

MINUTES OF THE MEETING
JUDICIARY COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 19, 1987

The meeting of the Judiciary Committee was called to order by Chairman Earl Lory on February 19, 1987, at 7:00 a.m. in Room 312 D of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Eudaily who was excused.

EXECUTIVE SESSION:

ACTION ON HOUSE BILL NO. 316:

Rep. Gould moved that HB 316 DO PASS. He moved that a sunset be put on the bill and that a report be presented to the next Legislature. Question was called on the amendment to provide a sunset for the involuntary commitment statute. A voice vote was taken and the motion CARRIED unanimously. Rep. Gould moved that HB 316 DO PASS AS AMENDED. Mr. MacMaster stated that an extension of authority needs to be put on the bill. He pointed out that this is needed because 53-21-106 grants rulemaking authority and Section 102 is amended so the authority needs to be extended to Section 102 as amended. Rep. Gould moved the amendment. Question was called and a voice vote was taken. The motion CARRIED 13-2 with Reps. Hannah and Daily dissenting. Rep. Addy stated that the fiscal note is incorrect with regard to the definition of "mentally ill". He moved to amend page 5, lines 10-15, striking the words "no person". Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Gould moved DO PASS AS AMENDED. Question was called and voice vote was taken. The motion CARRIED unanimously. HB 316 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 284:

Rep. Darko moved that HB 284 DO PASS. She stated that HB 283 without HB 284 is nothing more than mere language. She moved amendments that ask for the penalties to be softened down to the minimum amount because we have to keep aggravated visitation interference as a felony in order to extradite people from another state. Question was called and voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Darko moved that HB 284 DO PASS AS AMENDED. Rep. Addy moved to amend HB 284 on page 2, line 4 inserting "without the written consent of the custodial

parent". Rep. Mercer asked Rep. Addy if someone commits the offense of visitation interference but has the consent to take the child out of the state, someone would only be guilty of a misdemeanor. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Darko moved that HB 284 DO PASS AS AMENDED. Question was called and voice vote was taken. The motion CARRIED unanimously. HB 284 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 78:

Rep. Darko moved that HB 78 be taken off the table. She explained the amendments that state that the child enforcement bureau can attach only the part that is designated as a lump-sum settlement. Rep. Gould stated that he opposes the motion. He felt that this bill will not accomplish anything. Rep. Miles commented that she supports the motion because the bill addresses the one time when the worker is given a lump-sum of money that includes money for back child support and that money should go to the child. Question was called on the motion to move HB 78 off the table. The motion CARRIED 11-6. Rep. Darko moved amendments. The motion CARRIED unanimously. (See Amendments Attached). Rep. Darko moved that HB 78 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 10-5 with Reps. Cobb, Meyers, Addy, Mercer and Grady dissenting. HB 78 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 696:

Rep. Hannah moved that HB 696 DO PASS. Rep. Addy stated that we must do something with the Human Rights Commission. Rep. Hannah pointed out that we have a situation where the HRC will be forced to be more careful. Rep. Daily stated that he supports the bill and what Rep. Hannah has said. Rep. Miles explained that trial de novo's should be allowed for JP courts because JP courts are not a court of record. She stated that this is punitive legislation because there are a few people who do not like the decisions that come out of the HRC. Rep. Mercer pointed out that there is a record in JP court but the JP is an elected independent official and the HRC is not. Rep. Gould stated that this bill lends fairness and it is a good bill. Question was called and a voice vote was taken. The motion CARRIED 10-5. HB 696 DO PASS.

ACTION ON HOUSE BILL NO. 167:

Rep. Mercer moved that HB 167 DO PASS. He moved the amendments proposed by the subcommittee. Discussion followed on the amendments and he explained them. Question was called and a voice vote was taken. The motion CARRIED unanimously.

(See Amendments Attached). Rep. Mercer moved that HB 167 DO PASS AS AMENDED. Rep. Addy stated that emotional distress should be available in contract actions where a breach is of a kind that is likely to cause serious emotional disturbance. He moved that emotional distress be allowed in contract actions. Rep. Giacometto pointed out that this amendment would open this up again and require the court to decide in every instance. Rep. Addy said that if the contract was breached, serious emotional distress could result and this must be opened up to some extent. Rep. Giacometto opposed the amendment. Rep. Meyers also opposed the amendment because it will water down the bill. He stated that 14 businessmen testified that they wanted the bill the way it was, and the subcommittee tried to meet a compromise, and with the proposed amendment it would be too watered down. Rep. Mercer pointed out that there should be some way of getting compensation for emotional distress damage but what concerns him is that putting in something where you say emotional disturbance is likely to result, just will not take a very creative court to say that there are cases of emotional disturbance. The bill as amended is clear standard and with the proposed language the clear standard will be eliminated. It is not worth risk to put Rep. Addy's amendment into this bill. Rep. Addy stated that it is worth the risk in many cases. Question was called on Rep. Addy's amendment. A voice vote was taken and the motion FAILED 7-9. Question was called on Rep. Mercer's, do pass as amended. A voice vote was taken and the motion CARRIED 9-6, with Reps. Rapp-Svrcek, Miles, Daily, Darko, Addy and Strizich dissenting. HB 167 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 209:

Rep. Mercer moved that HB 209 DO NOT PASS. Rep. Daily moved a substitute motion to TABLE the bill. Question was called and a voice vote was taken. The motion CARRIED 8-7. HB 209 TABLED.

ACTION ON HOUSE BILL NO. 592:

Rep. Mercer moved that HB 592 DO PASS. He moved the amendments proposed by the subcommittee. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Mercer moved that HB 592 DO PASS AS AMENDED. Rep. Addy stated that with all the limits that have been proposed this session, this bill is simply overkill. Rep. Miles proposed that language be inserted dealing with the UCC and it might constitute statutory language but we should make it clear that the UCC is considered separate language, similar to the insurance bad faith. Rep. Mercer stated that this issue was discussed in the subcommittee and it was the feeling of the witnesses and the

subcommittee that Rep. Miles proposal is not necessary. Rep. Miles stated that this committee has taken a lot of time to spell out exactly what we mean on such issues and this should be made clear in the bill. Rep. Addy suggested language with regard to the UCC regulations. Rep. Mercer stated that he does not have an objection to that amendment but it should be broadened to say that the action brought under the UCC or the Montana Commercial Code as permitted by 33-18-201 be inserted.

Rep. Mercer moved that amendment. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached).

Rep. Addy moved that HB 592 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 14-1 with Rep. Miles dissenting. HB 592 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 740:

Rep. Cobb moved that HB 740 DO PASS. He moved the proposed amendments. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Cobb moved that HB 740 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 740 DO PASS AS AMENDED.

ACTION ON HOUSE JOINT RESOLUTION NO. 21:

Rep. Mercer moved that HJR 21 DO PASS. Question was called and a voice vote was taken. The motion CARRIED 14-1, with Rep. Addy dissenting. HJR 21 DO PASS.

ACTION ON HOUSE BILL NO. 737:

Rep. Keller moved that HB 737 DO PASS. Question was called and a voice vote was taken. The motion CARRIED unanimously. HB 73 DO PASS.

ACTION ON HOUSE BILL NO. 240:

Rep. Mercer moved that HB 240 DO PASS. Rep. Mercer moved the amendments in their entirety and explained them. Question was called and a voice vote was taken. The motion CARRIED unanimously. Rep. Brown moved to amend on page 5, line 8. Reps. Miles and Mercer agreed with the amendment. Question was called and a voice vote was taken. The motion CARRIED unanimously. (See Amendments Attached). Rep. Mercer moved that HB 240 DO PASS AS AMENDED. Question was called and a voice vote was taken. The motion CARRIED 15-1. HB 240 DO PASS AS AMENDED.

ACTION ON HOUSE BILL NO. 354:

Rep. Miles moved that HB 354 be tabled. There was no discussion on the motion. A voice vote was taken and the motion CARRIED unanimously. HB 354 TABLED.

HOUSE BILL NO. 602, Rep. Hansen, District No. 602, stated that this is an act authorizing state assumption of indigent defense costs in criminal cases in justices' courts. She pointed out that the fiscal note addresses the money appropriated for all the courts.

PROPOSERS:

GORDON MORRIS, Montana Association of Counties, stated that they are responsible for the bill and all this bill does is add to the list of those services the criminal costs that arise in Justice of the Peace courts. He urged a favorable consideration for this bill because it will substantially improve the opportunities for district courts to better handle the expenses that arise in JP courts, because of criminal proceedings.

See the Visitors' Register for further proponents.

There were no opponents.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 602:

Rep. Brown asked Mr. Morris if he has looked at the fiscal note attached. He stated that he has. Rep. Brown then asked him if it appears to show additional costs to the general fund. Mr. Morris said that the fiscal note shows that under the additional item allowable under this bill that it would potentially increase the reimbursement costs to the program by \$192,000.00. All this bill does is say that of the \$2,500,000.00 we would fund it to the extent that funds are available.

Rep. Hansen closed the hearing on HB 602 by stating that this is a good bill and requested a do pass for it.

HOUSE BILL NO. 665, Rep. Hannah, District No. 86, stated that this act limits the removal of children in emergency dependent and neglect circumstances to peace officers under authority of an order by a judge or justice of the peace. He pointed out that the heart and soul of the bill is found on page two under the new section which lays out guidelines for removal of a youth from the home. He explained that subsection (3) covers an immediate situation where for the youth's health he must be taken out of the home. He said that there is a window in the law and this bill is created

to solve that window and close it up so there is a reasonable basis to operate from within.

PROPOSERS:

LAWRENCE SALSBERY, Billings, supported this legislation.

JIM BURNS, VOCAL Association, Helena, stated that 60% of reported child abuse cases are false. He pointed out that taking a child out of the home is a violation of our due process.

OPPOSERS:

JOHN MADSEN, Social and Rehabilitation Services, opposed HB 665 stating that the statute as currently written allows the Department of law-enforcement or county attorney to remove children who in their opinion are in immediate or apparent danger of harm. The proposed change in statute could easily mean that children would be further injured or possibly killed before they could be protected by removal. He submitted written testimony. (Exhibit A).

BRYAN E. COSTIGAN, Police Officer, Helena, pointed out that at the present time when everyone is watching where they spend their dollars it would not be wise to change the system. He presented written testimony. (Exhibit B).

J. H. STRICKLER, M.D., stated that child abuse is far too serious a condition to limit our ability to protect these children. He submitted written testimony as (Exhibit C).

JANET FINN, Social Worker for the Casey Family Program, opposed this legislation because social workers are certainly not out looking for children to remove from their homes. It is foolish to bar those very people, from making an assessment and critical decision when they are the ones trained for the job. She presented written testimony as (Exhibit D).

CAROLYN CLEMENS, Lewis and Clark Deputy County Attorney, Helena, stated that the proponents have been talking about the necessity to protect the parents rights, but we must protect the children's rights.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 665:

Rep. Hannah asked Ms. Clemens what in this bill prohibits or allows for the taking of a child who is in a child abuse situation. She stated that in a situation where a social worker goes out on a referral and walks into a home and sees a child that is in an extremely abuse or neglect situation

and the social worker is there by himself, they have no power under this bill to take that child. Rep. Hannah asked that she read subsection (3) at the bottom of page 2 and wondered if the insertion was made of the language "social worker" would that solve a problem for her. She stated that that would make the bill the same as it is now.

Rep. Hannah closed the hearing on HB 665 by stating that in his opinion there has been a tremendous emotional over response in this area. He pointed out that it is not his intent in this bill to say that when someone comes across a child who is in severe jeopardy or danger that the child must be left in danger so that a search warrant can be obtained. The intent of the bill, he said, is to say that the SRS has in fact, over stepped its authority in this area.

HOUSE BILL NO. 366, Rep. Fritz, District No. 56, stated that this bill increases the value of a homestead or home that is secure from execution from \$40,000.00 to \$80,000.00. He pointed out that the figure \$40,000.00 represents access value and the figure \$80,000.00 represents market value.

PROPONENTS:

HERBERT GEORGE, Volunteer Attorney, stated that his interest lies in the interest of the elderly. He supported this legislation.

HELEN MCKNIGHT, Helena, went on record in support of this bill.

HANK HUDSON, State Legal Services Developer, supported this bill because it will bring the homestead exemption provision back into line with the new assessment. He submitted written testimony. (Exhibit A).

OPPONENTS:

BOB PYFER, Vice President, Governmental Relations, Montana Credit Unions League, presented written testimony as (Exhibit B). He stated that they subscribe to the "fresh start" concept of bankruptcy, but feel that fairness requires a balance between debtor and creditor interest. He pointed out that HB 366 would have a chilling effect on the availability of credit and result in greater losses due to bankruptcies/losses that must ultimately be borne by the good consumer citizen. He urged a do not pass recommendation.

statute in HB 632 was adopted in the 1950's and has worked well since that time. He stated that this bill serves a useful public policy function and the only problem with the statute is that it was construed by the Supreme Court as a requirement that you have to prove that the tortfeasor injury was a matter of general business practice as opposed to just one injury.

HOUSE BILL NO. 737, Rep. Dave Brown, District No. 72, sponsor, stated that this is an act to allow a professional person in charge of a patient at the Montana State Hospital to file a petition for an extension of involuntary commitment in the District Court of the County in which the patient is detained. Presently, he said, the law is silent as to which county actually has jurisdiction.

PROPOSERS:

KURT CHISOLM, Deputy Director of the Department of Institutions, pointed out that this is a housekeeping measure to clarify the law and the bill was submitted by their request.

STEVE WALDRON, Helena, went on record in support of this legislation.

There were no OPPOSERS and no questions.

Rep. Brown closed the hearing on HB 737.

HOUSE BILL NO. 748, Rep. Ramirez, District No. 87, explained that this act allows a corporation to limit personal liability of the directors, or its shareholders for monetary damages for breach of fiduciary duty as a director.

PROPOSERS:

ELWOOD ENGLISH, Secretary of State Office, presented testimony as (Exhibit A).

JIM ROBISCHON, Montana Liability Coalition, appeared in support of this legislation because it does not diminish a shareholder right against the officers of a corporation for breach of fiduciary duty and that right remains completely intact. It eliminates or perhaps reduces external pressures upon a director that may be a factor in the increasing number of these types of law suits.

JOHN ALLEN, Great Falls Gas Company, stated that cost of providing directors with liability insurance was costing approximately \$1400.00 a year and upon renewal last summer the cost had increased to \$36,900.00 per year. Since last summer the directors of the company have been without

CHIP ERDMANN, Montana League Savings Institutions, stated that this bill would throw the system out of balance and he opposed it.

JOHN CADBY, Montana Bankers Association, went on record in opposition to this legislation.

There were no questions.

Rep. Fritz closed the hearing on HB 366.

HOUSE BILL NO. 632, Rep. Whalen, District No. 93, stated that this act removes the requirement that an insurance claim settlement practice must be done with such frequency as to indicate a general business practice before the practice is considered unfair. This bill also provides that evidence of a defendant insurer's violations of Title 33, Chapter 18, is admissible to show a general business practice. He stated that presently insurance companies enjoy a special privilege in the law. He explained that in a civil action based in whole or part on a provision or the violation of a provision of this chapter, evidence of multiple violations of this chapter by a defendant insurer is admissible to show that the frequency of the violations indicates a general business practice or practices.

PROPOSERS: None

OPPOSERS: JACQUELINE TERRELL, American Insurance Association, opposed this bill because the provision is better addressed in HB 240.

KARL ENGLUND, Montana Trial Lawyers Association, stated that he wished to call attention to page 5 of HB 240 which deals with the same issue as HB 632.

RANDY GRAY, NAIL, State Farm, and BONNIE TIPPY, NAIL, went on record in opposition to this bill.

QUESTIONS etc.

Rep. Addy asked Ms. Terrell how requiring a single violation will deter litigation and allowing evidence of multiple violations will incur further litigation because it would seem to him to be the opposite. She stated that it provides for further litigation because it provides for another law suit base which is better addressed in HB 240. This bill eliminates the general business practice requirement for all of the subsections of this statute.

Rep. Whalen closed the hearing on HB 632 by stating that he would encourage the committee to discard HB 240 because the

liability insurance. He pointed out that it is very important that some legislative solution is found and this bill's language is permissive which allows corporations to adopt this article.

TIM GILL, Montana Livestock Ag Credit, Inc., stated that their record is clean for the last 53 years but now they are perceived as a risk and consequently, their directors place their personal assets at risk on a daily basis for the sake of promoting continuing Agricultural production in Montana. He submitted written testimony. (Exhibit B).

GEORGE BENNETT, Montana Bankers Association, submitted an article titled, "Bank Director's Report" dated February, 1987. (Exhibit C).

JO BRUNNER, Montana Water Development Association, submitted written testimony as (Exhibit D).

CHIP ERDMANN, Montana League of Savings Institutions, went on record in support of this bill.

STUART DOGGETT, Montana Chamber of Commerce, Helena, supported this bill.

GEORGE ALLEN, Montana Retail Association, supported HB 748.

See Visitors' Register for further proponents.

There were no opponents and no questions.

Rep. Ramirez closed the hearing on HB 748 by stating that this bill is based on Pennsylvania law and it does not give immunity to the officers. He pointed out that this is not an absolute limitation, it is a clarification and requires the shareholders to agree to the articles.

HOUSE BILL NO. 740, Rep. Cobb, District No. 42, pointed out that this act will relieve justices of the peace from overly burdensome bookkeeping and other administrative duties in regard to fines, penalties, and forfeitures paid in their courts and revises the method of distributing the fines, penalties, and forfeitures.

PROPOSERS:

JIM HAYNES, Montana Magistrate's Associations, Lobbyist, submitted written testimony. (Exhibit A). He also presented the Uniform Accounting System Manual for Justice Courts. (Exhibit B).

CARROLL C. BLEND, Justice of the Peace, Great Falls, presented written testimony and a table of fines, forfeitures of bail and fees as (Exhibit C).

NANCY L. SOBO, Justice of the Peace Ravalli County, presented written testimony. (Exhibit D).

BERNARD F. MCCARTHY, Lewis and Clark County Courthouse, Helena, Montana Magistrates Association, submitted written testimony. (Exhibit E).

E. HARRINGTON, Montana's County Treasurer's Association, supported this bill.

LARRY HERMAN, Judge, went on record in support of this legislation.

PATRICK DRISCOLL, Attorney General's Office, supported this bill.

There were no opponents and no questions.

Rep. Cobb closed the hearing on HB 740.

HOUSE BILL NO. 757, Rep. Whalen, District No. 93, stated that this is a clean up bill that revises the law relating to prejudgement interest in an action for recovery for injury to a person or property.

There were no proponents to this bill.

OPPONENTS:

ROGER MCGLENN, Independent Insurance Agents Association of Montana, opposed this legislation.

JACQUELINE TERRELL, American Insurance Association, went on record in opposition to this bill.

There were no questions.

Rep. Whalen closed the hearing on HB 757 by pointing out that the insurance companies are the only ones to oppose this bill. He stated that the problem with the presently written statute is that there are a number of exceptions and juries do not tell someone where every dollar is being awarded. There is no prejudgement interest on torts and the statute currently is unworkable.

HOUSE BILL NO. 758, Rep. Whalen, District No. 93, is being carried on behalf of a city judge by the name of Larry Herman.

PROPOSERS:

LARRY HERMAN, Judge, Laurel, stated that DONALD BJERTNESS, City Court Judge, Billings, wished to go on record in support of this bill and written testimony was submitted. (Exhibit A). Judge Herman stated further that HB 758 is constructive legislation and will improve the administration of justice in the large metropolitan areas in Montana and he submitted written testimony. (Exhibit B).

ROBERT TUCKER, City Judge, Great Falls, submitted written testimony. (Exhibit C).

OPPOSERS:

JAMES A. HAYNES, Montana Magistrates Association, opposed this legislation and submitted written testimony. (Exhibit D).

There were no questions.

Rep. Whalen closed the hearing on HB 758.

HOUSE BILL NO. 761, Rep. Thoft, District No. 63, sponsor, stated that this bill is an act providing that when bail is set at \$1,000.00 or less, the defendant may furnish bail by paying a fee to the clerk of the court in an amount of cash equal to ten percent of the required bail. It is to be signed by the defendant in favor of the county and provides that the county shall use the cash fee to fund the county public defender's office or court-appointed counsel system.

PROPOSERS:

JOHN W. ROBINSON, Attorney, Corvallis, stated that this proposal would provide additional money for the courts and the money would come from the people who are creating the problem. The burden on the local taxpayer would be decreased. He presented written testimony. (Exhibit A).

There were no further proposers, no opposers and no questions.

Rep. Thoft closed the hearing on HB 761.

HOUSE JOINT RESOLUTION NO. 21, Rep. Mercer, District No. 50, stated that the Supreme Court, by its own rules has provided that if there are two peremptory challenges in a civil action and either by statute or rule has said that there can only be one in a criminal action. A judge can be disqualified two times in a civil case, but only once in a criminal case. This bill will urge the Supreme Court to amend the

rule on peremptory challenges to make it only one disqualification in a civil action. In the interest of consistency, he urged a do pass recommendation on this bill.

There were no proponents, no opponents and no question.

Rep. Mercer closed the hearing on HJR 21.

HOUSE BILL NO. 754, Rep. Bradley, District No. 79, stated that this bill is requested by The Water Policy Committee. It changes the Water Judge appointment process to expand the population of eligible candidates and it includes a judicial nomination commission process, providing for adjudication by priority basins and authorizing an appropriation for random sampling and analysis of claims within decrees issued by the water courts. She pointed out that the first 2/3 of the bill deals with minor changes of the water judge appointment process. She stated that the qualifications are revised on the level of district court judge and it goes through the judicial commission process. It will then be submitted to the Supreme Court Chief Justice. After the Chief has made a selection, it will then go to a Senate confirmation. She presented a Statement of Intent. (Exhibit A). She explained that page 8 deals with the random sampling of decrees and that this was the committee's effort in listening to all sides of the adjudication issue to come up with some kind of a compromise. The scientific sampling is estimated to cost \$29,000.00 and it will be contracted out.

PROPONENTS:

REP. DENNIS IVERSON stated that he strongly supports the bill and there is a legitimate dispute between the water court and DNRC. This bill does not address this, but it does touch upon the dispute in a way that will make matters better. He urged support for this legislation.

LARRY FASBENDER, Director of the Department of Natural Resources and Conservation, pointed out that the provisions in this legislation do improve the situation by expanding the pool by which judges can be drawn and they are interested in the priority of basins.

OPPONENTS:

ED STEINMETZ, Water Court, Bozeman, stated that the water court is neutral on the sections of the bill dealing with the selection of water judges and prioritization of basins, although there is a financial impact of the selection of water judges provision. They are opposed to the section on random sampling because there has been no showing of

necessity which is sufficient to justify the expenditure of \$92,000.00.

VERN WESTLAKE, Gallatin County Agricultural Preservation Association, stated that he opposed this bill because it proposes legislation that is not needed and cannot be justified at this particular time. He asked that HB 754 be killed. The water court has already demonstrated that it is better able to complete the adjudication process at a lower cost to the taxpayers, and to do so in a shorter length of time. He submitted written testimony. (Exhibit B).

KIM ENKERUD. Montana Association of State Grazing Districts, the Montana Stockgrowers and Montana CattleWomen, opposes section 11, because the random sampling is an unnecessary expense. Written testimony was presented. (Exhibit C).

LORNA FRANK, Montana Farm Bureau, went on record in opposition to section 11.

See Visitors' Register for further opponents.

QUESTIONS (or Discussion) ON HOUSE BILL NO. 754:

Rep. Rapp-Svrcek asked Mr. Steinmetz if his objections to the bill would be lessened if the bill was amended to state that sampling would be done only on final decrees. He answered that it would eliminate part of his objections, but it would not eliminate his concern for correct adjudication. He stated that the courts determine the law not sampling agencies.

Rep. Rapp-Svrcek asked Rep. Bradley if the Department of Fish, Wildlife and Park's objections have been cleared up. She stated that in determining this compromise approach the committee listened to lawyer after lawyer in the state who expressed great concern about the accuracy issue and the committee felt that it would be irresponsible to say they did not know what they were talking about.

Rep. Meyers asked Rep. Bradley how she would feel about an amendment to the random sampling section. She asked him what he had in mind and Rep. Meyers answered that he would eliminate it. She stated that she would oppose that because all parts of the bill are important and she would not want to see the entire bill go down. Rep. Bradley stated that she feels strongly about a random sampling approach and she does not see what we have to lose by getting more information.

Rep. Rapp-Svrcek asked Rep. Bradley how she felt about limiting the random sampling only to final decrees. She


said that she would take the approach as opposed to eliminating this altogether. Rep. Iverson pointed out that the real need to have accuracy is to make sure this stands up in Federal Court and there have been some serious questions raised as to whether it will. The reason that it is important that we take some samples from the beginning on through to the end is that when the Federal Court looks at this they are not going to care if one farmer gets more water than the other but they are concerned about the process. They want to make sure that fairness is applied.

Rep. Lory asked Rep. Bradley if she felt the bill was flawed because there are three subjects in one bill. She answered that the three subjects deal with water. Rep. Lory stated that they are all dealing with water but different subjects and he stated further that they may not move through the rules committee.

Rep. Iverson pointed out that the bill deals with water but addresses the water adjudication process.

Rep. Bradley closed the hearing on HB 754 by stating that this proposal is the best the committee could come up with that would put the question to rest once and for all. She said that she agrees with Mr. Westlake about the need for efficiency in moving through this process. An important thing for private landowners is that once they have their water rights secured, it is secured to them forever. She pointed out that all the bill is asking for is that all the information be put before them. There is not a mandate to take the information and do something with it and there is no reason to be fearful because we have nothing to lose by having more information and everything to gain. She strongly urged support for this legislation.

ADJOURNMENT: There being no further business to come before this committee, the hearing was adjourned at 1:06 p.m.



EARL LORY, Chairman

DAILY ROLL CALL

JUDICIARY

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Feb. 19, 1987

NAME	PRESENT	ABSENT	EXCUSED
JOHN MERCER (R)	✓		
LEO GIACOMETTO (R)	✓		
BUDD GOULD (R)	✓		
AL MEYERS (R)	✓		
JOHN COBB (R)	✓		
ED GRADY (R)	✓		
PAUL RAPP-SVRCEK (D)	✓		
VERNON KELLER (R)	✓		
RALPH EUDAILY (R)			✓
TOM BULGER (D)	✓		
JOAN MILES (D)	✓		
FRITZ DAILY (D)	✓		
TOM HANNAH (R)	✓		
BILL STRIZICH (D)	✓		
PAULA DARKO (D)	✓		
KELLY ADDY (D)	✓		
DAVE BROWN (D)	✓		
EARL LORY (R)	✓		

STANDING COMMITTEE REPORT

FEBRUARY 19,

87
19

JUDICIARY

Mr. Speaker: We, the committee on

HOUSE BILL NO. ~~223X~~ 316

report

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, line 6.

Strike: "AND"

2. Title, line 9.

Following: "MCA"

Insert: "; PROVIDING FOR A REPORT TO THE LEGISLATURE; AND
INCLUDING A SUNSET PROVISION"

3. Page 5, lines 10 through 15.

Strike: "No person" on line 10 through "part." on line 15

4. Page 9, line 20.

Following: "53-21-121(1)(b)."

Insert: "

(6) No person may be involuntarily committed to a mental health facility or detained for evaluation and treatment because he is an epileptic, mentally deficient, mentally retarded, senile, or suffering from a mental disorder unless the condition causes him to be seriously mentally ill within the meaning of this part."

5. Page 26.

Following: line 1

Insert: "NEW SECTION. Section 16. Report to legislature. The mental disabilities board of visitors shall report to the 51st legislature on the effects of this act, including the effects on the treatment and rights of the mentally ill and the seriously mentally ill and the procedures established by this act, and shall include in the report any recommendations it may have.

NEW SECTION. Section 17. Extension of authority. Any existing authority of the department of institutions or the mental disabilities board of visitors to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 18. Termination. This act terminates July 1, 1989."

STANDING COMMITTEE REPORT

FEBRUARY 19,

37

19

JUDICIARY

Mr. Speaker: We, the committee on

HOUSE BILL NO. 234

report

xx

- ☐ do pass
☐ do not pass

- ☐ be concurred in
☐ be not concurred in

xx

- ☐ as amended
☐ statement of intent attached

Chairman

1. Page 1, line 19.

Strike: "for the first or second time"

2. Page 1, line 21.

Strike: "6 months"

Insert: "5 days"

3. Page 1, lines 21 through 35.

Strike: "On a" on line 21 through "or both." on line 25

4. Page 2, line 4.

Following: "custody"

Insert: "without the written consent of the custodial parent"

5. Page 2, line 8.

Strike: "\$3,000"

Insert: "\$1,000"

6. Page 2, line 9.

Strike: "2 years"

Insert: "18 months"

ANB234a/JM/JM2



FIRST

WHITE

reading copy ()
color

STANDING COMMITTEE REPORT

FEBRUARY 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 78

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, line 6.

Following: "COMPENSATION"

Insert: "LUMP-SUM"

2. Page 2, line 1.

Strike: "Payments"

Insert: "A lump-sum payment"

Strike: "section are"

Insert: "chapter is"

3. Page 2, lines 2 through 11.

Strike: "as" on line 2 through "payment" on line 11

Insert: "By the Title IV-D agency under the federal Social Security Act in the amount that part of a lump-sum is specifically granted for the payment of past-due child support"

ARE76a/JM/JM2

JM

FIRST reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 19,

19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 167

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, line 5.

Strike: "ALL"

Insert: "CONTRACT"

2. Title, line 7.

Strike: "FROM PHYSICAL CONTACT OR THREAT OF PHYSICAL CONTACT"

Insert: "TO THE PLAINTIFF"

3. Page 1, line 11.

Following: "prohibited"

Insert: "in contract actions"

4. Page 1, line 12.

Strike: ", whether"

Strike: "or"

5. Page 1, line 13.

Strike: "otherwise"

6. Page 1, lines 17 through 19.

Strike: "or injured" on line 17 through "contact" on line 19



FIRST reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 592

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, line 6.

Strike: "IMMEDIATE"

2. Page 3, line 6.

Following: "statute."

Insert: "Nothing in this section affects the rights of any person to bring an action as permitted by 33-16-201 or the Uniform Commercial Code."

3. Page 3, line 10.

Strike: "passage and approval"

Insert: "July 1, 1987"

AHP592a/JM/JME



FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 19,

19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 740

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

Page 2, line 25 and line 1 of page 3.

Strike: "on or" on page 2, line 25 through
"is paid" on line 1 of page 3

Insert: "in the manner provided in 15-1-1504"

FIRST

reading copy (

WHITE

)
color

STANDING COMMITTEE REPORT

FEBRUARY 19, 1937

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 737

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

FIRST reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 19, 19 87

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 696

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 19, 19 37

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. HJR 21

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Chairman

FIRST reading copy (WHITE color)

STANDING COMMITTEE REPORT

FEBRUARY 19,

19 37

Mr. Speaker: We, the committee on JUDICIARY

report HOUSE BILL NO. 371

☐ 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 ¹⁹~~20~~

19 ³⁷

JUDICIARY

Mr. Speaker: We, the committee on

HOUSE BILL NO. 240

report

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Chairman

1. Title, line 4.

Following: "PROVIDING"

Strike: "FOR"

Insert: "A CAUSE OF ACTION FOR AND"

2. Title, line 8.

Following: "33-1-317"

Strike: ", "

Insert: "AND"

Following: "33-18-201,"

Strike: "AND"

Insert: "MCA; REPEALING SECTION"

3. Title, line 9.

Strike: "IMMEDIATE"

4. Page 2, line 2.

Strike: "(1)"

5. Page 2, line 5.

Strike: "(a)"

Insert: "(1)"

Renumber: subsequent subsections

6. Page 4, line 5, through line 8.

Strike: subsection (2) in its entirety

7. Page 4, line 9.

Following: "Section 3."

Insert: "Repealer."

Following: "is"

Insert: "repealed."

Strike: remainder of line 9 through "plaintiff." on line 3, page 5.

8. Page 5, line 3.

Strike: "(1)(a), (1)(b), (1)(c), or (1)(d)"

Insert: "(1), (4), (5), (6), (9), or (13)"

FIRST

reading copy (WHITE)
color

TESTIMONY ON HOUSE BILL 665

By The Department of Social and Rehabilitation Services # 665

Mr. Chairman; Members of the Committee -- John Madsen, representing Social and Rehabilitation Services. The Department, is opposed to House Bill 665.

The statute, as currently written, allows for the Department or Law-Enforcement or a county attorney to remove children who in their opinion are in immediate or apparant danger of harm. As a matter of practice, only social workers actually remove children from their homes or dangerous situations. Law-enforcement officers when faced with a dangerous situation, almost without exception, call a social worker to help assess the situation and make a removal decision.

A few facts may help clarify how many children are actually removed under emergency removal statutes in the State. SRS investigates approximately 7,500 child abuse and neglect referrals each year. Of these referrals, 3,750 of these referrals are found to be substantiated. Of that 3,750 figure, no more than 5% are removed under emergency removal statutes. In other words, in less than 200 cases per year, are children removed under the emergency removal statute. But in those 200 cases that ability to make that removal is essential to the health and welfare of children. These are generally the most severe cases involving children most at risk of severe abuse and neglect.

Law-Enforcement personnel are not going to be available to go along on every child abuse referral that a social worker receives. Many homes that we go into do not have telephones. If a social worker must go to a telephone elsewhere to call for Law-Enforcement backup, in the interim the parent may leave with the child.

This change in statute could easily mean that children would be further injured or possibly killed before they could be protected by removal.

There are people who would like to speak to specific case examples.

JM:kb

2-18-87

#DL/53

Opposition to HB-665

EXHIBIT B
DATE 2-19-87
HB # 665

Bryan E. Costigan
1003 Townsend
Helena, Mt. 59601
Feb. 19, 1987

Mr. Chairman, Ladies and Gentlemen of the committee, I am here today to voice my opposition to HB 665 as a citizen and as a police officer. I have worked in the past in the social work field and now presently employed by the City of Helena as a Police Officer

As a citizen I feel that the state has the obligation to protect children in the community from neglect and abuse. The state has set up the Dept. of Social and Rehabilitative Services and has staffed that department with the professionals to do that job. Having worked with these people in the past I found that they are dedicated and have the best interests of the child in mind. In the Helena area they do an outstanding job. Their knowledge of the people and the cases that they are dealing with is exceptional. They have the information and the training to make the best decision for the child.

As a police officer I am opposed to this bill. The law enforcement community has not had the training to recognize and deal with the problem. Can the law enforcement officer contribute the same amount of time and expertise to a child abuse case that a social worker does? I think not. The law enforcement officer is expected to be a jack of all trades, but I think that this is an area that he should not have to become involved in. Law enforcement officers are used to dealing with the facts of the case. Some would have trouble with terms like "apparent danger of physical injury or physical sexual abuse." How is the officer to know what "apparent danger" means if he is not taught to recognize the proper clues or signs. The social worker is already trained in this area and can handle the job.

In conclusion I can not see moving this responsibility from the social worker to the law enforcement community. In this time when everyone is watching where they spend their dollars I do not think that it would be wise to change the system. The cost of training every law enforcement officer in the state in this area would be staggering. Why not leave the system as it is and leave it to the people that are already trained to do the job.

American
Academy of
Pediatrics



Montana Chapter

Chairman
Jeffrey H. Strickler, M.D.
1300 N. Montana
Helena, MT 59601
(406) 443-5563

Interim Chairman
James Feist, M.D.
7 East Beall
Bozeman, MT 59715
(406) 587-5123

Secretary-Treasurer
Ralph Campbell
144 Third Avenue W.
Bozeman, MT 59860
(406) 883-2232

EXHIBIT C
DATE 2-19-87
HB # 665

2/19/87

From J.H. STRICKLER M.D.
Chairman Mt Chapter AAP

To House Judiciary Committee

Re: H.B. 665
"An Act Limiting the Removal of Children ..."

The pediatricians who care for children in Montana are adamantly opposed to H.B. 665.

Child Abuse is far too serious a condition to limit our ability to protect these children.

The children and the doctors who care for them urge a DO NOT PASS recommendation.

Thank you
A handwritten signature, likely of Jeffrey H. Strickler, with a long horizontal flourish extending to the right.

To: Members of the House Judiciary Committee

From: Janet Finn, MSW

Re: Opposition to House Bill 665

Date: February 19, 1987

EXHIBIT L

DATE 2-19-87

HB # 665

I am a social worker for the Casey Family Program and a part time instructor in the Carroll College social work department. I am strongly opposed to House Bill 665. I supervised a child protection unit for SRS for three years. I now help prepare new social workers for the field. I also work with children who have been victims of severe abuse and neglect as they begin to rebuild their lives. I speak to this issue from the heart.

There is nothing more difficult in a CPS job than making emergency removals for protection of a child. Because it is so difficult, it is important that the social worker be well trained to assess the emergent nature of the situation. It is equally important that the social worker be skilled in responding to the immediate needs of both the anxious, often hostile parent, and the frightened, hurt child. These decisions are critical and need to be made right at the scene to protect a child from further hurt. It would be criminal to walk away from a child at risk of further harm in order to obtain a court order.

Moreover it is certainly foolish to bar those very people, social workers, from making that assessment and critical decision when they are the ones trained for the job. I have worked closely with law enforcement personnel in volatile child abuse situations. Our work is complementary and promotes child welfare while often times serving to diffuse very tense family situations. At times when I removed children from immediate risk situations, I was able to rely on the back up of law enforcement and focus my work on helping the parent to understand if not agree with the decision, and, most importantly, help the child reestablish a sense of safety in a frightening spot.

Social workers are certainly not out looking for children to remove from their homes. Those crisis situations stand out clearly in my memory and still make my guts churn. A four year old literally bruised from head to toe with tufts of hair missing. A little girl bleeding vaginally and anally from repeated sexual abuse. A mother beaten, her twelve year old daughter hurt trying to protect her, three younger children crying in a police car while their dad is questioned. A six year old left alone for hours every day, scared and silent. No, my experience was not in New York City, It was in Helena. Those three a.m. calls leave you angry, hurt, sad. But at 8:00 a.m. that same worker may be right back on the job trying to help that child and family make sense of their violent world and begin to pick up the pieces. Lets maintain a law that allows the cooperative use of social work and law enforcement knowledge and skill rather than letting our children be at risk by putting our heads in the sand and pretending these things don't happen in Montana.

A
2-19-87
- 366

Testimony regarding HB 366, Homestead Exemption
Hank Hudson, State Legal Services Developer

As an advocate for the legal rights of Senior Citizens in the State of Montana I recognize the value of the Homestead Exemption provisions currently found in State law. It provides needed protection against unexpected financial hardships to the extent that an individual is secure in their home, or at least a portion of their equity is protected. It is my opinion that this bill will address the need to bring the Homestead exemption provision back into line with the new method of property assessment.

HOUSE BILL 366

Testimony of Robert C. Pyfer
Vice President, Governmental Relations
Montana Credit Unions League

B.
2-19-87
HB # 366

Before the House Judiciary Committee

February 19, 1987

Mr. Chairman and members of the committee, for the record I am Bob Pyfer, Vice President, Governmental Relations for the Montana Credit Unions League. The league is a trade association representing 108 of Montana's 110 credit unions.

Our main concern is that House Bill 366 would allow any borrower, not just an elderly one, to exempt \$80,000 from creditors' claims in a bankruptcy proceeding.

As nonprofit cooperative lending institutions, owned and operated by their members, credit unions have always been concerned about the economic well-being of their members. In fact, financial counseling for members having difficulties is one of our most important services.

We subscribe to the "fresh start" concept of bankruptcy but feel that fairness requires a balance between debtor and creditor interests. As mentioned during the hearing on House Bill 19, we feel the pendulum has swung too far toward the individual borrower to the detriment of the good consumer member who must ultimately absorb the loss in the form of reduced interest or dividends on savings, higher loan rates, and reduced availability of credit. There is increasing frustration among credit unions that encounter

B
2-19-81
= 366

bankruptcies in that insolvency is not required and there seems to be little hesitancy to file these days--often bankruptcy is taken to avoid debts as low as \$7,000 or \$8,000.

While the state can't do much about the federal bankruptcy laws, it does have authority in the area of exemptions. To allow a borrower to protect \$80,000 in equity would certainly invite even more unnecessary bankruptcy petitions. With a little pre-bankruptcy planning toward equity in the homestead and other exempt property, the debtor could effectively release himself from nearly all his contractual obligations.

It has been argued that because homestead value is tied prima facie to assessed value for property tax purposes, the exemption was actually \$80,000 until the latest reappraisal, which has had the effect of reducing the exemption to \$40,000. However, the law merely provides that the assessed value is prima facie the true value--this simply means that you look to assessed value if there is no other evidence of value. Such other evidence could easily be produced through a qualified appraisal. In other words, the current exemption is \$40,000 just as the law says it is and this bill would double it just 6 years after it was doubled from \$20,000 in 1981.

During the last interim, the Interim Subcommittee on Lien Laws studied the exemption laws. The study committee discussed the homestead exemption and noted that Montana's exemption is among the highest in the country--perhaps among the top three. This is due to the fact that the exemption was just

13
2-17-87
FF 326

increased from \$20,000 to \$40,000 in 1981. The 6 years since 1981 have not been inflationary years--if anything property values in Montana have held steady or decreased over the past 6 years. It makes no sense to double the exemption at this time. To do so would simply invite more bankruptcies at the expense of the overall economy and restrict availability of credit.

It is true that a lender who has a mortgage on the homestead is generally protected in a bankruptcy proceeding. However, the unsecured lender, the lender whose collateral has depreciated or been destroyed, and the lender whose collateral is a non-purchase money security interest in exempt personal property are not protected--they may receive nothing toward these just debts.

One of the basic tenets of credit union philosophy is that character is a main criterion for making a loan. Although these times require caution, credit unions still make some unsecured loans. The manager of Whitefish Credit Union, the largest in the state, indicates that they will make unsecured loans, often to elderly members, looking to character and homeowner equity as evidence of creditworthiness but without taking a mortgage. This saves the member the expense of appraisal, title insurance, and other fees. A higher homestead exemption would obviously affect or eliminate such a practice.

In closing, we feel that House Bill 366 would have a chilling affect on the availability of credit and result in greater losses due to bankruptcies--

Page 4

B
2-19-87
366

losses that must ultimately be borne by the good consumer citizen. We urge a
"do not pass" recommendation.

LIMITATION ON DIRECTOR'S LIABILITY
BUSINESS AND NONPROFIT CORPORATIONS
HB748

A
2-19-87
#748

In recent years corporations have been facing more and more difficulty in recruiting outside directors because of the exposure to liability in lawsuits. Small business corporations (which predominate in Montana) and nonprofit corporations have been particularly hit hard by the proliferation of lawsuits and the increasing difficulty in obtaining directors' liability insurance.

Many small business corporations and almost all nonprofits depend on outside advice and judgment for policy decisions. Directors who voluntarily or for only small compensation offer their expertise are faced with lawsuits by disgruntled shareholders if decisions go bad.

Some courts around the country have developed standards like "sound business judgment" which make sense, but are often misapplied with the advantages of hindsight. For instance, a director may vote for a particular action expecting interest rates to continue to rise. As economic conditions change, the decision may turn out to lose money even though no one could foresee that result at the time it was made.

A jury, with the assistance of hindsight, may decide that the decision made by the director was not "sound business judgment." Rather than subject themselves to such second-guessing, most experts stick to their own ventures, depriving new companies of benefits of their experience which they might otherwise be willing to share.

Delaware has long been in the forefront of those states attempting to establish a reputation for hospitality to business. Consequently Delaware has become the state of incorporation for thousands of American corporations, large and small, and has reaped benefits, both direct and indirect, from the process.

A comparison made by the University of Montana Law School shows very little difference between the advantages offered by Delaware and those we offer in Montana. Recently Delaware has responded to the directors' liability problem with legislation from which HB748 is taken.

It should be noted that directors are not offered absolute protection. First the protection offered is left to the stockholders to adopt (if they are suffering from the inability to attract needed directors) or not (if they are not). Second, the protection is only against lawsuits by the corporation or its shareholders, not other members of the public who did not voluntarily surrender their rights and who may have valid claims against a director.

Third, directors are not immune if they (1) breach a duty of loyalty, (2) engage in willful misconduct, recklessness, or knowing violation of law, (3) violates 35-1-409 (allows distribution contrary to law or articles of incorporation), or (4) derives an improper personal benefit. The important point is that directors would be immune from suit, if the corporation adopts the provision, for simply making an honest mistake in business judgment.

Bank Director's Report

Volume 18, Number 8 February 1987

2-19-87
AB # 748

WALL STREET
JOURNAL

Remedies for the D&O Insurance Crisis

One third of more than 1,100 directors of major U.S. corporations say that the increased liability to which they are exposed has caused them to consider resigning from their board positions, according to a survey by Touche Ross. Of the directors polled, 93 percent believed that increased liability will make it more difficult to recruit talented, experienced people to serve on boards.

Higher Cost for Less Coverage. "Today, even big companies with no past history of shareholder suits have found their D&O liability insurance costs multiply tenfold in some cases for a fraction of the coverage in terms of dollar amounts," explains Robert Profusek, a Dallas-based partner in the law firm of Jones, Day, Reavis & Pogue. "Policies—when banks and companies can get them—include all sorts of exclusions, such as securities law liability and takeover defenses," says Profusek.

Crisis Remedies. Profusek offers some alternatives now being explored by board members:

□ *Captive insurance companies.* These companies are formed by companies or banks in a similar industry. Thirty or 40 banks, for example, would own the company and have control of it. The concept is something like that of a cooperative. The owners would run the captive insurance company for the benefit of protecting the shareholders.

□ *Reinsurance.* Here, an insurance company shares the risks with other companies, often creating layers of companies that are carrying the risk. This approach is often used with captive insurance companies.

□ *Trusts.* Cash and other assets are put into trusts to fund director and officer defense costs.

□ *Charter provisions.* Some companies have

Also in This Issue:

- Predictions for the Future of Banking 2
- LEGAL REPORT 3, 4
- Legal Plans: An Added Dimension to Banking Products and Services 5
- "A Silver Parachute" That Protects Employees in Case of Hostile Takeovers ... 6

changed the standard of liability in their charters to restrict the liability of directors and officers. Delaware was the first state to permit companies to restrict liability in their charters. Indiana and Ohio have also done so.

Combat Pay. Many directors have received double-digit pay hikes this year, according to The Conference Board's annual directors' compensation survey. "The . . . pay gains . . . might be viewed as combat pay for directors who have survived takeover battles and other traumatic events," says Jeremy Bacon, The Conference Board's specialist in directorship practices. "Corporate managements are very much aware that their directors are shouldering increased responsibility in a risky environment," Bacon notes.

Forty-one of the 928 companies surveyed by The Conference Board gave their outside directors pay increases in 1986. Median annual pay climbed 15 percent among financial companies. Directors had received only modest increases the previous year.

Some 88 percent of the companies provide directors' liability insurance, up from 85 percent last year. But there have been widespread declines in the dollar lim-

WARREN, GORHAM & LAMONT, INC.

The Professional's Publisher

WG
&L

Bank Director's Report

of coverage protecting board members against personal loss.

More Benefits. To both reward and retain good board members, the new study shows that companies increased not only cash compensation but also fringe benefits:

- Median annual retainers paid for board service climbed \$1,000 last year in manufacturing, \$1,600 in finance, and \$1,500 in nonfinancial companies. For the largest firms, these annual retainers now stand at \$20,000 in manufacturing, \$18,000 in nonfinancial service firms, and \$13,500 in financial enterprises.
- Directors' fees for attending meetings are also rising. Among manufacturing firms this median fee now amounts to \$750.
- Some 56 percent of the companies allow their outside directors to defer their compensation, up from 53 percent last year. Excluding liability insurance, deferred compensation plans have become the most popular directors' benefit.

- Eighteen percent of the companies provide pension benefits for their outside directors, up from 15 percent in 1985. These plans are most popular among the larger companies.

Legislative Changes Urged. Although banks and companies are increasing pay and benefits and attempting new methods to reduce liability risk, Profusek says those steps are not enough. "Concerned banks and corporations should consider becoming actively involved in the legislative efforts in this area. . . . In the absence of some judicial clarification or some real breakthrough in legislation . . . this is a problem that could become permanent.

"Outside directors are supposed to remove a substantial part of self-interest from the corporate decision-making process. We could lose much of the benefit of having a board of directors made up of a cross section of the business community, such as a bank president, the CEO of another public company, or a distinguished business professor. They bring new ideas and enthusiasm to the boardroom."

Predictions for the Future of Banking

In a presentation titled "The Shape of the Future: Banking in 1991," the MAC Group made a number of predictions about retail and commercial banking at the American Bankers Association (ABA) conference in San Francisco. The predictions were the result of a year-long research project conducted by the international management consulting firm.

According to William T. Gregor, a senior vice president of the MAC Group and a co-director of the study, the changes will be different from many industry analysts' expectations. "Ever since deregulation, making predictions has been a favorite pastime of industry watchers," he commented. "We've found that many of the common predictions—such as the rise of financial supermarkets, a dramatic decline in the num-

ber of banks, and the 'checkless' society—have simply not occurred."

New Directions. The MAC Group's research has identified key trends that the financial services world can expect to see over the next five years:

☐ *Customer buying behavior will continue to change* as consumers become more price-sensitive. Product-focused, as well as relationship-focused, strategies can work, but most banks will need to choose one or the other.

☐ *Distribution networks will change* dramatically as banks begin to grapple with the large expense of the traditional branch system. The number of full-service branches will decrease by more than a third, as banks close unprofitable ones and reconfigure using alternative delivery systems. However, the banks will be making larger acquisitions, which will increase the number of branches per bank.

☐ *Technology for consumer banking will focus on internal applications*, instead of interactive ones, and will become more "invisible." Corporate technology will, however, become more pronounced through the rise of transaction-oriented workstations for clients.

☐ *The size of banks will change dramatically*, but the total number will not. The number of midsize

(continued on page 5)

BANK DIRECTOR'S REPORT (ISSN 0522-2494) is published monthly by Warren, Gorham & Lamont, Inc., publishers of *The Bankers Magazine* and *The Banking Law Journal*, 210 South Street, Boston, MA 02111. Copyright © 1987 by Warren, Gorham & Lamont, Inc. All rights reserved. No part of this newsletter may be reproduced in any form, by microfilm, xerography, or otherwise, or incorporated into any information retrieval system, without the written permission of the copyright owner. Second-class postage paid at Boston, Massachusetts. Subscription price: USA, US possessions and Canada—\$125.00 annually; elsewhere—\$135.00 annually. For information, call 1-800-922-0066 (outside Massachusetts), (617) 423-2020 (in Massachusetts). **EDITORIAL INQUIRIES:** Direct to Warren, Gorham & Lamont, Inc., One Penn Plaza, New York, NY 10119. **POSTMASTER:** Send address changes to **BANK DIRECTOR'S REPORT**, Warren, Gorham & Lamont, Inc., 210 South Street, Boston, MA 02111.

NAME JO BRUNNER

Address 20155 9th Avenue Helena

Telephone 442-2654

Representing Montana Water Development Association

Appearing on Which Proposal 748

Support x Amend Oppose

Comments:

Mr. Chairman, I am the Executive Secretary of the Montana Water Development Association. Our membership includes a large number of the Irrigation and Water user Facility Organizations throughout the State Of Montana.

In the spring of 1986 MWDA sent out a questionnaire to the close to 200 such organizations. We received roughly 1/4 of them back. We had requested that each entity give the status of various insurance coverages they needed with their operation.

The majority of those answering the questionnaire, and primarily the larger, often Federal Irrigation Projects, either were not covered, often having just been canceled without explanation, or had experienced an increase in the premiums as to be prohibitive for the organization to carry.

We are interested in participating in each endeavor that would benefit our officers and board of directors where undue liability action is concerned. We wish to go on record as supporting HB 748

EXHIBIT A
DATE 2-19-87
February 9, 1987 # 740

TO: Representative John Cobb - LC 602 - H.B. 740 .
FROM: Jim Haynes, Montana Magistrates's Association, Lobbyist
SUBJECT: Updated Summary of Bill Changing the Manner of Disposition
of Fees, Fines and Forfeitures of Bond in Justice Court.

The Justice of the Peace Courts currently distribute the fines and forfeitures they collect to the County Treasurer in a monthly distribution report. The Justice Court performs all the bookwork in a cumbersome monthly distribution report which the County Treasurer sends to the State Treasurer after the County receives its distribution share of the monies collected, estimated at 50% of the total amount collected. This estimate is based on June 1985 - May 1986 figures obtained from Collection Reports submitted to the State Treasurer and the monthly distribution reports prepared by the Justice Courts. 45 MCA statute sections touch upon this distribution method (attached sheet).

The estimated amount of money received by the State in 1985 for distribution was:

State General Fund	\$500,000.00
Driver Education - MHP	647,600.00
Crime Victim Comp. - MHP	373,400.00
Driver Education - GVW	151,100.00
Highway Dept.- Special Revenue	271,100.00
Fish, Wildlife & Parks	221,100.00
Snowmobile & Boats	11,000.00
Livestock	1,900.00

The Legislative Auditor issued a report in January, 1986, focusing in part, on loss of revenue caused by this cumbersome and confusing method of distribution, Special Purpose Audit Report on the Collection of State Revenues by Montana Counties. A cash flow problem exists as well as general ignorance and confusion under the current distribution method.

The Montana Magistrate's Association proposes legislation that changes the method of distribution. Justice Courts would simply forward the balance monthly to the County Treasurer. No more lengthy bookkeeping report would be required. The distribution process would be both streamlined and simplified.

The County Treasurer would distribute the monies received as follows:

- (1) 50% to the State Treasurer
- (2) 50% to the General Fund of the county

The State Treasurer would distribute the monies received from the County as follows:

TO: Representative John Cobb

February 9, 1987

Page 2

H
DATE 2-19-87
740

- (1) 23% to the General Fund of the State
- (2) 10% to the Fish & Game account
- (3) 13% to the State Highway account, special revenue fund
- (4) 36% to the Traffic Education account, special revenue fund
- (5) 1% to the Department of Livestock account
- (6) 17% to the Crime Victims account

This simplifies the accounting methods now required of the County Treasurers and Justice Courts. It would require the State Treasurer to account for percentages of monies it distributes to state funds.

This simplified distribution method is proposed only for Justice Courts. Other courts, City Courts and District Courts primarily, would remain under the same system. City Courts and District Court use of the current distribution method is minimal. If the Justice Court's method is enacted and proves workable over the next two (2) years, it is likely that all courts could move to the method proposed for Justice Courts.

Perhaps the only other method for addressing current distribution problems would be a centralized computer data spreadsheet which all 56 counties adopted and conformed to. This option currently is considered unworkable.

Necessary

3-10-601
20-7-504
20-7-505
20-9-337
20-9-332
23-2-507
23-2-644
45-17-303
46-18-231 - 235
46-18-603
53-9-109
61-8-718
61-10-148
61-12-701 - 703
81-3-231
81-4-202
87-1-104
87-1-201
87-1-601

Nice

7-23-105
7-14-2138
7-22-2117
7-22-2434
13-37-124
13-37-129
32-2-106
33-2-312
37-2-301
37-7-324
37-41-212
50-1-204
50-2-124
50-52-105
50-70-118
50-71-325
7-20-109
75-2-412
75-7-216
76-13-114
77-1-117
80-7-704
81-4-621
85-2-123
85-3-213
87-5-509

repeal. 3-10-603

EXHIBIT B
DATE 2-19-87
HB # 740

UNIFORM ACCOUNTING SYSTEM

MANUAL FOR JUSTICE COURTS

The Uniform Accounting System for Montana Justice Courts was formulated and prescribed by the Commission on Courts of Limited Jurisdiction. This system was approved by the Montana Supreme Court for use in and by Justice Courts in Montana on January 1, 1977, and was revised for all Justice Courts effective January 1, 1986.

The purpose of this manual is to explain and describe the approved procedures and forms so that every Justice of the Peace can properly implement them in their Justice Court. Adherence to the prescribed system will promote efficiency, accuracy, and uniformity in court accounting and reporting.

The manual version of the accounting system as a whole consists of the following parts:

1. Prenumbered "spot carbon" receipts;
2. Trust account "cash receipts" journal;
3. Peg board and binder;
4. Bank trust account;
5. Time payment file card system;
6. Prenumbered dockets;
7. Cash receipts and disbursements journal for all categories of cases handled;
8. Monthly financial report form summarizing the contents of the cash receipts and disbursements journals;
9. Uniform distribution graphs by category.

THE ACCOUNTING ASPECTS OF THIS SYSTEM MAY BE COMPUTERIZED OR AUTOMATED INDIVIDUALLY OR IN CONJUNCTION WITH YOUR COUNTY TREASURER'S OFFICE.

CASH RECEIPTING PROCEDURE

Proper implementation of this system mandates the immediate recording of all cash received by the Justice Court. All cash, whether in currency, coin, check, money order or bank draft form, is to be receipted on prenumbered "spot carbon" receipts which are furnished in sheets or racks of 25. A "rack" is placed on the pegboard over a Trust Account Journal page with the top receipt lining up with line one (1) on the Trust Account Journal page. As the top receipt is completed,

the information recorded on the receipt automatically transfers to the Journal page. This receipt is then torn from the "rack", and the next receipt automatically lines up on the second line of the Journal.

Use of spot carbon receipts, causing the recordation of identical information on the Trust Account Journal, reduces the possibility for error, increases control over cash, and provides the Court with an accurate and complete record of all cash received.

It will be your responsibility to implement this system and budget for the number of receipts your Court will need.

Again, this cash receipting procedure is mandatory and is to be used regardless of whether cash is being received for a fee, a cost, a fine, a forfeiture, as bail bond, or for restitution. A receipt must always be given to the individual presenting the cash to the Court, and the receipt should be written in the presence of that individual. If there is no one to whom a receipt can be given personally, then the receipt should be kept in numerical order in a file established for that purpose.

In all Counties where the Justice of the Peace has clerks, the functions of collection of cash receipts and reconciliation of cash collected, record keeping and reconciliation of the bank trust account should be segregated.

TRUST ACCOUNT CASH RECEIPTS JOURNAL

The Trust Account Cash Receipts Journal is mounted on a peg board, and by placing a rack of receipts over a Trust Account Journal page you have set up a "one write" system whereby cash receipts and corresponding entries to the Trust Journal are completed simultaneously.

The Trust Account Journal was established for the purpose of providing the Court with a complete record of all cash it received, as well as a clerical means of tracing cash for each case. Cash is traced by requiring you or your clerk to transcribe or post each amount received to the appropriate, corresponding docket and/or time payment account or card as soon as practicable after the receipt is written. In some cases cash received can be posted to an already existing docket and in other cases, dockets will have to be prepared before the amount received can be posted to the docket. By posting or transcribing, we mean that you record the amount received in the minutes of the appropriate prenumbered docket and in turn, write the type of case and docket number on the corresponding Trust Account Journal page. For example, if money was received in and recorded on the trust account journal in a Fish, Wildlife & Parks case, you would initial the letters "F & G"

1-
2-19-87
740

and the docket number in the docket number column. Again, note that this assures that the flow of cash received into the trust account can be traced from the Trust Account Journal through the docket. In the special situation where an officer brings in more than one ticket, a single receipt can be written for several tickets and more than one docket number can in turn be recorded on a single line of the Trust Account Journal. The number of spaces provided for docket numbers on a single line of the Trust Account Journal dictates how many tickets can be recorded by use of only one receipt.

At the end of each day you or a clerk will total the amount received column of your Trust Account Journal. This total should reconcile and balance with the money received in your cash drawer.

In Justice Courts with Clerks, it is recommended that the Clerk handling the receipting and recording of cash not be the same person who reconciles the cash drawer with the Trust Account Journal at the end of the day. Once the cash in the cash drawer is balanced with the total of that day's receipts as recorded in the Trust Account Journal, this sum should be deposited daily into the trust account at the bank or with your County Treasurer.

TRUST ACCOUNT

Each Justice of the Peace shall set up a Trust Account in the name of the Justice of the Peace. If the Trust Account is established with the bank, only the Justice of the Peace can sign checks disbursing funds therefrom. If the Trust Account is established with the County Treasurer, only the Justice of the Peace should have authority to direct disbursement of funds therefrom.

TIME PAYMENT FILE CARD SYSTEM

When cash is received in part payment of restitution or as a time payment on a fine, a time payment card or automated account must be maintained for both kinds of accounts receivables. If not, on an automated system, it is recommended that the cards be color coded to differentiate between restitution and fine payments. These cards can be of a 3 x 5 size or 5 x 8 size, whichever you prefer. It is recommended that the cards be filed in alphabetical order by "active", "delinquent" and "paid-up" categories.

Whenever a time payment agreement is set up and cash is received on a time payment, the amount received must be posted to the appropriate docket and recorded on the appropriate time payment card or automated account, so that it is updated.

A time payment agreement may be used at the Court's

discretion. If a time payment agreement is made, the file card number or automated account number must be entered on the minutes of the docket as well as the time payment agreement. In turn, the docket number shall be entered on the time payment agreement. Exhibit "A" attached sets forth a sample Manual Time Payment Agreement and File Card System.

CASH RECEIPTS AND DISBURSEMENT JOURNALS

These Journals provide the Court, the County Treasurer and the State Treasurer with month-by-month financial records of all cases completed by the Justice Court. Each Journal is designed so that entries may be either handwritten or typewritten. All automated systems must produce a final product equivalent to the manual forms. It is recommended that the Journals be printed on no-carbon-required paper with two copies so that one remains with the Court, one copy is given to the County Treasurer and one copy is given to the State Treasurer with the County Treasurer's monthly remittance.

A separate journal shall be maintained for each area coming under the jurisdiction of the Justice Court System. Any automated or combined journal system must be approved on an individual basis by the Commission on Courts of Limited Jurisdiction.

Separate journals shall be maintained for each of the following six (6) categories:

1. Civil (and small claims) cases;
2. Criminal (and PCS) cases;
3. Fish, Wildlife and Parks cases;
4. Highway Patrol cases;
5. Department of Livestock cases;
6. G.V.W. cases.

Each journal, when completed, will provide a complete history of all cases disposed of in the foregoing categories. No entry shall be made on any of these Journals until such time as a given case is completed and the docket closed. (Note that in a time payment situation involving restitution or payment of a fine on time, no docket should be closed until the final payment is made.)

In addition to summarizing the total cash received for fees, costs, fines, forfeitures, and refunds of bond or restitution these Journals provide columns for allocating the total amount received to the County Treasurer and State Treasurer. Allocations should be made in accordance with State law. The allocation breakdown has become unduly complicated due to legislative changes enacted since this system was first adopted in 1977. The following graphs are provided to guide you in distributing all fees, costs, fines and forfeitures collected by the Justice of the Peace in the six (6) categories described.

EXHIBIT B
DATE 2-19-81
740

CATEGORY I

CIVIL CASES
(and Small Claims)

The Justice of the Peace shall distribute:

100% to
County Treasurer

The Justice of the Peace shall distribute all fees and costs collected in Civil and Small Claims cases to the County Treasurer column.

The County Treasurer shall distribute all monies collected in Civil and Small Claims cases to the County General Fund.

CATEGORY II

CRIMINAL CASES
(and PSC Violations)

The Justice of the Peace shall distribute:

100% to
County Treasurer

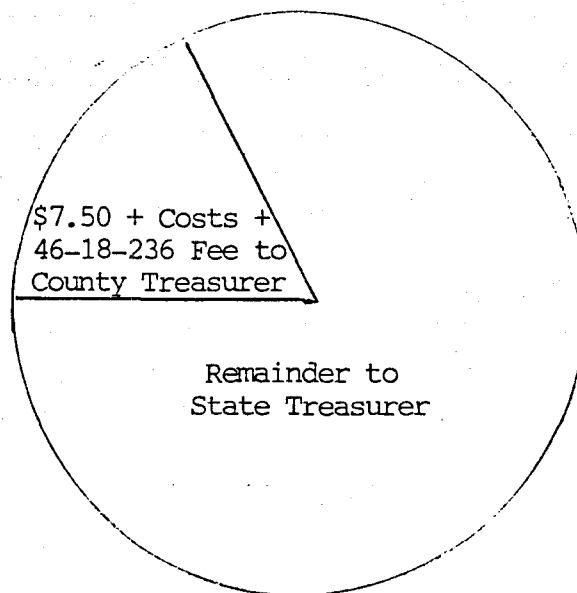
The Justice of the Peace shall distribute all fees and costs collected pursuant to Sections 3-10-603, 46-18-232, 46-18-236 Mont. Code Ann., and the balance of all fines and forfeitures collected to the County Treasurer column. The Justice of the Peace shall indicate in the Remarks column of the Collections and Distributions Journal for each County Criminal and PSC case if the fee under 46-18-236 Mont. Code Ann., was collected or waived.

The County Treasurer shall distribute all fees, costs, fines and forfeitures collected in criminal cases and PSC cases to the County General Fund; EXCEPT those fees collected (not waived) pursuant to 46-18-236, Mont. Code Ann., which shall be remitted by the County Treasurer to the State Treasurer according to law.

CATEGORY III

FISH, WILDLIFE and PARKS CASES

The Justice of the Peace shall distribute:



The Justice of the Peace shall distribute all fees and costs collected pursuant to Sections 3-10-603, 46-18-232 and 46-18-236, Mont. Code Ann., to the County Treasurer column. The Justice of the Peace shall indicate in the Remarks column of the Collections and Distributions journal for each Fish, Wildlife, and Parks case if the fee under 46-18-236 Mont. Code Ann. was collected or waived.

The Justice of the Peace shall distribute the remaining balance of all fines and forfeitures collected in Fish, Wildlife, and Parks cases to the State Treasurer column.

EXHIBIT 10
DATE 2-19-87
Mont. Code # 740

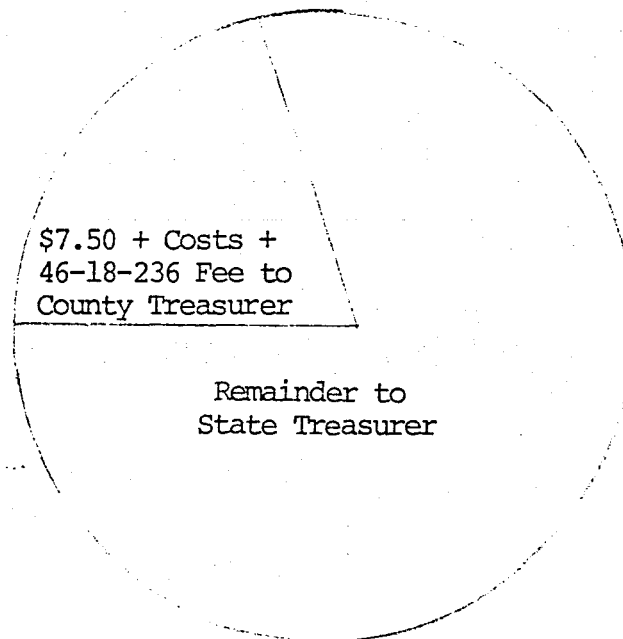
The County Treasurer shall distribute all such fees and costs collected under 3-10-603 and 46-18-232, Mont. Code Ann., to the County General Fund.

The County Treasurer shall remit the fees collected (not waived) under Section 46-18-236, Mont. Code Ann., and the balance of all fines and forfeitures collected in Fish, Wildlife and Parks cases to the State Treasurer according to law.

CATEGORY IV

HIGHWAY PATROL

The Justice of the Peace shall distribute:



The Justice of the Peace shall distribute all fees and costs collected pursuant to Sections 3-10-603, 46-18-232, and 46-18-236, Mont. Code Ann. to the County Treasurer column. The Justice of the Peace shall indicate in the Remarks column of the Collections and Distributions Journal for each Highway Patrol case if the fee under 46-18-236 Mont. Code Ann. was collected or waived.

The Justice of the Peace shall distribute the remaining balance of all fines and forfeitures collected in Highway Patrol cases to the State Treasurer column. The Justice of the Peace will continue to make the breakouts as required for the Traffic Education Account and Crime Victims. The percentages will be figured from the totals on each journal page and listed at the bottom of each distribution journal page (see sample).

The County Treasurer shall distribute all such fees and costs collected under 3-10-603, Mont. Code Ann., and 46-18-232, Mont. Code Ann., to the County General Fund.

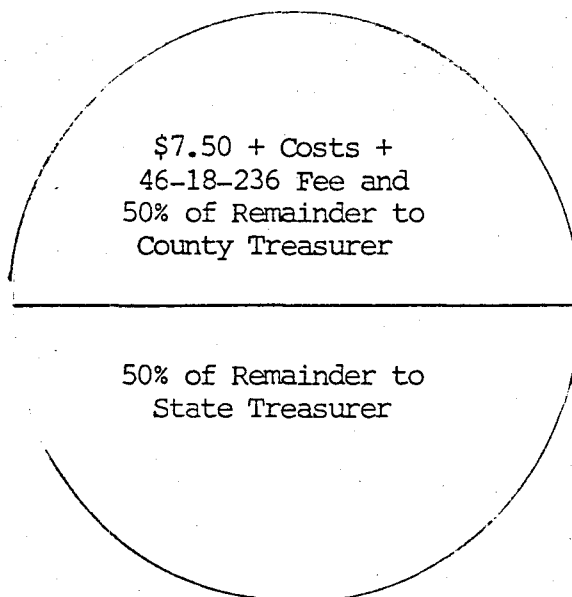
10
DATE 2-19-87
740

The County Treasurer shall remit the fees collected (not waived) under Section 46-18-236 Mont. Code Ann. to the State Treasurer according to law. The County Treasurer shall remit the remaining balance of all fines and forfeitures to the State Treasurer with 25% earmarked to the Traffic Education Account according to 20-7-504 Mont. Code Ann., 18% earmarked to the Crime Victims Compensation Fund Account according to 53-9-109 Mont. Code Ann., and the remaining balance earmarked to the State General Fund Account.

CATEGORY V

DEPARTMENT OF LIVESTOCK

The Justice of the Peace shall distribute:



The Justice of the Peace shall distribute all fees and costs collected pursuant to Sections 3-10-603, 46-18-232, 46-18-236, Mont. Code Ann., and 50% of the remaining fine or forfeiture to the County Treasurer column. The Justice of the Peace shall indicate in the Remarks column of the Collections and Distributions Journal for each Department of Livestock case whether the fee under 46-18-236, Mont. Code Ann., was collected or waived.

The Justice of the Peace shall distribute 50% of the remaining fine or forfeiture to the State Treasurer column.

The County Treasurer shall distribute all fees and costs collected under 3-10-603, Mont. Code Ann., and 46-18-232, Mont. Code Ann., and 50% of the remaining fine or forfeiture to the County General Fund.

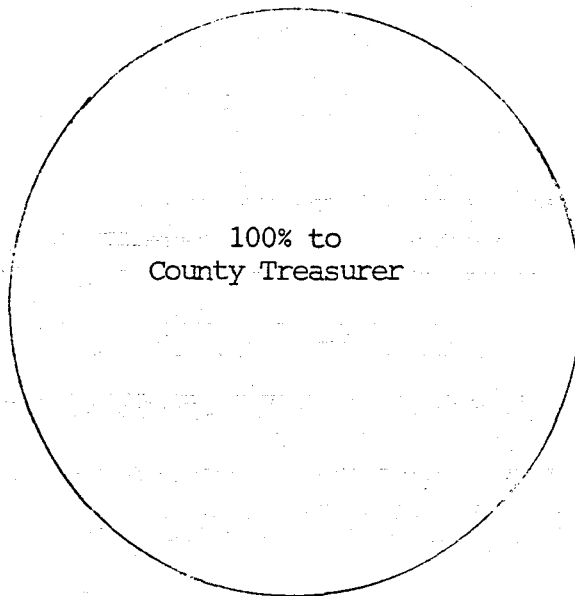
B
DATE 2-19-87
140

The County Treasurer shall remit the fees collected under Section 46-18-236, Mont. Code Ann., and 50% of the balance of all fines or forfeitures collected in Dept. of Livestock cases to the State Treasurer according to law.

CATEGORY VI

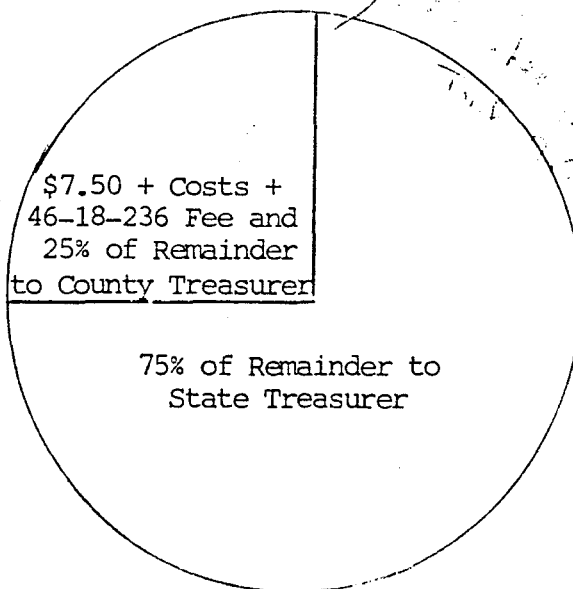
GVW - TITLE 15

The Justice of the Peace shall distribute:



GVW - TITLE 61

The Justice of the Peace shall distribute:



B
2-19-87
HB #740

The Justice of the Peace shall indicate in the Remarks column for each GVW case whether the violation for each case was under Title 15 or Title 61 and if the fee under Section 46-18-236, Mont. Code Ann., was collected or waived.

If cited under Title 15, the Justice of the Peace shall distribute all fees and costs collected pursuant to Sections 3-10-603, 46-18-232, and 46-18-236 Mont. Code Ann., and the remaining balance of all fines and forfeitures to the County Treasurer column.

If cited under Title 61, the Justice of the Peace shall distribute all fees and costs collected pursuant to 3-10-603, 46-18-232, 46-18-236 Mont. Code Ann., and 25% of the remaining balance of all fines or forfeitures collected to the County Treasurer column. The Justice of the Peace shall distribute 75% of the remaining balance of all fines and forfeitures to the State Treasurer column.

The County Treasurer shall distribute all fees and costs collected pursuant to 3-10-603, Mont. Code Ann., and 46-18-232, Mont. Code Ann., and the balance of all fines and forfeitures collected for GVW cases under Title 15 to the County General Fund.

The County Treasurer shall distribute all fees and costs collected pursuant to 3-10-603, Mont. Code Ann., and 46-18-232 Mont. Code Ann., and 25% of the balance of all fines and forfeitures collected for GVW cases under Title 61 to the County Road Fund.

The County Treasurer shall remit the fees collected (not waived) under Section 46-18-236, Mont. Code Ann., for all GVW cases under both Title 15 and Title 61 to the State Treasurer according to law.

The County Treasurer shall remit 75% of the balance of all fines and forfeitures collected for GVW cases under Title 61 to the State Treasurer with one-third (1/3) earmarked to the Traffic Education account and two-thirds (2/3) earmarked to the State Highway account according to Sections 20-7-504, Mont. Code Ann., and 61-10-148, Mont. Code Ann.

GENERAL USE OF OTHER COLUMN

Note that all return of bonds, restitution and monies transferred to District Courts on appeal for all six (6) kinds of Collections and Distributions Journals shall be reported in the "Other" column of your Collections and Distributions Journal. The Justice of the Peace shall issue individual trust account checks when making disbursements set out in the Other column or the County Treasurer shall issue individual checks if the Justice of the Peace has his or her accounting system and trust account integrated in the County Treasurer's Office.

1-2
2-17-67
740

MONTHLY REPORT FORM

Sections 3-10-601, Mont. Code Ann., and 46-17-303, Mont. Code Ann., require that a monthly report be submitted to the County Treasurer every thirty (30) days on or before the tenth (10th) day of each month. The monthly report approved for use in this Uniform Accounting System is prepared from the total columns (disbursements) from the six (6) Collections and Distributions Journals. The monthly report is a standard size 8 1/2 by 11 inch form which can be hand or typewritten. Use of no-carbon-required paper is highly recommended.

On or before the tenth (10th) day of the month the Justice of the Peace will be expected to submit a copy of this report along with copies of the six (6) Collections and Distributions Journals to the County Treasurer. The Justice of the Peace shall at the same time issue one (1) check payable to the County Treasurer for the total of all disbursements made from cases completed in the previous month. (Note that in this system the only other times that the Judge will be writing checks will be for returns of bond monies, restitution payments, or the like.) The County Treasurer in turn shall issue an A-101 receipt to the Judge for each set of the Collections and Distributions Journal pages submitted. It shall then be the responsibility of the County Treasurer to transmit monies to the State Treasurer as directed on the Collections and Distributions Journal pages and to send the appropriate copy of the Collection and Distribution page to the State Treasurer.

FRONT SIDE
FILE CARD

IN THE JUSTICE COURT OF _____				101
Defendant's Name			Docket No.	
<u>date due</u>	<u>date rec'd</u>	<u>receipt no.</u>	<u>amount</u>	<u>balance</u>

B
219-87
HB # 740

REVERSE SIDE
AGREEMENT

TIME PAYMENT AGREEMENT

I agree to pay said fine ☐ restitution ☐ ordered by this court in the following manner, to wit: ,

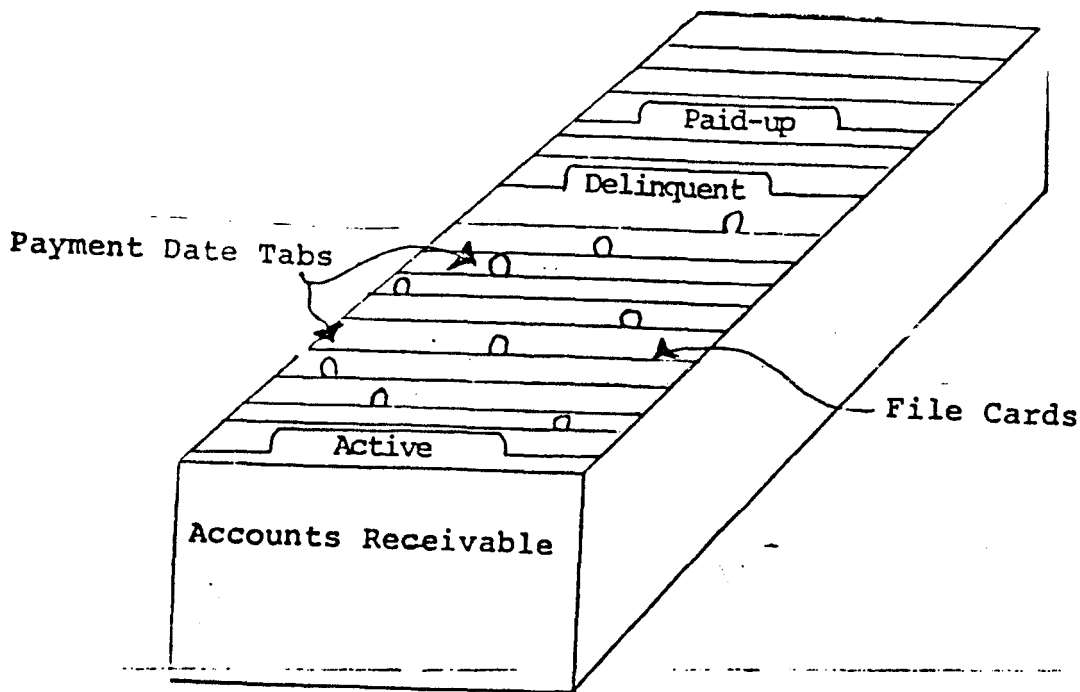
☐ In full on or before the ____ day of _____ 19____, in the amount of \$ ____.

☐ In installments, with the first installment being paid on the ____ day of _____ 19____, and each subsequent payment will be made on or before the ____ day of each subsequent month until the total amount of \$ ____ is paid.

DATE: _____

Signature of Defendant _____

SAMPLE FILE
SYSTEM



WITNESS STATEMENT

C
219-87
740

NAME CARROLL C. BLEND BILL NO. HB 740
ADDRESS 333 Fox Drive CT Falls 5462 DATE 2/17/87
WHOM DO YOU REPRESENT? ~~Montana Magazine~~ myself
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

EXHIBIT 6
DATE 2-19-87
HB # 740

STATEMENT OF CARROLL C. BLEND, JUSTICE OF THE PEACE
BEFORE THE HOUSE JUDICIARY COMMITTEE
IN SUPPORT OF HOUSE BILL 740

Ladies and Gentlemen of the Committee, my name is Carroll Blend. I am justice of the peace in Cascade County whose county seat is Great Falls. I am an attorney and prior to my appointment and later election as justice of the peace I was a deputy county attorney. More to the point, I have been a member of the Supreme Court Commission on Courts of Limited Jurisdiction for more than six years.

House Bill 740 will not increase or decrease the total amount of the fines and forfeitures of bail that are collected each year. That amount is at least some \$ 4.4 million dollars. It will not divert any money collected in FY 1988 from any fund for which the money was designated in FY 1987 or FY 1986. What it will do is abolish the present system whereby each fine and each forfeiture must be examined and apportioned among the various purposes you have determined and apportion the total amount of the fines and forfeitures among the various purposes.

*Homestead
Conservative
Last
year.*

In FY 1986, half of the \$ 4.4 million dollars was paid into the general, common school and road funds of the county of the justice court. The other half was remitted to the State Treasurer. Of that half, 36 % was paid into the Driver Education Special Revenue Account, 17 % into the Crime Victims SRA, 11 % into the Department of Fish, Wildlife and Parks SRA, 12 % into the Department of Highways SRA, .09% into the Department of Livestock SRA and 24 % into the General Fund for general purposes. These payments are shown on the table I have given out.

When I say that these were the moneys paid into the State Treasurer and these were the moneys paid into each fund, I speak of my own knowledge because these are the actual amounts according to the Department of Revenue, the Department of Administration. and the individual justice courts. What House Bill 740 would do is substitute these percentages for the contradictory and confusing earmarking which appears more than 70 times in the MCA.

I am sure that no one of you campaigned on a platform that you would vote to retain reports in triplicate and useless paperwork. I feel that most of you if asked would have told your

EXHIBIT C
DATE 2-19-87
HB # 740

constituents that you oppose useless reports and paperwork, that you believe that judges should be judges and not bookkeepers, and that public employees should help the public and not spend their working lives hunched over computer terminals entering nickel tickets because the law says so.

I am responsible for the table and will be glad to answer any questions you may have about it. I urge a "Do Pass" recommendation for House Bill 740.

DATE 2-19-87
740

FINES, FORFEITURES OF BAIL AND FEES

FISCAL YEAR 1986

RECEIPTS BY AGENCY:

COUNTY F & F & F	\$ 1,185,632.12	26.78 %
M.H.P. F & F	2,151,922.90	48.60 %
F.W.P. F & F	260,989.51	5.89 %
G.V.W. F & F	825,110.18	18.64 %
LIVESTOCK F & F	3,826.34	.09 %
TOTAL	\$ 4,427,481.05	100.00 %

DISTRIBUTIONS:

COUNTY FUNDS:

TOTAL	\$ 2,214,703.58	50.11 %
-------	-----------------	---------

STATE FUNDS:

DRIVER EDUCATION	798,759.63	36.22 %
CRIME VICTIMS	373,408.88	16.93 %
F.W.P.	234,890.56	10.65 %
HIGHWAYS	271,148.85	12.30 %
LIVESTOCK	1,913.17	.09 %
GENERAL FUND	525,237.19	23.82 %
TOTAL	\$ 2,205,358.28	49.89 %
GRAND TOTAL	\$ 4,420,061.86	100.00 %

WITNESS STATEMENT

EXHIBIT D
DATE 2-19-87
HB # 740

NAME Nancy L. Lobo J P Ralle Co. BILL NO. HB790
ADDRESS Churthouse Hamilton Ont. DATE 2/19/87
WHOM DO YOU REPRESENT? Montana Magistrates Assn
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am Nancy Tabor, I am a Justice of the Peace in Ravalli Co. I am currently serving in my 4th year as President of the Montana Magistrates Assoc and am a member of the Supreme Court Commission on Courts of Limited Jurisd.

This is our present distribution manual directing how we should disburse the fines, fees & forfeitures collected.

This manual addresses over 60 different statutes that tell us "how to" disburse the \$ we receive in Justice Courts.

This process is cumbersome and outdated. If every county could afford to equip each Justice Court with an IBM computer system perhaps we could relieve ~~the~~ some of the burden of our present complicated and misleading ~~and~~ bookkeeping process.

2
DATE 2-19-87
748

The present system takes ~~6-8~~ days a month to properly prepare the forms we use and to reach a monthly reconciliation.

The new proposal, HB 740, would cut the time required to reach a monthly report and balance to 3-6 hrs. a month - depending on the caseload.

Our bill would economize court time and let Judges be Judges not bookkeepers. The majority of limited courts in Montana

Do NOT have any or insufficient clerical help to assist with the required bookkeeping, as it is.

2 years ^{ago} you passed a bill requiring that city and county judges would be certified to a professional level of competence. We welcome that requirement.

D + our hands are tied and

DATE 2-19-87
#748
our time very limited to ~~practice~~
our professions with

the present distribution procedure

We are not adding any
additional work load to the
county treasurers or at the
state level.

The percentages simplify the
process and relieves your
Justices from ~~an~~ a overly

burdensome bookkeeping procedure

We need HB 740 and we
need your support.

Thank you

WITNESS STATEMENT

EXHIBIT 5
DATE 2-19-87
HB # 740NAME BERNARD F. McCARLEY BILL NO. 740
ADDRESS LEWIS + CLARK COUNTY CHASE - 228 BROADWAY DATE 2/19/87
HELENA
WHOM DO YOU REPRESENT? MONTANA MAGISTRATES ASSOCIATION
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I support HB 740 because it simplifies an unduly overburdened accounting system. The present system started by everyone wanting a percentage slice of the pie. The responsibility for dividing that pie has rested with the justice of the peace. As more slices were made in the pie, the time required to divide each grew increased until presently, for example, in Lewis + Clark County, it takes one FTE on average 5-10 days per month to do the report.

This bill changes the method of distribution and not the distribution itself. The bill, in its simplest terms, requires the state treasurer to divide the state's share of the money according to those percentages established by state law. It therefore takes the burden off the counties and places it with the state. ^{kill is revenue} _{neutral}
We urge support of this bill



CITY OF BILLINGS
M O N T A N A

2-18-87
= 758

CITY COURT

Second Floor — City Hall
Phone 657-8490

DONALD E. BJERTNESS
City Judge

February 18, 1987

Judge Larry Herman
City Judge
Laurel, MT 59044

RE: House Bill 758, Municipal Courts

Dear Judge Herman:

I have studied House Bill 758 establishing mandatory municipal Court systems in cities with a population of 75,000 or more. I find that it basically covers all of the concerns I had and have previously discussed with you.

Therefore, you may convey to any committee, before which you are to appear and testify, my support for the bill.

I am sorry that I am unable to appear in person.

Sincerely,

Donald Bjertness
City Court Judge

DEJ/bch

WITNESS STATEMENT

B
2-19-87
H.B. 758

NAME LARRY D. HERMAN BILL NO. 758
ADDRESS LAUREL, MONTANA DATE 2-19-87
WHOM DO YOU REPRESENT? LAUREL City Court
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am the City Judge of Laurel, vice chairman of the Commission on Courts of Limited Jurisdiction, and a practicing attorney.

H.B. 758 is constructive legislation and will improve the administration of justice in the large metropolitan areas in Montana. Only three counties are affected, one of which already has established a municipal court. It will allow for growth of the municipal courts, on a local level, as populations increase. Also it will provide second class cities in the large counties accessible to a full time judge at a fraction of the cost of maintaining a full time court within the city. The overall effect of the bill will be to provide a savings to all cities involved and an effective administration of justice.

I urge your support of H.B. 758.

Larry Herman

WITNESS STATEMENT

EXHIBIT CDATE 2-19-87HB # 758 HB 758NAME Robert Tucker, City Judge BILL NO. 758ADDRESS POB 6368, Great Falls, MT. DATE 2-19-87WHOM DO YOU REPRESENT? City of Great Falls & CourtSUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The Community CORE group in Great Falls HAS requested Help in the area of a 2nd Judge, due to the heavy workload in Great Falls. (CORE represents 22

various support agencies, including Parents involved in Alcohol problems). The City MGR Responded, expressing concern with the need ALSO.

As Judge I also request Help in the areas set forth in the bill, including electronic record; + minimum salary, etc. The bill will give the large cities of Montana a chance to address problems that are peculiar to those cities, due to the heavy caseloads. No state money is involved, because the Court is self-supporting through fines, unlike the District Courts.

WITNESS STATEMENT

EXHIBIT 20DATE 2-19-87HB # 758

758

NAME James A. Haynes BILL NO. 758ADDRESS P.O. Box 544, Hamilton MT 59846 DATE 2/19/87WHOM DO YOU REPRESENT? MT. MAGISTRATE ASSN.SUPPORT OPPOSE X AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- ① Creates special courts ~~for local pr~~ to address a local problem
- ② Should be studied in conjunction with Supreme Court, state Bar of MT
- ③ Should ~~instead~~ simply change ^{existing} city judge statute to allow 2 city judges.

A
2-17-87
#761

JOHN W. ROBINSON
ATTORNEY AT LAW
2122 N.E. Willow Creek Road
Corvallis, Montana 59828
406-961-3451

November 22, 1986

BAIL IN MONTANA

Having practiced law in Montana for several years I have noticed that bail bondsmen are not readily available in the less populated areas of the state. In my ten years of practice in Hamilton Montana I have never been able to obtain bail from a bondsman for any client in the Hamilton jail. There is one bail bond listing in the Missoula directory. They generally do not want to come out in the boonies for a small bond.

We have many bondable misdemeanor offenses for which people are incarcerated in remote areas: DUI's, domestic abuse, minor assaults, and various other small crimes. For instance in Ravalli County the fine for a first offense DUI is \$300.00 and the bond is \$300.00 to assure payment in the event of conviction. Many people cannot raise \$300.00 on short notice and so sit in jail for a few days at a cost to the county for housing them before they are released.

My proposal is a simple one. Bonds are set for all these minor crimes and after the booking procedure has been complete the person can be released by posting cash in the amount of ten percent of the bond and executing a note for the whole amount of the bond. Example: A person is arrested for DUI. The bond is

11
1-19-84
1-1-84

\$300.00. He/she would post \$30.00 in cash and sign a note for \$300.00. The note would be drafted so that if the defendant did not appear on his/her court date, interest would begin accruing at the rate of whatever percent would be applicable. The \$30.00 would be paid into the clerk of the court's budget and would be used to offset the expense of indigent defense.

Presently we are holding people in jail until they can appear before a judge and in many cases the judge will release them on their own recognizance. What this means is that we have housed that person for a few days at a cost to the county and if they are found guilty their fine will usually be deferred and not paid for several months. If we are going to release them on their own recognizance in a few days, why not set up a bonding system that would release them right away and make money for the county at the same time.

After sentence, restitution and payment of fines is always slow and difficult. I myself was a victim and the restitution of about \$85.00 took over six months. I know that the payment of fines as part of a sentence is also a slow process. However, someone who is in jail wants to get out or better yet does not want to go in if it can be avoided. \$300.00 or a \$1,000.00 is not easy to come up with in a hurry, but \$30.00 or \$100.00 is not that difficult to handle. I am convinced that most people would bond out and pay the cost.

A
2-7-51
FD-302

This would do a couple of things. It would put some cash into our local court systems that would offset the rising costs of indigent defense. It would also relieve the tax burden on the local real estate that currently pays these costs and it would have some of the cost of our justice system being paid directly by the people who are involved in the justice process.

I think that a definite division should be made in the manner in which bail is handled for misdemeanor crimes and felony crimes. Reading MCA 46-9-to the end it seems that the restrictions generally placed on the way bail is handled is fine for felony crimes but a little too cumbersome for the minor kind of crimes which make up most of the crimes handled by the local jails. Serious consideration should be given to the bail set for a felony crime and that is the way it is handled. However, the same procedures applied to minor criminal infractions causes an undue burden on the individual and also tends to clog up the justice system and increase the costs to the county in jail time.

We now provide for bail by undertakings and two sureties who have sufficient assets to cover the bond. We even make provisions for more than two sureties if that is necessary to cover the bond. I propose that this is too difficult and kind of heavy handed in cases of misdemeanors. The process for getting these minor criminals bonded out should be simplified. It will cut down the costs of incarceration and it will provide income to the court system. Several counties have had the limiting mill levy for

12
3-17-87
701

courts removed which means an increased burden on the taxpayer. My proposal would provide additional money for the courts. The money would come from the people who were causing the problem. The burden on the local taxpayer would be decreased.

summary

WE SHOULD LEAVE OUR PRESENT SYSTEM OF BAIL IN PLACE FOR FELONY OFFENSES.

WE SHOULD CREATE A NEW SYSTEM FOR MISDEMEANOR OFFENSES THAT WOULD:

1- PROCESS BONDING AND RELEASE FASTER AND THEREBY SAVE JAIL TIME AND COST TO THE COUNTY.

2- WOULD PLACE THE BURDEN FOR THESE COSTS ON THE PEOPLE WHO ARE CAUSING THE PROBLEM RATHER THAN THE LOCAL TAXPAYER.

3- WOULD PROVIDE ADDITIONAL FUNDS FOR OUR LOCAL COURT SYSTEMS TO HELP DEFRAY THE COSTS OF INDIGENT DEFENSE.

I SUBMIT THAT THIS IS NOT A BAD IDEA.

Exhibit A
2-19-87
= 754

Statement of Intent
House Bill 754

A statement of intent is provided for this bill because the legislature desires to indicate to the Montana water courts and the department of natural resources and conservation the basins that should receive priority adjudication efforts.

The legislature finds and determines the basins described in I through IX below to be priority basins. The basins are selected according to the criteria in section 10 of this bill and the priority provided for the Milk River basin in 85-2-321. They are listed by the department's field office areas because it is assumed priority basins are needed in each area to ensure efficient use of water court and department staff. The legislature recognizes that deviations from the order of priority provided may be necessary to ensure efficiency in the adjudication process, and that additional priority basins may be added upon petition to and determination by the water judge.

I. Basins in the Billings field office area:

Yellowstone River from Bridger Creek to the Clark's Fork of the
Yellowstone River (43QJ)
Yellowstone River above and including Bridger Creek (43B)
Sweet Grass Creek (43BV)
Stillwater River (43C)
Boulder River tributary of Yellowstone River (43BJ)
Clark's Fork of the Yellowstone River (43D)
Yellowstone River between the Clark's Fork of the Yellowstone River
and the Bighorn River (43Q)

II. Basins in the Bozeman field office area:

Madison River (41F)
Gallatin River (41H)
Shields River (43A)
Ruby River (41C)
Beaverhead River (41B)
Red Rock River (41A)
Big Hole River (41D)

III. Basins in the Glasgow field office area:

Rock Creek tributary of the Milk River (40N)
Frenchman Creek (40L)
Milk River below Whitewater Creek including Porcupine Creek (40O)
Beaver Creek tributary of the Milk River (40M)
Whitewater Creek (40K)
Dry Creek (40D)
Missouri River between the Musselshell River and Fort Peck Dam
(40E)

IV. Basins in the Havre field office area:

Sage Creek (40G)
Milk River between Fresno Reservoir and Whitewater Creek (40J)

Peoples Creek (40I)
Willow Creek (41N)
Teton River (41O)
Sun river (41K)

154

V. Basins in the Helena field office area:

Dearborn River (41U)
Clark Fork above the Blackfoot River (76G)
Boulder River tributary of the Jefferson River (41E)
Jefferson River (41G)
Missouri River above Holter Dam (41I)

VI. Basins in the Kalispell field office area:

Milk River above Fresno Reservoir (40F)
Big Sandy Creek (40H)
Yaak River (76B)
Fisher River (76C)
Kootenai River (76D)
Clark Fork below Flathead Lake (76N)
South Fork of the Flathead River (76J)
Middle Fork of the Flathead River (76I)
Swan River (76K)
Flathead River above Flathead Lake (76LJ)

VII. Basins in the Lewistown field office area:

Milk River between Fresno Reservoir and Whitewater Creek (40J)
Judith River (41S)
Musselshell River above Roundup (40A)
Musselshell River below Roundup (40C)
Flatwillow Creek including Boxelder Creek (40B)

VIII. Basins in the Miles City field office area:

Beaver Creek tributary of the Little Missouri River (39G)
Yellowstone River between the Tongue River and the Powder River
(42K)
Little Missouri River above Little Beaver Creek (39F)
Rosebud Creek (42A)
Little Beaver Creek (39FJ)
Boxelder Creek (39E)
Yellowstone River below Powder River (42M)

IX. Basins in the Missoula field office area:

Rock Creek tributary of the Clark Fork River (76E)
Flint Creek (76GJ)
Clark Fork between the Blackfoot River and the Flathead River (76M)
Bitterroot River (76H)
Blackfoot River (76F)

House Judiciary Committee:

Chairman Rep. Earl Lory:

Mr. Chairman:

I am Vernon Westlake, representing the Gallatin County Agricultural Preservation Association. For the Record, our organization opposes H.B. 754 because this bill proposes legislation that is not needed and cannot be justified at this particular time.

I am asking this Committee today: How many of the 204,000 water rights claimants are indicating dissatisfaction with the adjudication process under the jurisdiction of the Water Court? I can safely say that a very large percentage want the process completed as quickly as possible and support the Water Court to do so.

H.B. 754 is an attempt by the Department of Natural Resources to obtain jurisdiction over random sampling of water rights and to analyze and verify these claims for errors. I shall explain why I believe this is true.

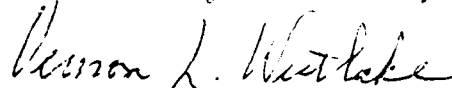
Let us examine Section 11 and Section 12 of the bill. Paragraph 3 of Section 11 specifically states that the Water Policy Committee shall consult with DNRC and with the Water Court. All of Section 12, lines 24 and 25 on page 9 and lines 1,2 and 3 on page 10, grant authority to DNRC under Montana Administrative Procedure Act, to make the Rules on the subject of the provisions of this Act. This is an end run to gain jurisdiction for verification of pre-1973 Montana water rights. We, in agriculture, adamantly oppose this and recommend restrictions concerning the use of MAPA.

The Montana Supreme Court has not issued a decision at this time, whether or not the DNRC can write guidelines assuming responsibility for verification of water rights.

The Water Court is in place and has completed eight or nine basins, with about one-third of the claims finalized. The Water Court has been upheld by the United States Supreme Court for doing an adequate job and the Montana Supreme Court, in a unanimous opinion, stated that the Water Court is adequate to adjudicate all water rights.

I shall conclude by saying that H.B. 754 should be killed in Committee. The Water Court has already demonstrated that it is better able to complete the adjudication process at a lower cost to the taxpayers and to do so in a shorter length of time.

Respectfully submitted,



Vernon L. Westlake
Chairman, Water Committee
Gallatin Co. APA
3186 Love Lane
Bozeman, Mt. 59715

MONTANA ASSOCIATION OF STATE GRAZING DISTRICTS

420 North California St.

Helena, Montana 59601

(406) 442-3420

John Pfaff, President
Sever Enkerud, Vice President
Stuart Doggett, Executive Secretary

Miles City
Glasgow
Helena

C
219 87
754
DIRECTORS
Bill Almy Ismail
Lynn Cornwell Glasgow
Mark Davies Chetook
Joe Etchart Glasgow
Jack Hughes Grassrange

HB 754

My name is Kim Enkerud and I am representing the Montana Association of State Grazing Districts, and the Montana Stockgrowers.

Basically, we support ~~this bill except for~~ Section 11 - appropriation for sample of claims within decrees. We feel this random sampling is an unnecessary expense of \$92,000.00

The purpose of the water court is to determine the accuracy and consistency of the claims in subbasins or basins. We feel they have been and will continue to do so to the best of their ability. They do not need a different entity doing the job to which they have been delegated.

Thank you.

VISITORS' REGISTER

COMMITTEE

BILL NO.

754

DATE

Feb. 19, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JESS KILGORE	THREE FORKS		X
VERNON L. WEST LAKE	BOZEMAN A PA		X
JAMES BOTTOM LI	BELGRADE "		X
Paul C. Duhon	HIGH LINE CANAL CO. MANHATTAN		X
Larry Fashen	DNRL	-	
TIM HAY	DNRC	-	
Ed Steinmetz	Water Court, Bozeman		
Lerna Frank	Mt. Farm Bureau		X
Bob CORREA	Agriculture Preservation Assoc.		X
Kim Enkerud	Mt. Assoc. State Dairy Dist. Mt. Stockgrowers Mt. Cultivators		X
Lorents Grosfield	Sweet Grass Preservation Assn		X Section II

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Judiciary

COMMITTEE

BILL NO.

748

DATE

Feb. 19, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
JOHN CADBY	MT BANKERS ASSN	✓	
Tim Gill	Montana Livestock Ag Credit	✓	
George T. Bennett	MONT. BANKERS ASSN	✓	
LARRY AIKEY	SEC OF STATE	✓	
John Allen	Gr Falls Gas Co.	✓	
Warren L. Robinson	Gr Falls Gas Co.	✓	
Joe Brunner	MWDA	✓	
Hurt Doggett	MT Chamber of Commerce	✓	
Steve Brown	Helena	✓	
Chip Erdmann	MT League of Savings Institutions	✓	
Elwood English	Sec of State	✓	
Jim Robischon	Mont. Lib. Coalition	✓	
BILL KIRKPATRICK	CHAMPION INTR	✓	
Bryan Enderle	Missoula Chamber	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

EXHIBIT ADATE 2-19-87HB # 740NAME JAMES A. HAYNES BILL NO. 740ADDRESS PO-Box 544 Hamilton, MT 59840 DATE 2/19/87WHOM DO YOU REPRESENT? MT. Magistrate's Assn.SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

- ① Relieves Justices of the Peace of cumbersome bookkeeping.
- ② Consistent with House Interim Study (unfunded) from 1985 Legislative Session (Rep Connolly)
- ③ Supported by Supreme Court Commission on Courts of Limited Jurisdiction, MMA, Atty. General and office of the Legislative Auditor.

WITNESS STATEMENT

EXHIBIT BDATE 2-19-87HB # 748

NAME

Tim H. GillBILL NO. HB 74

ADDRESS

420 No. Calif Helena MTDATE 2/19/87

WHOM DO YOU REPRESENT?

Montana Livestock Pg. Credit Inc.

SUPPORT

X

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Mr. Chairman and members of the Committee:
As President of Montana Livestock, I represent our nine member board of Directors as well as over 200 farmer/Rancher shareholders of our corporation when I support HB 748.

As a Montana Corporation that A. only lends operating funds and B. only to Agriculture, ~~We~~ have two strikes against us in the insurance industry's eye that has excluded our relieving Director Liability Ins at any cost. Our record is clean for 53 years in the same business in Montana, yet we are perceived to be high risk. Consequently our Directors place their personal Assets at risk on a daily basis, for the sake of promoting continuing Agricultural production in Montana. (and serve for cost of expenses only).

We appreciate your support of HB 748.

Tim H. Gill

WITNESS STATEMENT

EXHIBIT C
DATE 2-19-87
HB# 748

NAME GEORGE T. BENNETT BILL NO. 748
ADDRESS 111 NO. MAIN HELENH 59601 DATE 2/19/87
WHOM DO YOU REPRESENT? MONT. BANKERS ASSN.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: SEE ATTACHED ARTICLE.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

SPONSOR

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

737

DATE

Feb. 19, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Steve Waldron	Halena	X	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

EXHIBIT D
DATE 2-19-87
HB # 665

NAME Janet Finn BILL NO. 665
ADDRESS 440 N. Benton, Helena DATE 2/19/87
WHOM DO YOU REPRESENT? Self- Social worker
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

VISITORS' REGISTER

COMMITTEE

DATE Feb. 19, 1987

SPONSOR _____

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

602

DATE

Feb. 19, 1987

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Gordon Morris</i>	<i>MIT Co.</i>	✓	
<i>Larry Herman</i>	<i>Laural</i>	✓	
<i>SHARON EGHAN</i>	<i>Butte-Silver Bow</i>	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.