MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **SEN. RICK LAIBLE**, on January 20, 2005 at 3:11 P.M., in Room 303 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 162, 1/13/2005; SB 184, 1/13/2005
Executive Action: None.

SEN. RICK LAIBLE, SD 44, VICTOR, reminded those present to turn their cell phones off and to sign the visitor registry if they intended to testify.

HEARING ON SB 162

{Tape: 1; Side: B; Approx. Time Counter: 0.8}

Opening Statement by Sponsor: **SEN. JEFF MANGAN (D), SD 12**, opened the hearing on **SB 162**, Modernize county official bonding laws.

{Tape: 1; Side: A; Approx. Time Counter: 0.9 - 3.4}

SEN. MANGAN called **SB 162** an update bill on how Montana bonds county officials. **SEN. MANGAN** explained that officials must be bonded for the faithful performance of their duties and the bonding was available under blanket protection. However, the bonding laws were archaic, the last one being codified in the 1930's. **SEN. MANGAN** explained that the goal of the bill was to provide blanket, faithful performance bond coverage to public elected officials by modifying and simplifying the provisions of state law. **SEN. MANGAN** noted that he carried **SB 162** on behalf of the counties and that there were a few amendments to the bill, including one to extend the bill to cover cities and towns.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 3.4 - 8.2}

Greg Jackson, Marketing Director for Montana Association of Counties Joint Insurance Authority, stood in support of **SB 162**. He credited MACO's board of trustees with the origination of the bill. **Mr. Jackson** explained that, currently, his association provides insurance coverage, which includes faithful service coverage for all public servants. Under current statutes, fidelity bond coverage laws are old and confusing. **SB 162** is designed to modernize and simplify the system of bonding. **Mr. Jackson** commented that they did support the two amendments that the sponsor had mentioned.

Bob Worthington, Montana Municipal Insurance Authority, told the committee that the authority was responsible for insuring cities and towns. They supported the bill, and especially the amendments, as they allowed the cities and towns to use **SB 162** as well. **Mr. Worthington** thanked the sponsor for allowing the amendments to be brought forward to grant the same protections and provisions to the cities as the counties.

Gordon Morris, Director of Montana Association of Counties, identified himself as a trustee for the Montana Association of Counties Joint Insurance Authority. As a trustee, he asked for the committee's favorable vote on **SB 162.**

Stuart Doggett, Montana Innkeepers Association, mistakenly stepped forward. He wanted to speak on **SB 184. SEN. MANGAN** corrected him and told him that hearing was next.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 8.2 - 9.9}

SEN. JOHN ESP, SD 31, BIG TIMBER, asked a question about the local option tax. **SEN. MANGAN** told him that bill was next.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 9.9 - 10.7}

SEN. MANGAN jested that everyone was ready for local option instead of county bonding. He discussed **SB 162. SEN. MANGAN** said that it had been sixty years since the government had looked at the bonding laws and that it was time for some modernization. **SEN. MANGAN** told the committee that he would provide some documents regarding what bonding entails. **SEN. MANGAN** thanked the committee and the chairman.

HEARING ON SB 184

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

Opening Statement by Sponsor: **SEN. JEFF MANGAN (D), SD 12,** opened the hearing on **SB 184,** Local option sales tax.

{Tape: 1; Side: A; Approx. Time Counter: 11.7 - 18}

SEN. MANGAN expressed his appreciation for **Mr. Doggett's** eager support. He explained the origins of the bill. In 2000, the Local Government Funding and Structure Committee took an honest look at all the arguments surrounding a local option tax bill and came up with fair and practical answers to most of the troubling questions. **SEN. MANGAN** said that the committee found a solution

to balancing the benefits of local taxes among rural and urban citizens. A local option tax was considered by the 2001 and 2003 legislatures, under which counties and cities that enacted a local tax would deposit the funds generated into a special account. The state would have then made a population-based distribution of the account to the small cities and towns that would not otherwise benefit from the tax. **SEN. MANGAN** told the committee that the current inception of the bill, **SB 184**, "would allow voters in local cities and counties to approve a four percent local tax on lodging, bars, restaurants, rental cars, admissions, recreation, and other goods and services that are the foundation of the tourist economy." **SEN. MANGAN** informed the committee that the Department of Revenue found that if every city and town voted for the local option tax, it would raise approximately 75 billion dollars per year and would benefit all cities, towns, and counties across the state. The Department of Revenue also found that over 47 percent of the tax collected would be from tourists and travelers. **SEN. MANGAN** noted that the legislators had been working on this problem for a number of years. He felt that local control of the tax was very important. **SEN. MANGAN** called **SB 184** a "fair way for cities and towns and counties to ask their voters for the ability, for basically a luxury tax." He pointed out that the success of the resort tax in communities, like Whitefish, had been phenomenal. He declared that other communities could use the same type of taxes and the benefits as well. **SEN. MANGAN** urged the committee to ask good and positive questions. He noted that he would be passing around an amendment that had some significant effects on the revenue sharing portion of the bill. **SEN. MANGAN** reserved the right to close.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 18 - 31.2}
{Tape: 1; Side: B; Approx. Time Counter: 0.1 - 28.1}
{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 10.8}

Duane Larson, Kalispell City Council, Montana League of Cities and Towns, told the committee that he has been a public employee since 1966 and that his concern was about where the money to pay city and county employees was going to come from without further burdening citizens with property taxes. **Mr. Larson** blamed growth as a reason that municipalities are struggling with finance. In Kalispell, voters passed a bond issue for a new school, a college, and a new fire station. **Mr. Larson** said that taxpayers saw a need and voted to answer that need but the burden of paying had fallen almost exclusively on property owners. **Mr. Larson** saw the local option tax as an alternative to raising property taxes. Renters and tourists would pay the tax and it would mean relief

for property owners. **Mr. Larson** felt it was a fairer way to support services, as renters and tourists use the services and they should pay for them. **Mr. Larson** noted that the citizens would choose to impose taxes on themselves, it gave local control of the tax, and the communities chose where the money goes.

Chris Kukulski, City of Bozeman, read some testimony of **Jeff Krauss, former Gallatin County Treasurer, current Bozeman City Commissioner, and Mayor-Elect.**

EXHIBIT(los15a01)

Mr. Kukulski shared some of his experience as a city manager. He called local option taxes, when voted on by the people, a significant economic tool. **Mr. Kukulski** handed out a chart.

EXHIBIT(los15a02)

Mr. Kukulski directed the committee to the chart and noted that it showed that communities with local option taxes had a lower property tax. He also noted that those communities invested more in the infrastructure of their communities. **Mr. Kukulski** directed the committee to the second page of the packet, which showed that the communities with local option taxes levied fewer mills. **Mr. Kukulski** pointed out that the communities with a tax decreased the number of mill levy by one while other communities increased their mill levies by forty-three in the last ten years. **Mr. Kukulski** shared that the Polecom Corporation ran a study and Bozeman was recently ranked number nine in micropolitan communities. **Mr. Kukulski** expressed his concern that the growth would slow and halt because the cities and counties could not keep up with the demand as the infrastructure would be inadequate to provide for the growth.

Bill Kennedy, President of Montana Association of Counties, endorsed **SB 184. Mr. Kennedy** noted that the local option tax was by the vote of the people. He reminded the senators that when they campaigned door-to-door, they heard one thing: property taxes are high. **Mr. Kennedy** said that local governments need options and this is a good one.

Steve Golnar, City Manager of Livingston, read and then submitted his witness statement.

EXHIBIT(los15a03)

Mr. Golnar submitted a letter of support from the Alliance Development Corporation, the Economic Development Corporation for Park County.

EXHIBIT(los15a04)

Gary Marks, Whitefish City Manager, wanted to explain how the tax worked for the city of Whitefish. He passed out a handout containing an overview of the tax and its implementation.

EXHIBIT(los15a05)

Mr. Marks went over a quick history of the tax in Whitefish. The voters approved it in 1995 and it was implemented on February 1st of 1996. This initiated a twenty year term and the sunset date was January of 2016. In November of 2004, the voters approved a ballot initiative to do an early re-authorization of the tax for a new twenty year term. The tax was extended to 2025. **Mr. Marks** pointed out that the vote in 1995 was 56 percent favor the tax, and in 2004 the vote was 67 percent. He surmised that people lived with the tax and found that they really liked it. **Mr. Marks** thought that they had seen the improvements to public facilities, better funding for projects, and relief on their property taxes. **Mr. Marks** directed the committee to the packet, which showed how the tax was used and he noted that the tax could only be changed by a vote of the community. The packet also showed where the money came from. The ordinance was a two percent sales tax within the city and was on lodging, taverns, restaurants, and retailers that sell products defined as luxury items. He also commented on the percentage of the tax that came from each segment. **Mr. Marks** told the committee that Whitefish had a resort tax monitoring committee, which ensured compliance with the tax and the fair execution of the tax. **Mr. Marks** was very proud of the amount of money, 3.5 million dollars, that the tax had brought in since its inception. **Mr. Marks** surmised that it showed growth in the local economy. He also thought that the city itself was growing and improving, partially due to new public improvements. **Mr. Marks** went over what Whitefish spent its revenues on, a majority of which was relief in property taxes. **Mr. Marks** listed the projects that Whitefish had completed or began because of the tax. **Mr. Marks** called the tax "a phenomenal success."

Jani McCall, City of Billings and Big Sky Economic Development Authority in Billings, stood in support of **SB 184. Ms. McCall** told the committee that Billings has been growing well, but that it was hard to maintain that growth without funding for necessary infrastructure. **Ms. McCall** said that Billings needed 3.7 million dollars over the next three years to maintain current levels of

safety and service. **Ms. McCall** thought that **SB 184** would help Billings and so they support it.

Mark E. Tymrak, Director of Public Safety Bozeman and Montana Association of Chiefs of Police, demonstrated their support of **SB 184. Mr. Tymrak** informed the committee that public safety was struggling to keep pace with the rapid growth in Montana. **Mr. Tymrak** explained that in Montana, there are high levels of university populations and tourists. These groups place a heavy demand on public safety services. He noted that county residents also place a demand on the city public safety services. **Mr. Tymrak** placed some blame on the fact that federal money for public safety was no longer as available. **Mr. Tymrak** liked the fact that individual communities would decide what level of service, and so what level of tax, they wanted.

Bill Dove, Montana Municipal Police Association, stood in support of **SB 184** and urged the committee's do pass vote.

Rick Morris, Mayor of Fort Benton, supported **SB 184. Mr. Morris** noted that Fort Benton had not had the growth that some other areas have, but said that the residents could not absorb any more property taxes. He felt that the bill would help provide tax relief for property owners. **Mr. Morris** maintained that the local option tax would give the potential for growth and fund essential services.

SEN. JOHN ESP, SD 31, BIG TIMBER, went on record in support of **SB 184** and the amendment that gives regional disbursement of the revenue.

Pat Clinch, Montana State Council of Professional Fire Fighters, read the Council's letter of support.

EXHIBIT(los15a06)

Ed Tinsley, Lewis and Clark County Commissioner, expressed his strong support of **SB 184** and thanked **SEN. MANGAN** for his ongoing work on the bill.

Gordon Morris, MHCO and MACO, said that they were 100 percent behind the bill and also thanked **SEN. MANGAN** for carrying it.

Steve Snezek, Montana Association of Realtors, supported the bill for four major reasons. They have a policy to support local taxes if it is voted on by the people, it has a sunset date, and it has a specific stated purpose. **SB 184** fulfills that criteria. **Mr.**

Snezek said that the Realtors also see the bill as an opportunity to keep property taxes and local fees lower.

Carl Schweitzer, Bozeman and Kalispell Chambers of Commerce, supported a local option tax. He noted that Bozeman would like the committee to consider the resort tax and specific property tax relief within the legislation.

Charles Brooks, Billings Chamber of Commerce, backed **SB 184. Mr. Brooks** appreciated the aspects of local authority, flexibility in use of the revenue, and the sunset date.

Stuart Doggett, Montana Innkeepers Association, told the committee that resort taxes have been successful in Whitefish. They have made the communities where their employees live better. They liked the fact that the bill was uniform, was by vote of the people, and excluded a double tax in relation to the resort taxes. **Mr. Doggett** submitted a fact sheet about tourism and recreation in Montana

EXHIBIT(los15a07)

Mr. Doggett noted that the resort taxes and **SB 184** would help collect taxes from tourists. The visitors use public services and they should have to pay for them.

Mike Kadas, Mayor of Missoula, supported the bill. He commented that tourists impact public safety, roads, parks, and other things. **Mr. Kadus** said that much of the tax would be exported to tourists and visitors. It is also a tax on luxury items. **Mr. Kadus** noted that city budgets are highly dependent on property taxes and the revenues are capped at one percent a year. He continued that seventy percent of costs are for employees and they could not afford salaries. **SB 184** would help cities deal with this. **Mr. Kadus** contended that infrastructure was the first thing cut from city budgets and it was a necessity. **Mr. Kadus** felt the tax would help cities provide infrastructure to support their growth.

Randy Gray, Mayor of Great Falls, informed the committee that twenty years ago, the city of Great Falls was dependent economically on agriculture, Malmstrom Air Force Base, and the smelter. He told the committee that all three of those have changed over the years. The remarkable thing was that Great Falls survived all the changes. **Mr. Gray** said that Great Falls has become a tourist access point. He felt that it was time for Montana to diversify its economy and stop being just great hosts. **Mr. Gray** maintained that tourists and visitors need to contribute

to Montana and help pay for the services that they use. **Mr. Gray** presented his next point, that cities need the flexibility and diversity that **SB 184** provides. He appreciated the fact that the bill recognizes that local control is important, as not every city has the same need. **Mr. Gray** agreed with **SEN. ESP** about the regional distribution provision.

Bill Beecher, Great Falls City Commissioner, supported the bill. He shared with the committee how funds were desperately needed for cities' infrastructure. He implored the committee to pass the bill and give Montana citizens a chance for self determination and for them to decide the quality of projects they wanted in their community.

Jim Patrick, City of Kalispell, gave his support to **SB 184. Mr. Patrick** appreciated that fact that voters choose to tax themselves or not. **Mr. Patrick** gave an example of one business in his community that would give a tax of $800,000 a year. He felt this would greatly help and improve the cities infrastructure. Currently, cities have to bond for items and projects. **Mr. Patrick** said **SB 184** would give cities another tool in their toolbag to provide service for the community.

Alec Hansen, League of Cities and Towns, talked about the amendment that was being offered that would give 20 percent of the revenue to regional distribution, showing the importance of the rural communities. **Mr. Hansen** pointed out that 47 percent of the tax would be collected from non-residents. This is their fair share. **Mr. Hansen** told the committee that most Montana residents favor a local option tax. **Mr. Hansen** noted that the bill will not cost Montana any money. **Mr. Hansen** asked the committee "to take a step through the looking glass. All the things we dreamed about could be a reality... This thing could be magical."

Opponents' Testimony:

{Tape: 2; Side: B; Approx. Time Counter: 10.8 - 30.9}

Nancy Schlepp, Montana Farm Bureau, opposed **SB 184.** She thanked **SEN. MANGAN** for his work on solving Montana's tax problems. She noted that in the past they had supported **SEN. MANGAN'S** comprehensive statewide sales tax bill and felt that they could support the bill if it was a sales tax. An important issue to the Farm Bureau was comprehensive property tax relief and **Ms. Schlepp** felt that it was not provided in **SB 184. Ms. Schlepp** declared that **SB 184** would only complicate Montana's tax system. She also felt that the bill would only entrench the power of the "Big 7" (Billings, Bozeman, Butte, Great Falls, Helena, Kalispell, and

Missoula). **Ms. Schlepp** was afraid agriculture would be ignored in **SB 184.** She reminded the committee that the cities and the state depend on agriculture. **Ms. Schlepp** surmised that the rural communities would only be exporting their tax dollars, would see no benefit, and would not have any property tax relief. **Ms. Schlepp** responded to **Mr. Hansen** that more Montanans favor a comprehensive statewide sales tax. **Ms. Schlepp** asked the committee to vote no on **SB 184** and suggested that the committee tackle "the real problems with Montana's tax system" and implement a statewide sales tax.

Mary Whittinghill, Montana Taxpayers Association, commended **SEN. MANGAN** for his work on a comprehensive sales tax. **Ms. Whittinghill** agreed that Montana should export taxes but **SB 184** was the wrong way to do it. She concurred with **Ms. Schlepp** that rural communities would not benefit from the bill. **Ms. Whittinghill** doubted that there would be any significant reduction in mill levies. **Ms. Whittinghill** thought that **SB 184** was more regressive than a statewide sales tax because there was not a low income rebate. She complained about the fact that communities can not define what was and was not taxable. **Ms. Whittinghill** felt that once a local option tax was on the books, it would be difficult to revoke. **Ms. Whittinghill** asked the committee to find solutions on a statewide basis and not just community by community.

Web Brown, Montana Chamber of Commerce, pointed out that while **SB 184** does mandate a vote on a local option tax, communities outside the city limits would not be voting, but they would be paying the tax. **Mr. Brown** was concerned that property tax relief was not provided for in the bill. He noted that tourists do pay taxes, they do not get a free ride in Montana. **Mr. Brown** supported a statewide sales tax.

Riley Johnson, National Federation of Independent Businesses, opposed **SB 184** because it was a selective tax increase and that it pits one business against others across city lines. **Mr. Johnson** reminded the committee that rural communities do not get the benefit of property tax relief while city property taxes are paid down. **Mr. Johnson** said that **SB 184** would prevent a broad-based tax reform. **Mr. Johnson** directed the committee to page 1, line 30, and said that it allowed the government to unfairly compete with private enterprise. He looked at page four, lines 26 through 28, and told the committee that a two percent administrative fee is not enough. **Mr. Johnson** opposed the bill because it was confusing, especially considering multiple store locations and central accounting.

Riley Johnson, Enterprise Rent-A-Car, opposed **SB 184.** He directed the committee to page six, line 11 through 12 which stated that double taxation was prohibited. He than noted that rental cars were already taxed at four percent. **Mr. Johnson** saw **SB 184** as a double taxation.

Steve Pilcher, Montana Stockgrowers Association, stood in opposition to **SB 184. Mr. Pilcher** said that the bill was the wrong direction and wrong approach to solving budgetary crisis. He reiterated that rural communities and agriculturally based families would not benefit from **SB 184.** He noted that the bill as introduced had no sharing provision so agricultural money would stay in the cities and towns that impose the tax. There would be no benefit to the areas that generated the spendable income. **Mr. Pilcher** felt that the piecemeal approach of **SB 184** would only reduce the likelihood of meaningful tax reform being accomplished. **Mr. Pilcher** noted that they also supported a statewide sales tax and would not support anything that may set that goal back.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 2; Side: B; Approx. Time Counter: 30.9 - 48.5}

SEN. BOB HAWKS, SD 33, BOZEMAN, questioned **Mr. Marks** about the administrative fee and whether he thought that two percent would be enough. **Mr. Marks** answered that 5 percent was agreed on and that it has worked in their case.

SEN. KELLY GEBHARDT, SD 23, ROUNDUP, asked **Mr. Larson** what percentage of sales would end up being taxed. **Mr. Larson** deferred to **Mr. Hansen. Mr. Hansen** promised to get the information before executive action.

SEN. ESP wanted to know if the sponsor had any concerns regarding the testimony that the bill would double tax rental cars. **SEN. MANGAN** said that while he appreciated the concern, he did not feel it was an issue. He concluded that rental cars were things that tourists used and the tax would not be taking out of the companies' bottom line.

SEN. ESP asked if the sponsor had discussed the 2 percent administrative fee. **SEN. MANGAN** responded that it was the first time that he had heard of the problem. **SEN. MANGAN** said that the bill may be amended to give local control of the administrative fee up to 5 percent.

SEN. MICHAEL WHEAT, SD 32, BOZEMAN, questioned the sponsor whether he had considered making revenue distribution districts rather than limit the distribution to cities. **SEN. MANGAN** answered that the idea was already drafted in an amendment. He handed that amendment out.

EXHIBIT(los15a08)

SEN. WHEAT asked how the sponsor intended to merge the bill with existing resort tax districts. **SEN. MANGAN** said that he had not considered it but the area would be discussed.

SEN. WHEAT wanted to know what was a double tax and what was not, considering the legislature raised the bed tax last session. **SEN. MANGAN** responded that the double taxation related to other local option taxes only.

SEN. WHEAT questioned the sponsor if he had considered what a statewide sales tax would generate in revenue compared to the local option taxes. **SEN. MANGAN** replied that he felt local option sales taxes worked and that a local option tax and a statewide sales tax were not mutually exclusive. **SEN. MANGAN** said he thought they could support both and the local option tax would benefit local governments while a statewide sales tax would support the state government.

SEN. WHEAT wanted to know if **Mr. Kadas** would be just as happy with a statewide sales tax. **Mr. Kadas** preferred a tax that had local control. He thought the likelihood of a local option tax happening was greater than a statewide sales tax.

SEN. MOSS asked **Mr. Marks** about the impact on small businesses in Whitefish with the resort tax. **Mr. Marks** responded that there was a high level of support and many opponents came across in the re-authorization vote.

SEN. LAIBLE questioned the sponsor about the twenty-year sunset date for the bill. **SEN. MANGAN** thought it was important to have a universal sunset date. **SEN. MANGAN** deferred to **Mr. Marks. Mr. Marks** said that they felt that communities should be looking farther ahead. He also noted that communities could vote to re-authorize earlier than twenty years too.

Closing by Sponsor:

{Tape: 2; Side: B; Approx. Time Counter: 48.5 - 52.6}

SEN. MANGAN commented that the legislature has been trying to handle this issue for three sessions and that it was time to do something about it. **SEN. MANGAN** noted that **SB 184** was by vote of the people and the idea for it was based on a solid trial run in Whitefish. **SEN. MANGAN** addressed the opponents, thanked them for their generous comments. He said that he hoped they understood that a local option tax and a statewide sales tax were mutually exclusive.

ADJOURNMENT

Adjournment: 4:55 P.M.

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SEN. JEFF MANGAN, Chairman

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JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT(los15aad0.TIF)