

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 21, 1983

The forty-eighth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage on March 21, 1983, at 10:04 a.m., in Room 325, State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 588: Representative Swift, sponsor of the bill, stated that the reason for HB588 is to clarify the effect of an abandonment of a county road located in a subdivision or elsewhere. Representative Swift testified that Ravalli County is one of the fastest growing areas in Montana, and in the last three years, there have been three or four cases which had to go to trial over this issue. He testified that in cases where the roads were located in subdivisions, the judge decided that County Commissioners could not dedicate these roads to be used in a public roadway system. Representative Swift stated that the question proposed in HB588 is should the County Commissioners keep the roadway as it was originally intended. Representative Swift feels that the reason this question has arisen is because the statutes are not clear. HB588 is intended to give the statutes more clarity and give the County Commissioners clear authority over the 800 miles of road in question.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Senator Turnage raised the question what would happen if in the future these subdivisions in question were annexed into the city. Representative Swift replied that the law would still apply, but the bill could be amended to reflect this situation in case it ever arose.

There being no further questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 811: Representative Yardley, sponsor of the bill, testified that he is sponsoring this bill at the request of a number of attorneys. HB811 requires conservators of estates to file an annual accounting with the court. Representative Yardley reviewed the contents of the bill with the Committee and stated that this bill does not always require the accounting. In cases such as where there are insufficient funds, the court has the option of waiving the annual accounting. Representative Yardley explained that the annual report is filed to protect the ward.

PROPOSERS: Mr. Douglas B. Olson, representing the Montana Senior's Advocacy Assistance, submitted written testimony (see attached Exhibit "A") in support of HB855. Mr. Olson testified that one of his responsibilities is to provide technical assistance to socially dependent senior citizens. Mr. Olson stated that prior to the adoption of the Uniform Probate Code, these annual reports

were required to be filed, and he told of some of the problems that are caused by not filing an annual report with the court. Mr. Olson strongly urges the passage of HB811.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 731: Representative Ramirez, sponsor of the bill, testified that this bill changes the Uniform Act to encompass any federal lien and not just a tax lien. He stated that HB731 provides for filing in cases of liens against estates.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 789: Representative Abrams, sponsor of the bill, opened the hearing by introducing Charles Graveley, who testified on behalf of the Lewis and Clark County Assessor's Office. Mr. Graveley testified that HB789 is necessary because of the disagreement which exists between the County Assessor's Office and the Montana State Department of Revenue as to what an "agent" is. Mr. Graveley testified that although the Department of Revenue interprets "agent" as the Assessor, often times at hearings, the Department would designate another person to act in that capacity. HB789 would eliminate the need for the Assessor to appear at tax appeal hearings.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 677: Representative Nilson, sponsor of the bill, circulated petitions signed by citizens who support HB677 (see attached Exhibit "B"). Representative Nilson explained that HB677 amends Section 23-5-412 of the Bingo and Raffles Law. HB677 would allow Bingo prizes to be paid in cash. Representative Nilson feels that since most Bingo prizes are paid in cash, and this is in direct violation of the Act as it now reads, the law should be changed to reflect what is being done anyway. Representative Nilson emphasized that HB677 would not expand gambling in Montana.

PROPOSERS: Ingebang Maddio, representing the Little Flower Circle of the Daughters of Isabella, Circle 496, testified that her organization uses the proceeds from their bingo games as a money-making project. She testified that although their organization has been cash as prizes, they do not want to break the law. For this reason, Mrs. Maddio urged passage of HB677.

Mr. Harry C. Jacobs, representing the Knights of Columbus, testified that his organization also has been giving cash as bingo prizes. Mr. Jacobs feels that cash gets a better response than giving away appliances. Mr. Jacobs stated that the maximum amount of money given as a prize does not exceed \$100.

Mr. Jack Williams, previous Chief of Police in Helena, testified that as the law presently reads, it is almost impossible to enforce. Mr. Williams is of the opinion that it is better to legalize what people are doing anyway.

Mr. Charles Graveley, representing the players and operators of Bingo, testified that many times when a person wins a prize playing Bingo, he simply takes the prize into another room and converts it to cash. Mr. Graveley feels the law should be changed to reflect what people desire. He feels people would rather win cash so they can decide how to use the money. Mr. Graveley also feels that the giving of cash prizes will increase revenue in local government. It is Mr. Graveley's contention that the prohibition of giving cash prizes is simply a fault in the wording of the law. He urged to Committee to give a do pass recommendation to HB677.

Mr. Edward Bulles, of Great Falls, Montana, testified in favor of HB677.

Representative VanValkenburg, representing the Big Brothers and Sisters program in Missoula, Montana, submitted petitions (see attached Exhibit "C"), and testified that the Big Brothers and Big Sisters Program in Missoula receives much of its funding through the operation of Bingo games. Representative VanValkenburg testified that the funds from the Bingo games are responsible for a 15-35% increase in their funds. It is his belief that eventually the program could be fully funded by the Bingo games. He estimates 1,000 Bingo players per week participate and there is a 75 percent payout of the proceeds in cash. Although the program gives certificates, it is Representative VanValkenburg's contention that because no one has asked for merchandise, HB677 should be passed as it reflects what the public wants. Representative VanValkenburg stated that he had originally planned to introduce a bill providing for cash prizes for Bingo for non-profit organizations only, but since the County Attorney's Office in Missoula has no objections with this bill, he supports HB677.

OPPONENTS: Cathy Campbell, representing the Montana Association of Churches, submitted written testimony (see attached Exhibit "D") in opposition to HB677. It is Ms. Campbell's contention that the passage of HB677 would be an added inducement to gambling and would represent an expansion of gambling since Bingo is a game of chance. Ms. Campbell testified that video games have added

to the problem of gambling in Montana, and this was not the intention of the 1974 Legislature. She feels that HB677 is a very dangerous bill and the defeat of HB677 by this Legislature would send a clear message to the public that the Legislature will not stand for the expansion of gambling in Montana.

Mr. Harold Hanser, Yellowstone County Attorney, testified that he has problems with HB677 because he believes this bill will provide cash payoffs for machines, and once this happens, it will pave the way for slot machines. Mr. Hanser stated that if the community determines that cash payoffs are justified for churches and non-profit organizations, he hopes that at the same time they do not legalize slot machines. Mr. Hanser suggested that perhaps there is a need for a State Gaming Commission. He also suggested amending HB677 so cash payoffs could not be received from a machine, alleviating the problem of slot machines.

Mr. Lester H. Loble II testified on behalf of Rev. George Harper and submitted written testimony from Rev. Harper (see attached Exhibit "E") in opposition to HB677. Rev. Harper believes that HB677 represents an extension of gambling and that the citizens of Montana already spoke on this issue when they defeated Initiative 92. Rev. Harper believes HB677 is the sole survivor of this issue. Rev. Harper is of the opinion that if a person plays Bingo on a machine without competition, it is not real Bingo.

There being no further proponents or opponents, the hearing was opened to questions from the Committee.

Senator Halligan questioned Ingeban Maddio whether her organization had ever seen anyone abuse their Bingo games by losing an entire paycheck or a substantial amount of money. Ms. Maddio replied that she had never seen this happen. Ms. Maddio then informed the Committee of some of the various charities her church supports through the funds received from their Bingo games. Senator Turnage questioned whether Ms. Maddio would still support HB677 if it legalized slot machines. Ms. Maddio stated she would, however, later she retracted that statement and stated she would not support HB677 if it legalized slot machines.

Senator Crippen then questioned J. C. Wiengartner as to why he was not testifying as a proponent to HB677, since he is the registered lobbyist for a Montana tavern owner. Mr. Wiengartner responded that he was not requested by his principal, Mr. Tom Heisler, to testify. Senator Crippen then inquired as to how many of the machines would be installed in taverns as opposed to non-profit organizations. Mr. Wiengartner stated that he did not know. Senator Crippen then addressed the same question to Representative Nilson. Representative Nilson stated that in his opinion, no machines would be installed in non-profit organizations. Representative Nilson then told the Committee that

HB677 is not a slot machine bill. Senator Turnage disagreed and stated that it is discouraging to see a slot machine bill come into the Legislature under false colors. Senator Turnage felt this is a great injustice to people like the senior citizens who really enjoy playing Bingo.

Representative Nilson closed the hearing by stating that HB677 is not a slot machine bill and would not expand gambling in Montana. He stated that Initiative 92 was a broad initiative and was voted on in its entirety. Representative Nilson stated that this initiative did not include cash prizes for bingo.

There being no further questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 588: Senator Crippen moved that HB588 BE NOT CONCURRED IN. Senator Shaw then made a substitute motion that HB588 BE TABLED. This motion was carried unanimously.

ACTION ON HOUSE BILL 811: Senator Daniels moved that HB811 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 789: Senator Crippen moved that HB789 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 731: Senator Halligan moved that HB731 BE CONCURRED IN. This motion carried unanimously.

ACTION ON HOUSE BILL 812: Senator Mazurek moved that the amendments to HB812 BE ADOPTED. This motion carried unanimously. Senator Mazurek then moved that HB812 BE CONCURRED IN AS AMENDED. This motion carried unanimously.

There being no further business to come before the Committee, the meeting was adjourned.


JEAN A. TURNAGE, Chairman

DATE _____

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
George Maddio	HB 677 - Daughters Isabella. #469	HB 677	✓	
Eathy Campbell	Mont. Hssn. of Churches	HB 677		✓
HAROLD HANSEN	County atty. Yellowstone County	HB 677		✓
Reg. Hugh Abrams	Reg. Dist. 56	HB 787	✓	
JOHN W. ALQUIRE	VALLEY SALES	677	✓	
EARL KELLY	CPS MILES CITY	677	✓	
Jack O. Snyder	Butte Fourth	677	✓	
Larry Jacobs	Kol of Helena	677	✓	
Joseph E. Olson	Mt. Seniors Assoc. Dist. 811	811	✓	
Harold Graveling	Variety Operators & Players	677	✓	
Jack W. Williams	Self	HB 677	✓	
Max D. Turner	Self	HB 677	✓	
Bob McVee	Sec of State	HB 731		
Edward Buckley	Moose	HB 677	✓	
Harold H. Hays	Self	HB 677	✓	
Tom Hester	Self	HB 677	✓	
Phil Hanning	Self	HB 677	✓	
Patricia Martin	Blk Bros & Sisters	HB 677	✓	
Fred Van Valkenburg	Senate Dist. 50	HB 677	✓	

JUDICIARY COMMITTEE

Date Mar. 21, 1983

[illegible]

MONTANA SENIORS' ADVOCACY ASSISTANCE

P.O. Box 232 • Capitol Station • Helena, Montana 59620
(406) 449-4676

Exhibit "A"
March 21, 1983
HB811

DOUGLAS B. OLSON, Attorney

March 21, 1983

Senators
Senate Judiciary Committee
48th Legislative Session
Capitol Station
Helena, Montana 59620

re: House Bill 811

Dear Chairman Turnage & Committee Members:

Montana Seniors' Advocacy Assistance (MSAA) serves as an advocate for Montana's elderly in areas which impact their legal rights. I serve as the contracted attorney for the State of Montana who is responsible for developing and coordinating legal services for senior citizens pursuant to an Advocacy Assistance Grant under Title IV-C of the federal Older Americans Act. One of my responsibilities is to provide technical assistance to attorneys in private practice in Montana who have contracted with Area Agencies on Aging to provide direct legal services to socially and economically needy senior citizens.

I have received several comments from attorneys in Montana who provide legal assistance to senior citizens that the present laws regarding guardianships and conservatorships are inadequate insofar as they relate to reporting requirements. Specifically, present Montana laws in these areas which provide protective services for senior citizens needing help in managing their own affairs do not require annual reports as to the financial undertakings made on the ward or protected person's behalf.

Prior to the mid-1970's when Montana adopted the Uniform Probate Code, guardians and conservators were required to file an annual report with the district court unless this requirement was specifically waived by the court. Under present law, no report is required annually unless specifically ordered by the court. This has created some problems because without annual reportings being the rule rather than the exception, the financial assets of wards and protected persons have been prematurely dissipated through negligence and mismanagement in several cases. By the time a friend, relative or neighbor becomes concerned with what is happening, too often irreparable damage has been done.

House Bill 811 sponsored by Rep. Dan Yardley would take positive steps to correct these problems by reversing the current practice and requiring that annual accountings be made to our state's courts unless waived by the Judge in each case. Good financial management principles call for annual review of a trust's income and expenditures for income tax purposes by the trustee. Guardians and conservators have the same fiduciary duties as trustees. In those instances in which the costs of an annual accounting would outweigh its benefits, a judge could waive the annual accounting requirement sought by House Bill 811.

Letter to Senate Judiciary Committee
re: House Bill 811
Page 2
from: Mt. Seniors' Advoc. Asst.
March 21, 1983

Montana Seniors' Advocacy Assistance supports House Bill 811 with the amendments imposed by the House of Representatives. The bill unanimously passed the House, and on behalf of Montana's senior citizens who are presently wards or protected persons and all of us who may someday be in their shoes, I would respectfully request your passage of this bill.

Thank you for an opportunity to address your committee concerning this issue.

Sincerely,



Douglas B. Olson

Attorney

Contracted Developer of
Elderly Legal Services

STANDING COMMITTEE REPORT

.....**March 21,**..... 19..**83**....

MR. **President**.....

We, your committee on**Senate Judiciary**.....

having had under consideration**House**..... Bill No. **811**.....
Yardley (Mazurek)

Respectfully report as follows: That.....**House**..... Bill No. **811**.....

DON PASS

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 21, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 789
Abrams (Crippen)

Respectfully report as follows: That House Bill No. 789

DO PASS

BE CONCURRED IN

STANDING COMMITTEE REPORT

.....**March 21**..... 19..**83**...

MR.**President**.....

We, your committee on**Senate Judiciary**.....

having had under consideration**House**..... Bill No. **731**.....

Ramirez (Halligan)

Respectfully report as follows: That.....**House**..... Bill No. **731**.....

DO PASS

BE CONCURRED IN

STANDING COMMITTEE REPORT

.....March 21,..... 19.83.....

MR.**President**.....

We, your committee on**Senate Judiciary**.....

having had under consideration**House**..... Bill No.**812**.....
Shonts (Mazurek) ,

Respectfully report as follows: That.....**House**..... Bill No.**812**.....
be amended as follows:

1. Title, line 7.

Following: "DEED"

Insert: "AND ANY ASSIGNEE OR SUCCESSOR OF SUCH A PURCHASER"

2. Page 1, line 18.

Following: "ma ass"

Insert: ": (a)"

3. Page 1, line 20.

Strike: "(A)"

Insert: "(I)"

4. Page 1, line 25.

Strike: "(B)"

Insert: "(II)"

DO PASS

March 21, 1983

March 21, 1983.....

5. Page 2.

Following: line 1

Insert: "(b) any assignee or successor of a person included under subsection (a), if such assignee or successor has also recorded the contract or an abstract of the contract in accordance with Title 70, chapter 21."

And, as so amended,
BE CONCURRED IN

21c

Exhibits "B" and "C" to the Minutes of March 21, 1983, are located in a separate volume labled "Exhibits "B" and "C" located at the Montana Historical Society.

Cynthia A. Peterson
CYNTHIA A. PETERSON, Secretary