

MINUTES OF THE MEETING  
HOUSE APPROPRIATIONS COMMITTEE  
50TH LEGISLATIVE SESSION

The meeting of the House Appropriations Committee was called to order by Chairman Rep. Gene Donaldson on March 20, 1987 at 8:00 a.m. in Room 104 of the State Capitol.

ROLL CALL: All members were present at the meeting. Also in attendance were Judy Rippingale, LFA and Denise Thompson, Secretary.

HB 2 EXECUTIVE: (94:A:1.05)

Rep. Bardanouve moved to accept an amendment for the Law Enforcement Academy (Exhibit 1). Ms. Rippingale stated that when she and Rep. Spaeth reviewed the amendment the rent amount should be put back in which is \$96,000 each year, and then add the language in Exhibit 1 referencing it to the law enforcement academy appropriation. The department has been unable to exercise the option because of action taken in the last session. If the legislature chooses to have them exercise the option, he recommends that it be done this way so that their options of negotiations are not compromised by setting a figure. This would be a better approach.

Rep. Thoft moved to amend the amendment in Exhibit 1. Rep. Bardanouve called the question. Reps. Miller, Manuel, Nathe Poulsen and Iverson voted NO. The motion CARRIED.

Rep. Thoft moved to reconsider action on the funding of the Water Courts. Rep. Peck called the question. The motion CARRIED unanimously.

(94:A:28.41) Rep. Thoft moved to return the funding to the level that came out of the subcommittee and strike the amendments of yesterday.

Rep. Spaeth said he felt the Donaldson amendment of yesterday was very good and it needed to be carried through.

Rep. Miller stated he agreed with Rep. Thoft. None of the people from the water court were in attendance at the meeting the prior day and should have the opportunity to at least address the issue.

There was a roll call vote. Reps. Thoft, Winslow, Connelly, Manuel, Menke, Nathe, Miller, Poulsen, Quilici, and Swift

voted YES. Reps. Donaldson, Bardanouve, Bradley, Iverson, Menahan, Peck, Rehberg, Spaeth, and Switzer voted NO. The motion CARRIED 10 to 9.

Rep. Thoft moved to return the money to the water courts budget and strip the amendments from yesterday accepting the funding which came out of the subcommittee.

Mr. Ed. Stimatz presented testimony (Exhibit 2), saying that this cut would cripple their process tremendously and that a lot of the older people who are the chief witnesses as to how the water has been used, will be deceased before this is completed. There should be no delay. It is up to the Supreme Court to decide how the process should come through.

There was a roll call vote on Rep. Thoft's motion. Reps. Thoft, Connelly, Devlin, Manuel, Miller, Nathe, Poulsen, Rehberg, Spaeth, Swift and Switzer voted YES. Reps. Donaldson, Winslow, Bardanouve, Bradley, Iverson, Menahan, Menke, Peck and Quilici voted NO. The motion CARRIED 11 to 9.

(94:B:18:26) Rep. Spaeth moved to reduce the Water Courts Budget by the amount of the modifieds and take the money for the increased equipment for the court and increase the difference up to \$100,000 from the Water Development Funds and appropriate that to the Water Policy Committee using the direction that we have in the first sentence in the first paragraph of Rep. Donaldson's motion from yesterday and replace the RRD money taken out yesterday with general fund in DNRC.

Rep. Iverson stated he supported the motion. He felt there has been sufficient question raised and at least there is some doubt in their minds and it needs to be looked at.

Rep. Quilici called the question. Rep. Bardanouve voted NO. The motion CARRIED.

HB 881: (94:B:24.18)

Rep. Bradley presented HB 881 stating there was a statement of intent regarding the correctional facilities and programs. This would be a form of direct sentencing rather than sending them to prison.

(94:B:34.30) She said it was a good approach to what was happening here.

Judge Gordon Bennett spoke in support of the bill saying this could help with the people who have not committed

violent crimes and can be more effective as well as saving money.

(95:A:14.00) Mr. Ron Straley, previously a legislator from Colorado spoke in support of the bill. He stated it cost Colorado about \$20,000 a year in the maximum security unit and \$16,000 per year in the regular prison per person to house these people.

He stated Colorado was the fourth state to establish an alternative corrections system.

An example of the system and how it works would be the transitional period of the last 90 days of the sentence they would be placed in a unit such as is in this bill to serve those remaining days. He warned not to wait too soon to do something about the overcrowding as they had many difficulties in that regard because they waited too long.

Judge Joe Gary, supported the bill saying that many of these people are abused and neglected and this would be a means of assisting these people to have a chance to succeed.

(95:A:34.10) Dr. Roger Lowen from Colorado presented testimony regarding the bill and presented statistical information to the committee (Exhibit 3).

(95:A:40.30) Mr. Ted Yates, President of Northwest Community Correction Centers, Bozeman, stated that he was here to assist the state in developing community corrections centers. He presented a handout (Exhibit 4) regarding this issue.

Minyon Waterman, representing Montana Association of Churches supported the bill because they believe corrections facilities would allow a briefing plan between the prison, the institution and the community to occur. It also focuses on the individual personal and social needs raising the chances of successful rehabilitation.

Joy McGrath stated she had a strong interest in and supported the bill because she believes that early intervention with a program such as this in the community would allow these people to follow through and become rehabilitated.

(95:B:4.13) Mr. Carroll South, Director of the Department of Institutions stated the the prison population is continuing to grow and will continue to grow into the 1990's. It is time to start looking at alternatives.

(96:A:3.20) Ann Moylen, Intern representing the Montana Catholic Conference stated that they support the bill. The

bill is more humane and cost effective. It also raises the possibility of attaining the ideal goal of successfully restoring these reformed individuals to an active roll in society.

QUESTIONS:

Rep. Menahan questioned the number of first time offenders who are put into prison. Judge Bennett stated usually the first time non-violent offender does not go to prison. Rep. Menahan said because of sentencing patterns, the prison population is increasing. Judge Bennett stated he does not like to put people in prison, but they don't learn how to have jobs there. This bill would assist in that area.

(96:A:24.40) Mr. Dave Armstrong from the Billings pre-release center said that the people coming out of their center get their jobs through the job developer on staff, some use the job service, some they find on their own, and some the staff finds for them.

Rep. Menahan said he felt the state needs to lower the number of people going in to the prisons instead of setting up another facility to put them in.

HB 868:

(96:B:1.20) Rep. Chuck Swysgood presented the bill saying it appropriates money to the Department of Agriculture for the vertebrate pest management purposes. These monies were created in a fund by SB 238. The monies in SB 238 are needed for the continuing data requirements of the EPA and the various federal departments for the continued use of rodenticides used to control the gophers. There were also amendments to the bill (Exhibit 5).

PROPONENTS:

Mr. Keith Kelly, Director of the Department of Agriculture stated this is not general fund money, this is the industry requesting a bill to try to pool some money together to see if some of these studies can be completed in order to hold on to certain products that they have to try to control gophers.

There were no opponents to the bill.

QUESTIONS:

Rep. Bardanouve asked what the money would be used for. Mr. Kelly stated the bulk of the money has to go to complete satisfactorily, the study requirements mandated by the EPA.

The hearing was closed on the bill.

SB 235 (96:A:10.45)

Sen. Brown, SD#2 stated that this bill was introduced at the request of the Montana School Boards Association to include 19-year olds in the Average Number Belonging (ANB), for determination of the foundation program.

Mr. Bruce Moerer from the School Boards Association commented on the bill saying this would not expand the ANB for reporting purposes.

The hearing was closed on the bill.

HB 7: (96:A:20.04)

Rep. Thoft presented the Water Development Bill and explained the bill to the committee (Exhibit 6).

Rep. Spaeth asked how much money Anaconda got last time for trees. Caralee Cheney from the Department of Natural Resources and Conservation replied \$150,000 from the RIT Grant.

EXECUTIVE ACTION: (96:A:39.27)

Rep. Devlin moved to DO PASS HB 7. Rep. Menke called the question. The motion CARRIED unanimously.

Rep. Miller moved that SB 235 be CONCURRED IN. The motion CARRIED unanimously.

Rep. Devlin moved to accept the amendments on HB 868 (Exhibit 5). The motion CARRIED unanimously.

(97:A:0.01) Rep. Bardanouve moved to DO PASS AS AMENDED HB 868. Rep. Devlin called the question Rep. Nathe voted NO. The motion CARRIED.

HB 864 HEARING:

Rep. Swift presented the bill for Rep. Manuel stating it was a bill to increase the license and permit fees for inspections collected by the Department of Agriculture, which would increase the general fund up to \$80,000 per year for various agricultural commodities. This was a committee bill from the Natural Resources Subcommittee.

EXECUTIVE ACTION:

(97:A:1.15) Rep. Bardanouve moved to DO PASS HB 864. Rep. Devlin called the question. The motion CARRIED unanimously.

Rep. Bardanouve moved to TABLE HB 187. Rep. Menke called the question. Reps. Bradley and Iverson voted NO. The motion CARRIED.

Rep. Bradley moved to DO PASS HB 814. Rep. Switzer called the question. The motion CARRIED unanimously.

(97:A:8.48) Rep. Switzer moved to DO NOT PASS HB 844. Rep. Thoft made a substitute motion to TABLE HB 844. Reps. Rehberg, Connelly, and Bradley voted NO. The motion CARRIED.

(97:A:9.44) Rep. Spaeth moved to TABLE HB 860. There was more discussion on the bill.

(97:A:13.30) Rep. Switzer moved to TABLE HB 860. Reps. Bardanouve, Connelly, and Bradley voted NO. The motion CARRIED.

Rep. Bradley moved to DO PASS HB 866. Rep. Bardanouve called the question. Rep. Devlin voted NO. The motion CARRIED.

Rep. Bradley moved to amend HB 872 to cut the appropriation in half to \$110,490 for the Museum of the Rockies (Exhibit 7). Rep. Connelly called the question. The motion CARRIED unanimously.

Rep. Bradley moved to DO PASS HB 872 AS AMENDED. Rep. Spaeth called the question. There was a roll call vote. Reps. Bardanouve, Bradley, Connelly, Iverson, Menahan, Poulsen, and Spaeth voted YES. Reps. Thoft, Winslow, Devlin, Nathe, Peck, Rehberg, Swift, and Switzer voted NO. The motion FAILED 7 to 8.

Rep. Bradley moved to TABLE AS AMENDED HB 872. The motion CARRIED unanimously.

(97:A:23.35)

HB 275: Rep. Swift stated this bill was for the Linked Deposit Loan Program and was heard in the Natural Resources Subcommittee and held pending SB 46. Action was postponed on this bill.

The meeting was recessed until 1:00 p.m.

The meeting was called back to order.

(97:A:41.05) Rep. Thoft took over the Chair.

EXECUTIVE ACTION:

Rep. Winslow moved to DO PASS HB 538 to restructure SRS and Institutions. Rep. Connelly asked to have Dave Hunter speak regarding the bill.

Mr. Dave Hunter, Director of OBPP stated they could accept the bill with the amendments, without the amendments they would oppose it. Rep. Menke called the question. Reps. Connelly, Bardanouve, Quilici, and Manuel voted NO. The motion CARRIED.

Chairman Donaldson took over the committee.

HB 2 EXECUTIVE ACTION: (97:A:41.35)

Department of Health--Rep. Winslow presented an amendment to HB 2 regarding the Air Quality monitoring (Exhibit 8). Rep. Thoft called the question. The motion CARRIED unanimously.

Rep. Winslow moved to amend the Department of Health budget to include .75 FTE for \$33,468 in FY 88 and \$33,522 in FY 89 to fully fund the administrator and assistant in the Health Planning Bureau which would be moved to the Department of Administration. Rep. Thoft called the question. The motion CARRIED unanimously.

SRS--Rep. Bradley referred to the Optional Services Amendment (Exhibits 9, 10, and 11). Rep. Bradley moved to drop the Donaldson amendment. Rep. Thoft called the question. There was a roll call vote. Reps. Winslow, Bradley, Connelly, Manuel, Menahan, Miller, Peck, Poulsen, Quilici, and Spaeth voted YES. Reps. Donaldson, Thoft, Bardanouve, Devlin, Iverson, Menke, Nathe, Rehberg, and Switzer voted NO. The motion CARRIED 10 to 9.

(97:B:15.10) Vets' Home-- Rep. Miller moved to add five extra nursing home beds at the Veterans' Home which increases the cost in FY 1988 by \$21,528 and \$22,913 in FY 89.

Rep. Miller moved to accept the amendment. Rep. Manual called the question. The motion CARRIED unanimously.

Higher Ed--Rep. Bardanouve moved to change slightly the language in the Board of Regent's boilerplate to add "a uniform computerized personnel system, and a uniform computerized class enrollment system" it adds the word uniform in twice so it makes it clear that they want a uniform system but not a different kind of system (Exhibit 13).

The motion CARRIED unanimously.

Higher Ed-- (97:B: 18.25) Rep. Devlin moved to make a 5 percent reduction in higher education across the board to and allow the Board of Regents to make the necessary additions. This would be about \$8.6 million a year. This involves everything under higher education.

Rep. Peck, Rep. Thoft and Rep. Quilici opposed the motion. Rep. Quilici called the question. There was a roll call vote. Reps. Devlin, Menke, and Switzer voted YES. Reps. Donaldson, Thoft, Winslow, Bardanouve, Bradley, Iverson, Manuel, Menahan, Nathe, Peck, Poulsen, Quilici, Rehberg, and Spaeth voted NO. The motion FAILED 3 to 15.


(97:B:24.40) Rep. Winslow moved the adoption of HB 2 AS AMENDED. Rep. Quilici called the question. Reps. Switzer, Devlin, Thoft, Rehberg, Nathe, and Menke voted NO. The motion CARRIED.

EXECUTIVE ACTION HB 581:

Rep. Bardanouve moved to DO PASS HB 581 if the bill is properly amended, making sure that Subsection 3 on page 2 is removed from the bill which was amended out on the floor of the house and should have been changed in the second reading copy. The motion CARRIED unanimously.

ADJOURNMENT:

There being no further business before the committee, the meeting was adjourned at 2:30 p.m.

  
Rep. Gene Donaldson, Chairman



# DAILY ROLL CALL

APPROPRIATIONS

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date

NAME	PRESENT	ABSENT	EXCUSED
DONALDSON, GENE Chairman	✓		
THOFT, REP. BOB Vice Chair	✓		
WINSLOW, REP. CAL	✓		
BARDANOUVE, FRANCIS	✓		
BRADLEY, DOROTHY	✓		
CONNELLY, MARY ELLEN			
DEVLIN, GERRY	✓		
IVERSON, DENNIS	✓		
MANUEL, REX	✓		
MENAHAN, RED	✓		
MENKE, LARRY	✓		
MILLER, RON	✓		
NATHE, DENNIS	✓		
PECK, RAY	✓		
POULSEN, HAROLD	✓		
QUILICI, JOE	✓		
REHBERG, DENNIS	✓		
SPAETH, GARY	✓		
SWIFT, BERNIE	✓		
SWITZER, DEAN	✓		

# ROLL CALL VOTE

HOUSE APPROPRIATIONS COMMITTEE  
 DATE 3/20/77 BILL NO. House Bill NUMBER 2  
 Water Courts

NAME	AYE	NAY
Rep. Gene Donaldson, Chairman		
Rep. Bob Thoft, Vice Chairman		
Rep. Cal Winslow, Vice Chairman		
Rep. Francis Bardanouve		
Rep. Dorothy Bradley		
Rep. Mary Ellen Connelly		
Rep. Gerry Devlin		
Rep. Dennis Iverson		
Rep. Rex Manuel		
Rep. Red Menahan		
Rep. Larry Menke		
Rep. Ron Miller		
Rep. Dennis Nathe		
Rep. Ray Peck		
Rep. Harold Poulsen		
Rep. Joe Quilici		
Rep. Dennis Rehberg		
Rep. Gary Spaeth		
Rep. Bernie Swift		
Rep. Dean Switzer		

TALLY CARRIED

11 9

Denise Thompson  
 Secretary

Rep. Gene Donaldson  
 Chairman

MOTION: Rep. Thoft moved to reconsider action on the Water Court Budget  
strike the amendments from yesterday and return the funding to that  
which came out of the subcommittee.

# ROLL CALL VOTE

HOUSE APPROPRIATIONS COMMITTEE  
 DATE 3/29/87 BILL NO. House Bill NUMBER 2

NAME	AYE	NAY
Rep. Gene Donaldson, Chairman		
Rep. Bob Thoft, Vice Chairman		
Rep. Cal Winslow, Vice Chairman		
Rep. Francis Bardanouve		
Rep. Dorothy Bradley		
Rep. Mary Ellen Connelly		
Rep. Gerry Devlin		
Rep. Dennis Iverson		
Rep. Rex Manuel		
Rep. Red Menahan		
Rep. Larry Menke		
Rep. Ron Miller		
Rep. Dennis Nathe		
Rep. Ray Peck		
Rep. Harold Poulsen		
Rep. Joe Quilici		
Rep. Dennis Rehberg		
Rep. Gary Spaeth		
Rep. Bernie Swift		
Rep. Dean Switzer		

TALLY FAILED

3 15

Denise Thompson Rep. Gene Donaldson  
 Secretary Chairman

MOTION: Rep. Devlin moved to delete 5 percent across the board in the  
Higher Education budget.

# ROLL CALL VOTE

HOUSE APPROPRIATIONS COMMITTEE  
 DATE 3/20/81 BILL NO. House Bill NUMBER 2  
 Water Courts

NAME	AYE	NAY
Rep. Gene Donaldson, Chairman		
Rep. Bob Thoft, Vice Chairman		
Rep. Cal Winslow, Vice Chairman		
Rep. Francis Bardanoue		
Rep. Dorothy Bradley		
Rep. Mary Ellen Connelly		
Rep. Gerry Devlin		
Rep. Dennis Iverson		
Rep. Rex Manuel		
Rep. Red Menahan		
Rep. Larry Menke		
Rep. Ron Miller		
Rep. Dennis Nathe		
Rep. Ray Peck		
Rep. Harold Poulsen		
Rep. Joe Quilici		
Rep. Dennis Rehberg		
Rep. Gary Spaeth		
Rep. Bernie Swift		
Rep. Dean Switzer		

TALLY CARRIED

Denise Thompson  
 Secretary

Rep. Gene Donaldson  
 Chairman

MOTION: Rep. Thoft moved to return the funding for the water courts  
to that which was passed out of subcommittee, stripping the amendment  
which were placed on in the full appropriations committee yesterday.

# ROLL CALL VOTE

HOUSE APPROPRIATIONS

COMMITTEE

DATE 3/20/87 BILL NO. House Bill NUMBER 872

NAME	AYE	NAY
Rep. Gene Donaldson, Chairman		
Rep. Bob Thoft, Vice Chairman		
Rep. Cal Winslow, Vice Chairman		
Rep. Francis Bardanouve		
Rep. Dorothy Bradley		
Rep. Mary Ellen Connelly		
Rep. Gerry Devlin		
Rep. Dennis Iverson		
Rep. Rex Manuel		
Rep. Red Menahan		
Rep. Larry Menke		
Rep. Ron Miller		
Rep. Dennis Nathe		
Rep. Ray Peck		
Rep. Harold Poulsen		
Rep. Joe Quilici		
Rep. Dennis Rehberg		
Rep. Gary Spaeth		
Rep. Bernie Swift		
Rep. Dean Switzer		

TALLY

FAILED

7

8

Denise Thompson  
Secretary

Rep. Gene Donaldson  
Chairman

MOTION: Rep. Bradley moved to DO PASS HB 372 AS AMENDED.

# ROLL CALL VOTE

HOUSE APPROPRIATIONS COMMITTEE  
 DATE 3/29/87 BILL NO. House Bill NUMBER 2

NAME	AYE	NAY
Rep. Gene Donaldson, Chairman		✓
Rep. Bob Thoft, Vice Chairman		✓
Rep. Cal Winslow, Vice Chairman		
Rep. Francis Bardanoue		
Rep. Dorothy Bradley		
Rep. Mary Ellen Connelly		
Rep. Gerry Devlin		
Rep. Dennis Iverson		
Rep. Rex Manuel		
Rep. Red Menahan	✓	
Rep. Larry Menke	✓	
Rep. Ron Miller	✓	
Rep. Dennis Nathe		✓
Rep. Ray Peck	✓	
Rep. Harold Poulsen		
Rep. Joe Quilici		
Rep. Dennis Rehberg		
Rep. Gary Spaeth		
Rep. Bernie Swift		
Rep. Dean Switzer		✓

TALLY

CARRIED

16

9

Denise Thompson Rep. Gene Donaldson  
 Secretary Chairman

MOTION: Rep. Bradley moved to delete the Donaldson Amendment  
regarding Optional Services for Medicaid.

3/20/87

2

The department is ~~authorized to exercise~~ the option to purchase the modular buildings occupied by the Law Enforcement Academy and to use funds appropriated in Item \_\_\_\_.

Ed Stimatz

My name is Ed Stimatz and I'm a water master for the Montana Water Court. Yesterday afternoon we got a call regarding the committee action, and I didn't get a copy of the amendment. I understand what the amendment does is cut the Water Court's budget in half, restrict the issuance of any decrees for two years, and allow for an interim study by some outside group.

I would first of all like to state concerning the study of this, there was a very intensive study that has already been conducted about the water adjudication process in Montana. After 6 years of adjudication from 1973 to 1979 in the Powder River Basin, this very legislature undertook a very intensive, two-year study of the adjudication process by the interim committee on Water Rights. That subcommittee looked and listened to water law expert Frank Traleas out of Oregon and our own expert Albert Stone here in Montana. That subcommittee looked at the process as it was being conducted in the Powder River. It intensively looked at the type of process that the other western states were using in their adjudication. They talked to people of the state. They held public meetings. And after two years of intensive study, they enacted this process.

Now, you have been told and I think erroneously that speed is no longer a consideration in what we are trying to do. There were several factors that were identified by this legislature, not by the water court, but by this legislature, why we had to get a process which would quickly determine what the water rights in Montana were. One of those is that the 1973 constitution had a mandate by the people of this state that said, a hundred years of water use without conclusive records is enough. We need to find out where the water is being used in Montana and how. One thing you have to realize is what the water court is doing is we are establishing the water rights as they were established by historical use, prior to 1973, and that means water rights that were established anywhere from 1864 up to 1973. The longer you delay this adjudication and the more time we take, witnesses die, their memories fade. Historical use is established mostly now by the testimony by the old timers who knew and if you are going to delay this process, more of those people are going to pass away, their memories are faded and you are going to lose the evidence of historical rights.

Secondly, the people in Montana in the 1973 Constitution said we need to know, when we are transferring our land right now, we can't tell what the water rights attached to this particular piece of property are. We want you, to



determine what these rights are so that when we transfer the land we can tell the prospective seller just exactly what the water rights are. It enhances the value of land, makes the transferability of this land a lot more understandable. Also, in the state of Montana we are giving people permits. From 1973 on people are getting a permit for water rights. All that is a revokable license. It says you can use the water until such time we determine that there is not enough in the stream and it's gone. How do you expect people to continue on with their development and the development of their land, if they don't know if they are ever going to get a water right or not. It's already been 13 years that these people have been working under a permit waiting for the court to determine all the existing rights so that then the DNRC can go back and decide who gets a water right after 1973.

I say again, these were factors that were figured by this legislature, by a committee of this legislature. You have also heard that the process is inaccurate. I really think that what this whole argument of inaccuracy comes down to is that DNRC is dissatisfied with how we're using their information in an evidentiary sense. They want us to use solely their information to change the claims before we ever get into a courtroom situation. And the water court is just taking a position that if you are going to change these extremely valuable property rights that the major change should be done in the context of a hearing so that the court can evaluate the accuracy of DNRC's information so that the claimant has the chance to cross-examine that DNRC person, so that a record is made. So that if something happens that impairs that person's property interest, he's got a record and he can take it up in court.

People are talking about getting someone in there to do an interim study. No-one has said that the correct body we should be looking to here is the Montana Supreme Court. The federal courts have held that it is up to the state court to decide in the first instance the adequacy of their own procedures. No one here is suggesting that this matter be taken up to the Supreme Court. You probably are all aware, an issue over who controls this examination process with the DNRC is currently before the Montana Supreme Court. I don't know what the scope of their decision, or what the results of their decision will be; but I would state to you that we need to give this issue the chance to go to the Montana Supreme Court before we start bringing in outside people to tell us if we are doing this thing right or wrong. I would also like to state that there was a stipulation that was entered into here about 6 months ago, some of the parties were the Department of Natural Resources, the Water Court, the Federal Government, the Department of State Lands. In

that stipulation, the Department of Natural Resources agreed that the procedure set out in that stipulation satisfied their concerns. And what that stipulation basically said is that we would allow the Department to go back into every single basin that is not in a final decree and let them look over that basin to see how they examined it in the first place, how they would propose to exam it now, and then put that information before the court. If there was a problem with how it was done the first time, we agreed we would let them go back in. Also as to the degree of the examination, I wish someone from the department was here, in all of the discussions we have had, I've asked them, "What more do you want to do in your examination". They basically said well we want more field investigations, and we want more right to contact the claimant. Otherwise, we are satisfied. In that stipulation we agreed to give the Department, basically free rein to conduct whatever field investigations they felt were necessary subject to the ability of the court to rein them in. Just if they were going way out of bounds, we wanted the authority to rein them in but we were going to give them a free hand. Now with the DNRC director here, not trying to contest the budget cuts or anything else, I don't know how he is going to perform the functions that he agreed to in that stipulation. The fact is that they haven't given that stipulation an opportunity to work yet. And I think that their agreement was that the conditions in that stipulation satisfied their concerns. Well evidently it didn't.

Also, getting someone in to sample, I want to state one more thing, what we are doing is establishing these rights according to historical use. A sampling agency is only going to be able to come in there and look at the rights as they appear today. Not necessarily as they have been established by historical use.

Secondly, the adjudication is not merely the making of scientific determination. It is the taking of certain evidence, and perhaps making certain factual determinations but then applying the correct law to those factual determinations. How are you going to get a sampling agency that is going to come in here and not only determine what the correct water law is, that over a 100 years have all been water logged; but then apply it correctly. As Representative Giacometto said during the debate on HB 754, it's like trying to get a committee of criminal law experts together and coming in and reviewing all of the jury verdicts of guilty in criminal cases and deciding whether or not the jury did a good job. This is a judicial function, and how a sampling agency is going to come in and figure out if a court is performing its judicial function correctly, has not been explained to me, and I have asked and I have asked. And it still hasn't been explained to me. I would just like

to state that the process in the water courts view is working. We're using that verification information to provide not only a good system but a very good system. And I just think that if you take the money away now, you're not doing what the people of the state of Montana wanted and mandated in the 1973 Constitution. And I would just like to question, is policy here being made on the wishes of state agencies or is it being made on the wishes of the people of this state. Thank you I would like to answer any questions you might have.

Rep. Spaeth asked Mr. Stimatz how long he had been with the Water Court. Two or three years? You weren't around really when we were looking at the Powder River studies and what went on down there were you?

Mr. Stimatz: Not in an official capacity. I grew up on a ranch down by Billings and I've been irrigating and so forth so I have always been interested in water.

Spaeth said but you were not actually involved in that capacity. I am from Billings and lived on a Ranch but I wasn't involved in those studies either so.. In looking back over the records, the only thing that we have really studied was what we did on the Powder River Basin, is it not.

Mr. Stimatz: As far as Montana, but they also studied other states.

Rep. Spaeth: The main emphasis was what was done in the Power River.

Mr. Stimatz: No not entirely, it was also trying to make this a good process that would work within the time frame...

Rep. Winslow asked them to address questions and wait until it was answered before continuing.

Rep. Spaeth: Wasn't 90 percent of at least the written material and those studies emphasized as to what we were doing in the Powder River?

Mr. Stimatz: No.

Rep. Spaeth: Ok, you and I must have looked at different studies then. Lets go a little bit further then, as a result of what we have looked at. We made some changes did we not?

Mr. Stimatz: I guess we did.

Rep. Spaeth: And so it was a good thing to have stopped and have taken a look at what we were doing in the Powder River because we made some changes was it not?

Mr. Stimatz: Yes.

Rep. Spaeth: And when we study some things, we sometimes find a change is needed. And we sometimes find the changes some times not needed isn't that correct?

Mr. Stimatz: That's true.

Rep. Spaeth: We have not really taken a real close look once we implemented this system as to whether it worked, if there should be changes or not be changes have we?

Mr. Stimatz: That's true but the difference is that there wasn't one right that was identified in the six years under the Powder River. Here we've got 120,000 rights in preliminary decree. We are more than, almost half way through with this process at this point. At least temporarily, and we weren't at that stage in the Powder River.

Rep. Spaeth: Also it's fairly clear to me because of your presentation and the presentation of other people, that there is a great deal of emotion and feelings on all sides here, you would agree to that?

Mr. Stimatz: yes.

Rep. Spaeth: And that there are probably some acquisitions that are going back and forth with different people and different parties and different agencies as to who is right and who is wrong and all that, would you agree with that too.

Mr. Stimatz: Well from the court's perspective, I don't think we have made any acquisitions Representative, our actions are bound by the law, so all we are trying to do is enact and apply in the manner that the legislature has enacted.

Rep. Spaeth: So another words, you are right and they are wrong.

Mr. Stimatz: I'm saying we are doing the best job we can to apply the law in the way that this legislature has enacted according to the clear wording of the statutes passed.

Rep. Spaeth: I have no trouble with that and I think that probably if we were to ask the DNRC, they would maintain that they are doing everything that they can to enforce and

maintain the law, and I think that is consistent with their position, it is just that the two of your sometimes just disagree would that be an accurate conclusion?

Mr. Stimatz: Yes, and I would like that disagreement submitted to the Supreme Court.

Rep. Spaeth: Ok, but we are also spending a great deal of money on this whole process are we not?

Mr. Stimatz: With the DNRC and the Water Courts, and everything else, the money that people pump in yes. The people have spent a lot of money themselves filing their claims and so forth.

Rep. Spaeth: And so we will probably all of us continue to spend a fair amount of money in the future won't we?

Mr. Stimatz: Yes, and the longer this carries on, I think the more money we will spend.

Rep. Spaeth: You know, I guess if we were to take -- the proposal we have before us, that Chairman Donaldson, is not the sampling proposal that was faced before the house. Are you aware that, there is a different...

Mr. Stimatz: No, because yesterday afternoon when I heard about it, I just got a phone call, jumped in the car and came.

Rep. Spaeth: So you really haven't had an opportunity to look at the difference between what was on the floor of the house and what was Rep. Donaldson's amendment.

Mr. Stimatz: No, I haven't.

Rep. Spaeth: So that part of your presentation would have to be adjusted accordingly then.

Mr. Stimatz: I guess I would have to see what type of process is being suggested.

Rep. Spaeth: I noticed that one of the main concerns that you have, I agree with you, is about delaying the process. If we were to eliminate most of the aspects of this funding here, reduction and eliminate the hesitation that has been referred to in the amendment, and allow the water courts to go one; you wouldn't have any problem with doing that would you?

Mr. Stimatz: I'm not sure I understand; you're saying restore the funding?

Rep. Spaeth: Restore the funding and eliminate the requirement that no temporary decree, that would at least eliminate your objections as to witnesses dying and that sort of thing.

Mr. Stimatz: Yes it would.

Rep. Spaeth: And if you are though, if we were to do that, violently or adamantly opposed to having somebody coming in and at least taking a look at system and report to us as to what we are doing as long as they don't get into a sampling and that sort of cycle.

Mr. Stimatz: No not at all. But I guess my problem up to this point has always been, is that no one has explained how they will accurately get at the information of what we are doing. It is like you stated, I think the court would be just as interested if it could be done accurately and be done fairly, because then if the results are that the process is working well, then we can say yes, there we go, please leave us alone and let us get along with our job.

Rep. Spaeth: And so if we were to amend this to increase the funding back up pretty much to current level, the court never spends exactly all of it the court being very careful about that, and I appreciate that. So if we were to come up with funding for at least somebody like we had come in and took a look at our Powder River Basin from other states and everything else like that, that you like that study, and if we were going to do something similar to that, you wouldn't have any real objection as long as it was impartial and we didn't get very much involved in sampling and that sort of thing. Because in the Powder River study, there was no sampling involved.

Mr. Stimatz: I'm not sure, Representative, I know they went, the representatives went down there, heard briefings from the DNRC on how that was conducted.

Rep. Spaeth: They did talk to some of the people down there but they only talked to them in the sense that they wanted to ask them if you like what we are doing and the system, but they didn't really get involved in the sampling, so the sampling seems to be the red herring, if we kind of avoided the sampling and did it very similar to the Powder River study earlier, you wouldn't have any real objections approaching it like that would you?

Mr. Stimatz: It's hard to answer that, Representative, because I don't know exactly what type of process you have proposing. I guess I feel that in an adjudication process, that that is why you've got appellate courts there, so that

if you have an issue, it can be taken up to the appellate court and they can make the final determination.

Rep. Spaeth: You said you kind of liked the study on the Powder River and that you were very familiar with that study. I think that what we are looking at is because you have had people looking at other systems and you thought that was a very good study and that you were familiar with that study, in fact you even disagree that is what it did, but you liked that study, and if we were going to do that same kind of study you wouldn't have very many objections in doing it like that, you liked it previously is that right?

Mr. Stimatz: I don't believe so Representative.

Rep. Quilici: Mr. Chairman, we've heard from the gentleman from the water court now, and one of the problems I see is there is a problem with delay in the process, it seems here. It's detrimental to the water users in this state, I would like to see if there is somebody here that we could hear the other side of the coin and just shortly, is there somebody here from the department.

Larry Fasbender: Just as briefly as I can Mr. Chairman, it has taken a hundred years to get to the point where we are at right now. If we delay for two years to take a look at this process, and really it is a process, it's not something that is strictly a court proceeding such as has been set up to do some of that, but the process itself can vary from state to state. Different states have done different things when it has come to doing water adjudication. There are ongoing adjudications in other states right now that I think are worth looking at that may save money and may save time and do a lot of things that would expedite our process. To delay for two years this process, is not as far as I'm concerned going to work any hardship on any claimants in the state of Montana. They are still going to get their water, they're still going to irrigate, they are still going to have irrigated ground that is as far as all of the property rights, are still going to be there. As to a final adjudication, it just means that when we finally do complete the process, we will have the assurance that what we have is a good product and that that product is going to stand the test of time. Not just for a year or two, but for fifteen, twenty or thirty years down the road. And that is all that is being suggested.

Rep. Quilici: Do you think that by delaying it there is going to be any detrimental effects to the water users in this state.

Mr. Sasbender: Not as far as I'm concerned. I think that the detrimental affect would be more from completing an adjudication that is not going to be adequate, and then having to come back and having to argues and fight about that in courts and litigation for a number of years to come.

Rep. Bardanouve: I guess I get in trouble every time I compliment a Republican, I have in the past. I think in the house we have one of the most informed, unbiased people and most knowledgeable in the house, Rep. Iverson, and he has expressed to me a lot of concerns, he has done a tremendous amount of work in this field, I think from an unbiased viewpoint, and I think I rely upon his opinion in this area as much as anybody I know. He has supported our position as of yesterday afternoon, and I think that we should rely upon our people that know, that have done a tremendous amount of work. I respect Representative Iverson's work and his opinion and his dedication to this process and I think that we would be wise to follow his leadership in this area.

Speaker Marks: Mr. Chairman, I would like to speak to the issue before you here. I have a couple of observations and I think there is more than one issue involved here. One of the issues is the funding of the water court and that is something that is properly before the committee. I do have a problem however, with the boiler plate language, and I think that if you are going to do what I see you trying to do in this boiler plate, you better bring a committee bill in to do it. I think you are really stretching the statutes as I see them, in the Constitution on the authority that you have in an appropriation measure. I'm not contesting what you are trying to accomplish, necessarily. I think that we have changed the rules now to allow committee to come out with a committee bill to accomplish some of these statutory changes.

Speaking to the issue itself, I've been a member of the Water Policy Committee as has Representative Iverson and Representative Bradley, and all is not well with the adjudication process. I think that it would be in the best interest of the water users in the state, and in the best interest of legislature to do something to determine whether or not we should proceed as we have. My suggestion would be if you are going to perhaps get away from the boiler plate, which I think is troublesome, is to let the Water Policy Committee perhaps do an appropriation which is appropriated with non-general fund money as I understand it, to allow them to do almost what you are asking be done here anyway. It seems to me that would be the option that would serve both purposes. As to the amount of money in the appropriation, that is another matter. I'm sure that the appropriation would control the amount of work that could be done by



the court. I see that there really are two different issues here. The legislature I think responsively, and rightly has created the Water Policy Committee, and I would suggest that if you would put in the boiler plate, a suggestion that the Water Policy Committee do precisely what you are asking to be done here, and to contract with an independent group, there is no reason why they could not do that themselves.

Rep. Rehberg: Rep. Marks, I guess what I would like to look at then is within our subcommittee action, we increased one water master position and we gave them travel and various supplies and materials for that position to the tune of about \$74,000 so we were within the \$100,000. Do you think, within HB 2 if we were to decrease their funding by that new water master position and up to the point of \$100,000 and in turn then in our subcommittee went through and applied that to the Water Policy Committee. Was that acceptable under the the means of HB 2.

Rep. Winslow: I believe that if this motion of Rep. Thoft's fails, we would go back to where we are at, there would be an additional motion to come up with a committee bill to implement this.

Rep. Rehberg: I don't think we would need that. We could do it all within the appropriations bill but just do it within that section of the appropriations bill.

Rep. Spaeth: I think that Representative Thoft's motion, I'm not sure if we should pass it or make a substitute motion along the lines of what Rep. Rehberg is to strike all the amendments of Rep. Donaldson and put \$100,000 into the Water Policy Committee with \$74,000 reduction in the Water Court's according to Rep. Rehberg and then \$26,000 elsewhere into the Water Policy Committee. Would that be better to do a substitute motion to Rep. Thoft's motion or should we wipe out all of these garbage language in the first place.

Rep. Bardonoue: Mr. Chairman, I think Mr. Thoft might resent if we adopt his motion.

Rep. Winslow: Well lets take a vote on Rep. Thoft's motion and if it fails we can come back and change that.

There was a roll call vote.

Rep. Spaeth moved to reduce the water court budget by \$74,000.

Rep. Quilici, if that modified is \$31,640 in 88 and \$31,582 in 89 if you want the exact numbers.

Rep. Gaeth: My motion will be that we take the money from the ~~diffies~~, from the Water Court, whatever that is, and take the money for the increased equipment from the Water Courts, and increase the difference up to the \$100,000 from the Water Development funds, and appropriate that to the Water Policy Committee using the direction that we have in the first sentence of Rep. Donaldson's motion and that is valid that if we give them the direction to do the study, we can do that in HB2 and I think that is a quick compromise between the positions and that is why I voted yes on that previous motion. And it appears that the water courts going to support that and all the other parties will support that and maybe we can put this whole thing behind us.

JR: I would, although it was not included in any motion would assume that since you have used all of the RRD monies that we now put general fund back into DNRC? Swift, that would be my understanding.

Here are the tabulations of the number and types of offenders sent to the Montana State Prison. Keep in mind that these are not all court commitments, but only those that appeared (at least by the nature of their present or instant offense) appropriate for judges to sentence to a community corrections program instead of prison. Below are two charts, one for 1985 and one for 1986. Data was available for a complete year for 1985; the figures for 1986 are not for a complete year.

A bit of explanation is in order. We selected offense types that we are serving in community corrections in Colorado. Montana judges and community corrections boards and staff may think that our selection of offense types is either too conservative or too liberal. Who knows? Those are choices you will have to make. However, we did not select offense types that involved a person type crime, such as robbery, aggravated assault, rape, etc. For 1985, we did include negligent homicide, because this usually means someone was killed by a drunk driver. Further, Colorado community corrections programs do serve a wide variety of offenders that have been convicted of violent, person crimes that have served all or most of their prison sentences. Colorado programs do have experience dealing with these more serious offenders, but the proposed bill deals with court referrals, not Department of Institutions referrals.

Montana Court Commitments to Prison, Calendar Year  
1985, Select Group of Non-violent Offenders

Offense Types	Crim Code #	# sent to prison	average length of sentence
Burglary	45-6-204	39	10 years, 5 mos
Forgery	45-6-325	14	5 years, 8 mos
Theft	45-6-301	77	7 years, 2 mos
possession of drugs	45-9-102	8	6 years, 6 mos
attempted burglary	45-4-103	3	4 years, 3 mos
motor vehicle theft	45-6-308	2	5 years
bad checks	45-6-316	16	5 years, 7 mos
deceptive practices	45-6-317	5	8 years, 5 mos
disorderly conduct	45-6-316	1	10 years
negligent homicide	45-5-104	8	9 years, 5 mos
miscellaneous (burglary, theft)		11	5 to 6 yrs
45-2-302, 45-2-301, 45-2-202)			

total sent to prison in 1985 - 184

Montana Court Commitments to Prison, A Portion of Calendar  
Year 1986, Select Group of Non-violent Offenders

Offense Types	Criminal Code #	# sent to prison	length of sentence
Burglary	45-6-204	17	4 years, 9 mos
Theft	45-6-301	36	2 years, 3 mos
Forgery	45-6-325	15	3 years, 1 mon
Bad checks	45-6-316	4	4 years, 6 mos
Criminal mischief	45-6-101	4	2 years, 6 mos
Attempted burglary	45-4-103	1	30 years
Conspiracy, drugs	45-4-102	1	12 years
Forgery	45-2-302	1	10 years
Fraudently obtaining drugs	45-9-104	1	10 years
Carrying concealed weapon	45-8-316	1	2 years
Criminal trespass to property	45-6-203	1	1 year
Possession of burglary tools	45-6-205	1	1 year
Motor vehicle theft	45-6-301	1	5 years
number of non-violent offenders sent to prison for a portion of 1986 -----		84	

Another last word of explanation. The length of sentence figures included here are actual prison sentences. These figures do not include local jail credit time, suspended time, deferred time, or any other deductions of time. We have already calculated these deductions. So what you see is what you get, so to speak.

If there are any questions about any of this information, let me know.

Table DB-2:

MONTANA STATE PRISON ADMISSIONS<sup>\*</sup>  
By Criminal Code

Fiscal Years 1981 - 1986

Fiscal Year

Code/Description	<u>1981</u>		<u>1982</u>		<u>1983</u>		<u>1984</u>		<u>1985</u>		<u>1986</u>	
	No	%	No	%	No	%	No	%	No	%	No	%
4545101 Attempted Criminal Homicide	0	0.0	0	0.0	1	0.2	0	0.0	1	0.2	0	0.0
4551010 Criminal Homicide	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
4551020 Deliberate Homicide	15	3.0	6	1.2	10	2.1	7	1.6	10	2.1	9	1.7
4551040-4551941 All remaining Homicide Codes	9	1.3	7	1.4	10	2.1	7	1.6	4	0.3	6	1.2
4552010 Assault	1	0.2	0	0.0	0	0.0	3	0.7	2	0.4	3	0.6
4552020 Aggravated Assault	32	6.5	45	9.1	37	7.3	27	6.1	32	6.7	33	6.5
4552030-4552040 All remaining Assaults	1	0.2	4	0.3	0	0.0	4	0.9	1	0.2	0	0.0
4553010-4553040 Kidnapping Codes	6	1.2	10	2.0	7	1.5	3	0.7	2	0.4	8	1.6
4555020-4555053 Sexual Crimes	19	3.3	28	5.7	34	7.2	44	10.0	34	7.1	34	7.7
4554010 Robbery	26	5.3	36	7.3	29	6.1	19	4.3	20	4.2	19	3.7
4561010-4561050 Criminal Mischief-Arson	20	4.0	16	3.2	20	4.2	11	2.5	10	2.1	15	2.9
4562020-4562050 Criminal Trespass-Burglary	89	18.0	113	22.9	111	23.5	74	16.3	79	16.5	73	13.3
4563010-4563270 Theft & Related Offenses	113	22.9	158	32.0	142	30.0	102	23.1	105	21.9	110	21.6
4591010-4591070 Drug Offenses	25	5.1	38	7.7	31	6.6	24	5.4	21	4.4	33	6.5

\* First admissions and commitments only. In addition, any criminal code listed for any individual more than three years from date of admission was suppressed. The divisor for calculation of percentages was the actual hard copy count of admissions.

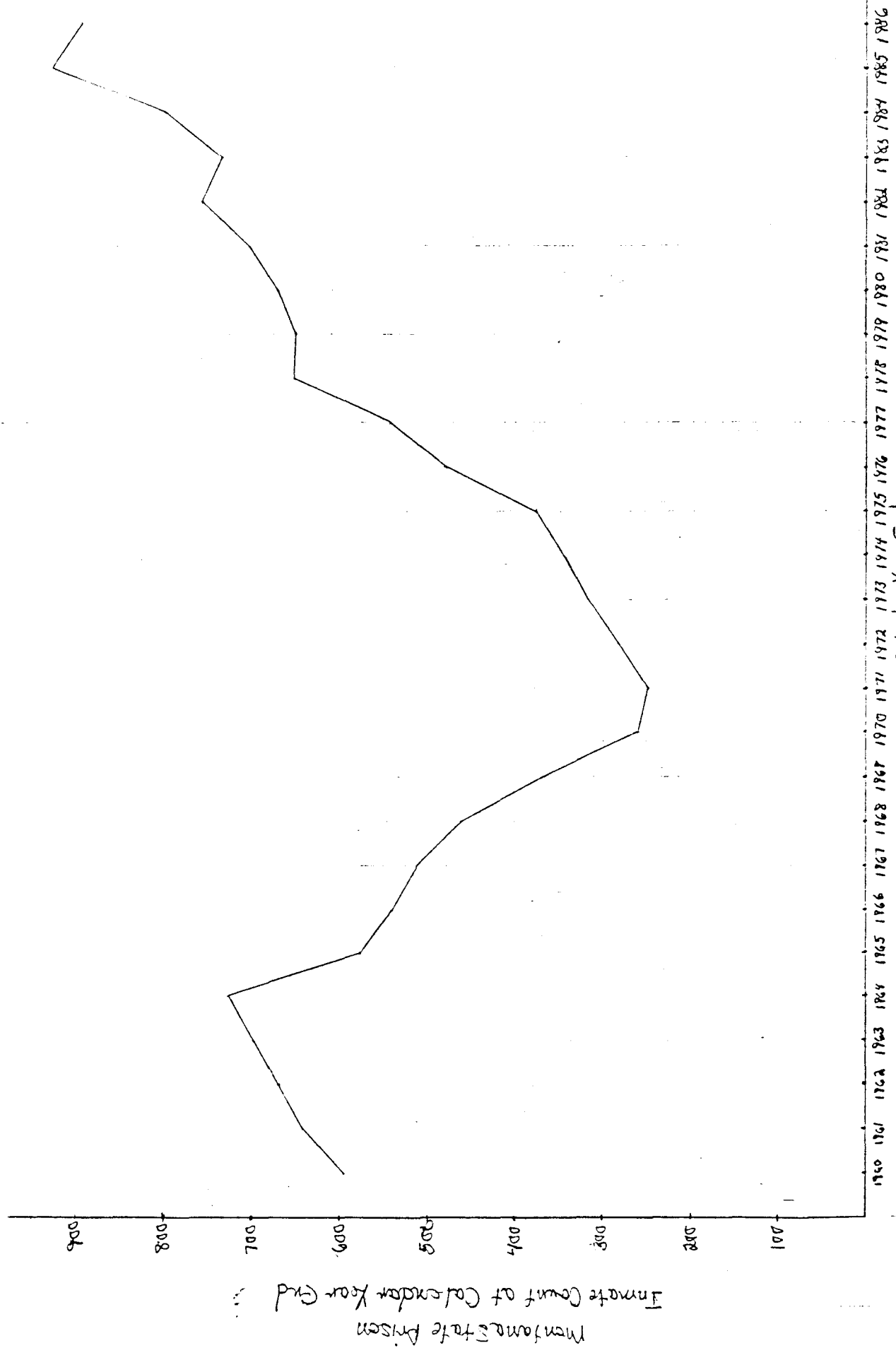


Fig. CYESIP: Montana State Prison Calendar Year Inmate Population. Calendar Years 1960 - 1986

# NORTHWEST COMMUNITY CORRECTION CENTERS

(406) 388-7

P.O. Box 4072  
Bozeman, MT 59712

Q. WHY DOES MONTANA NEED COMMUNITY CORRECTION CENTERS?

- A. (1) COMMUNITY CORRECTIONS WILL ALLEVIATE SERIOUS OVERCROWDING AT THE PRISON AND SAVE THE STATE SUBSTANTIAL SUMS BY AVOIDING LARGE CONSTRUCTION COSTS.
- (2) COMMUNITY CORRECTIONS ALLOW A WIDER RANGE OF SENTENCING ALTERNATIVES FOR MONTANA JUDGES, RATHER THAN LIMITING THE CHOICES TO PROBATION OR THE PENITENTIARY.

Q. WHAT STATUTORY CHANGES ARE NEEDED?

- A. (1) ALLOW DIRECT SENTENCING BY JUDGES.
- (2) ENABLE PRIVATIZATION OF THE CORRECTIONS UNITS.
- (3) ENABLE COMMUNITY ADVISORY COUNCILS.
- (4) APPROPRIATION OF MONEY.

Q. WHAT ARE NEARBY STATES DOING?

- A. (1) WYOMING INSTITUTED PRIVATE COMMUNITY CORRECTIONS LAST YEAR AND THEIR THREE, PRIVATE, FOR-PROFIT, COMMUNITY CORRECTION CENTERS ARE OPERATING EFFECTIVELY.
- (2) COLORADO HAS A TEN YEAR OLD COMMUNITY CORRECTIONS PROGRAM WITH 24 SUCCESSFUL, PRIVATELY OPERATED CENTERS, BOTH FOR-PROFIT AND NON-PROFIT.

Q. WHAT HAPPENS AT COMMUNITY CORRECTIONS CENTERS?

- A. (1) PARTICIPANTS HOLD JOBS; THEY PARTICIPATE IN RESTITUTION OF VICTIMS; THEY HELP PAY FOR THEIR ROOM AND BOARD; THEY CONTINUE TO SUPPORT THEIR FAMILIES AND PAY TAXES; THEY BENEFIT FROM DRUG AND ALCOHOL COUNSELING; THEY ARE CLOSELY SUPERVISED ON A 24 HOUR BASIS; THEY BEGIN A SAVINGS ACCOUNT; THEY RECEIVE COUNSELING AND EDUCATION TO HELP RE-ENTRY INTO SOCIETY.

Q. WHAT IS THE BIENNIAL COST?

- A. (1) AN APPROPRIATION OF \$1.5 MILLION WOULD SUPPORT TWO 30 BED FACILITIES FOR TWO YEARS. BECAUSE OF THE NATURE OF THIS SYSTEM, THESE FACILITIES COULD BE INSTITUTED ALMOST IMMEDIATELY AND HELP AVOID SERIOUS PROBLEMS THAT WILL RESULT FROM OVERCROWDING AT THE PENITENTIARY.

Q. WHAT ARE THE BENEFITS OF PRIVATIZING CORRECTIONS?

- A. (1) THE RECORDS IN OTHER STATES SHOW THAT COMPETITION HAS INSURED COST EFFECTIVE OPERATIONS AND GOOD SERVICES.

COMMUNITY CORRECTION CENTERS ALLOW A MORE EFFICIENT SYSTEM WITH BETTER RESULTS. PLEASE VOTE FOR HOUSE BILL 881.

## Considering the Alternatives

*Crowded prisons spark less confining punishments*

**J**im Guerra sells cars today in Dallas. He used to sell cocaine in Miami. In 1984, after being robbed and even kidnapped by competitors, he decided it was time for a career change. He gave up drugs—and the drug trade—and headed out to Texas for a new law-abiding life. The old life caught up with him anyway. In December 1985 federal agents arrested him on charges connected to his Florida

Even as crime rates generally declined during the first half of the 1980s, inmate numbers tracked wild ballistics of their own, increasing by nearly 60%. The nation's prison population now stands at a record 529,000, a total that grows by 1,000 each week; new cells are not being built in matching numbers. While virtually everyone convicted is a candidate for prison, many experts believe perhaps half the in-



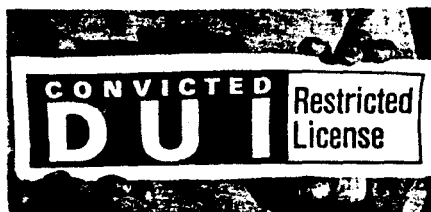
**Instead of prison, Guerra was fined and sentenced to help a group that entertains the critically ill**  
*The work may be admirable, but is a stint of public service the just deserts of crime?*

mate population need not be incarcerated at all.

The dismal result is evident almost everywhere. Throughout the country, convicts have been crammed into existing facilities until their numbers have pressed against the outer limits of constitutional tolerance. Currently in 38 states the courts have stepped in to insist on, at the least, more acceptable levels of overcrowding. In Guerra's new home state of Texas, a federal judge earlier this month gave officials until March 31 to improve inmates' living conditions or risk fines of up to \$800,000 a

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**Auto-biography: drunk-driver bumper sticker**

day. The despairing Texas solution has been to close its prison doors briefly whenever it reaches the court-mandated limit. At least Guerra did not go scot-free.

So "alternatives" to incarceration, which once inspired social workers and prison reformers, have become the new best hope of many beleaguered judges—and jailers too. In courts across the nation, people convicted of nonviolent crimes, from drunken driving and mail fraud to car theft and burglary, are being told in effect to go to their rooms. Judges are sentencing them to confinement at home or in dormitory halfway houses, with permission to go to and from work but often no more—not even a stop on the way home for milk. The sentences may also include stiff fines, community service and a brief, bracing taste of prison.

Some supporters of alternative schemes look to the day when prison cells will be reserved exclusively for career criminals and the violent, with extramural penalties held out for the wayward of every other variety. "We're all against crime," says Herbert Hoelter, director of the National Center on Institutions and Alternatives, a nonprofit group that designed Guerra's package of penalties and persuaded the judge in his case to accept them. "But we need to convince people that there are other ways to get justice."

**A**nway, who can afford to keep all offenders behind bars? Depending on the prison, it can cost from \$7,000 to more than \$30,000 to keep a criminal in a cell for a year. Most alternative programs, their backers argue, allow lawbreakers to live at home, saving tax dollars while keeping families intact and off welfare. Since the detainees can get or keep jobs, part of their salaries can be paid out as fines or as compensation to victims. And alternatives give judges a sentencing option halfway between locking up offenders and turning them loose.

It remains to be seen, however, whether the new programs will have much appeal for a crime-wary public and law-enforcement establishment. That prison time can be harrowing is to some minds its first merit. The living-room sofa is by comparison a painless instrument of remorse. "Until the alternatives are seen by the public as tough, there won't be support for them," says Thomas Reppetto of the Citizens Crime Commission in New York City. The problem is even plainer when the offenders are well heeled. Will justice be served if crooked stock traders are confined to their penthouses?

Most such misgivings will remain unsettled while officials try out the range of possibilities before them. In September, suburban Nassau County, near New York City, began testing one of the most talked about new approaches, electronic house arrest. Probationers selected for the program are required to be housebound when not at

work. To make sure they comply, each wears a kind of futuristic bail and chain: a 4-oz. radio transmitter that is attached to the ankle with tamperproof plastic straps. The device broadcasts a signal to a receiver hooked up to the wearer's home phone, which in turn relays it to a computer at the probation department. If the wearer strays more than 100 ft., the computer spits out a note for the probation officer.

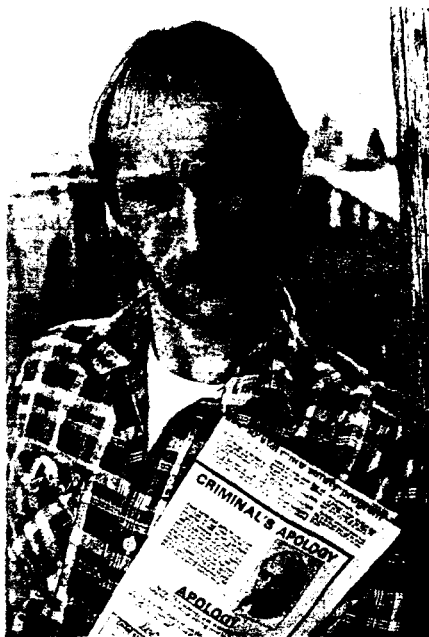
"They can't leave home without us," quips Donald Richberg, coordinator of the program. Following an initial outlay of \$100,000, the project has cost the county only about \$10 a day per probationer. The anklets have been tried in at least eight states since New Mexico introduced electronic monitoring in 1983. The cost accounting looks favorable, but technical gremlins have been showing up too, resulting in reports of false disappearances or failures to report real ones.

Until the high-tech methods are perfected, more conventional alternatives remain the most popular. About 30 states have funded "intensive probation supervision," in which participants are typically required to work, keep a curfew, pay victims restitution and, if necessary, receive alcohol or drug counseling. Instead of the usual caseload—the nationwide average is 150—a probation officer in such experiments oversees just 25 people. Even with the added staff expense, the programs still cost less than incarceration.

**T**he experience of Ron Rusich, 29, a house painter in Mobile, was typical. In 1984 he received a 15-year sentence for burglary. But an intensive probation scheme used in his state since 1982 eventually sent him back outside, and back to work, under strict supervision. A 10 p.m.-to-6 a.m. curfew was enforced during the first three months after release by at least one surprise visit each week from the corrections officer. There were three other weekly meetings, with restrictions eased as his time in the program increased. Living at home, as he was required to do for 2½ years, Rusich cost the state \$8.72 a day, less than a third the expense of keeping him in prison. The experience was a "lifesaver," says Rusich, who is now on parole.

Alabama and a number of other states also have a similar but more restrictive option: the work-release center, a sort of halfway house where offenders must live out their sentences. The system allows them to work, often at jobs found by the local government, but maintains more of the trappings of confinement, such as dormitory life and security checks. In Indiana, where there are ten such centers, offenders do prison time first, with the hope of work release as a carrot for good behavior. That method lets the state consider, through observation and psychological testing, which inmates are likely to succeed in the program. "We want to see how they'll perform," says Vaughn Overstreet of the department of corrections.

A few localities have resorted to the most low-tech deterrent of all: shame. Sarasota County, Fla., is trying the "scarlet let-



Lawbreaker Smith advertised his regret

ter" approach, by requiring motorists convicted of drunk driving to paste bumper stickers on their cars announcing the fact. In Lincoln County, Ore., a few felons have even been given a choice between prison and publishing written apologies, accompanied by their photographs, in local newspapers. Roger Smith, 29, paid \$294.12 to announce his contrition in two papers after a guilty plea growing out of a theft charge. A published apology "takes the anonymity out of crime," insists Ulys Stapleton, Lincoln County district attorney. "People can't blend back into the woodwork."

Do alternatives work? That depends on what they are asked to accomplish. If the goal is cost efficiency, the answer is a qualified yes. They often seem cheap enough, but there are concerns that they may actually add to the bill for corrections because judges will use them as a halfway measure to keep a rein on people who would otherwise go free in plea bargains. James K. Stewart, director of a Jus-



A high-tech manacle for house arrest

They hope he can't leave home without it.

tice Department research institute, contends that the cost to society of crimes committed by those not imprisoned must be factored in as well. For certain offenders, Stewart concludes, "prison can be a real, real cheap alternative."

If the goal is a society with fewer criminals, then firm judgments are even harder to draw. Criminology is a dispiriting science. Its practitioners commonly caution that no criminal sanction, no matter how strict, no matter how lenient, seems to have much impact on the crime rate. But prison does at least keep criminals off the street. Home confinement cannot guarantee that security. Some data, tentative and incomplete, do suggest, however, that felons placed on intensive probation are less likely to commit crimes again than those placed on traditional probation or sent to prison. Joan Petersilia, a Rand Corp. researcher, says the recidivism rate of such offenders is impressively low, "usually less than 20%." And many keep their jobs, she adds. "That's the real glimmer of hope—that in the long run these people will become functioning members of the community."

The benefits of alternatives will remain mostly theoretical unless more judges can be persuaded to use them. That may require changes in some mechanisms of government. For instance, fines are a crucial part of many alternative sentencing packages. But they frequently go unpaid. Courts and prosecutors are not good at collecting them, says Michael Tonry of the nonprofit Castine Research Corp., which specializes in law-enforcement issues. He proposes that banks and credit companies be deputized to fetch delinquent fines, with a percentage of the take as their payment. "To make fines work as a sentencing alternative," he says, "they must be both equitable, based on a person's ability to pay, and collectible."

**O**ne essential for getting courts to consider alternative sentencing, says University of Chicago Law Professor Norval Morris, is to develop a publicly understood "exchange rate" between prison time and other forms of punishment, a table of penalties that judges can use for guidance on how to sentence offenders. "We should be able to say that for this crime by this criminal, either x months in prison, or a \$50,000 fine plus home detention for a year plus x number of hours of community service," Morris contends.

A similar table is already in use in Minnesota, where alternative sentencing has become well established since the 1978 passage of a law that limits new sentences to ensure that prison capacity is not exceeded by the total number of inmates. The crime rate has not increased, supporters boast. Other states remain far more hesitant. Still, the present pressures may yet bring a day when the correctional possibilities will be so varied and so widely used that prison will seem the "alternative" form of punishment.

—By Richard Lacayo.  
Reported by Anne Constable/Washington and Don Winbush/Mobile



Communications Committee

April 19, 1967

AMENDMENT TO HOUSE BILL 343  
(requested by sponsor)

1. Page 1, Line 18.  
Following: "June 30, 1968"  
Delete: "June 30, 1967"  
Delete: "June 30, 1968"

2. Page 1, Line 24.  
Following: "June 30, 1968"  
Delete: "June 30, 1967"  
Delete: "June 30, 1968"

18-Mar-87

Water Development Bill (HB 7)  
1989 Biennium

---

Funding  
Level

---

Water Development Grants and Loans	Grants	\$848,586
less than \$200,000	Loans	\$1,145,721
Renewable Resource Development Grants		\$154,800
Reauthorization of loans		
less than \$200,000		\$924,380

Coal Severance Tax Loans

New Authorizations	\$14,906,848
Middle Creek Dam	\$5,100,000
Martinsdale Dam and Reservoir	\$27,354
Broadwater Dam - Hydroelectrification	\$26,000,000
Reauthorized Loans	\$11,236,683

-----  
\$57,270,885

Emergency Water Development Grants

\$125,000  
-----

Total

\$60,469,372  
=====

Long-Range Planning Subcommittee  
Water Development Projects  
1989 Biennium

Rank Applicant	Project Name	Grants
2 Montana State Library	MT Water Resources Data Management	\$97,712
1 Private Company	Lima Dam Rehabilitation	\$64,000
3 Montana Bureau of Mines	Mobility of Agricultural Chemicals	\$98,500
5 Hill County	Lower Beaver Creek Dam Rehab Study	\$35,000
6 Treasure Co Conserv Dist	Conservation Practice Loan Program	\$100,000
12 Private Company	Edgar Canal Erosion Control	\$10,000
11 MT State University	Plastic Irrigation Canal Lining	\$37,500
14 Flathead Conserv Dist	Rehab of East Spring Creek	\$75,000
44 Mineral County	St Regis Park Irrigation	\$35,000
30 Carbon County	Roberts Water System Improvements	\$47,500
43 Greenfields Irrigation Dist	Willow Creek Measuring Device	\$2,074
34 Private Corporation	Nilan Canal Lining	\$25,000
32 Eastern Sanders Conserv Dist	Little Bitterroot Recharge Enhancement	\$86,300
9 Private Non-Profit Corp	Technical Assistance Advisor	\$60,000
42 Cascade	Water Distribution & Supply Improvement	\$50,000
52 Shelby	Water System Rehabilitation	\$25,000
Sun Prairie Village Water and Sewer	Wastewater Lagoon Dike Repair	\$150,000
Lakeside Water District	Lakeside Water Well & Main Extension	\$75,000
Wibaux	Water Storage and Distribution Improvements	\$162,000
Sage Creek County Water District	Sage Creek Water District Expansion	\$133,300
Yellowstone County	Hillcrest Water System	\$95,000
Montana State University	Red Bluff Ranch Irrigation	\$158,600
		\$99,934
		\$129,387
		<hr/>
	Total Projects Approved	\$848,586
		<hr/>
		\$1,145,721
		=====

19-Mar-87

Office of the Legislative Fiscal Analyst  
Water Development Account  
Fiscal Years 1988 - 1989

	Fiscal 1988 -----	Fiscal 1989 -----
Beginning Balance	\$0	\$2,033
Revenues		
Coal Tax Water Development	\$269,947	\$289,943
30% RIT Interest Earnings	1,912,500	2,016,600
Loan Repayments	365,000	365,000
Project Revenues	220,000	220,000
Interest on Bond Proceeds	50,000	50,000
Administrative Fees	25,000	25,000
	-----	-----
Total Revenues	\$2,842,447	\$2,966,543
	-----	-----
Total Funds Available	\$2,842,447	\$2,968,576
Expenditures		
Debt Service	\$566,111	\$607,796
Water Courts	510,033	506,901 House Approp
DNRC - Centralized Services	116,889	116,868 House Approp
- Water Res Div Operations	1,190,748	1,181,120 House Approp
- State-Owned Water Projects	456,633	343,367
	-----	-----
Total Expenditures	\$2,840,414	\$2,756,052
Funds Available for		
Water Development Grants		\$212,524
Plus 40 Percent of RRD funds		\$107,700
		-----
Total		\$320,224
		=====

1 From the coal tax funds available for RRD projects, debt service payments and agency appropriations are made. Forty percent of the remainder goes to the water development program.

2 The revenue estimates are those of the Legislative Revenue Estimating Subcommittee.

3 The Long-Range Planning Subcommittee has appropriated \$848,586 for water development grants in the 1989 biennium.

BRADLEY AMENDMENT TO HOUSE BILL 872

Page 1, line 10

Strike: "\$220,980"

Insert: "\$110,490"

Page 1, line 11

Strike: "\$220,980"

Insert: "\$110,490"

Amend House Bill 2

1. Page B-1, line 23,

Strike: "663,284" Federal Special Revenue Fiscal 1988

"663,562" Federal Special Revenue Fiscal 1989

Insert: "663,823" Federal Special Revenue Fiscal 1988

"664,102" Federal Special Revenue Fiscal 1989

2. Page B-2, line 14,

Strike: "44,830" State Special Revenue Fiscal 1988

"44,830" State Special Revenue Fiscal 1989

Insert: "47,019" State Special Revenue Fiscal 1988

"47,025" State Special Revenue Fiscal 1989

The Federal Department of Treasury, Internal Revenue Service conducted an audit of the Department of Health and Environmental Sciences private consultant contracts and determined that the Air Quality monitoring and Emergency Medical Technicians instructors could not meet the independent contractor criterion. To insure continuation of these necessary services, DHES must transfer funds from contracted services to personal services and add an additional .09 F.T.E.. Because of the additional personal services costs additional authority in charges for indirect cost recovery is requested. There are no general funds involved in this request.

## Amendments to House Bill 2

1. Page B-11, Line 10 through line 11.

Strike: Lines 10 through "participation." on line 12.

Insert: "In accordance with 53-6-102, MCA it is the intent of the legislature that if funds are inadequate to provide the full array of services described for the medicaid program as defined in 53-6-101, MCA, SRS shall establish priorities of service and take such action as necessary to maintain the medicaid-primary care expenditures within the appropriation."

	Fiscal 1988				Fiscal 1989			
	State		Federal		State		Federal	
1								
2								
3	General	Special	Special		General	Special	Special	
4	Fund	Revenue	Revenue	Proprietary	Fund	Revenue	Revenue	Proprietary
5	providers or foster care providers when allocating or contracting state payments for developmental disabilities services				or foster care services.			
6								
7	No FTE or spending authority may be transferred into or out of the eligibility determination program or the				disability determination program.			
8								
9	Item 3b is a biennial appropriation.							
10	The department shall not expand or reduce the amount, scope, or duration of the benefits available to recipients							
11	under the medical-d-other program during the 1987 biennium unless Title XIX of the federal Social Security Act is amended							
12	to require expansion or reduction of benefits as a condition of the state receiving federal financial participation.							
13	This provision does not prohibit the department from amending reimbursement procedures to contain costs providing there							
14	are no reductions in the types of services provided to recipients or increases in the amount paid by recipients under							
15	copayment rules.							
16	No funds may be transferred out of item 5biii.							
17	If collections of county mill levy funds from state-assumed counties exceed \$6,540,607 in fiscal 1988 and							
18	\$6,606,013 in fiscal 1989, excepting mill-levy funds received from any county becoming state assumed after fiscal 1987,							
19	there shall be a general fund reversion of an amount equal to the excess mill levy revenue.							
20	Funds appropriated under item 11b must be expended for direct services in accordance with recommendations of the							
21	Developmental Disabilities Planning and Advisory Council.							
22	TOTAL SECTION B							
23	83,122,789	16,997,784	226,842,203	2,618,809	329,581,585	64,598,112	17,063,737	246,223,070
								2,541,542
								350,426,461



MEDICAID CUTS  
(Estimated Potential Savings)

	Gross Expenditures (Total Funds)	Net Savings (Total Funds)	* Cost Savings	* Cost Shift Factor
Dental Services (Minus EPSDT)	\$2,059,168	\$1,853,251	90%	10%
Other Practitioner				
Podiatrist	\$ 100,802	0	0%	100%
Psychologists	\$ 554,599	\$ 138,650	25%	75%
Clinical Social Workers	(No Data)			
Optometric Services (Incl. eyeglasses)	\$ 601,861	\$ 60,186	10%	90%
Cost of Eyeglasses	\$ 418,557	\$ 418,557	100%	0%
Eyeglasses, Opthamologist	\$ 102,052	\$ 102,052	100%	0%
Physical Therapy	\$ 265,535	\$ 66,384	25%	75%
Occupational Therapy	\$ 52,214	\$ 26,107	50%	50%
Speech Therapy & Audiology	\$ 157,008	\$ 39,257	25%	75%
Hearing Aids	\$ 181,551	\$ 163,396	90%	10%
1 Dentures	\$ 469,474	0	0%	0%
Personal Care Attendants	\$2,100,000	0	0%	100%
Clinic Services (Mental health; surgical centers)	\$1,802,718	\$1,622,446	90%	10%
Drugs	\$6,151,779	\$ 615,178	10%	90%
TOTAL FUNDS		\$5,105,464		
GENERAL FUNDS (31%)		\$1,582,694		

\* Cost shift factor only includes shifting to a mandatory Medicaid service. Cost shift factor does not include costs shifted to State/County Medical, Foster Care, Department of Institutions, Developmentally Disabled Programs, Mental Health Services.

1 Duplicated in Dental Services

68.91% FY88

70.92% FY89

## COMPARISON OF SUBCOMMITTEE APPROVED MODIFIED TO ACTUAL

	----- FISCAL 1988 -----			----- FISCAL 1989 -----		
	SUBCOMMITTEE	ACTUAL	DIFFERENCE	SUBCOMMITTEE	ACTUAL	DIFFERENCE
PERSONAL SERVICES	\$190,707	\$212,235	(\$21,528)	\$190,801	\$213,714	(\$22,913)
OPERATING EXPENSES						
LAUNDRY	\$1,140	\$1,140	\$0	\$1,140	\$1,140	\$0
DENTISTRY	\$310	\$310	\$0	\$310	\$310	\$0
FOOD	\$4,270	\$4,270	\$0	\$4,270	\$4,270	\$0
	<u>\$5,720</u>	<u>\$5,720</u>	<u>\$0</u>	<u>\$5,720</u>	<u>\$5,720</u>	<u>\$0</u>
TOTAL EXPENSE	\$196,427	\$217,955	(\$21,528)	\$196,521	\$219,434	(\$22,913)
	=====	=====	=====	=====	=====	=====
FUNDING						
GENERAL FUND	\$18,068	\$39,596	(\$21,528)	\$18,162	\$41,075	(\$22,913)
VA REIMBURSEMENT	\$96,298	\$96,298	\$0	\$96,298	\$96,298	\$0
THIRD PARTY REIMBURSEMENT	\$82,061	\$82,061	\$0	\$82,061	\$82,061	\$0
	<u>\$196,427</u>	<u>\$217,955</u>	<u>(\$21,528)</u>	<u>\$196,521</u>	<u>\$219,434</u>	<u>(\$22,913)</u>
	=====	=====	=====	=====	=====	=====

EXHIBIT 13  
DATE 3/20/87  
HD 2  
*Baradaran*

50th Legislature

5-18-87  
HB 0002/02.1

HOUSE BILL NO. 2

INTRODUCED BY DONALDSON

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "THE GENERAL APPROPRIATIONS ACT OF 1987 FOR THE APPROPRIATION OF MONEY TO VARIOUS STATE AGENCIES FOR THE BIENNium ENDING JUNE 30, 1989."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Title. This act may be cited as "The General Appropriations Act of 1987".

Section 2. Definitions. For the purposes of this act, unless otherwise stated, the following definitions apply:

(1) "Agency" means each state office, department, division, board, commission, council, committee, institution, university unit, or other entity or instrumentality of the executive branch, office of the judicial branch, or office of the legislative branch of state government.

(2) "Approving authority" means the governor or his designated representative for executive branch agencies; the chief justice of the supreme court for judicial branch agencies; appropriate legislative committees for legislative branch agencies; or the board of regents or its designated representative for the university system.

(3) "University system unit" means the board of regents, office of the commissioner of higher education, university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college at Dillon, the agricultural experiment station with central offices at Bozeman, the cooperative extension service with central offices at Bozeman, the forestry and conservation experiment station with central offices at Missoula, or the bureau of mines and geology with central offices at Butte.

Section 3. Other funds to offset general fund. The approving authority shall decrease the general fund

1 appropriation of the agency by the amount of funds received from other sources in excess of the appropriation provided  
2 in this act unless such action is expressly contrary to state or federal law, rule, or contract or unless the approving  
3 authority certifies that the services to be funded by the additional funds are significantly different from those for  
4 which the agency has received a general fund appropriation.

5 Section 4. Expenditure limit. Expenditures may not exceed appropriations.

6 Section 5. Budget requests. (1) Sufficient funds are appropriated in this act to enable each agency to submit its  
7 1991 biennial budget request to the budget director and the legislative fiscal analyst pursuant to the time schedule  
8 established in 17-7-112(1). If any agency fails to submit its final, complete budget request by the deadlines  
9 established in 17-7-112(1), the expenditure authority granted in this act must be reduced or rescinded by the budget  
10 director unless the agency director certifies that an emergency situation has precluded a timely budget presentation and  
11 the budget director approves an extension of the deadlines, not to exceed 30 days.

12 (2) Employees added through the appropriation of federal or state special revenues or proprietary funds in this  
13 act may not be included in the current level budget presented to the 1989 legislature if their continued employment  
14 requires general fund support.

15 Section 6. Detailed budget information. Within 2 days after submission of the preliminary executive budget to the  
16 legislative fiscal analyst, the budget director shall give the legislative fiscal analyst the preliminary expenditure  
17 recommendations by object of expenditure to the second level of detail and by funding source detailed by accounting  
18 entity. Within 1 day after the legislative finance committee presents the budget analysis to the 51st legislature, the  
19 budget director and the legislative fiscal analyst shall mutually exchange expenditure recommendations by object of  
20 expenditure to the second level of detail and by funding sources detailed by accounting entity. This final information  
21 must be filed in the respective offices and available to members of the legislature and the general public.

22 Section 7. Operating budget. (1) Expenditures by a state agency must be made in substantial compliance with an  
23 operating budget approved by an approving authority as defined in 17-7-401. Substantial compliance means that no  
24 category in the approved operating budget may be exceeded by more than 5%. Appropriations are contingent upon approval  
25 of the operating budget by August 1 of each fiscal year. An approved operating budget must comply with legislative

1 intent as expressed in state law and legislative statements of intent. Legislative intent for the general appropriations  
2 act includes a formally adopted narrative that accompanies the act.

3 (2) Each operating budget must include expenditures for each agency program, detailed at least by the categories  
4 of personal services, operating expenses, equipment, benefits and claims, grants, transfers, and local assistance. Each  
5 agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms  
6 used for changing an operating budget must reference the current fully completed and approved operating budget, show the  
7 proposed changes to the operating budget, and reference any other pending documents to change the operating budget.

8 Section 8. Program transfers. Unless prohibited by this act or by statute, the approving authority may approve  
9 agency requests to transfer appropriations between programs within each fund type within each fiscal year. The transfer  
10 amount may not exceed 5% of the total agency appropriation. All program transfers must be completed within the same  
11 fund from where the transfer originated. A request for a transfer accompanied by a justification explaining the reason  
12 for the transfer must be submitted by the requesting agency to the approving authority and the legislative fiscal  
13 analyst. Upon approval of the transfer, the approving authority shall inform the fiscal analyst of the approved transfer  
14 and the justification for the transfer.

15 Section 9. Reduction of appropriation. In the event of a shortfall in revenue, the governor may reduce any or all  
16 appropriations. No appropriation may be reduced by more than 15%. The following appropriations may not be reduced:

17 (1) payment of interest and retirement of state debt;

18 (2) the legislative branch;

19 (3) the judicial branch;

20 (4) school foundation program, including special education; or

21 (5) salaries of elected officials during their terms of office.

22 Section 10. Access to records of contracting entities. (1) Unless a contract made with a nonstate entity complies  
23 with subsection (2), no money appropriated by this act may be expended for such contract. Such contract to provide a  
24 service to members of the public on behalf of the state may be either written or oral.

25 (2) A contract described in subsection (1) must contain a provision to allow access, for legislative audit and

1 fiscal analysis. to the records of the contracting nonstate entity sufficient to determine whether the parties to the  
2 contract have complied with the terms of the contract. Such an audit and fiscal analysis require access to records  
3 necessary to carry out the legislative audit and analysis functions set out in Title 5, chapters 12 and 13.

4 (3) The state may unilaterally terminate any contract upon refusal by the contracting nonstate entity to allow  
5 access to its records necessary to carry out such a legislative audit or analysis.

6 Section 11. Coal tax trust income. Interest income from the coal tax constitutional trust fund established under  
7 Article IX, section 5, of the Montana constitution is hereby appropriated to the general fund for use during the  
8 biennium ending June 30, 1989. The portion of the general fund that represents this appropriation is appropriated to  
9 the department of commerce, the vocational-technical centers, and the university system.

10 Section 12. Severability. If any section, subsection, sentence, clause, or phrase of this act is for any reason  
11 held unconstitutional, such decision does not affect the validity of the remaining portions of this act.

12 Section 13. Audit costs. Amounts appropriated for audits may be transferred between fiscal years. Agencies shall  
13 reserve enough cash in each fund to pay for audit costs and shall to the maximum extent allowable under federal  
14 regulations charge audit costs to federal funds.

15 Section 14. Totals not appropriations. The totals shown in this act are for informational purposes only and are  
16 not appropriations.

17 Section 15. Appropriations. The following money is appropriated for the respective fiscal years:

FILED IN MONTANA  
DATE 3/20/87  
HB 881

50th Legislature

LC 1317

STATEMENT OF INTENT

HOUSE Bill No. 881

A statement of intent is required for this bill because section 9 grants the department of institutions authority to adopt rules necessary to carry out the provisions of this act.

It is the intent of the legislature that the department adopt regulations and standards for the operation of community correctional facilities and programs. In adopting such rules, the department shall comply with the requirements established under section 9. In addition, the department should consider the goals of this act that are:

(1) to reduce reliance upon the Montana state prison for detention of low-risk, nonviolent felony offenders;

(2) to increase services to offenders to help them become productive members of society;

(3) to require offenders to pay restitution to crime victims;

(4) to impose upon offenders responsibility for payment of a portion of their room and board costs at community correctional facilities;

(5) to decentralize authority from state government to local governments;

(6) to stimulate local participation in the establishment of community correctional facilities and programs;

(7) to reduce the long-term costs of adult corrections; and

(8) to reduce court commitments to the state prison thereby reducing the long-term capital construction costs for the Montana state prison and other correctional facilities.

To insure the success of the community correctional program, the department when contracting for services should consider a potential service provider's knowledge, background, and special expertise in the area of postconviction diversion community correctional programs.

Prior to adopting rules under this act, the department should examine community corrections programs established in other states, especially in the states of Colorado, Iowa, Minnesota, Oregon, and Wyoming. In addition, the input of potential service providers should be encouraged during the rulemaking process.

7068d/c:jeanne\wp:jj

rev 3-29-87