

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 6, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on February 6, 1987 at 9:00 a.m. in Room 437 of the State Capitol.

ROLL CALL: Reps. Cody and Peterson were excused. All other committee members were present.

CONSIDERATION OF HOUSE BILL NO. 485: Rep. Thoft, House District #63 and sponsor of the bill, stated HB 485 is a simple bill that would increase the maximum pension that may be paid to a surviving spouse or children of certain deceased volunteer firefighters.

PROPOSERS: Lyle Nagle, President of the Montana State Volunteer Firefighters Association, spoke in support of the bill. He stated the bill would take the monetary limit of \$75.00 out of the statute and permit the surviving spouse and children of a volunteer firefighter to receive an amount equal to what a volunteer fireman would receive in a service pension.

Henry Lohr, Montana State Volunteer Firefighters Association, spoke in support of HB 485 and urged its adoption.

OPPOSERS: None

DISCUSSION OF HOUSE BILL NO. 485: None

Discussion was closed on HB 485 by Rep. Thoft.

CONSIDERATION OF HOUSE BILL NO. 447: Rep. Winslow, House District #89 and sponsor of the bill, stated the bill calls for a constitutional amendment to limit terms in office of state officials. About 70% of those in his district feel that terms in office should be limited. This legislation would not impact anyone currently in office. It would restrict all elected officials, except judges, to 12 years in office. This is a realistic proposal and one that the people need to feel there is a turnover in the process.

PROPOSERS: John Rabenberg from Ft. Peck spoke in support of HB 485. He stated the terms of the legislators should be limited to 12 years. We need some new people that are energetic and willing to serve the people.

OPPOSERS: Gordon Morris, Montana Association of Counties, spoke in opposition. He stated the bill is undemocratic and does not merit the consideration of the committee.

Don Judge, Montana State AFL-CIO, stated the bill takes away the democratic process by which elected officials can now be removed from office and places instead a 12-year limit on the term of the elected official. He urged a do not pass.

Reps. Stratford, Pistoria, Moore and O'Connell also asked to be noted as opponents.

DISCUSSION OF HOUSE BILL NO. 447: Rep. Fritz asked Rep. Winslow how he would respond to the argument that this bill denies the people their democratic right to choose who they want to represent them. Rep. Winslow replied that the people still have that right.

Rep. Winslow closed discussion on HB 447. He stated he understood the concerns of some of the incumbents present, but does think it is important for the people to know that their representatives are not going to be there forever. The bill should be considered as it will add mobility to the system.

CONSIDERATION OF HOUSE BILL NO. 498: Rep. Winslow, House District #89 and sponsor of the bill, stated the bill would limit elected public officials to 12 years of service in one office and supreme court justices to 16 years in office.

PROPOSERS: John Rabenberg from Ft. Peck strongly supported the bill. He stated that change is needed.

OPPOSERS: Don Judge, representing the Montana State AFL-CIO, spoke in opposition to this bill. This would limit the public's ability to utilize the expertise of those experienced elected officials, particularly at the county level where familiarity is so important and enables them to perform more effectively. It would be a disservice to the public to remove officials that are doing an effective job for the citizens.

Tom Harrison, representing the Sheriffs and Peace Officers Association and the Association of Clerks of Court, stated there is a lot of benefit to the public to have tenure in the local officials they deal with.

Jim Haynes, representing the Montana Magistrates Association, stated if the people are doing a good job, they should be allowed to remain in office.

Charmaine Wisher, representing Clerks of Court, stated there is great value for the people to know who they are dealing with.

Reps. Pistoria, Stratford, O'Connell, and Moore expressed opposition.

DISCUSSION OF HOUSE BILL NO. 498: None

Discussion of HB 498 was closed by Rep. Winslow. He stated the public is concerned that often their elected officials become institutionalized over a period of time. This bill should not be taken lightly. After a person is in office for a while, they are not as enthusiastic and innovative.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 12: Rep. Thomas, House District #62 and sponsor of the bill, stated this resolution deals with the U.S. Senate and House. We have a problem in our country insofar as we have a congress that is mainly interested in being re-elected. That is their number one goal. They have proven they cannot balance the budget, and there is always a new program that costs money. We don't need all the military bases that we have in this country. They could be consolidated and billions of dollars could be saved. Congressmen fight to save these military bases in their districts so they can remain in office. This is a loss to the country and a gain for the congressmen. HJR 12 proposes that the congressmens' terms be limited to one term only in each house so that they would not be able to run forever. The resolution proposes one 6-year term for house members and one 12-year term for senators. There would never be a re-election. We would gain a statesmanship type of aura in our congress versus the sole re-election goal that we operate under now. It would establish a citizen-oriented congress, one that works for the best interests of the citizens of this nation. We should look for a solution to this problem that we have in our country. The present system is working for the congressmen and not for the citizens.

PROPONENTS: None

OPPONENTS: Don Judge, representing the Montana AFL-CIO, testified in opposition to HJR 12. His written testimony is included as Exhibit #1.

Mary Doubek, representing herself and the Egale Forum, expressed opposition to HJR 12 and feels that calling for a federal constitutional convention would be asking for constitutional chaos. Her written testimony is included as Exhibit #2.

Kay Buckingham, representing the Big Sky Eagle Forum, submitted written testimony (Exhibit #3).

Kelly Hencz, spoke in opposition to HJR 12 on behalf of himself and submitted written testimony (Exhibit #4).

Julie Burk, representing the Montana Educational Association, stated opposition for HJR 12 and stated by limiting the term in office, accountability would be reduced.

Karen Larson, representing Betty Babcock, former legislator and constitutional delegate, submitted written testimony (Exhibit #5). The

U.S. Constitution is an inspired document which has guaranteed our political and spiritual freedom, economic opportunity, state diversity and national growth. It has worked well for two centuries. Petitioning congress to call a constitutional convention for the sole purpose of amending our constitution to alter the terms of office of the members of congress is a very grave error and a risky thing to do.

Naomi Powell from Corvallis, spoke in opposition to the proposed legislation. She acknowledged that there are situations that need to be corrected.

Walt Dupea from Bigfork, opposes HJR 12 and feels it opens up the chance to change a document that has been successful for 200 years. He submitted written testimony (Exhibit #6). "If the American Constitution should fall, there will be anarchy throughout the world."

Pat Reiss from Helena, spoke in opposition to HJR 12 on behalf of herself. She stated this is a very dangerous bill that should be studied to see just what is involved and what the long-term ramifications might be.

Beverly Glueckert from Helena, spoke in opposition to HJR 12. Her written testimony is included as Exhibit #7.

Nadlean Jensen, Executive Director of the American Federation of State, County, and Municipal Employees Council #9, stated opposition to HJR 12.

Carl Tady, representing a group of Citizens for Honest Government, spoke in opposition to HJR 12.

Written testimony was received from Cecil Storms, Eureka, Montana (Exhibit #8). He did not testify at the meeting.

DISCUSSION OF HOUSE JOINT RESOLUTION NO. 12: Rep. Fritz asked Rep. Thomas why he did not believe in democracy and the right of the people to choose representatives that they want to represent them in the U.S. House or Senate. Rep. Thomas said he believed in that right granted by democracy and that he was not denying the citizens the right to choose who they wish to represent them.

Rep. Thomas closed the discussion on HJR 12 stating we should trust our constitution and consider HJR 12.

The committee recessed at 10:20 a.m. and reconvened at 10:30 a.m. for executive action.

DISPOSITION OF HOUSE BILL NO. 485: Rep. O'Connell moved DO PASS, seconded by Rep. Sales. The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 447: Rep. Fritz moved DO NOT PASS, seconded by Rep. Stratford. Rep. Roth stated the bill should go to the floor because it involves an issue to be submitted to the voters. Rep. Fritz stated the bill does not have applicability to the Montana State Legislature. Motion carried 14-2, Reps. Roth and Campbell voting no.

DISPOSITION OF HOUSE BILL NO. 498: Rep. Fritz moved DO NOT PASS, seconded by Rep. Stratford. Motion carried 15-1, Rep. Roth voting no.

DISPOSITION OF HOUSE JOINT RESOLUTION NO. 12: Rep. Campbell moved DO NOT PASS, seconded by Rep. Stratford. Motion carried 14-2, Reps. Sales and Roth voting no.

DISPOSITION OF HOUSE BILL NO. 325: Rep. O'Connell moved DO PASS on the Huntington-Jamison amendments (Exhibit #9), seconded by Rep. Compton. Rep. Whalen stated that one of the problems he has with the amendments is that after the committee process, in the final analysis the new department maintains complete control over the disposition of a child. The committee process can be completely ignored if the new department chooses to do so. Mona Jamison replied that "yes", the final decision does rest with the new department, but the committee has the opportunity to make the first recommendation to the department. If the new department does not like the recommendation, it goes back to the committee for a second recommendation. If the department does not like the committee's second recommendation, then the department will make the final decision. However, politically and practically, by rejecting two recommendations, the department is going to have to have some real legitimate reasons to veto two recommendations from a committee comprised of agencies and individuals who work with and for the best interests of the child on a daily basis. Rep. Whalen asked Mona Jamison if there is anything in the amendments that requires the department to state the reasons for its rejection of the committee's recommendation after a first or second refusal. Mona Jamison replied that the department has to state their reasons in writing for the rejections. Rep. Holliday asked Mona Jamison if she was aware of MACO's position on the amendments, and she replied "no". The motion on the amendments passed unanimously.


Rep. Nelson moved DO PASS AS AMENDED with Statement of Intent, seconded by Rep. Hayne. The motion carried 12-4, Reps. Sales, Whalen, Stratford and Compton voting no.

DISPOSITION OF HOUSE BILL NO. 427: Rep. Fritz moved DO PASS, seconded by Rep. O'Connell. The motion carried unanimously.

DISPOSITION OF HOUSE BILL NO. 306: Rep. Jenkins moved DO NOT PASS, seconded by Rep. Compton. Motion carried 10-6, Reps. O'Connell, Whalen, Stratford, DeMars, Moore and Pistoria voting no.

State Administration Committee
February 6, 1987
Page -6-

ADJOURNMENT: There being no further business to come before the committee,
the hearing was adjourned at 11:30 a.m.



Walter R. Sales, Chairman

bd

DAILY ROLL CALL

State Administration

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 6, 1987

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody			
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore	✓		
Richard Nelson	✓		
Helen O'Connell	✓		
Mary Lou Peterson			
Paul Pistoria	✓		
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		



EXHIBIT #1
DATE 2/4/87
HB HJR # 12

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON HJR 12 BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE,
FEBRUARY 6, 1987

Good morning. My name is Don Judge and I am appearing before this committee on behalf of the Montana State AFL-CIO to testify in opposition to House Joint Resolution 12.

HJR 12 would, by means of a federal Constitutional Convention, limit members of both houses of Congress to a single term and expand the length of those terms.

Mr. Chairman, our labor federation is strongly opposed to this misguided resolution for two reasons. The first is that by calling a Constitutional Convention, we are putting the very integrity of our Constitution on the line . . . a rash experiment we must not take.

The United States Constitution is the oldest surviving framework for democracy. It can be amended in one of two ways: through the traditional congressional method calling for ratification, and the calling of a Constitutional Convention by two-thirds (34) of the states. All twenty-six amendments to our Constitution have been adopted by the congressional method and amendment by convention has never been tried.

The only Constitutional Convention ever held was the original drafting convention in 1787. This convention was not legally empowered to do what it ultimately did, which was to throw out the Articles of Confederation and adopt our present Constitution. Nevertheless, neither the Congress nor the Articles of Confederation nor the individual states could prevent this action.

Members of the Committee, proponents of Constitutional amendments by convention attempt to assure us that such a convention can be called, "for the sole purpose" of initiating one single amendment. We believe that they are wrong. Article V of the United States Constitution says, "the Congress . . . on the Application of the Legislatures of two-thirds of the several states, shall call a Convention for proposing Amendments" Notice that the specific reference to "Amendments" is in the plural case.

Were a Constitutional Convention to be convened, the threat of a "runaway" convention is very real. Many of the rights and freedoms that Montana citizens hold dear would be jeopardized. Gun control, divestiture of federal public lands, so-called right-to-work, the right to establish our taxes, such as coal severance taxes, the bill of rights and other issues important to our society and democracy could be revised at a Constitutional Convention.

In accordance with currently proposed allocations of delegates, Montana would have little representation at the Constitutional Convention. Our states would have only four votes, while California would have 47 and New York 36. In fact, California would have more votes than all of the eight Rocky Mountain states.

In fact, the very make-up of Congress and its proportional representation by the states faces the very real threat of change. What chance would Montana's four delegates have against those of New York and California in such a situation?

The second reason to oppose HJR 12 is that our current system of congressional seniority allows Montana congressmen and senators to rise to positions of power and influence. Mike Mansfield would have never become Senate Majority Leader if HJR 12 was law. Montana's current congressional delegation would probably not hold positions of prestige on important congressional committees, which benefits all Montanans, were our current system not in place.

To conclude, the Constitution of the United States falls in that rare category of "if it ain't broke, don't fix it." This extraordinary document has served us admirably for 200 years. It would be the supreme irony if, during this Bicentennial year, the Montana Legislature took steps which would radically alter this most sacred American treasure.

WITNESS STATEMENT

NAME Mrs Mary E. Bourek BILL NO. HJR 12
ADDRESS 7645 N. Montana Ave DATE 2/6/87
WHOM DO YOU REPRESENT? Myself & Eagle Forum
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*I am opposed to calling for a Fed. Constitutional Convention
Calling a ConCon would be asking for
Constitutional chaos & concerning this particular bill
-- As James Madison said "frequency of elections is
the cornerstone of free govt."
The 2 yr. term of all Congressmen - the Representatives -
is one of our greatest quantities of freedom.
all tax bills originate in the House of Representatives
the body where every Representative must run for reelection
every 2 yrs. The Founding Fathers knew that oppressive
taxes imposed ~~imposed~~ by an unrestrained British
Parliament were the main cause of the American
Revolution ^{changing the Constitution during our Bicentennial}
^{celebrations like getting a convention on your anniversary}
Please prevent a runaway convention. Please
oppose HJR 12*

20
 Ray Buckton

THE CASE AGAINST THE CONSTITUTIONAL CONVENTION

1. A Con Con as the Only Hope for a Balanced Budget

Public Law PL95-435 section 7 (see bracket C on last page) already calls for a balanced budget. It has been weakened by amendment and is simply ignored as many provisions of the Constitution are and as the proposed amendment would be. Legal penalties are required to make it stick and could be added to PL95-435 as amendments without risk to the Constitution. The Amendments S.J.Res.5 and H.J.Res. 243 that the National Taxpayers Union is backing do not require a balanced budget because a deficit could be voted by a three-fifths majority.

2. Limitation of the Con Con to Consideration of a Balanced Budget Amendment

Idaho Congressman Larry Craig's CLUBB (Congressional Leaders United for a Balanced Budget), Louis Uhler's National Tax Limitation Committee, and Jim Davidson's National Taxpayers Union all refer to Article 2 (see A) in the resolution from page VII of Amendment of the Constitution by the Convention Method Under Article V by the American Bar Association, which states that Congress has the power to establish procedures to limit Con Con, but systematically fail to refer to the first paragraph of page 18 (see B) of the same ABA report where the ABA committee weakens that assertion to a belief and then contradicts it completely by saying, "we consider it essential that implementing legislation not preclude the states from applying for a general convention" and that any such legislation would be of "questionable validity" since in their view Article V does not prohibit a general convention. This leaves the door open for all the special interest groups pushing for amendments to discover page 18 and destroy any limitation.

3. The Ratification Process as a Guard Against a Runaway Con Con

Again proponents of this arguments fail to note that Article V provides for two modes of ratification: by state legislature and special state convention. Article V says nothing about how the special convention is to be chosen.

4. The Need for a Whole New Constitution

The Committee on the Constitutional System headed by Lloyd Cutler and C. Douglas Dillon held a press conference in Washington DC on Wednesday, May 30, 1984 to promote their new constitutional proposals being drafted by a Robert McNamara task force designed to weaken separation of powers and introduce parliamentary government in the U.S. Their backers include David Rockefeller and would be instrumental in selecting the state ratification committees as they were in the failed 1976 attempt to get a Con Con to implement Tugwell's marxist New States Constitution which eliminates the Bill of Rights.

5. Many Conservative Congressmen are in Pro Con Con Organizations

Calls to these Congressmen and their aides reveal that many have accepted the balanced budget argument at face value and have not done their homework. None have defended their position by successfully refuting the factual accuracy of the above statements.

"(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights."

Presidential
certification to
Congress.

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

22 USC 2151
note.

SEC. 6. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

22 USC
286a-11.

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

SEC. 7. Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

31 USC 27.

Approved October 10, 1978.

Balanced budget? Sure Constitutional convention? Thanks, but no thanks

All right, everyone in favor of a balanced federal budget, raise your hand. Never mind how it will be balanced — whether by cuts in spending or increases in taxes. We just want to know if you think it would be good to balance the budget.

Hmmm. Looks unanimous, except for some Pentagon generals, the Reagan administration, Congress and a few die-hard Keynesians.

Now, everyone who favors a constitutional amendment requiring a balanced budget, raise your hand. Well, not as many, but there's still a pretty substantial number of you.

Finally, everyone who favors throwing out the Constitution written by John Adams, James Madison, Alexander Hamilton, et al., and replacing it with a document written by the likes of Jerry Falwell, Ralph Nader, Phyllis Schlafly, Gloria Steinem, Jesse Helms, Jesse Jackson and representatives from every other special interest group in America (left, right and indifferent), raise your hands. C'mon, get those hands up.

Well. That seems to appeal only to a few special-interest zealots — and the members of the Kentucky General Assembly who are pushing a resolution that would force Congress to either write a balanced budget amendment or call a constitutional convention for that purpose. They're on record in favor of endangering the greatest political work in the history of mankind.

Naturally, the legislators say that's not what they have in mind; they just want a balanced budget amendment added to our Founding Fathers' masterpiece. Trouble is, while that may be what they want, neither they nor anyone else have any way of knowing if that's all they will get. The road they propose to set out upon hasn't been traveled in two centuries, and it is fraught with danger — perhaps more so now than at any other stage of our nation's history.

Rarely if ever has the United States been divided into so many disparate little groups, each obsessed with its own narrow goal. That's one reason Congress hardly ever governs anymore. It's pulled in so many directions by members beholden to one narrow interest group or another that consensus is virtually impossible. Only when the nation faces a crisis of disastrous proportions can Congress be moved to act.

Any constitutional convention would be subjected to the same chaotic forces. It would be impossible to control; and, as a result, its handiwork would be impossible to predict.

Ah, but proponents of this resolution — which needs the approval of just two more states to force action by Congress — argue that the convention would be limited in its power. It would only be allowed to write a balanced budget amendment. They say that, but they don't know that. No one knows if a convention could be limited in scope, because it's never been tried. Many constitutional experts maintain that any convention would be free to completely rewrite the Constitution. And if that happened, it's a good bet that Americans could wave goodbye to a lot of rights and privileges they now enjoy — like the protection of the Bill of Rights.

So what? say the proponents of this resolution. A convention will never be called. Congress won't let it get that far; it will write its own amendment instead.

Once again, there's no way of knowing with certainty that Congress would act to prevent a convention. On the contrary, recent history indicates that Congress will duck any difficult decision. Congress has already passed the budgetary buck to bureaucrats with the passage of Gramm-Rudman-Hollings. Want to bet your freedoms Congress wouldn't pass the buck again?

Most Americans would agree that a balanced budget is a good idea, if for no other reason than that the massive deficits of recent years are damaging to the nation's economy. Maybe an amendment requiring a balanced budget is also a good idea. States live with their own constitutional mandates for fiscal prudence; there's no reason the federal government couldn't do the same.

A balanced budget amendment, written by Congress and submitted to the states for approval, is a perfectly legitimate issue to use in judging candidates for the U.S. House and Senate. That is the prudent course to adoption of such an amendment. The imprudent course — indeed the dangerous course — is to open the possibility of eroding the freedoms that the Founding Fathers assured for themselves and for us. That is a gift that is, simply stated, just too damned valuable to endanger on the whim of the moment.

Perspective

A forum—ideas, analysis, opinion

Chicago Tribune, Wednesday, May 2, 1984

Section 1 11

Risking a constitutional crisis

By Samuel W. Witwer

No citizen can be complacent about huge federal budget deficits, now estimated in the range of \$200 billion, and reasonable steps certainly are in order to work toward balanced budgets. However, the method chosen by advocates of reform—the call for a federal constitutional convention—is dangerous to an extreme. It could be even more damaging to our national interests than budgetary imbalances.

America faces the possibility of holding a constitutional convention for the first time since 1787, when the U.S. Constitution was adopted. Such a startling development could result from the balanced-budget proponents' quiet, persistent campaign to obtain state petitions calling on Congress to "call" such a convention.

The proponents of reform, reacting to Congress' failure to submit to the states for ratification an amendment mandating a balanced budget, have chosen a "shotgun" approach instead of seeking to elect a Congress that would pass such an amendment. They are demanding a constitutional convention to achieve their budgetary objective, and therein lies the potential for a grave constitutional crisis of unprecedented dimensions.

Their legislative campaign has netted 32 state petitions of one sort or another, just two short of the magic number of 34 states required by the Constitution (Article V) to force Congress to call the proposed convention.

The degree of care given by many of the states in passing their critical convention-call resolutions may well be questioned. But aside from that factor, there are many additional reasons why a constitutional convention calling for a balanced budget amendment or, for that matter, any other "single issue," would be a grave error.

For one thing, there is general satisfaction with the existing Constitution as a document that has served our nation well. It is a document of principle, inspiration, equity and opportunity for all people. As needs for change became manifest, one of the two amendment methods provided in Article V—changes initiated by Congress—has proven responsive and effective on 26 occasions. So it is understandable that many citizens and legal scholars who hold the Constitution in high regard are becoming worried about the dangers of a second constitutional convention and the uncharted course upon which this nation would embark if such a convention were called for the ostensible purpose of mandating a balanced budget.

Moreover, leading proponents of the convention call have announced that such a convention, once assembled, would consider a variety of related issues such as a provision for vetoes of parts of bills (the so-

called "line-item" veto), for national referendum on budgetary questions, for return to the gold standard and presumably matters that would affect "fiscal aspects" of our domestic and foreign policy concerns.

Though the history of the 1787 convention and the wording of Article V suggest that a convention could either be limited or general in scope, legal scholars agree there can be no positive assurance that a convention could be limited to a particular amendment once the convention had convened. There is no assurance that all facets of American government and the civil rights of U.S. citizens could not be opened to debate and possible revision by a runaway convention.

The situation is unlike state constitutional conventions, more than 200 of which have been held. In those states, there is a literature of constitutional reform, numerous precedents, enabling acts and other traditions that throw a cloak of procedural certainty around the call of state constitutional conventions, most of which have been general and unlimited.

Although the question of whether a federal constitutional convention may be confined to a single subject is the major concern, other questions of great constitutional importance remain unanswered as well.

What constitutes a valid application which Congress must count? Who is to judge its validity? What is the length of time applications will be counted to determine if 34 are filed? What will be the procedures for selection of delegates? Would this be by appointment by state legislatures or the one-man, one-vote electoral process? May a state legislature withdraw an application for a convention once submitted or rescind a previous ratification? What issues arising in a convention be reviewable by courts?

Prof. Lawrence H. Tribe of the Harvard Law School sees the primary threat imposed by an Article V convention as that of "a confrontation between Congress and such a convention," noting also that the dispute would inevitably draw into the confrontation the Supreme Court itself. The outcome could be constitutional upheaval at all levels. Thus, I can agree with James Davidson, chairman of the National Taxpayer's Union, the foremost group campaigning for a budget-balancing convention. He would justify that risky venture as a "fantastic national civics lesson, more exciting than 'Brideshead Revisited.'"

Considering the magnitude of our domestic problems, this is not the time to organize a "national civics lesson," which could be of unlimited scope once launched. Considering the instability, confusion and dangers abroad, the holding of a constitutional convention could be interpreted in other countries as a disintegration of our American institutions at a lack of high purpose, resolve and capacity to act.

In three years our nation will celebrate the anniversary of the adoption of its Constitution. Let us hope that meanwhile that historic event will not be marred by an imprudently called convention of unknowable authority and uncertain constraints.

Samuel W. Witwer is a Chicago attorney who served as president of the 6th Illinois Constitutional Convention, which drafted the state's present Constitution.

Plans to Rewrite The Constitution

By Phyllis Schlafly

An amazing group of prominent and powerful persons is waiting in the wings to bring about a radical restructuring of our U.S. Constitution. Just to call the roll of the big names is enough to reveal what enormous power in business, finance, the media, politics and academia is behind this plan.

The co-chairmen of this group are C. Douglas Dillon, former Secretary of the Treasury and a powerful Wall Street figure, and Lloyd N. Cutler, former counsel to then President Jimmy Carter. Others participating in working panels include former Defense Secretary Robert McNamara, former Sen. J. William Fulbright, Congressman Henry Reuss and representatives from the Brookings Institution, the Rockefeller Foundation, the Woodrow Wilson Center, the Sloan Foundation and the University of Chicago Law School.

It would be premature to say that the following are final recommendations, but the "Summary" of the "Report of Third Meeting, September 9-10, 1983," held at the Woodrow Wilson Center in Washington, D.C., and only recently released, shows that a consensus of this elite group is building for the following objectives.

(1) Allow or require the President to appoint members of Congress to some or all Cabinet positions.

(2) Increase the terms of U.S. House members from two to four years, with all elections held in presidential election years.

(3) Force the American people to cast a single vote for a package slate consisting of the president, vice president and the voter's own House and perhaps Senate candidates.

(4) Eliminate the present prohibition against members of Congress serving as presidential electors.

(5) Change a large number of U.S. House seats from election by district to election "at large" in order to increase the possibility that the political party that wins the White House will also control Congress, and that the at-large members would be more likely to take a "nationwide view" of the issues.

(6) Devise a "more realistic, feasible" method of presidential removal by an extraordinary majority in both houses of Congress.

(7) Permit the President to

dissolve Congress (when he thinks Congress is "intractable") and call for new congressional elections.

(8) Reduce the two-thirds requirement for Senate ratification of treaties to a simple majority only.

(9) Give the President an item veto over the budget.

(10) Give the President the power of the legislative veto.

(11) Eliminate the 22nd Amendment that limits Presidents to two terms.

(12) Eliminate the Electoral College and allocate each State's electoral votes directly.

(13) If no candidate receives a majority of the electoral college vote, then elect the President and Vice President at a joint session of both houses of Congress, with each member having one vote (instead of the present system of one vote per State).

(14) Eliminate the requirement that appropriation bills must originate in the U.S. House of Representatives.

(15) Overturn the *Buckley vs. Valeo* Supreme Court decision that upheld the right of individuals to contribute to political campaigns.

(16) Force the taxpayers to finance congressional election campaigns so that political expenditures by the candidate and by political action committees can be limited or prohibited.

(17) Reduce the cost of presidential and congressional elections by holding them at irregular intervals so that the date would not be known very far in advance.

(18) Give the federal government — instead of the State governments — the power to regulate and supervise cities. And there is much, much more.

Meanwhile, other groups of people who want a balanced budget amendment have gotten 32 State legislatures to ask Congress to call a Constitutional Convention. Our present Constitution provides that, if 34 states pass such a resolution, Congress "shall call" such a convention.

And all ready to take advantage of this unique opportunity to achieve its goals is the small elite group of powerful men who want to junk the U.S. constitutional republic, with its traditional separation of powers, in favor of a European system that they can more easily control.

(Copley News Service)

WITNESS STATEMENT

EXHIBIT #4
DATE 2/6/87
HB HR 12

NAME KELLY HENZ BILL NO. HJ-12
ADDRESS 418 5TH AVE. DATE _____
WHOM DO YOU REPRESENT? ALL UNITED STATES CITIZENS
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WRITTEN STATEMENT FOR THE PEOPLE OF
THE UNITED STATES OF AMERICA. COPIES OF
OUR GREAT CONSTITUTION FOR THIS COMMITTEE TO
READ.

9:00 AM

MR. CHAIRPERSON AND COMMITTEE MEMBERS - MY NAME IS KELLY HENZ I'M A NATIVE OF MONTANA AND PROUD TO BE A CITIZEN OF THE UNITED STATES. I'D LIKE TO SAY I FEEL I REALLY SHOULDN'T HAVE TO BE HEAR DEFENDING OUR CONSTITUTION BECAUSE I KNOW THAT MOST OF YOU HERE HAVE ALREADY TAKEN AN OATH OF OFFICE TO DO JUST THAT.

THE CONSTITUTION OF THE UNITED STATES WAS WRITTEN BY THE PEOPLE WITH CHECKS AND BALANCES TO CONTROL AND GOVERN THE GOVERNMENT. NOW GOVERNMENT IS SAYING THAT THEY NEED TO OPEN THE PEOPLE'S CONSTITUTION IN CONVENTION ON TERMS OF CONGRESS.

OUR DECLARATION OF INDEPENDENCE TELLS US THAT GOVERNMENT DERIVES THEIR "JUST POWERS" FROM THE CONSENT OF THE GOVERNED. WE THE GOVERNED GIVE THIS CONSENT IN THREE VERY DISTINCT WAYS (1) OUR VOTE IN THE POLL (2) OUR VOTE ON THE JURY (3) OUR VOTE ON THE GRAND JURY. THIS SO CALLED CONSTITUTIONAL CONVENTION FALLS IN NONE OF THESE THREE AREAS.

IF ~~HT-12~~ ^{HT-12} PASSES AND THE CONSTITUTIONAL CONVENTION IS HELD, THE PEOPLE OF THE UNITED STATES WILL SEE AND TAKE THIS AS AN ACT OF TREASON. OUR RIGHTS ARE INALIENABLE (CAN'T BE TAKEN AWAY) ^{OR TRANSFERRED} OR ANY CONVENTION THINKS THAT THE AMERICAN PEOPLE WILL PUT UP WITH THIS, THEN THEY BETTER STOP AND REMEMBER JUST HOW WE GOT THESE RIGHTS.

IT'S MY HOPE THAT YOU AS COMMITTEE MEMBERS AS CITIZENS OF THE UNITED STATES AND DEFENDERS OF THE UNITED STATES CONSTITUTION WILL LET HT-12 GO NO FURTHER. I'D LIKE TO REMIND YOU ONCE AGAIN - WE'RE ALL OBLIGATED TO UPHOLD AND DEFEND OUR UNITED STATES CONSTITUTION !! NOT TO TRY AND CHANGE IT. ABE LINCOLN SAID, "THE PEOPLE ARE THE MASTERS OF BOTH CONGRESSES AND ALL COURTS, NOT TO OVERTHROW THE CONSTITUTION, BUT TO OVERTHROW THE MEN WHO PREVENT IT. ALONG WITH ~~THE~~ ^{MY} STATEMENTS OF THE PEOPLE I'M LEAVING A HANDFUL OF COPIES OF OUR DECLARATION OF INDEPENDENCE / THE CONSTITUTION OF THE U.S. AND THE BILL OF RIGHTS.

AFTER THIS COMMITTEE EXAMINES OUR CONSTITUTION
THERE IS NO DOUBT IN MY MIND OR THE MIND OF
ANY AMERICAN THAT YOU'LL SEE NO JUSTICE IN OR
CAUSE FOR HJ-12.

-THANK YOU -
God Bless America
AND NOT HJ-12

KELLY HENZ,
UNITED STATES CITIZEN
AN AMERICAN FOR CONSTITUTIONAL GOVERNMENT

EXHIBIT #5
DATE 2/6/87
HB HJR 12

January 27, 1987

Subject: House Joint Resolution #12

To: The Honorable Members of the Committee

From: Betty L. Babcock
Former Legislator, Constitutional Delegate

I regret that a previous commitment prevents me from appearing before you to testify in person, therefore I respectfully request that you will consider this written testimony when you deliberate on House Joint Resolution #12.

Our United States Constitution is an inspired document which has guaranteed our political and spiritual freedom, economic opportunity, state diversity, and national growth. It is a statement of principle and practicality that has worked well for two centuries.

Petitioning Congress to call a Constitutional Convention for the "sole" purpose of amending our Constitution to alter the terms of office of the members of Congress is a very grave error and risky thing to do.

The text of Article V of the U.S. Constitution uses the plural "amendments" in referring to Con Con. Article V states that, upon the application of 34 states, Congress "shall call a Convention for proposing amendments". It is rather far-fetched to claim that the Founding Fathers didn't mean what they said in plain English.

Article V of the United States Constitution provides two methods of proposing amendments to the Constitution; and all twenty-six of the present amendments were achieved by the direct method, that is, proposal by the Congress and ratification by three-fourths of the states' legislatures.

Since the alternate method of amending the Constitution in which two-thirds of the states apply to the Congress for the calling of a Constitutional Convention has never been used, these difficulties arise:

1. There are no guidelines for setting up a Constitutional Convention;
2. It has not been established whether a Constitutional Convention could be limited to a specific issue or specific issues; for example, former Senator Sam J. Ervin, Jr., believes that a Con Con could be limited to one subject; Gerald Gunther (author of the leading casebook on

constitutional law used in law schools) says it could not. Any lawyer can give his opinion on what the Con Con procedure can be or should be; but NO lawyer, no matter how distinguished, can tell us what it surely will be, because nobody knows. No law exists to prescribe rules for a Con Con and, even if Congress passes one now, we would never know its constitutionality until it is reviewed by the Supreme Court.

3. The authority to decide whether the courts or The Congress shall have the power to adjudicate procedural disputes is in question;

4. There is a question of who will choose the delegates and their number.

The International Women's Year Conference of 1977 and the several White House Conferences (on Families, on Education etc.) provide frightening lessons on how the election of delegates to a one-time only national conference can be manipulated by special-interest pressure groups. Those conferences created chaos and controversy, bitterness and divisiveness, and essentially were media events. No one could reasonably assert that their final resolutions represented majority thinking in the United States.

5. The difficulties and the numerous steps necessary for the setting up of a convention would delay, possibly for years, the passing of specific amendments which are needed now.

6. The cost of a Constitutional Convention would be an unnecessary burden to the taxpayer, since the usual amending process utilizes existing legislative bodies.

7. There is reason to believe the Constitutional Convention could be used as a forum to implement RADICAL change.

In fact, planners at The Center for the Study of Democratic Institutions have published a Constitution for the Newstates of America which substitutes ten regions for the present states, and does not include many of our basic freedoms.

8. If the presently proposed Federal Constitutional Convention Procedures Act is passed by a sitting Congress, there is no assurance that it would not be changed or appealed by a future Congress.

9. "Voters themselves would demand that a Con Con be limited". On the contrary, it is far more probable that voters would demand that the Con Con agenda be opened up to other issues. How could a Human Life amendment be barred when 20 states passed a Con Con resolution on that very issue?

10. Our Founding Fathers established the length of terms for the Representatives for two years because they wanted them to be responsive to the people. If they don't properly represent the people here in their own district, we must have the right to vote them out.

They established the six year term for our Senators to provide the continuity needed. This should not be changed either.

House Joint Resolution #12 is a "shotgun" approach seeking to add Montana to the list of those calling for a Constitutional Convention which could lead to radically changing our whole form of Government. PLEASE DON'T BE FOOLED BY THIS!

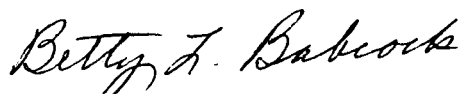
Soon our nation will celebrate the 200th anniversary of the adoption of its' Constitution. Let us hope that meanwhile that historic event will not be marred by an imprudently called convention of unknowable authority and uncertain constraint.

We in Montana must be remembered as the state that helped to preserve our Freedom; Freedom of the people, by the people and for the people.

Therefore, please oppose the call for a Constitutional Convention regardless of the issues involved.

I ask you to please VOTE NO on House Joint Resolution #12.

Respectfully,

A handwritten signature in cursive script that reads "Betty F. Babcock". The signature is written in dark ink and is positioned above the printed name.

Betty Babcock

720 Madison
Helena, MT 50601
442-5611

Bill HJR 12
Spencer Thomas

EXHIBIT 2-6787
DATE 2/6/87
HB HJR #12

I am very fearful if we
have a constitutional convention
we will open Pandora's
box. I have seen our Constitution
work well and why change it?

"I feel as Daniel Webster:
"Hold onto your Constitution.
Miracles do not cluster, what
has happened once in six
thousand years may never
happen again! Hold on, ~~#~~
for if the American Constitution
should fall there will be
anarchy throughout the world."

Sincerely
Walter Dwyer
8585 Hwy 35
Bigfork Mt 59911

Please Vote No

February 6, 1987 #7
EXHIBIT
DATE 2/6/87
H.R. 12

Chairman and Committee Members

Only two more states are needed to make a Federal Constitution Convention a reality.

This resolution proposes only to limit the terms of members to a single and longer term in each chamber of Congress but there is disagreement among constitutional authorities as to whether a Con Con could be limited to one amendment or allowed to propose many amendments.

In Article V of the United States Constitution our Founding Fathers used the word "amendments" which supports the position that a Con Con could consider many amendments.

Our Constitution has served us well for 200 years.

Please vote to keep our Constitution intact. Please vote against HJR 12.

Thank you.

Mrs. Beverly Shueckert
1529 Chattera St.
Helena, Mt. 59601

As long as the Fed. can print money there will not be a balanced budget regardless of whether a B.B.A. is passed. A.C.C. is too risky. Imagine people like Ted Kennedy as delegates to a C.C.

B.11 H.J.R. 12

EXHIBIT #8

DATE 2/4/87

HB HJR 12

Shortly after the adoption of the U.S. Constitution by the colonies, the Prime Minister of The British Empire said that it was the greatest document ever devised in the history of mankind.

There are several organizations financed by our unseen government who have drawn amendments, in case a constitution convention is called, (under the guise of passing a balanced budget amendment) to change our form of government to a parliamentary form. This is one of the worst forms that can be imagined because there is no adequate checks and balances so competently built into our present constitution. Please don't vote for a constitutional convention for any reason.

Cecil Storms
Troy, Mont

AMENDMENTS TO HB 325

February 4, 1987

Presented by Gene Huntington

1. NEW SECTION: Section 15 . Youth placement committees-composition. (1) In each judicial district, the department shall establish a youth placement committee, as provided in 2-15-122, for the purposes of recommending an appropriate placement for any youth committed to the department under 41-5-523.

(2) The committee shall consist of not less than four members appointed by the department of family services. The members of the committee must be willing to serve without compensation and must include:
(a) a representative of the department;
(b) a youth probation officer;
(c) a mental health professional; and
(d) a representative of local school districts.
2. NEW SECTION: Section 16. Responsibilities of the placement committee. The committee shall:
(a) review all information relevant to the placement of the youth;
(b) consider available resources which would be appropriate to meet the needs of the youth;
(c) consider the treatment recommendations of any professional person who has evaluated or treated the youth;
(d) recommend to the department an appropriate placement for the youth in a licensed facility, taking into consideration the age and treatment needs of the youth and the relative costs of care in the facilities considered appropriate for placement;
(e) submit a written recommendation to the department regarding the appropriate placement for the youth; and
(f) conduct placement reviews as requested by the department.
3. NEW SECTION: Section 17. Placement by the department.
(1) The placement committee shall submit to the department in writing its recommendation for placement of the youth and send a copy of the recommendation to the appropriate youth court judge.

(2) The department shall accept or reject the recommendation of the committee.
(a) If the department rejects the recommendation of the committee, the department shall promptly notify the committee in writing of the reasons for the rejection and send a

copy of the rejection notice to the appropriate youth court judge.

(b) Within five days of the receipt of the department's reasons for rejection of the committee's recommendation, the committee shall recommend an alternative placement to the department.

(3) The department has final authority to determine the placement of the youth.

4. NEW SECTION: Section 18. Temporary placements and emergency placements excluded. (1) Temporary placements of youth in shelter care facilities and emergency placements of youth in youth care facilities are excluded from the requirements of [Sections 15, 16, and 17].

(2) If a youth continues to be placed in a temporary or emergency placement for 45 days, the department shall refer the youth to the committee to be reviewed and the committee shall make a recommendation to the department in accordance with [Section 17].

5. NEW SECTION: Section 19. Confidentiality of committee meetings and records. (1) Meetings of the youth placement committees shall be closed to the public to protect the youth's right to individual privacy.

(2) Information about the youth which is presented to the committee and committee records are confidential and shall be subject to confidentiality requirements developed by the department.

6. NEW SECTION: Section 20. Rulemaking authority. The department shall adopt rules governing the establishment and administration of youth placement committees established by [Sections 15 through 20].

Renumber subsequent sections

7. Page 1, line 16
Following: "SECTIONS"
Strike: "40-3-115,"

8. Page 1, line 17
Following: "41-3-1121,"
Strike: "41-5-702, 41-5-704, 41-5-705"

9. Page 3, lines 21 and 22
Following: "youth"
Strike: "and to provide programs for the supervision and

rehabilitation of these youth"
Insert: "who are committed to the department"

10. Page 4, line 11
Following: "(2)"
Strike: "administer and supervise all services to"
Insert: "place and provide funding for"
11. Page 4, line 13
Following: "supervision"
Insert: "committed to the department"
12. Page 4, line 15
Following: "youth"
Strike: "served"
Insert: "in need of care"
13. Page 4, line 22
Strike: "(f) institutional services"
Insert: "(3) administer youth correctional facilities"
14. Page 4, line 23
Strike: "(g)"
Insert: "(4) provide"
Renumber subsequent subsections.
15. Page 6, line 24
Delete previous amendment which added rulemaking authority
for Section 14.
16. Page 8, line 12
Following: "department"
Insert: "or the youth court"
17. Page 11, line 14
Following: "41-5-301"
Strike: "41-5-403, 41-5-523"
18. Page 13, lines 16 through 25 and Page 14, lines 1 through 12
Strike: Section 14
Renumber subsequent sections
19. Page 14, lines 13 through 25 and Page 15, lines 1 through 13
Strike: Section 15
Renumber subsequent sections

20. Page 17, line 20
Following: "licensed"
Strike: "child care institution"
Insert: "youth care facility"
21. Page 22, line 6
Following: "and"
Insert: "probation officers of the county and the attaches
and"
22. Page 50, lines 2 and 3
Strike: subsection (f)
Re-number subsequent subsections
23. Page 53, line 6
Following: "court,"
Insert: "(b) a representative of the youth court,"
Re-number subsequent subsections
24. Page 58, lines 14 through 18
Strike: subsection (11)
Re-number subsequent subsections
25. Page 58, line 25
Following: "and"
Insert: "probation officers"
26. Page 59, line 1
Strike: entire line
27. Page 61, lines 14 thru 25 and page 62, lines 1 thru 8
Following: "(2)"
Strike: the remainder of the section
Insert: "Each county shall pay its portion of the costs of
the youth court based:
(a) on actual costs incurred in or on behalf of the county;
or
(b) if actual costs cannot be identified, on each county's
proportion of the total youth court workload in the judicial
district during the calendar year preceding the setting of
the budget.
(3) The youth court judge shall, in January of each year,
establish the proportion of the workload of the court to be
attributed to each county in the ensuing budget year for
purposes of any necessary application of subsection (2) (b)."

28. Page 62, line 17
Following: "youth"
Insert: "department of the"
29. Page 62, line 18
Following: ~~"officers,"~~
Insert: ", including the appointment of probation officers,"
30. Page 63, line 17
Following: ~~"district."~~
Insert: "(a) appoint and supervise qualified personnel to staff the youth division probation departments within the judicial district."
31. Page 68, line 17
Following: "court"
Strike: "or the department"
32. Page 68, line 22
Following: "officer"
Strike: "must be notified and"
33. Page 69, line 9
Following: "the"
Strike: "appropriate staff within the"
34. Page 71, line 17
Following: "41-3-1102"
Insert: "and determined by the department"
35. Page 71, line 20
Following: "youth"
Insert: "as determined by the department"
36. Page 74, lines 2 and 3
Following: "commitment"
Strike: the remainder of line 2 through "or" on line 3
37. Page 76, line 22
Following: "youth"
Insert: "after consideration of the recommendation of the youth placement committee as provided in [section 16] "

38. Page 77, line 17
Following: line 16
Insert: "(iv) youth shall be under the supervision of the youth probation officer, except that youth placed in youth correctional facilities shall be supervised by the department."
39. Page 77, line 19
Strike: "recommended by the department"
Insert: "that does not obligate funding from the department without the department's approval"
40. Page 82, line 11 and 12
Following: "its"
Strike: the remainder of line 11 through "department's" on line 12
41. Page 83 and 84
Return all of Section 63 to original language
42. Page 84 and 85
Return all of Section 64 to original language
43. Page 114, line 6
Following: "delinquent"
Strike: "children alleged to be youth in need of care, youth in need of supervision, and delinquent youth."
Insert: "abused, dependent, and neglected children"
44. Page 139, line 4
Strike: "41-3-115"
Following: "41-3-1121"
Strike: "41-5-702"
45. Page 139, line 5
Strike: "41-5-704, 41-5-705"
46. Page 139, line 13
Amend Section 114 as necessary to provide for new sections
- 6

STANDING COMMITTEE REPORT

February 6 19 87

Mr. Speaker: We, the committee on State Administration
report House Bill 325

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☒ statement of intent attached

Chairman

CREATE DEPARTMENT OF FAMILY SERVICES

AMEND AS FOLLOWS:

1. Title, lines 11 through 13.

Strike: "TRANSFERRING" on line 11 through ";" on line 13

2. Title, line 16.

Strike: "40-3-115,"

3. Title, line 17.

Strike: "41-5-702" through "41-5-705,"

4. Page 3, lines 21 and 22.

Strike: "and" on line 21 through "youth" on line 22

Insert: "who are referred or committed to the department"

5. Page 4, line 11.

Strike: "administer" through "to"

Insert: "provide funding for and place"

6. Page 4, line 13.

Following: "supervision"

Insert: "who are referred or committed to the department"

7. Page 4, line 15.

Strike: "the"

Following: "youth"

Strike: "served"

Insert: "in need of care"

8. Page 4, line 20.

Following: ";

Insert: "and"

9. Page 4, line 22.

Strike: "(f)" through "and"

Insert: "(4) administer youth correctional facilities"

Page 2 of 8

10. Page 4, line 23.

Strike: "(g)"

Insert: "(5) provide"

Renumber: subsequent subsections

11. Page 5, line 11.

Following: "(7)"

Insert: "(a) make a written evaluation of each plan developed by the local youth services advisory councils, as provided in [section 8], indicating those portions of each plan that will be implemented by the department, those portions that will not be implemented, and the reasons for not implementing those portions;

(b)"

12. Page 5, line 14.

Strike: "," through "]"

13. Page 6, line 18.

Following: "programs"

Insert: "with specific goals and objectives"

14. Page 6, line 24.

Following: "10"

Insert: "and 17 through 19"

15. Page 8, line 12.

Following: "department"

Insert: "or the youth court"

16. Page 8, line 24.

Following: "plan"

Insert: "with specific goals and objectives"

17. Page 11, line 14.

Strike: "41-5-403, 41-5-523,"

18. Page 13, line 16 through line 13, page 15.

Strike: sections 14 and 15 in their entirety

Insert: "NEW SECTION. Section 14. County contribution for salaries and travel of protective services employees. (1) Upon transfer of certain functions of the county welfare department to the department of family services as provided in [section 12], the salaries and travel expenses, as provided in 2-18-501 through 2-18-503, of protective services employees must be paid by the department of family services. The board of county commissioners shall reimburse

Page 3 of 8

the department of family services from county poor funds in an amount equal to that county's expenditures for salaries and travel expenses of protective services employees in fiscal year 1987.

(2) On or before the 20th day of the month following the month for which payments were made for protective services employees' salaries and travel, the department of family services shall present to the board of county commissioners a claim for the required reimbursement. The board of county commissioners shall make such reimbursement within 20 days after the presentation of the claim.

NEW SECTION. Section 15. Youth placement committees -- composition. (1) In each judicial district, the department shall establish a youth placement committee for the purposes of recommending an appropriate placement of a youth referred to the department under 41-5-403 or committed to the department under 41-5-523.

(2) The committee consists of not less than four members appointed by the department and must include a representative of the department, a youth probation officer, a mental health professional, and a representative of a school district located within the boundaries of the judicial district. Committee members serve without compensation.

NEW SECTION. Section 16. Duties of the youth placement committee. A youth placement committee shall:

(1) review all information relevant to the placement of a youth referred or committed to the department;

(2) consider available resources appropriate to meet the needs of the youth;

(3) consider the treatment recommendations of any professional person who has evaluated the youth;

(4) recommend in writing to the department an appropriate placement for the youth in a licensed facility, considering the age and treatment needs of the youth and the relative costs of care in the facilities considered appropriate for placement;

(5) review temporary and emergency placements as required under [section 18]; and

(6) conduct placement reviews as requested by the department.

NEW SECTION. Section 17. Youth placement committee to submit recommendation to department -- acceptance or rejection of recommendation by department. (1) When a

Page 4 of 8

youth has been referred or committed to the department for placement, the department shall notify the appropriate youth placement committee. The committee shall submit in writing to the department its recommendation for placement of the youth. The committee shall send a copy of the recommendation to the appropriate youth court judge.

(2) If the department accepts the committee's recommendation, the youth must be placed according to the recommendation.

(3) If the department rejects the committee's recommendation, it promptly shall notify the committee in writing of the reasons for rejecting the recommendation. The department shall send a copy of the notice to the appropriate youth court judge.

(4) After receiving a notice under subsection (3), the committee shall submit in writing to the department a recommendation for an alternative placement of the youth.

(5) If the department accepts the committee's recommendation for alternative placement, the youth must be placed according to the recommendation.

(6) If the department rejects the committee's recommendation for alternative placement, the department promptly shall notify the committee in writing of the reasons for rejecting the recommendation, and the youth must be placed in an appropriate facility as determined by the department.

NEW SECTION. Section 18. Temporary and emergency placements -- limit. (1) A temporary placement of a youth in a shelter care facility or an emergency placement of a youth in a youth care facility is exempt from the requirements of [sections 17].

(2) If a temporary or emergency placement of a youth continues for 45 or more days, the department shall refer the placement of the youth to the appropriate youth placement committee for review. The committee shall make a recommendation for placement to the department in accordance with [section 17].

NEW SECTION. Section 19. Confidentiality of youth placement committee meetings and records. (1) Meetings of a youth placement committee are closed to the public to protect a youth's right to individual privacy.

(2) Information presented to the committee about a youth and committee records are confidential and subject to confidentiality requirements established by rule by the department.



Page 5 of 8

NEW SECTION. Section 20. Status of employees upon transfer to the department of family services. A current state employee who is a member of a collective bargaining unit and who occupies a position that is transferred to the department of family services becomes an employee of the department of family services upon signing of the executive order provided in [section 116] and may not receive a reduction in wages upon such transfer. Any subsequent changes that may affect such employee must be made according to existing laws and rules."

Renumber: subsequent sections

19. Page 17, line 20.

Strike: "child" through "institution"

Insert: "youth care facility"

20. Page 20, line 24 through line 12, page 22.

Strike: section 20 in its entirety

Renumber: subsequent sections

21. Page 43, line 5.

Following: "services"

Insert: "welfare department or office of human services"

22. Page 43, line 8.

Following: "services"

Insert: "welfare department or office of human services"

23. Page 45, line 25.

Following: "services"

Insert: "welfare department or office of human services"

24. Page 46, line 12.

Following: "attorney"

Insert: "welfare department or office of human services"

25. Page 47, line 3.

Following: "services"

Insert: "welfare department or office of human services"

26. Page 50, lines 2 and 3.

Strike: subsection (f) in its entirety

Renumber: subsequent subsections

27. Page 53.

Following: line 6

Insert: "(b) a representative of the youth court"

Renumber: subsequent subsections

Page 6 of 3

28. Page 55.

Following: line 7.

Insert: "(3) The county shall reimburse the department for one-half of the payments not reimbursed to the department by the federal government until the county expenditures reach a level equal to the county's level of expenditures for foster care in fiscal year 1987, except as provided in subsection (4). If a county's level of expenditure for any year reaches the level of expenditure for foster care in fiscal year 1987, the county shall reimburse the department for one-quarter of the payments above the fiscal year 1987 expenditure level.

(4) If a county's level of expenditure for foster care in fiscal year 1987 is \$10,000 or less, the county's level of expenditure for purposes of determining the county's percentage of reimbursement specified in subsection (3) is the level of expenditures for fiscal year 1987 or the average of expenditures for fiscal years 1984 through 1987, whichever is less."

Renumber: remaining subsection

29. Page 58, lines 14 through 18.

Strike: subsection (11) in its entirety

Renumber: subsequent subsections

30. Page 59, line 1.

Strike: "any" through "staff"

Insert: "probation officers"

31. Page 61, line 8 through line 20, page 62.

Strike: sections 50 and 51 in their entirety

Renumber: subsequent sections

32. Page 63, line 11 through line 7, page 64.

Strike: section 53 in its entirety

Renumber: subsequent sections

34. Page 68, line 17.

Strike: "or" through "department"

35. Page 68, line 22.

Strike: "must" through "and"

36. Page 69, line 9.

Strike: "appropriate" through "the"



Page 7 of 8

37. Page 71, line 18.

Following: "ceure"

Insert: "and as determined by the department"

38. Page 71, line 20.

Following: "youth"

Insert: "as determined by the department"

39. Page 74, lines 2 and 3.

Strike: "to" on line 2 through "or" on line 3

40. Page 76, line 22.

Following: "youth"

Insert: "after considering the recommendation of the youth placement committee as provided in [section 17]"

41. Page 77, line 9.

Strike: "and"

42. Page 77.

Following: line 16

Insert: "(iv) a youth is under the supervision of a youth probation officer, except that a youth placed in a youth correctional facility is supervised by the department"

43. Page 77, line 19.

Strike: "recommended" through "department"

Insert: "that does not obligate funding from the department without the department's approval"

44. Page 82, lines 11 and 12.

Strike: "professional" on line 11 through "department's" on line 12

45. Page 83, line 22 through line 4, page 85.

Strike: sections 53 and 64 in their entirety

Renumber: subsequent sections

46. Page 114, lines 5 through 8.

Strike: "children" on line 5 through "youth" on line 8

Insert: "abused, dependent, or neglected children"

47. Page 139, line 4.

Strike: "40-3-115,"

48. Page 139, lines 4 and 5.

Strike: "41-5-702," on line 4 through "41-5-705," on line 5



Page 8 of 8

49. Page 139.

Following: line 22

Insert: "(3) Sections 15 through 19 are intended to be codified as an integral part of Title 41, chapter 5, and the provisions of Title 15, chapter 5, apply to sections 15 through 19."

50. Page 140, line 23.

Strike: "117"

Insert: "116"

51. Page 140, line 24.

Strike: "116"

Insert: "115"

52. Page 141, line 1.

Strike: "117(1)"

Insert: "116(1)"

STATEMENT OF INTENT

H.B. No. 325

A statement of intent is required for this bill because section 5 grants rulemaking authority to the department of family services to adopt rules necessary to carry out the purposes of sections 3 through 10 and 15 through 19.

Rules are primarily necessary to implement sections 7 and 8 of the bill. These sections require that a state youth services council and local youth services advisory councils be established to advise the director of the department on policies related to children and youth, to make an annual written review and evaluation of local needs and services, and to develop a local plan for a system of community-based services for children and youth.

The rules to be adopted would address:

- (1) the composition, membership requirements, and operating procedures for the state and local advisory councils;
- (2) procedures for the development and format of the annual written review and evaluation of services;
- (3) procedures for the preparation and format of the state plan; and
- (4) other guidelines necessary for the administration and operation of the state and local advisory councils.

It is also intended that the department adopt rules necessary to carry out its duties and responsibilities set forth in section 5. These rules will be adopted in a manner consistent with the expressed purposes of the legislation and the existing rulemaking authority of the department of social and rehabilitation services that are transferred to the department of family services.

In addition, the department will adopt rules governing the establishment and administration of youth placement committees as provided in sections 15 through 19.

STANDING COMMITTEE REPORT

February 6

19 37

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report HB 305

☐ do pass
☒ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman


FIRST

WHITE

reading copy (_____)
color

STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report HJR 12

☐ do pass

☒ do not pass

☐ be concurred in

☐ be not concurred in

☐ as amended

☐ statement of intent attached

Chairman


FIRST

WHITE

reading copy ()

color

STANDING COMMITTEE REPORT

February 6 1987

STATE ADMINISTRATION

Mr. Speaker: We, the committee on

HB 285 427

report

- ☒ do pass
- ☐ do not pass
- ☐ be concurred in
- ☐ be not concurred in
- ☐ as amended
- ☐ statement of intent attached

Chairman

FIRST

WHITE

reading copy ()
color

STANDING COMMITTEE REPORT

February 6

19 37

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report HB 485

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman


FIRST

WHITE

reading copy (_____)
color

STANDING COMMITTEE REPORT

February 6

19 87

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report SB 447

☐ do pass
☒ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman


FIRST

WHITE

reading copy (_____)
color

STANDING COMMITTEE REPORT

February 6

19 **87**

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report ~~HB 442~~ 498

☐ do pass
☒ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman


FIRST

WHITE

reading copy (_____)
color

ROLL CALL VOTE

State Administration

COMMITTEE

DATE 2/6/87 BILL NO. 447 NUMBER _____

NAME	AYE	NAY
Walt Sales	✓	
John Phillips	✓	
Bud Campbell		✓
Dorothy Cody <i>excused</i>	✗	
Duane Compton	✓	
Gene DeMars	✓	
Harry Fritz	✓	
Harriet Hayne	✓	
Gay Holliday	✓	
Loren Jenkins	✓	
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
Mary Lou Peterson <i>excused</i>	✓	
Paul Pistoria	✓	
Rande Roth		✓
Tonia Stratford	✓	
Timothy Whalen	✓	

TALLY

14 2

Secretary

Chairman

MOTION: _____

ROLL CALL VOTE

State Administration

COMMITTEE

DATE 2/6/87 BILL NO. 498 NUMBER _____

NAME	AYE	NAY
Walt Sales	✓	
John Phillips	✓	
Bud Campbell	✓	
Dorothy Cody X		
Duane Compton	✓	
Gene DeMars	✓	
Harry Fritz	✓	
Harriet Hayne	✓	
Gay Holliday	✓	
Loren Jenkins	✓	
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
Mary Lou Peterson X		
Paul Pistoria	✓	
Rande Roth		✓
Tonia Stratford	✓	
Timothy Whalen	✓	

TALLY

15 1

Secretary

Chairman

MOTION: _____

ROLL CALL VOTE

State Administration

COMMITTEE

DATE 2/6/87 BILL NO. HTR 12 NUMBER

NAME	AYE	NAY
Walt Sales		✓
John Phillips	✓	
Bud Campbell	✓	
Dorothy Cody X		
Duane Compton	✓	
Gene DeMars	✓	
Harry Fritz	✓	
Harriet Hayne	✓	
Gay Holliday	✓	
Loren Jenkins	✓	
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
Mary Lou Peterson X		
Paul Pistoria	✓	
Rande Roth		✓
Tonia Stratford	✓	
Timothy Whalen	✓	

TALLY

14 2

Secretary

Chairman

MOTION: _____

ROLL CALL VOTE

State Administration

COMMITTEE

DATE

2/6/87

BILL NO.

325

NUMBER

NAME	AYE	NAY
Walt Sales		✓
John Phillips	✓	
Bud Campbell	✓	
Dorothy Cody X		
Duane Compton		✓
Gene DeMars	✓	
Harry Fritz	✓	
Harriet Hayne	✓	
Gay Holliday	✓	
Loren Jenkins	✓	
Janet Moore	✓	
Richard Nelson	✓	
Helen O'Connell	✓	
Mary Lou Peterson X		
Paul Pistoria	✓	
Rande Roth	✓	
Tonia Stratford		✓
Timothy Whalen		✓

TALLY

12

4

Secretary

Chairman

MOTION:

DO PASS
unanimously

ROLL CALL VOTE

State Administration

COMMITTEE

DATE 2-6-89 BILL NO. 427 NUMBER _____

NAME	AYE	NAY
Walt Sales		
John Phillips		
Bud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY

Secretary

Chairman

MOTION: _____

ROLL CALL VOTE

State Administration

COMMITTEE

DATE 2-6-87 BILL NO. 306 NUMBER _____

NAME	AYE	NAY
Walt Sales	✓	
John Phillips	✓	
Bud Campbell	✓	
Dorothy Cody X		
Duane Compton	✓	
Gene DeMars		✓
Harry Fritz	✓	
Harriet Hayne	✓	
Gay Holliday	✓	
Loren Jenkins	✓	
Janet Moore		✓
Richard Nelson	✓	
Helen O'Connell		✓
Mary Lou Peterson X		
Paul Pistoria		✓
Rande Roth	✓	
Tonia Stratford		✓
Timothy Whalen		✓

TALLY

10 6

Secretary

Chairman

MOTION: _____

DO PASS
UNANIMOUS

ROLL CALL VOTE

State Administration

COMMITTEE

DATE

2/6/87

BILL NO.

485

NUMBER

NAME	AYE	NAY
Walt Sales		
John Phillips		
Eud Campbell		
Dorothy Cody		
Duane Compton		
Gene DeMars		
Harry Fritz		
Harriet Hayne		
Gay Holliday		
Loren Jenkins		
Janet Moore		
Richard Nelson		
Helen O'Connell		
Mary Lou Peterson		
Paul Pistoria		
Rande Roth		
Tonia Stratford		
Timothy Whalen		

TALLY

Secretary

Chairman

MOTION:

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. HJR 12

DATE

2/6/87SPONSOR Thames

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Mrs Mary E. Douber	myself & Eagle Forum		✓
Beverly Huesbert	self		✓
KEVIN HENZ	U.S. CITIZEN		X
Kay W. Buckingham	Big Sky Eagle Forum		X
Charmaine Fisher	Billings		X
Walt Dupea	Big fork		X
Cecil Storms	Eureka		X
Robert J. Lee	Big fork		X
Julie Burk	Montana Education Assoc.		✓
Hanny Zadej	Helena		X
Don Judge	MT STATE AFL-CIO		X
Marjorie Krause	Hamilton MT		X
Carol Hancock	Corvallis Mt		X
Naomi Powell	corvallis		X
Larue Mousley	Corvallis		X
Tom Ryan	Helena		X
Helen Larson	Bethy Bobbick		X
Carl Zadej			X
Gavin Wallin	Big Eagle Forum		X

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

11/11/12
NAME

REPRESENTING

SUPPORT/OPPOSE

James A. Boren
J. Wood

CAUSA

" int.

Nadine Jensen

AFSCME

Lafan Anderson

life.

✓
✓
—
✓

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 447

DATE 9/6/87

SPONSOR Winslow

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO.

485

DATE _____

2/6/87

SPONSOR

Thopt

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION

COMMITTEE

BILL NO. 498

DATE 2/6/87

SPONSOR Skislow

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.