

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on March 9, 2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. John E. Witt, Vice Chairman (R)
Rep. Tim Callahan (D)
Rep. Eve Franklin (D)
Rep. Bill E. Glaser (R)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)
Rep. Ralph L. Lenhart (D)
Rep. Walter McNutt (R)
Rep. Penny Morgan (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Jon C. Sesso (D)
Rep. Janna Taylor (R)

Members Absent: Rep. Jack Wells (R)
Rep. John Sinrud (R)

Staff Present: Jon Moe, Legislative Branch
Marcy McLean, Secretary

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

Committee Business Summary:

Hearing & Date Posted: HB 173, 3/4/2005; HB 340, 3/4/2005;
HB 440, 3/4/2005; HB 438, 3/4/2005;
HB 475, 3/4/2005; HB 521, 3/4/2005;
HB 614, 3/4/2005; HB 640, 3/4/2005

HEARING ON HB 475**Opening Statement by Sponsor:**

REP. ROSALIE (ROSIE) BUZZAS, HD 93, Missoula, opened the hearing on **HB 475**, a bill to administer a county fee for processing motor home titles. She said the bill will allow a county to adopt a resolution, after a dually noticed public hearing, to impose a surcharge of 10 percent on motor home registration fees. This will cover the costs to the county for processing paperwork involved in issuing titles and renewals. Many non-residents use limited-liability companies to license motor homes in Montana in order to pay a lower registration fee and avoid sales tax. Processing the paperwork for these motor homes has become a burden to local motor vehicle departments. It has been determined that no overall fiscal change will result from the bill and the fiscal note has been adjusted to zero.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.1}

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, distributed copies of the resolution adopted by the Association in regard to the motor home processing fee. He said that attorney firms have set up Limited Liability Corporations (LLC) to enable non-residents to license motor homes through a Montana address. Non-resident licensing has become a burden to local motor vehicle departments and the counties would like the opportunity to assess a small surcharge on these licensures.

EXHIBIT (aph52a01)

Ronda Carpenter-Wiggers, Montana County Treasurers Association, stated that a few attorneys are selling and licensing large numbers of motor homes through these LLCs. Four counties have been required to have a full-time staffer devoted to processing motor home licenses. The amended version of the bill makes the fee applicable statewide, rather than on a county-by-county basis. This minimal fee will allow county treasurers to be compensated without deterring individuals from doing business in Montana.

Linda Stoll, Missoula County, said that Missoula County was a strong supporter of this legislation. In less than one year, Missoula County processed 664 titles and over 1,800 renewals for the LLCs of two law firms.

**{Tape: 1; Side: A; Approx. Time Counter: 5.1 - 12.1; Comments:
REP. WELLS entered hearing.}**

Dean Roberts, Department of Justice, Motor Vehicle Division, explained why the fiscal note for the bill had been adjusted to zero. The Department already intends to reprogram part of their computer system and has determined that the licensing fee updates could be addressed as part of this project, at no additional cost to the state.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. MORGAN asked if there was a similar bill in the legislature that had proposed to address the same issue, only at higher fees. **CHAIRMAN BUZZAS** replied that the only other similar bill just increases the fees for motor homes. The two bills should not affect each other.

REP. RIPLEY asked what the connection was between the motor home advertisement and proponent testimony. **Mr. Morris** said that the advertisement indicated that Montana motor homes are advertised in a nationwide publication, inviting people to purchase their motor homes in this state.

{Tape: 1; Side: A; Approx. Time Counter: 12.1 - 17.5}

REP. FRANKLIN asked Ms. Carpenter-Wiggers to expand on the cost burdens faced by the counties. **Ms. Carpenter-Wiggers** replied that most buyers will also license their motor homes in Montana to avoid sales tax in their home states. This is why so many vehicles are being licensed in Montana, thus increasing the workload for county treasurers.

REP. FRANKLIN asked for a breakdown of the number of vehicles licensed in each county. **Ms. Carpenter-Wiggers** said that Missoula, Lake, Gallatin, Custer, and Yellowstone Counties are seeing the greatest number of licensures.

REP. JAYNE asked for the number of titles issued statewide through LLCs. **Mr. Roberts** responded that an estimated 5,000 to 8,000 are processed per year and this has become a growing trend.

REP. JACKSON asked how the 10 percent fee was decided. **CHAIRMAN BUZZAS** explained that this figure was based on the number of licenses processed in Missoula County during one year. She does not feel that a 10 percent fee will dissuade non-residents from continuing to do business in Montana.

{Tape: 1; Side: A; Approx. Time Counter: 17.5 - 25}

REP. MCNUTT clarified that the 10% was taken from the registration fee, not the price of the motor home. **REP. BUZZAS** stated that this was correct and directed the committee members to reference Page 2, Section 2 of the bill.

Closing by Sponsor:

CHAIRMAN BUZZAS said that there was little opposition to the bill on the House Floor. She continued that this bill only compensates counties for their work in processing non-resident registration and does not contend with LLCs or motor home businesses.

HEARING ON HB 438

Opening Statement by Sponsor:

REP. ROSALIE (ROSIE) BUZZAS, HD 93, Missoula, opened the hearing on **HB 438**, a bill to ensure availability of braille literacy services to blind or visually impaired children. She said that the bill will help provide much needed resources to blind or visually impaired children in the state. Local school districts are challenged to find the resources needed for blind or visually impaired students. The Montana School for the Deaf and Blind, Office of Public Instruction, and Montana Association for the Blind have worked together to create a program in helping blind and visually impaired students receive a quality education in their local school district. This bill will align Montana statute with federal Americans with Disabilities standards.

{Tape: 1; Side: A; Approx. Time Counter: 25 - 32.8; Comments: End of Tape 1, Side A.}

Proponents' Testimony:

Carl Schweitzer, Montana Association for the Blind, stated that this bill will allow parents of blind children to keep their kids at home, rather than sending them to another city or state, by providing services to the local schools.

Jim Marks, Montana Association for the Deaf and Blind, added that the movement to mainstream individuals with disabilities has contributed to the need for special material in local schools. The expertise that is available at the Montana School for the Deaf and Blind is not always available to local schools. This bill will provided the materials needed to put literacy back into the education of blind and vision impaired Montana children.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 6.7}

Dan Burke, Vice President, Montana Association for the Blind, explained that many blind students are not taught nor expected to be literate due to the lack of resources available. He feels the bill will provide the structure necessary to extend support to local schools.

Myrle Thompkins, President, Montana Association for the Blind, described braille as a practical communication tool for the blind. She stated that braille is not difficult to learn and allows her to be live independently.

Steve Gettel, Superintendent, School for the Deaf and Blind, said the school outreach program has five consultants who provide technical assistance to local schools upon request. He submitted written testimony for the record.

EXHIBIT(aph52a02)

Bob Runkel, Director of Special Education, Office of Public Instruction (OPI), said that the bill is the result of a collaboration of efforts from various groups. Local schools depend on the outreach program to teach students who are blind or visually impaired and this bill makes these resources available.

{Tape: 1; Side: B; Approx. Time Counter: 6.7 - 19}

Pamela Boespflug, Supervising Teacher, Montana School for the Deaf and Blind, explained that most schools do not have the resources to teach blind or visually impaired students. She submitted her written testimony for the record.

EXHIBIT(aph52a03)

{Tape: 1; Side: B; Approx. Time Counter: 19 - 22.5}

Phil Hohenlohe, Montana Advocacy Program, went on record in support of the HB 438.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

REP. JUNEAU asked if there was any information about the impact of diabetes on incidences of blindness. **Mr. Marks** replied that diabetes and macular degeneration are currently the two leading causes of blindness.

REP. JUNEAU asked how color was described to a blind person. **Mr. Marks** explained that blind people see colors in their mind's eye, in the same way that a sighted person would when using their imagination.

REP. KAUFMANN asked if the Montana Association for the Blind supported the changes that had been made to the bill. **Mr. Schweitzer** replied that the Association had worked with OPI to create the amendments and were happy with the bill.

Closing by Sponsor:

CHAIRMAN BUZZAS stated that services could still be provided to blind children in the state with the reduced budget included in the bill. She added that this bill will address equal access to education issues.

{Tape: 1; Side: B; Approx. Time Counter: 22.5 - 30.4; Comments: End of Tape 1, Side B.}

HEARING ON HB 173

Opening Statement by Sponsor:

REP. RALPH HEINERT, HD 1, Libby, opened the hearing on **HB 173**, a bill to allow use of search and rescue surcharge both in the fiscal year when the money is deposited and during the following fiscal year. He said that HB 173 corrects an oversight when this law was passed in the 2003 legislative session. At that time, a \$.25 surcharge was added to all conservation licenses to provide an additional source of revenue for search and rescue efforts. This surcharge generates about \$100,000 per year. The legislature did not want a large balance to build up in this account, so the law stated that unused funds would revert at year end back to the general license account. An unanticipated consequence of this is that on July 1st the account is zeroed out. Therefore, there is no money built up to cover search and rescue efforts during the summer or early fall.

Proponents' Testimony:

Chris Smith, Fish, Wildlife and Parks (FWP), said that his department requested HB 173 in response to concerns from the Division of Disaster and Emergency Services. HB 173 would retain funds within the search and rescue account for two fiscal years and eliminate the annual zeroing out of the account.

He said that this will make it easier to administer the account and ensure that funds are available to counties when they are needed for training or search and rescue operations.

EXHIBIT (aph52a04)

Dan McGowan, Montana Disaster and Emergency Services, said that they need to have this money available at all times to allocate to the counties for searches. He said that HB 173 is a housekeeping bill to help them administer these funds.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 6.3}

Jim Smith, Montana Sheriffs and Peace Officers Association, said that this was simply an oversight in the bill introduced last session, and that HB 173 would help the local sheriffs and the search and rescue units.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. JUNEAU asked if the \$100,000 shown in the fiscal note for FY 06 and FY07 would reduce the FWP's budget. **Jon Moe, Legislative Fiscal Division**, said that he was unsure. Current law has the excess reverting back to the license fund; if that is stopped, then that money is not being appropriated for something else.

Closing by Sponsor:

REP. HEINERT said that because this surcharge is part of the licensing process, any leftover funds had to go back to FWP's general operating funds. This is required because of federal laws. Therefore, any leftover funds that reverted back to FWP did decrease the department's general fund requirements.

{Tape: 2; Side: A; Approx. Time Counter: 6.3 - 10.5}

HEARING ON HB 340

Opening Statement by Sponsor:

REP. BRADY WISEMAN, HD 65, Bozeman, opened the hearing on **HB 340**, a bill to fund \$250,000 for television and radio advertising to counter meth abuse. He said that the State's current meth policy is to spend more money on corrections, and it is a failure. This policy is to warehouse drug addicts without treating them. This is the least effective and most expensive way of dealing with meth use. He said that Montana is currently planning to build more prison facilities to lock up people in the future who are not yet meth users. He said that he would like to use 1% of that

money, \$250,000, to advertise and convince these potential future prisoners that they should not use meth. He said that is a far more effective policy than planning to lock them up.

Proponents' Testimony:

Jim Kembel, Montana Association of Chiefs of Police, said that meth use is a danger to the public, and that advertising is a good first step.

Mike Batista, Department of Justice (DOJ), said that they have sought numerous grants in the past to do more public education about the meth problem. He said that HB 340 would be a way to sustain their public education and awareness.

Jim Smith, Montana Sheriffs and Peace Officers, said that the three approaches to dealing with meth use are: 1) enforcement and imprisonment, 2) education and prevention, and 3) treatment and assistance. He said that if this three-part strategy were used, Montana would be able to make some inroads into the problem of meth use.

{Tape: 2; Side: A; Approx. Time Counter: 10.5 - 18.8}

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. FRANKLIN asked if this program would be placed under the direction of the proposed Drug Commissioner. **REP. WISEMAN** said, "yes," and this bill references HB 31, which would create the position of Drug Commissioner.

REP. KAUFMANN asked where the \$250,000 appropriation would come from, and if other states are using successful advertising campaigns. **REP. WISEMAN** said that a proposed amendment would coordinate HB 340 with HB 439, which addresses the foreign tax loophole and has a revenue of \$369,000. He said that he was not aware of any other top-quality programs, but new ads are being produced constantly and Montana should not have to create their own new campaign.

REP. JAYNE asked how the advertising contracts would be awarded, saying she would want the message to emphasize the dangers of meth, rather than the scare of imprisonment. **REP. WISEMAN** said that they would contract for advertising production using the standard state purchasing policy. He said that currently we have not educated people that meth use is a one-way trip to hell, and the prison part of it is the least of their worries. He said that it is a known fact that punishment is effective as a

deterrent based on how certain the punishment is. Meth has a punishment all its own, that has nothing to do with law enforcement. That punishment, which is swift and certain, is that your life falls apart very rapidly. He said that would be the advertising message.

{Tape: 2; Side: A; Approx. Time Counter: 18.8 - 32.6; Comments: End of Side A, Tape 2}

REP. MCNUTT asked if there was any data to show that this advertising is effective, and if the \$250,000 was enough to realistically put forth an effective campaign. **REP. WISEMAN** said that there is plenty of evidence that effective TV ads aimed at teenagers work, specifically anti-drug campaigns have worked. The \$250,000 appropriation would launch the campaign so they could begin using public service announcements, which is free air time. He said that the State is going to spend this money one way or another, either locking up the users or using it for advertising to deter them from starting meth use.

REP. JUNEAU said that there are several bills that are requesting money to combat meth; she asked if there was any information on the big picture of the meth issue. **REP. WISEMAN** said that information is available through the DOJ. Montana does not currently have a comprehensive policy regarding meth and that is why the Drug Commissioner bill needs to be passed. **Jon Moe** said that his department could compile this information.

CHAIRMAN BUZZAS asked if there would be amendments to the bill to coordinate it with HB 439 and to make some cultural changes.

REP. WISEMAN said that he would provide these amendments, along with one to establish an account to receive private donations.

Closing by Sponsor:

REP. WISEMAN said that meth is the single most troubling social problem in Montana. He said that the current policy is not working, so HB 340 proposes a different approach to convince people to not begin using meth.

HEARING ON HB 440

Opening Statement by Sponsor:

REP. BRADY WISEMAN, HD 65, Bozeman, opened the hearing on **HB 440**, a bill to require locks on anhydrous ammonia storage tanks. He said that anhydrous ammonia is commonly stolen from farms for the use of meth production. HB 440 proposes a one-time only program whereby the Department of Agriculture (DOA) would purchase and distribute the locks, at a price of \$80,000. Owners of the tanks

would be required to install these locks, and non-compliance would be a misdemeanor. He said that North Dakota has done a similar program and they have drastically cut down on the meth labs. He said that meth labs are hazardous waste sites and are very expensive to clean up; the public costs associated with meth production and use are very expensive to society.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 19.1}

Proponents' Testimony:

Pam Langley, Montana Agri Business Association, said that her group represents the fertilizer, pesticide and seed dealers in Montana, and they are concerned about the use of anhydrous ammonia in the production of meth. She said that research is being conducted at Iowa University to render anhydrous ammonia useless in the production of meth, by including additives. She said that they have assisted law enforcement with sting operations and are reporting suspicious activity. The association has taken many steps to educate their members so they can become a part of the solution. Montana has approximately 45 locations that sell anhydrous ammonia and about 700 tanks. Many of these locations have taken steps, such as removing the hoses, plugging the valves and keep the tanks empty when out of season. She said that they asked for the two-year sunset in HB 440 because their members are afraid of vandalism to their tanks. But if the program works, she said that they will be back to the legislature in strong support of making the program permanent.

EXHIBIT (aph52a05)

Mike Bastista, DOJ and Montana Narcotics Officers Association, said that HB 440, in conjunction with SB 287, will have the largest deterrent impact on the meth problem in Montana.

Alex Smith, Montana Grain Growers, said that they support HB 440 because it is aimed at protecting the public in the use of anhydrous ammonia. They feel that any legislation that reduces the potential use of anhydrous ammonia in the manufacturing of meth, is the highest priority to their organization. He said that this legislation will not be a hardship to any of the farmers; it is a simple matter to attach the lock.

{Tape: 2; Side: B; Approx. Time Counter: 19.1 - 29}

Chris Christians, Montana Landlord Association, Montana Farmers Union, said that meth lab cleanup costs are approximately \$6,600 to the property owner. They think that these meth bills make an impact on cutting the meth production in Montana. The anhydrous ammonia tanks in rural Montana are targets for this meth production; farmers are constantly seeing tampering of their tanks.

Jim Kembel, Montana Chiefs of Police, said that they appreciate any help in curtailing the production of meth.

Jim Smith, Montana Sheriffs and Peace Officers Association, said that HB 440 is a good preventive tool, and is a good use of state funds. He said that it is important to note that the farming industry is working with law enforcement to try and get a grip on this serious problem.

Gary Macdonald, Roosevelt County Commissioner, said that eastern Montana has a concern with North Dakota already placing these locks on their tanks. They are finding that the meth producers are crossing the border into eastern Montana to vandalize the Montana tanks.

{Tape: 2; Side: B; Approx. Time Counter: 29 - 32.6; Comments: End of Tape 2}

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. GLASER said that these locks can be easily picked and the tank broken into. **REP. WISEMAN** said that these concerns are warranted, and he hoped that the issue could be resolved before they distribute the locks.

REP. JAYNE asked about the violation for not installing the lock. **REP. WISEMAN** said that the language in the bill is specific, because they are amending Title 80, Chapter 10, so that the violation is a misdemeanor. He said that it is not their intention to charge the farmers and fertilizer owners with a misdemeanor for non-compliance.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 6.8}

REP. MCNUTT asked when the two-year sunset is completed, how will the results of this legislation be reported and to whom. **REP. WISEMAN** said that question has not been brought up before, but said it would be a good idea to decide.

REP. MORGAN asked about the concerns over liability. **Pam Langley** said some members were concerned about the lock being broken and a passerby being injured by the leaking anhydrous ammonia, or about the increased chance of vandalism. However, she said that the pilot program in North Dakota has not experienced these problems.

REP. MORGAN asked about the North Dakota pilot program. **Pam Langley** said it is being conducted in two counties and has been successful over the past year. Those tanks with locks have not

been tampered with, however the culprits were coming across the board to eastern Montana.

REP. JUNEAU asked if the tank manufacturers are developing new methods for a safer locking mechanism. **REP. WISEMAN** said that the fertilizer industry is doing some very good work in developing new practices for handling the material. He also pointed out that with changes in the agricultural industry, less anhydrous ammonia is being used, so the market for new tanks is shrinking.

Closing by Sponsor:

REP. WISEMAN said that putting locks on the tanks does not increase the danger. HB 440 serves to eliminate a crime of convenience, because the thieves will move on. He said the effectiveness of the program will be measured by the number of meth labs that are busted. By removing the materials, Montana should be reducing the number of labs.

{Tape: 3; Side: A; Approx. Time Counter: 6.8 - 14.2}

HEARING ON HB 521

Opening Statement by Sponsor:

REP. KEVIN FUREY, HD 91, Missoula, opened the hearing on **HB 521**, a bill to establish bid preference for food produced in Montana. **EXHIBIT**(aph52a06)

He said that Montana food production is high quality and high value, however the majority of our food is produced out of state and out of country. Montana institutions consume a lot of food, particularly in the University system and the Department of Corrections (DOC). HB 521 would provide a 10% bid preference for Montana food producers when competing for a state institution's business.

He said that there have been concerns regarding reciprocity with other states, that other states would penalize Montana food producers. There are no Montana food producers who are doing business with other states' institutions, so reciprocity should not be an issue. He said the best reason for supporting HB 521 is the higher quality food they would be buying from Montana food producers. It also supports our rural economies that are having a difficult time marketing their food products. It encourages Montana food producers to grow and expand.

He said his concern with the fiscal note is that the DOC and University System have overstated their costs for this bill. He feels that both departments used incorrect assumptions to arrive at their numbers. He said that you cannot assume that all Montana food producers will increase their bids by 10%.

Proponents' Testimony:

Linda Gryczan, Grow Montana, said that an amendment will be introduced to clarify that the institutions do not have to buy all of their food from Montana producers. The reciprocity concern with other states has not been a problem with food producers. Montana food producers support HB 521 because they know that reciprocity with other states will not become an issue.
EXHIBIT (aph52a07)

Jonda Crosby, Alternative Energy Resources Organization (AERO), said that their non-profit organization is made of 600 farmers and ranchers. Their interest are in value-added products, market development and Montana economic development. She said that 85% of our food products are shipped out of state without any value added. Today, only 12% of Montana farm and ranch products are consumed in Montana. If that could be increased by another 50%, there would be a huge impact to the farmers and ranchers and to Montana's economic development. A 1999 survey said an increase of 15% would generate \$325 million in added revenue for Montana farmers and ranchers and for processing. Fifty percent of the food consumed in Montana is through institutional purchases. She said that HB 521 is an important step for increasing value-added opportunities, because it increases the opportunities for processing.

{Tape: 3; Side: A; Approx. Time Counter: 14.2 - 32.6; Comments: End of Side A, Tape 3}

Chrissie McMullan, Grow Montana, said that she has worked on a program to encourage the University of Montana to purchase more food from local producers. Current law states that the University is obligated to accept the lower bid for food. She said that sometimes causes a problem when the University is trying to buy the higher-quality Montana food product. She said that in a conversation with the Montana State University's (MSU) food service director, he learned that he would not be 10% more on every bid, and he can actually have the choice to pay an additional 10% when it fits into his budget. Because of this, MSU is interested in starting a Farm to College program, in order to provide good, healthy food to the students.

Chris Christians, Montana Farmers Union, said that they assist producers in forming co-ops to add value to their product and

then market them. He said that transportation of these products is so high, that the State needs to help these producers stay in Montana and market their products. He said that it is ironic that MSU developed the canola seed, yet MSU does not purchase their canola from Montana's Montola plant in Culbertson.

Joel Webster, UM Student, said that university food is neither good nor healthy. He said purchasing food based upon the lowest price, does not consider the students' health.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 9.3}

Becky Stockton, Helena, said that she grew up on a farm and knows how important HB 521 is to their livelihood. She this bill is important to keep Montana's economy growing.

Alex Smith, Montana Grain Growers, said that Montana farmers produce some of the highest quality grain and beef in the world. He said that if that grain and beef can be used in-state, without having to pay freight costs, it makes sense. It would support the farming and ranching communities, who in turn support other industries.

Jessica Grennan, Associated Students of UM, said that HB 521 would help to connect the University with Montana farmers.

Allison Holt, UM student, said that it is important to her to have quality, fresh food on campus.

Michelle Reinhart, Northern Plains Resource Council, said that their group works to promote local Montana food, because it helps the producers and keeps money in the local economy.

Opponents' Testimony:

Sheryl Olson, Department of Administration (DOA), said that their department guides all state agencies in their purchase of supplies and services, and would administer this food preference bill if it is passed. In the 1960s they administered the Montana Made preference, which was a 3% preference for Montana residents and 5% for Montana made products. In 1999 the legislature studied state contracting issues, and in 2001 repealed the Montana preferences because of the problems they created. The repeal was because 34 other states reciprocates against Montana companies that do business with their state governments. Many Montana businesses, not food producers, are asking the legislature to repeal this legislation because it is hurting them.

In 1991, the Montana Contractors Association asked for repeal of the legislation because it was hurting their business in other states. They felt that Montana taxpayers were being asked to pay the burden of these preferences, for the benefit of just a few businesses in Montana. She also said that, as the agency that would administer the food preference, they know they are difficult to administer. She said HB 521 runs counter to their job of securing the best value for the taxpayers. Currently, few states have these preference laws because of the reciprocity, administration problems and cost issues.

EXHIBIT (aph52a08)

Andrew Olcott, Department of Corrections, said that they are opposed to this bill due to the fiscal burden it would place on their department. He said that he authored the fiscal note, because he is the purchasing agent for the prison. He tried to identify Montana producers who are not currently the low bidders, and calculated the additional 10% cost. The most difficult group to identify is those products that they cannot easily identify as being made by Montana producers. Not all Montana products are properly labeled. Therefore, the additional cost associated with those food products is unknown.

{Tape: 3; Side: B; Approx. Time Counter: 9.3 - 22.4}

Questions from Committee Members and Responses:

REP. MUSGROVE asked if best value/lowest price was always practiced in Montana institutions and if so, how can you always get the best value at the lowest price. **REP. FUREY** said that it depends on how the bid request is written. He said that the UM's Farm to College program was able to write bids that were written so as to award a contract to specific producers. That way they were assured of getting the quality product they wanted.

REP. MUSGROVE asked if other states are doing preferences. **REP. FUREY** said that there are 18 other states that have food preferences for either local products or services.

REP. MORGAN asked why the fiscal note states, "Only the UM and MSU campuses would be impacted; this requirement would be cost prohibitive on the smaller campuses." **REP. FUREY** said that was a result of a misunderstanding of this bill. He said the University system thinks they will have to hire two FTEs to prepare highly specific bids, which he does not think is correct. It would only entail reviewing submitted bids to determine if a Montana food producer is within 10% of the lowest bid. He said that he does not think the smaller campuses should be exempted from the bill.

REP. SESSO asked if the other states that have a food preference law have found it to be successful. **Sheryl Olson** said that 34 other states have reciprocal preferences and just a few have food preferences. She said that from involvement in professional associations, she knows that procurement people advocate against preferences because they are difficult to administer. She said that the DOA does not oppose preferences for food products with a specific requirement, it is just the 10% preference that they fear would trigger reciprocity from other states.

REP. SESSO asked if the bid request could be written that allows the purchaser to specify the product they wanted, would it affect the reciprocity laws. **Sheryl Olson** said that they would have no objection to that type of bidding process. The laws just states that they cannot have restrictive specification; i.e., a red tractor.

REP. SESSO asked the sponsor if he would be willing to fix the law so that these types of contract specification could be used, without triggering the reciprocity issue from other states. **REP. FUREY** said that it is a fairness issue. The bid requests could be written to a specific product, but it is not fair to other Montana producers that want to compete. He said that HB 521 does not restrict these types of bid requests from continuing to be written. He said that his end goal is to help Montana food producers to growth enough that they don't need this 10% preference, but right now they need the help.

Closing by Sponsor:

REP. FUREY said that nobody knows what the fiscal impact is of HB 521. He said that it would be appropriate to pass this bill without any money tied to it. He said that the bill also addresses that a Montana institution cannot use a bid preference if the federal government says that they cannot.

{Tape: 4; Side: A; Approx. Time Counter: 0 - 10.7}

HEARING ON HB 614

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS, HD 66, Bozeman, opened the hearing on **HB 614**, a bill to provide assistance to counties for courthouse restoration. He said that the State historic preservation officer would assist 48 historic county courthouses with restoration and rehabilitation. The courthouses are old and in need of repair. The counties are asking for assistance to assess the architectural needs of the building, developing assessment of

the cost and helping them to apply for grants. He said that the fiscal note estimates the cost to be \$5,000 per courthouse, and he thinks the total appropriation of \$39,200 is very modest.

Proponents' Testimony:

Jim Shanks, Roosevelt County Commissioner, Montana Association of Counties, said that they support HB 614.

Chere Jiusto, Montana Preservation Alliance, said that they receive lots of requests from counties for assistance. HB 614 would help counties with the assistance they most need now. It would lend them the expertise to assess the needs of the building, comply with Americans with Disabilities Act (ADA) requirements, look for grant funding, and help them to restore their courthouse.

EXHIBIT(aph52a09)

Arnie Olson, Montana Historical Society, said that many of the courthouses in Montana are in poor condition and facing difficult decisions regarding compliance with ADA. The counties lack the expertise in their staff to evaluate the courthouses, which the Montana Historical Society could provide.

EXHIBIT(aph52a10)

EXHIBIT(aph52a11)

Jim Kembel, American Institute of Architects-Montana Chapter, said that these courthouses are Montana's treasure, and they support HB 614.

Phil Hohenlohe, Montana Advocacy Program, said that his group works to protect the rights of Montanans with disabilities, which includes the right of access to government buildings. He said HB 614 would help the counties to make the courthouses more accessible. He said that Teton County was sued over ADA non-compliance, and as a result they added an elevator, made the entrance more accessible and made a number of other changes. They found that many of the other local courthouses were not accessible to people with disabilities. He said that problem for these counties is not that they have to make changes, but how they are going to fund it. Therefore, HB 614 would provide them with the technical expertise to make these changes.

{Tape: 4; Side: A; Approx. Time Counter: 10.7 - 25.7}

Mary Allen, Granite and Powell Counties, said that HB 614 is critical to these two counties, in preserving their historical courthouses.

Opponents' Testimony: None

Closing by Sponsor:

REP. HARRIS rose to say, "I close."

HEARING ON HB 640

Opening Statement by Sponsor:

REP. HAL JACOBSON, HD 82, Helena, opened the hearing on HB 640, a bill to encourage the use of in-state information technology (IT) businesses. It would ensure that in-state IT businesses and workers are used to perform work on state IT contracts when possible and in the best interest of the State. He said that it was designed to achieve accountability and economic activity. The State's previous computer system, POINTS, was a mess, and he said part of the problem was that there was no in-state presence with the company doing the IT work. He said one of the outcomes of HB 640 would be that it generates high-paying jobs in Montana, because these IT companies will set up offices here.

{Tape: 4; Side: A; Approx. Time Counter: 25.7 - 32.6; Comments: End of Side A}

He said that he refused to sign the fiscal note because he totally disagrees with the assumption that it would cost the General Fund \$56,872 in FY06 and \$53,828 in FY07. He said that whatever the costs are, they can be paid for with IT proprietary fees.

Proponents' Testimony:

Glen Gormely, Montana Information Technology Alliance, said that his association represents 23 Montana IT companies and they want to be a part of State IT jobs.

Ryan Weisser, Axiom IT Solutions, Inc., said that his company is one of several state-approved IT providers. He said that HB 640 is fair and provides opportunities for all IT parties to get involved.

Dana Glass, WESCO, said that HB 640 is about local economic development. He said that WESCO has worked on several state IT projects, including the Fish, Wildlife and Parks automated licensing system.

Mark Taylor, Bearing Point, said that Bearing Point is a global IT company with an office in Helena and they support HB 640.

Tony Herbut, Montana Information Technology Alliance, said that HB 640 would stimulate growth of Montana IT companies.

Opponents' Testimony:

Jeff Brandt, State Chief Information Officer, Department of Administration (DOA), said that they oppose this bill because the DOA is responsible for contracting for the best possible IT products and services for the best possible price. He said that protectionist measures such as these run contrary to the law that requires them to seek broad-based competition and to seek out the best possible IT solutions in the free market. He also said that they think this bill may be attempting to address a problem that does not exist. For example, Montana companies are already doing over 90% of the work on Montana's IT term contracts. In order to fulfill the new responsibilities of HB 640, he said that they would require the addition of one staff member. The on-line database required in HB 640 for use by the Montana IT companies, they estimate will cost \$25,700 to develop and then \$6,000 per year to maintain. The bill allows them to charge a fee to recover these costs, however, he said that they have no idea how many companies will register and pay the fee.

EXHIBIT(aph52a12)

He said that they recommend some amendments to HB 640:

1. Clarify that this bill does not apply to hardware or commercial off-the-shelf software.
2. Clarify the meaning of "bona fide Montana residency."
3. Increase the length of time than an IT company would have to register with the Secretary of State's Office.

EXHIBIT(aph52a13)

{Tape: 4; Side: B; Approx. Time Counter: 0 - 11.5}

Questions from Committee Members and Responses:

REP. JACKSON asked for information on the problem the State had with the POINTS computer system, and how HB 640 would solve it.

REP. JACOBSON said that POINTS was a major software project provided by the multi-national company UNISYS. UNISYS installed the software and gave limited instruction as to how this software was to be implemented for Montana's tax system. He said that POINTS was a very complicated system and Montana needed a lot more training follow-up, which did not occur. He said that he believes that due to our small size, UNISYS took advantage of us. As a result, the State had to hire numerous experts to try and

get the system up and running. Unfortunately, the POINTS system was scrapped while the State continues to payoff bonds that funded the system. He said that HB 640 is not going to solve that problem, but it's going to address the issue of an IT provider having a presence in the State of Montana.

REP. JACKSON said that he thought the problem with POINTS was that the State did not pay for the work incrementally as it was done. If they had, then when the quality work was not there, the State would not have paid them. He said he did not think a Montana presence would have improved this type of problem. **REP. JACOBSON** said that since the failure of POINTS, the issues have been addressed to ensure that it does not happen again. HB 640 is not going to solve the State's IT problems, but it is going to give them a Montana presence from the provider. UNISYS did not have that Montana presence. He said that IT providers that have a Montana presence are going to be very reluctant to "bump and run."

REP. JACKSON asked the sponsor how he felt about DOA's proposed amendments. **REP. JACOBSON** said that he could agree to these amendments.

REP. MORGAN asked if HB 640 would cause any reciprocity issues with other states. **REP. JACOBSON** said that they had looked at the State of Hawaii, which has a similar preference law, and they found that no retribution had occurred. He pointed out that the IT contractors that spoke as proponents of this bill, are willing to take that chance because HB 640 would benefit them.

REP. MORGAN asked for clarification of the fiscal note, especially since the sponsor said that he did not agree with it. **Tony Herbert** explained that he had recently from the DOA's IT Services Division after 25 years of service, most recently serving as Deputy Chief Information Officer. He said that he does not agree with the DOA's request for one FTE to administer this program. In 2004, there were only 12 IT contracts that would have been affected by HB 640, and he said he does not believe that would require an addition to staff.

REP. MORGAN said that she was concerned that if HB 640 passes, the DOA would hire an additional FTE to administer it. **REP. JACOBSON** said that there would not be any money appropriated from the General Fund for additional staff.

REP. SESSO said that he was confused by Section 3 of the bill, where it states "encourage businesses to consider using existing Montana IT businesses." He said that he thought the intent of the bill was to encourage State departments to use Montana IT

businesses. **Tony Herbert** said the intent of the bill is for businesses bidding on State IT contracts to consider using existing Montana IT businesses. The DOA would maintain a list of qualified Montana IT businesses and would include that list with solicitations for bids. He said that Section 4 of the bill requires that 25% of the IT work would be done by Montana businesses, unless the DOA would waive that requirement.

{Tape: 4; Side: B; Approx. Time Counter: 11.5 - 32.6; Comments: End of Tape 4}

REP. JACOBSON suggested that Line 12 on Page 2 be amended to read "out-of-state businesses," in order to clarify who is being encouraged to consider using existing Montana IT businesses. As an example, he mentioned the FWP's automated licensing system, which WESCO worked on in conjunction with a major out-of-state IT company. If there are ever problems with that system, then Montana has a local company that they can turn to for assistance.

REP. TAYLOR asked how the DOA prioritizes their criteria in a Request For Proposals (RFP). **Jeff Brandt** said that RFPs can be very complicated since they may be for a multi-million dollar computer system, and may run 75-100 pages. Generally, they have a very comprehensive description of what type of system they want, a request for the State's standardized contract and information on how they will score the bids. Typically, the scoring includes: 1) company qualifications, 2) technical merits of the proposal, and 3) the cost. They would need to revise their basic RFP to include the requirement of using a Montana IT business.

REP. TAYLOR asked if the requirements in HB 640 would increase the cost of the bids. **Jeff Brandt** said that was difficult to answer, but said that it was possible that the bidders would have to add staff in Montana.

{Tape: 5; Side: A; Approx. Time Counter: 0 - 11.4}

REP. JACKSON said that he thought the proposed amendments looked good, but was concerned about Jeff Brandt's statement that this bill runs contrary to the law and would limit their ability to seek out the best IT solutions in a free market. **Jeff Brandt** said that his concern is with the State's procurement law, which refers to "best product at the best price." He said that bill, even if it was amended, would not meet the intent of this law.

{Tape: 5; Side: A; Approx. Time Counter: 11.4 - 14.2; Comments: Rep. Ripley entered hearing.}

Closing by Sponsor:

REP. JACOBSON said that he thought the times was right for HB 640. He thinks the bill would bring the bid prices down because partnerships will be established between the large IT companies and the Montana companies. He pointed out that the bill provides the escape clause in case DOA feels that there are no Montana IT businesses that are capable of participating in a contract. He said that he has worked extensively with DOA on this bill, so was surprised to learn just recently about their concerns. He said the two important issues addressed by HB 640 are accountability and economic development.

ADJOURNMENT

Adjournment: 4:35 P.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

EXHIBIT ([aph52aad0.PDF](#))