. ROSALIE (ROSIE) BUZZAS (D), HD 93, opened the hearing on **HB 73,** County voted levy for substance abuse programs.

{Tape: 1; Side: B; Approx. Time Counter: 22.9 - 26.9}

REP. BUZZAS explained that her bill would allow local governments to impose a voted levy to prevent substance abuse for minors. She told the committee that Montana's statistic use of alcohol, drugs, and tobacco were very high and the habits were linked to risky behaviors. **REP. BUZZAS** declared that prevention was key and communities needed financial tools to maintain their programs. She noted that grants were available but were piecemeal and not sustainable. She reviewed the economic impact of alcohol, tobacco, and drug abuse. **REP. BUZZAS** said that **HB 73** would help communities build and maintain good prevention programs.

Proponents' Testimony:

{Tape: 1; Side: B; Approx. Time Counter: 26.9 - 30.7}
{Tape: 2; Side: A; Approx. Time Counter: 0 - 11.9}

SEN. MANGAN called for proponents in Butte.
SEN. MANGAN called for proponents in Cut Bank.
SEN. MANGAN called for proponents in Great Falls.

Sheriff David Castle, Cascade County Sheriff's Office, urged the committee to support **HB 73.** He said that he would rather spend money on prevention instead of incarceration.

SEN. MANGAN called for proponents in Miles City.
SEN. MANGAN called for proponents in Missoula.

Jackie Frakie, Alliance Montana Youth Programs, supported **HB 73** because the bill would help combat substance abuse. She stated that it would give local governments the opportunity to prevent substance abuse. She noted that science based strategies work and they needed funding to continue the programs.

Peg Shea, Montana Addictive Services, told the committee that they needed money to continue their programs. She reviewed strategies for prevention: coalitions and after-school activities. She said that the funding came from 14 different sources and noted that funding sources liked to see communities

showing they want to provide prevention services. She stated that prevention was the key and **HB 73** would assist in levying funds from other sources. She commented that the public still had a choice and a vote in the levy but the bill would at least facilitate a public discussion.

Jean Curtiss, Missoula County Commissioner, supported the bill because substance abuse was a problem that they needed to prevent. She thought it was important to ask voters to pay for the prevention in their youth.

SEN. MANGAN called for proponents in Helena.

Jim Kembel, Montana Association of Chiefs Of Police and Montana Police Protective Association, gave examples of the problems of substance abuse. He said that any help would be appreciated.

Steve Yeakel, Montana Advocates for Children, Boys and Girls Clubs of Montana, and Montana Council of Maternal and Child Health, supported the bill because it focused on the local level. He stated that statewide levels do not always work and communities may have insight on what would work the best.

Don Hargrove, Montana Addictive Services Providers, commented that **HB 73** was still the vote of the people. He said that there was a crisis of Meth in Montana and it was a human tragedy and a waste of money. He felt that it was good government and encouraged public discourse.

Linda Stoll, Missoula County Public Health Officers, quoted "an ounce of prevention is worth a pound of cure." She declared that there was nothing to lose and everything to gain.

Gordon Morris, Montana Association of Counties, supported **HB 73.**

Opponents' Testimony: None.

SEN. RICK LAIBLE, SD 44, VICTOR entered.

Informational Testimony:

{Tape: 2; Side: A; Approx. Time Counter: 11.9 - 17.2}

Jackie Jandt, Department of Public Heath and Human Services, explained what the department does to increase prevention programs. She told the committee that ten percent of school funding is spent on treating substance issues every year. **Ms.**

Jandt described some of the problems associated with substance abuse, including: decreased studies, increased sexual activity, behavioral problems, brain damage, decreased achievement, and increased truancy. She reviewed a study done in Washington state that showed students that used alcohol had decreased test scores. **Ms. Jandt** said that for every dollar spent on prevention programs saved $19.64.

Questions from Committee Members and Responses:

{Tape: 2; Side: A; Approx. Time Counter: 17.2 - 30.7}
{Tape: 2; Side: B; Approx. Time Counter: 2.1 - 7.6}

SEN. JOHN ESP, SD 31, BIG TIMBER, asked if county commissioners could fund a prevention program without a vote of the people. **Mr. Morris** answered they could out of existing revenues.

SEN. ESP wanted to know if county commissioners could not propose a levy to fund the programs now. **REP. BUZZAS** responded that it was not within their authority, only governments with self-governing powers could do it. **SEN. ESP** asked if **SB 301** could be applied here. **REP. BUZZAS** responded that she had not seen the bill.

SEN. MICHAEL WHEAT, SD 32, BOZEMAN, questioned about the whether the meth crisis was statewide. **Mr. Hargrove** responded that it was a crisis, sixty out of sixty-two of his drug cases were related to meth and recidivism is high. **SEN. WHEAT** asked if it required a statewide abuse program. **Mr. Hargrove** answered that it was needed but **HB 73** would help because money was tight and meth added another financial burden.

SEN. WHEAT asked what the budget was for the Department of Public Health and Human Services. **Ms. Jandt** said $2.6 million.

SEN. WHEAT wanted to know why the sponsor choose a local approach. **REP. BUZZAS** answered that prevention was money and it takes all the pieces to make it work. She said that sustainability was improved through local programs and state sources would not help levy funds from grants and non-profit organizations.

SEN. LAIBLE questioned what the state was doing for the meth problem on a statewide basis. **REP. BUZZAS** replied that they were working with MethWatch to reduce drug use and **HB 73** would offer resources to help. **SEN. LAIBLE** wanted to know how the program would dovetail with what the state agencies were doing. **REP. BUZZAS** said that the communities cooperated with the office of

Public Instruction. **SEN. LAIBLE** asked whether she was concerned that, because the bill as permissive, the solutions to problems may be patchwork rather than broad-based. **REP. BUZZAS** responded that they hoped for a state-wide solution but they needed the communities that had the coalitions and resources to be allowed to act. She said that it would allow communities to demonstrate what works and local communities design a better and more focused program. She felt that they could share and cooperate and progress towards a state-wide effort.

SEN. MANGAN wanted to know why the bill only included minors. **REP. BUZZAS** answered that they had focused on youth because the youth statistics are outrageous. She would not mind an amendment to expand it. She noted that the youth were a place to start and there were many coalitions already working in the area.

SEN. JERRY O'NEIL, SD 3, COLUMBIA FALLS, questioned about the origin of some of the bills language. **REP. BUZZAS** stated that it was added to cover a broad range of help. **SEN. O'NEIL** wanted to know why they could not end the sentence after "abuse by minors." **REP. BUZZAS** said that she did not think that was a problem.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 7.6 - 9.8}

REP. BUZZAS thanked the committee for a good hearing. She told the committee that the bill was a critical piece to facilitate public discussion and promote awareness. She thought that it was important to get ahead of the drug problem and Montana needed to handle the problems earlier. She called alcohol and tobacco "gateway drugs." that people start young and need to be prevented. **REP. BUZZAS** contended that the bill would reduce costs, of both life and money, and avert the crisis.

EXECUTIVE ACTION ON HB 73

{Tape: 2; Side: B; Approx. Time Counter: 9.8 - 24.5}

Motion: **SEN. WHEAT moved that HB 73 BE CONCURRED IN.**

Discussion: **SEN. WHEAT** stated that local governments needed every available option to deal with drug and alcohol problems in their community. He noted that voters would have to approve the measure anyway.

Motion: **SEN. MANGAN moved that HB 73 BE AMENDED.**

Discussion: **SEN. MANGAN** explained that his amendment would strike the language after "abuse" on line 19 and change the same language in the title.

Vote: **Motion that HB 73 BE AMENDED carried unanimously by voice vote. SEN. CAROLYN SQUIRES, SD 48, MISSOULA, and SEN. KIM GILLAN, SD 24, BILLINGS, voted aye by proxy.**

Motion: **SEN. WHEAT moved that HB 73 BE CONCURRED IN AS AMENDED.**

Discussion: **SEN. ESP** stated that they had passed a bill that already did the same thing that **SEN. STORY's** and he said it was wrong to micro-manage local governments. **SEN. WHEAT** responded that **HB 73** was based on current law, not on a bill that is moving through the legislature. **SEN. MANGAN** stated that they could add a coordinating amendment on the floor.

Motion: **SEN. ESP moved that HB 73 BE AMENDED.**

Discussion: **SEN. ESP** explained his amendment to coordinate **HB 73** with **HB 301. SEN. WHEAT** had no problems with the amendment. **Leanne Kurtz, Legislative Services,** wanted to know if the amendment would void **HB 73** or include the program on the list in **SB 301. SEN. MOSS** commented that the bill was an opportunity to create and develop messages for the public, to encourage communities to support the programs. **SEN. MANGAN** stated that he was not comfortable relying on another bill.

Motion: **SEN. ESP withdrew his motion that HB 73 BE AMENDED.**

Discussion: **SEN. MOSS** stated that the stats were troubling and appreciated the ability for a levy. **SEN. LAIBLE** opposed he bill because it would patchwork Montana prevention programs and funding mechanism. He contended that rural towns would not afford the programs and a state-wide program was moving forward. He argued that too many resources would be invested in a small program. He stated that needs would only grow and the demands for funding as well. He questioned what would happen on the Reservations. **SEN. ESP** responded that local programs have a value and unique perspective and ought to have the ability to do the programs.

Motion: **SEN. WHEAT CALLED THE QUESTION ON HB 73.**
Vote: **Motion that HB 73 BE CONCURRED IN AS AMENDED carried 10-1 by voice vote with SEN. LAIBLE voting no. SEN. SQUIRES and SEN. GILLAN voted aye by proxy.**

SEN. LYNDA MOSS, SD 26, BILLINGS, was appointed to carry **HB 73.**

EXECUTIVE ACTION ON HB 359

{Tape: 2; Side: B; Approx. Time Counter: 24.5 - 30.4}
{Tape: 3; Side: A; Approx. Time Counter: 0 - 3.5}

Motion: **SEN. SHOCKLEY moved that HB 359 BE CONCURRED IN.**

Discussion: **SEN. SHOCKLEY** said that the objections did not make sense and there was a value to the bill.

Motion: **SEN. O'NEIL moved that HB 359 BE AMENDED.**

Discussion: **Leanne Kurtz, Legislative Services,** explained the amendment. **SEN. O'NEIL** said that the amendment would encourage people to post, give them a reason to post, and a benefit from posting.

Vote: **Motion that HB 359 BE AMENDED failed 5-6 by roll call vote with SEN. ESP, SEN. GEBHARDT, SEN. LAIBLE, SEN. MANGAN, and SEN. O'NEIL voting aye. SEN. SQUIRES and SEN. GILLAN voted no by proxy.**

Discussion:
SEN. GEBHARDT opposed the bill because it was so heavily amended that it no longer did anything. **SEN. WHEAT** agreed with the bill but was disappointed that everything was crossed out. He said that it could still do some good. **SEN. SHOCKLEY** contended that people did not always know what they were allergic to but if they came in with an allergic reaction, under **HB 359**, they would know what they had been exposed to. **SEN. MANGAN** agreed with **SEN. GEBHARDT** and stated that the legislature was trying to micro-manage the small businesses. He also felt that the bill was vague and the bill did not do anything to help. **SEN. SHOCKLEY** noted that the objections were current law. **SEN. MANGAN** thought that the bill would have been good in its original form.

Motion: **SEN. WHEAT CALLED THE QUESTION ON HB 359.**

Vote: **Motion that HB 359 BE CONCURRED IN AS AMENDED carried 6-5 by roll call vote with SEN. ESP, SEN. GEBHARDT, SEN. LAIBLE, SEN. MANGAN, and SEN. O'NEIL voting no. SEN. SQUIRES and SEN. GILLAN voted aye by proxy.**

SEN. SHOCKLEY was appointed to carry **HB 359.**

EXECUTIVE ACTION ON HB 431

{Tape: 3; Side: A; Approx. Time Counter: 3.5 - 14}

Motion: SEN. WHEAT moved that HB 431 BE CONCURRED IN.

Motion: SEN. WHEAT moved that HB 431 BE AMENDED.

EXHIBIT(los66a02)

Discussion: SEN. WHEAT told the committee that the bill would clarify how protests on subdivisions can be overruled. He said his amendment would require a public hearing and written findings by the county to override. **SEN. O'NEIL** argued that there should not be a way to override a protest. **SEN. WHEAT** replied that there were only two instances to override and they were for base reasons of health and safety. **SEN. O'NEIL** responded that the citizens might know a better way. **SEN. SHOCKLEY** wanted to know how the sponsor felt about the amendment. **SEN. WHEAT** stated that she did not seem to mind. **SEN. ESP** questioned whether the amendment limited the other items required to override a protest. **SEN. WHEAT** stated that it clarified the bill.

Motion: SEN. SHOCKLEY CALLED THE QUESTION ON AMENDING HB 431.

Vote: Motion that HB 431 BE AMENDED carried 10-1 by voice vote with SEN. ESP voting no. SEN. SQUIRES and SEN. GILLAN voted aye by proxy.

Motion: SEN. WHEAT moved that HB 431 BE CONCURRED IN AS AMENDED.

Discussion: SEN. ESP wanted to know if a county commissioner could bring evidence to a hearing and submit it for record. **SEN. WHEAT** answered affirmatively and that to override a protest the local government better have the evidence to back it up.

Vote: Motion that HB 431 BE CONCURRED IN AS AMENDED carried 9-2 by roll call vote with SEN. ESP and SEN. MANGAN voting no. SEN. SQUIRES and SEN. GILLAN voted aye by proxy.

SEN. WHEAT was appointed to carry the bill.

ADJOURNMENT

Adjournment: 8:47 P.M.

_____
SEN. JEFF MANGAN, Chairman

_____
JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT(los66aad0.PDF)