

MINUTES OF THE MEETING
SENATE TAXATION COMMITTEE
MONTANA STATE SENATE

June 28, 1985

The first meeting of the Senate Taxation Committee for the special session was called to order by Chairman Tom Towe, on Friday, June 28, 1985, at 11:00 a.m. in Room 325, Capitol.

The members of the Committee are: Senator Tom Towe, Chairman, Senator Joe Mazurek, Vice-Chairman, Senator Bob Brown, Senator Dorothy Eck, Senator Pat Goodover, Senator Tom Hager, Senator Mike Halligan, Senator Les Hirsch, Senator Ray Lybeck, Senator George McCallum, Senator Ted Neuman, and Senator Elmer Severson. The Legislative Council Staff person is Jim Lear and the Secretary is Glenda Pennington. All the members were present at the hearing.

Senator Towe said that the informal hearing held on June 27, 1985, had been extensive, and he did not feel that all of the testimony had to be heard again. Senator Severson made a motion that the testimony taken during the meeting held June 27, 1985, be incorporated into this meeting and reported in these minutes as if fully set forth herein. Question was called and the motion was passed unanimously. (See Exhibit A)

CONSIDERATION OF SENATE BILL 1: Senator Hager said that he had explained the bill fully at the June 27th meeting, and that he would not take up the committee's time by going over it again.

PROPOSERS: None. (See Exhibit A)

OPPOSERS: None. (See Exhibit A)

COMMITTEE QUESTIONS: None. (See Exhibit A)

Senator Mazurek passed out an amendment to Senate Bill 1, and explained that it seems lengthy because it changes existing law. He said that very simply what it does is transfer the handling of the district courts' block grants from the Supreme Court to the Department of Commerce, which has a program already set up. Senator Mazurek made a motion that his amendment be adopted.

Senator McCallum asked why it should go to the Department of Commerce. Senator Mazurek explained that in 1979 the legislature established a district court grant in aid of emergencies. The program was established by the Department of Commerce. In 1983, it was transferred from the Department of Administration to the Department of Commerce, and they have a program in place already to accept this.

Senator Towe said that Senate Bill 25 was one of the products of an interim study committee which addressed the unification of the courts. He said they worked closely with the Administrator of the Supreme Court and they thought the Supreme Court was in tune with what they were doing at that time. He said they wanted them to administer it because they are the only ones that had the authority to make sure that the district courts did not exceed their budgets. At the time, however, they had a different Chief Justice. Chief Justice Turnage does not want that responsibility. Senator Towe said that he was in favor of the amendment and would reluctantly recommend its adoption.

Senator Goodover asked if this was within the scope of the call. Senator Towe said that they had asked that question of the staff researcher, and he said that this was a proper issue. He said that the rules say the scope of the call should be liberally construed. Senator Towe does not feel that this should be forwarded to the rules committee unless we are specifically asked to do so. He said if there is a dispute, the final authority would rest with the Supreme Court and they would probably say this is within the scope of the call.

Senator Halligan said that if a dispute arose over these revenues that the Supreme Court could be disqualified from hearing it because of a conflict of interest. Senator Mazurek said that that is why the amendment is proposed.

Senator Brown asked if Senator Mazurek drafted the amendment. Senator Mazurek replied that Greg Petesch had drafted them at his request, but he had checked them very carefully. Senator Brown replied that after the last error, they had to be sure the amendment was correct. Senator Mazurek said that he was satisfied with the amendment. He said it simply strikes the Supreme Court and inserts the Department of Commerce.

Senator Towe asked Senator Mazurek if he had checked Section 11 which is the appropriation section. Senator Mazurek replied yes. He said the figures are out of the Supreme Court's budget. He said these figures represent the amount allocated for district court fees.

Senator Towe asked Mike Abley (Administrator of the program for the Supreme Court) if he checked the amounts. Mr. Abley replied that he had checked the amounts.

Senator Towe asked why the different amounts? Mr. Abley replied that he didn't know, but it may be changes between then and now. Mr. Abley replied that he knows how much comes out of their budget, and those are the figures that are in the amendment. Senator Towe

read from page 3 of the fiscal note which was entered last night with House Bill 3, which lists a reduction to general fund revenues by \$5,286,249 over the biennium. Mr. Abley replied that he does not know where they got that figure. Senator Mazurek said that he felt the difference comes because they are taking figures out of the appropriation bill, and they are simply transferring the moneys from the Supreme Court to the Department of Commerce. Senator Towe replied that there was one million more appropriated than would be generated by vehicle fees. Tom Crosser from the Office of Budget and Program Planning, said that he thinks the difference relates to a lag in payments they make. He said Norm Rostocki did the fiscal notes and they were checked. He wasn't sure where the difference lies.

Senator Keating said that Mr. Abley should know specifically what was given to him for this purpose. He said fiscal notes are based on estimates. He felt it should have been more accurate.

Senator Towe said that he did not think this should be held up for this matter, so he asked Mr. Crosser to verify figures and make sure they are accurate in the amendment. He then asked Jim Lear to research the entire amendment and make sure that it is okay.

Question was called, and with Senator Neuman, Senator McCallum, and Senator Goodover voting no, the amendment was adopted.

Senator Towe said that in the bill it lists registration of cars. He said that if you had an old car that had not been registered last year, and you attempted to have it registered after July 1st, if this bill were in effect, would you have to pay the extra fees for the back year? Larry Majerus, Administrator, Motor Vehicle Division, Department of Justice, said that he had checked with many counties and that they assured him that they were treating back taxes as just back taxes and not a new registration, and the new fees would only apply to the current period. He said this would not be a major problem.

Senator Towe said that the recorded minutes should reflect that it was the intent of the Legislature that the payment of back taxes and fees for years prior to the effective date of the act are not considered a registration after the effective date of the act as mentioned in Senate Bill 1. They are simply back taxes and the new fee will not apply to the back years.

Judy Rippingale, the Legislative Fiscal Analyst, appeared at the hearing and Senator Towe asked her the same question that he asked Mr. Crosser regarding the differences between the amounts listed in the amendment and the amount listed in the fiscal note. Ms.

Rippingale replied that she had given the figures to Greg Petsch and that they are right out of House Bill 500. She said that \$5.2 to \$5.3 million the general fund is subsidizing because the court fees were not enough.

Senator Brown asked which figure is correct. Senator Mazurek replied that the amendment figures are correct. Ms. Rippingale said that these vehicle fees did not raise enough money to cover costs put in. She said the amounts generated by the fees are approximately \$1 million short of the expenses assumed by the state.

EXECUTIVE ACTION ON SENATE BILL 1: Senator Hager moved that SENATE BILL 1 do pass as amended. With Senator Goodover voting no, SENATE BILL 1 DO PASS AS AMENDED.

The meeting was adjourned at 11:27 a.m.



SENATOR TOM TOWE, CHAIRMAN

NOTE: It was determined after the meeting adjourned that approximately \$1.1 million in grant-in-aid emergency money previously allocated to the district courts would not be necessary after the passage of SB 25 and SB 142 so the amount needed in SB 142 was reduced by that amount prior to passage.

MINUTES OF SPECIAL MEETING
TAXATION COMMITTEES
MONTANA STATE SENATE
MONTANA STATE HOUSE OF REPRESENTATIVES

An informal, special meeting of the joint Senate and House of Representatives Taxation Committees was called to order by Chairman Tom Towe and Chairman Gerry Devlin at 7:00 o'clock p.m. on Thursday, June 27, 1985, in Room 325, Capitol.

Senator Towe opened the meeting by telling the members of the Committee that this will be an informal meeting and we will not act upon the bills. He said that Senator Hager would present Senate Bill 1 and Representative Williams would present House Bill 2, since the bills were identical. He then told the Committees how it came about that there were two identical bills. Following the above presentations, Senator Towe said he would then call for proponents and opponents, and he asked that anyone that had any amendments to either of the bills introduce them at that time.

Representative Devlin reiterated what Senator Towe said and asked that the proponents and opponents be brief. Representative Devlin felt that it would be impossible to act on either bill as the members had just had them put in front of them. He said Representative Marks would also present House Bill 3 but that that would be separate.

Senator Towe introduced the secretaries for the special session, who are Glenda Pennington for the Senate Taxation Committee and Alice Omang for the House Taxation Committee. Next he introduced the researchers for both committees, who are David Boyer for the House Taxation Committee and Jim Lear for the Senate Taxation Committee.

SENATE BILL 1: Senator Tom Hager, Senate District 48, Billings Heights, is the sponsor of this bill entitled, "AN ACT REINSERTING THE INFLATION COMPUTATION INTO THE LIGHT MOTOR VEHICLE FEE SYSTEM; PROVIDING THAT THE INFLATION COMPUTATION DOES NOT APPLY TO THE DISTRICT COURT FEE; AMENDING SECTION 2, CHAPTER 685, LAWS OF 1985; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE." Senate Bill 1 and House Bill 2 were drawn up by the Revenue Oversight Committee early in June. Senator Hager said this is a very simple bill and the explanation is very brief. He said this bill rectifies the situation created by the passage of Senate Bill 142 during the regular session. As stated in the title, the bill reinserts the inflation computation into the light motor vehicle fee system and provides that the inflation factor does not apply to district court fees. Section 1 of the bill accomplishes this on page 2, line 7 through 18. Section 2 of the bill clarifies the language adopted during the regular session in House Bill 870.

Page 2
Senate and House Taxation Committees
Special Meeting
June 27, 1985

By changing the terminology of additional light vehicle license fee and additional fee to read block grant fee, the disposition of the additional fee imposed by House Bill 870 will be clarified. Section 3 of the bill merely specifies that the bill is effective July 1st, 1985 and terminates July 1st, 1987. Now the retroactivity clause is included due to the possibility that the bill may not be passed and approved prior to July 1st, 1985, which is the effective date of Senate Bill 142. Now this means that if for some reason the Governor should not sign this bill until say July 3rd or July 4th, that persons buying licenses for their cars on the 1st or 2nd of July would then have to pay the additional fee that is in this retroactivity clause.

HOUSE BILL 2: Representative Mel Williams, House District 85, is the sponsor of this bill entitled, "AN ACT REINSERTING THE INFLATION COMPUTATION INTO THE LIGHT MOTOR VEHICLE FEE SYSTEM; PROVIDING THAT THE INFLATION COMPUTATION DOES NOT APPLY TO THE DISTRICT COURT FEE; AMENDING SECTION 2, CHAPTER 685, LAWS OF 1985; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE." Representative Williams said that he concurs with the explanation of Senator Hager since the bills are identical. He concurs with the proposed legislation to correct the oversight made by all the parties involved during the regular session in the passage of Senate Bill 142. As you know and have been reminded that the Revenue Oversight Committee recommended we hold a one-day special session to correct our oversight. And then the cover letter that we mailed out to every legislator, we mailed a proposed solution to the problem, which is the bill almost identical to Senator Hager's bill and my bill with a couple slight amendments. Representative Williams feels that this is the best approach to fulfilling the legislature's obligation to financing the block grant program and our district court system. He urged passage of this solution to the problem.

PROPONENTS: Alex Hansen, representing Montana League of Cities and Towns. Mr. Hansen said that this proposal is a simple and quick solution that goes directly after the problem in Senate Bill 142. He said that this special session was convened to solve that problem. Mr. Hansen said this bill will reinstate the inflationary adjustment and provide that it applies only to the base fees. He said it would rectify the \$9.4 million dollar mistake without disturbing other local government programs or requiring a general fund appropriation. Mr. Hansen said that repeal of the inflationary adjustment was a mistake. He said this was never heard before a committee nor was it debated by those affected. Mr. Hansen said the intent of the legislature was obvious, and there is no logical or legitimate reason that these bills should not stand. He said this solution has been recommended by the Revenue Oversight Committee and reviewed by everyone, and it will do the job.

Don Waldron, Superintendent of Schools at Hellgate Elementary in Missoula, and he is here representing the Legislative Committee of the School Administrators of Montana. He said that vehicle license fees are not a favorite subject of school administrators because in his district when they changed to flat fees, he lost about 10% of his taxable valuation. He said that in their wisdom they did put the inflationary clause in, which took some of the sting out of it. He said that what this means to his district is not a lot of money, \$3800, but that represents 4 mills to the taxpayers, and they will have to have that money through a millage collected from them, or they will have to have it through the actions of the legislature here in the next couple of days. He told the committee that he hoped they had the courage to amend it back to where it does the job that was originally intended.

Chip Erdmann, representing Montana School Board Association, supports this bill. Mr. Erdmann said that he felt that this bill addresses an honest mistake in a straight forward manner. He said that Butte-Silver Bow would lose \$50,000 in money that they have already budgeted for. He said the amounts affected by this bill had already been budgeted for. Mr. Erdmann said that if this is not rectified by the '86-'87 budget that they have the option of going to the voters and asking for an increased mill levy to make up this loss. However, under the current economy in Montana, as I'm sure you are all aware, most of the districts have already cut programs and staff to bring the local voted levy down to an acceptable level. He urged passage of these bills.

Terry Minow, representing Montana Federation of Teachers and State Employees, supports this bill. She said that this bill addresses an honest mistake in a straight forward manner. She said that failure to pass this bill would have a serious impact in many counties, including Butte-Silver Bow. She said that most school districts had already set their budgets on the vehicle registration fee money before they realized that a mistake had been made. She said school districts need this revenue to maintain balanced budgets. (See Exhibit 1)

Don Peoples, Chief Executive of Butte-Silver Bow and also Chairman of the Montana Urban Coalition, supports this bill. Mr. Peoples felt that it was critical that this problem be addressed and the necessary steps taken to correct the error. He said they are beginning to see the effects of those losses of federal revenue. He told how difficult the budget process has been for them. Mr. Peoples said there is a real crisis in Montana local governments. He asked the committees to act quickly as the Revenue Oversight Committee presents a simple solution to the problem. He urged them to pass Senate Bill 1 and House Bill 2.

Page 4
Senate and House Taxation Committee
Special Meeting
June 27, 1985

Owen Nelson, representing Montana Education Association, supports these two bills. He said his group supported Senate Bill 142 and the intent of that bill and these bills would implement that intent.

Bill Anderson, representing the Superintendent of Public Instruction, supports these bills. They support the need for correction of this oversight. He said many of the schools had already budgeted and these funds are needed for those budgets.

Gloria Paladichuk, President of the Montana Association of County Treasurers, supports these bills. She said they are now in the process of determining nontax revenue, which includes the flat fees. She said besides their nontax revenues, the remainder has to be raised by mill levies. Ms. Paladichuk said that if this error is not rectified, it will mean an increase in taxes for all Montana real estate and personal property taxes. She has polled some of the treasurers regarding the July 1st date and she does not believe it will be any problem if they have to go back and try to raise the additional revenue if somebody has come in before the passage of the bills.

Ardi Aiken, City Commissioner, Great Falls, supports these bills. She said, "what this means to the City of Great Falls is \$61,000." She said this was somewhat more than 1 mill. Ms. Aiken said they are already into their budgeting and they are counting on this \$61,000 in order to balance the budget. She said local governments do not have the option of going to the voters if they do not get that fee.

Dick Reich, Clerk for School District in Billings, supports these bills. He said that rather than repeat what has already been said, they are dramatically affected by this issue and the Billings schools are affected by approximately \$165,000 loss of revenue.

Gordon Morris, Executive Director for Association of Counties, supports these bills on behalf of MACO.

Jerry Weast, Superintendent of Schools in Great Falls, representing the Montana Association of School Administrators, and on behalf of both organizations, would like to go on record as supporting these two bills.

OPPONENTS: Robert VanDerVere, concerned citizen lobbyist, and he felt there was one thing here that hadn't been mentioned. He said he opposed these bills because during the last session regarding older vehicles, they changed the law and made it retroactive to January 1st, so the counties will be getting a lot of additional money on license fees. He said he had checked with some of the Treasurers and they said that people are licensing their old vehicles now that they only go back one year.

Larry Tobiason, President of the Montana Automobile Association, opposes these bills. He said they oppose them not because they feel that additional funding is not needed, but they feel that there is a better method of funding in House Bill 3.

Dean Mansfield, Montana Automobile Dealers Association, opposes these bills.

Senator Goodover, Senate District 20, opposes these bills. Senator Goodover said that he felt that the state of Montana did not need any more taxes. He said what the state needs are new jobs which will generate more tax revenue. Senator Goodover said there are more automobiles being sold and more revenue being created from that source to cover much of that inflation. He said there would also be added money coming in from poker machines. Senator Goodover also objected to earmarking funds in the general fund for special purposes. He felt that earmarking funds deny the legislature the opportunity to funnel the funds where they are needed most, and that these needs change from year to year. Senator Goodover said that they need to give the taxpayers a break, and by leaving this as it is, they give the taxpayers a small consideration.

AMENDMENTS: Senator Mazurek entered a proposed amendment. He passed out copies to the committees. He said this is rather a lengthy looking amendment, but it is very simple in nature. He said that as they may recall Senate Bill 25 and 142 passed together. Senate Bill 25 was the bill which gave the funding of the district courts for the criminal portions of the district courts to the Supreme Court for disbursement to the counties. As you will probably recall, we have a district court block grant program in place that is essentially an emergency grant for counties if they are hit with a major criminal trial, and their existing levy is not sufficient to cover the district court operations. That is operated by the Department of Commerce. This rather lengthy amendment would do one simple thing, and that would take the administration of the district court block grant program from the Supreme Court Administrator's office and transfer it to the Department of Commerce which has an existing program in place, so that we would not have a duplication of effort. It also eliminates one other potential problem and that is if a county disputed the amount it was owed under

the district court block grant program, there would be someone in the state who could resolve the dispute since the Supreme Court would not be in a position to do so since it is the one dispersing the funds. The amendment would do one other thing, in the proposed new section 11 to the bill which would transfer the money appropriated to the Montana Supreme Court from the general fund, the money which comes from the increased vehicle fees. It would transfer that from the Supreme Court to the Department of Commerce so they could administer the funds. That's all that the amendments do. He says that this is basically a housekeeping amendment, and he feels that it is an oversight that they should have picked up last time.

PROPONENT FOR AMENDMENT: Gordon Morris, Montana Association of Counties, said he had reviewed these amendments and he supports the amendments as introduced.

OPPONENT: None.

COMMITTEE QUESTIONS: Representative Sands said that it seems they are addressing some pretty fundamental tax policies with this bill. He said he had some tax policy questions; 1. Do you think now is an appropriate time considering the economic situation in the state to have a \$9.4 million tax increase; and 2. In view of the fact that we have had tax indexing in real property taxation and income taxation, do you think it is an appropriate tax policy to have an inflation adjustment built into this type of personal property taxation?

Don Waldron replied from the school's standpoint that they did make some changes on the anticipation of revenues, but it was so late most of us had passed out mill levies and we have already had authority from our public for a certain amount of money. Now, the way we reduce that money is with those anticipated revenues, which this falls under, so what it means to the taxpayers is that we get it from you in anticipated revenues as we anticipated, and we think you intended, or do we turn around and have that reduced, which means we collect more of the mill levy we requested.

Representative Sands asked why this license fee is a better way to raise taxes?

Mr. Waldron replied that he thinks it is what they intended. He said his district would probably be hurt the most because he is a lower millage district, but the higher millage districts their taxpayers would be hurt by having it put back on the property tax.

Alec Hansen said that he would like to reiterate what Mr. Waldron said. He thinks that we have got to begin to understand the relationship between what the Legislature does and what happens to the tax system back home. If you take nine and one-half million dollars out of the tax base, somebody is going to have to make up the difference. He said that cities have lower rates of growth and spending than any other jurisdiction across the board. He said they had done it by cutting services. If this money is taken away from the cities, towns, schools and counties, somebody is going to have to make up the difference. This will, of course, fall on the property tax owner, and that's why this bill is so important.

Gordon Morris responded to Representative Sand's question by pointing out that the philosophical question in terms of a tax increase is not before you with the particular bill you have introduced tonight, Senate Bill 1 and House Bill 2. That issue was debated on the floor of both the House and the Senate on the earlier and original version of the bill, and it was everybody's assumption that what is being discussed here tonight was the original intent of the legislation as introduced. I don't think we are debating a tax increase by way of the bill that you have before you because that issue was in fact, discussed, debated and it was the intent of the legislature as I understand it, and I think most people here in the room do, that the increase was to be there. This is not a new tax.

Mr. Peoples responded to the second question of Representative Sands saying that he thinks you have to recognize that in 1981 when the legislature removed the ad valorem system and replaced it with the flat fee system, they did remove from local governments probably the only source of revenue that was keeping pace with inflation. Are you going to see raises, the answer is yes.

Gloria Paladichuk said that as a collector of taxes, some of the Montana taxpayers that I think will be extremely affected if this error is not rectified are the Montana Farmers. She felt real property taxes would increase. Their livestock taxes, etc.

Representative Koehnke asked what percentage of our budget does this inflation factor amount to? Senator Towe said what he was asking was what amount of money that this bill will raise, what percentage of the budget does that represent?

Mr. Waldron said that he could only speak for his own district. He said it should be looked at two ways, the mill levy request from the taxpayers represents about 10-11% of that. From the total budget for the district and general fund, we are talking a lot less, because in my case, I'm only voting about 21% of the budget. He said that's about 10%.

Jerry Weast said that speaking for the Great Falls public schools, they have already cut their budget back about 2.8 million below the voted levy. They have lowered their taxes about 1.3 million over this years taxes. What this represents is another \$168,000 that will lower taxes or 2.2 mills.

Senator Goodover asked each of those that spoke in connection with this issue that was raised by the previous two legislators if they had all indicated in testimony before this committee in the past, that all of you are looking for new sources of revenue other than property taxes. Is that correct? Senator Goodover said if that was the case, they have to find other sources of revenue and that means new jobs for people that are not now working, that are on unemployment, and so on. He said this is not going in that direction. He said they are adding another tax. He said none of the people at the hearing feel that this is a live or die position. He said the taxation program has to be reduced if they are going to get new jobs. He said the farmers can't stand any more increases in taxes.

Senator Hager asked Mr. Reich if the \$165,000 shortfall was for one year or two years? Mr. Reich replied that it is a one year adjustment.

Senator Lybeck said that in regard to what affect this would have on the individual counties, he talked with the county official and they informed him that it would be about a 10% reduction, and in Flathead County last year, they collected \$2,047,000 in flat vehicle fees. This would be about a \$205,000 reduction. He said his next question to the commissioner was who would get the cut, and he told him that historically when they go on this budget cutting the Sheriff's office gets cut, and drug enforcement. He said Northwest Montana has a serious drug problem.

Representative Devlin asked Ms. Paladichuk if in the retroactive clause in this, how would you go back on someone who has bought their license after July 1, but before this goes into effect? How would you propose to collect that after they have a free and clear registration. Ms. Paladichuk said it would be difficult and some of them would probably slip through the cracks. She proposes making a stipulation on their registration receipt of possibly additional fees due in order to make that a legal registration, and then write up an additional registration slip for the fees collected. Representative Devlin asked if this would take a lot of time out of the office. Ms. Paladichuk said that it was history that people didn't come in on the first day. She said they didn't have a rush of people until the 25th of the month, which is the last due date. Representative Devlin asked her if she didn't think there would be in this case. She replied that they have only had five or six people

renew ahead of time so far. She said in this particular instance, she is only speaking for her county.

Senator Towe asked her about her reference to the 25th, and when the people whose registration has to be renewed in July would have to come in. Ms. Paladichuk replied that if they terminated the end of July, they have until August 25th. They have a 25 days grace into the following month. She said the ones that are due by July 25th now, actually have an expiration date of June 30th. She said that as she reads the bill, it is anything on or after July 1st, so no matter when the expiration date was, it would take on the new fee. Senator Towe asked her how many in Richland County had already come in and paid their fee. Ms. Paladichuk replied that she didn't think there were more than 5 or 6.

Representative Devlin said there are some school districts throughout the state that went under the assumptions that they were going to have a 3 plus 3 from the foundation program. They set theirs at 3, expecting a 3%, and instead they got a 4%. Do you have any idea what the balance would be if they were to lose this money from this vehicle fees and those school districts that have set at 3 and are getting 4, what the trade-off there would be. What amount of money would they be losing or would they be gaining? Mr. Weast said that would have to be addressed on each individual school district basis. He did not know. Representative Devlin asked Mr. West, regarding the above question, if maybe those schools were not losing anything at all. Mr. Weast replied that that was true, in fact, they may have a net gain.

Senator Mazurek and Senator Towe discussed Senator Mazurek's amendment and whether it was within the call of the special session. Senator Mazurek felt that it was within the scope of the call. Senator Towe asked Jim Lear, Staff Researcher, if he had a chance to look into the question. Mr. Lear replied that he did. He said he had checked Mason's Manual, which is about the only authoritative treatise that he could refer to for some type of guidance. He referred to Section 780 of Mason's Manual on Legislative Procedures. He explained the various sections that dealt with the question, and concluded that the amendment was within the scope of the call. Mr. Lear concluded that it does address district court fees and details as to its disposition, and should be given the benefit of the doubt.

Representative Switzer did not feel that the amendment was germane. Senator Towe said that he felt the amendment was not germane and was not within the scope of the call. Senator Mazurek said that he offers this amendment in good faith. He said all this amendment does is correct an oversight that happened during the regular session.

Representative Williams closed by saying he appreciated the testimony on House Bill 2 and Senate Bill 1. He thought the arguments were valid. Representative Williams said that he thinks the error or oversight should be corrected and he thinks this was the legislative intent. Representative Williams does not think that the opposition to the fees on automobiles is great. He said he had talked to a number of people in his district about the increase in the fees. He sincerely feels that the people would prefer this over an added mill levy to their property taxes.

Senator Hager closed by saying that he would like to make a couple of points. He said that in talking to a number of legislators that it was their intent to do exactly what this bill will do. He thinks that they should take care of the problem in a timely manner. He asked the committee members to remember that this bill has an impact of \$160,000 to \$165,000 to some of the school districts for one year, and this bill, if it is passed, will be in effect for two years. He urged them to pass one or the other.

The informal hearings on Senate Bill 1 and House Bill 2 were closed.

HOUSE BILL 3: Representative Bob Marks, House District 75, is the sponsor of this bill entitled, "AN ACT TO REPEAL SECTION 18, CHAPTER 680, LAWS OF 1985, AND CHAPTERS 685 and 702, LAWS OF 1985, RELATING TO INCREASING LIGHT VEHICLE LICENSING FEES; PROVIDING FOR THE CARRYOVER OF FUNDS IN THE LOCAL GOVERNMENT BLOCK GRANT ACCOUNT; ALLOWING FOR PRORATION OF DISBURSEMENTS FROM THE LOCAL GOVERNMENT BLOCK GRANT ACCOUNT FOR LIGHT MOTOR VEHICLE FEE REIMBURSEMENT; PROVIDING AN APPROPRIATION TO THE LOCAL GOVERNMENT BLOCK GRANT ACCOUNT; AMENDING SECTIONS 7-6-309 AND 61-3-536, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE." Representative Marks told the committee that he felt this bill was within the scope of the call. He quoted briefly from the notification of the request for special session to substantiate his position. Rep Marks said that he had had this bill drawn after talking with some of his friends in the legislature who felt they should have a new approach to the problem. He felt that there was not as much impact to the school districts as had been reported. He believes that those school districts that built their budgets on the Governor's recommendation will be getting a windfall. Representative Marks felt that the input on the two bills passed in the last session was limited. He feels there will be more input with these bills. He then gave the committee a short outline of what the bill will do. He said it would repeal Senate Bill 142 and House Bill 870. He said this would put the law exactly the same as if they had not met at all in 1985 relative to vehicle fees. He said this would put the law back to where it was in 1983 with the inflator back in.

Representative Marks said the inflator would continue as long as the statute continued. He said the bill would amend Section 7-6-309 and it would preclude the distribution of the surplus funds in the block grant account, which will before the end of the biennium we're in, which is in the next couple of days, it will probably have to be tomorrow or Saturday or Sunday, or something, before July, that money will be distributed to cities and counties. Instead of distributing that money, my proposal would carry that money forward and reappropriate it to the local government block grant program. That would be distributed on a broader base including school districts and special entities. He said this should be included in any bill that is adopted; it would provide that in the event there were a shortfall in the block grant account at the end of the biennium that that shortfall would be prorated to all taxing jurisdictions. He thinks that is extremely important. Again, he said it would be just as if we hadn't met, as far as the fee structure on cars and other vehicles. The difference needed to fund the program, would amount to \$4.4 million, and he thinks the fiscal note, which he will explain, will have a slightly different opinion of that. He said their estimate is, using the figures in his bill, House Bill 3, indicates that there may be about one-half a million dollars more in there than they might need. (Both fiscal notes attached marked Exhibit 3.) He cautioned them that if they should decide to go that route, he would have no adversity to either reduce the general fund amount by that amount respectively, if you chose to do it. If you came out short, the previous section would be applied that there would be a prorata reduction, so that they wouldn't be coming back in for supplemental. The other thing the bill does because of the repeal of SB 142 and HB 870, it puts the escalator period back to January instead of July as is the case now, so those folks who have occasion to license their vehicles in July would be on the same schedule as they are in June today, and they would pay the same until January, 1986, and then the escalator would take effect and they would pay that for the entire year, and '87 up until the 1st of July when the bill sunsets as far as that provision. He told the committees that it was necessary to offer some tax relief to people who are taxpayers and users of automobiles. One of the reasons was because the agriculture society needs a break due to the drought. Representative Marks also felt that retired people need a break. He said his bill will not raise the fees, basic fee, it will reintroduce the inflator. He called the committees' attention to the fiscal note and mentioned some comparisons. He said Curt Nichols of the Fiscal Analyst's office would have a spread sheet prepared for them before they take executive action. He draws their attention to page 5, and goes into a lengthy explanation of the differences listed there.

Representative Marks said there is an estimated ending fund balance of \$30.3 million. He reminded them that they had a target during the session of trying to have an ending fund balance of around \$15 million give or take. Representative Marks feels that if they pass House Bill 3, and even if you want to give the recipients there asking for help all the money they ask for.. "I won't say that, there isn't that much money," all the money asked for in the bills, then you would still have an ending fund balance of over \$20 million. He thinks this would be fair to the taxpayer and fair to the general fund.

PROPOSERS: Larry Tobiason, Montana Automobile Association, supports this bill. He said that he was not there to convince them that the cities, counties and school districts did not need extra funding, but to ask that you change the funding method from one that is placing an increased burden on certain segments of our population to one that would be shared by all the taxpayers of this state. He told the committee how high gasoline has risen and how heavily taxed the motorist is. Mr. Tobiason said that the motorists' costs are going up in every category, gas, insurance, tires, etc.

Janelle Fallon, Montana Chamber of Commerce, supports this bill. She said Montana does not need any tax increase. She believes they should take advantage of this opportunity presented by Representative Marks not to come up with an increase. Ms. Fallon said that the Bureau of Business and Economic Research at the University of Montana has reported that economic recovery is slower than expected in Montana. She said that they have been hearing this from throughout the state, from small businesses on main streets that they are not making any money. She said Montana ranks 44th in taxes per \$1,000 of personal income.

Robert VanDerVere, concerned citizen lobbyist, supports this bill. He feels that the people should get a free ride for a couple of years so this can be looked into. Mr. VanDerVere feels that the counties are already getting more money, and the people need the relief.

Dennis Burr, representing Montana Taxpayers' Association, supports this bill. He said the committees and legislators should not have already made up their minds that there was only one solution to the problem. He said they support HB 3 as an alternative method of funding local government and doing what they wanted to do in coming back. Mr. Burr feels that Representative Marks' bill is a lot simpler than the other one because it takes some of the confusion out. He said that it appears that the state can afford to fund local government during these two years with available revenue. He feels that they should spell out what the

fees are. He said they believe the inflation factor included in the fee schedule should be taken out. Mr. Burr said if they want these fees to "creep" every year that that can be specified in the law. Mr. Burr believes that Senator Mazurek's amendment should be adopted. He urged them to take the inflator clause out, specify the fees, and accept HB 3 as a funding mechanism in that the state appears to be able to afford that now.

Dean Mansfield, representing Montana Automobile Dealers Association, supports this bill. He said they did oppose both SB 142 and HB 870 during the regular session on the grounds that it was a selective tax on automobile owners and an erosion of the flat fee system. Mr. Mansfield said they don't believe that automobile owners should have to pickup the tab on their own. He said that four years ago the legislature adopted the flat fee system to reduce taxes and fees on automobiles at the urging of the public. He believes that that system should be protected. Mr. Mansfield believes that HB 3 will protect the flat fee system by funding the programs through the general fund.

Mons Teigen, representing Montana Stockgrowers' Association, supports this bill. (See Exhibit 4) Mr. Teigen told the committees about the terrible drought situation, and the problems of the farmers and ranchers. He said farmers and ranchers don't have any inflation factor built into their cash flow. They think HB 3 permits the accomplishment of all the goals that they are attempting to reach, without burdening the taxpayers with an additional tax no matter how small.

Representative Patterson, House District 97, Yellowstone, supports this bill. He was the one who called Representative Marks to ask if they could find another source of funding without having to go to a general tax increase to the motoring public of Montana. Representative Patterson feels that without HB 3 there will be some pretty hefty tax increases on the motoring public. He reiterated the plight of the farmers and ranchers.

Senator Goodover, Senate District 20, said that they are talking about a minimal increase in the fee system in these two bills, 1 and 2. One added fees for the courts, one added fees for the block grants and schools, which may amount to some \$5 or \$10 bucks per taxpayer. Senator Goodover told about all the problems and increases in taxes in Cascade County. He told about how our tax system was inhibiting new businesses in Montana because Montana is the fifth highest property tax state in the country. He said HB 3 is an alternative and it should be studied. He said that we must get people working. Senator Goodover felt that the committees should look at job building programs during this special session, and he went into much detail on the ways to accomplish this end.

Representative Dean Switzer, House District 28, supports this bill. Representative Switzer said that he didn't have as much to say about HB 3 as he did about SB 142. He said the alleged error in SB 142 was the best part of the bill. He said HB 3 would not be so selective a tax.

OPPONENTS: Gordon Morris, representing Montana Association of Counties, opposes this bill. (See Exhibit 5) Mr. Morris entered written testimony.

Don Peoples, Chief Executive of Butte-Silver Bow, opposes this bill. He said if the legislature stops the checks for the block grants, the government of Butte-Silver Bow will lose \$134,000 out of FY '84-'85 budget. They are expecting that check in the next few days, and that is part of the current fiscal year budget. He said they would have very few alternatives as to how to take care of this deficit. He said they would have to levy approximately 3 mills to make up that shortage. He said to the property owners in Butte that would mean an increase of \$7.50 to \$8.00. Mr. Peoples said that Anaconda-Deer Lodge would lose about \$50,000. He said it would cost the residents of Anaconda approximately 4.25 mills to pick up the loss of that amount of revenue. He said that what is happening in Butte is certainly going to happen across the state of Montana. Mr. Peoples has a real problem with the supposed \$30 million extra in the fund. He said if they are going to end up with that much money, it seems funny that they would need to steal the \$2 million that is already in the budgets of cities and counties across the state of Montana.

Gene Huntington, appearing on behalf of Governor Schwinden, opposes this bill. He said their opposition is generally concerned with the appropriateness of considering HB 3 in a special session. Mr. Huntington said the poll for the special session set out the purpose to correct action taken during the 1985 regular Legislative Session. That is what they believe the poll was about, that's what the public believed the poll was about, and that's what most Legislators thought the poll was about. He said the proposal in HB 3 emerged after the poll was basically complete, and they feel that the issues implicit in HB 3 are inappropriate for a special session. He said HB 3 goes beyond correcting action of the regular session, and takes up and alters some major state policies that have been hard fought over the last few years. Mr. Huntington said the three major policies they are dealing with are the basic budget compromise that was probably the major struggle of the '85 Session. The formulas for distributing the block grants, which was a major effort leading up to the '83 Session, and the whole scheme for distributing state aid to district courts, which represented a major effort of the last interim. He said this was to be a one-day session to correct an oversight of the 1985 regular Session.

Alec Hansen, representing Montana League of Cities and Towns, opposes this bill. Mr. Hansen said that under Representative Marks' proposal, according to the fiscal notes, the cities and towns will lose \$217,000 as a result of this bill. He said this was one of those situations where the cure might be worse than the disease. He reiterated that the block grant payments have been anticipated by the cities and towns as nontax revenue for the current fiscal year. He said they are not talking about excess funds or new money, and the block grant payments that will have to be transferred to the motor vehicle reimbursement account before that can be done, first they have to be subtracted from the budget of every city, town and county in the state of Montana. He said this proposal begins by shooting a \$2 million hole in the budgets of every local government in this state. Mr. Hansen said that he is opposed to the provision to prorate motor vehicle reimbursement payments to the counties if a deficit occurs, because this conveniently relieves the Legislature of the legal obligation to fine the motor vehicle expense account. The fee system was sold on the idea that it would reduce taxes. If the reimbursement account is not funded, taxes are not reduced, they are simply transferred from personal to real property. Mr. Hansen said that all they are asking the legislature to do is to honor the commitments that it has made to the cities, towns and counties in Montana.

Chip Erdmann, representing School Board Association, opposes this bill. He said they have some concern with HB 3 although they are not impacted to the same extent financially as the cities and towns are, their concerns regard the appropriateness of this measure at this time. Mr. Erdmann said this does propose a specific method in the way they fund these areas. It repeals HB870 and SB142, and by implication does some mischief to SB25. He said this may well go beyond the scope of the call. He agrees that there may be something wrong with the fee system, and that it probably deserves a look, but 870 and 142 were discussed and debated at length during the regular session. He does not feel it is right for a one-day special session to come in and reverse the decisions that were made in the last session. Mr. Erdmann does not think that anyone knows all the ramifications of that bill.

Louise Kunz, Montana Low Income Coalition, opposes this bill. (See Exhibit 6) They feel that if there is extra money in the general fund, the general assistance fund should be reimplemented. She feels the low income people have first claim to any funds.

Stephen Jelinek, representing Butte Community Union, opposes this bill. (See Exhibit 7)

Terry Minow, Montana Federation of Teachers and the Montana Federation of State Employees, opposes this bill. She feels that further depleting the general fund to remedy an admitted mistake seems to us to be a back door approach to solving the problem. Ms. Minow said the 1985 Legislature balanced the budget by transferring moneys from one fund to another. The 1987 legislature will have many difficult decisions to make about how to raise sufficient tax revenue to fund special social services. She said passing HB 3 will further compound the lack of general fund dollars to properly fund state government and the foundation program.

Jerry Prue, Butte Community Union, opposes this bill. He said he opposes this bill on three or four points. He said he is on GA right now and would urge them to use this money for training and jobs. He asked that the GA fund be funded because if there are no jobs, how are they going to live?

Al Johnson, City Manager of Great Falls, said he signed the register as an opponent to Representative Marks' bill, but that that is not entirely true. It seems to him that the issue being debated is how it is appropriate to fund government, whether it be state or local. He feels that Representative Marks is presenting an alternative. However, he feels that there is a part of his bill that he objects to, and that is the part that revokes the payments on the existing block grant program. He said that the problem they were there to correct right now means a loss of \$61,000 per year, or slightly more than 1 mill. If that part of Representative Marks' bill that would revoke the block grants is passed, Great Falls would lose 2½ mills. He asked them not to tamper with existing block grant payments.

Don Waldron, representing Legislative Committee of School Administrators of Montana, listed two points. One, as a citizen, he was shocked to arrive at 5 and see this issue before them. He said that he didn't read about it in the paper. Two, nobody has said it is okay to have a surplus, well he thinks it is fine.

Owen Nelson, representing Montana Education Association, said that their concern is that the funding will be there for the schools and the other local governments. He does not feel that they should change that decision as to how much money is available for funding programs.

AMENDMENTS: None.

COMMITTEE QUESTIONS: Senator Mazurek said that Representative Mercer had proposed his amendment by form of another bill, and they had discussed it and thought this would be the simplest

Page 17
Senate and House Taxation Committees
Special Meeting
June 27, 1985

route to go. He asked about the relationship of Representative Marks' bill to SB 25, and he notes that the fiscal note says that local governments won't be affected by the repeal of 142. I assume that is because there was money appropriated in House Bill 500 for the district court funding program, and he was just curious if he had spoken with the Council or looked into the question? SB 25 did contain co-ordination instructions, and he was curious if this bill will impact the district court funds. Representative Marks replied that the co-ordinator was also repealed, so the concern that Mr. Morris had about the inappropriateness of the bill because it leaves 25 hanging out there is not the case because if you look at the title, this bill deals with SB25 and it is co-ordinated. SB25 does not depend on vehicle fees.

Senator Towe said but the provision in SB25 saying this bill is not effective unless 142 passes, it is not repealed but still in the law. Representative Marks replied that that is the part that is repealed in the bill as he understands it from talking with the Council staff. Mr. Hieman, Legislative Council, said that in the bill where they repeal Section 18, Chapter 6, that is the co-ordination section of SB25.

Senator Halligan asked a member of the budget office; one of the problems we had with SB142 during the hearings and we later had to raise the fee in the middle of the whole process was because the allocation in the general fund of HB500 to fund district court costs of going for the previous year, an amount in the '86 budget was actually going for '85, is that taken care of in Representative Marks' bill? There was actually a \$3 million shortfall. David Hunter replied that there is no problem of that nature. He said the fiscal note says the cost of district courts of 5.286 million, that was consistent with the cost that was considered in the session.

Representative Williams asked Representative Marks what ending fund balance they are using. Representative Marks replied that they are using figures in appropriation report that was sent out by the budget office that indicated about 30.3 million dollars. He said he thought if they would draw their attention to the fiscal note on HB3, the budget office has indicated that might not be quite that high. He thinks they started with a 28 million dollar ending fund balance. He will accept that if they will do the funding with general funds for the purposes of the grant program, and you would still end up with a positive ending fund balance of over 20 million dollars. Representative Williams said that they picked up the numbers from the Fiscal Analyst's office today and they showed 0.2 million. Have you seen that? Representative Marks said that that was not a public report.

He said he asked for it today and the answer he got was that that had not been published. He said he is using the figures from the budget office. He said they were the same figures used at the end of the session. Representative Marks feels like there is an adequate amount there. He is comfortable with the estimate.

Senator Towe asked Representative Marks that if he understands the explanation of the budget office, is that the only way that they arrived at the \$30 million was because they showed a reversion of the entire \$12 million, and that there was essentially a gentlemen's agreement during the session of the GAP money that would not be used this time and would be reserved, and they said that we have no law and no statute to do what we wanted to do as a gentlemen's agreement, and therefore, the \$30 million includes the total \$27 million of GAP money of which we had intended only to use 15. If you subtract that 12 million from the 30, then you get 18 million, and their ending fund balance, according to what we all had anticipated with the gentlemen's agreement would only be 18 million. A reasonable ending fund balance according to the Governor's office is supposed to be 15 million and according to the LFA is supposed to be 22 million. Even with the Governor's budget office figures, there would be a problem with your funding, which appears to be between 9 and 11 million extra drain on the general fund. Representative Marks replied that that was a legitimate question. He said the 12 million in question that is the remainder of the GAP money after they use 15 for the foundation program was in HB800, taken from the fund that it was in at the time, and 15 million was transferred to the foundation program. That backed out a respective amount of general fund money. He said the same thing will occur with the 12 million at the end of the '87 biennium. Senator Towe said that that has now occurred and is included in the 30 million, because they are doing it as of the '85 biennium. Representative Marks concurred that it was in there, but he said you can't spend the money twice. He said he tried that last session and got away with it, but he is not trying it now. He said it was his impression that that money would revert to the general fund at the end of the '87 biennium. He said the legislature will be meeting in January of 1987 and predictably, they will take that money and put it into the foundation program, so then there will be 12 million less of general fund needed to do it, just exactly the same way we did this time. Senator Towe asked to rephrase his question; if in fact the ending fund balance of the Governor's budget office were \$18 million, would you then think that this was a responsible thing to do to pass HB3? Representative Marks said that was a hypothetical question. He said it was unfair to address. He said if you take the 12 million and secure it in the foundation program, then it means you have 12 million

dollars less obligation next time to fund it because we always throw a bunch of general fund money in on top of all the earmarked forces to fund the foundation program to the tune of 50 million or so historically, so I guess if the routine and adequate ending fund balance is expected as we indicated in the session of 15 million dollars or so to go into the next biennium to meet all our obligations, then if you have 12 million dollars already pigeon-holed away in a fund that will relieve your general fund of 12 million, it seems to me that you would be in pretty good shape, because it would reduce your demand on the general fund for the '89 biennium by that respective amount.

Senator Towe said he would ask one more question on a different side. If they were to take 2 million dollars and make sure that the cities and counties didn't lose that 2 million as being reverted. In other words, if we took that out of the general fund also, we have to increase the appropriation in your bill for about 6½ million is that right? Representative Marks replied that it depends on whose figure you use. Using the figures that were published by the budget office, and drawing attention to page 4 (Exhibit 3). Page 4 indicates what happens if HB 3 were to go into effect with the provisions that have been discussed, including the seizure or the Indian-giving, hand-shake and all that Little Big Horn talk. It indicates that you will have a half a million dollars surplus in the account--494 million dollars, so I guess in answer to your question, Senator, and using the budget offices' revised ending fund balance of 28 million, and indicating that they think that 4,400,000 is too much general fund to accomplish that, then you could back that much out and it would take 1½ million additional to satisfy the folks who think we are Indian-giving. If that were the case, you would still have an ending fund balance of about \$19 million, which is 4 million more than we thought we needed. There was more discussion regarding the funding of Representative Marks' bill between Representative Marks and Senator Towe.

Senator Towe asked Mr. Hunter if the 28.4 million shown on page 2 included the 12 million reversion from the GAP money as your note on HB800 seems to indicate or not? Mr. Hunter replied that it includes it. Senator Towe asked if they were to do what they all wanted to do during the session, reserve the 12 million to be used in the '87 biennium and not the '85 biennium, would that 28 million have to be reduced back to 12 million? Mr. Hunter replied that that is correct. Senator Towe said similarly they would have to reduce the 21 million which is the effect under this bill by 12 million. Mr. Hunter replied that that is correct.

Senator Towe said if they were to deduct further the 2 million on the special general services reversion, they would have to reduce it by another 2 million. Mr. Hunter said that is correct. Senator Towe said that would give an ending fund balance of 7 million dollars. Mr. Hunter replied that that is correct. He said that he thinks Representative Marks really characterized the 12 million dollars correctly. Whether you leave the 12 million dollars in the foundation program, and consider it as what you are going to spend on the foundation program or revert it to the general fund, it really has the same impact. The budget agreement was to leave that there, and in effect you really had a 30 million ending fund balance when you left the regular session because the agreement was that we would have an ending fund balance in the 15-20 million dollar range, plus the 12 million dollars we use for the foundation program, so the 30 million dollars no matter where, are really the same thing. Either way you look at it, you are going to reduce that ending fund balance. You are going to spend it down by about 7.4 million dollars.

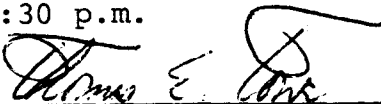
Senator Towe asked what a legitimate ending fund balance was in Mr. Hunter's opinion. Mr. Hunter replied that the Governor recommended 16 million dollars in the general fund.

Representative Marks closed by saying that he would like to make some remarks about the testimony given and then make some closing remarks. He said that if you take HB 3 as it is, and use Mr. Hunter's figures, his figures show that there may be \$500,000 too much in the appropriation, and you could reduce that by that amount. Representative Marks went into other ways that you could work with the funding on this bill. He explained what he thinks the confusion regarding the GAP money is. Representative Marks feels that there will be an adequate ending fund balance with his bill. He could not understand why the people representing the schools were against him, because he said that under his bill they would get more money. He said this is a fair way to fund this program if you want it funded. He said this committee can set the parameters of the funding. Representative Marks does not believe that the committees are demanded to come in and appropriate 9 million dollars through fees at all. He doesn't feel they are demanded to "correct" it to any particular figure. He thinks they can do what they want to do.

The hearing was closed on HOUSE BILL 3.

Senator Towe explained to the committees how it came about that they have two identical bills and why.

The meeting was adjourned at 10:30 p.m.


SENATOR TOM TOWE, CHAIRMAN

Please sign Register if testifying and note for or against bill.

COMMITTEE: House Taxation

Date: June 27, 1985

Bill No: House Bill 3

Sponsor: Representative Marks

VISITOR'S REGISTER

NAME	TOWN	REPRESENTING	Proponent	Opponent
<i>Dep W Alderson</i>	<i>Orinda</i>	<i>S.A.M.</i>		X
<i>Tom Brundage</i>	<i>Orinda</i>	<i>M.P.E.H.</i>		X
<i>Larry Tobiason</i>	<i>"</i>	<i>M.A.A.</i>	X	
<i>Alan Mansfield</i>	<i>"</i>	<i>MADA</i>	X	
<i>Jim Mason</i>	<i>"</i>	<i>M.A.A.</i>	X	
<i>Owen Nelson</i>	<i>"</i>	<i>MEA</i>		X
<i>Tom Nelson</i>	<i>"</i>	<i>MEA</i>	X	
<i>Robert Mullen</i>	<i>Sunny</i>	<i>M.A.C.O.</i>		X
<i>Gloria Paladichuk</i>	<i>"</i>	<i>P.O. Treasurer</i>		X
<i>John Shontz</i>	<i>S.D.M.</i>	<i>Ribbed CS</i>		X
<i>Gene Huntington</i>	<i>Bellevue</i>	<i>Governer</i>		X
<i>Ed West</i>	<i>Gr. Falls</i>	<i>M.A.S.A.</i>		X



MONTANA FEDERATION OF STATE EMPLOYEES

AFT, AFL-CIO

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ARTCRAFT, BUTTE



TESTIMONY OF TERRY LYNN MINOW, MONTANA FEDERATION OF STATE EMPLOYEES AND MONTANA FEDERATION OF TEACHERS, BEFORE THE HOUSE AND SENATE TAXATION COMMITTEES, ON JUNE 27, 1985

Mr. Chairmen, members of the committees, my name is Terry Minow. I represent the Montana Federation of Teachers and the Montana Federation of State Employees.

As a representative of city and county employees and as a representative of teachers throughout Montana, I rise in support of HB 2 and SB 1. These bills address an honest mistake in a straightforward manner. In Butte-Silver Bow, as in many counties and cities throughout the state, the failure to pass a bill of this kind would have a serious impact. It is estimated that Butte-Silver Bow would lose approximately \$50,000 in vehicle registration fees. In a community that is already facing layoffs of city and county personnel due to financial difficulties, this is a significant amount of lost revenue.

Similarly, school districts set their budgets based on an estimate of vehicle registration fee revenue before they realized that a mistake had been made. Mill levies have been passed and budgets set--school districts need this revenue to maintain their balanced budgets.

We wish to oppose Representative Mark's HB 3. Further depleting the general fund to remedy an admitted mistake seems to us to be a back door approach. The 1984 Legislature balanced the budget by transferring monies from one fund to another, leaving the 1987 Legislature many difficult decisions to make about how to raise sufficient tax revenue to fund essential social services. Passing HB 3 will further compound the lack of available general fund dollars to properly fund state government and the Foundation Program.

Please give HB 2 and SB 1 a "Do Pass" recommendation and HB 3 a "Do Not Pass" recommendation. Doing so will facilitate a short special session, one that has taken a straightforward approach to an honest mistake.

Thank you for your consideration.

PROPOSED AMENDMENTS TO _____ BILL NO. ____ [L.C. 1 OR 4]

1. Title, line 7.

Following: "FEE;"

Insert: "TRANSFERRING THE ADMINISTRATION OF STATE FUNDING FOR DISTRICT COURTS FROM THE SUPREME COURT TO THE DEPARTMENT OF COMMERCE; APPROPRIATING TO THE DEPARTMENT OF COMMERCE FUNDING FOR THE STATE FUNDING OF DISTRICT COURTS; DELETING THE FUNDING FROM THE SUPREME COURT BUDGET;"

2. Title, line 8.

Following: "1985"

Insert: ",SECTIONS 1 THROUGH 5, 10, 15, AND 16 OF CHAPTER 680, LAWS OF 1985"

3. Page 3, line 2.

Following: line 1

Insert: "Section 3. Section 1, Chapter 680, Laws of 1985, is amended to read:

"Section 1. State assumption of certain district court expenses. (1) Effective July 1, 1985, the state shall, to the extent that money is appropriated, fund the following district court expenses in criminal cases only:

- (a) salaries of court reporters;
- (b) transcripts of proceedings;
- (c) witness fees and necessary expenses;
- (d) juror fees;
- (e) indigent defense; and
- (f) psychiatric examinations.

(2) ~~The supreme-court-administrator, under the direction of the--supreme--court-and~~ department of commerce, in consultation with the district judges for each judicial district, shall include within the ~~supreme--court's department's~~ biennial budget request to the legislature a request for funding the expenses listed in subsection (1).

(3) If money appropriated for the expenses listed in subsection (1) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. If no money is appropriated, the county is responsible for payment of all expenses."

Section 4. Section 2, Chapter 680, Laws of 1985, is amended to read:

"Section 2. Fiscal administration for payment of court expenses. The ~~supreme-court-administrator~~ department of commerce shall:

(1) establish procedures for disbursement of funds for payment of district court expenses listed in [section 1], including prorating of those funds if they are insufficient to cover all expenses listed in [section 1];

- (2) ~~in--consultation--with--the--department--of--commerce,~~ develop a uniform accounting system for use by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes; and
- (3) provide for annual auditing of district court expenses to assure normal operations and consistency in reporting of expenditures."

Section 5. Section 3, Chapter 680, Laws of 1985, is amended to read:

"Section 3. Reimbursement for juror and witness fees. According to procedures established by the ~~supreme--court--administrator~~ department of commerce under [section 2(1)], each clerk of district court shall submit to the ~~supreme--court--administrator~~ department a detailed statement containing a list of witnesses and jurors for criminal cases only and the amount of per diem and mileage paid to each by the county. Upon receipt and verification of the statement, the ~~administrator~~ department shall promptly reimburse the designated county for the cost of witness and juror fees on a full or prorated basis in accordance with [section 2]. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

Section 6. Section 4, Chapter 680, Laws of 1985, is amended to read:

"Section 4. Section 3-5-602, MCA, is amended to read:

"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 and out of an appropriation made to the ~~supreme-court~~ department of commerce as provided in subsection (2).

(2) The ~~supreme-court-administrator~~ department of commerce shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district and the amount appropriated for that purpose. Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in

the district courts in the district. The judge or judges 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 or their district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 7. Section 5, Chapter 680, Laws of 1985, is amended to read:

"Section 5. Section 3-5-604, MCA, is amended to read:

"3-5-604. Transcript of proceedings. (1) Each reporter must furnish, upon request, with all reasonable diligence, to a party or his attorney in a case in which he has attended the trial or hearing a transcript from his stenographic notes of the testimony and proceedings of the trial or hearing or a part thereof, upon payment by the person requiring the same of \$2 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy.

(2) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate for the sum to which he is entitled. The reporter shall submit the certificate to the supreme court--administrator--who department of commerce which, in accordance with [section 2], is responsible for the prompt payment of all or a portion of the amount due the reporter. If the supreme-court-administrator department, in accordance with [section 2], pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter.

(3) If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor. In civil cases, all transcripts required by the county shall be furnished, and only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a transcript, it

shall be furnished to him and paid for by the state in the manner provided in subsection (2) to the extent funds are available. The county shall pay the remainder as required in [section 1]."

Section 8. Section 10, Chapter 680, Laws of 1985, is amended to read:

"Section 10. Section 46-8-201, MCA, is amended to read:

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

(2) The expense of implementing subsection (1) is chargeable as provided in [section 1] to the county in which the proceeding arose, the ~~office-of-supreme court-administrator~~ department of commerce, or both, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; and

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

Section 9. Section 15, Chapter 680, Laws of 1985, is amended to read:

"Section 15. Section 46-15-104, MCA, is amended to read:

"46-15-104. Expenses of witness. (1) When a person attends before a magistrate, grand jury, or court as a witness in a criminal case upon a subpoena or in pursuance of an undertaking, the judge, at his discretion, by a written order may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

(2) According to procedures established by the ~~supreme---court---administrator~~ department of commerce under [section 2(1)], the clerk of district court shall submit to the ~~supreme-court-administrator~~ department a detailed statement containing a list of witnesses and the amount of expenses paid to each by the county. Upon receipt and verification of the statement, the ~~administrator~~ department shall promptly reimburse the designated county for all or a portion of the cost

of witness expenses. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund.""

Section 10. Section 16, Chapter 680, Laws of 1985, is amended to read:

"Section 16. Section 46-18-235, MCA, is amended to read:

"46-18-235. Disposition of money collected as fines and costs. The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 shall be paid to the county general fund of the county in which the court is held, except that:

(1) if the costs assessed include any district court expense listed in [section 1], the money collected from assessment of these costs must be paid to the ~~supreme-court-administrator~~ department of commerce for deposit into the state general fund to the extent the expenses were paid by the state; and

(2) if the fine was imposed for a violation of Title 45, chapter 9, the court may order the money paid into the drug forfeiture fund maintained under 44-12-206 for the law enforcement agency which made the arrest from which the conviction and fine arose.""

Section 11. Appropriation transfer. The general fund appropriation to the Supreme Court for state funding of certain District Court operations contained in item No. 4 of the Judiciary budget as contained in House Bill 500, L. 1985, is transferred to the Department of Commerce. In accordance with such transfer, the spending authority of the Supreme Court is reduced \$3,170,633 for fiscal year 1986 and \$3,152,873 in fiscal year 1987, and there is appropriated to the Department of Commerce from the general fund \$3,170,633 for fiscal year 1986 and \$3,152,873 in fiscal year 1987 for certain District Court operations."

Renumber: subsequent sections

4. Page 3, line 4.

Following: "approval"

Insert: ", "

Following: "and"

Strike: "applies"

Insert: "sections 1 and 2 apply"

5. Page 3, line 6.

Following: "1985"

Strike: "it applies"

Insert: "sections 1 and 2 apply"

6. Page 3, line 9.

Following: "(2)"

Strike: "This act terminates"

Insert: "Sections 1 and 2 terminate"

PC3/LC1AMEND

*Exhibit 3
Taxation Committee
6-27-85*

STATE OF MONTANA

REQUEST NO. FNN 001-85

A L L N O T I C E

Form BD-15

In compliance with a request from the Senate, there is hereby submitted a Fiscal Note for House Bill 200, Chapter 3, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION

This bill reinstates the inflation clause that was repealed by SB 142 of the 1985 regular session to provide for automatic inflation of vehicle fees. Bill

ASSUMPTIONS:

1. The number of registered vehicles remains constant at the 1984 level: 649,466.

2. The inflation deflator for personal consumption expenditures (PCE) is:

FY 86: 1.175921

FY 87 and 88: 1.26656153782

Category	FY 86	FY 87	FY 88
Personal Consumption Expenditures (PCE)	1.175921	1.26656153782	1.26656153782
Vehicle Fees	1.175921	1.26656153782	1.26656153782
Registration Fees	1.175921	1.26656153782	1.26656153782
License Fees	1.175921	1.26656153782	1.26656153782
Other Fees	1.175921	1.26656153782	1.26656153782
Total	1.175921	1.26656153782	1.26656153782

David J. Hunter
BUDGET DIRECTOR
Office of Budget and Program Planning

Date: *June 27, 1985*

INCREASED REVENUE DUE TO PROPOSED LEGISLATION:

	<u>FY1986</u>	<u>FY1987</u>	<u>BIENNIUM</u>	<u>PERCENTAGE</u>
Cities	\$ 331,974	\$ 399,774	\$ 731,748	0.0775
Counties	920,103	1,108,019	2,028,122	0.2148
Universities*	112,657	135,665	248,322	0.0263
Foundation*	850,710	1,024,453	1,875,163	0.1986
School Dist	1,817,932	2,189,214	4,007,146	0.4244
Other	250,158	301,249	551,407	0.0584
TOTAL	\$4,283,534	\$5,158,374	\$9,441,908	1.0000

*General fund impact for biennium 1986-87, 123,485

FISCAL IMPACT ON VEHICLE FEES:

The effect of this bill will be to raise light vehicle fees as is shown below:

	<u>Calendar 1986</u>		<u>Calendar 1987</u>	
	<u>Effective</u>	<u>Proposed</u>	<u>Effective</u>	<u>Proposed</u>
	<u>July 1, 1985</u>	<u>Bill</u>	<u>July 1, 1985</u>	<u>Bill</u>
LIGHT FEES				
CLASS 1	\$ 83.00	\$ 95.00	\$ 83.00	\$ 99.00
CLASS 2	48.00	55.00	48.00	57.00
CLASS 3	14.00	16.00	14.00	16.00
HEAVY FEES				
CLASS 1	\$104.50	\$120.50	\$104.50	\$124.50
CLASS 2	59.00	68.00	59.00	70.00
CLASS 3	19.50	22.50	19.50	22.50

NOTE:

This bill will not affect revenues generated for the local government block grant, nor will the revenue generated for district courts. This is because SB 142 and HB 870 of the 1985 regular legislative session are left intact.

STATE OF MONTANA

REQUEST NO. FNN002-85

A L. N. O. T. E. Form BD-15

in compliance with a written request for information used in developing bills introduced by members of the legislature upon request of the House Bill Committee.

There is hereby submitted a Fiscal Note for House Bill 27, 1985, Part 2 of the Montana Code Annotated (MCA). Background information used in developing bills introduced by members of the legislature upon request of the House Bill Committee is available from the Office of Budget and Program Planning, to members of the legislature upon request of the House Bill Committee.

Additional general funds are appropriated for local government block grant expenditures, and revenue for cities and counties is deferred from FY 85 to FY 86 and FY 87. Also, the state department of local governmental units for vehicle fee replacement is limited to the appropriation of \$1,175,921 for FY 1986.

ASSUMPTIONS: 1. The number of registered vehicles will remain constant at the 1984 level of 649,466.

2. The implicit deflator for personal consumption expenditures (PCE) is: 1.175921 for FY 1986. 1.226258 for FY 1987.

DESCRIPTION OF PROPOSED LEGISLATION:

This bill repeals HB 270 and HB 182 passed by the 1983 regular session. Additional general funds are appropriated for local government block grant expenditures, and revenue for cities and counties is deferred from FY 85 to FY 86 and FY 87. Also, the state department of local governmental units for vehicle fee replacement is limited to the appropriation of \$1,175,921 for FY 1986.

ASSUMPTIONS:

1. The number of registered vehicles will remain constant at the 1984 level of 649,466.
2. The implicit deflator for personal consumption expenditures (PCE) is: 1.175921 for FY 1986. 1.226258 for FY 1987.

David Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: June 27, 1985

PROJECTED GENERAL FUND STATUS
1986-87 Biennium (Millions)

	CURRENT LAW	AS PROPOSED
Beginning Fund Balance	22.195	22.195
Estimated Revenues	774.180	774.180
Repeal of SB142		(5.286)
Total Available	796.375	791.089
General Appropriation Bill	703.308	703.308
Tans Interest	6.000	6.000
Debt Service	20.201	20.201
Miscellaneous Appropriations	1.557	1.557
Pay Plan	16.500	16.500
Foundation Program	32.560	32.560
Legislative Feed Bill	4.400	4.400
Other Reversions	(13.000)	(13.000)
Foundation Program Reversion	(3.624)	(5.898)
Proposed Block Grant Appropriation		4.421
Total Disbursements	767.902	770.049
Ending Fund Balance	28.413	21.040

Senate Bill 142 (SB142) as passed by the 49th Legislature required that the additional vehicle fees generated would be deposited to the state general fund to fund the costs associated with operating district courts. With the sunset provision as specified in SB 142, the state general fund would be obligated to fund district courts beginning in 1988 but without the necessary revenue to cover the costs. This would be an ongoing biennial expense of approximately \$5.3 million.

House Bill 142 as passed by the 49th Legislature required that the state's financial records and reports be prepared in accordance with generally accepted accounting principles (GAAP). This legislation enabled the accelerated distribution of \$27 million of interest and income monies to the foundation program. The intent was to use \$15 million for funding public schools and leave the remaining \$12 million as a cushion for subsequent years. However, state law requires that all non-general fund monies be expended before any general fund monies can be used. This law has the effect of reducing the general fund need for public schools by \$12 million. After adjusting for all other legislation passed by the 49th legislature, the \$12 million expected reversion was reduced to approximately \$3.6 million.

ON 0001-011
GENERAL REVENUES
GENERAL REVENUES
GENERAL REVENUES

EFFECT OF PROPOSED REPEALERS AND APPROPRIATIONS

	Proposed Appropriations	Reinstatement Of Inflation	Total Impact
Cities	\$ (342,639)	\$ 731,748	\$ (217,016)
Counties	(949,663)	2,028,122	1,555,800
Universities	(116,276)	248,322	301,123
Foundation	(878,000)	1,875,163	2,273,882
School Districts	(1,878,316)	4,007,146	4,859,191
Other	(238,331)	551,404	668,630
Total	\$ (4,403,235)	\$ 9,441,905	\$ 9,441,630

NOTE: Local governments are not affected by repeal of SB142 (district court expenses). This occurs because there is a general fund appropriation in SB142 to cover the costs. However, SB142 provided the funding mechanism by increasing vehicle fees and depositing these fees into the general fund. Therefore, the effect of repealing SB 142 will be to reduce general fund revenues by \$5,286,249 over the biennium.

GENERAL REVENUES

GENERAL REVENUES

GENERAL REVENUES

LOCAL GOVERNMENT BLOCK GRANT SUMMARY
CURRENT LAW (MILLIONS)

	FY1986	FY1987	Biennium
Revenue			
Oil Severance	12.327	11.637	23.964
General Fund	1.500	1.500	3.000
HB 870 Fee Increase	2.211	2.211	4.422
Total Revenue	16.038	15.348	31.386

Expenditures

General Purpose Block Grant 16.449 16.449 32.898

(SHORTFALL) (9.411) (1.101) (1.512)

LOCAL GOVERNMENT BLOCK GRANT SUMMARY
PROPOSED LAW (MILLIONS)

	FY1986	FY1987	Biennium
Revenue			
Oil Severance	12.327	11.637	23.964
General Fund	1.500	1.500	3.000
HB 870 Fee Increase	2.210	2.210	4.420
General Fund	1.004	1.004	2.008
FY85 Block Grant Excess *	17.041	16.351	33.392
Total Revenue			

Expenditures

General Purpose Block Grant 16.449 16.449 32.898

Funds Available for

GENERAL SERVICES GRANT 0.592 (0.098) 0.494

OR SHORTFALL

* Assumes biennial appropriation will be allocated equally between fiscal years.

AB-3

FEE SCHEDULE AND CALENDAR YEAR

		1986		1987	
		Effective 7/1/86	Proposed	Effective 7/1/87	Proposed
LIGHT FEES					
CLASS 1	70	82	82	83	86
CLASS 2	40	48	47	48	49
CLASS 3	10	14	12	14	12
HEAVY FEES					
CLASS 1	90	104.50	106	104.50	110
CLASS 2	50	59	59	59	61
CLASS 3	15	19.50	18	19.50	18
NUMBER OF VEHICLES					
	614970	649466	649466	649466	649466

*PCE-inflator used: FY86 - 1.175921
FY87 - 1.226258

OTHER FISCAL IMPACTS:

This bill provides language which allows the state to reimburse local governments subject to the legislative appropriation rather than a reimbursement equal to motor vehicle fee replacement.

TECHNICAL:

The amount proposed on page 2, lines 10-13 states that funds remaining for the general services block grant will not revert to the general fund if not expended. Existing language requires that all remaining funds be distributed within the requirements set forth for the general services block grant.

Exhibit 4
Taxation Committee
6-27-85

WITNESS STATEMENT

BILL NO. HOUSE BILL 3

Date: June 27, 1985

SPONSOR: REPRESENTATIVE MARKS

Name: Mons Teigen

Representing: MT Stockgrowers Assn.

Support:

This measure permits the accomplishment of all of the goals.

of HB 1 + 2 without any increased taxes.

**MONTANA
ASSOCIATION OF
COUNTIES**

*Exhibit 5
Taxation Committee
6-27-85*

1802 11th Avenue
Helena, Montana 59601
(406) 442-5209

June 27, 1985

Dear Legislators:

In response to Representative Marks' letter of June 25, 1985 I feel the following points need to be made. He has raised several issues relative to his proposal to fund District Courts and Motor Vehicle State Reimbursement from the General Fund and by stopping distribution of the General Services Block Grant monies. I would like to comment on these issues:

1. Representative Marks has indicated that the legislature should consider repealing SB 142 as passed by the 49th Legislature. I wish to point out that SB 142 is linked to SB 25, the District Court Funding bill and if SB 142 were to be repealed it would negate or repeal SB 25. Before any action on SB 142 is taken relative to its possible repeal this issue would have to be explored and SB 25 in all likelihood amended so as to not be tied directly to the passage of SB 142.

2. The proposed repeal of HB 870 must be weighed in light of projected revenue. It should be noted that HB 870 provides revenue to the General Purpose portion of the local government block grant program, and for all intents and purposes under provisions set forth in HB 500, there will be no General Services Block Grant in the coming biennium due to the cap that was placed on it.

3. Representative Marks further proposes amending Section 7-6-309(4) of the Montana Code Annotated to stop distribution June 30 of approximately \$2 million into the Block Grant Account. It should be noted that the \$2 million is an allocation to the General Services portion of the Block Grant and as such has been anticipated by municipalities and counties throughout the state based upon correspondence from the Community Development Division of the Department of Commerce in June of 1984. In that correspondence it was pointed out that "in the coming fiscal period, FY 85, there will only be one General Services payment, June 30, 1985. There has been some confusion the past few months concerning in which fiscal year this revenue should be accounted. Recent discussions with the Montana Association of Counties and the League of Cities and Towns has resulted in agreement that the June 30, 1985 payment should be counted as revenue for FY 85." In this correspondence, local governments were advised to anticipate approximately \$1.987 million of non-tax revenue.

Legislators
June 27, 1985
Page 2

This action was necessitated by virtue of the need to anticipate the revenue in the actual fiscal year in which it would be received, June 30, 1985, i.e. FY 85.

As a consequence, the proposal to amend Section 7-6-309(4), MCA, to stop distribution of the approximate \$2 million of FY 1985 surplus would have the resulting effect of leaving local jurisdictions with a \$2 million shortfall in their FY '85 budget that would have to be made up by increased levies in FY '86.

In making these points I would hope that the legislature would act expeditiously on SB 142 and restore the inflation factor as identified as our best solution. It may be acceptable to repeal HB 870; however, I think I would speak in opposition to any effort to repeal SB 142 because of its link to SB 25, and further, would have to protest any diversion of the \$2 million "supposed" surplus in the block grant account. These are new issues unrelated to the error in SB 142, perhaps beyond the limited scope of this special session.

Sincerely,



GORDON MORRIS
Executive Director

GM/mrp

Exhibit 6
Taration Committee
6-27-85

WITNESS STATEMENT

BILL NO. HOUSE BILL 3Date: June 27, 1985SPONSOR: REPRESENTATIVE MARKSName: House KelzRepresenting: MT Low Income
Coalition

We strongly oppose any "excess" General funds
 being used in the manner. During the entire debate
 on the Gen. Assistance issue it was said again & again,
 that there was no money to fund it. As of this
 moment many people in MT. face being without
 any MEANS of support on July 1.

If these truly are excess funds then people have
 just taken it to them.

Exhibit 7

Mr. Starnes & Members of the Comm. Taxation Committee
6-27-85

WITNESS STATEMENT

BILL NO. HOUSE BILL 3Date: June 27, 1985SPONSOR: REPRESENTATIVE MARKSName: Stephen Jelinek Representing: Butte Comm. Union

I am a G.A. Recp. Looking For work
I'm also registered with job service

I would to urge you to hold
on to these monies pending the
outcome of the G.A. Law suite
Because if the law suite is
favorable to the poor this money
1st priority to the poor

STANDING COMMITTEE REPORT

June 28

1945

MR. PRESIDENT

We, your committee on

TRANSPORTATION

having had under consideration

SENATE BILL

No. **1**

first

reading copy (**white**)
color

A BILL FOR AN ACT ENTITLED: "AN ACT REPRESENTING THE INFLATION COMPUTATION INTO THE LIGHT MOTOR VEHICLE FEE SYSTEM; PROVIDING THAT THE INFLATION COMPUTATION DOES NOT APPLY TO THE DISTRICT COURT FEE; AMENDING SECTION 2, CHAPTER 685, LAWS OF 1935; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

Respectfully report as follows: That

SENATE BILL

No. **1**

be amended as follows:

1. Title, line 7.

Following: "FEE;"

Insert: "TRANSFERRING THE ADMINISTRATION OF STATE FUNDING FOR DISTRICT COURTS FROM THE SUPREME COURT TO THE DEPARTMENT OF COMMERCE; APPROPRIATING TO THE DEPARTMENT OF COMMERCE FUNDING FOR THE STATE FUNDING OF DISTRICT COURTS; DELETING THE FUNDING FROM THE SUPREME COURT BUDGET;"

2. Title, line 8.

Following: "1935"

Insert: ", SECTIONS 1 THROUGH 5, 10, 15, AND 16 OF CHAPTER 680, LAWS OF 1935"

3. Page 3, line 2.

Following: line 1

Insert: "Section 3. Section 1, Chapter 680, Laws of 1935, is amended to read:

"Section 1. State assumption of certain district court expenses. (1) Effective July 1, 1935, the state shall, to the extent that money is appropriated, fund the following district court expenses in criminal cases only:

- (a) salaries of court reporters;
- (b) transcripts of proceedings;
- (c) witness fees and necessary expenses;
- (d) juror fees;
- (e) indigent defense; and
- (f) psychiatric examinations.

XXXXXX

XXXXXXXX

Chairman.

(2) ~~The supreme-court-administrator, under the direction of the--supreme--court and department of commerce,~~ in consultation with the district judges for each judicial district, shall include within the ~~supreme--court's department's~~ biennial budget request to the legislature a request for funding the expenses listed in subsection (1).

(3) If money appropriated for the expenses listed in subsection (1) is insufficient to fully fund those expenses, the county is responsible for payment of the balance. If no money is appropriated, the county is responsible for payment of all expenses."

Section 4. Section 2, Chapter 680, Laws of 1985, is amended to read:

"Section 2. Fiscal administration for payment of court expenses. The ~~supreme-court-administrator~~ department of commerce shall:

(1) establish procedures for disbursement of funds for payment of district court expenses listed in [section 1], including prorating of those funds if they are insufficient to cover all expenses listed in [section 1];

(2) ~~in--consultation--with--the--department--of--commerce,~~ develop a uniform accounting system for use by the counties in reporting court expenses at a detailed level for budgeting and auditing purposes; and

(3) provide for annual auditing of district court expenses to assure normal operations and consistency in reporting of expenditures."

Section 5. Section 3, Chapter 680, Laws of 1985, is amended to read:

"Section 3. Reimbursement for juror and witness fees. According to procedures established by the ~~supreme--court--administrator~~ department of commerce under [section 2(1)], each clerk of district court shall submit to the ~~supreme--court--administrator~~ department a detailed statement containing a list of ~~witnesses~~ and jurors for criminal cases only and the amount of per diem and mileage paid to each by the county. Upon receipt and verification of the statement, the ~~administrator~~ department shall promptly reimburse the designated county for the cost of witness and juror fees on a full or prorated basis in accordance with [section 2]. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

Section 6. Section 4, Chapter 680, Laws of 1985, is amended to read:

"Section 4. Section 3-5-602, MCA, is amended to read:

"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 and out of an appropriation made to the supreme-court department of commerce as provided in subsection (2).

(2) The supreme-court-administrator department of commerce shall determine the total number of civil and criminal actions commenced in the preceding year in the district court or courts in the judicial district for which a reporter is appointed. The state shall pay its portion of the reporter's salary based on the proportion of the total number of criminal actions commenced in the district court or courts in the district and the amount appropriated for that purpose. Each county shall pay its portion of the remainder of the salary based on its proportion of the total number of civil and criminal actions commenced in the district courts in the district. The judge or judges 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 or their district on the basis prescribed in this subsection. The portion of the salary payable by a county is a district court expense within the meaning of 7-6-2351, 7-6-2352, and 7-6-2511.

(3) In judicial districts comprising more than one county, the reporter is allowed, in addition to the salary and fees provided for in subsection (1), his actual and necessary travel expenses, as defined and provided in 2-18-501 through 2-18-503, when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto. The expenses shall be apportioned and payable in the same way as the salary."

Section 7. Section 5, Chapter 680, Laws of 1985, is amended to read:

"Section 5. Section 3-5-604, MCA, is amended to read:

"3-5-604. Transcript of proceedings. (1) Each reporter must furnish, upon request, with all reasonable diligence, to a party or his attorney in a

case in which he has attended the trial or hearing a transcript from his stenographic notes of the testimony and proceedings of the trial or hearing or a part thereof, upon payment by the person requiring the same of \$2 per page for the original transcript, 50 cents per page for the first copy, 25 cents per page for each additional copy.

(3) If the county attorney, attorney general, or judge requires a transcript in a criminal case, the reporter is entitled to his fees therefor, but he must furnish it. Upon furnishing it, he shall receive a certificate for the sum to which he is entitled. The reporter shall submit the certificate to the supreme court--administrator--the department of commerce which, in accordance with [section 2], is responsible for the prompt payment of all or a portion of the amount due the reporter. If the supreme-court-administrator department, in accordance with [section 2], pays none or only a portion of the amount due, the county shall pay the balance upon receipt of a statement from the reporter.

(3) If the judge requires a copy in a civil case to assist him in rendering a decision, the reporter must furnish the same without charge therefor. In civil cases, all transcripts required by the county shall be furnished, and only the reporter's actual costs of preparation may be paid by the county.

(4) If it appears to the judge that a defendant in a criminal case is unable to pay for a transcript, it shall be furnished to him and paid for by the state in the manner provided in subsection (2) to the extent funds are available. The county shall pay the remainder as required in [section 1]."

Section 8. Section 10, Chapter 680, Laws of 1953, is amended to read:

"Section 10. Section 46-8-201, MCA, is amended to read:

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

(2) The expense of implementing subsection (1) is chargeable as provided in [section 1] to the county in which the proceeding arose, the office-of-supreme

court-administrator department of commerce, or both, except that:

(a) in proceedings solely involving the violation of a city ordinance or state statute prosecuted in a municipal or city court, the expense is chargeable to the city or town in which the proceeding arose; and

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

Section 9. Section 15, Chapter 680, Laws of 1985, is amended to read:

"Section 15. Section 46-15-184, MCA, is amended to read:

"46-15-184. Expenses of witness. (1) When a person attends before a magistrate, grand jury, or court as a witness in a criminal case upon a subpoena or in pursuance of an undertaking, the judge, at his discretion, by a written order may direct the clerk of the court to draw his warrant upon the county treasurer in favor of such witness for a reasonable sum, to be specified in the order, for the necessary expenses of the witness.

(2) According to procedures established by the supreme---court---administrator department of commerce under [section 2(1)], the clerk of district court shall submit to the supreme-court-administrator department a detailed statement containing a list of witnesses and the amount of expenses paid to each by the county. Upon receipt and verification of the statement, the administrator department shall promptly reimburse the designated county for all or a portion of the cost of witness expenses. The county shall deposit the amount reimbursed in its general fund unless the county has a district court fund. If the county has a district court fund, the amount reimbursed must be deposited in such fund."

Section 10. Section 16, Chapter 680, Laws of 1985, is amended to read:

"Section 16. Section 46-18-235, MCA, is amended to read:

"46-18-235. Disposition of money collected as fines and costs. The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 shall be paid to the county general fund of the county in which the court is held, except that:

(1) if the costs assessed include any district court expense listed in [section 1], the money collected

from assessment of these costs must be paid to the supreme-court-administrator department of commerce for deposit into the state general fund to the extent the expenses were paid by the state; and

(7) if the fine was imposed for a violation of Title 45, chapter 9, the court may order the money paid into the drug forfeiture fund maintained under 44-17-206 for the law enforcement agency which made the arrest from which the conviction and fine arose."

Section 11. Appropriation transfer. The general fund appropriation to the Supreme Court for state funding of certain District Court operations contained in item No. 4 of the Judiciary budget as contained in House Bill 500, L. 1985, is transferred to the Department of Commerce. In accordance with such transfer, the spending authority of the Supreme Court is reduced \$3,170,633 for fiscal year 1986 and \$3,152,873 in fiscal year 1987, and there is appropriated to the Department of Commerce from the general fund \$3,170,633 for fiscal year 1986 and \$3,152,873 in fiscal year 1987 for certain District Court operations."

Renumber: subsequent sections

4. Page 3, line 4.

Following: "approval"

Insert: ", "

Following: "and"

Strike: "applies"

Insert: "sections 1 and 2 apply"

5. Page 3, line 6.

Following: "1985"

Strike: "it applies"

Insert: "sections 1 and 2 apply"

6. Page 3, line 9.

Following: "(2)"

Strike: "This act terminates"

Insert: "Sections 1 and 2 terminate"

PC3/LC1AHEED

AND AS AMENDED

DO PASS