

MONTANA STATE SENATE  
JUDICIARY COMMITTEE  
MINUTES OF THE MEETING

March 13, 1985

The forty-eighth meeting of the Senate Judiciary Committee was called to order at 10:06 a.m. on March 13, 1985, by Chairman Joe Mazurek in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 801: Representative Loren Jenkins, sponsor of the bill, testified the effect of this bill is they will be paid in each county according to its case load. He is from a three county judicial district. By valuation, the two counties, instead of paying by case load, are paying an unequal proportion. They only ask that they pay for what work is allocated to their counties.

PROPOSERS: Henry Gossman, Choteau County Commissioner, presented written testimony to the committee (Exhibit 1). Beverly Gibson, representing the Montana Association of Counties, testified in support of the bill stating it is basically a housekeeping measure. They are asking that the language be made similar to that of court reporters.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Mazurek questioned the effective date. He stated this would require the counties to go back for this year and allocate these costs different than they have done up to this point for 1985. Mr. Jenkins stated the application will go into effect this year, but the judge will forward it to the county commissions for their budget year 1986. It will not change the counties' budget in 1985, but it gives them a chance to start their groundwork in 1985 so the judge can send it to the commissioners for the 1986 budget. Senator Mazurek asked if it were their intention to make it apply to this year. Mr. Jenkins replied yes. Mr. Gibson stated for the next fiscal year, 1986, the counties set their budget in July and adopt it in August. They base it on calendar years 1984 and 1985. Senator Mazurek asked if the effective date shouldn't be July 1, 1986. Senator Towe commented it didn't have that impact. Senator Mazurek questioned whether case load accurately determined work load. Mr. Gibson replied generally that would be a rule of thumb similar to the court reporters' case load. Senator Pineseault commented the youth court judge and the district judge are one and the same. He asked if the youth court were to make that determination. Some of your probation officers work for the

Senate Judiciary Committee  
Minutes of the Meeting  
March 13, 1985  
Page 2

Department of Institutions. Senator Mazurek stated they are hired by the district judge. Senator Pinsoneault asked if there were someone else, because the district judges are pretty busy. Senator Towe asked if they intended this bill to be operative for calendar year 1985. Mr. Jenkins replied this bill will go into effect on its passage, but it will go into effect on the county commissioners' level for calendar year 1986.

CLOSING STATEMENT: Representative Jenkins said this bill, if passed, will allow the outlying counties a little better work load of the probation officer, who will be a little more responsible and will have to go into those counties more often to get his case load into proportion with his counties. Under our current system, if he only comes once a month, he is paid the same.

Hearing on HB 801 was closed.

CONSIDERATION OF HB 340: Representative Jack Ramirez, sponsor of HB 340, testified this is an act to generally revise the law regarding disposition of abandoned property in a landlord situation. Some of these things appear to be amendments, but they are just rearranging the current law. In this bill we will now have a specific period of time for the landlord to determine when the property has been abandoned. The landlord must now inventory and store the goods. This bill clarifies the law and the definition of reasonable storage costs. Page 4, lines 15-16, gives you an alternative to do it under the UCC provisions or a sheriff's sale. You can apply the proceeds to any delinquent rent. It is being done right now, but this clarifies it.

PROPOSERS: Jim Kennedy, Representative of the Montana Landlords Association, presented written testimony to the committee (Exhibit 2).

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Pinsoneault asked Representative Ramirez if he saw any problem on the top of page 4 as to whether there would be any problem with the tenant's paying for the storage costs if the tenant removes the property. Representative Ramirez replied that was an oversight.

CLOSING STATEMENT: None.

Hearing on HB 340 was closed.

CONSIDERATION OF HB 790: Representative Jack Ramirez, sponsor of the bill, stated this bill was designed to clarify some decisions by the

Montana Supreme Court. The bank cannot get prejudgment attachment against a guarantor in a guaranty contract situation because it is a conditional contract. The banks have gone to surety contracts. The guarantors are on that debt just as if they are a principal debtor. The bank can now protect itself. But the debtor prefers the other situation so the bank has to go against the principal obligor first before going to the guarantor. This would allow us to go back to the arrangement which the guarantor thinks he is getting when he guarantees a loan.

PROPOSERS: None.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe commented the case to which Representative Ramirez referred was his case, and he lost it.

CLOSING STATEMENT: None.

Hearing on HB 790 was closed.

CONSIDERATION OF HB 808: Representative Jack Ramirez, sponsor of the bill, testified this is a bill to clarify the law in the situation where we really do not have any law on contracts for deed and how they can be enforced. Contracts themselves contain provisions as to how they can be enforced. The court has not always treated those in accordance with the language. This copies from the Arizona law the provisions for how to foreclose or forfeit a contract for deed. This doesn't apply to a contract whose primary purpose is to secure the lending of money. If you want to accelerate the full balance due on a contract for deed, then you can only foreclose that as a mortgage, but if you don't accelerate future payments but you forfeit any payments as rent, then this provides for that to be enforced according to the terms of the bill. The length of notice varies with the amount that has been paid on the purchase price. This does not apply to large contracts in excess of \$500,000 where they can fix their own terms. If a seller wants to forfeit, if he has not been paid, he must record a notice of election to forfeit. He must serve by certified mail a notice on the purchaser, on anyone with a security interest or lien or encumbrance, or anyone with a record notice at the courthouse. Within these periods of time, the purchaser can reinstate. If he doesn't do that, then the seller can record an affidavit that he has completed the forfeiture. If you accelerate the balance and want to be paid in full, then you can only foreclose as a mortgage.

PROPOSERS: Bill Spilker, a licensed real estate broker in Helena, appeared on his own behalf and testified he believes he is in favor of this bill but has some questions. He thinks there is a need to clarify

some procedures for foreclosing contracts. Page 2, line 13--he is concerned about lawyers being authorized to be escrows. With escrows you want someone with some continuity. Lawyers tend to change offices. The accountability might not be the same as with an institution. There might be a conflict of interest for an attorney to hold papers where he has drawn papers for either the buyer or the seller. Page 4, section 3, dealing with contracts where we waive the time is of the essence--This bill should generally help escrow agents such as banks. Line 24 says if the escrow accepts payment, that does not have to be considered payment, but if they apply that to the seller's account, does that mean he has accepted partial payment? He also questioned the provision with respect to the time period. When you get 50% or more, you are giving an automatic grace period of 180 days. He believes that is in excess of anything under the present laws. Page 9, section 5--Looks like when you publish a notice, anyone can come in and bring the contract current. Does that mean you are automatically in a contract situation with that person? He asked if you went through where you accelerate the principal and foreclose it as an entire balance, is there any reason the contract couldn't be foreclosed under the trust indenture law if you are talking about 15 acres or less whereby the seller could escape the right of redemption and give up his deficiency rights. He believes this bill will make it easier for escrow agencies and it will strengthen the position of title companies in doing searches.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Representative Ramirez to respond to Mr. Spilker's comment at attorneys being escrow agents. Representative Ramirez replied he had no strong feelings about that, but he does believe there are times when attorneys do serve as the holders of contracts on a short-term or temporary basis. As far as a conflict of interest, the law firms shouldn't be doing it. Both parties agree to do that in these contracts. He didn't see any problem one way or the other with it. Senator Towe commented he is nervous about the entire bill. He asked if it were their intent to cut through the existing contracts for deed and say you can't foreclose unless you follow these procedures. Representative Ramirez replied it is trying to clarify a vague area of the law. It says you can foreclose or you can accelerate, but it doesn't say what procedure you follow to accelerate the payment. There is some uncertainty. The courts have not been clear about that or when you can actually forfeit. Senator Towe asked if this were to only cover those situations that were not specifically covered in writing by the parties. Representative Ramirez replied no. Senator Towe stated page 4, line 19, causes problems. The word "waiver" suggests if the seller has accepted money due, he can no longer insist on the total amount due. Representative Ramirez pointed out there is a

time is of the essence provision and it applies to every payment. Senator Towe commented he feels you are going to raise more questions with this proposal than exist at the present time, especially for those persons with existing contracts who will try to foreclose on a contract and find out they haven't done so and then in 20 years will run into problems. Representative Ramirez responded it has worked well in Arizona. If you have concerns about existing contracts, carve them out and make it apply only to new ones. There is uncertainty in the present law. The courts just don't take them according to their terms. Senator Mazurek asked about foreclosure only as a mortgage rather than a non-judicial foreclosure. Representative Ramirez stated if you want to do this as a trust indenture, he believes that creates some problems. Those are all policy decisions.

CLOSING STATEMENT: Representative Ramirez addressed the issue about partial payment--whether it is accepted by the bank or the seller. If a payment were in escrow, he thinks it is acceptance by the seller and not the escrow agent. Whether 180 days is too long is a policy decision. If a third party brings a contract current, it would not make him a party, as you don't have a contractual relationship with him.

Hearing on HB 808 was closed.

CONSIDERATION OF HB 365: Representative Bud Campbell, sponsor of HB 365, presented written testimony in support of the bill (Exhibit 3).

PROPOSERS: Larry Majerus, Administrator of the Motor Vehicle Division of the Department of Justice, testified the system has already been automated. There are adequate safeguards in addition to monitoring this. The present statute just confuses people when they read it because they think we are on a manual system.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: None.

Hearing on HB 365 was closed.

ACTION ON HB 365: Senator Pinsoneault moved HB 365 be recommended BE CONCURRED IN. The motion carried unanimously.

ACTION ON HB 790: Senator Towe moved HB 790 be recommended BE CONCURRED IN. The motion carried unanimously.

ACTION ON HB 726: Senator Pinsoneault moved HB 726 be recommended BE NOT CONCURRED IN. He believed it was a knee-jerk reaction. Senator Brown stated one thing we should take into consideration about this penalty is it falls more on some people than on others. If someone needs the vehicle to get to and from work, it is more harsh than for others. The guy who needs his car to get to work will be driving more and represents more of a threat to the public. Senator Daniels stated there is unfairness in the bill just because you refuse to take the breath test. Senator Crippen stated we are trying to prevent the carnage on our highways because of drunk drivers. If it is unfair, it is unfair to the public to allow these people to drive. It may be tough if they can't drive, but that person will think twice before he will get picked up. It may be a real big inconvenience, but the law must apply to everybody across the board or it will not apply at all. The motion carried (see roll call vote attached as Exhibit 4).

CONSIDERATION OF HB 371: Representative Bruce Simon, sponsor of the bill, stated this is a repealer of one paragraph in the code that deals with tires, tubes, and casings mounted on a vehicle. They then become subject to any mortgage or sales contract on the vehicle. As soon as those tires are mounted on the vehicle, the tire dealer has no recourse. This will allow him to file a lien on that vehicle. The tire dealer has no recourse if the vehicle is repossessed. Montana is the only state in the nation to have this section of law.

PROPOSERS: George Allen, Executive Vice President, Montana Retail Association, presented written testimony in support of the bill (Exhibit 5). Bob Bakke, of Bakke Tire Service in Missoula, testified when they put tires on a truck, they improve the vehicle's value considerably. Should a bank decide to repossess the truck, they cannot compensate themselves. Jerry Noble, representing Jerry Noble Tires in Great Falls, Cut Bank, and Bozeman, stated this problem has cost them \$20,000-30,000 every year. They are only asking that they will be able, like anyone else, to file some sort of security arrangement on a large purchase. They are not concerned with pickups or cars. He has never gotten one dollar when the bank repossessed a vehicle. Tom Sherry, of Sherry Tire in Missoula, related an incident in which they lost money in this fashion.

OPPOSERS: George Bennett, representing the Montana Bankers Association, testified in opposition to the bill (see witness sheet attached as Exhibit 6). He stated this bill shows the need for SJR 31. What you are being asked to do is change a law that has existed since 1943 that makes sense. Montana is unique. The liens filed against them are filed with the Registrar of Motor Vehicles; they appear on the title; and the title travels with the vehicle. Anyone can see it. The tire dealer can file a lien against that vehicle, so he is covered. Tires are a poor source of collateral. We are not just talking about the large expense

of tires. You are talking just about big rigs. Tire dealers can look to the large dealers and ask for a guaranty of payment. If you pass this law: (1) Tire liens will then be filed with the Secretary of State for commercial vehicles or with the county for consumer or farm vehicles. (2) The problem with repossessions. A motor vehicle cannot be moved without tires. (3) Tires are retread. What happens if you have one lien on the casing and one on the retread? The law that has been on the books since 1943 recognizes those problems. Hal Stearns, speaking for Norwest Bank and for Steve Browning of First Bank, testified a person buying a vehicle assumes he will get clear title to the vehicle. To the banks it seems serious difficulties will be encountered for banks and borrowers alike. The only way of knowing of the lien is knowing if they are recorded with the title. It will be difficult to determine where they are recorded. John Cadby, representing the Montana Bankers Association, testified tire dealers feel they don't have any protection. They can impose a garageman's lien or possessory lien and can retain them until they receive payment. He urged tabling of the bill and passage of SJR 31.

QUESTIONS FROM THE COMMITTEE: Senator Crippen addressed Mr. Bennett and stated a farm implement dealer who supplies a cattle rack has a lien that can be enforced. He asked what the distinction was between that and a set of tires. Mr. Bennett replied the 1943 statute that makes them an integral part of the vehicle. If you are getting into component parts, that would be covered under the UCC provisions. When you are talking about components that are not an integral part of a motor vehicle, you are talking about something else. You cannot move a vehicle without tires. Senator Crippen stated he has a hard time distinguishing between an integral part here and one there. Mr. Bennett replied the bed of a truck could be removed without rendering the motor vehicle inoperable. You are reducing the value of the collateral by the value of the tires if you change the law. Senator Crippen asked if a bank would loan more on a rig if it had new tires than if it didn't. Mr. Bennett responded yes. Senator Crippen stated if the bank lends more, it is doing so because it has new tires. It enhanced its ability to loan more on the vehicle. Mr. Bennett replied it also has to do with the place of filing and the need of ascertaining a claim. The tire dealer should consider the credit worthiness of the individual and maybe should not make the sale on credit. Senator Crippen asked if the tire dealer could go to the bank and check up on that purchaser to find out his credit. Mr. Bennett did not know, but he understood banks are leary about giving out financial information. He stated with this bill, you will have three places to see if someone has liens. Senator Mazurek asked if this statute were unique to Montana, how did other states deal with this and did they have multiple filings? Mr. Bennett stated most states simply use the UCC or variations thereon with perhaps some

central filing. Senator Towe pointed out the UCC does provide that for a subsequent purchaser for value, there is no lien even if you do have a perfected lien unless he makes advances.

CLOSING STATEMENT: Representative Simon stated this bill is a repealer of a particular section of Montana law. It deals with tires, tubes, and casings as part of a motor vehicle. It is unique. All other parts are off in a different area. We have singled out only tires, tubes, and casings. This isn't very fair. A tire dealer puts tires on a truck, and he has no recourse. When the bank repossessed the truck and it came time to resell it, they talked about the new tires on the truck and they used that as part of the vehicle for selling it. All this bill will do is place the tire dealers on an equal footing with everybody else. They are not asking for special treatment.

Hearing on HB 371 was closed.

CONSIDERATION OF HB 425: Representative Gary Spaeth, sponsor of the bill, testified this bill changes the treatment in classification of handling delinquent taxes of leasehold improvements. Leasehold property should be treated for collection purposes in that 30-day period because it is much more mobile.

PROPOSERS: Charles Graveley testified on behalf of the Montana County Assessors and Treasurers. When you have taxes going delinquent on leasehold improvements, you must wait three years before that property can be sold. In many instances, those taxes cannot be collected because the property is no longer available to levy upon. What we are talking about is property owned by one person located on property owned by another person. The collection procedure would be identical to that which currently exists for collection on personal property. This bill also clarifies the fact the lien becomes a lien upon all other personal property owned by that taxpayer.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Towe stated the Taxation Committee had a bill that dealt with the definition of leasehold improvements which says it is not being used in any section except where it modifies mobile homes. We are stating that leasehold improvements are being taxed, and we are taxing something that has not been taxed before. Mr. Graveley stated the Department of Revenue taxes them. Senator Towe said the owner of the real property is not responsible for those taxes if they are leasehold improvements. Leasehold improvements is not in the tax classification code at the present time. Mr. Graveley stated leasehold improvements does not appear in the code. It is their intention that it be made a separate tax. It is not taxing anything that has



not previously been taxed. Senator Crippen stated page 2, lines 19-22, states that if the county treasurer can't find the personal property, he can collect on all of the other personal property. Mr. Graveley stated if the property is no longer in existence and you can't find it, this gives authority to the treasurer to levy upon other property owned by the taxpayer. That is not an extension of what they can do right now. Senator Towe referred to Section 15-6-402, MCA. He stated if you have personal property and there is a lien against the personal property, the taxes levy against it. If that is insufficient, it becomes a lien against all other real property as of January 1 of each year. Senator Towe commented it looks like you are separating leasehold improvements from real property, which has not previously been done except as it relates to mobile homes. You are also putting a lien on other personal property that has not otherwise been done. He has some problems with how the personal property owner relates to the real property owner. Mr. Graveley stated he would like to have Greg Groepper from the Property Assessment Division of the Department of Revenue present to answer the committee's questions.

CLOSING STATEMENT: Representative Spaeth stated this is a complex bill in its application. The main application is to mobile homes. It does not have broad application. We all too often do not do a very good job of collecting taxes on mobile homes. This is a way of helping collect taxes on mobile homes.

Hearing on HB 425 was closed.

CONSIDERATION OF SJR 31: Senator Chris Christiaens, sponsor of the resolution, testified this resolution is requesting an interim study of the lien filings in the state of Montana. There is confusion in the extension of filing dates, the agisters' liens, and others. We need to take a look at where we are going in conjunction with everything else.

PROPOSERS: George Bennett, representing the Montana Bankers Association, testified in support of SJR 31 (see witness sheet attached as Exhibit 7). He thinks it is time the legislature study the lien laws. There are different priorities, different filing places. Our lien codes came from the Field code. To that other things have been added piecemeal. This is the time to look at those laws, especially with agricultural credit the way it is. He also questioned whether first in time should be first in right. Jo Brunner, representing the Montana Cattlefeeders, the Montana Grange Association, and the Montana Cattlemen's Association, presented written testimony in support of the resolution (Exhibit 8). Riley Johnson, representing the Montana Homebuilders Association, stated they said they would get together as an industry on SB 128. This bill would work well with that effort. Don Ingals, representing the Montana Chamber of Commerce, supported the resolution. Irv Dellinger, Executive

Secretary of the Montana Building Materials Association, reiterated his statements on SB 128 that they wanted a study. George Allen, representing the Montana Retail Association, testified they are not sure they are supporting or opposing this, they just hope it is not used as a vehicle to postpone other things before the committee.

ADDITIONAL TESTIMONY: Leanne Schraudner, representing the Montana Agricultural Association, also was unsure if they were an opponent or proponent. She stated HB 712 will be heard in this committee next Monday. They are not opposed to studying the liens and recognize the problems, but they caution this committee that the fertilizer dealers have never had a lien. They would join with this committee in studying liens, but they want consideration given to HB 712. In two years, many small agricultural dealers may be out of business. Large dealers can sustain the losses. She asked that the committee not use this as a vehicle to kill other bills. Larry Johnson, a farmer from Kremlin, testified he is not opposed to the joint resolution, but they have worked hard on HB 712 and do not want to see this used as a vehicle to derail that. Jerry Sullivan, of Agri-Basics Company, stated they are neither for nor against the bill, they just want to be sure it doesn't jeopardize HB 712. Tom Peterson, of Shields Valley Grain in Clyde Park, testified he thinks the resolution is excellent, but they are also in favor of the other bill that puts them in a position with more equal footing. Allen Broyles, of Simplot Soilbuilders, thought the resolution was good but also wanted HB 712.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

CLOSING STATEMENT: Senator Christiaens stated he would hope this resolution is handled on its own merits. It was not his intention that this study resolution preempt any other study resolution or other legislation.

Hearing on SJR 31 was closed.

ACTION ON SJR 31: Senator Blaylock moved SJR 31 be recommended DO PASS. The motion carried unanimously.

FURTHER CONSIDERATION OF HB 425: Due to the consensus of the committee, Chairman Mazurek stated he would move on order of business No. 6 that HB 425 be rereferred to the Taxation Committee.

FURTHER CONSIDERATION OF HB 808: Senator Towe suggested amending HB 808 so it does not affect any written contract but only affects those

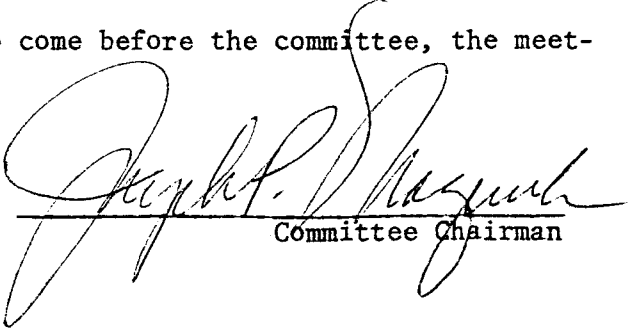
situations where there is no provision in an existing contract. Senator Pinsoneault suggested this bill be given to an interim committee.

FURTHER CONSIDERATION OF HB 44: Proposed amendments were distributed to the committee (Exhibit 9). Senator Mazurek stated these amendments require if the person is financially able to do it. He also suggested changing "shall" on page 2, line 10, to "may." Senator Towe suggested looking at reasonable attorneys' fees.

ACTION ON HB 300: Senator Pinsoneault stated this bill created a statute of limitations for these type of offenses for five years instead of three. Mr. Petesch explained what it does is treat these sex offenses as if they were felonies when they may not have been. Senator Pinsoneault moved HB 300 be recommended BE CONCURRED IN. Senator Daniels questioned why they were extending the statute of limitations. If we don't try them almost immediately, the kid shouldn't have to live through it again later. Senator Towe pointed out proof is a problem in sex offenses in any event. Senator Pinsoneault stated it is a concern for family type violations. It simply expands the scope of the statute for those type of offenses. The motion carried with Senator Daniels voting in opposition.

FURTHER CONSIDERATION OF HB 371: Senator Towe stated this bill is probably okay because all of the protection they need is in the UCC. If a subsequent purchaser for value comes along and buys whatever it is, they get the whole property regardless of any lien. If a bank lends new money, it doesn't matter whether they knew of the lien or not; they have full protection on the vehicle. He felt Mr. Petesch should check into that. He felt the full protection was already there, and we can repeal this section without any problem.

There being no further business to come before the committee, the meeting was adjourned at 12:20 p.m.

  
Committee Chairman

ROLL CALL

SENATE JUDICIARY

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 03/385

| NAME  | PRESENT | ABSENT | EXCUSED |
|---|---------|--------|---------|
| Senator Chet Blaylock                           | X       |        |         |
| Senator Bob Brown                               | X       |        |         |
| Senator Bruce D. Crippen                        | X       |        |         |
| Senator Jack Galt                               | X       |        |         |
| Senator R. J. "Dick" Pinsoneault                | X       |        |         |
| Senator James Shaw                              | X       |        |         |
| Senator Thomas E. Towe                          | X       |        |         |
| Senator William P. Yellowtail, Jr.              | X       |        |         |
| Vice Chairman<br>Senator M. K. "Kermit" Daniels | X       |        |         |
| Chairman<br>Senator Joe Mazurek                 | X       |        |         |
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DATE

March 13, 1985

COMMITTEE ON

Judiciary

BILL NO. SJR 31

J

HB 340, 365, 371, 425, 790, 801, 808

## VISITOR'S REGISTER

| NAME              | REPRESENTING                    | Check One         |          |
|-------------------|---------------------------------|-------------------|----------|
|                   |                                 | Support           | Oppose   |
| George Allen      | Mr. R. Paul D. Allen            | HB 371            |          |
| Tom Sherry        | Tom Sherry Tire Miranda         | HB 371            |          |
| Robert Babko      | Balch Tire, Mich.               | HB 371            |          |
| Joe Sherry        | Tom Sherry Tire, Miranda        | HB 371            |          |
| Henry Grossman    | Chautauq Co. Commissioner       | HB 801            |          |
| Gerry Noble       | Gerry Noble from GTFalls, Boz.  | HB 371            |          |
| Burt K. Lowman    |                                 | HB 801            |          |
| George T. Bonnett | MCMT. BKRS ASSN                 | #                 | HB 371   |
| Jim Kennedy       | MT LANDLORDS ASSOC              | HB 340            |          |
| Ch. Brunner       | WIFE                            | SJR 31            |          |
| Charles Gracich   | Co. Treas & Co. Attorney        | 425               |          |
| Beverly Gibson    | HACO                            | 801               |          |
| Don S. H. Hagen   | Mont Bldg Material Dealer Assn. | SJR 31            |          |
| Henry Schumacher  | MT Agt Pres. Assn. SSR 31       | <del>SJR 31</del> | ?        |
| Harold Johnson    | Ag. Wiser                       |                   | ✓?       |
| Jerry Sullivan    | CON AGRO SSR 31                 |                   | ✓?       |
| Marcella Owsa     | Montana Ag. Res. Assn.          |                   | SJR 31 ? |
| Aelen Broyles     | Jan Employee<br>Simpler. Lumber |                   | SJR 31 ? |
| Mary Jo Ilhinen   | LENS                            |                   |          |
| My D. Cunningham  | Hrs. Lem Comm. Elavator Int     |                   |          |
| Tom Peterson      | Shields Valley Crane Inc.       | SJR 31            |          |
| Larry Mapine      | Dept of Justice                 | HB 365            |          |
| Perry Johnson     | Mont. Home Builders Ass'n       | SJR 31            |          |
| Ken Neill         | Con Assoc                       |                   | SJR 31   |
| Don Angelo        | MT. Chapter of Commerce         | SJR 31            |          |
| Julie Ballodis    | Mont PIRG                       | HB 340            |          |

(Please leave prepared statement with Secretary)

COMMITTEE ON \_\_\_\_\_

[illegible]

(Please leave prepared statement with Secretariat)

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

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1

DATE 031385

BILL NO. HB 801

# MONTANA LANDLORD'S ASSOCIATION, INC.

312 MOORE LANE  
BILLINGS, MONTANA 59101

TO: SENATE JUDICIARY COMMITTEE:

SUBJECT: HB 340

Mr. Chairman, Members of the Committee:

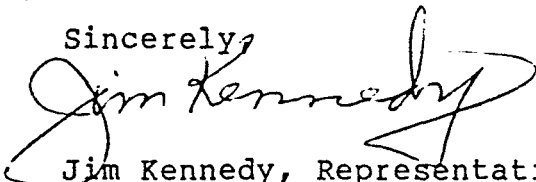
I am Jim Kennedy, representing the Montana Landlords Association.

The Montana Association of Landlords support this bill, because it addresses a problem landlords have in dealing with tenants abandoned property.

The proposed legislation will clarify existing law on how we should handle this property. It will give tenants and landlords guidelines on which were omitted in the previous legislation.

Again, we support passage of this bill and ask for your support in approving it.

Sincerely,



Jim Kennedy, Representative  
Montana Landlords Association

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 03/28/85

BILL NO. HB 340



HOUSE BILL 365

"AN ACT CHANGING THE METHOD OF MAKING AND KEEPING REPORTS OF STOLEN AND RECOVERED VEHICLES; AMENDING SECTION 61-3-106, MCA."

Currently, ~~Montana law~~, section 61-3-106, requires that written reports of stolen vehicles be made to the Motor Vehicle Division. Each month the division is required to provide a list of stolen or recovered vehicles to Montana law enforcement agencies and proper officials of each state.

This practice was discontinued in favor of an electronic system in 1976. <sup>one of the reasons -</sup> The Law Enforcement Network System (LENS) was created <sup>to</sup> ~~is~~ control the information on stolen and recovered vehicles, allowing access to this information by all law enforcement agencies and other states. These agencies enter each theft and recovery of a stolen vehicle directly from their offices. LENS is an agency of the Department of Justice.

This bill clarifies the statutory procedure and responsibility for the automated stolen vehicle file.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE 03/385

BILL NO. HB 365

(Type in committee name, committee members, secretary and chairman. Have at least 50 printed to start.)

ROLL CALL VOTE

SENATE COMMITTEE JUDICIARY

Date 03/385 House Bill No. 726 Time 11:10

| NAME                               | YES | NO |
|------------------------------------|-----|----|
|                                    |     |    |
| Senator Chet Blaylock              | X   |    |
| Senator Bob Brown                  | X   |    |
| Senator Bruce D. Crippen           | X   |    |
| Senator Jack Galt                  | X   |    |
| Senator R. J. "Dick" Pinsoneault   | X   |    |
| Senator James Shaw                 |     | X  |
| Senator Thomas E. Towe             |     | X  |
| Senator William P. Yellowtail, Jr. | X   |    |
| Vice Chairman                      |     |    |
| Senator M. K. "Kermit" Daniels     |     | X  |
| Chairman                           |     |    |
| Senator Joe Mazurek                | X   |    |
|                                    |     |    |
|                                    |     |    |

Cindy Staley  
Secretary

Joseph P. Mazurek  
Chairman

Motion: BNCI

(include enough information on motion—put with yellow copy of committee report.)

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 4  
DATE 03/385  
BILL NO. HB 726



Executive Office  
P.O. Box 440  
34 West Sixth  
Helena, MT 59624  
Phone (406) 442-3388

TESTIMONY  
HB 371

Mr. Chairman and Members of the Committee:

For the record, my name is George Allen and I am the lobbyist for the Montana Retail Association. We are here today with strong support for HB 371.

This bill repeals section 61-3-104 from the code. As you can see by the attached copy of the law, it was put on the books in 1947. I would like to refresh your memory as to what was happening in 1947. We had just come out from a long bitter war, where we had seen tires as a very scarce commodity, and very expensive. They had been rationed for several years. There were a lot of problems then that we do not have now.

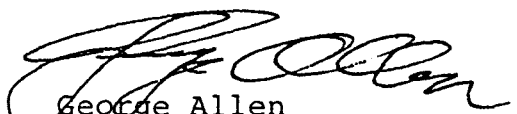
Since that time we have seen many laws passed that protect the lending institution.

I would like to share with you a very simple example as to why the repeal of this paragraph is very important. Let's assume for just a moment that a trucker needs a new truck bed and cattle rack. He goes to the farm implement dealer and purchases the needed items for \$4,000.00. He then goes to the tire dealer down the street and buys \$4,000.00 worth of new tires. In both instances he makes arrangements with the businesses to pay for the purchased items over a period of time. Let's assume the trucker then falls on hard times and has his truck repossessed. The farm implement dealer can go to the bank and either get his equipment returned, or work out a financial arrangement with the lending institution. The tire dealer however has no place to go. With this paragraph on the books, the tire dealer is up against a stone wall, and he has no recourse. He therefore loses all of what is owing him on the \$4,000.00. What we are looking for in this repeal is fairness.

It is my understanding that there are only two states in the Union, with Montana being one of them, that still has this law on the books. The other states have either repealed this law or have never put it on the books in the first place.

The Montana Retail Association strongly recommends the passage of HB 371.

Respectfully,

  
George Allen  
Executive Vice President

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 5  
DATE 031385  
BILL NO. HB 371

(7) Upon receipt of any liens, or notice of liens dependent on possession, or attachments, etc., against the record of any motor vehicle registered in this state, the division shall within 24 hours mail to the owner, conditional sale vendor, mortgagees, or assignees of any thereof a notice showing the name and address of the lien claimant, amount of the lien, date of execution of lien, and in the case of attachment the full title of the court and the action and the name of the attorneys for the plaintiff and/or attaching creditor.

(8) It shall not be necessary to refile with the division any instruments on file in the offices of the county clerk and recorders at the time this law takes effect.

(9) A fee of \$3 shall be paid to the division to file any security agreement or other lien instrument against a motor vehicle. The \$3 fee shall include and cover the cost of filing a satisfaction or release of the security interest and also the cost of entering such satisfaction or release on the records of the division and deleting the endorsement of the security interest from the face of the certificate of ownership. A fee of \$3 shall be paid the division for issuing a certified copy of a security agreement or other lien instrument on file in the office of the division, or for filing an assignment of any instrument on file with the division. All fees provided for in this section shall be deposited by the division in the motor vehicle recording account of the state special revenue fund.

**History:** En. Subd. 4, Sec. 2, Ch. 159, L. 1933; re-en. Sec. 1758.3, R.C.M. 1935; amd. Sec. 7, Ch. 72, L. 1937; amd. Sec. 3, Ch. 148, L. 1943; amd. Sec. 3, Ch. 63, L. 1945; amd. Sec. 11-143, Ch. 264, L. 1963; amd. Sec. 26, Ch. 121, L. 1965; R.C.M. 1947, 53-110; amd. Sec. 2, Ch. 189, L. 1979; amd. Sec. 1, Ch. 502, L. 1979; amd. Sec. 1, Ch. 277, L. 1983.

#### **Compiler's Comments**

1983 Amendment: Substituted reference to state special revenue fund for reference to earmarked revenue fund.

#### **Cross-References**

U.C.C. — filing security interests, Title 30, ch. 9, part 4.

Certificate of ownership — issuance, 61-3-202.

Mortgages, pledges, and liens, Title 71.

**61-3-104. Parts of motor vehicle subject to security interest.** Tires, casings, and/or tubes mounted on a motor vehicle are an integral and component part of said motor vehicle and any tire, casing, and/or tube placed thereon is subject to any conditional sales contract, mortgage, lease, or other lien on said motor vehicle in the order of filing with the division.

**History:** En. Sec. 4, Ch. 148, L. 1943; R.C.M. 1947, 53-111; amd. Sec. 2, Ch. 502, L. 1979.

#### **Cross-References**

U.C.C. — security interests, Title 30, ch. 9.

Retail installment sales, Title 31, ch. 1, part 2.

Mortgages, pledges, and liens, Title 71.

**61-3-105. Registrant as prima facie owner of vehicle.** For the purpose of this title, except as provided by 61-3-701(3) the person appearing on the public records as the registrant of any motor vehicle shall prima facie be deemed the owner thereof.

**History:** En. Sec. 5, Ch. 166, L. 1929; re-en. Sec. 1746.4, R.C.M. 1935; R.C.M. 1947, 32-1110; amd. Sec. 27, Ch. 421, L. 1979.

#### **Cross-References**

"Owner" defined, 61-1-310.

**61-3-106. Report of stolen and recovered motor vehicles.** It shall be the duty of the sheriff of every county of the state and of the chief

NAME: GEORGE T. BENNETT DATE: 3/13/85

ADDRESS: P.O. Box 1705 HELENA 59624

PHONE: 442-8950

REPRESENTING WHOM? MONTANA BANKERS ASSN

APPEARING ON WHICH PROPOSAL: H.B. 371

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 03/13/85

BILL NO. HB 371

DATE: 3/13/83

ADDRESS: P.O. Box 1705 HELEN/4 59624

PHONE: 442-8950

REPRESENTING WHOM? MONT. BKRS ASSN

APPEARING ON WHICH PROPOSAL: 51231

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 7

EXHIBIT NO. \_\_\_\_\_  
DATE 031385

BILL NO. SJR 31

Jo Brunner

AGRICULTURE LEGISLATIVE WORK

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\*\*\*\*\*  
\*\*\*\*\*

NAME Jo Brunner COMMITTEE Sen. Jud  
ADDRESS 1469 Kodiak Road, Helena DATE 3/13/85  
REPRESENT Montana Cattlefeeders, Grange BILL NO. SJ 31  
cattlemen  
SUPPORT X OPPOSE                      AMEND                     

Mr. Chairman, members of the committee, for the record my name is Jo Brunner and I represent the Montana Cattlefeeders, the Montana Grange Association and the Montana Cattlemens Association at this committee meeting today.

Mr. Chairman, our organizations wish to support SJR 31 and Senator Christeans in this effort to establish an interim study of Montana lien laws.

Agriculture is all of a sudden finding themselves on the loosing side of any battle to place liens on our production, especially. Several bills have been introduced, a couple of them by our cooperatives and other businesses already overburdened with debts incurred by failing farmers, or by those attempting to stay alive.

We do not want to not pay our debts---but we do feel that in order to obtain a more orderly method of lien procedure, we can't just rush into the problem piece meal as is certainly attempted this session.

We do appreciate this Resolution, we are willing to participate not only in establishing productive lien procedure on agriculture debts, but want to see something set up that will allow our protection from those who buy from us, such as cattle and grains, that our bills may also be collectable.

Thank you.

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 8  
DATE 031385  
BILL NO. SJR 31

PROPOSED AMENDMENTS TO HB 44:

1. Title, line 6.

Following: "DEFENDANT"

Insert: "WHO IS FINANCIALLY ABLE AND WHO IS:

2. Page 2, line 11.

Following: "offender"

Insert: ", if able,"

3. Page 4, line 2.

Following: line 1

Insert: ", if able,"

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9

DATE 031385

BILL NO. HB 44



# STANDING COMMITTEE REPORT

..... March 13 ..... 19 85 .....

MR. PRESIDENT

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

having had under consideration ..... SENATE JOINT RESOLUTION ..... No. 31 .....

first reading copy ( white )  
color

## INTERIM STUDY OF LIEN LAWS

Respectfully report as follows: That ..... SENATE JOINT RESOLUTION ..... No. 31 .....

DO PASS

~~XXXXXXXXXX~~

.....  
Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 13

19 35

MR. PRESIDENT

We, your committee on.....

JUDICIARY

having had under consideration.....

HOUSE BILL

No. 300

third reading copy ( blue )  
color

(Senator Smith)

EXTEND TIME FOR PROSECUTION OF SEX OFFENSES AGAINST CHILDREN

Respectfully report as follows: That.....

HOUSE BILL

No. 300

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 13

19. 35

MR. PRESIDENT

We, your committee on..... JUDICIARY

having had under consideration..... HOUSE BILL No. 365

third reading copy ( blue )  
color

(Senator Pinsonneault)

CHANGE METHOD OF MAKING & KEEPING REPORTS OF STOLEN & RECOVERED VEHICLES

Respectfully report as follows: That..... HOUSE BILL No. 365

BE CONCURRED IN

~~XXXXXX~~

~~XXXXXXXXXX~~

Senator Joe Marurek

Chairman.

# STANDING COMMITTEE REPORT

March 13

19 55

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 726

third reading copy ( blue )  
color

(Senator Pinsonneault)

PROBATIONARY LICENSE; 1ST REFUSAL TO TAKE BREATH TEST; PENALTY  
FOR VIOLATION

Respectfully report as follows: That HOUSE BILL No. 726

BE NOT CONCURRED IN

XXCFASE

XXCNOCEBAS

Senator Joe Mazurek

Chairman.

# STANDING COMMITTEE REPORT

March 13

19 35

MR. PRESIDENT

JUDICIARY

We, your committee on.....

HOUSE BILL

having had under consideration.....

No. 799

third

reading copy (

blue

) color

(Senator Towe)

LOAN GUARANTY AS CONTRACT UPON WHICH WRIT OF ATTACHMENT MAY ISSUE

HOUSE BILL

Respectfully report as follows: That.....

No. 799

BE CONCURRED IN

~~XXXXXX~~  
DO PASS

~~XXXXXXXXXX~~  
DO NOT PASS

Senator Joe Mazurek

Chairman.