

MINUTES OF THE MEETING  
FINANCE AND CLAIMS COMMITTEE  
MONTANA STATE SENATE

April 10, 1979

The thirty-sixth meeting of the Finance and Claims committee met on the above date in room 108 of the State Capitol. Following roll call the meeting was called to order at 8 a.m. by Senator Himsl, Chairman.

ROLL CALL: All members present.

CONSIDERATION OF HOUSE BILL 921: An amendment to cover \$12,000 for a man with the mental health who was relieved of his job because he didn't have the right religion. He got about \$8,000 for himself and about \$3,000 for his attorney. The claim was approved by the state examiners. Senator Regan said that her subcommittee had the auditor check this, and everything was verified. The center is in Eastern Montana, Miles City, region 5. Verification statements attached.

Motion by Senator Regan House Bill 921 be amended to include the \$12,000.

Voted and passed.

Discussion was held on the aeroplane hangers. John LaFavor said that just because the management changed, it did not mean that Fish and Game were not getting the use of the hangers. They are. The general fund will be giving added appropriations to the Fish and Game.

Senator Fasbender: What about the Highways? That is Federal money. John LaFavor: They would still have the use of the hangers. I don't think the state is mandated to make its appropriation from the general fund.

Senator Himsl: The money that went into this in the first place-- was there any federal funds? La Favor: There may have been, I don't know. Senator Himsl: Sometimes that makes a difference.

Senator Etchart: They still have the use of the hangers, too.

Senator Smith: I am sure some of them will use them because of the use of the planes. Perhaps by transferring them we will have more misuse than before.

Senator Regan: I would suggest putting this in on the floor of the Senate.

Senator Stimatz: Is the aeroplane in now?

Senator Himsl: No, but they want it now.

Motion by Senator Regan we amend the bill to provide for payment of the aeroplane and the hangers. \$122,000 into their division.

The motion was seconded by Senator Fasbender, voted, unanimous, of those present and voting.

Senator Smith commented that in the way we handled this matter of planes, they may get them so high the agencies and Departments can't use them.

Fitzpatrick: I would recommend to put in that you put in \$122,000 and for John La Favor to have reports from their office. The committee decided to hold this motion and vote after they had heard Joe Roberts discuss the topic.

DISPOSITION OF HOUSE BILL 908: Motion by Senator Story that we do not concur. He said he would like to have this plant here, but that is a lot of money.

Senator Stimatz: I don't think it is a matter of how you get allong or whatever. If you want to gamble \$500,000 on getting a brand new facility and an industry in Montana; then as the man said, this gesture is necessary. It would put us in the drivers seat. We have spent more money than this on things that should never have happened. It is such a small percentage of what the gain might be. The fellow from MHD impressed me.

Senator Thiessen: Mansfield and Metcalf got the program started in Butte. The money has been spent in Montana and Kaiser is building the first plant. They are going to 4 megowatts. I think we should spend the money to keep it.

Substitute motion by Senator Thiessen that House Bill 908 be concurred in.

Senator Fasbender: The bill was originally for \$1.5 million. Now if we spend the \$500,000 will it get the job done?

Senator Thiessen: It is telling Congress that we are interested.

Senator Himsl: Without the \$500,000 we would then have no voice on where the plant would be located in Montana. With the money we would have, if the plant is built here.

Senator Smith: Don't we ever run out of money in the resource and indemnity trust fund?

Senator Himsl: Apparently this fund has not been too heavily drawn against. There is about \$2.5 million and the only project that has been drawn so far amount to about \$900,000.

Senator Thiessen: Even if we shouldn't get this plant, this would be valuable for any other plant that might be built in Montana.

Senator Regan: I can't see supporting this when they asked for \$1.5 million. What will that amount do?

Senator Thiessen: I would support a motion to rais it back up.

Senator Regan: I have some concern over the language in the bill also.

Senator Thiessen: If the other companies would want to contribute they would have to have a filing fee. Sometimes this amounts to \$1 million. Then they would have to have an auditor to spend more money than the \$500,000 that we put in.

Senator Etchart: I think this \$500,000 has to be spent so that the environmental base line data is available. It would take about 1½ years to do this. You can't even talk to the feds before that is done.

Senator Story: Isn't it true that in all the honestly possible job sites we have these studies?

Discussion was held on the manner in which environmental impact statements are made, etc.

The substitute motion for a do concur in was voted, tied, and therefore failed.

DISPOSITION OF HOUSE BILL 908: Senator Himsl asked Mr. Joe Roberts to share with the committee his work and thoughts on the aeroplane situation.

Joe Roberts, Executive Office, said the \$122,000 was arrived at by negotiation with both the Fish and Game and the Highway Dept. It includes service to Fish and Game Hangers. They took the Highway plane at its original aquisition cost and the Cesna 180 Fish and Game plane, included the market value cost of plus \$24,000. I have discussed this with Mr. La Favor and he has indicated the revolving account method in using earmarked revenue to fund it. We finally came down to the way we could really make a clean transfer we would just have to buy it out. This means the title will pass from them to the Department of Community Affairs. That way there is no question of who has the control and decides the pilots, whose assets it is, etc. As long as Fish and Game have some interest in the plane it will be difficult to work out the management. Our feeling was that the only way to implement the pool was to go ahead with this.

Senator Himsl: What about the \$80,000 for the division? I have always known about it, and was told that the subcommittee had decided not to act on the aircraft pool until something was done about it.

Senator Smith: We thought we should wait and see if they get the planes into a place where we will not have all the problems.

Joe Roberts: From this day forth, we will definitely have an air craft pool. Two years from now, if the pool is not operating successfully, we will know where the blame is.

Senator Thomas: Who assessed or determined the value of the Cesna 180?

Joe Roberts: Basically through the blue book. Mr. Huntington was basically responsible for this.

Senator Thomas: Couldn't the Department, through the Fish and Game come up with enough money so the general fund would not be out? Roberts: If we do not buy out the fish and game, then the DCA does not have a plane to charge a rental fee on. If they own the plane they will charge the same amount; if you don't own the plane it will reflect back to the other state agency, the costs will go up, the charges will go up, and you find the cost will exceed what the private market is. When we get up too high we are not competitive with the use of other airplanes.

Senator Himsl: In this case we do have the amount which would include the division? Roberts: the Legislative audit made 2 years ago he says the states obligation is to pay current market value for the aeroplane to Fish and Game.

Motion by Senator Regan to amend a section 3 aeroplane pool. and appropriate to the DCA, aeronautics division, from the general fund, \$122,000 for the purpose of implementing the aeroplane pool; also to renumber all subsequent sections.

Voted and passed.

Motion by Senator Fasbender that House Bill 921 be concurred in as amended. Voted and passed, unanimous, Senator Lockrem absent. It was noted that this would include the necessary change in the totals. Senator Himsl to carry the bill, Senator Fasbender to assist him.

Motion by Senator Fasbender to reconsider House Bill 921 for an additional amendment. Voted and passed.

Motion by Senator Stimatz to increase the line 23 from \$6,545,000 to \$7,297,672.

Voted and passed.

Motion by Senator Fasbender to be concurred as amended. Voted and passed, unanimous, Senator Lockrem absent.

DISPOSITION OF HOUSE BILL 760: Motion by Senator Thomas to amend out the new section on page 2, line 24 through page 3, line 1 through 7 which would be to strike section 3 in it's entirety.

Senator Thomas: The state then would have to reimburse people who are awaiting trial in district court. I don't think we have to pay for them to stay in prior to trial.

Senator Stimatz; I have no objection. The whole picture seems to be utter nonsense. If it is a problem we should try to reinstitute the basics. If this is necessary for appropriations. The Highway Patrol only pays \$5. The trouble is the feds come in and you just agree with them.

Voted and passed. Senator Regan voted no.

Motion by Senator Thiessen that House Bill 760 be concurred in as amended. Voted and passed. Unanimous.

DISPOSITION OF HOUSE BILL 410: Motion by Senator Story that this bill be concurred in. This would cost \$138,500.

Senator Thiessen. If we can conquer the leafy spurge problem it is worth everything we can put into it.

Senator Himsl: This is experimental. There are conflicting positions on it.

Voted, passed, unanimous.

DISPOSITION OF HOUSE BILL 849: This is the agricultural grain compact.

Motion by Senator Fasbender that this bill be concurred in.

Senator Smith: I am concerned about the subpoena power. Do we have to have some way to protect ourselves?

Senator Fasbender: Even though they have the subpoena power, people still have all the power under the law that they have now.

Senator Aklestad: The first thrust of the bill was to come up with the alternatives of marketing grains in the state. It seems to me it deters away from the bill and just trying to get after the grain companies.

Senator Fasbender: Western states get together to try to have more influence in marketing. They would speak in one voice instead of going off on their own. It would probably go more conscientiously, when the investigations are done now they are usually done politically.

Senator Smith: You say power in the Western states, but North Dakota turned it down. They have similar problems to the ones we have. Some of the Eastern ones sit on the compact. Montana sits out here alone and maybe they would not do anything on the transportation--they don't have the same problems.

Senator Fasbender: But if we are not involved, we would have no power to have these grain cars moved around.

Senator Himsl: First I felt this was a positive program. Then just investigative and police force. Then North Dakota rejected it. Then we find out only one state--Kansas--is in it. It makes us a bit nervous about this.

Senator Fasbender: Kansas started it.

Senator Nelson: I just don't understand it. We have two of the biggest market areas--Western Wheat and the Great Plains. The only thing they haven't got in this is the investigative powers, but they can deal under the ICC and ask them to do it.

We are paying \$75,000 a year to Western Wheat. Now, when we raise the check-off from  $\frac{1}{4}$  to  $\frac{1}{2}$  they are going to go and join the Great Plains and that is another \$75,000. It will cost us \$200,000 to to join it too. Great Plains and Western Wheat have been trying to merge and go together. If it does, there has to be power enough in all those states to do what we are trying to do here.

Senator Thiessen: If we belong to this, why is our marketing people traveling abroad to try to sell their wheat?

Senator Himsl: It has got a little out of hand--to the extent that it is apying vacations for a lot of people.

The motion was voted and failed.

Motion by Senator Boylan that House Bill 849 be not concurred in. reverse vote. Result 4 no, 8 yes, Senator Lockrem absent.

DISPOSITION OF HOUSE BILL 692: Senator Nelson said he had talked to Judy Carlson and a couple more in there and they had no objection to an amendment.

Motion by Senator Nelson to amend page 2, line 19 following the "1" insert ". or for persons who have the right or are entitled to medical aid and hospitalization from the Federal Government or any agency thereof or for persons who have insurance coverage that provides medical aid and hospitalization."

Senator Nelson: We have a problem. We even have to pay for an ambulance that sent patients from Browning to Great Falls and then sent the bill to Glacier County. There are two bills up there now one for \$8,000 and one for \$11,000. If they can't take care of them in Browning, they put them into the county hospital in Cutbank and hold them there or send them to Great Falls. This is the amount from my county attorney.

Senator Himsl: I don't see where this helps. I think it makes the counties even worse.

Senator Stimatz: This puts medicare in their private insurance as well. It puts a limitation on it.

Voted and passed, unanimous.

Motion by Senator Fasbender that House Bill 692 as amended, be concurred in. Voted and passed, 6 yes, 5 no.

DISPOSITION OF HOUSE BILL 537: Motion by Senator Thiessen House Bill 537 be concurred in.

Substitute motion by Senator Fasbender that House Bill 537 be not concurred in.

Mr. Key gave a hand-out to the committee, attached.

Senator Smith: We are talking about property tax relief. Unless we do some funding we are going to add a lot on 180 schools. 150 of these Highschools have vo tech education. Vo ed is receiving nothing. The additional 2% will be used for special education. I feel there should be some money for vo ed. We held up lines last year almost calling a special session for this. There should be funds for these people. About 60% of the students do not go on and attend colleges. They stay home and run the gas stations etc.

Senator Fasbender: If we appropriate money to the general operation of the schools it all comes out of the same pocket. We fund education in the state of Montana. This is really a drastic change in the foundation program in Montana. We would have to look at the effect it will have on the other programs in the state. If the agreement is made for more money for vo ed, that is totally wrong. We are appropriating a \$35.4 million increase. a 9.1 increase over last year. We will lose 10,000 students in the elementary schools.

Senator Fasbender explained how the law allowed the school districts to enter new programs and get 100% state funding making it easier to start new programs than to seek the money for the existing ones. He said he could not fault the districts for doing this. It was easier. He explained this bill is an open ended program. In putting the weighted average program in you will find the state of Montana will be looking at a deficiency like we were looking at last year. You will be picking up the costs in the initial set up. He said this would amount to almost double funding the vo ed in the Highschools. He explained what other states were doing, going into the Wyoming vo tech funding to quite an extent.

Senator Thiessen: The weighted formula is not entirely new. We weighted our classification of schools on this. We started these schools. We gave them seed money. It goes directly on the property taxes. We believed we could bring some property tax relief to the people. It is a worthy cause to go along with the schools. I think vo ed is a good program and they ought to teach it.

Senator Boylan: I know what Larry's concerns are. I think they are validated. I think we are having a run-a-way program with this problem. Maybe we will screw up the whole basic program. But these kids will go out into the industries, etc. Ohio is training for industry and it has kept people off the welfare roles. I am sure we are having a run-a-way. It is now under the superintendent to give them the go-ahead to put new programs aboard.

Senator Fasbender: I have amply explained the problem, and I know you have a problem having been lobbied so heavily on this. Biology, Chemistry, physics, languages--with small enrollment,--the education programs more or less wash out. All these people are good people and they are all good kids and there is a great drop out. The issue here is you are proposing new such -

drastic change in the way you are going to fund schools in the foundation program.

Senator Aklestad: I don't think I can say I have been lobbied so heavily on it. We put millions of dollars into programs that will not be productive. These people will do something for themselves as well as the state. It is going to a group of people who will be productive and will not leave a drain on the state and society.

Senator Himsel: There is a certain symbolism. I will agree that the lobbying has been terrifically heavy on this bill. I looked at 1977. The Smith Hughes funds have been taken over by the secondary schools. I think that is wrong. In 1977 about \$750,000 a year. When you go to the last page the amount of money going to the school districts will not make or break them. In Flathead they had 50 mills additional levy and they passed like nothing. They get \$77,000 per mill up there. It is symbolic and it does trigger other funds available because of the support or matching funds. It isn't just the amount of money but an indication that there is support for this going here and not everything going into post secondary education.

Senator Etchart: Hinsdale Highschool has a fine program.

Senator Story: One of the basic things is a 9.1 % increase in funding, yet a decrease in students. We are not addressing this in balance. Is the money that is now being distributed to the local districts under the A & B? Are they prevented from using this?

Senator Fasbender: The school districts will only pay for this. When the cost of education went up it included all these for vo education. It got down to the cost of the federal paper work which was costing them more than they were receiving. We stopped it from going to the Highschools and put it into boot. It went into the A & B and is backed up at 100% now. They have a 100% program in Great Falls right now. They were the only ones that broke it out and gave us the figures. We took out the dollars and put it into one boot so that we could keep track of it and see what is happening. The state of Montana is paying as much for those programs as any other program in the education system.

Senator Smith: This was seed money to start up the programs in the Highschools. Now they have taken all this seed money and given it to the highschools. I have been lobbied more on battered spouses than on vo education. These people who will tell us no problem now are the same people who told us the same thing last year.

Senator Fasbender: There was a deliberate attempt to try to foul up this. When the legislative finance committee and the Fiscal Analyst and etc., set down with the federal government and worked this out, they agreed that we had more than adequately funded them. I think it was a deliberate attempt to try to sabotage this program. If you really want local school control you cannot mandate it from the state level. If we change the



funding formula we are not giving them an option. This is a substantial deviation from our present program.

The motion for do not concur was voted and failed. 3 yes, 10 no.

The motion to concur was voted to reverse the vote. Motion to concur passed, 10 yes, 3 no. Senator Smith to carry the bill. Senator Lockrem had left a vote.

Senator Regan: I am apprehensive that the decision made on this was not based on facts, but on emotions.

Senator Thiessen told of problems in his area, and Senator Himsl said he thought there was a great deal of confusion in this area and did not feel we fully understand the bill.

DISPOSITION OF HOUSE BILL 890: Motion by Senator Regan be not concurred in. Substitute motion by Senator Thomas be concurred in.

Senator Stimatz: I agree with the opinions that these agencies should be able to do their duty. It is obviously their duty and they should do it. This is not a normal part of the Attorney General's duties. The bankruptcy hearings are going on now. If we are going to participate, if Montana is to be represented, we cannot run it from Helena. We will have to fund someone to go down there. I had checked to see what it would cost and it would range from \$100,000 to \$225,000. This is not something that he can absorb in his budget. If you think it is important you will simply have to furnish him more money.

Senator Regan: I was very surprised when it came in. I felt that this was part of their activity and should be in the budget. I went down with the idea of doing some chewing. The request is being made from the governor's office and not from the attorney generals office. I think the idea is now that he don't intend to get involved with it. He did not contemplate getting involved in it. I would like Mr. McGrath to address this issue.

Mike McGrath, AG office, As I understand the bill, the request is made through the governor's office. If the money is forthcoming, there will be a policy established and we will represent the state. We are not in the position of making that policy. We do a lot of cases involving bankruptcy and law suits. We know nothing about rail roads. The governor and the department of agriculture was involved in the rail road planning service and going to call the shots. The state is a party in the bankruptcy problem and we are participating in that. If the legislature wants an effort directed toward the Milwaukee railroad, then it will have to appropriate the money to do it.

Senator Boylan: If they have gone into bankruptcy can you do anything to stop it? They only settle with the creditors and they do that on a dollar amount. Once they start bankruptcy proceedings what can you do to stop them?

Senator Stimatz: You don't stop them as such. The Milwaukee Railroad is bankrupt. They have assets and the question is how are we going to distribute them and how it will hurt Montana. One railroad was kept running and successfully for years after bankruptcy. A lot of railroads have been bankrupt and have been kept running. This is a policy. I think we can do a lot to protect Montana. This is not the Attorney General's request. If the Governor wants to do this then our constitution permits it. The governor does have the full right and power to set these things. Personally, I am in favor of this.

Mike McGrath: This is not bankruptcy. It is reorganization. The trustee has proposed to abandon the lines from Minneapolis west. It requires ICC approval.

The motion was voted, passed, Senator Thomas to carry the bill. 8 voted yes, 5 voted no. Senator Lockrem left a no vote.

Senator Regan referred to a letter that is a copy of the letter sent out by the House Appropriation Committee. She said she thought it would be well to have the Finance and Claims telling them the same thing. Copy of the letter attached.

Discussion was held on the universities ignoring the situation of women's athletics, and the possibility they will continue to do so. Senator Himsl said there was nothing in the letter that was not already required by HEW.

Senator Regan moved the secretary be instructed to send out this letter to the Board of Regents and the presidents of the University system and to send it out under the committee.

Discussion was held on whether or not it was critical, whether they were violating the HEW funding, and how it worked on a per capita basis.

Voted, passed, roll call vote and only members voting yes to sign the letter.

The meeting was adjourned, subject to the call of the chair.

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Senator Himsl, Chairman



November 27, 1978

Mr. Lewis Tesser  
Attorney at Law  
60 East 42nd Street  
New York, N.Y. 10017

Dear Mr. Tesser:

Please be advised that at the regular meeting of the State Board of Examiners of the State of Montana, Held on November 20, 1978, I presented the claim on behalf of your client, Seymour Storch, to the Board and requested they entertain the claim and take appropriate action as required in the statutes regarding "unsettled" claims.

The Board of Examiners accepted the claim and unanimously passed a motion that this claim be forwarded to the 1979 Legislative Assembly with the recommendation that the claim be approved.

In accordance with the Board's instructions, I shall forward the claim to the Legislature when that body convenes in January of 1979, along with the Board's recommendation of approval.

Very truly yours,

M. Wm. McEnaney  
Executive Secretary  
State Board of Examiners

MM:m

LEWIS TESSER

Attorney at Law

60 East 42nd Street

New York, N. Y. 10017

Lewis Tesser

Marjorie Altman

Telephone

682-3666

November 10, 1978

William McEnaney  
Executive Secretary  
State Board of Examiners  
Department of Administration  
Room 107, Mitchell Building  
Helena, Montana 59601

Dear Mr. McEnaney:

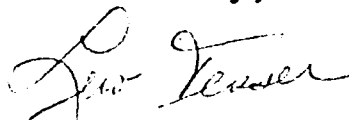
On behalf of Seymour Storch, claimant, we hereby submit a Claim to the State Board of Bar Examiners. We enclose with this letter, the Settlement Agreement, filed in the United States District Court, and a copy of a letter of facts from the Attorney General's Office to the Merit System Council.

We note that 82-1113 of the statute requires a verified statement by the Claimant. Mr. Storch is presently vacationing in Montana and I do not know how to reach him. Upon his return in approximately ten days I will immediately forward his verified statement to you.

We understand that this submission is untimely, but request that, in the interest of justice, it may be submitted to the legislative assembly for their consideration. (As an idea, perhaps it may be submitted by the Board of Examiners with an explanation that although it was untimely filed, it is otherwise proper and that the Assembly, if it deems it necessary, should include appropriate waiver provisions when and if it votes to authorize the expenditure).

Thank you for your efforts and we apologize for this inconvenience.

Sincerely,



LEWIS TESSER

STATE  
OF  
MONTANA  
**ATTORNEY GENERAL**  
**MIKE GREELY**

STATE CAPITOL, HELENA, MONTANA 59601 TELEPHONE (406) 449-2026

3 November 1978

James A. Silberberger, Administrator  
Merit System Council  
Room 612, Power Block  
7 West Sixth Avenue  
Helena, Montana 59601

Re: Seymour Storch

Dear Mr. Silberberger:

I have been representing the Eastern Montana Regional Mental Health Center in an action brought against it by Seymour Storch. As part of the out-of-court settlement of this case, Mr. Storch has asked me to write this letter to you for placement in his Merit System Council file.

Mr. Storch was employed by the Eastern Montana Regional Mental Health Center on December 4, 1972, as a Drug Abuse Consultant III. On May 16, 1973, while Mr. Storch was still a probationary employee, he was asked to resign at the directive of the Board of Directors of the Mental Health Center. He did not resign, and his employment was terminated, effective June 15, 1973.

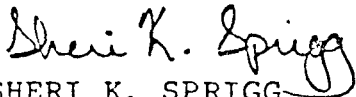
As a result of that termination, Mr. Storch filed two suits. The first was an action against the Board of Directors filed in Montana district court, seeking \$350,000 damages on the grounds that the reasons given by the Board for their actions were libelous reflections on Mr. Storch's professional ability and improper invasions of his constitutional right to privacy. That case was dismissed by the district court on the grounds that the acts complained of (1) were discharged by an agency of state government as a governmental function and were therefore subject to the defense of sovereign immunity and (2) were within the proper discharge of an official duty and therefore subject to the defense of absolute privilege. The dismissal was affirmed by the Montana Supreme Court in a decision reported at page 644 of volume 545 of the Pacific Reporter, 2d Series. Mr. Storch's second action commenced with a complaint filed with the Equal Employment Opportunity Commission, charging that his dismissal was

James A. Silberberger, Administrator  
3 November 1978  
Page 2

discriminatory. The EEOC found there was reasonable cause to believe Mr. Storch's employment was terminated because of his religious beliefs as a non-Christian, but did not pursue the finding in court. Mr. Storch, therefore, filed suit in federal district court on the basis of the EEOC's finding, and added charges that the Board of Directors had violated his constitutional rights to freedom of association, privacy, equal protection, and due process of law. He sought a judgment declaring the acts of the Board to be unlawful, reinstatement, back pay with interest, compensatory and punitive damages, and attorneys' fees. This case has now been settled out of court, prior to a trial, for the sum of \$12,000 back pay and attorneys' fees.

Because all litigation has now ceased, Mr. Storch would like again to be considered for positions available through the Merit System Council for which he is qualified. I understand that he will be contacting you, or has already contacted you, to request that his name be placed on the appropriate registers.

Very truly yours,



SHERI K. SPRIGG  
Assistant Attorney General

cc: Lewis F. Tesser  
60 E. 42nd Street  
New York, NY 10017

William McEnaney  
Executive Secretary  
State Board of Examiners  
Department of Administration  
Room 107, Mitchell Building  
Helena, Montana 59601

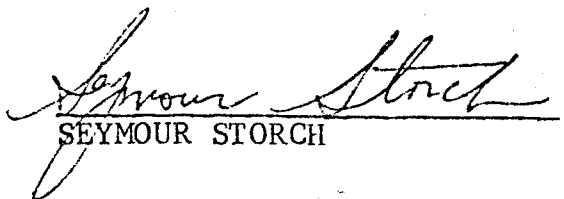
VERIFIED STATEMENT

I, Seymour Storch, submit this claim to the State Board of Examiners in the amount of \$12,000.00. I had filed a law suit in the United States District Court in Montana and this case was settled by the Attorney General of Montana for \$12,000.00. The Settlement Agreement and the letter from the Attorney General's Office to the Merit System Council, previously sent to you by my attorney, Lewis Tesser, accurately depict the circumstances of my claim. Thank you for your consideration.

  
SEYMOUR STORCH

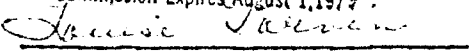
STATE OF NEW YORK )  
COUNTY OF NEW YORK) ss:

SEYMOUR STORCH, being duly sworn, deposes and says that he is the plaintiff in the within action; that deponent has read the foregoing Verified Statement and knows the contents thereof; that the same are true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes them to be true.

  
SEYMOUR STORCH

Sworn to before me 30<sup>th</sup>  
this day of Nov. 1978.

LOUISE GARYN  
Commissioner of Deeds  
City of New York, No. 1-1439  
Commission Expires August 1, 1979.

  
Notary Public



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

CV-75-124-BLG

SEYMOUR STORCH

Plaintiff,

-vs-

EASTERN MONTANA REGION 5 MENTAL  
HEALTH CENTER, et al.,

Defendants

SETTLEMENT AGREEMENT

The State of Montana agrees to pay plaintiff \$12,000, subject to the approval of the Board of Examiners and the Legislative Assembly of such an appropriation under §§82-1113 to 1119, R.C.M. 1947. The sum is to be apportioned in this way:

-- \$8,088 back pay calculated as follows: For the period June 15, 1973 - April 1, 1974 (from plaintiff's dismissal until his full-time re-employment in a professional capacity), at the rate of \$1,246/month (plaintiff's salary at the time of his dismissal), \$11,837, less interim earnings of \$3,749, equals \$8,088.

-- \$3,912 attorneys' fees.

The Eastern Montana Regional Mental Health Center agrees to purge its employee file for Seymour Storch of all documents relating to the events resulting in Mr. Storch's

dismissal, the dismissal itself, and the lawsuits resulting from such dismissal.

Rod L. Newman agrees to write a letter of reference for Seymour Storch on plain bond paper, at Mr. Storch's request, and send it to the Center. The Center agrees to respond to any requests for a letter of reference for Seymour Storch by sending a copy of Mr. Newman's letter together with a cover letter, the body of which will say:

In response to your request concerning Seymour Storch, I am enclosing a letter of reference written by Rod Newman. Mr. Newman was the Director of the Center and Mr. Storch's immediate supervisor during his employment with the Center from December 4, 1972 to June 15, 1973 as a Drug Abuse Consultant.

Sheri K. Sprigg, attorney for defendants, agrees to write the following letter to Mr. James A. Silberberger Administrator of the Montana Merit System Council, upon the filing of a Stipulation of Dismissal with prejudice of this action:

I have been representing the Eastern Montana Regional Mental Health Center in an action brought against it by Seymour Storch. As part of the out-of-court settlement of this case, Mr. Storch has asked me to write this letter to you for placement in his Merit System Council file.

Mr. Storch was employed by the Eastern Montana Regional Mental Health Center on December 4, 1972, as a Drug Abuse Consultant III. On May 16, 1973, while Mr. Storch was still a probationary employee, he was asked to resign at the directive of the Board of Directors of the Mental Health Center. He did not resign, and his employment was terminated, effective June 15, 1973.

As a result of that termination, Mr. Storch filed two suits. The first was an action against the Board of Directors filed in Montana district court, seeking \$350,000 damages on the grounds that the reasons given by the Board for their actions were libelous reflections on Mr. Storch's professional ability and improper invasions of his constitutional right to privacy. That case was dismissed by the district court on the grounds that the acts complained of (1) were discharged by an agency of state government as a governmental function and were therefore subject to the defense of sovereign immunity and (2) were within the proper discharge of an official duty and therefore subject to the defense of absolute privilege. The dismissal was affirmed by the Montana Supreme

1 Court in a decision reported at page 644 of volume  
2 545 of the Pacific Reporter, 2d Series. Mr.  
3 Storch's second action commenced with a complaint  
4 filed with the Equal Employment Opportunity Com-  
5 mission, charging that his dismissal was dis-  
6 criminatory. The EEOC found there was reasonable  
7 cause to believe Mr. Storch's employment was  
8 terminated because of his religious beliefs as a  
9 non-Christian, but did not pursue the finding in  
10 court. Mr. Storch, therefore, filed suit in  
11 federal district court on the basis of the EEOC's  
12 finding, and added charges that the Board of  
13 Directors had violated his constitutional rights  
14 to freedom of association, privacy, equal pro-  
15 tection, and due process of law. He sought a  
16 judgment declaring the acts of the Board to be  
17 unlawful, reinstatement, back pay with interest,  
18 compensatory and punitive damages, and attorneys'  
19 fees. This case has now been settled out of  
20 court, prior to a trial, for the sum of \$12,000  
21 back pay and attorneys' fees.

22 Because all litigation has now ceased, Mr. Storch  
23 would like again to be considered for positions  
24 available through the Merit System Council for  
25 which he is qualified. I understand that he will  
26 be contacting you, or has already contacted you,  
27 to request that his name be placed on the appro-  
28 priate registers.

29 Plaintiff agrees to dismiss this action with prejudice,  
30 and to present his claim directly to the Board of Examiners  
31 and to the Legislative Assembly as required by §§82-1113 to  
32 1119, R.C.M. 1947.

DATED this 27th day of October, 1978.

33 MIKE GREELY  
34 Attorney General  
35 State of Montana

36 By: Sheri K. Sprigg  
37 SHERI K. SPRIGG  
38 Assistant Attorney General

39 Denny Moreen  
40 DENNY MOREEN  
41 Assistant Attorney General  
42 Attorneys for Defendants

43 Office of Attorney General  
44 Room 3120  
45 State Capitol  
46 Helena, Montana 59601  
47 (406) 449-2026

48 Seymour Storch  
49 SEYMOUR STORCH  
50 Plaintiff

51 Robert L. Stephens, Jr.  
52 LEWIS F. TESSER  
53 Attorney for Plaintiff

54 BY: Robert L. Stephens, Jr.

55 60 E. 42nd Street,  
56 New York, New York 10017  
57 (212) 757-3111

# ROLL CALL

## SENATE FINANCE AND CLAIMS COMMITTEE

46TH LEGISLATIVE SESSION 1979

Date 4-10-79

---

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HIMSL	✓		
SENATOR STORY	✓		
SENATOR AKLESTAD	✓		
SENATOR LOCKREM			
SENATOR ETCHART	✓		
SENATOR NELSON	✓		
SENATOR SMITH	✓		
SENATOR BOYLAN	✓		
SENATOR REGAN	✓		
SENATOR FASBENDER	✓		
SENATOR THIESSEN	✓		
SENATOR THOMAS	✓		
SENATOR STIMATZ	✓		



OFFICE OF PUBLIC INSTRUCTION

STATE CAPITOL  
HELENA, MONTANA 59601  
(406) 449-3095

Georgia Rice  
Superintendent

April 9, 1979

To: Senator Matt Himsel

From: Larry C. Key *LCK*

Re: HB 537, Secondary Vocational Funding

All federal vocational funds (including Smith-Hughes funds) come to the state of Montana through a basic grant and are included in the State Plan. The basic grant for FY 79 is \$2,340,960. Out of this amount the funds are distributed to the different levels of vocational programming and federal required programs. The distribution of these secondary vocational funds over the past years are as follows:

General Secondary Vocational Program Funding

	<u>FY 76</u>	<u>FY 77</u>	<u>FY 78</u>	<u>FY 79</u>	<u>*Projected</u> <u>FY 80</u>	<u>FY 81</u>
Fed.	\$ 567,285	\$ 327,463	\$ 21,060	\$ 63,693	\$ 0	\$ 0
State	<u>679,830</u>	<u>742,415</u>	<u>494,943</u>	<u>247,472</u>	<u>0</u>	<u>0</u>
	\$1,247,115	\$1,069,878	\$ 516,003	\$ 311,165	\$ 0	\$ 0
	<u>FY 76-77</u>		<u>FY 78-79</u>		<u>FY 80-81</u>	
Biennium Totals	\$2,316,993		\$ 827,168		\$ 0	

The above amounts do not include other set-aside federal vocational funds which may be applied for by secondary schools. These set-aside funds for FY 79 are as follows:

\$ 336,490	for disadvantaged instructional programs
168,245	for handicapped instructional programs
<u>159,893</u>	for consumer homemaking programs
\$ 664,628	

Sen. Matt Himsel  
April 9, 1979  
Page Two

These funds are set aside by the federal government for specific program activities and are not available for "general" secondary vocational programs. Please note attached FY 79 allocation of federal funds by purpose.

If there are no additional federal or state funds going to the "general" secondary vocational programs in FY 80, it will be the first time since 1917 that these programs have not been funded for the additional cost of vocational education. The results of such action could very likely be federal audit exceptions in the future for Montana due to the drop in maintenance-of-effort for secondary vocational programs.

When we refer to "general" secondary vocational programs we are referring to the following program skills:

- a. Auto Mechanics
- b. Carpenters
- c. Welders
- d. Farmers and Ranchers
- e. Electricians
- f. Draftsmen
- g. Mid-Management
- h. Secretaries and Clerical
- i. Home Economics Related Occupations (food services, clothing services, etc.)
- j. etc.

Approximate combined state and federal funding to twelve sample schools from FY 76 through FY 79 is shown on an attached sheet for your information.

Figure 9

## Fiscal Year 1979 Allocation of Federal Funds by Purpose

	<u>Sub Part 2 Instructional Programs</u>	<u>Sub Part 3 Support Services</u>	<u>Total</u>
Disadvantaged Programs ✓	\$ 336,490 ✓	\$ 84,122	\$ 420,612
Handicapped Programs ✓	168,245 ✓	42,061	210,306
Postsecondary	885,019	-0-	885,019
Sex Bias Requirement	50,000	-0-	50,000
State Administration	180,000	45,000	225,000
Secondary Allocation	65,693	-0-	65,693
Displaced Homemakers	1,000	-0-	1,000
Guidance Services	-0-	84,122	84,122
Research )			
Exemplary )			
Curriculum Development )			
Teacher Training )	-0-	165,307	165,307
Sub-total	1,682,447	420,612	2,103,059
Sub Part 4 Special Programs for the Disadvantaged			78,008
Sub Part 5 Consumer & Homemaking ✓			159,893 ✓
1/3 to depressed areas		(53,298)	
GRAND TOTAL . . . . .			2,540,960

575713  
"General" Secondary Vocational Funding

Total State/Federal Funding Received by 12 Sample Schools

<u>Schools</u>	<u>FY 76</u>	<u>FY 77</u>	<u>FY 78</u>	<u>Est.</u> <u>FY 79</u>	<u>*Est.</u> <u>FY 80</u>
Flathead H.S.	54,707	41,844	33,890	16,112	-0-
Columbia Falls	13,923	11,905	3,987	4,252 <sup>2</sup>	-0-
Whitefish	4,774	7,177 <sup>1</sup>	0	1,147	-0-
Billings	129,245	92,711	57,527	20,757	-0-
Cut Bank	3,099	4,298 <sup>1</sup>	4,680	2,368	-0-
Sidney	14,415	10,476	2,334	3,401 <sup>2</sup>	-0-
Livingston	13,065	11,999	0 <sup>3</sup>	7,807	-0-
Bozeman	21,694	22,710	9,543	8,750	-0-
Glasgow	11,514	12,160	6,802	5,096 <sup>2</sup>	-0-
Shelby	8,661	12,958 <sup>4</sup>	8,090	2,131	-0-
Butte	23,870	11,726	6,068	8,481 <sup>5</sup>	-0-
Great Falls	95,962	121,098 <sup>6</sup>	52,142	19,241	-0-

<sup>1</sup>Added Carpentry. Approval of added salary raised reimbursement.

<sup>2</sup>Funding based on excess cost. School showing higher figure had purchased new equipment.

<sup>3</sup>No applications.

<sup>4</sup>Added Ag program. Approval of added salary raised reimbursement.

<sup>5</sup>Expanded T and I. Local purchase of equip. raised funding under excess costs.

<sup>6</sup>Part G funds were available to fund coop program in 77 and were not available in 78.

\* If HB 537 is not approved by the 46th Legislative Session there will be no funds for FY 80-81



## SENATE COMMITTEE

FINANCE AND CLAIMS

Date \_\_\_\_\_

Bill No. 692 Time 10:04

NAME

YES

NO

ABSENT

SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

6

5

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: 1690

SENATE COMMITTEE

## FINANCE AND CLAIMS

Date \_\_\_\_\_

Bill No 537 Time 10:15

NAME

YES

NO

ABSENT

## SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

Secretary

Chairman

Motion:

New. Vote

25 00.

AMENDMENTS TO HB 125

Rep. Reichert

1. Page 2, line 15

Following: line 14

Insert: (5) "State expenditures" means the total amount of money generated from state resources that is spent by any agency of state government, excluding:

- (a) money received from the federal government;
- (b) payments of principal and interest on bonded indebtedness;
- (c) payments for unemployment or disability insurance;
- (d) money received from the sale of a good or service provided that the purchase of the good or service is discretionary;
- (e) money received from permanent endowments, trusts, or pension funds;
- (f) proceeds of gifts or bequests made for purposes specified by the donor;
- (g) money appropriated for tax relief; and
- (h) funds transferred within state government or used to purchase goods for resale.

Section 4. State surplus to revenue sharing program.

- (1) Seventy-five percent of the amount by which state revenue exceeds state expenditure during any fiscal year must be transferred at the end of the fiscal year to a revenue-sharing account in the earmarked revenue fund, which account is hereby established.
- (2) Money in the revenue-sharing account may be allocated by appropriation for distribution under the state-local revenue sharing program established in [section 5]."

Renumber subsequent sections.

2. Page 3, line 11

Following: "reduce"

Strike: "their"

Insert: "the"

Following: "taxes"

Insert: "on residential property"

# STANDING COMMITTEE REPORT

...April..... 1979.....  
Journal

MR. ....President.....

We, your committee on.....Finance and Claims.....

having had under consideration .....House..... Bill No. 692.....

Respectfully report as follows: That.....House..... Bill No. 692,.....  
third reading bill, be amended as follows:

1. Amend page 2, line 19.

Following: "1"

Insert: ", or for persons who have the right or are entitled  
to medical aid and hospitalization from the Federal Government  
or any agency thereof or for persons who have insurance coverage  
that provides medical aid and hospitalization."

And, as so amended, BE CONCURRED IN

XXXXXX

## FINANCE AND CLAIMS

## FINANCE AND CLAIMS

Date 4-10-79

Bill No. 921 Time 1:30

NAME	YES	NO	ABSENT
------	-----	----	--------

## SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

Secretary

Chairman

Motion: Amend to include plane + language  
C - deficits 122.014

G - deficits 122,014

see p2 @ 1, v" 23, qe h, 1, 00 11 11

Dr. A. L. & N. 122,014 / 1-6-20

22

# STANDING COMMITTEE REPORT

...April..... 19 79.....  
Journal

MR. ....President.....

We, your committee on .....Finance and Claims.....

having had under consideration .....House..... Bill No. 692.....

Respectfully report as follows: That.....House..... Bill No. 692,.....  
third reading bill, be amended as follows:

1. Amend page 2, line 19.

Following: "1"

Insert: ", or for persons who have the right or are entitled  
to medical aid and hospitalization from the Federal Government  
or any agency thereof or for persons who have insurance coverage  
that provides medical aid and hospitalization."

And, as so amended, BE CONCURRED IN  
XXXXXX

## SENATE COMMITTEE

FINANCE AND CLAIMSDate 4-10 H Bill No 890 Time 10:45

NAME YES NO ABSENT

SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

8 5

Secretary

Chairman

Motion: Sub - y. Com -

*Grant*

PROPOSED AMENDMENTS TO HB844

1. Page 16, lines 16 and 17, following "revenue fund"

Strike: to the credit of the Department of Institutions

2. Page 18, line 15, following "counties"

Insert: by the Department of Revenue



*Leg Council ME*

Proposed Technical Amendment to HB 844

1. Page 1, line 25.

Following: "private"

Insert: "private"

2. Page 2, line 1.

Following: "nonprofit"

Strike: "OR LOCAL GOVERNMENT"

3. Page 2, line 6

Following: "means"

Insert: ":(a)"

4. Page 2

Following: line 10

Insert: "; or ~~and~~"

(b) a treatment agency operating under the direction and control of a local government and approved under 53-24-208."

## SENATE COMMITTEE

FINANCE AND CLAIMS

Date \_\_\_\_\_

Bill No. Little

Time \_\_\_\_\_

NAME

YES

NO

ABSENT

SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

*abstain**✓**✓**✓**✓**abstain**✓**✓**✓**✓**✓**✓**✓*

7

Secretary \_\_\_\_\_

Chairman \_\_\_\_\_

Motion: Athletics*Signature as of 2/8/11*

## SENATE COMMITTEE

FINANCE AND CLAIMSDate 4-10-79 12 Bill No 849 Time 9:32

NAME	YES	NO	ABSENT
SENATOR STORY		✓	
SENATOR AKLESTAD		✓	
SENATOR LOCKREM		al	
SENATOR ETCHART		✓	
SENATOR NELSON		✓	
SENATOR SMITH		✓	
SENATOR BOYLAN		✓	
SENATOR REGAN	✓		
SENATOR FASBENDER	✓		
SENATOR THIESSEN	✓		
SENATOR THOMAS	✓		
SENATOR STIMATZ		✓	
SENATOR HIMSL		✓	

Secretary

Chairman

Motion: Carry*Boylan 3 reverse 2*

## SENATE COMMITTEE

FINANCE AND CLAIMS

Date

4:10H

Bill No.

908Time 8:

NAME

YES

NO

ABSENT

SENATOR STORY

SENATOR AKLESTAD

SENATOR LOCKREM

SENATOR ETCHART

SENATOR NELSON

SENATOR SMITH

SENATOR BOYLAN

SENATOR REGAN

SENATOR FASBENDER

SENATOR THIESSEN

SENATOR THOMAS

SENATOR STIMATZ

SENATOR HIMSL

6

- 6

Secretary

Chairman

Motion:

~~5/7~~ Cm -rb:u rw -



*The Big Sky Country*

MONTANA STATE SENATE

April 10, 1979

Dr. John Van de Wetering, President  
Eastern Montana College  
Billings, Montana 59101

Dear Dr. Van de Wetering:

We have concerns regarding federal requirements embodied in Title IX. It is important that the State of Montana provide equal opportunity in athletic programs without regard to sex and it is our intent that those funds provided by this Legislature and applied to athletic programs be applied toward compliance with HEW guidelines.

While we emphasize that academic programs deserve precedence in the University system, we are compelled to comment that it is critical for athletic programs to be offered on an equal basis for men and for women.

Your cooperation in fulfilling our intent that the University system make every effort to comply with Title IX requirements will be appreciated.

Sincerely,

Senator Mark Etchart

Senator Paul Boylan

Senator Pat Regan

Senator Larry Fasbender

Senator Bill Thomas

Senator Lawrence Stimatz

Senator Matt Himsl

Copies of the above letter sent to the Presidents of the University System and Ted James, Chairman of the Board of Regents

# STANDING COMMITTEE REPORT

April 10, 1979

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 760

Meyer (Thomas)

Respectfully report as follows: That House Bill No. 760, third reading bill, be amended as follows:

1. Page 2, line 24 through page 3, line 7.  
Strike: section 3 in it's entirety

And, as so amended, BE CONCURRED IN

DO PASS  
XXXXXX

# STANDING COMMITTEE REPORT

April 10

1979

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 921

Bardanoue (Hims1)

Respectfully report as follows: That House Bill No. 921,  
third reading bill, be amended as follows:

1. Page 1, line 23.

Strike: 6,545,000

Insert: 7,297,672

2. Page 1, line 25.

Following: line 25

Insert (numbers in general fund column):

"Board of Examiners 12,000

The appropriation is to pay the agreed settlement with Seymour Storch dated October 26, 1978."

(continued)

DO PASS

.....April 10,..... 19 79.....

House Bill 921, Finance and Claims Committee

3. Page 1, line 25.

Following: line 25

Insert: (numbers in general fund column):

"Department of Community Affairs 122,014

The appropriation is to reimburse the department of highways \$61,230 and the department of fish and game \$61,774 to implement the airplane pool."

And, as so amended, BE CONCURRED IN

He



Dr. Fred W. De Money  
Montana College of Mineral Science & Technology  
Butte — 59701

<sup>Tietz</sup>  
Dr. Wm. J. Tietz, Jr.  
M. S. U.  
Bozeman 59717

Dr. James Erickson  
Northern Mont College  
Havre 59501

Dr. Dale R. Tash, acting Pres.  
Western Mont College  
Dillon 59725

Dr. Richard C. Bowers  
U. of M.  
MSU 59812

Dr. John Van de Watering  
Eastern M. C.  
Bellevue 59101

Mr. Ted James  
Chairman Bd. of Regents  
2210 Beech Drive  
Bozeman 59401

# STANDING COMMITTEE REPORT

April ~~XX~~ 10, 19 79

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 692

Dussault (Regan)

Respectfully report as follows: That House Bill No. 692,  
third reading bill, be amended as follows:

1. Amend page 2, line 19.

Following: "1"

Insert: ", or for persons who have the right or are entitled  
to medical aid and hospitalization from the Federal Government  
or any agency thereof or for persons who have insurance coverage  
that provides medical aid and hospitalization."

And, as so amended, BE CONCURRED IN

DO PASSE

# STANDING COMMITTEE REPORT

April EX 10, 19 79

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 410

Thoft (Story)

Respectfully report as follows: That House Bill No. 410

BE CONCURRED IN

XXXXXX  
DO PASS X

# STANDING COMMITTEE REPORT

April 10

19 79

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 537

Williams (Smith)

Respectfully report as follows: That House Bill No. 537

BE CONCURRED IN

DEBATE

# STANDING COMMITTEE REPORT

April 10, 1979

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 849

Johnson (Nelson)

Respectfully report as follows: That House Bill No. 849

BE NOT CONCURRED IN

~~EXPASS~~

# STANDING COMMITTEE REPORT

April 10, 1979

MR. President

We, your committee on Finance and Claims

having had under consideration House Bill No. 890

Brand (Thomas)

Respectfully report as follows: That House Bill No. 890

BE CONCURRED IN  
DO PASSE