

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 22, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 8:00 a.m. in Room 317 of the State Capitol on the above date.

ROLL CALL: Seventeen members were present with Rep. Moore excused.

CONSIDERATION OF HOUSE BILL NO. 893: Rep. Joe Quilici District #71, said that this bill would limit the number of copies of the administrative codes that are sent to the county offices and would save the State the amount of \$42,000. He said that one in the courthouse should be sufficient.

PROPOSERS: There were none.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 893: Chairman Sales, referring to Gallatin County, said their courthouse is one area and their law and justice center is in another. He said that the district judges do consult these rules, however, Rep. Quilici stated that the district judges receive a copy of the rules for their use.

Without further comment, Rep. Quilici closed.

CONSIDERATION OF HOUSE BILL NO. 801: Rep. Loren Jenkins, District #13, said that with the redistricting his area was pushed into another court district and they were paying the probation officer according to work load. Now they are paying according to county taxable valuation.

PROPOSERS: Henry Grossman, county commissioner from Chouteau County, appeared as a proposer to the bill, saying that they paid the probation officer \$6,724 last year and this year it increased to \$22,600. They are paying 30% of the probation officer's salary and he visits their county once each week. This bill would assure that all counties would be paying their fair share and would put the probation officers and court reporters into the same formula for salaries. (See attached Exhibit #1)

Gordon Morrison, Executive Director of the Montana Association of Counties, enforced Mr. Grossman's comments and said it is not logical to decide this cost on assessed valuation. It makes much more sense to determine this on county case load.

Rep. Duane Compton wished to be on the record in support of HB 801. His area consists of Blaine, Phillips and Valley Counties; they receive about 10% of the probation officer's time and they will be paying about 1/3 of his costs.

OPPONENTS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 801: Rep. Cody asked if this would have an effect on their wages to which Mr. Morrison replied it would have no effect as their wages are set by State law.

Rep. Fritz questioned page 1, line 23 and page 2, line 2. Mr. Morrison said this is simply the logic of being able to identify the case load at the end of the calendar year and allocating costs for the coming fiscal year.

In closing, Rep. Jenkins said this is a situation that should be corrected and the probation officer should be paid by case load and on the same formula as the court reporters.

CONSIDERATION OF HOUSE BILL NO. 905: Rep. Toni Bergene, District #41, sponsor, explained that the bill would create and fund a jail standards commission attached to the department of administration. She submitted proposed amendments and said that the bill that came out of the Council was too different from the original draft. A Statement of Intent was also submitted.

PROPOSERS: Pete Howard, Sheriff, Teton County, said that the ACLU is going to come into Montana and study our jails. They are going to look for places where they are going to need something more than bond issues such as a court order or at least the threat of such. He submitted written testimony, Exhibit #2 attached, and also explained the amendments proposed by Rep. Bergene step by step.

Walter Hammermeister, Sheriff of Pondera County, also appeared in support of HB 905. He told the committee members that a lot of work had been put into this bill as it had been worked on for the last session, withdrawn and then worked on again before this session. The National Institute of Corrections has approved the makeup of the Commission. There are no public members on the Commission and they receive no compensation, only their expenses. All members are professionals with concerns for county jails. The powers and duties established are advisory only, not mandatory. They are concerned only with legal liability aspects of construction of new jails and not the mechanical aspects. These jail standards that have been worked up have been scrutinized by the NIC and were approved. The federal standards are accepted State standards. The bill provides funding for this Commission by

a \$10 surcharge for a misdemeanor and the greater of \$20 or 10% of a fine imposed for a felony. He explained the disbursement of this money and said that any unused money could be used for training, law enforcement academy, etc. It would not be a burden on the state if it funded itself.

There were no further proponents and no opponents present.

DISCUSSION OF HOUSE BILL NO. 905: Rep. Phillips asked Mr. Howard if Montana has any jail standards. Mr. Howard replied they are written but unusable and the law is 35 years old or more. They need a legislative vehicle to put their standards in place.

Rep. Fritz asked why the standards should not be mandatory. Mr. Howard said they need a reasonable period of time to assess their needs, capabilities and ability to pay. Nebraska statutorily imposed their standards and the next day all but two jails had closed. He said this may be necessary in theyears to come and he could see the possibility of regional facilities in the future. All counties cannot afford to have a jail.

Rep. Nelson was concerned about the lack of public input on this board. Mr. Howard said they want the public input and have provided for public hearings for that, however, he said this is a very specialized area.

Rep. Phillips questioned the fines paid in municipal courts. Mr. Hammermeister said that no municipal courts use the county jails. If the municipal courts are going to use the county jails they should have to pay for the funding of this also.

Rep. Garcia said he had served on the Yellowstone County Jail Project. He said the ACLU has been threatening to come to Montana and now they are coming. He said that the Bozeman jail facility is an abuse of taxpayers money and that jail standards have to be created. In Yellowstone County they worked under the American Corrections Association standards at a cost of \$1.7 million and said that the NIC accepted their project because of the citizen input.

Rep. Jenkins was concerned that the bill said these people have to belong to certain associations. Mr. Howard said they have spent a lot of time and money working on these standards, they want the counties to share in the benefits but from this time on they should also share in the costs. They would not deny them access to anything the Commission might do.

In closing, Rep. Bergene thanked the Committee for their very good questions and for their time and said they would like the best possible bill.

CONSIDERATION OF HOUSE BILL NO. 916: Rep. Kurt Krueger, District #69, concerning choosing a party ballot in a presidential preference primary, is the compromise bill of the session and is a compromise that everyone can accept. The proposed amendment, Exhibit #5, was intended to be part of the bill and was passed out to the Committee members. The new crux of the bill is that the bill will be asking that each qualified voter check the box provided and ask that the bill be made a ballot issue. He said that the bill should be palatable to all concerned.

PROPOSERS: There were no proponents.

OPPOSERS: There were no opponents.

DISCUSSION OF HOUSE BILL NO. 916: Rep. Harbin asked how this would appear on the ballot. Rep. Krueger said it would have an explanation of the language on page 4. This would be implementing a procedure where they would check Republican, Democrat or other candidate if they so desired. Let the people decide if this is truly an open primary. Rep. Phillips said this would be difficult to explain to the public.

Chairman Sales suggested an amendment on page 5, following "by" inserting "publicly", and the same amendment on page 5, line 9. Rep. Krueger had no objections to such an amendment. Rep. O'Connell said that if this bill does not pass the Democrats have no other choice but to caucus. Rep. Cody said there are a lot of people that want to vote in the primary and if this doesn't pass they won't have the opportunity to because there won't be a presidential primary. Rep. Nelson had great concerns that some people will refuse to check a box and in so doing will be refused a ballot. Rep. Krueger said as it is now they are disenfranchising a large number of voters.

The hearing was closed on House Bill 916.

The Committee then went into executive session.

DISPOSITION OF HOUSE BILL NO. 916: Rep. Harbin moved that HB 916 DO PASS AS AMENDED, seconded by Rep. O'Connell. The motion CARRIED with Reps. Sales and Nelson voting "no".

DISPOSITION OF HOUSE BILL NO. 905: The Committee felt that Rep. Nelson had a very good idea - this commission should have public input and that during the question period Rep. Garcia backed up that fact very well.

Rep. Phillips moved that HB 905 DO NOT PASS, seconded by Rep. Garcia. Rep. Fritz said he did not want to support the bill without a fiscal note. Rep. Garcia stated that there are

American Corrections Association standards already and the Montana standards book has not been accepted by anyone. Rep. Garcia made the SUBSTITUTE MOTION TO TABLE. This being a nondebatable motion the motion failed on a 10-8 vote with Reps. Fritz, Harbin, Hayne, Pistoria, Nelson, Peterson, O'Connell and Campbell voting "no".

Rep. Nelson said the idea is good but he was bothered that it came in on the last day before transmittal. He asked if they could get a suspension of the rules and transmit it late. Rep. O'Connell wondered why the Sheriff's Association lobbyist, John Scully wasn't at the hearing also why the Montana Association of Counties or the Sheriff's Association was absent.

Rep. Cody said it had not been put together very well but said it is an issue that is going to have to be addressed somewhere along the line. She said they ought to have at least another two years to work on this. Rep. Fritz stated the local government committee has already authorized regional jails and also private construction of jails.

Rep. Jenkins was concerned that they had to belong to certain associations, however, Rep. Cody explained that it was the associations' money that paid for this three year study and they just wanted them to help pay for the costs from here on out.

Rep. Phillips said that the codes stipulate what the fines will be and wondered if this bill could add a surcharge to those fines. Rep. Peterson suggested that they go back to tabling this bill and suggest to the people involved that they look at the bills that have come out this session.

Rep. Garcia moved a SUBSTITUTE MOTION TO TABLE HB 905, seconded by Rep. Peterson. The motion CARRIED with Rep. Hayne voting "no".

DISPOSITION OF HOUSE BILL NO. 801: Rep. Phillips moved that HB 801 DO PASS, seconded by Rep. Compton. Motion CARRIED with Rep. Harbin voting "no".

DISPOSITION OF HOUSE BILL NO. 893: Rep. O'Connell moved that HB 893 DO PASS, seconded by Rep. Garcia. The motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 814: Rep. Cody explained her amendments to the Committee doing away with creating a women's bureau because the legislature doesn't normally create bureaus. She said this technical assistance, which her amendments provide for, could be handled through the department of commerce but the bill would still maintain the intent of Rep. Moore and it would still remain his bill.

Rep. Campbell said we already have the MBE to help women in business. Rep. Cody said she didn't have really strong feelings concerning this but did think the bill in its original form would create another bureau.

Rep. Peterson said she liked the amendments, however it was the consensus of the Committee to leave the bill on the table.

CONSIDERATION OF HOUSE BILL NO. 878: Rep. William Menahan, District #67, sponsor of the bill, said that the Youth Treatment Facility in Billings is more of a jail than a treatment center, is located on the busiest street in the city and is unfenced at the present time. He said in 1972 they built a "jail" at Warm Springs called a forensic unit and now we are going to have to build a new forensic unit. He termed the Billings Youth Treatment Center a jail rather than a treatment center. It has concrete beds, concrete tables, bare cement walls and there is only one portion of the Center that has movable furniture. He said these children have not committed any crime, they are emotionally disturbed. He told the committee members that the facility also has the means to strap these children to their beds.

He would like to get this bill on the floor of the House and then send it to the Appropriations Committee. He said he was completely shocked when he visited the center and said the Center could be sold to Billings for a jail.

PROPOSERS: Rep. Bud Campbell wished to be on record as a proponent of the bill.

OPPOSERS: Curt Chisholm, Department of Institutions, said he had a difference of opinion than Rep. Menahan. He stated that other members of the subcommittee were disappointed with the appearance of the facility when they visited also. It does give the appearance of a correctional environment with the unpainted concrete walls, the height of the beds meet the height standards of hospitals, there was no carpet in the facility, no murals or graphics on the walls, some of the walls are painted a bright lime green. The plans are to paint the bedrooms and hallways, not only for appearance, but also for better maintenance and cleanliness. The precast furniture will be painted, bedspreads are on order, the lime green paint will be replaced.

He explained the Montana Youth Center Advisory Council and gave the makeup of that Council. He said people from that Council had visited hospitals in Oregon and Napa, California and it will eventually be a pleasant, accommodating and secure environment for these disturbed children.

Because of lack of time, Mr. Chisholm was not able to complete his testimony.

DISCUSSION OF HOUSE BILL NO. 878: Rep. O'Connell asked if the paint was going to cover a "multitude of sins". Mr. Chisholm said it would be for better maintenance and cleanliness mainly. He said they have not had enough money to do a lot of the esthetics things they wish to do. They will take some funds from the maintenance funds to lay some carpet, etc.

Rep. Cody asked why the center at Warm Springs couldn't have been updated rather than building a new one in Billings. Rep. Menahan said it was not accredited with the federal government.

Rep. Garcia said he didn't know anything about the interior of the building but liked the exterior appearance.

Rep. Pistoria asked the price of the building. Rep. Menahan stated it cost \$3 million to build and will cost \$2.5 million to run for the biennium and said it is a Legislative White Elephant.

DISPOSITION OF HOUSE BILL NO. 878: Rep. O'Connell moved that HB 878 DO PASS, seconded by Rep. Campbell.

Rep. Garcia made the SUBSTITUTE MOTION DO NOT PASS, seconded by Rep. Fritz. The motion FAILED with Reps. Fritz, Hayne, Garcia and Harbin voting "yes". The voting order was then reversed for the original motion DO PASS. Motion carried with Reps. Fritz, Hayne, Garcia and Harbin voting "no".

FURTHER DISCUSSION OF HOUSE BILL NO. 572: Chairman Sales asked if anyone would be willing to carry HB 572 on the floor of the House, concerning freezing the salaries of certain elected officials and removing it from the table. Rep. Harbin felt the bill was unfair as it does not address everyone. Rep. Cody moved that HB 572 REMAIN TABLED. The motion carried.

There being no further business, the Committee adjourned at 11:55 a.m.


WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/22/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	✓		
V-Chairman Helen O'Connell	✓		
Campbell, Bud	✓		
Compton, Duane	✓		
Cody, Dorothy	✓		
Fritz, Harry	✓		
Garcia, Rodney	✓		
Hayne, Harriet	✓		
Harbin, Raymond	✓		
Holliday, Gay	✓		
Jenkins, Loren	✓		
Kennerly, Roland	✓		
Moore, Janet			✓
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	✓		
Pistoria, Paul	✓		
Smith, Clyde	✓		

STANDING COMMITTEE REPORT

February 22

85

19.....

SPEAKER

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

having had under consideration Bill No.

916

First

reading copy (**White**)
color

VOTER'S CHOICE OF PRESIDENTIAL PRIMARY BALLOTS; REFERENDUM

HOUSE

Respectfully report as follows: That Bill No.

316

BE AMENDED AS FOLLOWS:

1) Page 4, line 8.

Strike: "request"

Insert: "mark a box provided beside his name on the precinct
register to indicate his party preference for"

2) Page 4, lines 8 and 9.

Strike: "of" on line 8 through "choice" on line 9

Insert: "only"

3) Page 5, line 6.

Following: "by"

Insert: "publicly"

4) Page 5, line 9.

Following: "by"

Insert: "publicly"

AND AS AMENDED

DO-PASS

STANDING COMMITTEE REPORT

February 22

19 35

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 301

First reading copy (White)
color

**ALLOCATING YOUTH COURT COSTS AMONG THE COUNTIES BASED
ON COST EXPERIENCE**

Respectfully report as follows: That HOUSE Bill No. 301

DO PASS

STANDING COMMITTEE REPORT

February 22

1935

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 898

First reading copy (White color)

REDUCE COPIES OF ADMINISTRATIVE RULES TO COUNTIES

Respectfully report as follows: That HOUSE Bill No. 893

DO PASS

STANDING COMMITTEE REPORT

February 22

85

19

SPEAKER

MR.

STATE ADMINISTRATION

We, your committee on

HOUSE

having had under consideration Bill No.

375

First

White

reading copy (.....)
color

REQUIRING THE MONTANA YOUTH TREATMENT BUILDING TO BE SOLD

HOUSE

Respectfully report as follows: That Bill No.

378

DO PASS

STATEMENT OF INTENT

H BILL NO. 905

A statement of intent is needed for this bill because section 4 grants the jail standards commission rulemaking authority. The rules should:

- (1) adopt a procedure for conducting board meetings;
- (2) implement the commission's duties under section 4;
- (3) adopt a procedure for accepting and ruling upon grant applications, including the setting of priorities among grant requests;
- (4) ensure that grant money is properly expended for the purposes of the grant; and
- (5) provide for the choice of an auditor in accordance with section 7.

Ex. #1
HB-801
2/22/81

Mr. Chairman and members of the committee I am Henry Grossman a county commissioner from Chouteau County. I am here to offer my support to HB-801.

There is a lack of uniformity in the laws pertaining to the formula that is used by the district judges in ordering counties to pay their share of the court reporters and juvenile probation officers salaries when two or more counties share the same reporter or officer.

I will use Chouteau County as the example to illustrate this point. Last year we paid a juvenile officer at the rate of \$6724.00 per year to come into our county once a week to take care of our juvenile problems. The district court judge decided this rate based more or less on case load or time spent in our county.

January 1 of this year we were put into a different judicial district and our new district court judge ruling was to "run it by the book" and gave us the order that our share of the juvenile probation officers salary and expenses would be 30% of the total costs of the probation officers. This is based on M.C.A. 41-5-704 that states when two or more counties share the same probation officer each county's share of the officers salary will be based on the valuation of the counties involved and not based on case load as is the case of the court reporter as stated in M.C.A. 3-5-601.

Last year when the court saw fit to charge Chouteau County according to case load or time spent in the county our annual budget was \$6724.00 for the probation officer salary. This year when we were ordered to pay the probation officers salary "by the book" it increased our budget to over \$22,600.00 or \$15,876.00 more than last year. This cost covers the proposed two or three visits the officer will make to our county every month.

I haven't checked with any other county in the state except for Liberty County but I am sure there are others in the same situation as Chouteau County in regards to the costs of the probation officer.

By approving this bill it will assure that all counties will be paying their fair share toward costs of our probation officers and it would put the probation office and court reporters into the same salary formula.

Your consideration and support of HB-801 would be greatly appreciated.

Thank you

Henry I. Grossman

Henry I. Grossman

Chouteau County Commissioner

declared his intention to become a citizen of the United States, with the date of such declaration.

(2) The second book must be labeled "Naturalization—Final Papers" and must have entered in it, in alphabetical order, the name of each person who has been admitted as a citizen of the United States by the court of which he is clerk and, in a separate column opposite each name, the country of which the person was formerly a citizen or subject, the date of his admission, and the page of the minute book or book of record containing the order admitting him as a citizen.

History: En. Sec. 4440, Pol. C. 1895; re-en. Sec. 3048, Rev. C. 1907; re-en. Sec. 4815, R.C.M. 1921; Cal. Pol. C. Sec. 4204; re-en. Sec. 4815, R.C.M. 1935; amd. Sec. 10, Ch. 344, L. 1977; R.C.M. 1947, 16-3001(part); amd. Sec. 19, Ch. 21, L. 1979.

3-5-515. Fees for naturalization. The clerk of the district court shall collect from every person to whom a final certificate of naturalization is issued, at the time the same is issued, all fees authorized by law. All fees must be accounted for and paid to the county treasurer, as provided by 7-4-2511(1), and shall be credited to the general fund of the county.

History: En. Sec. 1, p. 50, L. 1899; re-en. Sec. 3146, Rev. C. 1907; re-en. Sec. 4894, R.C.M. 1921; re-en. Sec. 4894, R.C.M. 1935; amd. Sec. 1, Ch. 73, L. 1967; amd. Sec. 1, Ch. 171, L. 1969; R.C.M. 1947, 25-210.

Part 6

Court Reporters

3-5-601. Appointment — oath. The judge of a district court may appoint a reporter for such court who is an officer of the court and holds his office during the pleasure of the judge appointing him. He must subscribe the constitutional oath of office and file the same with the clerk of the court. In districts where there are two or more judges, each judge may appoint a reporter.

History: Earlier acts were Secs. 1-3, pp. 393, 394, L. 1877; re-en. Secs. 1176-1178, 5th Div. Rev. Stat. 1879; amd. Secs. 1977-1981, 5th Div. Comp. Stat. 1887.

This section en. Sec. 370, C. Civ. Proc. 1895; re-en. Sec. 6373, Rev. C. 1907; re-en. Sec. 8928, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 269; re-en. Sec. 8928, R.C.M. 1935; amd. Sec. 1, Ch. 22, L. 1961; R.C.M. 1947, 93-1901.

3-5-602. Salary and expenses — apportionment. (1) Each reporter is entitled to receive a base annual salary of not less than \$16,000 or more than \$23,000 and no other compensation except as provided in 3-5-604. The salary shall be set by the judge for whom the reporter works. The salary is payable in monthly installments out of the general funds of the counties comprising the district for which the reporter is appointed. Each county shall pay its portion of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts in the district in the preceding year. The judge of the district shall, on January 1 of each year or as soon thereafter as possible, apportion the amount of the salary to be paid by each county in his district on the basis prescribed in this subsection. The salary is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

Cross-References

Preliminary investigation and disposition,
41-5-301.
Dispositional hearing, 41-5-522.

Consent decree with petition, 41-5-524.
Supervision on probation, 46-23-1011.
Arrest when violations of parole alleged,
46-23-1012.

41-5-704. Salary and expenses. (1) A chief probation officer shall receive for his services a salary specified by the court, depending on the formal training and experience of each respective officer, but such salary may be no lower than \$17,000 a year and no higher than \$22,000 a year. In addition to such salary, the court shall, on or before July 1 of each year, adjust and fix the salary of the chief probation officer for a cost-of-living increase by adding to his annual salary on July 1 of that year an increment of 70% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The cost-of-living increment for the fiscal year beginning July 1 of each subsequent fiscal year shall be added to all cost-of-living increments granted for previous years. The salary of such officer shall be apportioned among and paid by each of the counties in which such officer is appointed to act, in proportion to the assessed valuation of such counties for the same year, except where such officer is appointed for one county, such county shall pay the entire salary.

(2) In addition to the compensation provided in subsection (1), each chief probation officer with more than 5 years of service is entitled to receive an annual 1% longevity allowance. Each longevity allowance must be based on the officer's current salary and begins on the officer's annual employment anniversary date. The allowance must be paid in equal monthly installments.

(3) For all authorized travel incident to his official duties in connection with the investigation, supervision, and transportation of youth, the chief probation officer shall, in addition to his office salary, be reimbursed as provided in 2-18-501 through 2-18-503.

History: En. 10-1234 by Sec. 34, Ch. 329, L. 1974; amd. Sec. 1, Ch. 530, L. 1975; R.C.M. 1947, 10-1234(part); amd. Sec. 1, Ch. 605, L. 1979; amd. Sec. 1, Ch. 534, L. 1981; amd. Sec. 1, Ch. 332, L. 1983.

Compiler's Comments

1983 Amendment: At beginning of second sentence of (1), substituted present language for "The court shall, on or before July 1, 1982, and on or before July 1 of each year thereafter, adjust and fix"; in (1) substituted "on July 1 of that year" for "on July 1, 1981" and "beginning July 1 of each subsequent" for "beginning July 1, 1982, and for each subsequent"; inserted (2); in (3) before "probation officer" inserted "chief".

Section 3, Ch. 332, L. 1983, provided: "No retroactive application. This act does not apply retroactively, and no person is entitled to

receive under this act a longevity allowance of more than 1% in any year."

1981 Amendment: Changed, in the first sentence of (1), the method of establishing the compensation of a chief probation officer from either a sum set by the court or a yearly salary set by the judge employing him of not less than \$15,000 or more than \$20,000 to a salary specified by the court of not less than \$17,000 nor more than \$22,000; and added the second and third sentences of (1).

Cross-References

Youth Court Judge, 41-5-201.

41-5-705. Deputy probation officers — salary. (1) The judge having jurisdiction of juvenile matters may also appoint such additional persons, giving preference to persons having the qualifications suggested for appointment as the chief probation officer, to serve as deputy probation officers as

Ex. # 2
HB-905
2/22/85

Montana House of Representatives - Committee on State Administration

HB - 905

Testimony of : J.L. "Pete" Howard in Support of HB-905
 Teton County Sheriff
 P.O. Box 429
 Choteau, Montana 59422
 466-5781

* * * * *

Mr. Chairman, Ladies and Gentlemen of the Committee,

County jails are and have been for a lengthy period of time a local government responsibility. Counties are statutorily required to provide, maintain and operate a jail. The newest statutory law relating to jails is some 35 years or more old. There is no specific definition of what a is, nor are there any definitive statutes of how to operate a jail in our present law. Assumptively then, each county builds and operates its jail as they best see fit. The general duties and responsibilities relative to jails are being interpreted by the courts on a case by case basis. The resultant decisions are then looked upon in successive decisions as "the standard". Montana has no jail standards.

Counties need a procedural vehicle with which to collate the several court decisions and interpret their meaning in the form of "jail standards". With this bill, we, the responsible local government units, are asking for the opportunity to do a better job of accomplishing our present legislatively imposed duty.

A jail standards project was initiated some 8 years ago. This process involved the inquiry into other state and federal programs to learn what was in place and what was expected. During this period I encountered a federal agency, The National Insititute of Corrections. The ensuing introduction to this agency and their programs lead to a grant in the amount of \$37,000 to develop minimum proposed jail standards for Montana. This program was available due to the complete lack of standards in our state and the recognized importance and impact of court decisions relative to local jails. The effort

to develop these minimum standards was initiated in September of 1980 and terminated in December of 1981, a period of 15 months. Those participating were the Montana Sheriff's & Peace Officers Association, The Montana Association of Counties and the Montana County Attorneys Association. The now compiled proposed minimum Montana Jail Standards manual is the result of that effort. There is not at present any means to carry the standards project forward. HB - 905 would provide that mechanism.

There are generally two ways of preparing standards. The first is to narrowly define specific standards which requires a multitude of standards. They usually are strict, narrow in scope, multiple in number and do not provide for alternatives due to their strictness and are difficult to implement. Our approach in Montana was to prepare standards that are general or broad in scope ie: "painted with a broad brush". This method negates the extensive number of standards and instead requires extensive policy and procedure to accompany the standards. The "Standard" then delineates what is expected, and the "policy & procedure" delineates how to accomplish what is expected. This allows for flexibility thru the availability of alternatives.

Standards need to be continually updated as new case law occurs. Each county at present must accomplish this on their own or run the risk of unknowingly violating the most recent court decisions. The fact is, few counties have the legal resources to accomplish this. Standards must be a recognized priority of jail administration and operation. We are created and required to operate under a common law and we need the opportunity uniformly to "know" what we are expected to meet when we are judged by the courts.

Counties have run jails since their creation, without state aid, without state guidance and possibly without much state concern. We need legislative support in the form of passage of HB - 905 to allow us to meet the ever increasing expectations of an expanding judicial / societal concern.


You will note that no one is beating down our doors to assume a posture of financial support or assistance in dealing with jails. No one is offering to assume any of the legal liability now imposed on counties. Likely, there are those that would like bureaucratic supervisory control without assuming financial responsibility or legal liability. This would be an absolute unacceptable circumstance. In my opinion, the concept of non-participat

in these two areas further lends to the need and credability of this bill. I would argue with the theory of "the fox is watching the hen-house" ie: we build and operate our jails and would now write our own standards and rules. My argument is, what have we been doing for the past almost 100 years, if not exactly that. This proposal is needed legislation to formalize it and do it better.

HB - 905 is intended to provide local government with an "informational clearinghouse" setting to deal with jail related issues. The bill would centralize information and standardize jails in the areas of construction and operations. The standards that would occur would not be mandatory. The funding for this proposal is new revenue and is proper in that it would be a surtax on the criminal element, not the public. Let the inmates pay their own way for a change.

This approach to jails problems, the establishment of a Jail Standards Commission, will provide each jail the opportunity to continue to function, while planning for their needs in a time frame within which they can meet standards based on their recognized need. The concept of this bill provides the necessary flexibility to encourage jail needs recognition and the accompanying addressing of those needs.

Your SUPPORT of this bill is sincerely solicited.

Thank You,


J.L. "Pete" Howard, Sheriff
Teton County

Ex. #3
HB-905
2/22/85

Montana House of Representatives - Committee on State Administration

HB - 905

Suggested Amendments to HB - 905

Submitted by J.L. "Pete" Howard
Teton County Sheriff

Section 1. Para (3), Sub Para (a) - Amend to read as follows:

five persons who are peace officers appointed in consultation with the Montana Sheriff's and Peace Officer's Association and are members of that Association;

Section 1. Para (3), Sub Para (b) - Amend to read as follows:

two persons who are County Attorneys appointed in consultation with the Montana County Attorney's Association and are members of that Association;

Section 1. Para (3), Sub Para (c) - Amend to read as follows:

two persons who are County Commissioners appointed in consultation with the Montana Association of Counties or other similarly recognized Association of Counties in Montana and are members of such an Association.

Section 1. Para (4) Amend to read as follows by removing all reference to male gender:

Members shall serve staggered terms of 4 years. A member may serve on the commission during their appointed term as long as that person remains a member of the association from which they were selected. A vacancy on the commission must be filled for the unexpired term by appointment by the Governor as provided in this section.

Section 4. Para (1), Sub Para (F) - Amend to read as follows:

conduct of correctional officers

Section 5. Amend to read as follows by deletion of the words or municipal:

Nature of Standards. Standards established by the jail standards commission as provided in (section 4) are nonmandatory guidelines for any county jail operated in the state.

Section 8. Para (2) - Amend to read as follows:

The Governor shall appoint three persons who are Peace Officers, one person who is a County Attorney, and one person who is a County Commissioner to serve 4-year terms. The Governor shall

sv5z

Ex. #4
HB-905
2/22/85

HOUSE BILL #905

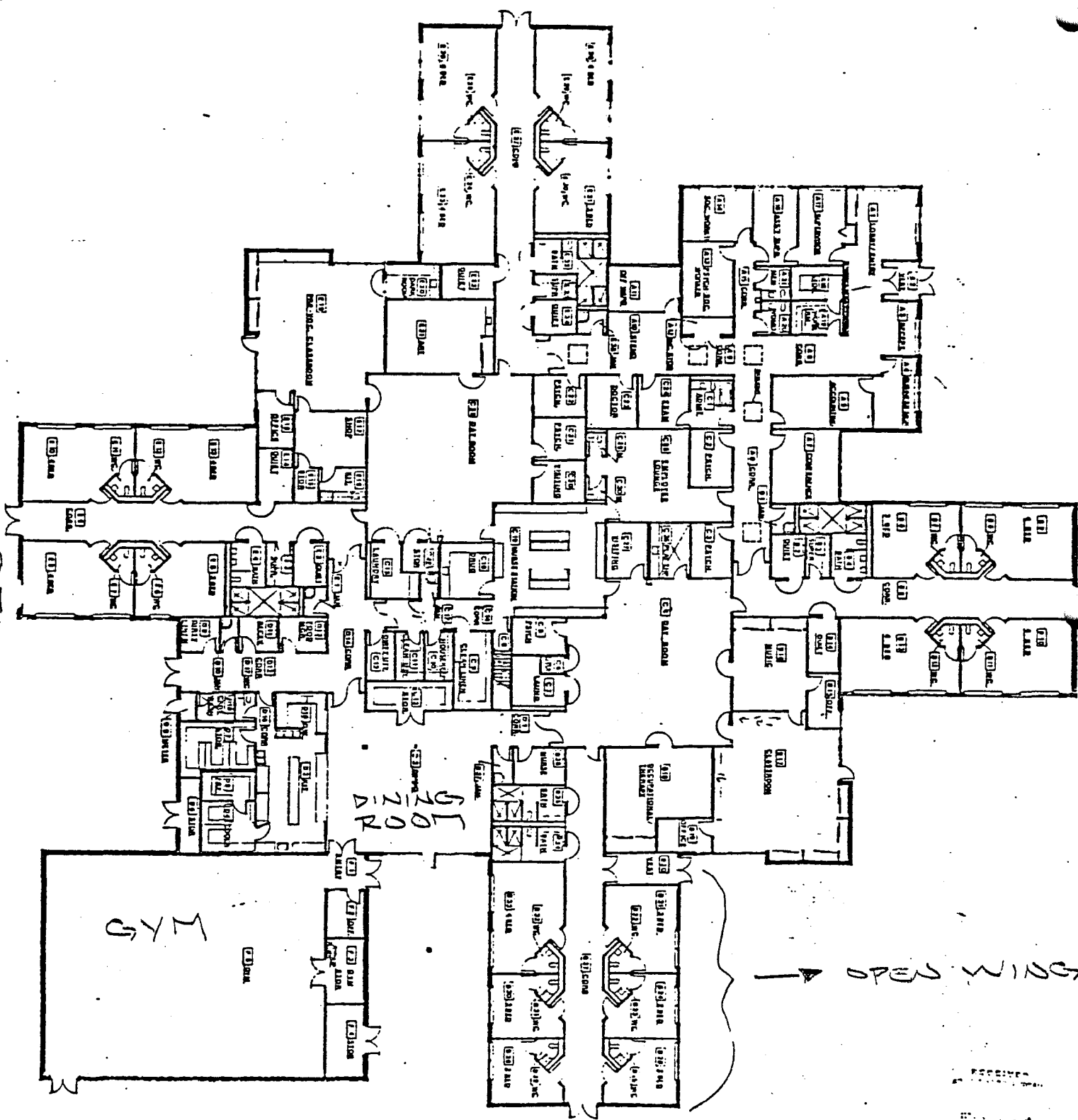
Introduced Bill

Page 5, Lines 4 through 7

Strike section 7 in its entirety

Insert:

"Section 7. Audit. The commission's finances shall be audited by or at the direction of the Legislative Auditor. The commission shall pay the actual cost of the audit."



DRAWN BY CHECKED BY DATE 1952	PROJECT TITLE CHILDREN'S TREATMENT UNIT - MT. AS 75-22-01	HARRISON G. FAGG & ASSOCIATES 303 GRANITE TOWER BUILDING MONTANA 59101 TELEPHONE AREA CODE 406-248-7511	THE GENERAL CONTRACTOR AND THE ARCHITECT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE BUILDING AND THE CONTENTS OF THE SAME. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE BUILDING AND THE CONTENTS OF THE SAME. THE ARCHITECT SHALL BE RESPONSIBLE FOR THE PROTECTION OF THE BUILDING AND THE CONTENTS OF THE SAME.
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VISITORS' REGISTER

COMMITTEE

BILL NO. _____

DATE _____

SPONSOR _____

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Virginia Kenyon	Helena		
Henry Grossman	Chouteau Co Comm.	HB 801	
BERNICE GROSSMAN	SHONKIN MT.	HB 801	
A. Morris	MACO	HB 801	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Ex. # 5
HB-916
2/22/85

Proposed Amendment to House Bill No. 916

1. Page 4, lines 8 and 9.
Following: "shall" on line 8
Strike: "request"
Insert: "mark a box provided beside his name on the precinct
register to indicate his party preference for"
Following: "ballot" on line 8
Strike: "of the party of his choice"
Insert: "only"

1 HOUSE BILL NO. 814

2 INTRODUCED BY JACK MOORE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~TO--CREATE--A--WOMEN'S~~
5 ~~BUREAU--WITHIN~~ REQUIRING THE DEPARTMENT OF COMMERCE TO SERVE
6 AS AN ADVOCATE FOR AND A PROVIDE TECHNICAL CONSULTANT
7 ASSISTANCE TO WOMEN IN THE AREA OF BUSINESS DEVELOPMENT; AND
8 PROVIDING AN EFFECTIVE DATE."
9


10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 ~~Section-1.--Women's--bureau.--There-is-a-women's-bureau~~
12 ~~within-the-department-of-commerce-to-aid-women-in--the--area~~
13 ~~of-business-development-as-provided-in-{section-2}.~~

14 Section 1. ~~Functions--of--women's--bureau:~~ SERVICES TO
15 WOMEN IN AREA OF BUSINESS DEVELOPMENT. The ~~women's--bureau~~
16 ~~created-in-{section-1}~~ DEPARTMENT OF COMMERCE shall serve as
17 an advocate FOR and PROVIDE technical ~~consultant~~ ASSISTANCE
18 to women in the area of business development. The ~~bureau's~~
19 DEPARTMENT'S duties include but are not limited to:

20 (1) encouraging women to commence or expand their
21 business operations by providing basic assistance in the
22 areas of business finance, governmental regulations and
23 licensing, recordkeeping, personnel management, taxation,
24 and product marketing;

25 (2) coordinating with other professional staff in the



1 department of commerce, including the technical areas of
2 development finance, production management, government
3 procurement contracts, and international trade;

4 (3) coordinating business development activities with
5 the department of labor AND INDUSTRY, the department of
6 social and rehabilitation services, and the Montana
7 university system;

8 (4) examining federal business assistance programs
9 applicable to this program;

10 (5) developing and maintaining statistics on
11 women-owned businesses; and

12 (6) encouraging the business community to implement
13 employer-sponsored child care programs through information
14 dissemination, workshops, and individual counseling with
15 businesses.

16 Section 2. Effective date. This act is effective July
17 1, 1985.

-End-