

MINUTES FOR THE MEETING
JUDICIARY COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 13, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Wednesday, February 13, 1985 at 8:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL NO. 164: Rep. Dorothy Bradley District #79, chief sponsor of the bill, testified. Rep. Bradley submitted a copy of a letter from a person who had experienced the exact problem that this bill is trying to address. The letter was marked as Exhibit A and attached hereto. This bill is an act to require at least 180 days' written notice by a landlord of a mobile home rental space who wishes a tenant to vacate. Rep. Bradley said the way the Landlord Tenant Act is written now, a thirty day notice is required prior to terminating a tenancy. If it is a week-to-week tenancy, a written notice is required at least 7 days before the termination date specified in the notice. She stated that the problems that individuals run into is that if they simply get a 30-day notice -- say in the middle of the winter -- it is very difficult, particularly in some cities, to find another space. Even to move the home is a considerable burden.

PROPONENTS: Also speaking on behalf of the bill was Linda McNiel, an attorney from Bozeman and a member of the Bozeman Housing Coalition. She informed the members of the problems people face when asked to vacate their tenancy on such short notice. A copy of her testimony was marked Exhibit B and attached hereto.

Yogi Bir Singh Khulsa from Bozeman, appeared and offered testimony in support of HB 164. His written statement was marked as Exhibit C and is attached hereto.

Marcia Youngman, Coordinator of the Bozeman Housing Coalition, testified in support of this bill. A copy of her testimony was marked as Exhibit D and is attached hereto.

Debra L. DeBode from Bozeman testified in support of HB 164. A copy of her written testimony was marked Exhibit E and is attached hereto.

Leota Dempsey, representing the Montana Peoples' Action, testified in support of both HB 164 and HB 360. A copy of

her written testimony was marked as Exhibit F and is attached hereto.

Louise Kunz, representing the Montana Low Income, urged the committee to pass HB 164 and HB 360. A copy of her written testimony was marked Exhibit G and is attached.

Paul Carpino, representing the Montana Low Income Coalition, testified in support of HB 164. He pointed out that there is a tremendous cost to low income people in the dismantling process of mobile homes.

Del Rodriques, representing the Montana Peoples' Action, urged the committee to pass HB 164.

There being no further proponents, Chairman Hannah requested the opponents to testify.

OPPONENTS: Jim Kennedy, representing the Montana Landlord's Association, testified against HB 164. A copy of his testimony was marked Exhibit H and attached hereto.

Terry Carmody, representing the Montana Association of Realtors, stated his opposition to HB 164. He is interested in private property rights and feels the 180-day time frame is too long; however, he does feel the 30-day notice is too short.

Ed McHugh, owner and operator of McHugh Trailer Court in Helena, testified as an opponent to HB 164. He feels that Bozeman may be facing a unique problem; however, he doesn't feel a bill should be passed which would affect everyone in the state just because Bozeman is facing this problem.

Tom Hirst, owner of Golden Estate Mobile Home Park, also stated that he doesn't feel this is a problem throughout the state. He told members that out of the ten years that he has owned his court, he has issued only three eviction notices. He informed the committee of the problems that can and do occur when they have undesirable tenants.

Ralph Lewis, representing the Montana Landlord's Association, appeared and offered testimony in opposition to HB 164. Mr. Lewis stated that eviction notices are seldom issued. However, landlords do need the leverage as provided in the present law to protect himself and to protect the other tenants in his mobile court.

Walter Jackovitch, manager of a Butte housing complex, feels this bill will erode the Landlord Tenant Act.

There being no further opponents, Rep. Bradley closed. In closing she stated that there is simply not equal bargaining time between the parties under the present law. She said

that she could support an amendment to decrease the amount of time required from 180 days to four months.

The floor was opened to questions from the committee.

Rep. Krueger asked Mr. Kennedy if he thinks there is a distinction or should there be a distinction between a tenant living in an apartment and an individual living in a mobile home or the person owning a mobile home. Mr. Kennedy feels there should be a distinction. Mr. Kennedy also agreed with Rep. Krueger that it is much more difficult to move a mobile home than it would be to move from an apartment. But he also thinks that people living in apartments have the same kinds of difficulties moving in the winter as mobile home tenants do. In response to another question asked by Rep. Krueger, Mr. Kennedy does feel that there can be an adjustment on the time frame. He does, however, feel that six months is a long time. He feels that there needs to be equity on both sides.

There being no further questions, hearing closed on HB 164.

CONSIDERATION OF HOUSE BILL NO. 360: Rep. Joe Hammond, District #52, chief sponsor of this bill, testified in its support. He said this bill deals with a mobile home owner. The language is specified on page 2, lines 14 through 17. He said that people who own mobile homes are primarily low income or are young families starting out, so we are dealing with people who don't have necessarily a lot of money. He said that we are dealing with possibly unemployed people whose financial means are being stretched. He stated that he is not trying to remove from the law the fact that the mobile home park owner has a right to evict someone who pays rent. He is trying to stress that if someone cannot pay rent, three days is not enough time to get the money to move a trailer.

PROPONENTS:

Lois Durand stated that she opposes the three day notice and would like to see it extended to 30 days as provided in HB 360.

Leota Dempsey, representing the Montana Peoples' Action, testified in support of HB 360 by stating that the present three day notice period for termination of a mobile home space rental is too short.

Marcia Youngman, coordinator of the Bozeman Housing Coalition, submitted several letters from people who support this bill. The letters were made a part of the record. One of the reasons they support the bill is because it is a physical impossibility, as well as a financial one, to move a trailer in three days. We are just suggesting that some

reasonable change be made to this law so that it is at least logistically possible to do something. Also, if the period is extended, there is at least a chance that someone who might have lost his job, faces sudden medical expenses, or some other unexpected temporary economic hardship might be able to get it together again in order to pay his rent which would prevent his eviction.

Paul Carpino, representing the Montana Low Income Coalition, stated that it creates a tremendous amount of stress on a family when they cannot come up with the amount of rent money needed when due. He, too, encouraged the committee to extend the 3-day notice to a 30-day notice.

Del Rodriques, representing the Montana Peoples' Action, wished to go on record as supporting this bill.

OPPONENTS: Ralph Lewis, representing the Montana Landlords' Association, testified in opposition to the bill. A copy of his testimony was marked Exhibit I and attached hereto.

Walt Jackovitch, manager of a Butte housing complex, told the committee that the 3-day notice sets the wheels in motion for the judiciary process. In reality, no one is evicted within the 3-day period.

Larry Witt, president of the Landowners Association in Bozeman, stated that the reason for the short notice is to get the process moving. He feels the law should be left as is.

Ed McHugh, owner of the McHugh Trailer Court in Helena, testified in opposition to HB 360. He informed the committee that he does not even notice people who have not paid rent until the fifth day. He said that people get well over 30-days to submit their rent money at present. He feels the rights and quality of life need to be preserved for the other people who live in mobile home courts. He also informed the committee that not all people who live in mobile home courts are necessarily low income. Many of them are retired people. He feels that if the bill is passed, the low income people will be the ones most hurt by it. He feels that the law as presently written protects the tenant adequately. He pointed out that the HUD program even demands payment on their rentals within a certain time period.

Tom Hirst, owner of Golden Estates Mobile Home Park, said that use of the 3-day notice is non-existent. He feels that HB 360 is an unnecessary piece of legislation.

There being no further opponents, Rep. Hammond closed.

There being no questions from the committee, hearing on HB 360 closed.

CONSIDERATION OF HOUSE BILL NO. 557: Rep. Dave Brown, District #72, sponsor of the bill, offered testimony in support of the bill. Rep. Brown informed the committee that he introduced similar legislation in the last session, but it had problems and consequently died. He feels HB 557 meets the objections that were raised in the last legislature. The purpose of the bill is to allow those people that live outside the boundaries of the state, but earn all their income in the state and pay taxes on that money, to receive benefits for those taxes paid. Those benefits would include two privileges usually accorded to the taxpayers of the state of Montana, one being access to the state university system at the resident level and the other would be hunting and fishing privileges of the resident. He said there are a number of people in this situation. Rep. Brown submitted a memo written by Larry Weinberg, from the Montana University System, stating the Board of Regents' position on HB 557. The memo was marked Exhibit J and attached hereto.

James D. Mockler, executive director of the Montana Coal Council, testified in support of the bill. He stated the people who mine in Dekker by the Tongue River Reservoir many of whom live in Wyoming, produce income other than the \$800,000 paid in income taxes. They also produce approximately \$50,000,000 every year to the state of Montana in severance and other production taxes. He doesn't think it is unfair for those people who work every day on the edge of that reservoir be allowed to buy a residents' fishing license to fish in it.

J. R. McPherson, director of affairs at a mining company in southeastern Montana, testified in support of the bill. He said that passage of this bill would offer these non-resident miners some of the privileges that other people in the state enjoy.

Jim Flynn, director of the Montana Fish, Wildlife and Parks, testified in support of HB 557. This bill addresses an area of uniqueness in the state of Montana, and because of that, the department supports its passage. He pointed out that on page 5, lines 17 through 22, the procedure that is established there for the licensing would enable the department to assure that there would be no abuses of this process. A copy of his testimony was marked K and is hereto attached.

Larry Weinberg, appearing on behalf of the Montana University System, stated that if the committee sees fit to strike section 1 of the bill, the university system will support this bill.

There being no further proponents or opponents of the bill, Rep. Brown closed.

The floor was opened to questions from the committee.

In response to a question asked by Rep. Eudaily, Mr. Flynn stated this legislation only applies to the individual that is paying state income tax. Mr. Flynn also answered another question asked by Rep. Eudaily by informing him that the licensing criteria that the department uses in the state would prevent an individual from being a resident of two states at once. Rep. Eudaily further asked if these particular individuals could receive resident license in both Wyoming and Montana and would have the same privileges in both states. Mr. Flynn replied, yes, that would be the result of this legislation.

Rep. Keyser asked Mr. Flynn if he felt this would be a burdensome process to administer. Mr. Flynn stated he doesn't feel this will be burdensome, and further stated that the affidavit coming directly through the director's office will be fairly easy to process. If they have any concern about abuse, they can ask for verification for that affidavit from the individual.

There were more general questions directed towards the fiscal impact. Mr. Flynn pointed out that the non-resident deer licenses, which is the biggest monetary impact, are issued depending upon the number of animals that are available.

Following a few more general questions, hearing closed on HB 557.

CONSIDERATION OF HOUSE BILL NO. 586: Rep. R. Budd Gould, District #61, chief sponsor of HB 586, testified. He said HB 586 is a relatively simple bill and deals with disposition of confiscated contraband material in the state's institutions.

Curt Chisholm, deputy director for the Department of Institutions, testified in support of HB 586. He stated that HB 586 was introduced at the department's request. He stated that there were two reasons for introducing this legislation: At the present time, the department does not have any statutory authority to take and confiscate what is referred to as contraband from residents of their adult correctional facilities and their juvenile correctional facilities. However, they are doing it at the present time by policy. The reasons that it is being done are to provide protection and guarantee the safety of the residents and staff of those facilities, and furthermore, to protect the state's investment in the property of the buildings in which those people are housed. However, Mr. Chisholm stated that their authority to take confiscated materials has been challenged in court. He said that it seems that current caselaw at the federal level is upholding the state's right to this as long as there is some statutory authority to do it in the first place. He pointed out that this piece of legislation

is modeled after the state of Virginia's legislation that allows the state of Virginia to confiscate contraband. That particular legislation has withstood the test of court challenges by inmates in the system.

The other problem that exists is what to do with the contraband once it is taken from the inmates and residents of juvenile correctional institutions. What the department is forced to do with cash is put it in a non-treasury cash account and let it sit there indefinitely. Mr. Chisholm said the Department of Institutions has asked the Department of Revenue for some assistance, but they do not want to get involved. Since they don't want to get involved, the Department of Institutions want the authority to take that cash and place it in the inmate welfare account of the particular institution in which the cash is taken from a particular resident. As for items that have resale value, the department would have a periodic sale, and the proceeds of the sale of that contraband would again go into the inmate welfare account. Mr. Chisholm did point out that this version of the bill is not the way they wanted it written. Therefore, he submitted a copy of amendments he wished to have the committee adopt. The amendments were marked Exhibit L and attached hereto.

There being no further proponents or opponents, Rep. Gould closed.

There being no questions, hearing closed on HB 586.

CONSIDERATION OF HOUSE BILL NO. 587: Rep. R. Budd Gould, District #61, chief sponsor of this bill, testified in its support. He said HB 587 was requested by the American Correctional Association and the Department of Institutions. It is an act providing for the transfer or exchange of convicted offenders under the provisions of treaty agreements with foreign countries.

Curt Chisholm, deputy director for the Department of Institutions, testified in support of this bill. One of the reasons why they requested this bill was because Governor Schwinden received a letter from the American Correctional Association in March of 1983. In that letter, the Association requested all states to pass this type of legislation. The bill is permissive legislation which would give the department the authority, with the consent of the governor and the director of the Department of Institutions, to transfer a resident of another country or a national of another county back to his home country of residence to serve out the remainder of his sentence. The obligations in terms of the treaty are that the receiving country must guarantee the department that the person will serve the full term of his sentence given in Montana. In exchange, if there is a Montana resident serving a prison term in one of the countries with which the United States has a

a treaty, that person would be transferred back to the United States to serve out his sentence in a federal prison. Mr. Chisholm feels it has some benefit for the state of Montana given the crowded conditions of the prison. He mentioned that one of the Canadian citizens currently in Montana State Prison is facing the death sentence. He doesn't feel that under any circumstances would they allow the transfer of that particular individual.

There being no further proponents or opponents, Rep. Gould closed.

In response to a question asked by Rep. Rapp-Svrcek, Mr. Chisholm stated that the department would allow the inmate credit for good time under the same provisions that the state of Montana allows good time.

Rep. Hannah asked if there were financial obligations as a result of this. Mr. Chisholm answered that no, there are not. The transfer of the other countries will be done through the U.S. Marshall's Office.

Rep. Eudaily wanted to know why there wasn't an extension of authority on this bill. Mr. Chisholm stated that they use this rule-making authority rarely in correctional circumstances. He doesn't know if they would need to publish rules on this matter or not.

CONSIDERATION OF HOUSE BILL NO. 588: Rep. Gould, District #61, chief sponsor of HB 588, stated that this is an act to remove the requirement that next of kin must be notified when a patient is admitted to an alcoholic treatment facility. He said this bill would just conform with the federal definition.

Curt Chisholm, deputy director of the Department of Institutions, testified in support of this bill. He said that this is just a housekeeping matter where someone found a flaw in the state law governing the involuntary commitment of alcoholics to treatment in an inpatient facility.

There being no further proponents or opponents, Rep. Gould closed. Following a few general questions, hearing closed on HB 588.

CONSIDERATION OF HOUSE BILL NO. 627: Rep. Nancy Keenan, District #66, testified in support of HB 627. This is an act to specify the general duties of a guardian ad litem in cases of child abuse or neglect.

Noel Larrivee, attorney and director of the Montana Child Advocacy Project in Missoula, testified in support of HB 627. He said this bill is intended to do two things. One, it clarifies the language with respect to permitting the appointment of people who are not attorneys as guardians ad litem. However, this bill would not prohibit the participation of any attorney. It would just expand the power of the court to appoint individuals to be an advocate for children in abuse and neglect cases. The second change is to outline specifically what these guardians ad litem are expected to do. It is not all inclusive, but it provides a start. Mr. Larrivee pointed out that the present law does not define what a guardian ad litem is supposed to be or what he/she is supposed to do. Mr. Larrivee gave the committee a brief history of the source of this particular legislation.

Rachel Leiter, a United Methodist Minister in Anaconda, testified as a proponent to HB 627. She informed the members that she has and is a participant in the guardian ad litem program.

Deanna Rodsef, from Decker, stated that she was one of the first appointed guardians ad litem. She stated that they have had a lot of hard, difficult cases. She further said that they work independently and voluntarily. She said that the number of children who die from abuse in this state is overwhelming.

John Madsen, representing the Department of Social and Rehabilitation Services, testified as a proponent to HB 627. He stated the department has for approximately five years supported the concept of developing guardian ad litem programs across the state. The department further supports the concept of a person other than the S.R.S. social worker or the county attorney representing solely the interests of the child in judicial proceedings.

There being no further proponents or opponents, Rep. Keenan closed.

Rep. Hannah called for questions from the committee.

Rep. Mercer had a question regarding the language in section 1 (c). He doesn't feel that the guardian ad litem should be required to review all court, medical, psychological, etc. records if the guardian feels it is unnecessary. Rep. Keenan responded by saying that it does not say the guardian ad litem will or has to, but merely says they have these duties, and if it is rendered appropriate for that particular case, the records are

available to the guardian. She doesn't see it as requiring the guardian to go through all the records if he does not see it as pertinent to the particular case. Rep. Mercer asked Rep. Keenan if she would object to an amendment which would not require a guardian to go through all the records. Rep. Keenan stated she would object to changing the language because if it is not laid out for people to follow, they may not look at that as a real priority, and thus not utilize it.

Rep. Addy suggested an amendment to be made to the bill on Page 1, line 23 following "all" to insert "pertinent". He felt this language would provide some discretion. Mr. Larrivee stated he would have no objection to an amendment such as this. Mr. Larrivee did point out, however, that he is reluctant to water down what the guardian ad litem's responsibilities should be.

Rep. Bergene asked if we are implementing a public law that was passed about five years ago requesting all the states to seriously implement this type of program. Mr. Madsen answered yes. Rep. Bergene wanted to know if there were grant monies appropriated. Mr. Madsen stated that the department has received for the past six years approximately \$60,000 per year from the National Center for Child Abuse and Neglect to implement programs of this type.

Rep. Hannah wanted to know if Mr. Larrivee could conceive of a possible problem if the guardian ad litem appointed by the court was a social worker. Although Mr. Larrivee had not heard of that happening, he could foresee this as a potential problem. Rep. Hannah wanted to know if Mr. Larrivee feels that it is necessary to place a safeguard in this statute prohibiting social workers from being appointed as guardians ad litem. Mr. Larrivee feels the safeguard already exists in that the guardian ad litem in each and every case is appointed by the judge. The social worker is already a participant in the case. Mr. Larrivee feels that to appoint a social worker as a guardian would be a conflict, and the judge would not do so.

It was Rep. Krueger's position that he could not see any circumstances where a judge would appoint anyone from the Department of S.R.S. as a guardian ad litem.

There being no further questions, hearing closed on HB 627.

EXECUTIVE SESSION

An executive session was called at 10:45 a.m.

ACTION ON HOUSE BILL NO. 557: Rep. O'Hara moved that HB 557 DO PASS. The motion was seconded by Rep. Hammond.

ACTION ON HOUSE BILL NO. 588: Rep. Hammond moved that HB 588 DO PASS. The motion was seconded by Rep. Brown, and the motion carried with Rep. Hannah dissenting.

ACTION ON HOUSE BILL No. 627: Rep. Darko moved that HB 627 DO PASS. The motion was seconded by Rep. Bergene and further discussed.

Rep. Eudaily pointed out that he has a problem with subsection (e) of the bill. He doesn't understand how guardians ad litem while before a court of law can examine, cross-examine witnesses, and introduce exhibits.

Rep. Addy doesn't see any harm in allowing guardians the privilege of cross-examining.

Rep. Hannah offered an amendment on page 2, line 4 following "child" by striking ", including" through "exhibits," on line 6. Included as a part of the amendment on page 2, line 6 would be to strike "making" and insert "make". The motion was seconded by Rep. Eudaily.

Rep. Krueger stated his objection to this amendment. He feels that the guardian ad litem should be able to examine witnesses before the court.

Rep. Hannah feels the attorney for the child would be able to examine witnesses anyhow and would work in concert with the guardian ad litem. The question was called on Rep. Hannah's motion to amend, and the motion carried with Reps. Krueger, Montayne, Miles, Bergene, Darko and Brown dissenting.

Rep. Rapp-Svrcek felt the language in subsection (c) should be amended. Rep. Krueger moved to insert "pertinent" on line 23 following "all". Rep. Hammond seconded the motion.

Rep. Eudaily made a substitute motion on line 23 by striking "review all" and inserting "have access to". The motion was seconded by Rep. Mercer, and discussion followed.

Rep. Miles objected to the Rep. Eudaily's motion because she feels that the guardian ad litem's duties should be outlined as presently indicated in the bill. She feels the amendment would waterdown this portion of the bill.

Rep. Mercer doesn't feel the guardian should be required to go through all these records. He feels that the guardians would go through this procedure anyhow, He reminded the committee that this is a public expense, and if non-voluntary guardians are required to look into all these records, the cost to do so will increase.

Rep. Brown moved to delete section 1 in its entirety which would eliminate the university system from the bill. The title would also be amended accordingly to conform. The motion was seconded by Rep. Hammond, the question called, and the motion carried unanimously.

Rep. Brown further moved to amend page 4, line 21 by striking "6 months of the 1-year period" and inserting "12 consecutive months". The motion to amend would also include on line 22, following "preceding" to insert "each". The motion was seconded by Rep. O'Hara and carried unanimously.

Rep. Brown further moved that HB 557 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and discussed.

It was Rep. Gould's opinion that this privilege should be extended to spouses. Rep. Brown wishes to limit it to the individual who actually earns money in Montana. He said the bill is very restrictive, and he feels the bill should be left that way.

Rep. Eudaily wanted to know if the department would have any rule-making authority with this legislation. Rep. Brown doesn't feel the department should receive any rule-making authority. He said the statute already instructs them what to do when qualifying people.

Brenda Desmond, the committee researcher, stated that if there is any possibility that there may be a need for rules in the statutes, she feels it would be wise to place an extension of rule-making authority in the bill.

With that advice, Rep. Brown moved to add the appropriate rule-making authority language to the bill. The motion was seconded by Rep. Addy, and the question called. The motion carried with Reps. Hannah and Keyser dissenting.

ACTION ON HOUSE BILL NO. 586: Rep. Hammond moved that HB 586 DO PASS. The motion was seconded by Rep. Montayne.

Rep. Gould moved the proposed amendments by Mr. Chisholm be adopted. The motion was seconded by Rep. Keyser and carried unanimously. (See Exhibit K)

Rep. Gould further moved that HB 586 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond. There being no discussion, and the question having been called, the DO PASS AS AMENDED motion carried unanimously.

ACTION ON HOUSE BILL NO. 587: Rep. O'Hara moved that HB 587 DO PASS. The motion was seconded by Rep. Krueger. The question was called, and the motion carried with Rep. Montayne dissenting.

Rep. Bergene argued that this is a program that these people feel strongly about. She feels it is necessary to spend the time to carry these duties out thoroughly.

The question was called, and Rep. Eudaily's motion to amend carried. (See roll call vote.)

Rep. Eudaily moved that HB 627 DO PASS AS AMENDED. The motion was seconded by Rep. Hammond and carried unanimously.

ACTION ON HOUSE BILL NO. 164: Rep. Hammond moved that HB 164 DO PASS. The motion was seconded by Rep. Krueger.

Rep. Keyser made a substitute motion that HB 164 DO NOT PASS. The motion was seconded by Rep. Poff. Rep. Keyser feels the 180 day time period is far too long. He stated that mobile home rental space is not defined in the statute as being necessarily owner related.

Rep. Krueger pointed out that there is a big difference between living in an apartment as opposed to someone who has to move his trailer. He feels that it is very difficult to move trailers, and he further offered a substitute motion to reduce the 180 day period to 90 days. The motion was seconded by Rep. Hammond and further discussed.

Rep. Keyser stated his opposition to dropping it down to 90 days. He pointed out that the only people who came to testify as proponents of the bill were from Bozeman. He doesn't see this as a problem throughout the state.

Rep. Krueger doesn't feel this problem is just limited to the Bozeman area. He related a few examples of this very problem he was aware of that existed in Butte.

Rep. Gould said he is against the amendment because he feels the time frame will eventually get extended.

The question was called on Rep. Krueger's substitute motion to amend the 180 days period to 90 days. The motion carried with Rep. Eudaily, Cobb, Gould, Montayne and Keyser voting no.

Rep. Krueger moved that HB 164 DO PASS AS AMENDED. The motion was seconded by Rep. Miles, and further discussion followed.

Rep. Cobb moved that 90 days be further reduced to 60 days. The motion was seconded by Rep. Hannah and carried with Reps. Miles, Darko, Krueger, Hammond and O'Hara dissenting.

Rep. Eudaily suggested to Brenda that she draft an amendment which would include a provision that requires the landlord of a mobile home rental space to give 180 days' notice before terminating a tenancy.

Brenda suggested the following amendment:

Page 2, following line 5, insert: "(b) Whenever the landlord of a mobile home rental space terminates a month-to-month tenancy or a tenancy under a written mobile home space rental agreement because of discontinuation of the use of the underlying land as a mobile home court or discontinuing the operation of the court, he must give the tenant a written notice at least 180 days before the termination date designated in the notice."

Rep. Eudaily moved to adopt the above amendment. The motion was seconded by Rep. Keyser and carried unanimously.

Rep. Hammond moved that HB 164 DO PASS AS AMENDED. The motion was seconded by Rep. Keyser and carried with Reps. Poff and Mercer dissenting.

ADJOURN: A motion having been made and seconded, the meeting adjourned at 11:45 a.m.



REP. TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/13/85

EXECUTIVE SESSION

7:00 a.m.

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/13/85

NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

STANDING COMMITTEE REPORT

February 13 19 85

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 40

FIRST reading copy (WHITE color)

ADOPT "GOOD FAITH BELIEF" EXCLUSIONARY RULE EXCEPTION

Respectfully report as follows: That HOUSE Bill No. 40

DO NOT PASS
XDOCPASS



STATE PUB. CO.
Helena, Mont.

REP. TOM LANNAU

Chairman.

COMMITTEE SECRETARY

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 13, 1985 BILL NO. HB 40 TIME 7:30 a.m.

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene	✓	
John Cobb	✓	
Paula Darko	✓	
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser		✓
Kurt Krueger	✓	
John Mercer		✓
Joan Miles	✓	
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff	✓	
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Addy made a substitute motion that HB 40 DO NOT

PASS. The motion was seconded by Rep. Krueger and carried 11-7.

STANDING COMMITTEE REPORT

February 13 19 85

(page 1 of 2)

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 164

FIRST reading copy (WHITE)
color

REQUIRE 180 DAYS' NOTICE TO VACATE MOBILE HOME RENTAL SPACE

Respectfully report as follows: That HOUSE Bill No. 164

be amended as follows:

1. Title, line 4.

Strike: "180"

Insert: "60"

2. Title, line 6.

Following: "VACATE"

Insert: "AND 180 DAYS' NOTICE IN THE EVENT OF CLOSURE OF A MOBILE HOME COURT"

3. Page 1, line 21.

Following: "(3)"

Insert: "(a)"

4. Page 1, line 23.

Strike: "180"

Insert: "60"

XXXXX
DO-PASS

(continued)

5. Page 2, line 1.

Strike: "180"

Insert: "60"

6. Page 2, line 3.

Strike: "130"

Insert: "60"

7. Page 2, line 4.

Strike: "130"

Insert: "60"

8. Page 2, following line 5.

Insert: "(b) Whenever the landlord of a mobile home rental space terminates a month-to-month tenancy or a tenancy under a written mobile home space rental agreement because of discontinuation of the use of the underlying land as a mobile home court or discontinuing the operation of the court, he must give the tenant a written notice at least 180 days before the termination date designated in the notice."

AND AS AMENDED,
DO PASS

STANDING COMMITTEE REPORT

February 13 19 85
page 1 of 2

MR. ~~SPRAGUE~~.....

We, your committee on.....JUDICIARY.....

having had under considerationHOUSE..... Bill No. 557.....

FIRST reading copy (WHITE)
color

TO CONSIDER CERTAIN NONRESIDENTS AS RESIDENTS FOR CERTAIN PURPOSES

Respectfully report as follows: That..... Bill No.....

be amended as follows:

1. Title, line ⁵~~6~~.
Strike: "CERTAIN PURPOSES"
Insert: "THE PURPOSE OF OBTAINING FISHING AND HUNTING LICENSES"
2. Title, line 7.
Strike: "6"
Insert: "12"
3. Title, line 8.
Following: "SECTIONS"
Strike: "29-25-501."

Following: "87-2-102"
Strike: ", "

XXXXXX
XXXXXX

(continued).....
Chairman.

4. Page 1, following enacting clause line 10.
Strike: Section 1 in its entirety.

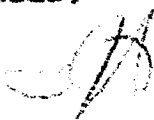
Renumber subsequent sections.

5. Page 4, line 21.
Strike: "6 months of the 1-year period"
Insert: "12 consecutive months"

6. Page 4, line 22.
Following: "preceding"
Insert: "each"

7. Page 6, following line 7
Insert: "NEW SECTION. Section 3. Extension of authority. Any existing authority of the department of fish, wildlife, and parks to make rules on the subject of the provisions of this act is extended to the provisions of this act."

AND AS AMENDED,
DO PASS



STANDING COMMITTEE REPORT

February 13 19 85

page 1 of 2

MR. SPLAKER

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 586

FIRST reading copy (WHITE
color)

CONFISCATE AND DISPOSE OF INMATES' CONTRABAND

Respectfully report as follows: That HOUSE Bill No. 586

be amended as follows:

1. Title, line 6.

Following: "BY"

Insert: "INMATES OR"

2. Title, line 7.

Following: "OF"

Insert: "ADULT OR YOUTH"

3. Page 1, line 12.

Strike: "a"

Insert: "an adult or youth"

4. Page 1, line 14.

Following: "inmate"

Insert: "or resident"

DISPASS

(continued)

page 2 of 2 HB 586

5. Page 1, line 18.
Following: "inmates"
Insert: "or residents"

Following: "in"
Insert: "adult or youth"

6. Page 1, line 19.
Following: "inmate"
Insert: "or resident"

AND AS AMENDED,
DO PASS

STANDING COMMITTEE REPORT

February 13 19 85

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE**

Bill No. **627**

FIRST reading copy (**WHITE**)
color

DUTIES AND RESPONSIBILITIES OF GUARDIAN AD LITEM

Respectfully report as follows: That **HOUSE**

Bill No. **627**

be amended as follows:

1. Page 1, line 23.

Strike: "review all"

Insert: "have access to"

2. Page 2, line 4,

Following: "child"

Strike: ", including" through "exhibits," on line 6.

3. Page 2, line 6.

Strike: "making"

Insert: "make"

AND AS AMENDED,

DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 13, 1985 BILL NO. HB 627 TIME 11:10

NAME	AYE	NAY
Kelly Addy		
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily	✓	
Budd Gould	✓	
Edward Grady	✓	
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek		
Dave Brown (Vice Chairman)		
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Eudaily made a substitute motion on line 23 to strike
"review all" and insert "have access to". The motion was seconded
by Rep. Mercer and carried 11-4.

STANDING COMMITTEE REPORT

Page 1 of 5

February 13

19 85

MR. Speaker:

We, your committee on Judiciary

having had under consideration House Bill No. 265

first reading copy (white)
color

STREAM ACCESS

Respectfully report as follows: That House Bill No. 265

BE AMENDED AS FOLLOWS:

1. Page 1, line 16.

Strike: "2"

Insert: "1"

2. Page 1, line 19.

Following: "object"

Insert: "in or over a water body"

3. Page 1, line 7.

Following: "lands"

Insert: ", while within the boundaries of such lands"

4. Page 2, line 2.

Following: "supporting"

Insert: "the following"

DO PASS.

CONTINUED

February 13 1985

5. Page 2, line 9.
Strike: "activity"
Insert: "activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the transportation of merchandise, as these activities have been defined by published judicial opinion as of [the effective date of this act]"
6. Page 2, following line 14.
Insert: "(4) "Commission" means the fish and game commission provided for in 2-15-3402."
Renumber: subsequent subsections.
7. Page 3, line 6.
Following: "value."
Insert: "A flood plain adjacent to surface waters is not considered to lie within the surface waters' high-water marks."
8. Page 3, line 7.
Strike: "(a)"
Following: "to"
Strike: "class" and "I" on line 8
Insert: "surface"
9. Page 3, line 11.
Following: "paddle,"
Insert: "other water-related pleasure activities,"
10. Page 3, line 12.
Following: "uses"
Strike: ", within" through "waters" on line 13
11. Page 3, following line 13.
Strike: subsection (b) in its entirety
12. Page 4, following line 9.
Insert: "(10) "Surface water" means, for the purpose of determining the public's access for recreational use, a natural water body, its bed, and its banks up to the ordinary high-water mark."
13. Page 4, line 12.
Strike: "subsection (3)"
Insert: "subsections (2) through (4)"

Following: "all"
Strike: "class I"
Insert: "surface"

CONTINUED

February 13 19 85

14. Page 4, line 13.

Following: "use"

Strike: "as defined" through "mark," on line 15

15. Page 4, following line 16.

Strike: subsection (2) in its entirety

ReNUMBER: subsequent subsections

16. Page 4, line 25.

Following: "include"

Strike: "the" through "waters" on page 5, line 1

Insert: ", without permission of the landowner"

17. Page 5, line 2.

Following: "(a)"

Insert: "the operation of all-terrain vehicles or other motorized vehicles not primarily designed for operation upon the water; (b) the recreational use of surface waters"

18. Page 5, line 3.

Strike: "or"

19. Page 5, line 4.

Strike: "(b)"

Insert: "(c) the recreational use of waters"

20. Page 5, line 5.

Following: "3"

Insert: "; or (d) big game hunting"

Following: "."

Insert: "(3) The right of the public to make recreational use of class II waters does not include, without permission of the landowner:

(a) overnight camping;

(b) the placement or creation of any permanent or semi-permanent object, such as a permanent duck blind or boat moorage; or

(c) other activities which are not primarily water-related pleasure activities."

ReNUMBER: subsequent subsections

21. Page 5.

Following: line 9

Insert: "(5) The commission shall adopt rules pursuant to 87-1-103, in the interest of public health, public safety, or the protection of public and private property, governing recreational use of class I and class II waters. These rules must include the following:

(a) the establishment of procedures by which any person may request an order from the commission:

(i) limiting, restricting, or prohibiting the type, incidence, or extent of recreational use of a surface water; or

CONTINUED

February 11 19 85.....

(ii) altering limitations, restrictions, or prohibitions on recreational use of surface water imposed by the commission; and
(b) provisions requiring the issuance of written findings and a decision whenever a request is made pursuant to the rules adopted under subsection (5)(a)"
Re-number: subsequent subsection

21. Page 5, line 13.
Following: "lands"
Strike: "under" through "act]"

22. Page 5, line 23.
Strike: "barrier"
Insert: "structure"

24. Page 5, line 24.
Strike: "barrier" through "and"
Insert: "structure"

25. Page 6, line 2.
Strike: "barrier"
Insert: "structure"

26. Page 8, line 15.
Following: "who"
Strike: "while" through "using" on line 17
Insert: "is injured or whose property is damaged because of placement or use of"

27. Page 9, line 1.
Following: "through"
Insert: ":(a)"

28. Page 9, line 2.
Following: "including"
Insert: ":(i)"

29. Page 9, line 3.
Following: "them"
Insert: ";"
Strike: "and"
Insert: "(ii)"

30. Page 9, line 4.
Following: "mark"
Strike: ","
Insert: ";

CONTINUED

Following: "or"
Strike: "of"
Insert: "(iii) any"

Following: "portage"
Strike: "routes"

Following: "barriers"
Insert: "; or (b) the entering or crossing of private property to reach surface waters"

AND AS AMENDED,
DO PASS
STATEMENT OF INTENT ATTACHED

STATE PUB. CO.
Helena, Mont.

REP. TOM HANNAH

Chairman.

STATEMENT OF INTENT
HOUSE BILL NO. 265

A statement of intent is required for House Bill 265 because section 2(5) directs the fish and game commission to adopt rules governing recreational use of surface waters.

In its implementation of this bill, the long-range goal of the commission must be to preserve, protect, and enhance the surface waters of this state while facilitating the public's exercise of its recreational rights on surface waters. The commission shall strive to permit broad exercise of public rights, while protecting the water resource and its ecosystem. In adopting the procedural rules required by section 2, the commission shall emphasize that in close cases the decision must be to protect the environment by restricting or continuing to restrict recreational use, since it is easier to prevent environmental degradation than it is to repair it.

In developing the rules implementing House Bill 265, the commission shall make every effort to make the process uncomplicated and clear. As provided in subsection (5)(b) the commission must issue written findings and an order whenever a request is made for restrictions on recreational use of a surface water or for the lifting of previously imposed limitations on recreational use of a surface water. The commission may adopt rules providing for summary dismissal of requests when a substantially similar request has been received and acted upon within a brief time prior to the second or subsequent requests if, during the time period since the first request, it is unlikely that there has been a change in the situation upon which the commission based its earlier decision.

In developing the rules establishing criteria for determination upon a request made under subsections (5)(a) or (5)(b), the commission shall require that each of the following factors that is relevant to the decision must be considered in the determination:

(a) whether public use is damaging the banks and land adjacent to the water body;

(continued)

(b) whether public use is damaging the property of landowners underlying or adjacent to the water body;

(c) whether public use is adversely affecting wildlife or birds;

(d) whether public use is disrupting or altering natural areas or biotic communities;

(e) whether public use is causing degradation of the water quality of the water body; and

(f) any other factors relevant to the preservation of the water body in its natural state.

In making its decision after a request has been made for restrictions of recreational use, the commission may impose any reasonable limitation on the recreational use of surface waters including complete prohibition of a particular type of recreation, prohibition of a particular type of recreation in certain specified areas, such as within a specified distance of a residence or other structure, or in an appropriate case, prohibition of all recreation.

STANDING COMMITTEE REPORT

February 13 19 35

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 304

FIRST reading copy (WHITE
color)

SPOUSAL IMMUNITY - CHANGE TO ELIMINATE PRESENT DOCTRINE

Respectfully report as follows: That HOUSE Bill No. 304

DO NOT PASS

~~DO PASS~~

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 13, 1985 BILL NO. HB 304 TIME 7:40 a.m.

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb		✓
Paula Darko	✓	
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser		✓
Kurt Krueger		✓
John Mercer	✓	
Joan Miles	✓	
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Brown made a substitute motion that HB 304
DO PASS. The motion was seconded by Rep. O'Hara and failed 7-11.
Without objection, the vote was reversed on the do pass motion,
and HB 304 was passed out of committee with a DO NOT PASS
recommendation.

STANDING COMMITTEE REPORT

February 13 19 85

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **587**

FIRST reading copy (**WHITE**)
color

TRANSFER OF PRISONER TO COUNTRY HE IS A CITIZEN OF

Respectfully report as follows: That **HOUSE** Bill No. **587**

DO PASS

STANDING COMMITTEE REPORT

February 13 19 65

MR. SPEAKER:.....

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 566

FIRST reading copy (WHITE)
color

PROHIBIT INSTALLATION AND USE OF DIAL-UP SECURITY ALARM SYSTEMS

Respectfully report as follows: That HOUSE Bill No. 566

be amended as follows:

1. Title, line 4.

Strike: "PROHIBIT"

Insert: "RESTRICT"

2. Page 1, line 9.

Strike: "Prohibition of"

Insert: "Restrictions on use of certain"

3. Page 1, line 11.

Following: "predetermined"

Insert: "law enforcement"

4. Page 1, line 12.

Following: "number"

Insert: "without written permission from the chief law enforcement officer of the local government in which the alarm system is installed"

~~ND65433~~

AND AS AMENDED,

WITHOUT RECOMMENDATION

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 13, 1985 BILL NO. HB 566 TIME 7:55 a.m.

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond		✓
Kerry Keyser	✓	
Kurt Krueger		✓
John Mercer		✓
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Keyser moved to amend HB 566 be adding a provision
that would require all installations be made by a licensed alarm
installer. The motion was seconded by Rep. O'Hara and failed
6-12.

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE February 13, 1985 BILL NO. HB 566 TIME 8:00 a.m.

NAME	AYE	NAY
Kelly Addy		✓
Toni Bergene	✓	
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould		✓
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser	✓	
Kurt Krueger	✓	
John Mercer	✓	
Joan Miles		✓
John Montayne		✓
Jesse O'Hara	✓	
Bing Poff	✓	
Paul Rapp-Svrcek		✓
Dave Brown (Vice Chairman)		✓
Tom Hannah (Chairman)	✓	

Marcene Lynn
Secretary

Tom Hannah
Chairman

Motion: Rep. Keyser moved that HB 566 DO PASS AS AMENDED. The
motion was seconded by Rep. O'Hara. Due to a tie vote, the
committee reported HB 566 out WITHOUT RECOMMENDATION.

STANDING COMMITTEE REPORT

February 13

19 35

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **588**

FIRST reading copy (**WHITE**)
color

RELATIVE NEED NOT BE TOLD OF ADMISSION TO ALCOHOLIC TREATMENT FACILITY

Respectfully report as follows: That **HOUSE** Bill No. **588**

DO PASS

STANDING COMMITTEE REPORT

February 13 19 85

MR. **SPEAKER:**

We, your committee on **JUDICIARY**

having had under consideration **HOUSE** Bill No. **620**

FIRST reading copy (**WHITE**)
color

REQUIRE TRAINING & CERTIFICATION OF LOWER COURT JUDGES

Respectfully report as follows: That **HOUSE** Bill No. **620**

DO PASS

Exhibit A
2/13/85
HB. 164

January 17, 1985

RE: HB 164 Mobile Home Courts

MEMO RE: Mobile home at Covered Wagon Park, Bozeman.

My husband and I have lived in Great Falls since 1942 and have owned our own home here since 1944. During this time we have owned and managed rental property, so we are not without any understanding of the problems of landlords.

This concerns our experience as tenants at Covered Wagon Park in Bozeman.

In November, 1978, we purchased a mobile home to be used as a home for our son during the time he would be attending MSU. From this time until September 1983 we rented the lot on which our mobile home was located in Covered Wagon Park. NEVER during all this time did we receive any complaint about late payments, non-payment of rent, or ANY OTHER INFRACTION of any laws or any mobile home court regulations.

During the summer of 1983 the mobile home court changed hands and was placed under the management of Debra and Brent Cochran. From September 1, 1983 to December 31, 1983 the lot on which our mobile home was located was rented by Jim and Vicki Tate*, who lived in our mobile home. We re-assumed possession of the mobile home as of January 1, 1984. On January 20, 1984 we received a registered letter containing a notice to vacate the premises as of February 7, 1984. The reason given was the right of the landlord to terminate a month-to-month lease with 30 days notice.

Briefly, I telephoned Debra Cochran regarding this, and although this threatened eviction did not concern anything that happened during our tenancy, the reason was irrelevant since none is required for a 30-day notice.

I took the matter to a lawyer and we subsequently received a valid notice, which ultimately resulted in our not being forced to move the mobile home until March 8th. If they had sent us a proper notice in the first place, we would not even have had any extra time-- unless we wanted to allow them to proceed with an eviction.

As you know, THERE IS ABSOLUTELY NO REASON REQUIRED UNDER THE PRESENT LAW TO TERMINATE ANY MONTHLY TENANCY IN THIRTY DAYS. THERE IS NO HARDSHIP PROVISION IN ANY OF THE MONTANA LANDLORD-TENANT LAW.

The Montana law regarding moving a mobile home prohibits travel on the highway from noon Saturday to Monday morning, during weather conditions where there is poor visibility--during rain, snow, fog or blowing snow--and is limited to daylight hours. Therefore, under

* This lot was rented to Jim & Vickie Tate by Covered Wagon Park.

the present law, a mobile home owner could be liable for treble rent, damages, etc. because the present 30-day notice makes no provision for any extension of time which might be necessary because of road or weather conditions beyond the owner's control.

The effect of this in our situation was this:

It would have been almost impossible to sell the mobile home under the circumstances where it would have to be moved immediately in the middle of the winter.

If we moved it to another mobile home court we would be in jeopardy of the same 30-day notice. Since it costs approximately \$1,000 to move a mobile home when you consider the loss of value of skirting and attached sheds, decks, etc., the cost of moving and reconstruction, this did not seem a very practical solution.

We therefore purchased property in Bozeman to relocate the mobile home. Our son will graduate in June, 1985, so this was definitely not part of our plans for his schooling. It was necessary for us to use funds for this move that were intended for our retirement. My husband and I are both over 65 years old.

It is evident from our experience that the present law is very unfair to people who have made a major investment in the purchase of a mobile home, and a considerable expense in relocating is involved.

THIS NEW LAW IS VERY MUCH NEEDED TO PROTECT MOBILE HOME OWNERS FROM TOTALLY UNREASONABLE SITUATIONS SUCH AS WE WERE VICTIMS OF.

I am sure this law needs to have provisions to protect the investment and income of mobile home court owners from people against whom there are valid complaints. But as it stands now, the owner of a mobile home, living in mobile home courts, could be forced to move his mobile home every 30 days.

WITNESS STATEMENT

Name LINDA McNEEL Committee On Judiciary
Address Box 788 Boreman Date 2/13/85
Representing B2mn Housing Coalition Support
Bill No. 164 / 360 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. mobile home owners who rent space are equated with ~~rent~~ renters of apartments + homes even though their problems are unique
2. Problems with moving in 30 days: money to move - find spaces - pay taxes
3. Why landlord would give 30 day notice: friend a relative / change of use / personal prejudice / potential for abuse
4. What happens to owners of mobile home? - abandonment of home - loss of equity + security
5. Boreman Housing Coalition is board-based group in Gallatin County. member of State Low Income Coalition + Women's Lobby / Off Fund.

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

WITNESS STATEMENT

Name Yogi Bir Singh Khulsa Committee On Judiciary
Address 421 8th STORy Date 2/13/85
Representing _____ Support X
Bill No. 164 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. at any time the owner of a Mobil Home could receive notice to vacate the property that his home is on within 30 days. If that happens the Mobil owner stands to lose financially and also his family may be displaced.

3. The relationship between a landlord and Mobil home owner is a different one from the relationship between an apartment resident and the landlord of the apartment. The Mobil home owner has a major investment in the property in question.

4. The potential for abuse from indiscriminate action on the part of the landlord is great. By way of example suppose I were looking for a mobil lot, being unable to find one I approach a court owner and suggest that I am willing to pay a cash bonus for a vacant lot. The temptation is too great and the potential for abuse is all too real.

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

Support for Bills 164 & 360

February 12, 1985

EXHIBIT D
2/13/85

to: House of Representatives Judiciary Committee
fr: Bozeman Housing Coalition

The Bozeman Housing Coalition supports House Bills 164 and 360 related to evictions of mobile home owners from lots they are renting.

The Housing Coalition is a citizens group formed several years ago to seek solutions to Bozeman's serious housing problems for low and moderate income people and to work with other Montana community groups on common housing concerns. Over 1,000 local residents are reached by our activities, and a wide variety of people are involved, including ~~mobile~~ mobile home owners and renters, low and moderate income tenants, church leaders, business people, and elected officials.

One of our ~~services~~ ^{programs} is a Tenant Legal Information Service. One of the top two issues our information service receives calls regarding is trailer court problems, including evictions and difficulties in moving mobile homes. Housing is extremely tight in Bozeman, and trailer courts are always full.

Under the present law, people can be evicted for no cause with only one month's notice. Trailer park owners may evict people for a variety of personal and business reasons. People may obey all the regulations of a trailer park, be good residents, and still be evicted. It may be because the owner wants a ^{not free for a} friend's trailer, or because he or she doesn't like ~~a~~ a certain mobile home owner, or other reasons that involve no fault or misbehavior on the part of the mobile home owner.

Within Bozeman, it is not possible to find a place to move a trailer in one month. Thus such an eviction may cause someone to lose their investment or locate out of town, ~~as well as~~ Also, people face the sudden

economic hardship of a move that may cost several thousand dollars even within town. Low and moderate income people, average mobile home owners, do not have this kind of money. As a result, people are often forced to try to sell their trailers thus losing the ownership status that gives them some measure of economic security. Bill 164 would require people to be given six months notice if being evicted for no cause ^{or serious misbehavior}. We think

Mobile homes that need to be moved upon purchase are difficult to sell. If mobile homes can't be sold or affordably moved, abandonment may be the result.

this would be much more fair than the current law. People will still face a difficult and expensive challenge, but the longer time span will give people a ~~chance~~ ^{better} chance to meet this challenge. Lot Owners could still evict people with one month's notice for violations of local regulations or state laws.

We also support Bill 360. It is not that we think it is right that people not pay their lot rent, but a three-d eviction period for mobile home owners is totally unrealistic. It is physically impossible to make the arrangements to have a trailer moved in this period of time. People experiencing temporary economic hardship due to ^{causes such as} being laid off from work can't pay moving expenses if they can't pay the rent, and may lose their trailer and whatever equity they have built as a result. A one-month eviction seems more reasonable, and in that time a mobile home owner might even be able to come up with the rent and avoid the eviction.

We urge your support for both of these bills.

Marcia Youngman
Coordinator

Bozeman Housing Coalition

Feb. 12, 1985

Dear Representatives:

I no longer own a mobile home and with good reason. Here is my story:

After paying my lot rent and following all agreed upon rules in a small mobile home park near Bozeman for 2 years, I was asked by my landlord to move. The reason? He had a friend who owned a trailer and needed a lot to place it on.

Moving a trailer can cost hundreds of dollars and on top of this, I had a newly built solar greenhouse addition attached to my mobile home. My mobile home was in good shape, but an older and smaller model which made it all the more difficult to find a place in the area to move it to.

After much stress and emotional trauma caused by searching in vain for a new location for my mobile home, the landlord's friend sold his home and the pressure for me to move was abandoned. During the entire episode I realized how much I was at the mercy of any whim of my landlord and how close I was to losing my financial investment. The end result of all of this was the selling of the mobile home. I empathize with those who find themselves in similarly impossible situations and believe that owners of mobile homes must be given some measure of reasonable protection.

Being an owner and renter at the same time ~~to~~ became an unbearable reality for me. Please give some thought to the bills before you and the people who remain in that precarious position.

Sincerely, D. L. ...

WITNESS STATEMENT

Name Leota Dempsey Committee On Judiciary
Address 1000 Poplar C-1 Date Feb 13, 1985
Representing Mt. Peoples' Action Support X
Bill No. HB 164 & HB 360 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. There's a shortage of available lots to rent in many areas, with a variety of restrictions from court to court
2. Mobile homes are among the most affordable housing, many mobile home owners are unable to raise the moving costs, which average at least \$1,000.00, in 30 days
3. Mobile homes are very difficult to move, most owners expect to stay in one place.
4. 20% of the Helena-area housing is mobile homes.

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

Car Representatives

I am writing in regards to the bill before you concerning mobile home owners & land lord eviction notices. The just of which is the 3 day eviction. It would be impossible to park a trailer and find a place to move it in 3 days. I think a month would be much more realistic. Also the part of the bill with the month notice - if the land lord wanted to, ^{move in friends,} tear the trailer court down etc. should be changed to 6 months. It would be impossible to find a place to park our trailer in, Sozeman ^{one of us had to move, let alone it} had 200 trailers (in our court) were also looking.

I would of been in Helena to voice my opinion

but I baptist during the
day and it's impossible to
get away.

I think this bill definitely
needs to be changed and
would appreciate your vote on
H.B. 164 and 360.

Thank You.

Bonnie Johnson
trailer 198

Covered Wagon St. court
Borerman.

Feb. 11, 1985

Dear Representatives:

I am writing concerning House Bill # 164. As a mobile home owner in a trailer court, we need this bill passed. If the owner here decides he wants something else on ~~this~~ ^{our} ~~land~~ ^{lot}, with this bill passed, it would give me 6 months to relocate.

In Boyeman the situation as far as mobile homes go, there aren't enough lots, just to up and move within a few days. We need at least the six months notice.

I am also for the bill concerning a 1 month notice if you are kicked out or evicted for a good reason. Again, we need more than a 3 day notice. A person can hardly pack their belongings in 3 days, let alone completely move a trailer or find another lot.

Please consider both of these bills seriously. ~~before they are tossed out.~~
We need them passed.

Sincerely,

Betty Biebe Trailer 200
Jensen Wagon Trailer Court
Boyeman, MT. 59715

February 12, 1984

x Bridge View Ct.

Bozeman, Mt 59715

To Whom It May Concern,

I had hoped to testify in front of your sub-committee today, but am unable to attend in person. Please accept this letter as my spoken word.

As a mobilehome owner here in Bozeman, I wholeheartedly support House Bill numbers 104 and 360.

I know the housing situation in the Gallatin Valley to be extremely tight, and passage of both these bills could alleviate undue hardship on existing tenants.

Thank you for your time.

Sincerely,
Tom [unclear]

134 TRISTRAM
BOZEMAN, MT.
2/11/85

Dear Legislator,

I have owned a mobile home for 3 1/2 years and rent space in a mobile home park in Bozeman. My wife and I plan to make this our permanent home.

It is my wish to go on record as supporting the passage of House Bill 164.

I believe that 30 days is insufficient time for notice of eviction for any reason other than breaking of park rules or regulations or other misconduct on the part of the resident.

Sincerely,

Joe Schwalb

WITNESS STATEMENT

Name LOUISE KUNZ Committee On _____
Address 107 LAWRENCE Date 2/13/85
Representing MT - Low Income Support X
Bill No. 164 & 360 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We support these bills, not only do they affect low income individuals, but
2. all mobile home owners. Because of
3. the difficulties in moving these homes in all fairness we ask you to pass these bills.
- 4.

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

MONTANA LANDLORD'S ASSOCIATION, INC.

312 MOORE LANE
BILLINGS, MONTANA 59101

TO: HOUSE JUDICARY COMMITTEE:

SUBJECT: HB 164

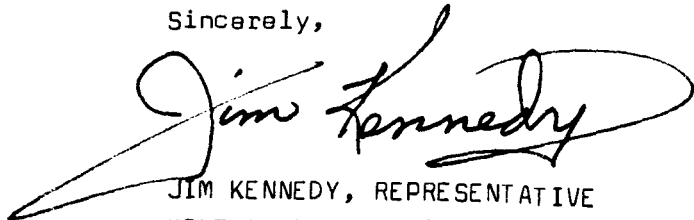
MR. CHAIRMAN:

I am Jim Kennedy, representative and lobbyist for the Montana Landlord's Association.

We are against this bill as it is very discriminating in the fact it is not a tradeout in asking for a 180 day notice from the mobile home park and only a 30 day notice from the mobile home owner. The Landlord-Tenant Law has been written in the past with equity in mind.

While realizing that this is a case of certain people owning their own homes and renting the land to set them on, the mobile home parks definitely need the lever of a 30 day notice to PROTECT THEIR PARKS AND MOST OF ALL, THE OTHER TENANTS, FROM UNDESIRABLES.

Sincerely,



JIM KENNEDY, REPRESENTATIVE
MONTANA LANDLORD'S ASSOCIATION

January 17, 1988

Sandra A. Watts
E. Lashby Park
1838 East Birch St.
Laurel, Montana 59044

Dear Secretary of Judiciary Committee,

It is impossible for me to be present at the hearing of H. B. 194 Monday morning the 22nd of January. I would appreciate it very much if there is some way you could submit the following letter to the committee hearing the matter.

This is of great concern to me and I feel it is of value to the legislators.

Thank you for your help now and in our past telephone conversation.

Sincerely,

Sandra A. Watts

Sandra A. Watts
Owner-Manager
E. Lashby Park

January 17, 1985

Sandra A. Watts
B Lazy Y Park
1808 East Sixth Str.
Laurel, Montana 59044

Dear Members of the Judiciary Committee,

It is impossible for me to be here to present my views about H. B. 164 so I ask you to read this letter and enter it into the record of this hearing.

I am the owner of a small mobile park in Laurel. My husband and I have been in the business over ten years and have seen many changes in law effecting our business. House Bill 164, as explained to me by Representative Bradley came about in an effort to prevent tenants from being asked to move in thirty (30) days when a landlord intends to change his/her property to another use. There was such an incident in Billings when a mobile park was sold and the property use changed.

I can agree that thirty (30) days is not ample notice in such cases.

There is also another side to this matter that should be voiced. My arguments are: 1) Will it be equally required of the tenant to give 180 days notice of intent to move? 2) Is the Bill discriminatory against landlords and owners of mobile parks? Why aren't apartments or rented homes mentioned? 3) Is this expecting too much of human nature to live together in close quarters (like mobile parks) for six (6) months after a notice has been served? We have seen harassment of the type that escapes cause for immediate eviction carried to extremes. Water and sewer bills have been run sky high for landlords, yards have not been mowed or watered, garbage has been allowed to collect around homes, dogs have been allowed to accumulate and run loose. In short, most people who have been evicted make life miserable for the landlords as well as their tenant neighbors. If it took six (6) months to evict a person of this caliber, we could loose half a dozen good tenants in the meantime. In a small park like ours that would be a disaster!

It is a very small percentage of all people who are ever asked to leave. However, as you well know, it is that small percentage that ruins things for the others.

Passage of this Bill will force the landlord to require at least six (6) months rent in advance. This will prove a real hardship for those people desiring a mobile park lifestyle.

I'm sure that most reasonable tenants would be appalled with this Bill. Most are interested in well-controlled parks and good neighbors. This Bill takes that protection away from the tenants.

Would any member of this Committee appreciate having to wait six (6) months to have a bad neighbor move? What about the habitual drunk who litters your yard, wakes you up in the middle of the night fighting, has dogs running loose, doesn't control his children, doesn't mow or water his yard, flagrantly runs your bills (rent) up through water waste?

These are things that people living in mobile parks expect landlords to take care of and it is one of the main drawing cards for a clean, respectable park. We resent legislators attempting to take this respectability away from us.

Mobile parks have come a long way in Montana through good legislation and laws, however, this is NOT a good law as it now stands.

If Mrs. Bradley wants to prevent incidents from happening such as mobile parks selling and branding property use without ample notice, she should say so. The Bill could easily be amended to reflect this.

1. Include apartments and homes.
2. Include the 90 days to certain to times when property use change is the reason for termination of tenancy.
3. Leave the thirty (30) day notice in effect for other circumstances.

Our present laws are workable and understandable for most landlords and tenants. There is a time to leave well enough alone.

I will trust in your fair judgement on this matter but, as a small businessman, I will keep a watchful eye on any further developments. I strongly caution you of discrimination charges this Bill can create in its present form.

If you would like any further input or information I would consider it an honor to help in any way.

If you are ever in Laurel I invite you to visit and see our park and know what pleasant, enjoyable parks can be with good tenants and control.

Sincerely yours,



Sandra A. Watts
Owner-Manager
E Lady V Park
403-608-7799

MONTANA LANDLORD'S ASSOCIATION, INC.

312 MOORE LANE
BILLINGS, MONTANA 59101

HOUSE JUDICIARY COMMITTEE

HB 360

Mr. Chairman:

I am Ralph Lewis, state vice president and lobbyist for the Montana Landlord's Association.

We are very much against this bill as the 3 day notice is merely eyewash brought about by law, for nonpayment of rent.

Since the 3 day notice has no teeth, the landlord is bound to proceed with a costly eviction that is rather like rubbing salt in an open wound. The time period involved is a loss of 10 working days on the unlawful detainer. Then the law states that if this should be answered, the justice of peace will set a court date within 10 days. Also, it is mandatory that the court give another 3 days notice to move before the constable can effect an eviction. This adds up to a total of 30 days loss of rent. This seems very unjust to ask the landlord to take another 27 day loss. This extension would definitely encourage professional deadbeats.

To ask the landlord who is dependent on this income to defray expenses such as TAXES, INSURANCE, MAINTENENCE, AND LASTLY, HIS WAGES to wait an additional thirty days for a payday THAT IN ALL PROBABILITY HE WILL NEVER SEE.

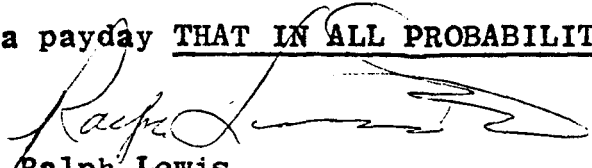

Ralph Lewis





EXHIBIT J
2/13/85
HB 557

THE MONTANA UNIVERSITY SYSTEM

33 SOUTH LAST CHANCE GULCH
HELENA, MONTANA 59620-2602
(406) 444-6570

COMMISSIONER OF HIGHER EDUCATION

TO: Representative Dave Brown
FROM: Larry Weinberg *LW*
DATE: February 12, 1985
RE: House Bill 557

At the February 7, 1985, meeting of the Board of Regents, the staff was told to prepare a board item to amend our residency policy to reflect the provisions of House Bill 557. I will do so shortly and anticipate that the Board will accept such a draft. Obviously I cannot commit the Board, but I believe that such a draft would provide an exemption from our residency policy for the class of persons described below. Another portion of the policy will give such exemption only so long as the Montana employment continues.

Class to be exempted: an individual domiciled in a state other than Montana who derives more than 50% of their family income, as reported or required to be reported under the United States tax laws, from full-time employment in a permanent job in Montana and who pays all required Montana taxes on Montana derived income and the spouse and dependent children of such individual; provided the state of domicile provides reciprocal treatment for Montana residents.

LW/lw

Proposed Amendments HB 586

- Line 7 Add: "inmates or"; Following "of" Add: "Adult or Youth"
- Line 12 Add: "an"
- Line 13 Add: "Adult or Youth"
- Line 14 Following "inmate" Add: "or Resident"
- Line 18 Following "inmates", Add: "or Residents", following "in",
Add: "Adult or youth"
- Line 19 Following "inmate", Add: "or resident"

WITNESS STATEMENT

Name James D Mockler Committee On Jad
Address 2301 Colonial Dr Date 3/13
Representing Mt Coal Council Support
Bill No. HB 557 Oppose
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

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

WITNESS STATEMENT

Name L. Will Committee On _____
Address Spokane, MT 59715 Date 2/18/85
Representing _____ Support _____
Bill No. ~~1100~~ 360 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

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

WITNESS STATEMENT

Name Jim KENNEDY Committee On 164
360
Address HELENA Date 2/13/85
Representing MRI LANDLORDS Support _____
A 3500
Bill No. 164, 360. Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.
- 2.
- 3.
- 4.

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

WITNESS STATEMENT

Name Mike Rice Committee On Judiciary
Address Box 399, Black Eagle, MI 4 Date 2/12/85
Representing Transystems, Inc Support X
Bill No. 363, 511, 536, 400, 533 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- 1.

- 2.

- 3.

- 4.

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

WITNESS STATEMENT

Name Lorraine Gillies Committee On _____
Address Box 278 Philipsburg Date 2-12-84
Representing ~~Philipsburg~~ Mont. Farm Bureau Support 400; 363; 511
Bill No. 363; 400; 511; 533; 536 Oppose 536; 533
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

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

WITNESS STATEMENT

Name CURT CHISHOLM Committee On Judiciary
Address _____ Date 2.13.85
Representing DEPT OF INSTITUTIONS Support FOR ALL 3 BILLS
Bill No. HB 586, 587, 588 Oppose _____
(w. Amendments) Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. ALL 3 BILLS INTRODUCED
AT REQUEST OF DEPT
OF INSTITUTIONS.
- 2.

- 3.
- 4.

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

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. 164 (Bradley)
360 (Hammond)

DATE February 13, 1985

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Terry Connolly	Helena		X
Ed McHugh	9 Cloverview Dr Helena		X
Tom Hirst	1423 Otter Rd HEL		X
Ralph Lewis	602 Grand Pkwy		X
Paul S. Carpenter	421 E 7 th Helena	X	
Lynn Smith	1601 W. 0th St. Bozeman		X
Marcia Youngman	1214 W Koch Bozeman	X	
Bien Thane	1814 Hawser Helena	X	
Leola Dempsey	1000 Poplar Ct Helena	X	
Linda McNeil	Box 788 Bozeman	X	
Therese Kelley	MT Hwy 200	X	
Yogi Bin Singh	421 E 5th St Bozeman	X	
Mary Youngman	3505 7th St SE	X	
Luis M. Durand	B.C.U. 211 N. Dakota	X	
Del Rodriguez	MPA 722 Cedar	X	
Janet Walker	MPA 971 Cook St	X	
Bonnie Johnson	Trailer 173 Covered Union St. Bozeman	X	
Barbara Scott	812 1/2 Haffline Ln Bozeman	X	
Betty Beebe	2200 Covered Union Bozeman	X	
Jan Rocor	19 Bridger Unit St Bozeman	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Joe Schwab 134 Tristram Bozeman X

Debra DeBode Box 703 Bozeman X

