

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on January 11, 1989,
at 9:00 a.m.

ROLL CALL

Members Present: All Members Present Except:

Members Excused: Reps. Janet Moore and Angela Russell

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies,
Staff researcher

Announcements/Discussion: Thursday we will hear HB 74, HB
75 and HB 84. On Friday there will be one bill, HB 36.
We will not have a meeting on Monday.

HEARING ON HB 26

Presentation and Opening Statement by Sponsor: Rep. Ray
Peck, House District 15, said the bill will put the
five vo-tech centers on central payroll at the state
auditor's office. There is no disagreement about that
being necessary. HB 39 from last session changed the
situation for vo-tech centers and the Commissioner of
Higher Education agrees this has to be done. As
drafted, this bill provides for an orderly inclusion of
the university system units under the central payroll
system. The bill has an immediate effective date and
requires a fiscal note.

He noted that the president of Northern Montana State
College agrees with this bill and urges that his
college be put on central payroll.

He said that the "orderly inclusion" phraseology in the
bill is a little vague and there are proposed
amendments offered by the university system (Exhibit 1)
and the State Auditor's Office (Exhibit 2). He
emphasized that either of these two amendments should
include Northern Montana College under the central
payroll system.

Of the six university units, only Eastern Montana College currently pays every two weeks. This is a problem with the other units of the university system. All employees of the units want to be paid every two weeks; this will cost the state because the state will no longer be able to draw interest on this money for two weeks. But Rep. Peck said he believes that it is only fair since all the rest of the state employees are paid on a two-week basis.

Rep. Peck said there are some arguments against this bill. He requested that whole university system not be put on this system at once; he wants it broken into units to lessen the impact on the central payrolls system. There are also problems with paying students, monitoring grant contracts, and providing reports that are now derived internally because they are doing their own payroll. He doesn't find that these three problems are really that significant.

The problem he sees is that the Montana Constitution states that the duty of the legislature is to appropriate all state funds and to hold agencies strictly accountable. This bill will give the Legislature the opportunity to hold these universities' units accountable. He also believes the bill will improve efficiency because all payroll will be handled by one department instead of six and provide equality in terms of all state employees being on a two-week pay period.

List of Testifying Proponents and What Group They Represent:

Jack Noble, Deputy Commissioner for Management and Fiscal Affairs, Montana University System

Donna Warner, Administrator, State Payroll Division, State Auditor's Office

List of Testifying Opponents and What Group They Represent:

None

Testimony:

JACK NOBLE said he is testifying as a proponent but that he would speak to the concerns that the university system has that Rep. Peck mentioned. (Exhibit 3) He suggested a proposed amendment (Exhibit 1).

DONNA WARNER handed to the committee the State Auditor's amendment, which she said replaced Jack Noble's

amendment. She stated they understand the problems of the university systems in putting the units on the state payroll system and said they would like to work very closely with the university units and not try to push this through in just a few short months. They expect it to take up to four years to include all of the units in the state system.

Questions From Committee Members:

REP. COCCHIARELLA asked if it was accurate, as stated by Rep. Peck, that currently there is certain information the university system does not provide to the Legislature from their payroll. The answer from Noble was that all of the payroll tapes go through central payroll but they are in a different configuration so they are harder to read. He said he believed that the Legislature has all of the information that they require. Rep. Peck said that they cannot track employees of the university system from the information that is currently available to them; there is no regular reporting as the other agencies do as to whether a vacancy has or has not been filled and the legislature can't analyze budgets to the degree that they can other state agencies.

REP. WESTLAKE asked if the money on the fiscal note was all being applied to the State Auditor's office and wanted to know if there are additional costs to the universities for the implementation of the plan. Rep. Peck replied that the increase in costs would be in the State Auditor's office, and it is believed that there will be a decrease in costs at the universities as they will no longer have payroll costs. He said that initially there would be additional costs but that in the long run it would cost less. He also said that he felt that they would have to change pay dates from the 15th and the 30th, in some of the cases, to the 10th and 25th, for example, in order to utilize the staff better in central payroll.

Closing by Sponsor: Rep. Peck said he felt that the bill is necessary and that if it is adopted we would get greater consistency in administration of financial aid; he also feels that university system management reports would then be comparable from unit to unit so we can look at what is going on within the system. He feels the bill would result in an ultimate savings of funds and would lead to more efficiency. He says that Mr. Noble is equating personnel system to a payroll system; a personnel system is not a payroll system. You cannot have the payroll system manage your personnel for

hiring practices and so forth. There are different data elements in the university system reports, and the bill will create uniform data so that the reports can be compared across the state system to look at costs, payments, and the level of personnel in terms of the areas, grades and classifications that they are in. He said he cannot do that now in a consistent manner.

Rep. Peck suggested that the bill needs to go to a subcommittee. He thinks that there is a minor disagreement with the Auditor's Office and the Commissioner's Office. He said he is convinced that both want to work on the problem.

DISPOSITION OF HB 26

At the request of the sponsor, Chairman Brown appointed a subcommittee composed of Rep. Cocchiarella, Chairman, and Rep. Roth and Rep. Davis to study the bill. They were requested to get together with the Lois Menzies, Researcher, and the sponsor to try to come up with something for the committee as soon as possible.

HEARING ON HB 78

Presentation and Opening Statement by Sponsor: Rep. Marian Hanson, House District 100, said she had an amendment to offer for HB 78. (Exhibit 8) She stated that the 17 counties in Montana that are affected by the Indian reservations have requested her to propose legislation for the purpose of creating an Office of the State Coordinator of Reservation County Affairs.

The purpose of the coordinator would be to keep abreast of legislation affecting the tribes and the counties. She said that at the present time, the counties have not asked for funding for the position and would like to fund it themselves. She thought it would be possible for the Coordinator of Indian Affairs to be the same person that deals with the reservation counties and the Coordinator could keep both sides abreast of the issues and of what is being worked on in the interim.

List of Testifying Proponents and What Group They Represent:
Gordon Morris, Executive Director of the Montana Association of Counties.

Sen. Dick Pinsoneault and Sen Gage, Indian Affairs Committee

Ray Harbin, Lake County Commissioner and former
Legislator

List of Testifying Opponents and What Group They Represent:

Rep. Bob Gervais, House District 9, member of the
Blackfeet Reservation.

Testimony:

SEN. DEL GAGE from Glacier and Pondera counties, Senate District 5, said that the bill came at the request of the Indian Affairs Committee on which he has served for six years and chaired for two years. He said that the committee is not looking upon the Reservation County Coordinator and Indian Affairs Coordinator as adversarial positions, but they are looking at them as coordinating positions. He felt that it would be possible for the same person to fill both "pairs of shoes" but that it would have to be a tremendous person to do this. He feels that there is a good deal of difference in the concerns of the Indian people and the people who are non-Indian and live on and off the reservation. Most of these views are pretty much opposite. He said there is not much they can do with Indian affairs at the state level as Congress has been charged with the responsibility with Indian affairs. What they are trying to do is to keep ongoing dialogue between the Indian nations and the agencies and people of the state of Montana. Sen. Gage said that the federal government is not interested in working on the Indian's problems. Congress is content to work only on a case by case basis through the courts. This is a costly way to go. We feel there is a need for advocacy in the state to deal with the problems that have been created by treaty, by courts and by people themselves.

SEN. DICK PINSONEAULT, of Senate District 27, southern Lake County and parts of Missoula and the Flathead Indian Reservation said he has served on the Indian Affairs Committee for the past four years. He agrees with Sen. Gage and said that his contact with the U. S. Senate Select Committee on Indian Affairs has been less than gratifying; that if you get a reply at all from the committee, you're lucky. He said that this is probably the main reason that the legal division of the Confederated Tribe has grown from one attorney to either eight or nine full-time lawyers. Sen. Pinsoneault said he didn't think that all problems should be resolved in the courts, and this would give them another source of input into the resolution of the problems.

GORDON MORRIS presented a letter addressed to the State Administration Committee from the Roosevelt Commissioners and Rosebud County Commissioners. (Exhibit 5). The commissioners would have attended the meeting if the weather conditions had been better and the notice of the hearing wasn't so short. He stated there would have been even more proponents at the hearing if they had had even one more additional day to make preparations. Mr. Morris said that the bill is reflective of a resolution that was unanimously adopted by the Montana Association of Counties on behalf of all Montana counties, MACo Resolution 88-5, at their annual convention in June, 1988. (Exhibit 6).

RAY HARBIN felt it was important to make the record clear that the Montana Association of Counties does not perceive the bill to be an ethnic or racial bill or one designed to offset the activities of the Coordinator of Indian Affairs, Louie Clayborn. The bill is needed to address problems that are on the state and federal level that the counties need to be made aware in order to deal with them appropriately. He gave the example of the Reserve Water Rights Compact Act reached with the Fort Peck Reservation; that is the only water rights legislation that exists within the seven reservations. Since the other reservations have not had their rights adjudicated, other owners of water rights do not know the validity of their water rights. He feels that if the position of State Coordinator is established, it would better facilitate the coordination of the water rights adjudication effort.

The commissioner also said that the state wants to market water; if this is so, we must establish who owns it. If it is going to be owned by the tribes that reside on reservations, then it is incumbent on the states to work out an arrangement with them. Again, the State Coordinator could offer valuable aid on issues of zoning, taxation, sovereignty and mandates that are coming down. If the counties are going to operate with another government, he thinks it is important to have a person who can advise both sides.

The commissioner disagreed with Rep. Hanson's suggestion that the two positions could be merged. He said that the statutes specifically state that the Coordinator of Indian Affairs is to be an advocate of the tribal members; and, in that capacity is to do what benefits tribal people. There also has to be someone who watches what happens on the reservations since what goes on there does not affect just the counties they are in but the whole state.

REP. GERVAIS said he opposed the bill as he thinks this bill will eventually be funded. At this point he felt that his county, Glacier, didn't need anymore budgetary problems. He said that the county and the tribe should settle their local issues locally; he believes that the county should not involve itself with federal and tribal issues. Back in the 1950's when they had Public Law 280, he said a lot of states and tribes endorsed the act and the state ended up building jails, taking over the police forces and welfare, and it just about broke the states. He feels it is a real budgetary problem when you get into these issues, which could lead to white and Indian confrontations. He said that if they are problems that involve the state they should be solved through a government-to-government process. He said he recommends a do not pass.

Questions From Committee Members:

REP. PHILLIPS asked how much it would cost to implement the bill. Rep. Hanson said the Montana Association of Counties had polled their county commissioners and at the present time they say they are willing to support the coordinator. She said it was her understanding that the counties were going to be assessed for the position of the coordinator.

Gordon Morris was asked by REP. PHILLIPS what he knew about the funding of the position. Mr. Morris said that there might be some problems with the association proposing to fund the position. He said he had suggested to Rep. Hanson, that the 17 counties could do something in the nature of in-kind contributions to help establish the office of the coordinator. He said the association does not presently have a resolution proposing to fund the position, and that they would probably be talking somewhere in the neighborhood of \$75 to \$90 thousand dollars to fund a position.

CHAIRMAN BROWN informed the committee that a fiscal note had been requested for the bill and that the committee should receive it later on in the week.

REP. CAMPBELL asked Sen. Gage if he thought that the Committee on Indian Affairs and the Coordinator's position could be put together. Sen. Gage responded that the position that is being requested is a full-time one and that the funding for the committee would not be adequate.

REP. GERVAIS asked Rep. Hanson whether she had assurance that the counties could afford to fund this

bill. She said that the only counties that she had spoken with were Big Horn and Rosebud, and they said at the present time they had not funded the position. They said they would take another look at it after the coordinator position was in place.

Closing by Sponsor: Rep. Hanson said she would like to respond to Rep. Gervais's comment about having this taken care of at the local level. She stated that it was very hard to settle disputes when you can't get the affected people to even sit down at the table and talk, which is happening at some of the reservations. She felt that the coordinator could be an advocate for the counties that at this time feel they do not have any "ears" as to what is taking place with the Coordinator of Indian Affairs' Office and the county and state governments. She urged a do pass.

DISPOSITION OF HB 78

Chairman Brown said that when the fiscal note is received for HB 78, the committee would act on the bill.

HEARING ON HB 62

Presentation and Opening Statement by Sponsor: Rep. Marian Hanson, House District 100, she said that the legislation was brought to her attention by constituents in her area. The bill provides for an audit of the affairs of cemetery districts. She stated she did not know at the time that there are two kinds of cemeteries in Montana. There is a cemetery association that has to be audited and has all the rules and regulations to keep them accountable; and the cemetery districts that do not have to be audited. They just have to report to the commissioners, and they only have to report to the commissioners when asked for a report. She feels that the bill would provide the accountability that is needed.

List of Testifying Proponents and What Group They Represent:

Terry Lazure, Central administration Division,
Administrator of the State Auditors' Office

List of Testifying Opponents and What Group They Represent:

None

Testimony:

TERRY LAZURE said that his office received two letters last

summer from people in Big Horn County, who were concerned about their cemetery district. It appears that one person controls both the receipt and disbursement of the funds and the general public is not given access to any financial reporting as there is a loophole in the law. Our office is in support of the bill because cemetery districts "fall through the crack" as far as accounting and reportability. We feel that the Local Government Services Division of the Department of Commerce, that is doing local government auditing now, should be doing audits of the cemetery districts. He handed copies of the letters to the committee (Exhibits 6 and 7).

Questions From Committee Members:

REP. CAMPBELL asked if he knew how much this would cost. CHAIRMAN BROWN informed the committee that there was a fiscal note attached to the bill and it should be available later in the week. REP. WESTLAKE asked how much of a problem it is, and is there any report required at county level. Rep. Hanson responded that the cemetery districts only had to furnish a report at the request of the county commissioners. In Big Horn County there has not been a report requested for ten years. There have been about 600 burials at \$50 apiece, which have not been reported to the county commissioners nor has the money been turned back to the county. REP. PHILLIPS said that under the existing law, "the board of cemetery trustees shall annually present a budget to the board of county commissioner" which indicates that they do report. Rep. Hanson said they do come to the county commissioners and ask for a budget; but they do not have to ask for a report.

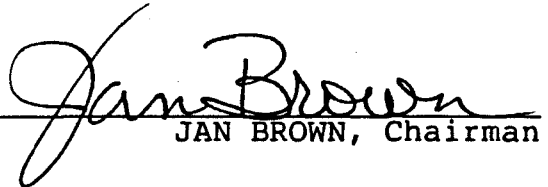
Closing by Sponsor: Rep. Hanson said she feels the bill is necessary to correct the accountability problem with cemetery districts.

DISPOSITION OF HB 62

Chairman Brown said the committee would postpone action of the bill until the fiscal note is received.

ADJOURNMENT

Adjournment At: 10:07 a.m.


JAN BROWN, Chairman

JB/jb

0914.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date January 11, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore			✓
Rep. Angela Russell		✓	
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

Noble
amend

AMEND H.B. 26 as follows:

EXHIBIT 1
DATE 1-11-89
HB 26

P. 1, line 15, delete "units of the Montana"

P. 1, line 16, delete "university system and"

P. 1, line 16, after "centers" and before the period insert "and, upon agreement between the auditor and the Board of Regents of Higher Education, one or more units of the Montana university system."

Amend the title as follows:

Line 4, delete "THE" and insert "CERTAIN"

AMEND House Bill No. 26 as follows:

EXHIBIT 2
DATE 1-11-89
HB 26

1. Page 1, line 16.

Following: "."

Insert: "The vocational-technical centers and Northern Montana College shall be included into the uniform central payroll system effective July 1, 1989, with the remainder of the units to be included into the uniform state central payroll system on or before June 30, 1993."

IV. TECHNICAL AND POSSIBLE DEFECTS HB 26

The centralized payroll system would need to be completely revamped to accommodate the needs of the University System.

The following points appear to be serious deficiencies.

STUDENT PAYROLL NEEDS:

1) The University System generates approximately 5,000 student paychecks a month under federal and state financial aid programs. Federal reporting requirements regarding student financial assistance must be met. Our current payroll systems are designed to monitor students' financial aid packages. Federal law places limits on earnings based upon financial need assessments. Violation of federal regulations creates institutional liability.

- a) Our payroll systems can generate a single pay check for a student working in several different responsibility centers at several different wage rates. (Important for monitoring financial aid)
- b) Our student payroll system can direct a paycheck and W-2 to two different addresses - i.e. campus address, home address.
- c) Students are subject to different benefit rates depending on source of funding and job description.
- d) Student wages must be accumulated on an academic year basis under federal financial aid guidelines to avoid exceeding earning caps. The state system can only accumulate on a fiscal year basis or a calendar year basis. New software would have to be developed.

EMPLOYEE PAYROLL NEEDS:

- 1) The on-campus payroll process is the "Trigger" that is used to create and maintain several related personnel management systems. The information generated on-campus through

IV. TECHNICAL AND POSSIBLE DEFECTS HB 26 (CONTINUED)

292

payroll would either have to be duplicated or the central payroll system would have to be tailored to generate our management needs. U of M, for instance, generated 60 reports off each payroll for management purposes.

Consider the following:

- a) Federal contract and grant regulations require time and effort reporting of all research faculty. The time and effort reports are extracted from our on-campus payroll systems. Central payroll would have to re-program to meet this specific requirement.
- b) MSU, for instance, can produce a single check for an employee that is working for two agencies and split between several programs and responsibility centers. This is important in order not to exceed F.I.C.A. payments or group insurance payments. Central payroll does not have this capability.
- c) MSU has employees in nearly all counties of the state and needs the entire 10 days legal limit to issue a paycheck. This would preclude further delays caused by a central payroll inter-face.
- d) The campuses use their payroll/personnel systems to maintain data elements that are not common to other agencies. Tenure, tenure eligibility and termination notification procedures are unique to higher education.

It is common practice throughout the United States that colleges and universities maintain separate payroll and accounting systems.

The combined fiscal notes as submitted by the University System and the State Auditor's office may not contain sufficient resources to provide for all the necessary computer hardware, software and/or programming. Before those costs can be more precisely estimated a further definition of the system interface must occur.

In our opinion, the Legislature and State Auditor should give serious consideration to hiring an independent consultant to assess how such a conversion should be handled and make recommendations as to costs.

RESERVATION COUNTY COORDINATOR

WHEREAS, the State of Montana encompasses seven Indian Reservations within the boundaries of seventeen counties; and

WHEREAS, great problems of economic and social significance have risen and presently exist and no suitable progress has been made to solve such problems by reason of fact that reservation counties and those attempting to find solutions to the problems have never been able to present a coordinated and united effort in solving such problems; and

WHEREAS, it is hereby declared that it is legislative policy of this state that the best interests of the reservation counties will be served by the fostering of a program designed to establish policy and positions representative of Montana's Reservation Counties, it is therefore necessary that the state office of the Coordinator of Reservation Counties be established so that the problems of the Reservation counties of Montana can be approached and reconciled from a state level in cooperation with the United States of America; and

WHEREAS, there are sizable numbers of non-Indians and non-Indian ownership of property within Indian reservations severely affected by agencies of the federal and tribal governments; and

WHEREAS, substantial conflict in areas of jurisdiction exist with regard to taxation, law enforcement, wildlife management, water rights, education, health and numerous others; and

WHEREAS, problems and conflict continues and there is a substantial need to seek ways and means of communicating opinions and needs to agencies of responsibility; and

WHEREAS, the state executive branch, legislative branch, and county officials do not have adequate time to deal with the issues.

NOW THEREFORE BE IT RESOLVED that the Montana Association of Counties supports the creation of a State Coordinator of Reservation County Affairs.

SPONSORED BY: Districts 10 - 11

PRIORITY: MEDIUM

APPROVED: JUNE 15, 1988

EXHIBIT 5
DATE 1-11-89
HB 78

Jan Brown, Chair and members
House State Administration

RE: House Bill 78

Being unable to attend the hearing scheduled at 9 a.m. January 11, 1989 due to short notice and weather conditions, we feel it important to write and express our position and ask for your support of HB 78 (An Act creating an office of State Coordinator of Reservation County Affairs). The Montana Association of Counties has adopted this position in MACo Resolution 88-5 on behalf of all Montana Counties.

There are seven reservations in Montana -- seven separate sovereign tribal governments. Federal courts and Congressional actions are dictating that the state, county and city governments deal directly with tribal governments in many issues of mutual concerns.

This newly created position would be a great asset in coordinating efforts in this state pertaining to issues dealing with the state, counties, cities and tribal governments. The coordinator would provide information to state government, the Governor, legislators, our Congressional delegation, as well as the federal government departments, and others.

The current state Indian Affairs Coordinator position is in place to assist the tribal governments in coordinating efforts and providing information. This new position would coordinate efforts of city, county and state governments and go a long way toward solving some of the problems and disagreements we currently have. We urge your support of HB 78.

Sincerely,

Rosebud County Commissioners

Donald Bailey, Chairman
Ed McCaffree,
Henry Stokke

Roosevelt County Commissioners

LaVern W. Schledewitz, Chairman
Alfred Kaschube
James R. Halverson

EXHIBIT 6
DATE 1-11-89
HB 62
10/2

July 20, 1988

Mr. and Mrs. Don Lehman
Route 1
P. O. Box 1122
Hardin, MT 59034

Dear Mr. and Mrs. Lehman:

Thank you for your letter inquiring about an audit of Cemetery District #1 in Hardin.

The state statutes that authorize my audit functions limit my audit work to state offices and agencies. However, I will offer some suggestions for ways you may approach your problem.

The Montana Department of Commerce, Local Government Services Division has statutory authority to provide audit services to local governments. If the state law authorizing local governments does not include cemetery districts, the gentleman that supervises the audit section will be able to recommend alternatives to answer your questions. Mr. Michael Duncan, the audit section supervisor may be contacted as follows.

Mr. Michael Duncan, Supervisor
Audit Section
Montana Department of Commerce
805 N. Main
Capitol Station
Helena, Montana 59620

Telephone: (406) 444-3010

I am sending Mike a copy of this letter and a copy of your letter. I do suggest that you contact him.

Another approach you may wish to consider is contacting the Big Horn County Attorney to express your concerns and request the county attorney review the situation. If he feels the need he may request an independent audit be conducted.

EXHIBIT 6
DATE 1-11-89
HB 62

Mr. and Mrs. Don Lehman
July 20, 1988
Page 2

212

As to the legal and ethical questions you asked, I am not an attorney, and therefore, am unqualified to answer. The circumstances you presented in your letter, on the surface indicate the absence of internal accounting controls. These controls, when functioning properly should detect and or prevent errors or irregularities such as you have described.

I hope this information will be of assistance to you. Please feel free to contact me again if you need additional assistance.

With best personal regards, I am

Very truly yours,

Andrea "Andy" Bennett
State Auditor

AAB/jlf(294)
cc: Mike Duncan

EXHIBIT 6

DATE 1-11-89

HB 62

757

1012

July 8, 1988

Andrea Bennett
State Auditor
Capitol Station
Helena, MT 59620

RECEIVED
STAFF AUDITORS
OFFICE
JUL 12 3 41 PM '88
HELENA, MONT.

Dear Ms. Bennett:

We are inquiring into a situation here in Big Horn County and are hoping that your office can be of some help to us.

Our Cemetery District #1 was created in the 1950's. There is an Order to that effect filed in the Clerk and Recorder's Office here in Hardin.

Since that time, however, there has never been any report or accounting made by said District. According to Sections 7-35-2131 through 7-35-2150 in the Montana Code Annotated, a Cemetery District is to establish and maintain a permanent care and improvement fund and to file with the District Court accountings, bonds, etc., for approval by a District Judge. After checking the Court records, I can assure you that there is no record on file whatsoever, for Cemetery District #1.

Also, whenever audits are done for the various county offices, there are never any done for the Cemetery Districts, for they are separate entities, it seems.

Therefore, we have the following questions:

1. If no one audits the records of the Cemetery District, and there are no accountings filed with the District Court, who is to know what goes on with the Cemetery District and its Board?
2. Can your office do an audit on the Cemetery District?
3. How can one arrange for an audit of a Cemetery District?
4. Is it legal and ethical for a mortician (especially, a town's only mortician) to be the County Coroner and also be the Secretary of the Board of Trustees of a Cemetery District and thereby, be the only one who signs warrants, receives payments, and makes deposits for the said Cemetery District?

July 18, 1988

EXHIBIT 6

DATE 1-11-89

HB 62

We have many more questions and concerns in this matter. However, we don't know where else to ask these questions. We have not been able to get much help here in Hardin. 2012

Could your office please look into this matter and let us know if there is anything you can do?

Thank you so much for any assistance you can give us.

Sincerely, Don Lehman

Margy Lehman

Don Lehman
Margy Lehman
Route 1, Box 1122
Hardin, MT 59034

EXHIBIT 7
DATE 1-11-89
HB 62
1094

July 20, 1988

Mr. William V. Hibnes
P.O. Box 98
Hardin, MT 59034

Dear Mr. Hibnes:

Thank you for your letter expressing concerns over the operations of Big Horn County Cemetery District #1.

My office does not have statutory authority to conduct audits of local governments or political sub-divisions thereof. Responsibility for local government audits is assigned to the Local Governments Services Division of the Montana Department of Commerce in accordance with Sections 2-7-501 through 2-7-503, Montana Codes Annotated (1987).

From your letter it appears as though there are few, if any, internal controls in place to detect or prevent errors and irregularities as you have described. Further, your letter indicates on the surface at least, evidence that the board of trustees is in violation of state laws for reporting requirements for cemetery districts.

I can see no reason that would prevent the district from having an independent audit. Since I do not have the authority to perform such audits, I am suggesting that you contact the gentleman named below. He will be able to assist you in securing the audit services appropriate in the circumstances and address the issue of whom is responsible for the payment of the audit fees.

As to the dissolution of the current organization and forming a new one, this would involve court proceedings and I am almost

EXHIBIT 7
DATE 1-11-89
HB 62
2017

Mr. William V. Hibnes
July 20, 1988
Page 2

certain before such action could take place, an audit would be required in order to determine the financial position of the district.

I hope this information will help answer your questions. If I may be of further assistance please contact me.

With best personal regards, I am

Very truly yours,

Andrea "Andy" Bennett
State Auditor and
Commissioner of Insurance

AB/jlm(295)

cc: Mike Duncan

RECEIVED
STATE AUDITOR'S OFFICE

JUL 11 11 24 AM '88

HELENA, MONT.

EXHIBIT 7
DATE 1-11-89
HB 62

754

3 of 4

JULY 7, 1988

STATE OF MONTANA AUDITOR
ANDREA BENNET
CAPITOL STATION
HELENA, MT 59601

DEAR MS. BENNET:

I HAVE BEEN AN EMPLOYEE OF BIG HORN COUNTY CEMETERY DISTRICT #1, AKA FAIRVIEW CEMETERY, AT HARDIN FOR THE PAST 12 YEARS AND 10 MONTHS. THERE ARE A NUMBER OF INCIDENTS GOING ON HERE THAT I THINK WARRANT AN AUDIT. I HAVE ASKED THE COUNTY OFFICIALS FOR HELP, BUT THEY SAY THEY HAVE NO JURISDICTION OVER IT. WHO DOES?

WE KNOW THAT MONEY FOR GRAVE LOTS HAS NOT BEEN DEPOSITED TO THE COUNTY TREASURER IN A TIMELY MANNER. THERE IS A THREE-MEMBER BOARD, ELIZABETH BRENNAN, CHAIRMAN; TERRY BULLIS, CLERK; AND DOROTHY PETERSON, MEMBER. WHEN ELIZABETH OR DOROTHY HAVE BEEN ASKED ABOUT DIFFERENT PROBLEMS, THEY SAY THEY HAVE NEVER BEEN TO A MEETING. THEY KNOW ONLY WHAT TERRY TELLS THEM, AND THAT IS MOSTLY OVER THE PHONE. I HAVE COPIES OF DOCUMENTATION OF THE LEGISLATURE BEGINNING ON PAGE 267, ARTICLES 35-20-101 THROUGH 35-20-315. WE HAVE NEVER FOUND THE BY-LAWS FOR THIS CEMETERY, AND THE ONLY THING TO BE FOUND AT THE COURTHOUSE IS THAT IT WAS INCORPORATED. I DON'T BELIEVE ANY OF THE DIRECTIONS ARE BEING FOLLOWED AS THEY ARE WRITTEN IN THE LITERATURE I HAVE.

TERRY BULLIS, CLERK OF THE DISTRICT, IS ALSO THE COUNTY CORONER AND A LOCAL MORTICIAN. HE KEEPS HIS RECORDS ON A COMPUTER AT THE MORTUARY. THE WARRANTS AND RECEIPTS FOR MONEY HE DEPOSITS AT THE COUNTY TREASURER'S OFFICE HAVE NO EXPLANATION OF SOURCE. WE HAVE KNOWN OF MONEY DEPOSITED TO THE COUNTY TREASURER WITH STALEDATED CHECKS THAT WERE ALMOST A YEAR OLD. DEEDS FILED AT THE CLERK AND RECORDERS OFFICE ARE NOT FILED AS OFTEN AS THEY SHOULD BE, AND IT IS SOMETIMES MONTHS BEFORE PEOPLE GET A DEED. THE CHARGE FOR A LOT IS \$75.00, AND OPENING AND CLOSING FEES ARE \$25.00. THIS MONEY IS BROUGHT TO THE COURTHOUSE WHENEVER TERRY FEELS LIKE BRINGING IT, AND IT IS NOT ITEMIZED AS TO WHO HAS PAID.

IS THERE SOME WAY THIS CAN BE AUDITED? WHO WOULD HAVE TO PAY FOR IT?

I WOULD APPRECIATE AN IMMEDIATE RESPONSE AS I BELIEVE SOMETHING SHOULD BE DONE NOW. THIS HAS BEEN GOING ON FOR SEVERAL YEARS. IS THERE SUCH A THING AS PUTTING AN END TO THIS AND STARTING OVER WITH A COMPLETE NEW SET OF BY-LAWS AND NEW BOARD. HOW WOULD THAT BE ACCOMPLISHED?

EXHIBIT 1
DATE 1-11-89
HB 62
4 of 4

SINCERELY,

William V. Hibnes

WILLIAM V. HIBNES

EXHIBIT 8
DATE 1-11-89
HB 78

Amendments to House Bill No. 78
First Reading Copy

Requested by Rep. M. Hanson
For the Committee on State Administration

Prepared by Connie Erickson
January 7, 1989

1. Page 2, line 12.
Following: "problems"
Insert: "and opportunities"

VISITORS' REGISTER
STATE ADMINISTRATION COMMITTEE

BILL NO. HB 26

DATE 1-11-89

SPONSOR Rep, Peck

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 78

DATE 1-11-89

SPONSOR REP. HANSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<i>Ray Haxbin</i>	<i>LAKE County</i>	<i>✓</i>	
<i>Bob Gervais</i>	<i>Lincoln County</i>		<i>✓</i>
<i>Gordon Mjris</i>	<i>MA CO.</i>	<i>✓</i>	
<i>Alvin Bap</i>	<i>Cut Bank</i>	<i>✓</i>	
<i>Reed R. Brundage</i>	<i>St. Ignace</i>	<i>✓</i>	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

STATE ADMINISTRATION COMMITTEE

BILL NO. HB 62

DATE January 11, 1989

SPONSOR Rep. Hanson

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.