

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

#### COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on March 13, 1989, at  
9:04 a.m.

#### ROLL CALL

Members Present: All members were present with the following  
exception:

Members Excused: Rep. Tom Hannah

Members Absent: None.

Staff Present: Julie Emge, Secretary  
John MacMaster, Legislative Council

#### HEARING ON SENATE BILL 367

Presentation and Opening Statement by Sponsor: Sen. Jerry Noble, Senate District 21, stated SB 367 provides for the creation of a uniform method of disposal of criminal case evidence. The bill was requested by the Montana County Attorneys Association because there is no statutory direction for law enforcement officers or prosecutors specifying how those items of property seized as evidence should be handled after the case is closed or after a decision is made not to file charges. Consequently, different jurisdictions have different means of disposing of unnecessary evidence. Questions continually arise from law enforcement officers and prosecutors as to how to deal with such evidence. This bill will provide a uniform state procedure that will allow for a judicial review on disposition or destruction of evidence. It also provides law enforcement with an opportunity to obtain a court order specifying that certain contraband be used for training or enforcement purposes.

#### List of Testifying Proponents and What Group they Represent:

Peter Funk, Asst. Attorney General, Dept. of Justice

#### Proponent Testimony:

Peter Funk, Assistant Attorney General, Department of Justice, appearing on behalf of the Montana County Attorneys Association, stated current law does not provide much of a procedure particularly for destruction of evidence. The

Department of Justice and County Attorneys Association see three benefits in the bill: Within local jurisdictions, each jurisdiction will have a consistent and well-recognized manner to dispose of property of this type, there will be a structured method of disposition not only that the courts and county attorneys will recognize but also that local law enforcement agencies will be aware of, and it provides explicitly for the destruction or use of contraband. The Senate inserted a formal definition of contraband. The bill allows appropriation by law enforcement agencies of contraband material but only if that use is authorized by the court. Essentially any use or destruction must be authorized by the court. If there is unclaimed money or noncontraband property, the bill provides a procedure whereby those moneys can be ordered deposited to the local county drug fund. The bill provides explicit time limitations for action on both the petition and for the court to issue the order disposing of the property. What triggers the process is the case either has to be completed or the prosecution foregone and a decision made that a prosecution not be entered into. The bill does not affect property that is claimed by people--there is a separate statute that deals with the situation where there is ownership. The bill deals only with those situations where there is no ownership of property.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from the Committee Members:

Rep. Eudaily asked Mr. Funk to clarify where the bill indicated no ownership of property is necessary. Mr. Funk explained it is not explicit in this bill that claimed property is not under this procedure, but the immediately preceding section, Section 46-5-304, MCA, deals with the process by which a claimant of evidence petitions the court for return of that evidence. However, in this bill where the petition process is described, it states whatever information you have regarding a potential owner has to be identified to the court at the time you file a petition. That information, coupled with the immediately preceding statute, makes clear that if the property is claimed by an individual, this process is not used, although it may be with contraband. If

things are unlawful to be possessed, in that case, a claim of ownership probably will not make any difference. Rep. Eudaily asked Mr. Funk if he thought it would be necessary to reference this bill to the other section. Mr. Funk thought that would be a good idea.

Closing by Sponsor: Sen. Noble closed.

#### DISPOSITION OF SENATE BILL 367

Motion: Rep. Brooke moved SB 367 BE CONCURRED IN, motion seconded by Rep. Aafedt.

Discussion: Rep. Eudaily indicated his only question was the first one, which is simply the purpose of the bill which doesn't indicate the ownership has been established. It just says if the legal proceedings are completed or they do not initiate them, they can take your property. That bothered him because it really wasn't talking about contraband in that section. Rep. Mercer responded that in addition to what Mr. Funk said that there is an indication in the bill the law enforcement agency will try to find out who the owner is, Section 46-5-305, MCA, which is in the bill, says if the property seized into evidence is not claimed by the owner within six months of completion of the case, there is a codification instruction in the bill that is going to put these new sections in Title 46, chapter 5, part 3. In that part, there is presently a provision that begins, any person claiming the right to possession of property seized as evidence may apply to the judge to whom it has been delivered for its return. Then there's a procedure which the judge uses to get the property back to him. These new sections will mesh right in with that procedure.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: The motion SB 367 BE CONCURRED IN CARRIED unanimously.

#### HEARING ON SENATE BILL 113

Presentation and Opening Statement by Sponsor: Sen. Larry Tveit, Senate District 11, stated SB 113 was requested by the Department of Family Services to impose a penalty for aiding a youth committed to either Pine Hills or Mountain View School in not returning. The Department wishes to impose the same sentence on a person who assists a resident in not returning as is imposed on persons helping a resident to

escape. This will provide added incentive to parents, relatives, and friends of the resident to ensure the resident returns to the facility upon completion of his or her authorized leave. It will also allow for the imposition of penalties against persons who aid in the youth's failure to return.

Testifying Proponents and Who They Represent:

Bill Unger, Superintendent of Mountain View School

Proponent Testimony:

Bill Unger, Superintendent of Mountain View School, appeared and testified in support of SB 113 (EXHIBIT 1).

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from Committee Members:

In response to a question from Rep. Eudaily, Mr. Unger stated if a person was aware a youth was an escapee or on unauthorized leave from an institution and assisted them by giving them a ride, then they would be subject to the penalties, but if they had no idea and thought the youth was only hitchhiking, it would have to be proven in court they were on escape status or unauthorized leave status.

Rep. Eudaily asked if it would help if on page 1, line 19, where it says permits, to put "knowingly" in front of "assists" so we wouldn't get the person who is innocently picking the person up. Mr. Unger responded he would have no problem with that. Leslie Taylor, from the Department of Family Services Legal Services Division, indicated that would not be necessary because it's being made a criminal offense, and in all criminal offenses there is implied that you must prove the offense was done purposely or knowingly. That would be true for all of the offenses listed here.

Rep. Boharski asked if when the people are released from these facilities they were released under the custody of the people this bill is trying to address. Mr. Unger stated that when they leave the institution, they sign a leave form

that says they will return that youth to the institution. He did not know if they were legally responsible outside the institution as far as anything that might happen, such as medical, but they do sign a release form from Mountain View School that tells when they will bring the student back.

Closing by Sponsor: Sen. Tveit urged passage of the bill.

DISPOSITION OF SENATE BILL 113

Motion: Rep. Addy moved SB 113 BE CONCURRED IN, motion seconded by Rep. Stickney.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Eudaily moved SB 113 be amended as follows:

Page 1, line 15.

Following: "if he"

Insert: "purposely or knowingly"

Motion was seconded by Rep. Darko and CARRIED unanimously.

Recommendation and Vote: Rep. Darko moved SB 113 BE CONCURRED IN AS AMENDED, motion seconded by Rep. Stickney. A vote was taken and CARRIED with a unanimous vote.

HEARING ON SENATE BILL 105

Presentation and Opening Statement by Sponsor: Sen. Joe Mazurek, Senate District 23, stated SB 105 is an act which will require the Department of Justice to provide to the Director of the Selective Service System (SSS) lists of drivers' license holders who were born in specific years. He explained we again have a selective service registration, but we do not have a current draft. The purpose of this bill is to help ensure compliance with the selective service registration requirement. Hopefully the information provided by the Department of Justice, Division of Motor Vehicles, would be to allow the SSS to encourage registration compliance. Sen. Mazurek explained there are two schools of thought on a bill like this. One is we ought to have this bill because every young man ought to register because it is his obligation. The second is we ought to ensure people get registered because if they don't the penalties are so substantial they are jeopardizing their future employment and potential receipt of government

benefits. A young man who fails to register with the SSS can be subject to a penalty of five years in federal prison, a fine of up to \$250,000, or both. If they do not register, they cannot hold a federal job, including summer jobs; they cannot receive any federal assistance or benefits for education, including national defense student loans or anything of that nature; and they cannot receive benefits under the Job Partnership Training Act. The Montana representatives of the federal SSS who are responsible for registration have brought a bill before this legislature similar to this bill in the past in hopes that this list could be used as a cross-check with other lists they have to attempt to encourage young men to register for the draft. This bill is different from those in the past as it specifically prohibits the release of social security numbers, which has been a principal objection to past bills. In addition, the bill provides the Department will provide a list of persons born in specified years for the exclusive purpose of ensuring compliance with military draft registration. That would preclude them from giving that information to any other government agency. Existing law provides other groups get these lists, including both political parties. Sen. Mazurek questioned why we would be giving this information to political parties if we have a compelling privacy question. Sen. Mazurek also felt this bill would supplement other steps the SSS uses. He indicated only Hawaii and Montana do not allow this. He stated the effort is not punitive but an attempt to get people to register to avoid the penalties which will be encountered by failing to register.

Testifying Proponents and Who They Represent:

Bill Yaeger, Chief, Selective Service Section of the Army  
National Guard

Fritz Gillespie, Self

Peter Funk, Asst. Attorney General, Dept. of Justice

Proponent Testimony:

Bill Yaeger, Chief, Selective Service Section of the Army  
National Guard, presented written testimony in support of SB  
105 (EXHIBIT 2).

Fritz Gillespie appeared in support of SB 105. He clarified the lists will be used exclusively for cross-matching names with selective service registrants and this bill prohibits the release of social security numbers. Mr. Gillespie reminded us our inalienable rights, such as privacy, bear with them

corresponding responsibilities, and this bill is a reminder to fulfill that requirement to avoid the harsh penalties.

Peter Funk, representing the Department of Justice, voiced the Department's support for this proposal. In addition, in their view, there is very little left to the right of privacy with regard to motor vehicle records. Under the existing statutes, motor vehicle registration records and records of drivers' licenses and convictions are available to any person who requests them and, except for this statute, can be used for any purpose. A privacy question is not reflected by the existing statutory scheme.

Testifying Opponents and Who They Represent:

Joseph Moore, Montana Rainbow Coalition  
Bill Hallinen, Helena Software Specialist  
Jim Reynolds, Helena Attorney, ACLU

Opponent Testimony:

Joseph Moore, Legislative Coordinator for the Montana Rainbow Coalition, arose in opposition to SB 105 and presented written testimony (EXHIBIT 3).

Bill Hallinen, Helena software specialist in the computer science field, appeared on his own behalf in opposition to SB 105. He felt SB 105 compromises an individual's right to privacy and is redundant to further state bureaucracy. He objected to any institution releasing confidential information without his signature. He felt SB 105 is unnecessary as the federal government already collects names and ages of individuals on federal tax returns, which also contain social security numbers. He felt as a federal agency, SSS could query the IRS for names, ages, and addresses of individuals. Mr. Hallinen urged the committee Table SB 105.

Jim Reynolds, Helena attorney, representing the American Civil Liberties Union [ACLU], presented a letter from Attorney General Mike Greely for inclusion in the record (EXHIBIT 4) which set forth ACLU'S concerns.

Questions from Committee Members: Rep. Brooke asked what conscientious objectors did when they turned 18. Mr. Yaeger stated the situation of conscientious objectors occurs with a draft. Therefore, talking hypothetically at this point, conscientious objectors would have two statuses if a law were ever enacted. One is the person who could serve in uniform but not carry a weapon, perhaps as a medic. The

other, because of his conscience, could not serve at all. Those would appear before one of several SSS draft boards made up of citizens of the communities of the state. It would be their decision as the young man appeals to them whether they feel the man has a valid concern and the status of conscientious objector would be granted. Since we have no draft, only registration, there is no classification under registration. If a draft were ever enacted, there would be alternative forms of service--no one would escape service. Everyone must adhere to their responsibility. Everyone presently has the responsibility to register. Without a draft that's as far as the responsibility goes.

Rep. Brooke asked if the bill's language of a request for "lists of persons" implied a request for names, addresses, and date of birth. Mr. Gillespie indicated that was what anticipated, and he would be agreeable if the bill were amended to read a list of persons, including names, addresses, and date of birth or words to that effect.

Rep. Strizich asked why they did not register women with the SSS. Mr. Yaeger responded Congress has made a conscious decision not to do so as it has said women will not be drafted and will not register as a result.

Rep. L. Nelson asked Sen. Mazurek if the bill specified young males. Sen. Mazurek conjectured what the SSS would do is ask for a list of males born in a particular age group. Rep. L. Nelson asked if they could get the total list. Sen. Mazurek stated yes.

Rep. Eudaily asked if section 5 was there because there was a potential constitutional issue. Sen. Mazurek stated yes.

Rep. Daily stated the Attorney General's opinion presented by the ACLU member indicates the division has never allowed public access to drivers' license records while Mr. Funk indicated they had. Rep. Daily asked if that had changed since 1983. Mr. Funk stated that had. For years, despite the fact we had a statute in Montana saying any person could obtain the driving record of any other person, the motor vehicle division had restricted that and created some categories of those individuals they felt were entitled to motor vehicle records, i.e., insurers and employers for purposes of employment checks. There were six or seven categories the Department of Justice had developed over the years. They would release the record to you only if you fell into one of those categories. This past fall, that issue was raised in terms of whether that existing policy had been right or not.



Prior to Attorney General Racicot's election, Attorney General Greely did change his position based on the plain language of the Montana statute and, in fact, directed the Motor Vehicle Division to rescind the policy they had used in the past and to no longer restrict requests for motor vehicle convictions or drivers' records. The letter currently on record in this hearing reflected the Division's policy when it was written in 1983, but that policy did not conform with the plain language of the statute, and was changed last fall.

Rep. Daily asked if there were a difference between drivers' records and drivers' licenses. Mr. Funk responded that in the record keeping system as it exists now, the drivers' license information and the information regarding convictions are both contained on the same record. The reason for that is primarily for law enforcement usage.

Rep. Daily asked if we did not already use our social security numbers as drivers' license numbers at this time. Mr. Funk indicated it was optional. Rep. D. Brown stated that although it is optional, there are jurisdictions in the state of Montana that insist people give their social security number, Billings being one.

Rep. Darko asked if we would have to legislatively put a waiver on the driver's license application to release that information, similar to what you do on an insurance form, or if that could be done by rules. She felt people who applied for drivers' licenses should know that information would be released. Mr. Funk responded the only warning to people in that context right now is the existence of the state statute. There is no explicit warning given to people who originally apply for a state driver's license that information is public information. Mr. Funk stated they would have the authority to provide that type of warning. If the legislature wanted to absolutely assure that it be done, legislatively would be the best way.

Rep. Daily asked Sen. Mazurek if he would be opposed to amending the bill to include that when you send this list to the SSS that you also send a notice to the individual telling them you notified the SSS. Sen. Mazurek responded he had no problem with that. He stated his objective was to help young men comply with the law so they do not get penalized.

Closing by Sponsor: Sen. Mazurek clarified the purpose for which the information is requested is cross-match. The IRS information is not available to the SSS. He again

emphasized the penalties for failing to register are substantial, and this bill is designed for protection not punishment.

DISPOSITION OF SENATE BILL 105

Motion: Rep. Gould moved SB 105 BE CONCURRED IN. No second was received. Thereafter, Rep. Brooke moved SB 105 be TABLED, seconded by Rep. Darko.

Discussion: Rep. Boharski asked if the SSS currently had access to social security numbers from the IRS. The response was there is no such access.

Rep. Boharski asked what the procedure was for notifying youths they need to be registered when they turn 18. The response was there is no notification although there is a national awareness campaign including television, radio spots, folders sent to all of the high schools in the country, and newspaper public service ads. However, a great many people are still being missed.

Rep. Eudaily felt the committee should make an attempt to fix the bill before it acted on a motion to Table.

Rep. Daily asked Rep. Brooke to withdraw her motion to Table so he could offer an amendment. Thereupon, Rep. Brooke withdrew her motion to Table SB 105.

Motion: Rep. Gould moved SB 105 BE CONCURRED IN, motion seconded by Rep. Daily.

Amendments, Discussion, and Votes: Rep. Daily made a motion to amend page 3, line 5. Following "50 U.S.C. 451 et seq.).", insert "The department shall also notify the individual this record was released to the selective service system."

Motion was seconded by Rep. Eudaily and CARRIED unanimously.

Rep. Daily moved SB 105 be further amended as follows: Lines 5-6, following "The department may not provide the social security numbers", insert or the driver's license numbers. Motion seconded by Rep. Eudaily and CARRIED with a unanimous vote.

Rep. Darko moved SB 105 be amended by stating when you apply for your driver's license, you agree to release information as required by law, including to the selective service and for voter registration lists. Motion seconded by Rep. Daily.

Rep. Brown asked if they should have the option to agree or not. Rep. Darko responded she felt they should be informed they agreed to release this information but didn't know if it should be optional.

Rep. McDonough asked if that would restrict a person from getting their driver's license without signing that form or if it is just consent to do it; if they don't sign it, they can't do it; or would there be some type of slip of paper saying that by getting the driver's license, they have an implied consent they can give the records out. Rep. Darko responded that an implied consent is what she intended.

Rep. McDonough asked what would occur if the person didn't sign. Rep. Darko responded she wanted it to be an information kind of thing--when they sign, they know this is required by law.

Rep. Nelson commented that youths are so eager to get their driver's license, they will sign their soul to the devil without paying a lot of attention to what they are signing away.

Rep. Boharski made a substitute motion to amend the bill so as the driver's license application include a statement that the applicant agrees the state may give out lists to the selective service or other parties with their name on it, while refusal to agree does not prohibit them from getting a license. Motion seconded by Rep. Wyatt.

Rep. Daily commented he felt the committee was making a policy decision for the state about whether this information should be released. He felt if the committee kills or Tables the bill, what it's doing is telling the Dept. of Justice they don't want this information released for any reason whatsoever. He felt that was the message being sent. Rep. Daily suggested the committee request the chairman write the Dept. of Justice and the Attorney General a letter telling them that it is the feeling of the committee that this information should not be released for any purpose.

Rep. Strizich stated that he feels the amendment gives the individual an option. If a person decides he does not want his name released, he accepts responsibility for the selective service registration. If the bill is indeed a friendly way to get people informed, then that is what it is accomplishing.

Recommendation and Vote: Rep. Daily made a substitute motion for all motions pending that SB 105 be TABLED and that the chairman of the committee draft a letter and circulate it among the committee telling the Dept. of Justice the majority of the committee feels this information should not be released for any purposes. Motion seconded by Rep. Brooke.

A vote was taken on the motion to TABLE SB 105 and CARRIED with Rep.'s Aafedt, Boharski, Eudaily, Gould, Mercer, and Rice voting in opposition.

FURTHER CONSIDERATION OF SENATE BILL 105

Discussion: Rep. Brown recapped the previous amendments, discussion, and disposition on SB 105 for Rep. Addy's benefit, as Rep. Addy was absent during the previous action.

Rep. Addy stated that although this is an emotional subject for a lot of people, he did not believe that was the case. What you are doing is assuring that people who do register will be treated as equally and as fairly as possible. When you enter the lottery, you want as few people entered as possible because that improves your chance of winning. But being called up is not called winning with the national lottery on selective service. On that kind of a pool, you want as many people as possible. Exempting people by not requiring or not assisting them to register during the Vietnam period angered many people. Rep. Addy felt people should be informed of the consequences of not registering. He felt this should be looked at as a question of fairness. Rep. Addy stated he felt it was terrible we ever had wars and that people go fight and die in them, but this bill makes sure those who do register get a fair shot in the pool.

Rep. Daily stated he felt this information should not be released to anyone. He realizes we have the one section in the statute which says the information can be released to political parties, but he was concerned about the other six areas we are now releasing the information to in response to the Attorney General's interpretation of the statutes.

Rep. Aafedt stated he felt strongly the law is as it is and they should register. He stated there are very stiff penalties for not registering. He did not feel that anything they could do along these lines to advise people to register could be any detriment to them or harm them in any way,

especially when there are a lot of other people getting this information for other reasons while this reason is to help them.

Motion: Rep. Addy moved the committee reconsider its action and remove SB 105 from the Table.

The motion to reconsider SB 105 and take it off the Table CARRIED with 9 voting in favor of the motion and 8 voting in opposition (see attached Roll Call Vote).

Amendments, Discussion, and Votes: None.

Recommendation and Vote: Rep. Addy moved SB 105 BE CONCURRED IN, motion seconded by Rep. Rice.

Rep. Brown stated he had a number of amendments which needed to be discussed and the committee would await Rep. Hannah's presence before it took final action on the bill. No further action was taken on SB 105.

#### HEARING ON SENATE BILL 382

Presentation and Opening Statement by Sponsor: Sen. Tom Hager, Senate District 48, stated SB 382 provides immunity from liability for medical ethics review committee members from the discovery and admission of medical ethics review committee proceedings and records. The utilization committee, the peer review committee, and the professional standards review committee already have this immunity. Part 2 applies to the proceedings and records of those committees. Part 3 also applies to any member, agent, or employee of a nonprofit corporation engaged in the function of peer review or medical ethics review.

#### Testifying Proponents and Who They Represent:

Steve Browning, Montana Hospital Association  
Larry Akey, Montana Health Network

#### Proponent Testimony:

Steve Browning, representing the Montana Hospital Association, testified in favor of SB 382.

Larry Akey, appearing on behalf of the Montana Health Network, a group of ten mostly rural hospitals in the eastern part of the state, also supported SB 382. He stated that as medical technology becomes increasingly complex, questions of

medical ethics become increasingly common. This bill simply gives limitations on liability and protection of confidentiality to those health care professionals participating in medical ethics review commissions.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from Committee Members: Rep. Eudaily asked for an example of a medical ethics review committee and if there were separate ones for doctors, nurses, hospitals, etc. Sen. Hager responded this bill was from a hospital's attorneys in Billings.

Rep. Eudaily asked if the bill would apply to a committee that would be reviewing the license of a doctor to determine whether the doctor should continue to practice. Mr. Browning responded it would not deal with credential questions. Medical ethics committees typically have a very narrow purview, don't meet that often, usually deal with life and death questions, and are typically composed only of physicians.

Rep. Eudaily asked for an example of something they would review. Mr. Browning responded they review questions of life and death, for example, reviewing options for the hospital and the patient when a patient is brain dead.

Closing by Sponsor: Sen. Hager closed.

DISPOSITION OF SENATE BILL 382

Motion: Rep. Nelson moved SB 382 BE CONCURRED IN, motion seconded by Rep. Knapp.

Amendments, Discussion and Votes: None.

Recommendation and Vote: The motion SB 382 BE CONCURRED IN CARRIED unanimously.

HEARING ON SENATE BILL 209

Presentation and Opening Statement: In Sen. B. Brown's absence, Jerry Anderson, representing the Montana Court Reporters Association, opened the hearing on SB 209 and presented written testimony in support thereof (EXHIBIT 5).

Testifying Proponents and Who They Represent:

Bob Nieboer, Kalispell Court Reporter  
Frank Orozco, Billings Court Reporter

Proponent Testimony:

Bob Nieboer, Kalispell court reporter, presented a handout from the Montana Court Reports Association in support of SB 209 (EXHIBIT 6). Mr. Nieboer explained the function of a court reporter and indicated court reporting is a high stress professions, often compared to the stress of an air traffic controller. Few of those who enter reporting school graduate and go enter the profession because of the demanding nature of the work and the difficulty in the training. Although most of the court proceedings presented to the public by the news media concern criminal matters, a large number of matters heard in the courts are civil cases, both jury and court trials. A majority of the reporters' work is in the area of civil litigation. For this reason, they have proposed a change in the method of collecting the steno fee which has been \$3 since statehood and was to be collected at the time of hearing in court. Because of the minimal amount of the fee and the paperwork necessary by the clerk of court's office to collect this fee, most times it was not collected. They are asking that a \$10 fee be collected at the time of filing a civil action to ensure payment of the fee. This fee collected in this manner should pay for the entire increase in pay to the reporters as they anticipate this would bring into the counties statewide a total of \$200,000 in additional revenue. This would put the burden of the additional pay increase on the litigants who are the ones using the services of the reporters. If this bill passes, the maximum salary for reporters would still be less than a starting reporter in Wyoming who makes \$30,086. They have had no salary increases since 1983. This bill puts the minimum at \$23,000 where almost all reporters presently are salaried. The only added costs to the counties will be in the courts where the judge raises his reporter's salary based on length of service, qualifications, education, certification, workload, and use of modern technology. Any increase will be done at

the time of setting the court budget and will be under the scrutiny of the county commissioners and the public. He predicted few judges under the current economic conditions of the counties will set their reporters' salaries above the minimum figure without a review of the reporters' qualifications. This bill will provide a means of paying for the pay increase with little or no cost to the counties.

Frank Orozco, Billings court reporter, explained the out-of-pocket expenses incurred by most reporters in the state, including the use computer of aided transcription systems. The cost of the system is approximately \$550 per month for computer payment, maintenance, and insurance. This monthly expense does not include supplies. Reporters also incur copying costs which average \$200 a month.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions from the Committee: Rep. Darko indicated that by reading the bill, one would think \$16,000-23,000 is the only amount court reporters earned. She asked have other charges. Mr. Nieboer stated they did charge extra for preparation of transcripts. Rep. Darko asked what a court reporter earned for transcripts. Mr. Nieboer responded the amount varied. He indicated the fee for transcripts on appeal to the supreme court is set by statute on a page rate. He stated if you have a very busy court or a judge who makes a lot of mistakes, you will have a lot of appeals to the supreme court. Busy courts have more appeals. In those courts, the reporter is in court from 8:00 until 5:00 doing the reporting. Therefore, the transcript must be done on nights and weekends. In districts where the workload is not as heavy, some of the reporters may get portions of their transcripts out during the day while they are working, but they don't make a lot on the transcripts. Mr. Nieboer stated basically they are getting paid for the work they do over and above the work they do in court. Rep. Darko asked for a range from low to high. Mr. Nieboer stated that although he did not have any figures, in a small district where there are few appeals in a year, \$1,000-2,000. In a larger county, a reporter may make \$6,000-10,000.



Rep. Eudaily stated it appears this bill will provide a 34% increase if everyone goes from where they are now at \$23,000 up to \$30,000. He felt this was high compared to what they were giving state employees. He asked why it would be safe to assume everyone who is now at the maximum of \$23,000 would not go immediately to \$30,000. Mr. Nieboer stated he anticipated judges around the state would keep new reporters at the minimum. He indicated that during the six-year period when it was \$16,000-23,000, it took that full six-year period before the reporters went to \$23,000 with one, or two, or three reporters still at \$22,000, \$25,000, and one under \$22,000.

Rep. Eudaily stated the fiscal note makes the assumption everyone will jump to \$30,000 and the revenue coming in will not cover that, so we're looking at the counties picking up \$100,000 in a two-year period. Mr. Nieboer disagreed with that because he was convinced they would not go the maximum. Of the 35 reporters in the state, he felt some will go to the maximum while some will be at the minimum, with the average somewhere in the middle. He anticipated \$200,000 income statewide to the counties. Mr. Anderson added that if every court reporter were paid the maximum, there would be a shortfall for the biennium of \$80,000. They do not anticipate the maximum would be applied. The stretched level between \$23,000 and \$30,000 is so the court reporters do not have to come in every two years seeking a salary change.

Rep. Eudaily asked if the judge, even though he has to consult with the county commissioners, was able to set the salary himself anywhere he wanted to, even if the county commissioners don't approve of it. Mr. Nieboer stated he did not know, although he thought the judges had the authority to order the commissioners to do such things, but that's also within the mill levy they have and some of the other restrictions that have been placed there.

Rep. Aafedt asked if they were regulated at all as to what they charged the attorneys for the transcripts. Mr. Nieboer responded statute sets out the rate per page, which had also not been increased for six years--\$2 per page for the original and one copy, 50 cents for the additional copy, and 25 cents for any copies thereafter.

Closing by Sponsor: Sen. Brown apologized to the committee for being able to attend the hearing sooner and indicated he supported the bill.

DISPOSITION OF SENATE BILL 209

Motion: Rep. Stickney moved SB 209 BE CONCURRED IN, motion seconded by Rep. Gould.

Discussion: Rep. Boharski asked if these fees would affect the 6 mill district court levy. Rep. Brown responded that if all of the salaries went to the maximum immediately, the balance would be in addition to the fees out of the local levy.

Rep. Boharski asked if there were another bill in the committee earlier increasing the filing fees. Mr. Anderson responded this bill would increase the filing fee \$10 for each civil action filed in the state.

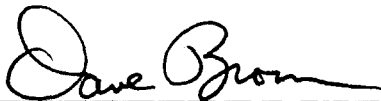
Rep. Eudaily if the majority of a court reporter's time was spent on civil rather than criminal cases. Mr. Anderson responded that although he had not done a study, the majority of their work done was civil and that was the reason for tacking the \$10 fee onto civil filings. He clarified the \$3 fee previously collected was for civil matters because you cannot go to a defendant or the state and take money from the state to give to the state.

Rep. Eudaily asked if \$13 would be collected now. Mr. Anderson responded no, it would be only \$10.

Recommendation and Vote: The motion SB 209 BE CONCURRED IN CARRIED unanimously.

ADJOURNMENT

Rep. Daily moved the meeting be adjourned. Motion carried. The meeting adjourned at 11:30 a.m.



REP. DAVE BROWN, Chairman

DB/je

5808.min

## DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date MARCH 13, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH			X
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

March 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 367 (third reading copy -- blue) be concurred in .

Signed:   
Dave Brown, Chairman

[REP. AAFEDT WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 113 (third reading copy -- blue) be concurred in  
as amended .

Signed:   
Dave Brown, Chairman

[REP. GILBERT WILL CARRY THIS BILL ON THE HOUSE FLOOR]

And, that such amendments read:

1. Page 1, line 15.

Following: "if he"

Insert: "purposely or knowingly"

STANDING COMMITTEE REPORT

March 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 382 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Dave Brown, Chairman

[REP. BOHARSKI WILL CARRY THIS BILL ON THE HOUSE FLOOR]

STANDING COMMITTEE REPORT

March 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that  
SENATE BILL 209 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Dave Brown, Chairman

[REP. SPAETH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

# MOUNTAIN VIEW SCHOOL

EXHIBIT 1  
DATE 3-13-89  
HB SB 113



TED SCHWINDEN, GOVERNOR

2260 SIERRA ROAD EAST

STATE OF MONTANA

(406) 458-9016

HELENA, MONTANA 59601

March 13, 1989

## TESTIMONY IN SUPPORT OF SB 113

Prepared by Bill Unger, Superintendent of Mountain View School

The Department of Family Services requests Senate Bill 113, which will allow for a penalty when a person assists a youth in not returning to a youth correctional facility.

An important part of the treatment program at Mountain View and Pine Hills Schools includes allowing off-campus leaves for students from these programs. If a person assists a youth in not returning from this leave, he/she would be violating state law with the passage of this bill. Current law makes it a penalty to assist a youth in leaving a facility; this law would also make it a penalty for assisting a youth in not returning from either an authorized or unauthorized leave.

An incident at Mountain View School prompted the urging of this bill by Lewis and Clark County Attorney, Mike McGrath, when a mother was allowed to take her daughter off-campus, to be returned in 4 hours. The mother transported the youth to Butte and assisted her in leaving the state. The current law was not clear, as the mother did not assist the youth in leaving Mountain



EXHIBIT 1  
DATE 3-13-89  
HB SB 113

View School campus; the staff at Mountain View School allowed her to leave campus. However, she did assist her in not returning at the prescribed time.

The Department of Family Services urges you to approve passage of this bill.

TESTIMONY IN SUPPORT OF SB 105

Bill Yaeger

I am here in support of SB105, which would amend 2-6-109, MCA, to allow the Montana Department of Justice to furnish the Director of Selective Service System with lists of male drivers' license holders born in specified years.

Senate Bill 105 has the support of Attorney General Marc Racicot. The Department of Justice, through the Motor Vehicle Division, will administer the program.

Selective Service will pay any costs associated with gaining the lists and will keep confidential the names of the young men that it receives.

Senate Bill 105 prohibits the Department of Justice from providing Selective Service with social security numbers.

The Selective Service System will use the drivers' license lists exclusively to cross match against the lists of known Montana registrants in its data bank. Young men, whose names appear on the drivers' license lists, but not as Selective Service registrants, will receive Selective Service Registration forms with reminders of their obligation to register under the Military Selective Service Act, 50 U.S.C. § 541, et seq. A young man's name will be turned over to the U.S. Department of Justice for further action only when he has failed to register within a reasonable time after receiving follow-up letters. Even then, the goal is registration compliance -- not punishment. In all cases so far, the Justice Department has stopped legal action when the young man registers.

The Selective Service System seeks to register every American male within 30 days of his eighteenth birthday for several reasons:

(1) It's the law and Congress has set penalties very high for those who violate the Military Selective Service Act (up to five years in prison and a fine of up to \$250,000, or both).

(2) 5 U.S.C. § 3328 prohibits any man born after December 31, 1959, who has not registered from ever holding a job in a federal executive agency. (That means that most federal jobs will be denied the young man who has failed to register before reaching the age of 26, unless he shows by a preponderance that his failure to register was not knowingly and willful.)

(3) 50 U.S.C. § 462(f)(1) makes the same individual forever ineligible for any type of assistance or benefits (Pell grants, for example) provided under title IV of the Higher Education Act of 1965. Again, those who fail to register before the age of 26 face the same problems as those seeking federal employment.

(4) Training is also denied under the Job Training Partnership Act.

(5) Finally, it's only fair that every 18-year-old male register with Selective Service.

It is for the sake of the futures of young Montana men that the Selective Service System seeks access to our state's drivers' license lists. The purpose is to encourage them to comply with the law so that they might have every opportunity possible open to them in their futures.

Selective Service statistics show that seven years ago, nearly 7700 young men from Montana registered. In 1986, only a few more than 6000 did so. In 1987, the number dropped to about 5800 and, last year, just 5130 had registered through December 31, 1988. While we can assume that some of the decline

may be attributed to residents leaving our state, we cannot assume it is the only explanation.

Despite an extensive, ongoing public awareness campaign, we are certain that there are many who are unaware of the severe consequences of their failure to register.

In addition to the public awareness campaign, Selective Service has initiated a reminder mail-back program where young men receive registration forms with a reminder of the obligation to register. They can complete the forms and mail them directly to Selective Service. Many of the names of these young men come from the cross match of drivers' license lists against lists of known registrants in the Selective Service data bank. In September 1988, Selective Service received 148,000 registrations from the reminder mail-back program. In a test run, Selective Service received registrations from about 46 percent of the reminders sent young men identified from drivers' license lists. Nebraska had 848 registrations in November 1987. Using drivers' license lists in December 1987 for the first time, 1645 registrations were received from Nebraska that month. In November 1988 there were 1198 registrations. Selective Service estimates the use of Nebraska drivers' license lists, in conjunction with the reminder mail-back program, has increased the monthly registrations from Nebraska by 6 percent to 8 percent. Senate Bill 105 will do much to cause the unregistered young men in Montana to comply with the law.

Each young man is required to register with the Selective Service System with 30 days of his eighteenth birthday. Although the Selective Service System has been referred to as an "evil monster," the responsibility to register will remain under the Military Selective Service Act whether SB105 is enacted or not.

Article II, § 3, of our Montana Constitution proclaims that all persons are born free and have certain inalienable rights. But, Article II, § 3, goes on to provide, "In enjoying these rights, all persons recognize corresponding responsibilities."

All young men should fulfill their responsibility by registering with the Selective Service System as the law requires. Senate Bill 105 will help them meet this obligation through reminders. This isn't a situation of where it isn't against the law unless you get caught. It is against the law for failing to register and there are harsh penalties.

One of our interests protected by our Montana Constitution at Article II, § 10, is our right to privacy. Senate Bill 105 prohibits the disclosure of social security numbers. Only name, address, and date of birth will be provided. The drivers' license lists must be used exclusively for purposes of registration compliance. Selective Service regulations, policies, and procedures prohibit the disclosure of individual information about registrants. The limited extent to which SB105 will invade the privacy of Montana's young men should yield to helping some of them recognize and fulfill their corresponding responsibilities.

It has been suggested that there is not a compelling state interest which justifies the invasion of the privacy of these men. The plain and simple answer to that suggestion is that Congress has determined registration is necessary to provide stand-by manpower for national defense. Montana depends on national defense for its security. Registration with the Selective Service System enhances our national defense readiness which is a compelling interest to the state of Montana and the nation.

In case you feel the Selective Service is unique in its request through SB105, we call your attention to a law enacted by the Montana Legislature in 1969, in what is now 13-38-103, MCA, which requires the state Department of Justice to provide the major political parties in Montana with the names and addresses of all persons who have reached voting age since the last general election. The information sought by the Selective Service System are the names, addresses, and dates of birth of the young men in this same group. Insurance companies and others obtain individuals' driving records on a daily basis. Vehicle registration lists are available to the public which are used by some for solicitation. Criminal record information is provided to law enforcement agencies nationwide for criminal investigation and prosecution purposes.


We wish to emphasize that there has not been a draft in the United States since 1973. Registration is a simple matter. A young man, within 30 days of his eighteenth birthday, goes to his local post office and fills out a card like the one attached. It takes about five minutes of his time.

There is no classification of registrants. That would occur only if a draft were reinstated by Congress during a national emergency. Only at that time, facing possible induction, the young man could answer his country's call or seek one of a variety of postponements or deferments that will be offered under the law.

Senate Bill 105 is necessary to help inform some of our young men about their responsibility to register with the Selective Service System as required by law and to help them avoid the harsh penalties awaiting them if they don't.

I ask your support for SB105 and will be happy to answer any questions that you may have.

SSS FORM 1 (MAY 85) (JAN 62, JAN 84 EDITIONS MAY BE USED) OMB APPROVAL 3240-0002



**Registration Form**  
READ PRIVACY ACT STATEMENT ON REVERSE  
PLEASE PRINT CLEAR

DATE OF BIRTH

Name of Month Day Year of Birth

PRINT FULL LEGAL NAME

Last

CURRENT MAILING ADDRESS

Number and Street

City

PERMANENT MAILING ADDRESS

Number and Street

City

CURRENT TELEPHONE NUMBER

Area Code

I AFFIRM THE FOREGOING STATEMENTS ARE TRUE

Today's Date

Signature of Registrant

SEX

☐ MALE

☐ FEMALE

SOCIAL SECURITY NUMBER

First Middle JR, II, III, etc

Apt. or Room No.

State or Foreign Country Zip Code (Must be Entered)

Apt. or Room No.

State or Foreign Country Zip Code (Must be Entered)

Number

Postal Date Stamp

☐ ID

☐ NO ID

Clerk Initials

EXHIBIT 2

DATE 3-13-89

BB SB 105

MEN BORN IN 1960 OR LATER AND WHO ARE AGE 18 THROUGH 25 ARE REQUIRED TO REGISTER.

MEN BORN IN 1960 OR LATER AND WHO ARE AGE 18 THROUGH 25 ARE REQUIRED TO REGISTER

HOW TO COMPLETE THIS FORM

- Read the Privacy Act Statement.
- Print all entries except your signature clearly in ink.
- Do not sign or date the form until asked to do so.
- Complete Blocks 1 thru 7 and take your form to the clerk.
- Print your date of birth in Block 1. Use a three-letter abbreviation for the month and numerals for the day and year (Example: OCT 29 1967).
- Check the correct box in Block 2.
- Print your Social Security Number in Block 3.
- Print your full legal name in Block 4 in the order listed.
- Print your current mailing address in Block 5. Include ZIP Code.
- Print your permanent mailing address in Block 6. Include ZIP Code. If it is the same as your current mailing address (Block 5), leave this block blank.
- Print your telephone number in Block 7.
- When you have completed your form to this point, recheck it and take it to the clerk.

PRIVACY ACT STATEMENT

The Military Selective Service Act, Selective Service Regulations, and the President's Proclamation on Registration require that you provide the indicated information, including your Social Security Account Number.

The principal purpose of the required information is to establish your registration with the Selective Service System. This information may be furnished to the following agencies for the purposes stated.

Department of Defense—for exchange of information concerning registration, classification, enlistment, examination and induction of individuals and identification of prospects for recruiting.

Department of Transportation—for identification of recruiting prospects for the U.S. Coast Guard.

Alternative Service Employers—for exchange of information with employers regarding a registrant who is a conscientious objector for the purpose of placement and supervision of performance of alternative service in lieu of induction into military service.

Department of Justice—for review and processing of suspected violations of the Military Selective Service Act, or for perjury, and for defense of a civil action arising from administrative processing under such Act.

Federal Bureau of Investigation—for location of an individual when suspected of violation of the Military Selective Service Act.

Immigration and Naturalization Service—to provide information for use in determining an individual's compliance with the Immigration and Nationality Act.

Department of State—for determination of an alien's eligibility for possible entry into the United States and United States citizenship.

Office of Veterans' Reemployment Rights, United States Department of Labor—to assist veterans in need of information concerning reemployment rights.

Department of Health and Human Services—for location of parents pursuant to the Child Support Enforcement Act. (42 U.S.C. 651 et seq.)

General Public—Registrant's Name, Selective Service Number, Date of Birth and Classification, Military Selective Service Act Section 6, 50 U.S.C. App. 456.

Your failure to provide the required information may violate the Military Selective Service Act. Conviction of such violation may result in imprisonment for not more than five years or a fine of not more than \$250,000 or both imprisonment and fine.

STANDING COMMITTEE REPORT

March 13, 1989

Page 1 of 1

er: We, the committee on Judiciary report that  
LL 209 (third reading copy -- blue) be concurred in .

Signed: \_\_\_\_\_  
Dave Brown, Chairman

ETH WILL CARRY THIS BILL ON THE HOUSE FLOOR]

581433SC.HBV



EXHIBIT 3

DATE 3-13-89

HB SB 105

March 13, 1989

Testimony in opposition to S.B. 105

The Montana State Rainbow Coalition opposes this bill because we believe that it is an unwarranted intrusion into the private lives of the citizens of Montana. The men and women of Montana have always stepped forward to serve their country in times of peace and of war. They have not needed the selective service to pull them down or pry into their private lives. The fact that this is so should be a matter of pride for us in Montana. We urge a do not pass on S.B.105

Joseph Moore  
Legislative Coordinator  
Montana Rainbow Coalition  
28 S. Rodney, Helena 59601

11 April 1983

Col. Robert T. Cummins  
Montana Selective Service  
P.O. Box 221  
Helena, Montana 59624

Dear Colonel Cummins:

You have requested the Division of Motor Vehicles to make a computer search of their records, and supply the Selective Service with the names, addresses, dates of birth and social security numbers of young male drivers born from December 31, 1959, through December 31, 1965. Your request is based upon the Selective Service's desire to identify young males who have failed to comply with the draft registration laws.

I must deny your request on both statutory and constitutional grounds. The Division has never allowed the public access to drivers' license records. Further, section 2-6-109, MCA, entitled "Prohibition on distribution or sale of mailing lists" provides in part:

(1) Except as provided in subsections (3), (4), (5), and (6), in order to protect the privacy of those who deal with state and local government:

(a) no agency may distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and

(b) no list of persons prepared by the agency may be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.

The term agency as defined in this section includes the Department of Justice. The exception noted in subsections (3), (4), and (5), are not applicable to this situation. "Mailing list" is defined in 38 Op. Att'y Gen. No. 59 as "commonly understood to mean a list of persons or businesses, often accompanied by their addresses and/or telephone numbers, used for unsolicited

11 April 1983

EXHIBIT 4

DATE 3-13-89

HB SB 105

mass mailings, house calls or distributions, and/or telephone calls." (Emphasis in original.) The Selective Service would be making an unsolicited mass mailing to those males it determines have not registered for the draft. The Division has not secured the permission of any individual on the list for use of their names in this matter nor does your bureau qualify under the definition of agency in section 2-6-109, MCA.

\* { There are also considerations involved under the Montana constitutional "right to privacy." We would be gathering information about a select group of people; information which is not publicly available and which could not be easily gathered elsewhere. The drivers' license records would be used in a manner not contemplated by the drivers involved or by this agency.

In view of the strength with which this right has been interpreted by the courts, the Department does not believe the information you requested is public material available upon request.

Given the statutory and constitutional authority discussed above the Department of Justice is denying your request for access to the drivers' license records. You may inform the national Selective Service Office of our decision.

Very truly yours,

MIKE GREELY  
Attorney General

cc: Larry Majerus

STATEMENT ON BEHALF OF THE MONTANA COURT REPORTERS ASSOCIATION  
IN SUPPORT OF SENATE BILL 209

Senate Bill 209, as amended, introduced by Senator Brown, provides an increase in the maximum and minimum amounts within which annual salaries for court reporters are set. The present statute provides that each reporter is entitled to receive an annual salary of not less than \$16,000 nor more than \$23,000. That salary level was set by the legislature six years ago in 1983. Senate Bill 209, as amended, would increase those salary levels to salaries of not less than \$23,000 nor more than \$30,000 annually.

Court reporters' salaries are set by the District Judge for whom the reporter works. The salary is paid out of the general funds of the counties which are included within each judicial district and also out of an appropriation made to the State Department of Commerce. The amounts paid by each county and by the state is based upon a formula set forth in Section 2 of the statute being amended in Section 1 of the bill.

As is the case with judges in Montana, the salary levels for court reporters in this state are low as compared to the remainder of the United States. Montana ranks 44th among all states with respect to the entry-level salary. Montana ranks last with respect to the states surrounding us. The entry levels for the surrounding states are:

Wyoming - \$30,086 annually  
Idaho - \$27,000 annually  
North Dakota - \$23,700 annually  
South Dakota - \$19,406 annually

In North Dakota and South Dakota, as well as in Idaho, salary increases are set by the legislature. In Wyoming salary increases are set by the Supreme Court subject to legislative approval. Utah's entry-level salary is \$23,928 and Washington's varies from \$22,000 to \$35,316 annually among the various counties. Clearly Montana's salary provision is low as compared to other states. While inflation has eaten away the value of the dollar and the purchasing power of the salaries now received by court reporters, those salary levels have remained unchanged since 1983. The 35 court reporters in Montana are now paid an annual salary of \$23,000 per year.

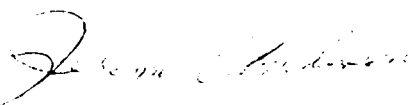
The workload of official court reporters has increased over the past six years. Because of the increased level of appeals from court decisions and the resultant need for a record of all proceedings, judges today require more transcription of proceedings than ever before. Reporters are now reporting matters such as probate proceedings, default divorce hearings, etc., which were not reported in previous years. Much of the equipment used by the reporters is purchased by them at their own expense. Word processors, computer equipment, et al., which makes it possible for a reporter to keep up with the workload, are in many cases paid for by the reporter out of pocket with no

reimbursement by the counties or the state despite the fact that the equipment is used primarily for the Court's business. Reporters have as much as \$20,000 out-of-pocket invested in this equipment and pay annual maintenance charges without payment of the same from the counties.

Present law calls for a payment of \$3.00 by each party in a civil action that goes to trial. This amount goes to the county and is to be applied to the payment of the salary of the reporter. Senate Bill No. 209 amends the statute which calls for such payment. The bill provides for a fee of \$10.00 to be paid at the time of filing of all civil actions which amount goes to the county to be applied to the court reporter's salary. Thus a method is provided to recoup the major portion of the salary increase. There were 22,036 civil actions filed in Montana in 1987 and 19,866 filed in 1988. Thus the fee provided in Section 2 of the bill would raise approximately \$200,000 annually to be applied to the payment of court reporters' salaries.

We urge your support of Senate Bill 209.

Respectfully submitted,



Jerome Anderson  
Representing the Montana  
Court Reporters Association

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# Montana Court Reporters Association, Inc.

P.O. Box 20211 Missoula, MT 59801 Ph. 543-6447 or 756-5613

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## TOWARD THE COURTROOM OF THE FUTURE:

### Montana's Court Reporters 1989 Legislative Packet

The Montana Court Reporters' Association, Inc. is comprised of approximately 90 members drawn from throughout the state. Half of our members are salaried employees or "official reporters," who work directly for a court or government agency. Half are independent court reporters who are paid on a fee basis by the person or company hiring them. Official reporters also travel with the judges to outlying areas as needed.

The Montana association is a branch of the National Shorthand Reporters' Association, and operates under its guidelines and Code of Professional Conduct. Our aim is to constantly improve our professionalism and to regularly upgrade our credentials through continuing education.

Court reporters prepare for their careers by attending special training schools for 2-3 years (the nearest to Montana are in South Dakota and Colorado), then serving an internship under another reporter's tutelage. Reporters receive extensive computer training and are very familiar with computer technology. In addition, they annually attend continuing education classes, workshops and seminars designed to keep them abreast of their own field and of changes in the legal community.



## **An Introduction to Court Reporters**

Montana's legal system would be much the poorer and heavily crippled were it not for a legion of silent partners helping judges and attorneys. These partners listen carefully to each word being said, enter the proceedings into a computerized system, and reproduce a written record precisely, accurately - and often instantaneously.

This is the court reporter, the most unobtrusive and accurate observer in the courtroom. Because court reporters work in silence with a minimum of intrusion into the proceedings, their work is often overlooked or misunderstood. The written transcripts court reporters provide enable fast and accurate review of the record for appellate proceedings, depositions, and a number of other matters. The court reporter enables justice to be carried out simply by being able to relate exactly what was said in a courtroom.

It takes a great deal of education and experience to record the proceedings in silence. A court reporter will:

- not have to have legal terms or specialized language explained;
- maintain full confidentiality and complete discretion;
- work with quiet efficiency.

The new computer-aided transcription (CAT) systems now in use by a growing number of reporters have produced welcome changes both in the courtroom and in the world of freelance work. As the reporter types the proceedings into a stenographic machine linked to a CAT system, the computer translates the stenographic symbols into English. Back at the office, the reporter edits and processes the electronic document into a comprehensive, clear transcript of the proceedings and prints it out.

Outside of court, these systems have come into wide use for captioning televised events for the hearing impaired. And finally, computer-aided transcription has dramatically increased the speed with which transcripts can be edited and produced.

The reason some people have not been very much aware of court reporters until now is because - in the courtroom - they're not supposed to be. We take that as a sign of our success.

But we wanted you to know who we are and what we do. We're proud of our work, and proud to be an integral part of the system which safeguards the legal process in this country.

Please read on to understand the concerns we have during the current legislative session.



## Court Reporters' Salaries

As official reporters, our salary is mandated by state law.

We are professionals at what we do. We receive highly specialized training for a highly specialized field. Our knowledge of communications, the law and computer technology combines to provide the legal system with accuracy, efficiency and discretion of the highest quality.

We're often on call, and adjust to constant changes in schedules. We continually upgrade our skills and knowledge through annual training sessions and seminars. We often work nights and weekends, knowing that the speed with which we do our work is an integral part of the speed with which justice can and should be delivered.

We haven't had a raise in six years.

The price of living has gone up. Like all of you, we're paying increased costs of goods, utilities, services and interest rates. Unlike many of you, we purchase our own expensive and specialized computer systems designed to handle our type of legal work.

As with so many Montanans, we would like to see growth in our profession and not be compelled to leave it for more lucrative work elsewhere. Like all of you, we would like Montana salaries to be at least competitive with neighboring states in order to attract continued high quality people to our profession.

Right now, we are allowed a minimum salary of \$16,000 per year and a maximum salary of \$23,000 per year.

If you think about it, that's a range of just \$8.33 per hour to \$12 per hour. That isn't take-home pay, either.

We're asking for a base salary of \$23,000 per year up to a maximum of \$30,000. The judge, through budget conferences with county commissioners, would set the salaries of individual reporters. Criteria would include experience, education, training, certification and the use of technology.

**The National Shorthand Reporters' Association Code of Professional Conduct**

**The Shorthand Reporter Shall:**

1. Be fair and impartial toward each participant in all aspects of reported proceedings.
2. Be alert to situations that are conflicts of interest or that may give the appearance of conflict of interest. If a conflict or a potential conflict arises, the reporter shall disclose that conflict or potential conflict.
3. Guard against not only the fact but the appearance of impropriety.
4. Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the reporter by any of the parties in a proceeding.
5. Be truthful and accurate when making public statements or when advertising the reporter's qualifications or the services provided.
6. Refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations.
7. Determine fees independently, except when established by statute or court order, entering into no agreements with other reporters on the fees to any user.
8. Maintain the integrity of the reporting profession.

JUDICIARY

BILL NO. SENATE BILL 367

DATE MARCH 13, 1989

SPONSOR SEN. NOBLE

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SENATE BILL 113DATE March 13, 1989SPONSOR SEN. TVEIT

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
Bob Mullen	d.f.s.	✓	
Bill UNGER	DFS	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

JUDICIARY

BILL NO. SENATE BILL 105

DATE MARCH 13, 1989

SPONSOR      SEN. MAZUREK

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. SENATE BILL 382DATE MARCH 13, 1989SPONSOR SEN. HAGER

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
LARRY ALEY	MIT HEALTH NETWORK	✓	
Steve Browning	Montana Hosp Assn	✓	
Tom Hager	SD 48	—	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## JUDICIARY

BILL NO. SENATE BILL 209

DATE MARCH 13, 1989

SPONSOR      SEN. BOB BROWN

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE March 13, 1989

BILL NO. SB 105

NUMBER 1.

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN	X	
REP. OLE AAFEDT	X	
REP. WILLIAM BOHARSKI	X	
REP. VIVIAN BROOKE		X
REP. FRITZ DAILY		X
REP. PAULA DARKO		X
REP. RALPH EUDAILY	X	
REP. BUDD GOULD	X	
REP. TOM HANNAH		
REP. ROGER KNAPP	X	
REP. MARY McDONOUGH		X
REP. JOHN MERCER	X	
REP. LINDA NELSON		X
REP. JIM RICE	X	
REP. JESSICA STICKNEY	X	
REP. BILL STRIZICH		X
REP. DIANA WYATT		X
REP. DAVE BROWN, CHAIRMAN		X

TALLY

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Julie Emge  
Secretary

Dave Brown  
Chairman

Motion: Rep. Addy moved to reconsider previous action taken, seconded by Rep. Rice. Motion CARRIED.