

MINUTES OF THE MEETING OF THE LOCAL GOVERNMENT COMMITTEE  
February 8, 1983

The Local Government Committee was called to order at 12:30 p.m. in Room 325 of the Capitol Building on February 8, 1983 by Chairman Kathleen McBride. All members were present.

HOUSE BILL 388. REP. HARRINGTON, sponsor, said this bill authorizes a self-governing county or a self-governing city/county to regulate gambling. This county-option type gambling bill, relating only to Butte-Silver Bow and Deer Lodge Counties, can do one of two things: the county can increase its gambling or it can regulate it below what the state allows. An amendment was submitted (EXHIBIT 1) which would allow the county electors rather than the county government to set the regulations. Each of these would be proposed as a vote to the people of the county. The advantages are it would bring in more employment and added taxes to the community and it would also be a tourist attraction.

PROPONENTS:

DON PEOPLES, chief executive of Butte-Silver Bow local government, supports this bill because it expands the concept of self-governing powers and allows a community to deal with its problems in its own way. He asked support of HB 388.

REP. PAVLOVICH, District 86, asked to go on record in favor of HB 388. Data was submitted on how money is generated in Butte-Silver Bow County.

SEN. STIMATZ, District 43, urged concurrence and do pass on HB 388. He said it is a legal option bill and pertains only to Butte-Silver Bow County.

DAREYL A. Lee, Executive Director, Butte Chamber of Commerce, heartily endorsed HB 388.

SEN. JACOBSON, District 42, stated the amendment was particularly good; it should be by a vote of the people, and she supported HB 388 with the amendment.

DON WARSDALE, City-county Manager for Anaconda-Deer Lodge County, stated Anaconda has gone through tremendous difficulties, going from a tax base of \$21 million to \$10 million in the past ten years. He asked that this Committee recommend expansion of the self-governing powers be given to Anaconda and Silver Bow so that they can control their own destiny.

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CHARLES HAEFFNER, past president of the Anaconda Chamber of Commerce, was in support of this legislation because their community is in need of a new type of industry and it would help on their tax base.

JEFF WILSON, private citizen, said that gambling would give them a clean air industry which they need in Butte. He was in favor of HB 388.

DORIS SNELL, private citizen, fully endorsed HB 388.

BILL BERMINGHAM, Vice-president, Butte Chamber of Commerce, stated that the people have asked for gambling and he wanted to ask for consideration for this bill. (EXHIBIT 2)

OPPONENTS:

CATHY CAMPBELL, representing the Montana Association of Churches, opposed HB 388 because they are opposed to any attempt to expand authorized gambling in Montana. She stated they opposed expanded gambling for three reasons: it is not productive in nature; it creates no new resources; and provides no essential services to a community (EXHIBIT 3). Reference was made to Initiative-92.

REP. HARRINGTON closed by saying any time there is an attempt to increase gambling in any way, it will go to the vote of the people.

QUESTIONS:

REP. WALLIN: The proponents for Initiative 92 raised \$100,000. How much do you think the opponents might raise.

REP. HARRINGTON: The opponents to gambling did raise quite a bit of money.

REP. KADAS: Why do you think there was such a strong vote at Anaconda and Deer Lodge.

REP. HARRINGTON: They don't fear gambling. It will add jobs to the economy and will also help as far as the tax base is concerned.

REP. NEUMAN: What form of gambling would you see being introduced.

REP. HARRINGTON: Punchboards. I don't think it would be any thing large-scale.

REP. HANSEN: You don't think a casino-type gambling will go in.

REP. HARRINGTON: No. Casino-type gambling needs a large number of people to support it.

REP. HANSEN: Are there any limiting powers under self-government with gambling.

REP. HARRINGTON: The government can go to the people with a recommendation and that is the ultimate control.

REP. SANDS: It is my understanding as a general proposition, self-government power provides or deals with those problems or impacts that are to have only local significance. Do you feel if gambling is enacted in Silver Bow County, the impact will be limited to only Silver Bow County or will it have an impact to communities beyond.

REP. HARRINGTON: It would affect Butte-Silver Bow and Deer Lodge Counties. If it went outside of Silver Bow, it would be illegal.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 388.

HOUSE BILL 120. REP. WALDRON, sponsor, said that with the unified court system under the state, the Legislature would appropriate funds, the budget would be prepared by the Supreme Court and the district court would be under the appropriations process of the Legislature. The meat of the bill is for the state to assume those district court costs because district courts deal with litigation of state law.

PROPONENTS:

JUDGE H. WILLIAM CODER, Eighth Judicial District, stated we must rid ourselves of the notion that the courts of this state "belong" to the political sub-division in which they are situated. Secondly, we must not delude ourselves of the notion that simply because an event occurs in the courtroom that it should be the court which is chargeable with the costs incident thereto. He said we have got to go to a unitary budget (EXHIBIT 4).

BOB PALMER, County Commissioner, Missoula County, said there are three areas we need to look at: (1) this bill is really a bare-bones concept that should be looked at and added to or deleted as appropriate; (2) the suggestion that the chairman place in subcommittee HB 120 and 119 so that other county officials who are interested in this legislation could have some input into the development of the bill; and (3) about the 80th day of the Legislature, you are all going to be looking at money. If we kill this bill we will close the door to any possible alternative legislation that will get to the heart of the problem. He urged that this bill be put into a subcommittee.

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MARGARET DAVIS, president, League of Women Voters, stated that the Supreme Court is the logical constitutional entity for providing financial administration of the district courts (EXHIBIT 5).

OPPONENTS:

MARGIE JACKSON, Glacier County Clerk of District Court, said it means loss of local control. She continued that state control is going to be more expensive. The Clerks have always known what caused the problem of inflation in the court budget. It is indigent defense, psychological evaluations and transcripts that have created havoc with our budgets. We believe that if the State would just take over these items, we could solve our problems. She opposed HB 120 (EXHIBIT 6).

HARDIN E. TODD, Clerk of District Court, County of Yellowstone, was in opposition to HB 120. He stated that HB 120 would take away local control plus add another layer of government upon the poor taxpayers (EXHIBIT 7).

R. GLEN HUFSTETTER, Chairman of Legislative Committee for Probation Officers, State of Montana, opposed this bill mainly because of loss of local control. He was concerned that local programs would be lost.

COMMISSIONER TOM BECK, Powell County, opposed on the grounds that the six-mill state-wide levy is going to affect most counties lowering two counties' levy but raising 35 counties' levy.

JIM RUGEMER, Commissioner, Bighorn County, stated that the effect of this bill would be to raise the property tax of 47 Montana counties. He opposed HB 120.

MARY ANN McKEE, President of Montana Association of Clerks of District Court, opposed HB 120.

DENNIS BURR, Montana Taxpayers Association, said the proponents of the bill indicate that passage will increase efficiency of the court system. Opponents indicate that it will crease local control. Passage of this act will impose state-wide property tax levies. He opposed HB 120.

LORRAINE SAMUEL, Fergus County Clerk of the District Court, was in opposition to HB 120.

REP. WALDRON closed by saying the opponents have raised the issue of imposing a state-wide six mill levy for funding the unified district court system. I, too, share a similar concern as to the proper means of funding such a system. Other opponents question whether a unitary system is advisable. We will have to disagree on that. He finalized by reading a letter from James B. Wheelis, District Judge of Missoula County, which said, in part, this bill, while not perfect, would make for a great improvement in both current funding and administration of district courts (EXHIBIT 8).

QUESTIONS:

REP. KADAS: It seems that one of the major problems is that the district courts in the urban areas are having to deal with more cases than in the rural areas. Why is that.

JUDGE CODER: You have in the urban areas the business hubs and the business centers where you have all the litigation.

REP. SWITZER: You said to put this bill and the Senate bill in a subcommittee and put it in a workable form. Don't you think this is in a workable form.

BOB PALMER: I think this bill needs to be looked at and worked on. My point is that there is vast opportunity to make it into the kind of bill to make sure the district courts issue is resolved.

REP. PISTORIA: I have 42 letters opposing this bill. Do you think it is because they don't want to be controlled by the state.

JUDGE CODER: There is no county commissioner that controls my court. Everything in that court's budget except for about \$100,000, are services provided to the litigants.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 120.

HOUSE BILL 477. REP. WALDRON, sponsor, said this bill allows some flexibility as far as dealing with reallocation money with individual funds within county government.

PROPOSERS:

MIKE YOUNG, Finance Director of the City of Missoula, stated that it provides the governing body the flexibility to make changes in their appropriations.

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DARRYL MEYER, Cascade County, went on record as supporting this bill. There is some protection in the bill because it does say that county commissioners would have to do this by resolution or by the Board of County Commissioners.

HOWARD SCHWARTZ, Executive Officer, Missoula County, stated we believe this bill would help us adapt to changes to our situation as the year goes on.

TOM BECK, second vice-president of Montana Association of Counties, said that he supports this bill.

DON PEOPLES, Chief Executive, Butte Silver Bow County, is in support of this bill.

GEORGE BOUSLIMAN, Urban Coalition, said what we are asking for local government is what is allowed for state government. Giving the cities and counties an opportunity to change the budget would be useful.

OPPONENTS: None

REP. WALDRON closed saying this bill addresses both city and county governments.

QUESTIONS:

REP. SANDS: Is this bill necessary for county or city with self-governing powers.

ANSWER: Yes.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 477.

HOUSE BILL 306. REP. ERNST, sponsor. This is a continuation of the hearing that was held on Saturday, February 5, 1983.

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MIKE MELOY, representing the Montana Press Association, stated he was in opposition to the bill. This bill eliminates the requirement to publish the results of school district audits. Two reasons why he thought this is not a good bill--the first one is from the standpoint of the people who are interested in the financial affairs of their local government. Some time ago when the Legislature decided that local government people ought to be audited, the Legislature decided that those reports would be published in their entirety in the local newspaper. All the people in the community would have the opportunity to see the results of the audit. About ten years ago, the section was amended and only the recommendation of the auditors were published in the newspaper. This bill would eliminate that requirement totally. The entire cost of the most recent school district a year ago was \$90. The thing that concerns me is that today nothing is published. Over the long run, if the State of Montana and the local governmental units feel that it is no longer necessary for the public to get these publications, that will affect the financial status of the newspaper.

#### QUESTIONS:

REP. WALLIN: Did Mr. Meloy realize that Rep. Ernst made the statement that the cost of publishing was \$250,000.

REP. ERNST: There is a variation.

CHAIRMAN McBRIDE: It was suggested, in order to accommodate the issue of making sure the public is aware of problems or auditors' comments, to amend in language that would say that the local government entity would send a copy of the auditors' comments to the local newspaper and the newspaper could make it a news story.

MIKE MELOY: As I understand it, the audited government--the local government unit--will have a copy of that audit and there will be some sort of a publication that will announce to the public that the copy will be at that local government unit so it will be available to the county whether or not is sent to the newspaper.

CHAIRMAN McBRIDE: If I understand your comment, you don't see it being newsworthy but you see it worthy of being printed if someone pays for it.

MIKE MELOY: If you want to make sure that it gets in our paper, we will offer this real low rate.

REP. SALES: At the present time county government only has to publish the general comments section. City and towns and school districts are still subject to the same requirement as found in 2-75-21, which requires publication of each annual county audit report.

MIKE MELOY: The first section is taken literally and that is

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mandatory language. The next section causes me some confusion. It says the general comment section of each annual county audit report shall be sent to the official newspaper of the county for publication--that would seem to suggest that the only requirement for publication would be the county audit reports. It seems to me that everybody's audit reports are published.

REP. SALES: Are all these different units listed in 2-7-503. What are they publishing now under the law as far as the audits are concerned.

CHAIRMAN McBRIDE: There appears to be a conflict in the law as to every two years or annually.

LEE HEIMAN: 2-7-503 was amended last session. This section, 2-7-521, should have been amended when 2-7-503 was amended so it would refer correctly to the biennial reports. I do believe that 2-7-521 in the bill is incorrect.

REP. SALES: Is any unit of government under this grouping publishing their entire audits or are they all publishing just the general comments or nothing.

MIKE MELOY: Most of them are publishing general comments.

REP. SALES: Doesn't this bill say everything from (1)(c) through (1)(h) will, from now on, only have to publish the general comments section.

MIKE MELOY: No. Any government entity does not have to have anything published except a statement that says we have the audit report in our office. If you want to come see it, you may.

CHAIRMAN McBRIDE closed the hearing on HOUSE BILL 306.

The meeting adjourned at 2:50 p.m.

Kathleen McBride  
CHAIRMAN KATHLEEN McBRIDE

Geri Branstetter  
Secretary



TO: The House Local Government Committee

FROM: Lee Heiman, Committee Counsel

DATE: February 8, 1983

RE: Summaries of House Bills 120 and 388

- 7 House Bill 120 (Waldron). Provides for the state assumption of district court costs including juror and witness fees. All persons associated with district court operations, except Clerks of the District Courts, and staff are affected. Counties would continue to be responsible for providing courtrooms and offices for the district court. The supreme court is to establish a personnel plan for its employees. There is a statewide 6 mill levy for district court support.

Comments: 1. The fiscal note indicates that Clerks of Court are covered by the bill and since they are not subtract \$4,011,812 for FY '84 and \$4,292,600 for FY '85.  
2. Statewide for FY '84 a mill would raise \$2,204,492 and for FY '85 \$2,314,716.

- 1 House Bill 388 (Harrington). Provides that a self-governing county or a self-governing city/county consolidated local government may regulate gambling independent of state law. The regulation may be more or less strict than state law.

House Bill 477 (Waldron). Provides that in county and municipal budgets revisions and transfers may be made by resolution within individual funds.

AMENDMENTS TO HB 388

1. Page 1, line 6.

Following: "Gambling"

Insert: "subject to the approval of the electorate"

2. Page 1, line 17.

Following: "by Ordinance"

Insert: "approved by the electorate in a referendum conducted pursuant to, 7-5-132,"

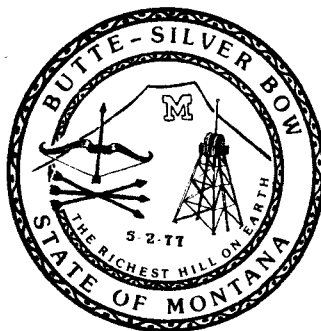
Ex 2  
HB 388

James C. Davis, Jr.  
Treasurer

Phone (406) 723-8262  
ext. 250

Ann Marie Fouts  
Chief Deputy

Phone (406) 723-8262  
ext. 248



OFFICE OF  
BUTTE-SILVER BOW TREASURER  
P. O. BOX 611  
BUTTE, MONTANA 59703



February 7, 1983

TO: Butte Silver Bow Representative  
Bob Pavlovich - District 86

Re: Council Bill 169 & Ordinance 169

Bob;

In regard to your phone call on February 6, 1983 at my home in regards to the above ordinance and council bill #169, it is an ordinance providing for the licensing and regulation of the conduct of authorized gambling games; providing for the licensing of distributors of authorized gambling equipment; providing for the repeal of Butte-Silver Bow ordinances #41 & 74; providing for penalties for violation and providing for an effective date herein, as per attached.

From January 1, 1983 to February 4, 1983 the following gambling licenses and distributor licenses have been issued.

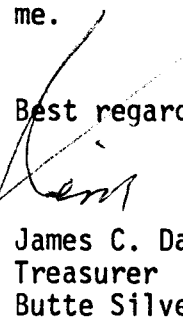
\$95,900.00	- machines, tables, etc.
<u>15,000.00</u>	- distributors license @ \$2,500 each.
\$110,900.00	- Total

For the year 1982 we show revenue collected for the above gambling ordinance a total of \$91,300.00.

I would at this time like to bring to your attention that we have a special deputy tax collector who works out of the Sheriff's office through the Treasurer's office to police liquor license, gambling license, amusement license, delinquent personal trailer taxes and personal business taxes and to the best of my knowledge Butte Silver Bow in the past two years has not had one complaint to the Sheriff's office in regards to the gambling ordinance.

If I can be of any further assistance, please do not hesitate to contact me.

Best regards,



James C. Davis, Jr.  
Treasurer  
Butte Silver Bow

COUNCIL BILL NO. 145

ORDINANCE NO. 145

AN ORDINANCE PROVIDING FOR THE LICENSING AND REGULATION OF THE CONDUCT OF AUTHORIZED GAMBLING GAMES; PROVIDING FOR THE LICENSING OF DISTRIBUTORS OF AUTHORIZED GAMBLING EQUIPMENT; PROVIDING FOR THE REPEAL OF BUTTE-SILVER BOW ORDINANCES NO. 41 AND 74; PROVIDING FOR PENALTIES FOR VIOLATION AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA.

SECTION 1: DEFINITIONS: For the purpose of this Ordinance and any documents adopted pursuant to it, certain words and phrases are defined, and certain provisions shall be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

(A) CHURCHES DEFINED: "Churches" as used in these regulations means an organization represented by a priest, minister, rector or authorized representative of any bona fide church or religion where such priest, minister, rector or representative holds or operates under certificate or credit, commission or ordination under the ecclesiastical laws of a religious corporation incorporated under the laws of any state or territory of the United States of America, or any voluntary religious association, and who fully conforms to the rights and practices prescribed by the supreme conference, convocation, convention, assembly, association or synod of the system of faith with which they are affiliated.

1 (B) UNRECOGNIZED CHURCHES DEFINED: Any church  
2 or religious organization which is organized  
3 for the primary purpose of conferring certifi-  
4 cates of commission, credit or ordination for  
5 a price and not primarily for the purpose of  
6 teaching and practicing a religious doctrine  
7 or belief, shall not be deemed to be a bona  
8 fide church or religious organization.

9 (C) NON-PROFIT ORGANIZATIONS DEFINED: "Non-  
10 Profit Organizations" as used in these regula-  
11 tions means:

12 1. Government entities organized under the  
13 laws of the State of Montana and its sub-  
14 divisions.

15 2. Corporations or any community chest, fund,  
16 foundation or other organization organized  
17 and operated exclusively for religious, charit-  
18 able, scientific, testing for public safety,  
19 literary, or educational purposes, or for the  
20 prevention of cruelty to animals, no part of  
21 the net earning of which inures to the benefit  
22 of any private shareholder or individual, no  
23 substantial part of the activities of which  
24 is carrying on propaganda, or otherwise at-  
25 tempting to influence legislation, and which  
26 does not participate in or intervene in  
27 any political campaign on behalf of any  
28 candidate for public office.

29 3. Civic leagues or organizations not  
30 organized for profit but operated exclusively  
31 for the promotion of social welfare or educa-  
32 tion, or local associations of employees, the

1 net earnings of which are devoted exclusively  
2 to charitable, educational or recreational  
3 purposes.

4 4. Labor, agricultural or horticultural  
5 organizations.

6 5. Business leagues, chambers of commerce,  
7 or boards of trade, not organized for profit  
8 and no part of the net earnings of which inures  
9 to the benefit of any private shareholder or  
10 individual.

11 6. Clubs organized and operated exclusively  
12 for pleasure, recreation and other non-profit-  
13 able purposes, no part of the net earnings  
14 of which inures to the benefit of any  
15 private shareholder or individual.

16 7. Fraternal beneficiary societies, orders  
17 or associations operating under the lodge system  
18 for the exclusive benefit of the members of a  
19 fraternity itself operating under the lodge  
20 system. The governing body may require any  
21 proof it deems necessary to determine the nature  
22 of alleged non-profit organizations, and may  
23 deny that status to organizations not satisfy-  
24 ing a majority of the governing body that it is  
25 a non-profit organization as defined herein.

26 SECTION 2: LICENSE REQUIRED: Pursuant to the provisions  
27 of Sections 23-5-321 and 23-5-421, Montana  
28 Code Annotated, 1979, except as herein pro-  
29 vided, no gambling game shall be conducted  
30 within the City and County of Butte-Silver  
31 Bow by anyone, either as owner, lessee or  
32 employee, whether for hire or not, either

solely or in conjunction with others, on any premises, without having first procured and thereafter maintained in full force and effect a gaming license issued by the governing body; provided, however, that nothing in these regulations shall be construed to prohibit social games played in private homes or residences.

SECTION 3: LICENSE CATEGORIES AND FEES: The following

license categories are established and the following shall be charges for each category:

Class A: All authorized card games or gambling machines with two or more tables or machines and raffles and

bingo \$2,000 per yr.

Class B: Raffles and bingo \$ 600 per yr.

Class C: Tables for authorized card games

(1) Each table \$ 400 per yr.

(2) Per year fee will not be pro rated

Class D: Coin operated machines operated as authorized gambling games

(1) Each machine \$ 400 per yr.

(2) Per year fee will not be pro rated

Class E: Each distributor of authorized gambling equipment shall pay an annual license of \$1,500.00. It shall be unlawful for anyone to locate authorized gambling equipment within the City and County of Butte-Silver Bow other than on premises owned by him/her without having



1 first obtained a gambling equipment  
2 distributor's license.

3 Class F: Churches and Non-Profit Organizations  
4 which are supported in whole or in  
5 part by public funds may apply to the  
6 Council of Commissioners for exemp-  
7 tion from a license fee. Such exemp-  
8 tion may be granted by a majority vote  
9 of the Council at a regular meeting.

10 SECTION 4: FEES TO BE PAID AND APPLICATION DELIVERED TO

11 TREASURER: All fees and all applications  
12 mentioned herein shall be paid and delivered  
13 to the Treasurer. License fees may be paid  
14 semi-annually, one-half (1/2) of said license  
15 fee on or before the first day of January of  
16 each year, and one-half (1/2) of said license  
17 fee on or before the first day of July of  
18 each year, shall expire on December 31 of  
19 each year, and shall be prorated, any part  
20 of a month to be considered as a month.

21 SECTION 5: LICENSES MAY BE ISSUED: Gaming licenses may be  
22 issued to qualified applicants as herein provided,  
23 whereby the licensee shall be authorized to provide  
24 gaming equipment and card tables for authorized gam-  
25 bling games and to operate and conduct authorized  
26 gambling games. No person shall permit the opera-  
27 tion or conduct of any gambling game on his premises  
28 until he has obtained required gaming license (s).

29 SECTION 6: PERSONS UNQUALIFIED TO HOLD LICENSES: No license  
30 shall be issued to:

31 (A) A person who has been convicted of being the  
32 keeper or is keeping a house of ill fame;

1 (B) A person who has been convicted of pandering  
2 or other crime opposed to decency and morality,  
3 under the laws of the Federal Government or any  
4 state of the United States;

5 (C) A person whose license issued under this  
6 Ordinance has been revoked for cause;

7 (D) A person who at the time of application for  
8 renewal of any license issued hereunder would be  
9 ineligible for such license upon a first applica-  
10 tion;

11 (E) A person who is not a citizen of the United  
12 States and who has not been a resident of the  
13 State of Montana for at least one year immediately  
14 preceding the filing of the application for license;

15 (F) A person or corporation not the legal owner and  
16 operator of the business to be licensed. This pro-  
17 vision shall not apply to non-profit organizations  
18 and churches.

19 SECTION 7: UNQUALIFIED LOCATIONS: A gaming license may be de-  
20 nied if the governing body deems that the place or  
21 location for which the license is sought is unsuit-  
22 able for the conduct of gaming operations. Without  
23 limiting the generality of the foregoing, the follow-  
24 places or locations may be deemed unsuitable.

25 (A) Premises located within 1,000 feet of churches,  
26 hospitals, schools or children's public playgrounds;

27 (B) Premises located in a place where gaming would  
28 be contrary to zoning ordinances;

29 (C) Premises difficult to police by reason of phy-  
30 sical location, layout or construction.

31 SECTION 8: ALL PERSONS FINANCIALLY INTERESTED TO MAKE APPLICATION:

32 Prior to the issuance of a license, as herein provided,

1 the applicant shall file with the Treasurer an ap-  
2 plication in writing, signed by the applicant, which  
3 application shall specify the location by street and  
4 number of the premises where authorized card games  
5 and games of chance are to be conducted under the  
6 license applied for, the type of gambling operations  
7 to be conducted on the premises, the number and type  
8 of gambling machines to be operated on the premises,  
9 the owner of such gambling machines and, if author-  
10 ized card games are to be conducted on the premises,  
11 the number of card tables to be located on the prem-  
12 ises.

13 The application shall be made in the names of all  
14 individuals or persons financially interested in  
15 the business to be conducted. The applicant or ap-  
16 plicants must authorize the Sheriff to investigate  
17 the applicant's character, background and associa-  
18 tions and suitability of the premises for gaming.

19 SECTION 9: LICENSE SHALL BE DENIED IF ANY PERSON IS INELIGIBLE:

20 If any person or individual named on the application  
21 is ineligible for issuance of a gaming license or  
22 temporary license, none may be issued for that prem-  
23 ises.

24 SECTION 10: APPLICATIONS: All applications for gaming licenses  
25 shall be made to the governing body upon blanks sup-  
26 plied by the governing body. Upon receipt of such  
27 application and the appropriate application fee, the  
28 governing body will make or cause to be made a tho-  
29 rough investigation as to the qualifications of the  
30 applicant and the suitability of the premises for  
31 operating a gambling game.

32 SECTION 11: TRANSFERS TO BE APPROVED: Licenses may be assigned

1 or transferred as to ownership or location with the  
2 approval and consent of the governing body which  
3 must be obtained before any assignment or transfer  
4 is effective. The holder of a license shall first  
5 make application to the governing body for an as-  
6 signment or transfer upon a form prescribed by the  
7 governing body for the governing body's consent  
8 and approval. Assignees shall conform with the  
9 provisions of this Act pertaining to applications  
10 for new licenses.

11 **SECTION 12: CERTAIN OFFICIALS NOT TO HOLD LICENSES:** No gaming  
12 license shall be issued to or held by any person  
13 holding office in or employed by any agency of  
14 Butte-Silver Bow or the State of Montana when the  
15 duties of such office or agency have to do with the  
16 enforcement of the gaming laws and these regulations.  
17 The regulations apply specifically but without limit-  
18 ing its effect to any person employed as a peace of-  
19 ficer as defined by Montana laws.

20 **SECTION 13: MONTANA CORPORATIONS:** No gaming license shall be  
21 issued to a Montana corporation unless a majority  
22 of the issued stock of said corporation is owned by  
23 persons who have been residents of the State of Mont-  
24 ana for a period of one year immediately before mak-  
25 ing application for a gaming license.

26 **SECTION 14: FOREIGN CORPORATIONS:** No gaming license shall be  
27 issued to a foreign corporation unless both of the  
28 following requirements are met:  
29 (A) The corporation has been authorized to do busi-  
30 ness in Montana for a period of one year prior to  
31 making application for a gambling license; and  
32 (B) A majority of the issued stock of said corporation

1 is owned by persons who have been residents of the  
2 State of Montana for a period of one year immedi-  
3 ately before making application for a gaming license.

4 SECTION 15: CORPORATE APPLICATIONS: A corporate application shall be  
5 accompanied by a sworn statement showing the names of all of  
6 the corporate officers plus the names of all of the owners  
7 of all issued stock of each corporation, together with the  
8 amount of stock owned by each stockholder and the residence  
9 addresses of said officers and owners.

10 SECTION 16: TEMPORARY LICENSE: Any person not otherwise li-  
11 censed hereunder who desires to operate games of  
12 chance or authorized card games for a period not  
13 to exceed two (2) weeks may apply to the Treasurer  
14 for a temporary license, which license shall be is-  
15 sued in the same manner as gaming licenses issued  
16 under this original, but which may be revoked by  
17 action of the Council of Commissioners without hear-  
18 ing. Only one such temporary license may be issued  
19 to a person per year, and the year shall be that  
20 designated in Section 4.

21 SECTION 17: FAILURE TO OBTAIN LICENSE: In addition to any other  
22 penalty which might be imposed for failure to obtain  
23 a gambling game license, a coin-operated gambling  
24 machine license, or a gambling equipment distributor's  
25 license as required by this Ordinance, the fee for  
26 such license shall be increased by an amount equal  
27 to the regular license fee in all cases where the li-  
28 cense is not obtained within ten (10) days after the  
29 date such license should have been obtained. The pro-  
30 visions of this section apply to the location of ad-  
31 ditional games or machines on premises for which li-  
32 censes have already been obtained for other games or machines.

1 SECTION 18: ENFORCEMENT: Every person or business organization  
2 licensed under the provisions of this Ordinance shall  
3 be subject to regulation, inspection, control and  
4 supervision under the general police power of the  
5 City and County of Butte-Silver Bow, and all laws  
6 now in force, or which may be adopted in aid of  
7 such police power and regulation.

8 SECTION 19: INSPECTION: The Law Enforcement Department shall  
9 inspect each establishment licensed under the pro-  
10 visions of this Ordinance at least once every four  
11 months on a random basis for the purpose of deter-  
12 mining that all gambling equipment located on the  
13 premises has been validly licensed and is being  
14 operated in conformance with state and local law  
15 and regulation.

16 SECTION 20: REPORT OF INSPECTION: On or before the 10th day  
17 of each month the Law Enforcement Department shall  
18 submit a written report to the Council of Commis-  
19 sioners indicating the licensed establishments in-  
20 spected during the preceding month. Such report  
21 shall disclose the name of the establishment, and  
22 shall include an inventory of all gambling equip-  
23 ment located on the premises and shall indicate  
24 whether such equipment was licensed lawfully or  
25 unlicensed.

26 SECTION 21: VIOLATION - PENALTY: Every person engaged in the  
27 operation of a gambling game for which a license  
28 is required under the provisions of this Ordinance  
29 without first procuring the proper license therefor,  
30 and any person providing misinformation upon appli-  
31 cation for license, shall be guilty of a misdemeanor  
32 and jurisdiction for such violations shall be in the

1 Police Court of Butte-Silver Bow. Every day busi-  
2 ness is conducted without a license shall consti-  
3 tute a separate offense.

4 SECTION 22: REPEALER: The provisions of Butte-Silver Bow Ordin-  
5 ance Number 41 and of Butte-Silver Bow Ordinance  
6 Num ber 74 be and the same are hereby repealed.

7 SECTION 23: EFFECTIVE DATE: This Ordinance shall be in full  
8 force and effect from and after thirty (30) days  
9 after passage and approval.

10 Passed this 16th day of September, 1981.

11   
12 \_\_\_\_\_  
13 CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

14 Approved this 16th day of September, 1981.

15   
16 \_\_\_\_\_  
17 CHIEF EXECUTIVE

18  
19 ATTEST:

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22 \_\_\_\_\_  
23 CLERK AND RECORDER  
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COUNCIL BILL NO. 169

ORDINANCE NO. 169

AN ORDINANCE AMENDING SECTION 1 OF BUTTE-SILVER BOW ORDINANCE NO. 154; PROVIDING FOR ANNUAL PAYMENT OF GAMBLING LICENSE FEES; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA:

Section 1: Section 1 of Butte-Silver Bow Ordinance No. 154 be and teh same is amended to r-ad as follows:

LICENSE CATEGORIES AND FEES - EXEMPTIONS; The following license categories are established and the following shall be charges for each category:

Class A: All authorized card games or gambling machines with two or more tables or machines and raffles and bingo \$3,000.00 per year

Class B: Raffles and bingo 800.00 per year

Class C: Tables for authorized card games - Each Table 600.00 per year

CLASS D: Coin-operated machines operated as authorized gambling games - Each machine 500.00 per year

CLASS E: Each distributor of authorized gambling equipment shall pay an annual fee of \$2,500.00 to sell, lease or locate authorized gambling equipment on premises other than his/her own place of business at any location within the City and County of Butte-Silver Bow. He/She shall purchase a license for each gambling machine leased or owned by him/her and shall list the location of each machine on the prescribed form issued by the Butte-Silver Bow Treasurer's Office



1 It shall be unlawful for anyone to locate  
2 authorized gambling equipment within the  
3 City and County of Butte-Silver Bow other  
4 than on premises owned or leased by him/  
5 her without having first obtained a gamb-  
6 ling equipment distributor's license.

7 Class F: Churches and Non-Profit Organizations as  
8 defined herein may:

9 (1) apply to the Council of Commissioners  
10 for exemption from a license fee.

11 (2) (a) apply to the Council of Commis-  
12 sioners for exemption from the  
13 \$1,000.00 statutory limitation on  
14 the value of a raffle prize as pro-  
15 vided in Section 23-5-413, MCA. A  
16 separate license shall be required  
17 for each exempted raffle as conducted.

18 (b) The Church or Non-Profit Organ-  
19 ization seeking the license under  
20 sub-section (2) (a) must apply to  
21 the Council of Commissioners for  
22 the license and must provide the  
23 following information:

24 (i) the cost and number of raffle  
25 tickets to be sold.

26 (ii) the charitable purposes the  
27 proceeds of the raffle are intended  
28 to benefit, and

29 (iii) the proposed prizes and their  
30 value.

31 (c) The proceeds from the sale of the  
32 raffle tickets are to be used only

1 for charitable purposes or to pay for  
2 prizes. The raffle prize must be  
3 tangible personal property only and  
4 not in money, cash, stock, bonds, evi-  
5 dence of indebtedness, or other intang-  
6 ible personal property. None of the  
7 proceeds may be used for the adminis-  
8 trative cost of conducting the raffle.  
9 (d) The Church on Non-Profit Organi-  
10 zation conducting the raffle must sub-  
11 mit an accounting to the Council of  
12 Commissioners within 30 days follow-  
13 ing the completion of the raffle. The  
14 person or persons submitting the appli-  
15 cation to the Council of Commissioners  
16 along with the Church or Non-Profit  
17 Corporation conducting the raffle shall  
18 be responsible for submitting the ac-  
19 counting to the Council of Commissioners.

20 (3) Any exemption granted as provided above  
21 shall be approved by a majority vote of  
22 the Council at a Regular meeting.

23 SECTION 2: EFFECTIVE DATE: This Ordinance shall be in full force  
24 and effect from December 31, 1982, after passage and  
25 approval.

26 PASSED this 15th day of September, 1982.

27 [Signature]  
28 CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

29 APPROVED this 15th Day of September, 1982.

30 [Signature]  
CHIEF EXECUTIVE

31 ATTEST:

32 [Signature]  
CLERK AND RECORDER

COUNCIL BILL NO. 154

ORDINANCE NO. 154

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 145;  
PROVIDING FOR CERTAIN EXEMPTIONS FOR CHURCHES AND NON-PROFIT OR-  
GANIZATIONS; PROVIDING FOR ANNUAL PAYMENT OF GAMBLING LI-  
CENSE FEES; PROVIDING THAT GAMBLING LICENSE FEES SHALL NOT  
BE PRO-RATED; PROHIBITING THE LOCATION OF GAMBLING GAMES  
OR EQUIPMENT IN AREAS WHERE MINORS ARE PERMITTED; AND PRO-  
VIDING FOR AN EFFECTIVE DATE HEREIN.

BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY  
AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA;

SECTION 1: Section 3 of Butte-Silver Bow Ordinance No. 145  
be and the same is amended to read as follows:

SECTION 3: LICENSE CATEGORIES AND FEES - EXEMPTIONS: The  
following license categories are established and  
the following shall be charges for each category:

Class A: All authorized card games or gambling  
machines with two or more tables or  
machines and raffles and  
bingo \$2,000 per yr.

Class B: Raffles and bingo 600 per yr.

Class C: Tables for authorized card games  
Each table 400 per yr.

Class D: Coin-operated machines operated as  
authorized gambling games  
Each machine 400 per yr.

Class E: Each distributor of authorized gambling  
equipment shall pay an annual license  
of \$1,500.00. It shall be unlawful for  
anyone to locate authorized gambling  
equipment within the City and County of  
Butte-Silver Bow other than on premises

1 owned or leased by him/her without having first  
2 obtained a gambling equipment distribu-  
3 tor's license.

4 Class F: Churches and Non-Profit Organizations as  
5 defined herein may:

- 6 (1) apply to the Council of Commissioners  
7 for exemption from a license fee.
- 8 (2) (a) apply to the Council of Commissioners  
9 for exemption from the \$1000.00 statu-  
10 tory limitation on the value of a raf-  
11 fle prize as provided in Section 23-5-  
12 413, MCA. A separate license shall be  
13 required for each exempted raffle as<sup>so</sup>  
14 conducted.
- 15 (b) The Church or Non-Profit Organization  
16 seeking the license under subsection (2) (a)  
17 must apply to the Council of Commissioners  
18 for the license and must provide the fol-  
19 lowing information:
- 20 (i) the cost and number of raffle tick-  
21 ets to be sold.
- 22 (ii) the charitable purposes the proceeds  
23 of the raffle are intended to benefit, and  
24 (iii) the proposed prizes and their value.
- 25 (c) The proceeds from the sale of the raffle  
26 tickets are to be used only for charitable  
27 purposes or to pay for prizes. The raffle  
28 prize must be intangible personal property  
29 only and not in money, cash, stock, bonds,  
30 evidence of indebtedness, or other intang-  
31 ible personal property. None of the pro-  
32 ceeds may be used for the administrative

cost of conducting the raffle.

(d) The Church or Non-Profit Organization conducting the raffle must submit an accounting to the Council of Commissioners within 30 days following the completion of the raffle. The person or persons submitting the application to the Council of Commissioners along with the Church or Non-Profit Corporation conducting the raffle shall be responsible for submitting the accounting to the Council of Commissioners.

(3) Any exemption granted as provided above shall be approved by a majority vote of the Council at a regular meeting.

SECTION 2: Section 4 of Butte-Silver Bow Ordinance No. 145 be and the same is hereby amended to read as follows:

SECTION 4: FEES TO BE PAID AND APPLICATION DELIVERED TO TREASURER: All fees and all applications mentioned herein shall be paid and delivered to the Treasurer. License fees shall be paid annually, on or before the first day of January of each year, and shall expire on December 31 of each year. License fees shall not be prorated.

SECTION 3: Section 5 of Butte-Silver Bow Ordinance No. 145 be and the same is hereby amended to read as follows:

SECTION 5: LICENSES MAY BE ISSUED - MINORS NOT TO PARTICIPATE: Gaming licenses may be issued to qualified applicants as herein provided, whereby the licensee shall be authorized to provide gaming equipment and card

1 tables for authorized gambling games and to oper-  
2 ate and conduct authorized gambling games. No  
3 person shall permit the operation or conduct of  
4 any gambling game on his premises until he has  
5 obtained required gaming lincese (s). No person  
6 under the age of 18 years shall be permitted to  
7 participate in any gambling games or to operate  
8 any gambling machines authorized by this Ordinance.

9 SECTION 4: Section 7 of Butte-Silver Bow Ordinance No. 145  
10 be and the same is hereby amended to read as fol-  
11 lows:

12 SECTION 7: UNQUALIFIED LOCATIONS: A gaming license may be  
13 denied if the governing body deems that the place  
14 or location for which the license sought is un-  
15 suitable for the conduct of gaming operations.  
16 Without limiting the generality of the foregoing,  
17 the following places or locations may be deemed un-  
18 suitable.

19 (A) Premises located within 1,000 feet of churches,  
20 hospitals, schools or children's public playgrounds;

21 (B) Premises located in a place where gaming would  
22 be contrary to zoning ordinances:

23 (C) Premises difficult to police by reason of  
24 physical location, layout or construction.

25 (D) Places or locations where minors are permitted  
26 unaccompanied by a parent or guardian. If unaccom-  
27 panied minors are allowed on only a part of such  
28 premises, then only that part of the premises  
29 where unaccompanied minors are permitted is an un-  
30 qualified location.

1 SECTION 5: EFFECTIVE DATE: This Ordinance shall be in full  
2 force and effect from, and after thirty (30) days  
3 after passage and approval.

4 PASSED this 2nd day of December, 1981.

5  
6   
7 CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

8  
9 APPROVED this 2nd day of December, 1981.

10  
11   
12 CHIEF EXECUTIVE

13 ATTEST:

14  
15   
16 CLERK AND RECORDER

17  
18  
19 APPROVED AS TO FORM

20  
21  
22 COUNTY ATTORNEY

CHAIRMAN OR THE JUDICIARY COMMITTEE

RESOLUTION OF SUPPORT FOR HOUSEBILL NO. 388

The Butte-Silver Bow Chamber of Commerce at their regularly scheduled meeting of the Board of Directors, February 4, 1983, at the Copper King Inn, passed by a unanimous vote, a motion by Bill Bermingham, seconded by Larry Roberts, to support House Bill No. 388 which is an act authorizing self-governing counties and self-governing City-County consolidated local governments to regulate gambling within their jurisdictions: providing for penalties; providing for a tax on gambling revenues, facilities, implements, and machines, amending sections 7-1-112, 23-5-102 and 23-5-142, MCA.

In discussion it was emphasized that the principles of self-government should extend in this area. It was also noted that the citizens of Butte-Silver Bow voted overwhelmingly for gambling in the statewide initiative. It was the consensus of the Chamber Board of Directors that they were in effect reflecting the already stated position of a large majority of the voters of Butte-Silver Bow.

With the broad support for improving and expanding the tourism market for Butte-Silver Bow, it was the feeling of the Board that passage of House Bill No. 388 would enable the community to more effectively meet our stated goal of providing attractions and services for our visitors.



STATEMENT

In the 1982 general election, two counties passed Initiative 92, commonly referred to as the gambling Initiative. This would indicate that these two counties are for limited legalized gambling. The two counties and the votes cast were:

- 1) Butte/Silverbow . . . . . 10,159 For  
4,941 Against
- 2) Anaconda/Deer Lodge . . . . . 2,561 For  
2,012 Against

2/7/83  
se

# Montana Association of Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 1708 • Helena, MT 59601

EX 3  
HB 388

February 8, 1983

## WORKING TOGETHER:

American Baptist Churches  
of the Northwest

American Lutheran Church  
Rocky Mountain District

Christian Church  
(Disciples of Christ)  
in Montana

Episcopal Church  
Diocese of Montana

Lutheran Church  
in America  
Pacific Northwest Synod

Roman Catholic Diocese  
of Great Falls

Roman Catholic Diocese  
of Helena

United Church  
of Christ  
Montana Conference

United Presbyterian Church  
Glacier Presbytery

United Methodist Church  
Yellowstone Conference

United Presbyterian Church  
Yellowstone Presbytery

MADAM CHAIRMAN AND MEMBERS OF THE HOUSE LOCAL  
GOVERNMENT COMMITTEE:

I am Cathy Campbell of Helena, representing  
the Montana Association of Churches.

We oppose House Bill 388 because we are  
opposed to any attempt to expand authorized gambling  
in Montana. HB 388 would do this.

We oppose expanded gambling for many reasons,  
one of which is that we feel that gambling is non-  
productive in nature, creates no new resources and provides  
no essential services to a community.

HB 388 would accomplish what Initiative 92 failed  
to accomplish when put to a vote of the people. This  
was a vote that was initiated by gambling interests, yet  
even after outspending the opponents of the initiative  
by a margin of more than 10 to 1, it was resoundingly  
defeated. This shows, quite simply, that Montanans don't  
want expanded gambling in the state.

What would the result be if gambling were allowed  
as a local option in certain areas? Imagine a similar law  
in Nevada, where gambling was allowed only selected  
jurisdictions, for instance, Las Vegas, Reno and Elko?  
Would you then think of Nevada as a gambling state? Of course  
you would. And this is just what the people of Montana  
voted down by an almost 2-1 margin only three months ago.

If HB 388 were to become law, it should be obvious  
that there would be continual agitation by the gambling  
interests in every area to get the law amended so that  
their jurisdiction would also be authorized to have  
expanded gambling. Clearly, HB 388 would result in  
expanded gambling in the state, and we therefore oppose it.

# **GAMBLING**

## **POSITION STATEMENT**

The Montana Association of Churches opposes any attempt to expand authorized gambling in Montana.

We further oppose the establishment of a State Gaming Commission.

## **SUPPORTING STATEMENT**

From time to time, efforts are made to expand authorized gambling in Montana; i.e., by allowing electronic or mechanical devices, punchboards, additional card games like Blackjack, and increased cash payoffs for Bingo and Keno. We oppose such efforts.

We are convinced that commercial gambling poses a serious threat to any social order. Non-productive in nature, gambling creates no new resources and provides no essential services to a community. It undermines our economic and social order, places an added strain on the family structure, potentially corrupts government at all levels, and sets up many related crime and law enforcement problems.

We see the establishment of a State Gaming Commission as a first step towards State involvement in the gambling business.

**Montana Religious Legislative Coalition  
(M.R.L.C.)  
P.O. Box 1708  
Helena, Montana 59601**

## **MONTANA ASSOCIATION OF CHURCHES POSITION — 1982**

### **GAMBLING**

#### **Other M.A.C. Position Papers:**

Environment and Land Use  
Government - Institutions (Us and Them)  
Tax Exemption  
Victims of Crime Compensation  
Released Time for Religious Education  
Welfare and Financial Support  
Legislating Morality  
M.R.L.C. Introduction and History  
Energy and Environment  
Home Health Care  
Funding of Conciliation Courts  
Pre-marital Counseling for Minors  
Pornography  
Capital Punishment  
Corrections  
Traffic Safety  
Public Funding for the Arts

#### **Member Units of the Montana Association of Churches**

American Baptist Church  
American Lutheran Church  
Christian Church (Disciples of Christ)  
Episcopal Church, Diocese of Montana  
Lutheran Church of America  
Roman Catholic Church -  
Diocese of Great Falls  
Diocese of Helena  
United Church of Christ  
United Methodist Church  
United Presbyterian Church -  
The Presbytery of Glacier  
The Presbytery of Yellowstone

#### **Single Member Congregations [non-voting]**

Christ's Church on The Hill, Great Falls  
Holy Trinity Serbian Orthodox Church, Butte



# FIRST SECURITY BANK

First Security Bank of Anaconda  
307 East Park Avenue  
P. O. Box 61  
Anaconda, MT 59711  
Phone (406) 563-5203

February 8, 1983

Committee Review for  
Local Control of Gambling

Committee:

I respectfully submit this letter as our endorsement of the pending legislation that would permit our local unified government the option of establishing gambling options.

As you know, the electorate of our county overwhelmingly favored the gambling initiative that was presented on the ballot last November.

The local gambling option legislation would permit us the self-help type of program that we would use for the development of tourism and recreation in our area. This would permit us to replace jobs that have been lost over the last several years as a result of the curtailments in the mining and smelting operations in our area.

We do not need money or other special considerations from state government. However, we do need the ability to make some self-determinations with respect to enhancing business opportunities that fit with the natural resources of our area, namely, tourism and recreation.

Your favorable consideration with respect to this legislation will be appreciated.

Yours very truly,

F. R. Bennett,  
President

FRB:ml

Charles & Yvonne Haeffner  
218 Evergreen  
Anaconda, MT 59711  
Telephone 563-7857

February 8, 1983

Committee Review  
For Local Control of Gambling

Committee:

We, Charles & Yvonne Haeffner, as tax payers in the city of Anaconda, Deer Lodge County, Montana, are for Controlled Gambling.

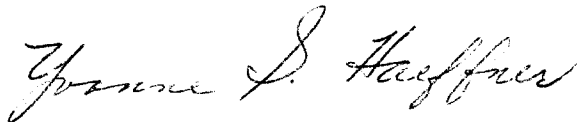
Comment:

We, the above, believe that Controlled Gambling would be another way to compensate the tax burden recently added to this community.

Respectfully Submitted,



Charles E. Haeffner  
Past president Chamber of Commerce



Yvonne S. Haeffner  
Citizen of Anaconda, MT

/vh  
copy

Constitutional Amendment No. 12		Legislative Referendum No. 89		Initiative No. 91		Initiative No. 92		Initiative No. 94		Initiative No. 95		COUNTY SEATS
PROCEDURES FOLLOWING GOVERNOR'S VETO		REMOVING PROHIBITION ON DISPOSAL OF RADIOACTIVE MATERIALS		OPPOSING PLACEMENT OF MX MISSILES IN MONTANA		EXPANDING GAMBLING		BEER AND WINE QUOTA SYSTEM		INVESTING COAL TAX TRUST REVENUE IN MONTANA ECONOMY		
For	Against	For	Against	For	Against	For	Against	For	Against	For	Against	
1612	1539	1001	2279	1783	1580	1539	2007	1099	2395	2360	938	*Dillon
148	1849	842	3257	2615	1585	1554	2660	1528	2702	2606	1565	Hardin
244	1162	539	1983	1520	1055	965	1694	871	1763	1968	681	Chinook
757	719	480	1036	474	436	623	949	511	1047	1124	379	*Townsend
2012	1728	751	3203	2597	1457	1300	3004	1460	2768	2909	1109	Red Lodge
397	371	244	582	433	407	318	562	292	570	560	248	Ekalaka
12149	10840	6856	17881	11608	14097	11130	15253	9395	16803	17616	7245	Great Falls
111	1347	721	2204	1646	1451	987	2127	945	2146	2113	854	Fort Benton
710	2114	1315	3712	2200	1719	2072	3075	1583	3111	3319	1642	Miles City
624	493	256	964	732	509	420	939	366	959	789	446	Scobey
2175	1925	983	3350	2780	1731	1712	2954	1426	3214	3076	1286	Glendive
1937	1203	2924	2318	2007	630	2561	2012	1692	2842	3167	1211	*Anaconda
662	277	1263	922	922	2851	525	1169	439	1193	1157	378	Baker
350	2561	1535	4082	2870	8199	2201	3692	1877	3932	3738	1834	Lewistown
820	8497	4570	15813	12445	7321	5129	13881	8197	12622	14105	5572	*Kalispell
9340	7009	3988	13307	11022	6648	5886	12230	8352	9626	12339	4915	*Bozeman
345	405	184	622	430	403	335	589	279	628	596	221	Jordan
344	1563	881	2463	1784	1647	1605	1886	1248	2204	2271	1041	*Cut Bank
110	275	113	374	286	221	186	379	155	406	333	170	Ryegate
68	534	367	814	622	586	606	673	423	845	883	307	*Philipsburg
3547	3248	1936	5574	3186	2230	2445	4831	2144	4531	5036	1968	Havre
1394	1387	784	1936	1558	1389	1377	1509	1235	1759	2072	716	*Boulder
662	614	328	1013	757	616	481	945	407	1016	953	399	Stanford
165	3165	1906	5666	4682	2998	2262	5693	2876	4988	5244	2098	*Polson
182	9331	4245	13497	11406	7321	6683	11759	8229	10084	13017	4752	*Helena
667	450	261	816	599	517	307	826	328	801	742	318	*Chester
2907	2694	1438	4377	3264	2651	2087	3960	2427	3534	4322	1501	*Libby
1230	1233	705	1700	1375	1261	1105	1498	916	1789	1753	683	*Virginia City
14	560	271	985	725	566	463	916	378	993	853	374	Circle
81	434	263	696	524	432	377	634	339	651	697	278	*White Sulphur Springs
88	635	333	1080	894	557	791	705	612	868	1083	323	*Superior
14450	12277	6267	22140	17063	8708	10770	18028	15567	12112	21607	6231	*Missoula
1082	980	446	1779	1265	963	969	1353	763	1578	1538	689	Roundup
35	2376	1244	4209	3236	2277	2524	3281	2150	3584	4168	1318	*Livingston
35	113	82	178	120	141	84	192	84	194	194	70	Winnett
78	881	494	1581	1186	945	774	1524	664	1606	1492	616	Malta
1321	1265	614	2297	1260	951	1061	1953	753	1909	1988	852	*Conrad
582	571	284	928	705	529	472	828	464	822	844	363	Broadus
1138	1276	588	1965	1414	1160	1208	1482	940	1730	1757	799	*Deer Lodge
43	377	241	626	480	407	349	613	245	705	568	305	Terry
23	4143	2472	6782	5273	4126	3228	6467	3764	5848	6700	2534	*Hamilton
94	1777	873	3027	2384	1628	1393	2788	1245	2883	2678	1217	Sidney
1526	1360	673	2354	1899	1273	1217	2088	1112	2177	2017	1023	Wolf Point
1900	1796	901	2887	2148	1754	1831	2184	1491	2480	2702	1170	Forsyth
71	1629	827	2587	2014	1463	1306	2363	1446	2148	2559	925	*Thompson Falls
21	781	437	1765	1500	748	831	1567	776	1601	1436	745	Plentywood
89	7202	3228	10615	8762	6785	10159	4941	6629	9126	10671	3616	*Butte
1244	1174	616	1951	1546	1102	893	1850	924	1800	1848	755	Columbus
801	628	410	1096	855	699	531	1095	514	1093	1065	468	Big Timber
1575	1198	687	2263	1576	1399	932	2160	927	2167	2098	821	Choteau
35	1115	647	1699	1270	1268	1112	1506	820	1778	1778	696	*Shelby
45	253	93	433	331	208	213	371	165	408	337	192	Hysbam
	1765	968	2965	2079	1958	1629	2664	1412	2819	2543	1362	Glasgow
	516	243	751	544	468	423	658	359	712	668	324	Harlowton
259	305	122	464	343	261	226	415	177	347	382	213	Wibaux
17	14521	7342	25415	19284	14114	11130	23952	15658	18307	21190	12119	Billings
63	131560	70375	222210	168594	125092	115297	191334	121078	182724	207629	84875	

# VISITOR'S REGISTER

HOUSE

COMMITTEE

# BILL

DATE \_\_\_\_\_

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 388

DATE 2-8-83

SPONSOR HARRINGTON

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Doris Snell	Butte, Mt.	Butte County	X	
Jeff Wiles	Butte Mt	Shasta County	X	
Regius J. Dolan	Butte, Mont	Butte	X	
Deane Perin	Butte Mont	Perin's	X	
John Perin	Butte Mont	Perin's	X	
John Judge	Butte Mt	Wm. Bonnet Jan	X	
Norman Snell	Butte, Mont.	Plaza Club	X	
Don V. Judd	Anaconda "	County	X	
Charles	BUTTE	DIST 86	X	
Larry Stewart	Butte	Sen. Dist 43	X	
Bell Berning	Cham Butte	Butte Chamber	X	
Judy Jacobson	Butte	Sen Dist 42	X	
Don Peoples	BUTTE	BUTTE SCHOOL BOY	X	
JARVIS A. LEE	BUTTE	BUTTE CHAMBER OF COM.	X	
WM SHAWWOOD	BUTTE	BUTTE LOAN & DEVEL. CORP.	X	
R.V. Tilman	Butte	Butte Chamber of Com	X	
CHAS. HARRINGTON	ANA CONIDA	ANACONIDA, CHAMBER	X	
JAMES C. DAVIS JR	Butte	BUTTE SILVER & SAW TREES	X	
John DeBalt	Butte	—	X	
Sam Fisher	Butte	Tilman	X	
Menahan	ana		X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



## HOUSE

Local Govt

COMMITTEE

BILL

BILL House Bill 388

DATE \_\_\_\_\_

DATE 2-8-83

SPONSOR

SPONSOR HARRINGTON

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

FORM CS-33

# VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HOUSE BILL 388

DATE \_\_\_\_\_

SPONSOR HARRINGTON

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

EX 4  
HB 120

Re: HB 120 and SB 19

Although re-districting may ameliorate, in some respects, the disparity extant in the workload shared among the district judges, the real vice of the present system is that the authority and responsibility for the operation and function of the judiciary (including its financing) has been dissipated by spreading these duties and obligations among various agencies of state, county and local government which have little or no interest in the operation of the courts and, as a result, have no accountability for the success or failure of the courts in discharging their constitutional duties.

In my view, the "overhaul" must be more than simple re-districting -- it requires substantial administrative reform. This is especially true in the area of state court financing, which, as we all know, is currently borne largely by the counties. We further know that such financial burden is simply beyond the financial capabilities of the county taxpayers to bear. (e.g. the Eighth Judicial District Courts' operating deficit for fiscal year '80-'81 was \$156,013.00; the courts' deficit for FY '81-'82 is \$234,000.00; '82-'83 estimated at \$434,758.00).

A brief review of Montana's constitution and statutes make it abundantly clear that the duties and responsibilities for the administration, supervision and funding of the states' courts lie with the State of Montana and its' Supreme Court and not with the counties or their respective commissioners:

a) It is the State of Montana which guarantees that "...No person shall be denied the equal protection of the laws." (Mont. Const. Art II, Section 4) and not the county Commissioners;

b) It is the State of Montana, and not the county commissioners which guarantees that "Courts of Justice shall be open to every person, and speedy remedy afforded for every injury of person, property or character.... [and that].... Right and justice shall be administered without sale, denial or delay" (Mont. Const., Art II, Section 16);

c) It is the State of Montana, and not the county commissioners which guarantees that "No person shall be deprived of life, liberty or property without due process of law" (Mont. Const., Art II, Section 17);

d) It is the State of Montana, and not the county commissioners, which guarantees that any citizen accused of a crime has the "...right to appear and defend in person and by counsel ... to meet the witnesses against him face to face, ... to compel the attendance of witnesses on his behalf, and a speedy public trial by an impartial jury ...." (Mont. Const., Art. II, Section 24);

e) It is the State of Montana, and not the county commissioners, which guarantees that "The right of trial by jury is secured to all and shall remain inviolate." (Mont. Const., Art II, Section 26);

f) It is the people of the State of Montana, and not the county commissioners, who have mandated that "the power of the government of this state is divided into three distinct branches -- legislative, executive and judicial. No person or persons charged with the exercise of power properly belonging to one branch shall exercise any power properly belonging to either of the others, except as in this constitution expressly directed or permitted." (Mont. Const., Art. III, Section 1);

g) It is the Supreme Court of the State of Montana which ".... has general supervisory control over all other courts ....[and] may make rules governing appellate procedure, practise and procedure for all other courts...." (Mont. Const., Art. VII, Sections 2,3).

h) It is the State of Montana, and not the county commissioners, which has the responsibility, authority and duty incident to taxation, revenues and appropriation. (Mont. Const., Art. VIII, Sections I, et.seq.)

Furthermore, it is the legislature of this State, and not the county commissioners, which has enacted the laws necessary to bring to fruition all those ideals and principles enunciated and mandated by the constitution, and not just those cited herein.

For example, the State of Montana has defined conduct which constitutes a crime against the peace and dignity of this State, and has prescribed the punishment therefor. (Sections 45-1-101 et. seq., Montana Code Annotated) Additionally, it is the State of Montana which establishes the requisite procedures to be followed by the State when charging one of its citizens with the commission of an offense. (Sections 46-1-101 et. seq. M.C.A.)

More specifically, it is the Montana State Legislature which provides that:

"Every defendant brought before the court must be informed by the court that it is his right to have counsel before proceeding and must be asked if he desires the proceeding and must be asked if he desires the aid of counsel.

"(2) The defendant, if charged with a felony, must be advised that counsel will be furnished at state expense if he is unable to employ counsel as determined under the provisions of 46-8-111. If the offense charged is a felony and if the defendant desires counsel and is unable to employ counsel, a court must assign counsel to defend him (Section 46-8-101 M.C.A.);

The real "zinger" -- that is, who is going to pay for this attorney representing a defendant charged with violation of state law and being represented by an attorney appointed by authority of the state constitution and being tried in a state court -- is set forth thereafter, when the statutes describe the method of repayment by the defendant of this "state" expense:

"....Such payments [if, and when they are ever made] shall be made to the Clerk of the District Court. The Clerk of the District Court shall disburse the payments to the County or State agency responsible for the expenses of Court appointed counsel as provided for in 46-8-201." (Section 46-8-114 M.C.A.).

Section 46-8-201, just referenced, after stating that such attorneys compensation shall be reasonable, goes on to require that:

"(2) The expense of implementing subsection (1) is chargeable to the county in which the proceeding arose, except that:

a) in proceedings solely involving the violation of a city ordinance or a state

statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceedings arose; and

- b) when there has been an arrest by agents of the Department of Fish, Wild Life and Parks or agents of the Department of Justice, the expense must be borne by the state agency causing the arrest".

Thus, the Montana legislature, while recognizing that the right to counsel in a criminal proceeding is a federal and state constitutional right, and further recognizing that it is a "state expense" (Section 46-8-101(2), above quoted) nevertheless has relieved itself of several hundreds of thousands of dollars per year of expense by assigning these costs to local government.

To put this legislative feat into perspective it should be pointed out that during the fiscal year 1980-1981 Cascade County expended the sum of \$143,000.00, for providing legal representation to the indigent; during the current fiscal year, these expenditures will, in all liklihood, exceed \$145,000.00. Nor is this the only example of the state shifting the financial burdens of constitutional and legislative mandated policies or programs to the local governments.

ITEM:

"The Montana Youth Court Act shall be interpreted and construed to effectuate the following express legislative purposes.

- (1) to preserve the unity and welfare of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of a youth coming within the provisions of the Montana Youth Court Act;
- (2) to remove from youth committing violations of the law the element of retribution and to substitute therefor a program of supervision, care, rehabilitation, and, in appropriate cases, restitution as ordered by the youth court;
- (3) to achieve the purposes of (1) and (2) of this section in a family environment whenever possible, separating the youth from his parents only when necessary for

- the welfare of the youth or for the safety and protection of the community;
- (4) to provide judicial procedures in which the parties are assured a fair hearing and recognition and enforcement of their constitutional and statutory rights."  
(Section 41-5-102, M.C.A. "Montana Youth Court Act.")

How are these State policies regarding our Youth paid for?

Section 41-5-207 M.C.A. provides that:

"The following expenses shall be a charge upon the Court or other appropriate agency when applicable..."

- (1) Costs of medical examination and treatment of the Youth;
- (2) Attorneys fees
- (3) Service of summons, subpoenas, traveling expenses of witnesses, "and other like expenses incurred";
- (4) Compensation for guardian ad litem; and
- (5) Costs of transcripts and printing briefs on appeal.

In order that these duties delegated to the court may be properly carried out, the state legislature has provided that each judicial district shall [not may, or maybe, or at its' option] appoint probation officers and ...."shall insure that the Youth division are staffed with necessary office personnel and that the offices are properly equipped to effectively carry out the purpose and intent of this chapter."

After establishing the mandatory qualifications for such probation officers (Section 41-5-702, M.C.A.) and what their powers and duties "shall" be (Section 41-5-703, M.C.A.) the legislature then provides the salary levels that such officer shall be paid, and ...."The salary of such officer shall be apportioned among and paid by each of the counties in which such officer is appointed to act ...." (Section 41-5-704, M.C.A.)

In fiscal year 1980-1981 the costs incurred by Cascade County to provide these state-mandated services was \$209,025.00. The court's proposed budget for fiscal year 1982-1983 has pegged these costs to the county in the amount of \$277,645.00;

These costs do not include the expenses of court appointed counsel for these Youths and other ancillary services embodied in other portions of the courts budget.

Further examples of legislatively delegated costs to local government would render this communication far too prolix and serve only to boggle the mind of the reader.

It is sufficient to observe that the state, by and through its legislature, has transferred the bulk of the costs for the operation of the states courts, and the costs incurred by the litigants (including the state itself) to the local governments.

Without further protracted discussion, it is my view that the present statutory scheme of financing the court's operations through local government which requires the county commissioners to approve a district court budget is constitutionally impermissible. (Mont. Const., Art. III, Sec. 1)

The provision that local government has the power to reduce a state court's budget which provides those constitutionally mandated requirements is, I believe, an impermissible delegation of legislative authority and is plainly violative of the separation of powers required by the Montana Constitution, Art. III, Section I.

Furthermore, the granting and withholding of these constitutionally guaranteed rights by the county for any reason, especially lack of money, is plainly violative of every Montana citizen's right, either as a taxpayer or litigant, to the equal protection of the law. (Mont. Const., Art. II, Section 4; U.S. Const., Amend. XIV)

Without regard to those constitutional issues just discussed, the present scheme for financing the courts, and court-related services by local government is ill-conceived and offends the fundamental principles of good business management, good government and sound financial and accounting principles.

By reason of this existing financial scheme, the budgetary deficits of the Eighth Judicial District will, in all liklihood, reach 1/2 of one million dollars by the end of fiscal year, 1983.

Cascade County is not the only local government currently faced with the fiscal and budgetary disasters inherent in the present system. The author is informed that approximately twenty other counties are suffering the same financial difficulties to a



other counties are suffering the same financial difficulties to a greater or lesser degree. There may be other counties having a sufficient tax base and mill levy who are not reporting these difficulties. There are also, I strongly suspect, many counties which are not reporting these problems simply because they have failed and refused to provide these mandated services to their citizens and thus, have avoided the necessary costs incident thereto.

Thus, we have a disparity of judicial services state-wide which arises directly from either the willingness and ability or unwillingness or inability of the individual counties, and their respective commissioners, to provide them.

In view of the foregoing it is apparent that points out, the entire system of our courts badly need an overhaul.

If we are to effectuate any lasting improvement in our courts, and improve the quality of judicial services, both civil and criminal, to which we, as citizens, are entitled to demand and receive, then we must, as citizens, judges, legislators and public executives re-examine, reassess and reevaluate our views of the fundamental political and social philosophies upon which our state is founded and which are specifically articulated in our own constitution.

First, we must rid ourselves of the notion that the courts of this state "belong" to the political sub-division in which they are situated. Every Court in this State has as its origin either the constitution of this state or in legislation enacted by that mandate (Art. VII, Section 1). Every citizen in this state is entitled to the equal protection of the law in this state's courts without regard to their place of residence (Art. VII, Section 4), and they are entitled to have their case heard and justice done "without sale, denial or delay" (Mont. Const. Art. II, Section 16).

Thus, we cannot, as citizens, require or even permit the function of our courts to be left to the whim or caprice of local government, nor can we permit the state to shift that responsibility to local government. The Courts of this state

belong to the people of this state and to permit the government, either state or local, to thwart the will of the people and to deprive them of the effective and efficient administration of justice is, in a word, wrongheaded.

Secondly, we must disabuse ourselves of the notion that simply because an event occurs in the courtroom that it should be the court which is chargeable with the costs incident thereto. (see, for example, the language quoted previously from section 41-5-207, ... "The following expenses shall be a charge upon the court....")

In this connection, we would do well to recall, and heed, the words of Alexander Hamilton in The Federalist No. 78:

"The executive not only dispenses the honors but holds the sword of the community. The legislature not only commands the purse but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary, on the contrary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither force nor will but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments."

As some observers have succinctly pointed out: 'the judiciary is the stepchild of government'. As Alexander Hamilton tells us, the judiciary has neither "sword" nor "purse". In short, the courts are totally dependent upon the willingness of the legislature to provide its' sustenance and the willingness of the executive department to enforce the courts orders which the court issues in aid of those litigants who seek the relief to which they are entitled under the law.

In view of what we have just discussed, is redistricting the answer to the states problems administering and financing its courts?

The answer, I submit, is no.

There are several reasons:

1. Redistricting, in whatever form it takes, will do

absolutely nothing to alleviate the present fiscal dilemma facing local governments throughout the state, which as we have seen, is inherent in the present statutory scheme of financing the courts operations. In point of fact, it will, in all liklihood, exacerbate the condition since redistricting contemplates additional judges (which will necessarily include all ancillary services) without regard to the ability or willingness of local government to pay for them.

2. Under the present Montana constitution the "...Chief Justice [of the Supreme Court] may, upon request of the district judge assign district judges and other judges for temporary services from one district to another and from one county to another." (Mont. Const., Art VII, Section 6)

When read together with the judicial article giving the Supreme Court the power [and, hence the duty] to supervise and administer all the states courts, it is apparent at least to the author that the plain intent of the people of this state was to delegate to that court the responsibility, authority and duty to administer to the courts and to manage the available judicial manpower and that includes assigning judges to where they are needed in the state at any particular time.

Moreover, in my view, reading these articles together leads to the conclusion that the Supreme Court could make these assignments or transfers without any request from anyone.

It may well be that some judges would find these temporary assignments and transfers an inconvenience or even onerous. However, in view of the constitutional articles and the fact that it is the Chief Justice who makes the order, what judge is to say him nay?

Regarding the Power of Supreme Courts on these constitutional questions it is only necessary to paraphrase the language of the late U.S. Supreme Court Justice, Felix Frankfurter who said, in effect: "We are not final because we are right; we are right because we are final."

Thus, the rationale for redistricting can in large part, be accomplished under the existing constitutional authority without

unnecessarily invoking the legislative power to change judicial district boundaries which, I am sure, will meet with considerable opposition, be costly and expensive and finally, will not in any way, alleviate the root problems previously discussed.

3. There is simply not enough evidence or data (empirical or otherwise) regarding available judicial man-hours, work-loads, case-loads, travel time and related cost factors upon which there can be any rational or intelligent decision to redistrict and how it should be done, if at all.

All that we can reasonably be certain of at this time is that we have 786,690 citizens in this great state, which is the nation's fourth largest, spread over 145,587 square miles; and that we have 32 trial judges attempting to handle 32,000 cases per year. This, of course, does not include the nearly 200 justices of the peace, city and municipal court judges of this state who every year handle hundreds of thousands of cases with inadequate courtrooms, inadequate quarters, miserable pay, little or no clerical assistance, and with little or no public recognition for their service. They are judicial officers of this state and they deserve better.

If not redistricting, what?

"Laws and Institutions must change to keep pace with the progress of the human mind" -- Thomas Jefferson.

The dilemma confronting our courts is one of financing and budget and, I submit, can best be resolved by adopting the concept of unitary budgeting.

Briefly stated, the practise of unitary budgeting requires the Chief Justice, pursuant to his constitutionally vested administrative and supervisory authority, to submit to the legislature of the State of Montana a budget encompassing all the costs and expenses necessary to operate all the courts of the state for the budgeted period. The legislature in turn, pursuant to its constitutionally delegated authority, appropriates, or not, as it wishes the moneys necessary to fulfill that budgetary requirement.

Thus, two objectives are reached:

1. The judiciary (and every judicial officer in the system) becomes accountable for the expenditure of public funds which are utilized to operate the courts and to provide for the necessary services mandated by law;

2. The legislature, which establishes the public policy of this state and has the responsibility for appropriating public moneys to carry out these policies would have before it the necessary documentation to intelligently determine the efficacy of the courts efforts in carrying out those policies and to re-assess and re-evaluate on a continuing basis, the cost-benefit ratios incident to the execution of these mandated policies and programs.

Unitary budgeting is not new and has been implemented in at least seven states: Alaska, Colorado, Connecticut, Hawaii, North Carolina, Rhode Island and Vermont.

A detailed recital of the financial, budgetary, administrative and management benefits obtainable by such a budgetary system would render this document far too lengthy.

In conclusion, the unitary budgeting system would bring to this state, its' beleaguered courts and overburdened tax payers a measure of good management, sound judicial administration and fiscal responsibility that everyone has gone too long without.

It should be noted that the views herein expressed are the author's alone and are not to be considered as reflecting any endorsement by anyone else.

Sincerely,

H. William Coder,  
Chief District Judge,  
Eighth Judicial District

WITNESS STATEMENT

Name Margaret E Davis Committee on Local Govt  
Address Helena Date 8 Feb 83  
Representing League of Women Voters of MT Support X  
Bill No. HB 120 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. District courts fulfill State mandates for providing access to the justice system. They adjudicate state laws, and are not county based units.
2. The State has recognized partially its obligation for funding district courts by authorizing grants to assist counties with court expenses. The pres-
3. sure for expanding the grant program is growing. But as the allocations grow, the state has yet to require a clear measure of good management or fiscal accountability. The Supreme Court is the logical constitutional entity for providing financial administration of the district courts.
- 4.

We would prefer another funding source rather than the 6 mill property tax proposed in HB 120.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Margie Jackson Committee On Local Gov't  
Address Cut Bank, Mt. Date 2/8/83  
Representing Clerks of Court & Support \_\_\_\_\_  
Bill No. Placier Co. Oppose X  
HB 120 Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Oppose because of eco
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

# GLACIER COUNTY

## CUT BANK, MONTANA

February 8, 1983

TO: THE MEMBERS OF THE HOUSE LOCAL GOVERNMENT COMMITTEE

RE: HOUSE BILL # 120

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In the past several legislative sessions, there have been bills introduced for state funding of district courts. Each time, the Clerks have opposed this legislation. This time in HB 120, the Clerks have been excluded from the bill, probably because of this continuing opposition. Yet the reason we oppose it is always overlooked!

We oppose it because it means loss of local control. It means the erosion of local government, which is the most cost effective and responsive type of government. In local government there is individual accountability. The Clerks, as elected officials, believe that we would be remiss in our obligations to our constituents and the local taxpayers, if we did not oppose this type of government.

The fiscal note that accompanies H.B. #120 bears out the fact that state control is going to be more expensive. It will cost some \$4 to \$5 Million dollars more just in the first year than it does now. The Court Administrator will have to hire 6 more people on his staff to do what the Clerks now do as part of their job. In addition, with the Clerk's budget excluded they would have to levy taxes from the general fund to operate the Clerk's office. As an example, in Glacier County, the Clerk's budget is 41% of the total district court budget. What this means is that Glacier County would have to levy 6 mils for the statewide levy and over 2 mils more for the Clerk's office. This would be 8 mils as compared to this years levy of 3.98 mils.

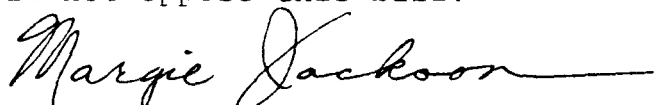
For years, the Clerks, along with their Judge, have administered the court budget. They have always known what caused the problem of inflation in the court budget. It is indigent defense, psychological evaluations and transcripts that have created havoc with our budgets. We believe that if the State would just take over these items, we could solve our problems. For years, we have been telling this to anyone who would listen.

In addition, each and every legislative year, someone has their hand out to take money away from the county court system. We must give the State 60% of our fees and collections. These fees are far too low anyway, and efforts to increase them fail. We feel that those who use the courts should be willing to bear the greater burden.

We must also pay 68% of our marriage license fees to the State to be used for battered spouses, as well as for the State General Fund.

Why do we have to pay the State so much and then turn around and ask them for a handout because we can't make ends meet. Consider the bureaucracy that is needed to administer this act of robbing Peter to pay Paul. What sense does it make!

In view of the above, I, personally could not look the Glacier County taxpayers in the eye if I did not oppose this bill.



MARGIE JACKSON

Glacier County Clerk of District Court



Ex 7  
HB 100

# County of Yellowstone

HARDIN E. TODD  
CLERK OF DISTRICT COURT



BILLINGS, MONTANA

February 8, 1983

Representative Kathleen McBride, Chairman  
Local Government Committee  
State Capitol  
Helena, Mt. 59620

Dear Representative McBride:

I am Hardin E. Todd, Clerk of District Court, Yellowstone County, for the past eighteen years.

It seems, every two years, the Clerks have to travel to Helena, in opposition to being appointed, rather than being elected.

This time, I am appearing before your committee, in opposition, to H. B. 120.

H. B. 120 would take away local control plus add another layer of Government upon the poor Taxpayers. Please note the fiscal impact statement, for fy 84, from 3.6 million to 14.9 million.

No one knows, today, how many new employees, the Court Administator, will have to hire to administer his instant \$13. million plus budget, July 1, 1983.

My personal opinion is that the fastest growing employer in the State is State Government. Not only the fastest growing, but each separate branch needs to build it's own multi-million dollar building.

It is time, that the Taxpayers, of Montana, are considered when a new bureaucracy is about to become law, July 1, 1983.

Please oppose H. B. 120. Thank you for your time.

A handwritten signature of Hardin E. Todd in cursive script.  
Hardin E. Todd, Clerk

James B. Wheelis  
District Judge

EX 8  
HB 120

Missoula County Courthouse  
Missoula, MT 59801  
(406) 543-7612

February 4, 1983

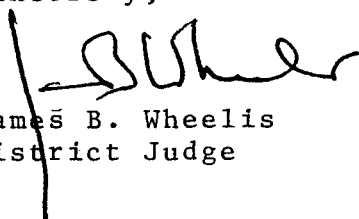
The Honorable Kathleen McBride, Chairman  
House Local Government Committee  
House of Representatives  
Capitol Station  
Helena, Montana 59620

Dear Representative McBride and House Local Government Committee  
Members:

I am writing in support of House Bill 120. This bill, while not perfect, would make for a great improvement in both current funding and administration of district courts. As I think you all know, district courts are state courts in everything but name, and the current system of county funding and local administration provides neither for fiscal accountability nor sound management. Even now, district court judges look to the Supreme Court for guidance on court administrative matters, and our main relationship with the county is for the county to provide funding which we deem necessary for the operation of the court. The county commissioners have no real role in administering or funding the courts now, and it would be better to erase the current fiction that they do.

Although I have reservations about maintaining the property tax as the funding base for the courts, House Bill 120 appears to be the most practical first step towards making court administration rational and equitable statewide.

Sincerely,



James B. Wheelis  
District Judge

JBW/lis

707 Farewell Street  
Lewistown, Montana 59457  
February 7, 1983

Dear Representative:

House Bill 120, will be heard in your local government committee shortly.

This is a poor bill and should be killed.

The bill clearly repeals Section 7-6-2511 (County levy for district court expenses). The tax previously was not to exceed 6 mills in the first and second-class counties, 5 mills in the third and fourth-class counties, and 4 mills in fifth, sixth and seventh-class counties. The new tax would be a statewide 6 mill property tax levy.

The bill states under Section 2 "The operations, salaries and other expenses of all district courts within the state are the financial responsibility of the state."

This leaves a grey area--is the Clerk of Court's office included? Are court-appointed attorneys included? If they aren't, why should the state levy be 6 mills?

If they are, this is unconstitutional.

The Clerk of Court is an elected official and has the right and the responsibility to establish the personnel plan for her office and hire and fire the personnel for the office. The budget for the Clerk of Court's office should be a part of the county budget, as the Clerk is elected by and responsible to the voters of the County.

This appears to be the first step towards making the office of the Clerk of Court appointive, and another step towards state control of local government.

There are occasions when expensive trials cause extraordinary District Court expenses to a county, and the most economical and best assistance in these cases would be a direct grant to the county.

Sincerely,

*Spraine T. Samuel*  
*Judge Co. Clerk of Court*

# VISITOR'S REGISTER

HOUSE \_\_\_\_\_ LOCAL GOVERNMENT \_\_\_\_\_ COMMITTEE \_\_\_\_\_

BILL \_\_\_\_\_ HOUSE BILL 120 \_\_\_\_\_

DATE 2-8-83 \_\_\_\_\_

SPONSOR WALDRON \_\_\_\_\_

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
JUDGE H. WILLIAM CODER	GREAT FALLS	SELF	✓	
Flarence McElroy	Great Falls	Clerk of Dist Court		✓
Margy Helen Habeger	Hayes, Mt.	Clerk of Dist. Court		✓
R D Habeger	Hayes	"		✓
Margie Jackson	Crest Bank	" " "		✓
William S. Swart	Great Falls	" " "		✓
Ruth Shumore	Great Falls	" " "		✓
Ellen Clark	For 34th	" " "		✓
Burley Bennetts	Billings	" "		✓
Lawrence T. Samuel	Lewistown	"		✓
Mary Ann McKee	Deer Lodge	" " "		✓
James O. Clark	Joseph Co	SELF		✓
E. J. Samuel	Lewistown	✓		✓
Hardie E. Todd	Billings	Clerk of Court		✓
Jim Suggs	Healdin	Big Horn County		✓
Margaret Davis	Helena	League of Women Voters	X	
Allen Hupstette	Kearney, MT.	Probation Office		✓
Danny Burr	Montana	MONTANA		✓
B B Palmer	MSLA	MSLA County	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 26

HOUSE

## LOCAL GOVERNMENT

COMMITTEE

BILL

HOUSE BILL 477

DATE \_\_\_\_\_

2-8-83

SPONSOR

WALDRON

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# STANDING COMMITTEE REPORT

February 21, 1983

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 120

first reading white  
color

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR STATE FUNDING OF THE OPERATIONAL EXPENSES FOR DISTRICT COURTS, INCLUDING DISTRICT COURT STAFF, COURT REPORTERS AND THEIR STAFF, AND JUVENILE PROBATION OFFICERS AND THEIR STAFF; TO ESTABLISH CONDITIONS OF EMPLOYMENT FOR SUCH PERSONS; TO PROVIDE BUDGETING CONTROL IN THE SUPREME COURT; TO CONTINUE COUNTIES' RESPONSIBILITY FOR PROVIDING COURTROOMS AND OFFICES; ESTABLISHING A STATEWIDE 6-MILL PROPERTY TAX LEVY FOR THE SUPPORT OF DISTRICT COURTS; AMENDING SECTIONS 3-5-511, 3-5-604, 3-15-204, 7-6-2313, 7-6-2324, 7-6-2426, 7-6-2427, 25-1-202, 40-3-123, 41-5-704, AND 41-5-705, MCA; REPEALING SECTIONS 3-5-404, 3-5-510, 3-5-512, 3-5-602, 7-6-2351, 7-6-2352, 7-6-2511, AND 40-3-114, MCA; AND PROVIDING AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 120

## AND AMEND HOUSE BILL 120 AS FOLLOWS:

1. Title, line 8.

Following: "PERSONS;"

Insert: "TO PROVIDE FUNDING FOR INDIGENT DEFENSE;"

2. Title, line 11.

Following: "ESTABLISHING A"

Strike: "STATEWIDE 6 MILL PROPERTY TAX LEVY"

Insert: "FEE ON MOTOR VEHICLES"

3. Title, line 14.

Strike: "AND"

Following: "41-5-705,"

Insert: "46-8-114 AND 46-8-201,"

DOXASXX

February 21, 1983

4. Title, line 16.

Strike: "AND"

Following: "40-3-114,"

Insert: "AND 46-8-202,"

5. Page 2, line 3.

Following: "any"

Insert: ", but does not include clerks of the district court or their staff"

6. Page 2, line 6.

Following: "courts"

Insert: ", including the provision of indigent defense,"

7. Page 5.

Following: line 3.

Insert: "NEW SECTION. Section 6. Defense of indigent defendants.

The supreme court shall establish by rule the operation of indigent defense in the state. The rules shall allow the maximum operational flexibility within local conditions.

The supreme court administrator shall allocate funds for indigent defense to each judicial district, and the judges of such districts shall administer the provision of indigent defense within the counties of the judicial district subject to the rules promulgated by the supreme court and the supreme court's supervisory control."

Renumber: subsequent sections

8. Page 5, line 4.

Following: "6."

Strike: "Tax levy"

Insert: "Vehicle fee"

9. Page 5, lines 5 through 10.

Strike: the remainder of section 6

10. Page 5.

Following: line 10

Insert: "(1) There is a fee imposed upon all light vehicles as defined in 61-3-531 in the state, in addition to all other taxes and fees, an amount as provided in the following schedule:

Vehicle age	Weight	
	2850 pounds or less	More than 2850 pounds
Less than or equal to 4 years	\$35	\$45
More than 4 years and less than 8 years	20	25
More than 8 years	5	7.50

February 21, 1983

(2) No vehicle in the state subject to the fee required by subsection (1) may be operated in the state unless the fee has been paid.

(3) The fee imposed by this section must be collected at the same times and in the same manner as the fees established in 61-3-533.

(4) The revenues derived from the fee must be deposited in the state general fund."

11. Page 15.

Following: line 7

Insert: "Section 19. Section 46-8-114, MCA, is amended to read:

"46-8-114. Time and method of payment of costs. When a defendant is sentenced to pay the costs of court-appointed counsel, the court may order payment to be made within a specified period of time or in specified installments. Such payments shall be made to the clerk of the district court of the state of Montana and deposited in the general fund. ~~The clerk of the district court shall disburse the payments to the county or state agency responsible for the expenses of court-appointed counsel as provided for in 46-8-201.~~"

Section 20. Section 46-8-201, MCA, is amended to read:

"46-8-201. Remuneration of appointed counsel. (1) Whenever in a criminal proceeding an attorney represents or defends any person by order of the court on the ground that the person is financially unable to employ counsel, the attorney shall be paid for his services such sum as a district court or justice of the state supreme court certifies to be a reasonable compensation therefor under the provisions of [section 6], and shall be reimbursed for reasonable costs incurred in the criminal proceeding.

(2) The expense of implementing subsection (1) is chargeable to the county--in--which--the--proceeding--arose or state, except that:

(a) in proceedings solely involving the violation of a city local government ordinance or resolution or state statute prosecuted entirely in a justice's, municipal or city court, the expense is chargeable to the county, city or town in which the proceeding arose; and

(b) when there has been an arrest by agents of the department of fish, wildlife, and parks or agents of the department of justice, the expense must be borne by the state agency causing the arrest."

Renumber: subsequent sections

12. Page 15, line 13.

Strike: "and"



HOUSE BILL 120

Page 4 of 4

13. Page 15, line 14.

Following: "40-3-114,"

Insert: "and 46-8-202,"

February 21, ..... 1963.....

AND AS AMENDED  
DO PASS

# STANDING COMMITTEE REPORT

FEBRUARY 12

19 83

MR. SPEAKER

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 388

first reading copy ( white )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING SELF-GOVERNING COUNTIES AND SELF-GOVERNING CITY-COUNTY CONSOLIDATED LOCAL GOVERNMENTS TO REGULATE GAMBLING WITHIN THEIR JURISDICTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR A TAX ON GAMBLING REVENUES, FACILITIES, IMPLEMENTS, AND MACHINES; AMENDING SECTIONS 7-1-112, 23-5-102, AND 23-5-142, MCA."

Respectfully report as follows: That HOUSE Bill No. 388

BE AMENDED AS FOLLOWS:

1. Title, line 6.

Following: "GAMBLING"

Insert: "SUBJECT TO THE APPROVAL OF THE ELECTORATE"

2. Page 1, line 17.

Following: "by ordinance"

Insert: "approved by the electorate in a referendum conducted pursuant to 7-5-132,"

AND AS AMENDED  
DO NOT PASS

~~XXXXXX~~  
DO PASS

# STANDING COMMITTEE REPORT

FEBRUARY 12 1983

MR. **SPEAKER**

We, your committee on **LOCAL GOVERNMENT**

having had under consideration **HOUSE** Bill No. **477**

**first** reading copy ( **white** )  
color

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING COUNTY AND MUNICIPAL BUDGET LAWS TO ALLOW THE TRANSFER OF APPROPRIATIONS WITHIN FUNDS; DELETING THE RESTRICTIONS ON THE TRANSFER OF APPROPRIATIONS BETWEEN AND AMONG EXPENDITURE CLASSES; AMENDING SECTIONS 7-6-2325 AND 7-6-4236, MCA."

Respectfully report as follows: That **HOUSE** Bill No. **477**

DO PASS