

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on February 7, 1991,
at 8:06 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Discussion: CHAIRMAN STRIZICH announced the agenda for the day is the complete juvenile side of the adult and juvenile legislation brought to us by the Joint Interim Sub-committee that was chaired by Senator Halligan. The Chairman noted that the hearings would be done in an unusual fashion as a package of bills. Before we begin the hearings, I would note that Senate Bills are on policy discussions, and the House Bills being the financial package that accompanies those policy decisions. We will have Senator Halligan give us some introductory remarks.

SENATOR HALLIGAN stated a Joint Interim Sub-Committee was designed to address the adult and juvenile detention issues. We want to address the issues that are in the bills. The interim study was suppose to look at what is the status of adult and juvenile detention, what are the needs, who is going to pay, what should they pay for, what aspect of that detention issue should they pay for and how are we going to finance it. We are going to break it down into a logical form so you can understand it. We will hand out charts to outline our discussion. EXHIBIT 1

HEARING ON SB 37, 38, 56, 59

Presentation and Opening Statement by Sponsor:

SENATOR HALLIGAN, SENATE DISTRICT 29, stated that one of the committees main objectives was to get children out of adult jails. If they had to go to secure detention, where kids are concerned, to minimize that option because we only have 22.9 kids requiring this. We want to maximize community options because they are cheaper and closer to the community and family. We must recognize the rural nature of our state. You will hear how we are dealing with these issues in the bills brought to you today. We complied with federal mandates. We will get status offenders out of adult jails. We are going to separate and make sure they do go into adult jails for 24 hours, which is allowed under federal law for rural states, we will separate from sight and sound from adult offenders.

We recognize that counties cannot do anything alone in order to keep juveniles out of adult jails so we give them state resources. We will build a partnership with the counties. We will reduce county liability. The state and federal dollars will come in and help the county set up a facility of their own. The detention decision should be local. That where it is now and we should keep that county decision local. We will keep the size of the detention population small. We don't need more kids going to jail. We want to deal with those emotionally disturbed and those ungovernable kids in a local setting.

We focus on alternatives for the kids. We are going to give local options for county commissions to set up a fair share of probation officers in home local facilities. We will minimize the capital expenditure. We are not here to build millions of dollars worth of buildings. We only have 22.9 kids that need these facilities. We are not saying you have to build a facility. The counties can use the state and federal money to provide alternatives to detention.

We have built in a funding mechanism that includes local, state, and federal dollars. The major piece of legislation is SB 37. That bill is the fundamental piece that everything else revolves around. It sets up the regional concepts with detention. The Board of Crime Control are the ones that you submit plans for a

regional center to. They are extremely aware of the utilization problems and where the numbers are.

SB 38 - Federal law is a key perspective to this piece of legislation. We had to comply with federal mandates. There is an exception to federal laws that allows rural states a 24 hours exception to hold the kid in an adult facility. It has to have the sight and sound separation. We found there is no way you can avoid putting a kid in jail for 24 hours if he is dangerous. There has to be a probable cause hearing within 24 hours to decide where that kid ought to be at that point.

SENATOR YELLOWTAIL, SENATE DISTRICT 50, stated he will outline SB 56 and 59.

SB 56 - This bill address the issue of placing the youth for evaluation. The policy here is that evaluation of the youth prior to final court decision should not occur in a correctional facility. The bill does four important things. The bill clarifies the family responsibility. It sets out that the county determined by the court as the residence of the youth is responsible for the cost of evaluation. We put a new provision that provides if the parents of the youth are found to be able to pay, they will be required to pay for the evaluation. The important substance of the bill says the youth court may not order a place for evaluation of youth in a state correction facility for any purpose unless the youth is found to be a delinquent youth or a serious juvenile offender. The final thing this bill does is delay the effective date for these provisions.

SB 59 - The juvenile and justice delinquency prevention act requires removal of juveniles from adult facilities and this bill contributes to that solution of that federal mandate here in Montana. The major policy issue is to limit the use of security detention to only those juveniles who represent a safety problem to the public. The bill allows an exception for those types of youth. The whole point here is to reduce county liability for non-criminal status offenders who represent such a high risk for law suits. The policy is set out in section one of the bill. The bill spends a fair amount of time clarifying definition.

The bill also deals with the sight and sound separation that is required by the federal mandate. It also clarifies that youth in need of supervision cannot be held in a corrections facility.

Proponents' Testimony:

Randy Hood, Public Defender for Lewis and Clark County, stated she strongly supports all of these bills. Particularly the way they will accomplish keeping these status offenders from detention and also for the correction facilities. Those juveniles that are status offenders going to Pine Hills for evaluation or even briefly being held in jail, are the youths that are ungovernable, the runaways and the youths that are the

most disturbed. These are the children which there ought to be alternatives that will deal with their very serious problems. That is something that is being ignored because the easy thing is being done. I would ask that you seriously consider these bills for accomplishing that task. I am in support of them for what they do for the delinquent child.

Mark Racicot, Attorney General, stated that he would like to speak specifically to SB 37. This is a very serious problem and a public safety issue. There are those instances where law enforcement and the criminal justice system must have the resources to deal with very dangerous youth on occasion. This particular bill, and all of these bills, embody the state and local government public policy. It maintains historical traditional local control of programs and the decision making which is existing with the Montana Justice System. It allows the state to be involved in the opportunity to provide general policy direct with the coordination. It puts the state in the supporting role of local government. It encourages a multi-county approach. He felt that everyone should work together to help our youth in a positive manner.

Candy Wimmer, Montana Board of Crime Control, stated that the Board of Crime Control is the agency that has been selected to administer the state funding for the grant program. We are anxious to assume that responsibility. The grant program will act as incentive to the counties to come together and to form a regional base. We will entertain applications from those regions to have five regional facilities. It is also our opportunity to ensure that a full range of services are offered at these facilities. They will cover long and short term stays. We anticipate in the first year of grant program we would only utilize \$100,000. A portion of that money would be used to add additional personnel to these counties. Our plans would require the counties to commit to 10 years. After that they will need to get together and update. We will reimburse secure facilities and transportation to the secure facilities at 50%. We want to ensure that those facilities will remain operational. The non-secure services that are required in the plan will be reimbursed at 75%. We want to work with the counties and are anxious for this responsibility.

Tim McCully, Montana Juvenile Probation Officers Association, stated that he has the dubious position to talk about the subject of cost. In regards to this, there is a fiscal note for 92 and 93. FY 92 allocates funds that will go to the Board of Crime Control for the costs of staffing to set up this procedure for the grant program. In addition, there are funds to provide five planning grants of \$10,000 each. They would be provided to counties of regional in local agreements. This would help establish the process. The first year deals with setting up the program. The second year costs, FY 93, deal with the cost of secure detention. Our projection is that there will be no more than 5 secure detention centers across the state. Presently, we

have a facility in Yellowstone County. Our estimate is that there will be no more than 5 and not less than four. Our projections are that an operational facility for full class operation would be a projected cost of up to \$200,000. That cost will vary depending on how the facility is set up.

On thing it allows us to do is share the cost to save personnel costs. The State currently has the authority to license these facilities. This authority is presently granted to the Department of Family Services. The licensing requirement dictates staffing costs.

Evaluations is an area in which there is a difference on cost estimate to spend for restrict evaluation at Mountain View Pine Hills to a cost to be incurred by the counties as a way of reducing utilization of that service. It also costs the town providing that service at community based standards. Our estimate there would be approximately \$100,000 to be paid by 1993. That would be the first year this would be in affect. He stated that in the second year of the program the fiscal note would be \$645,000 in the state fund. HB 73 and HB 75 would be the bills to consider for the state money. County funds would be coming through HB 74.

Craig Anderson, Chief Probation Officer - 7th Judicial District, stated that there are certain problems that juvenile detention causes the rural areas of the state of Montana. He said that the ability to provide juvenile detention to rural Montana is like a life preserver to a boat. It is really not important. He stated that juvenile detention is the short and long term placement of youth arrested and awaiting trial. He stated that the state has no authority to send the youth anywhere but the state does have the authority to hold them while pending trial. He felt there has been a lot of terms mentioned during the hearing and he explained them to the committee.

Home detention: The youth is placed back in their homes but required the parents attention and supervision.

Shelter care: These are foster parents or shelter care providers that look out for the troubled youth until their appearance in court and the child has been charged.

Detention homes: Facilities that are geared to have a 24 hour staff and have a certain number of beds that meet the short term detention needs and also has security detention.

Holdover Program: Space where juveniles eat and sleep and take care of personal sanitary needs under supervision of an on-call trained person that will be with the youth during that period.

Secure Detention: Secure quarters and a locked room.

He stated that the various levels of care is needed to be in existence in some fashion in every community of the state. It stated that in Eastern Montana, it is difficult to give 12 to 15 kids a continuation of detention care and have that full range of services. He stated that they need to look at who the child is, why he is being held, and decided to adopt a hold over program. The program was adopted with the assistance of the Montana Board of Crime Control. These programs are very important and the legislation implementing them is crucial to the rural communities.

Rick Later, Sheriff - Beaverhead County, stated that this particular legislation answers a lot of questions for law enforcement throughout Montana. He felt that it gives some options in the 24 hour section. If a youth is picked up in the middle of the night and the department is not able to transport the youth at that time, Sheriff's are able to hold the youth until such time they can be transported. He stated that in Beaverhead County the youth court judge could be up to 100 miles away from some of the areas where they have had problems with their youth. He stated that this legislation answers all the questions that Beaverhead County has. He stated that they agree with the sight and sound separation and should not be placed in facilities where there are people completing their masters degree at Montana State Prison.

Dick Gasvoda, County Commissioner - Cascade County, stated that prior to his term on the Commission he served as the Deputy Sheriff and stated that he was very interested in this legislative and very support of this particular package.

Jim Smith, Montana Residential Child Care Association, expressed his enthusiastic support of this legislative package. He stated that his association is an organization of facilities that provide out-of-home care to youth. The Association works closely with the Department of Family Services and the juvenile probation officers of the state to provide care and shelter for the youth.

Dwight Mackay, County Commissioner - Yellowstone County, stated that this legislation allows Montanan's to make sense out of a very complex, serious dilemma of the youth. He felt that by doing this in a partnership way through regionalization, the counties and the state of Montana can achieve their goals together.

Tom Lewis, Department of Family Services, stated that the Department of Family Services is in support of this package of bills.

John Conner, Montana County Attorney's Association, stated that he agrees with the comments made by the previous proponents and

his association is in full support of these bill.

Gordon Morris, Executive Director - Association of Counties, stated that from the standpoint of the counties, it should be very clearly recognized that it is not the intent that every county in the bi-regions would compete to build a juvenile facilities. He felt that it was the intent of the legislation, within the five years, that there be one juvenile detention facility. He stated that programs under this package are expensive and County Commissioner's are prepared to share in the cost of the program.

Mona Jamison, Montana Juvenile Probation Officer's Association, stated that her association stands in support of the entire package. She stated that the juvenile probation officers have been involved in the development of the package and believe that it is absolutely necessary in order to comply with Federal Law and will best serve the interest of the kids that are involved. She stated that she urged the committee's support.

Opponents' Testimony: None

Questions From Committee Members:

REP. MEASURE asked **Mr. McCully** if the cost to operate each unit would be approximately \$200,000? **Mr. McCully** stated that was the estimated cost.

REP. MEASURE asked **Mr. McCully** if that was for the total cost of operations? **Mr. McCully** stated that it was for the total cost. The salary of 9.5 FTE's, the facilities, and the operating costs.

REP. STICKNEY asked **Mr. Morris** if the money the counties are spending all new money? **Mr. Morris** stated that some of it is new money and some is within existing budgets within the county.

REP. STICKNEY asked **Mr. Morris** what will most counties be doing to raise the money? **Mr. Morris** stated that they are facing that with the bills coming up in the next minutes, but it will be addressed within the different counties.

Closing by Sponsor: none

HEARING ON HB 73 & HB 75

APP. PORTION OF LOTTERY PROCEEDS TO FUND JUV. DETENTION PROGRAMS
SURTAX ON LICENSING OF VIDEO GAMBLING MACHINES TO FUND JUV. DET.

Presentation and Opening Statement by Sponsor:

REP. RICE, HOUSE DISTRICT 43, stated that his purpose today is to explain the two bills and ask the committee to decide on which one will best fill the need for juvenile detention funding.

HB 73 appropriates a portion of the lottery proceeds to funding

the juvenile detention programs. HB 75 appropriates a portion of the video gaming tax to fund the juvenile detention programs.

Rep. Rice stated that he has some amendments to both house bills. **EXHIBIT 2 & 3.** HB 75, as originally drafted, raised concerns from the cities because it takes a portion of the video gambling proceed and earmarks them to this particular program. He stated that those proceeds are a source of local government revenue and the concern of the cities was that some of the revenue would be taken from them. Rep. Rice submitted an amendment that clarifies that only a percentage of the state's share of the video gambling revenue and not the local governments's share.

Rep. Rice gave the committee a chart of HB 75 which shows the revenue received from the video gambling tax. **EXHIBIT 4.** He stated that the chart shows that no revenue will be taken from the local government's share of the video gambling proceeds.

Rep. Rice then gave the committee a chart of HB 73 which shows the revenue received from the lottery proceeds. **EXHIBIT 5.** He stated that the lottery is an increasing source of revenue and is expected to increase in the future. He stated that this source does take money that is distributed to the schools, but it is a growing source of revenue and no revenue would be taken from the school systems initial revenue.

Proponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, stated that with the amendments to HB 75 and the assurance that the revenue will not come from the local governments share, the League of Cities and Towns are in support of HB 75. He felt that HB 75 is a step in the right direction toward solving the financial problems the state has with its jail system.

Dick Gasvoda, County Commissioner - Cascade County, stated that he would encourage the committee to use their best judgement to pick a funding source that would be most appropriate.

Dwight Mackay, County Commissioner - Yellowstone County, stated that the commissioners are standing by to take the heat for additional levies in the counties and asked the committee to take their share of the heat along with them.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. RICE stated that he felt both funding sources were appropriate for the funding mechanism, but the committee would have to decide which funding source would be best for the program.

HEARING ON SJR #2

Presentation and Opening Statement by Sponsor:

SEN. HALLIGAN, SENATE DISTRICT 29, stated that SJR #2 says that the Juvenile Justice Delinquency Prevention Act requires at least 2/3 expenditure on youth justice issues, particularly getting the kids out of those jails.

Proponents' Testimony:

Ed Hall, Administrator - Montana Board of Crime Control, stated that the board concurs with SJR #2.

Dwight Mackay, County Commission - Yellowstone County, stated that he would like to go on record in support of SJR #2.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: none

HEARING ON HB 74

AUTH. A PERMISSIVE LEVY FOR JAILS & JUVENILE DETENTION PROGRAMS

Presentation and Opening Statement by Sponsor:

REP. STRIZICH, HOUSE DISTRICT 41, stated that HB 74 is the other half of the funding scheme that has been referred to in regards to juvenile detention funding. He stated that HB 74 allows the counties a permissive levy for the necessary expenses to finance, purchase, maintain and operate local jails and detention programs, which includes juvenile services. He stated that the bill includes a permissive levy for jail operating as well. Rep. Strizich stated that the commissioner's are willing to put their necks on the line and tell their counties that this is a necessary expense for a service that is extremely necessary.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, stated that the commissioner's worked long and hard of the proposal of HB 74. He stated that association supports the bill as introduced.

Tim McCully, Juvenile Probations Officers Association, stated that his association is in full support of HB 74.

Dwight Mackay, County Commissioner - Yellowstone County, stated that he is in support of HB 74. He stated that most counties general budgets are allotted for law enforcement components, jails, vehicles which amounts to 50%. He stated that of that 50%, 75% of that is allotted just for the jail in his county.

Opponents' Testimony: none

Questions From Committee Members:

REP. NELSON asked Mr. Morris asked if the total membership of the association of counties in agreement with HB 74? Mr. Morris stated that the association of counties is a volunteer organization and it would be foolish to think that 56 counties and 56 county commissioners unanimously agreed with the total package. He stated that the Flathead Co. Commissioner, who isn't here today, feels very strongly with the fact that they will be burdened with this additional cost.

REP. BROWN asked Mr. Morris to describe the process of the 5 regions coming together and choosing one place for the facility? Mr. Morris stated that the committee received a commitment from the commissioners across the state saying they would be in agreement with the total package.

Closing by Sponsor:

REP. STRIZICH stated that HB 74 links into a very important package of bills and address a very serious problem that the state has been facing for 20 years or longer. He felt the primary thing to remember is that HB 74 does center on regional approach but it comes with some flexibility. Because it does emphasis a regional approach, there will be a joint effort and many approaches to address the problem. It does encourage participation of all sides of the issue.

EXECUTIVE ACTION ON SB 37

Motion: REP. BROWN MOVED SB 37 BE CONCURRED IN.

Motion: REP. BROWN moved to amend SB 37 by creating a new section that would contain language that would appropriate general funds from the state of Montana, \$99,639.00 in 1992 and \$644,697 in 1993.

Discussion:

REP. BROWN stated that his amendment was not done without thinking about it. He stated that the appropriations committee may wish to quibble with \$200 here and there, and may argue with dollars that may need to be generated. In the end, they will have to settle on something somewhere near what is in the fiscal note.

REP. GOULD stated that the general fund is hard money and any other form is soft money. He felt that given the importance of these programs they should be funded by hard money.

Vote: Motion carried 17 to 3 with Rep's: Strizich, Rice and

Keller voting no.

Motion/Vote: REP. DARKO MOVED SB 37 BE CONCURRED IN AS AMENDED.
Motion carried with Rep. Brooke abstaining.

EXECUTIVE ACTION ON SJR #2

Motion/Vote: REP. GOULD MOVED SJR #2 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON HB 74

Motion: REP. GOULD MOVED HB 74 DO PASS.

Discussion:

REP. JOHNSON stated that he has a serious problem with putting this additional tax on the counties.

Motion: REP. JOHNSON moved to amend HB 74 by removing the 105 exemption from wherever it is referenced in the bill.

Discussion:

REP. BROWN stated that he understands Rep. Johnson's discomfort but his motion would ruin this legislation and eliminate the ability of local governments to respond with their monies, to take care of the juvenile jail facilities. He stated that it is the committee's responsibility to address this problem at this time.

REP. RICE stated that he also felt that this is the time to address the problem the state is facing with their juvenile detention problems.

Vote: Motion fails 16 to 4 with Rep's: Lee, Keller, Johnson and Nelson voting yes.

Motion/Vote: REP. BROWN MOVED HB 74 DO PASS. Motion carried 15 to 5 with Rep's: Nelson, Johnson, Becker, Lee, and Keller voting no.

EXECUTIVE ACTION ON HB 73 & 75

Motion/Vote: REP. BROWN MOVED TO TABLE HB 73 AND HB 75. Motion carried 18 to 2 with Rep's: Rice and Strizich voting no.

EXECUTIVE ACTION ON SB 38

Motion/Vote: REP. BROWN MOVED SB 38 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 56

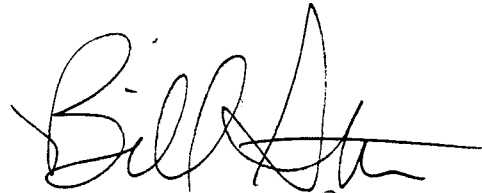
Motion/Vote: REP. MESSMORE MOVED SB 56 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 59

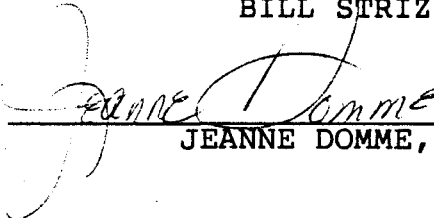
Motion/Vote: REP. BROWN MOVED SB 59 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:50 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 2-7-91

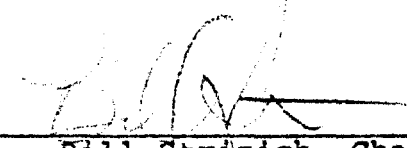
NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

February 11, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 37 (third reading copy -- blue) be concurred in as amended .

Signed: 

Bill Strizich, Chairman

RECEIVED REP. J. RICE

And, that such amendments read:

1. Title, line 20.

Following: "SERVICES;"

Insert: "PROVIDING AN APPROPRIATION;"

2. Page 29, line 15.

Following: line 14

Insert: "NEW SECTION. Section 26. Appropriation. The following money is appropriated from the general fund to the board of crime control to fund state grants to counties for youth detention programs as authorized in [section 8 of Senate Bill No. 37]:

Fiscal year beginning July 1, 1991

\$99,639

Fiscal year beginning July 1, 1992

644,697"

Renumber: subsequent sections

3. Page 29, line 25.

Strike: "26"

Insert: "27"

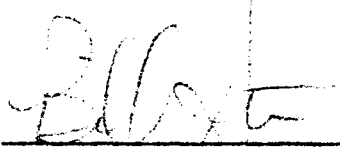
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HOUSE STANDING COMMITTEE REPORT

February 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Joint Resolution 2 (third reading copy -- blue) be
concurred in .

Signed: 

Bill Strizich, Chairman

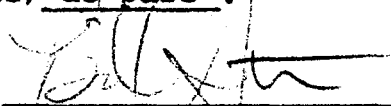
Carried by: Rep. Strizich

HOUSE STANDING COMMITTEE REPORT

February 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 74 (first reading copy -- white) do pass.

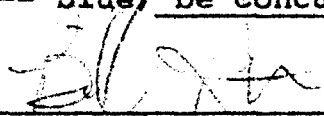
Signed: 
Bill Strizich, Chairman

HOUSE STANDING COMMITTEE REPORT

February 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 38 (third reading copy -- blue) be concurred in .

Signed: 

Bill Strizich, Chairman

Carried by: Rep. Russell

HOUSE STANDING COMMITTEE REPORT

February 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 56 (third reading copy -- blue) be concurred in .

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Strizich

HOUSE STANDING COMMITTEE REPORT

February 8, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that
Senate Bill 59 (third reading copy -- blue) be concurred in.

Signed: 

Bill Strizich, Chairman

Carried by: Rep. Russell

JUVENILE DETENTION LEGISLATION

at request of
Joint Interim Subcommittee
on Adult and Juvenile Detention

EXHIBIT 1
DATE 2-7-91
HB 37-38-56-59

HOUSE JUDICIARY COMMITTEE
FEBRUARY 7, 1991

Background:

- A. **Federal Legislation** - The federal Juvenile Justice Act requires states who participate in the administration of federal juvenile justice funds to comply with the mandates of: 1) removing all status offenders from secure detention facilities and correctional settings; 2) providing sight and sound separation for all juveniles held temporarily in adult jails; and 3) the removal juveniles from adult jails by 1991. The act provides two exceptions to the removal of juveniles from adult facilities. In rural areas - allowing youth to be held for up to 24 hours and in urban areas - allowing youth to be held up to 6 hours. Both exceptions are to allow for the processing, identification of youth.
- B. **Federal Litigation** - Federal courts have ruled that adult jails cannot be used to hold juvenile offenders. At present, counties are particularly liable for the continued practice of jailing juveniles.
- C. **National Standards** - The National Sheriff's Association, American Corrections Association, National Association of Counties and the American Bar Association have adopted policy statements endorsing jail removal. Recognizing the special needs of youth, the cost of providing separate space and the potential liability of holding youth, this policy adoption reflects the justice system's re-evaluation of the way we treat children.
- D. **Current State Law Dictates** - Local government has responsibility for deciding when juveniles are detained and providing detention services until the youth is adjudicated and the judge's order for disposition is accomplished.

All juveniles arrested for serious offenses and detained by law enforcement, must have a probable cause hearing within 24 hours. Those youth determined to require detention by the youth court, must be held in juvenile detention facilities by July 1991.

Evaluations conducted at the State Correctional Schools will be provided on a fee-for-service basis as of July 1991. The cost will be borne by the county of the youth's residence.

Does not clearly prohibit the placement of status offenders (youth accused of committing minor offenses) in correctional facilities and adult jails.

Requires only the sight and physical separation of youth from adult offenders while being held in adult jails.

Needs Assessment:

Montana needs 28 secure beds to detain approximately 22 youth per day who pose a serious risk to society. There is further need to non-securely serve approximately 750 youth annually.

Detention is the short and long term placement of a youth following his arrest by law enforcement and while awaiting final court action.

There is no comprehensive plan nor resources offered to counties at present to assist them in meeting the responsibility of providing juvenile detention services.

Proposed Legislation:

SB 37 - Grant Program - Restates counties responsibility to provide youth detention services but recognizes local government's lack of resources to adequately address this responsibility. Establishes a state grant program to be administered by the Montana Board of Crime Control. State and available federal resources will provide an incentive to address the problem on a regional basis. Allows for regional secure detention centers through interlocal agreements. Defines procedures for creating regions/limits numbers. Applications for funding from regions require a plan to provide a full range of detention services - both secure and non-secure to accommodate both serious juvenile offenders and status offenders. Provides 50% match to plans for secure detention and transportation services. Provides 75% match for plans for non-secure detention programs.

Effective July, 1991

SB 38 - 24 Hour Exception - Allows counties to hold juveniles in an adult jail for up to 24 hours in rural areas and up to six hours in metropolitan areas to allow time to process and identify. Requires sight and sound separation as well as physical.

Effective July, 1992

SB 56 - Evaluations - Delays effective date requiring counties to purchase evaluation services from the State Correctional Schools to July 1992. Limits correctional school evaluation services to youth determined to be delinquent by the youth court and youth accused of very serious offenses. Requires parents, if determined financially able, to pay for court ordered evaluation services.

Effective July, 1992

SB 59 - Status Offender - Prohibits detention of status offenders in jails, secure juvenile detention centers or correctional facilities. Clarifies criteria for screening youth to be detained and defines procedures for holding a youth in adult facilities.

Effective Upon Passage

Exhibit 1
2-7-91
SB 37-38-56-59

Cost:

Secure detention facilities within five regions	\$1,000,000
Non-secure services locally accessible	300,000
Transportation, Auxiliary Services, Administration	<u>300,000</u>
Total Cost	\$1,600,000

Projected Cost Sharing:

County	\$700,000
State	\$700,000
Federal	<u>\$200,000</u>
Total Cost	\$1,600,000

Proposed Revenue Sources:

H.B. 74 - County Source of Revenue - Authorizes permissive levies for regional jails and juvenile detention programs. This levy is outside the limits of Initiative Measure No. 105 and does not require voter approval.

Effective July, 1991

HB 73 - State Source of Revenue - Statutorily appropriates 15% of the lottery proceeds to fund the operation of youth detention programs.

Effective July, 1991

or:

HB 75 - State Source of Revenue - Appropriates 3.67% of the net incomes tax on video gambling machines to fund youth detention programs.

Effective July, 1991

Juvenile Justice and Delinquency Prevention Act - Federal Source of Revenue - Provides up to \$200,000 to local governments through a formula grant program received by the Montana Board of Crime Control. This money may not always be available.

DATE 8-4-91

SB 56

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for S.B.56, revised.

DESCRIPTION OF PROPOSED LEGISLATION: An act to restrict placement or evaluation of predispositional youth at a state youth correctional facility; to eliminate the requirement that the Department of Family Services provide additional youth evaluation programs to replace services performed at state institutions; to clarify the responsibility of counties to pay the cost of youth evaluations; and providing a delayed effective date.

ASSUMPTIONS:

1. The act would be effective July 1, 1992. No expenditure or revenue impact occurs in FY92.
2. The act is affecting the free provision of evaluation services at the correctional facilities only.
3. Counties will be responsible only for the clinical costs of evaluation conducted at Y.E.P..
3. When Counties are required to buy evaluations from the state correctional facilities, probation offices project the demand for such services will be reduced to 70 for the fiscal year 1993.
4. As Pine Hills is able to provide an evaluation in 14 days, it is assumed Mountain View could reduce the average length of stay to 14 days.
6. The Average cost of evaluation in Pine Hills School is \$72 per day (est). The average cost of evaluation at Mtn. View is \$90 per day (Est).
7. Parents able to contribute to the cost of evaluations will reduce the financial liability to Counties.

FISCAL IMPACT:Expenditures:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
F.T.E	5	5	0	5	5	0
Personal Services	109,549	109,549	0	109,415	109,415	0
Operating Expenses	507,122	507,122	0	507,256	507,256	0
Total	616,671	616,671	0	616,671	616,671	0

Funding:

	FY '92			FY '93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
General Fund	616,671	616,671	0	616,671	515,307	(101,364)
County Evaluation Fees	0	0	0	0	101,364	101,364
Total	0	0	0	616,671	616,671	0

EXHIBIT 2
DATE 2-7-91
HB 73 e 15

Amendments to House Bill No. 73
First Reading Copy

Requested by Representative Jim Rice
For the House Judiciary Committee

Prepared by Tom Gomez
February 6, 1991

1. Page 2, lines 9 through 14.

Strike: subsection (5) in its entirety

Insert: "(5)(a) For the fiscal year beginning July 1, 1991, 1.6% of the net revenue derived under subsection (3) must be paid quarterly to the board of crime control.

(b) For the fiscal year beginning July 1, 1992, and thereafter, 9.1% of the net revenue derived under subsection (3), but not to exceed \$1 million in any fiscal year, must be paid to the board of crime control.

(c) All money paid to the board of crime control under this subsection (5) must be used to fund state grants to counties for youth detention programs as authorized in [section 8 of Senate Bill No. 37]. The revenue is statutorily appropriated, as provided in 17-7-502, to the board of crime control."

Amendments to House Bill No. 75
First Reading Copy

Requested by Representative Jim Rice
For the House Judiciary Committee

Prepared by Tom Gomez
February 6, 1991

1. Title, line 7.
Strike: "NET INCOME"
Following: "ON"
Insert: "NET INCOME FROM"
2. Page 1, line 14.
Strike: "Video gambling machine net income tax"
Insert: "Tax on net income from video gambling machines"
3. Page 1, line 17.
Strike: "video gambling machine"
4. Page 2, lines 4 and 5.
Strike: "video gambling machine net income tax"
Insert: "the tax on net machine income"
5. Page 2, lines 8 through 17.
Following: "(4)" on line 8
Strike: remainder of lines 8 through 17
6. Page 2, line 18.
Strike: "(c)"
Following: "shall"
Strike: "forward the remaining"
7. Page 2, line 19.
Strike: "net income"
Insert: "distribute the revenue from the"
8. Page 2, line 20.
Following: "(3)"
Insert: "as follows:
 (a) Two-thirds of the tax must be paid"
9. Page 3, line 4.
Following: line 3
Insert: "(b)(i) For the fiscal year beginning July 1, 1991, 1.7%
 of the tax must be deposited in the state special revenue
 fund.
 (ii) For the fiscal year beginning July 1, 1992, and
 thereafter, 10.4% of the tax, but not to exceed \$1
 million in any fiscal year, must be deposited in the
 state special revenue fund.
 (iii) The money deposited in the state special revenue
 fund pursuant to this subsection (4)(b) must be used"

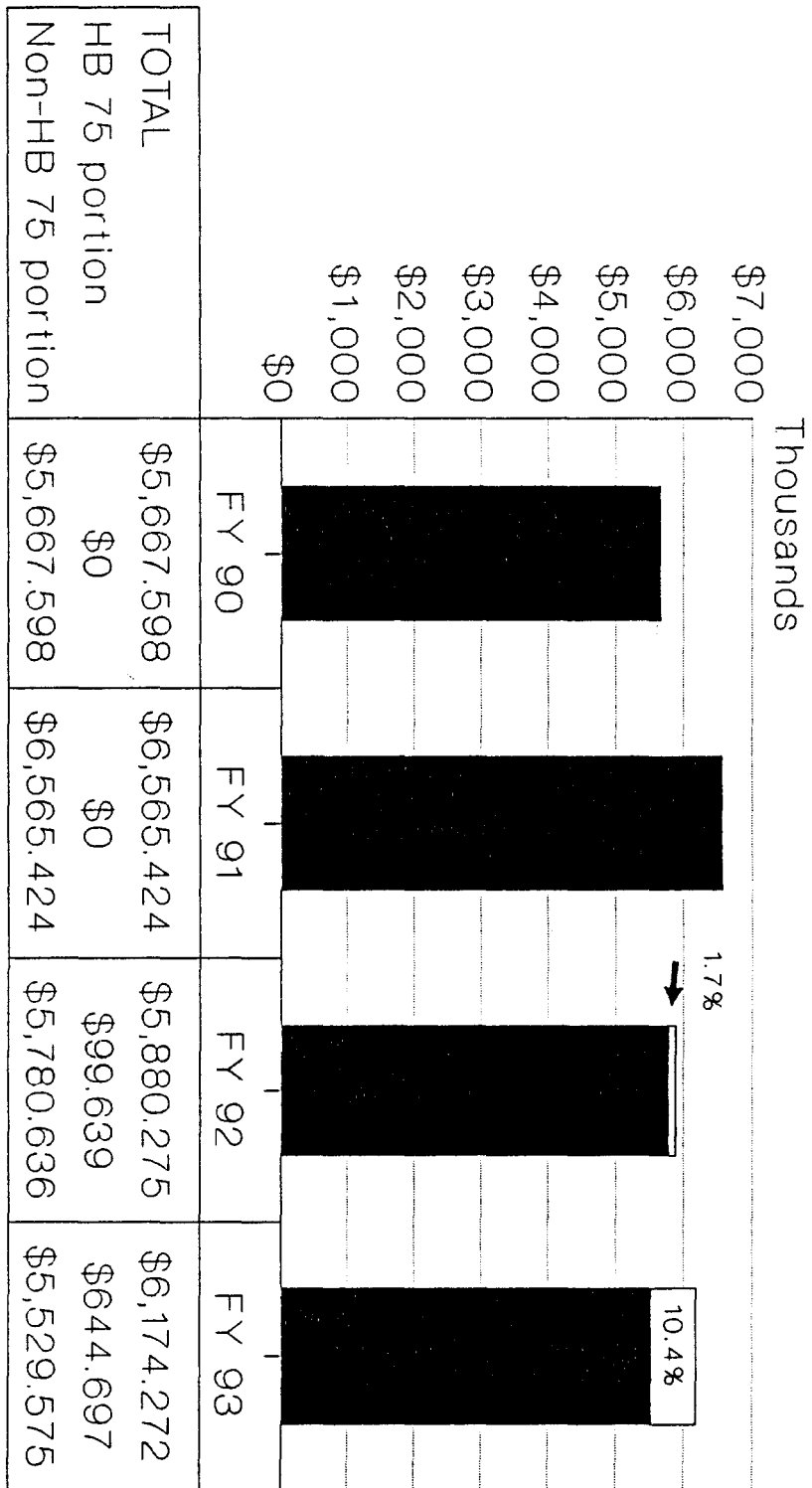
Ex. 3

2-7-91

HB 73 e75

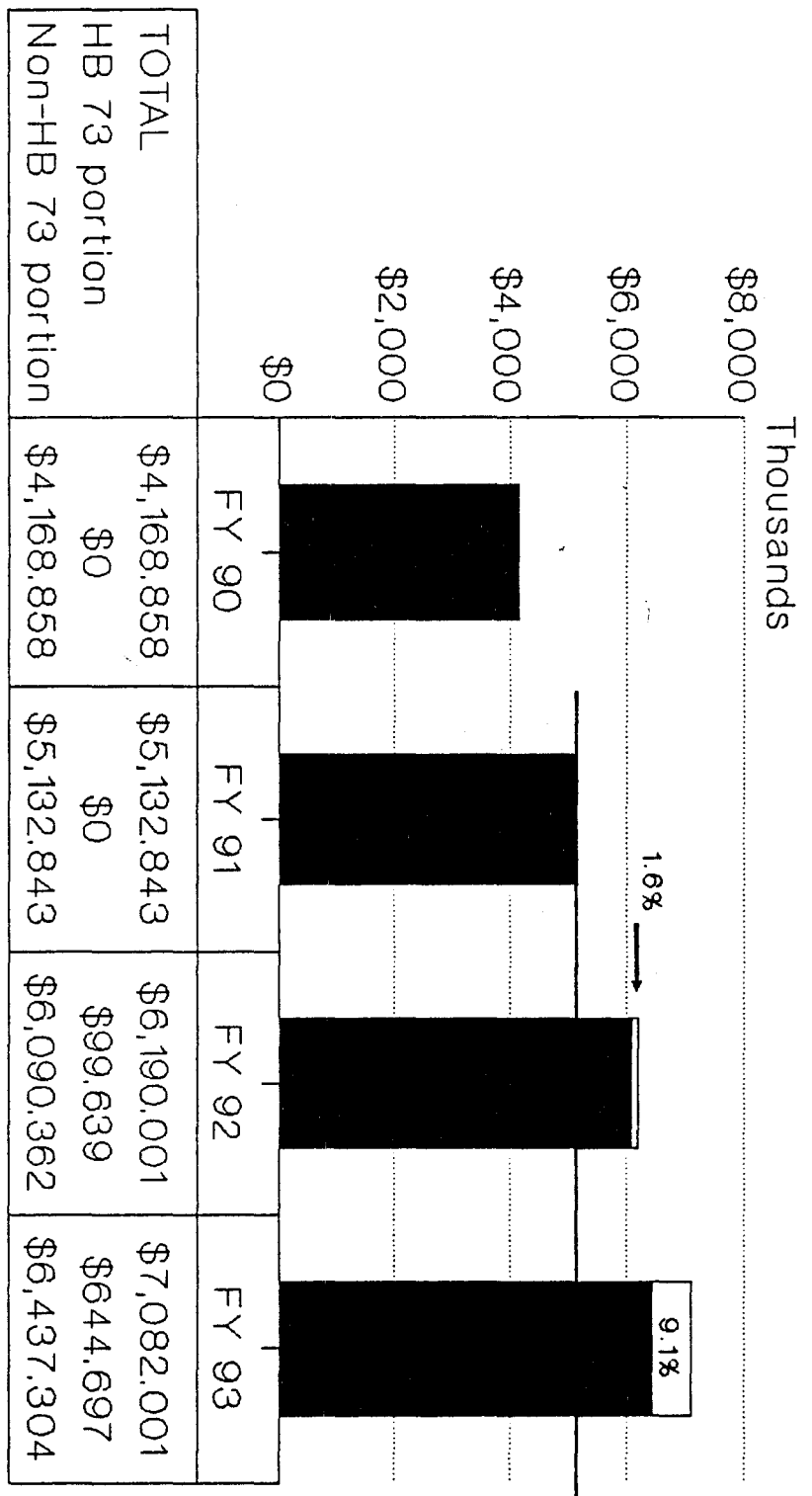
for the purpose of funding state grants to counties for youth detention programs as authorized in [section 8 of Senate Bill No. 37]. The amount deposited under this subsection (4)(b) is statutorily appropriated, as provided in 17-7-502, to the board of crime control. (c) The remainder of the tax must be deposited in the general fund."

HB 75: General Fund Revenues From Video Gaming Tax



☒ Non-HB 75 portion ☐ HB 75 portion

HB 73: General Fund Revenues From Lottery



☒ Non-HB 73 portion
 ☐ HB 73 portion

Source: fiscal notes

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB#37
DATE 2-7-91 SPONSOR(S) Sen. Halligan
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig Anderson	Juv. Prob	X	
Pick Boettcher	Juv. Prob	X	
Sandra L Monaco	Juv. Prob	X	
Gay Losesky	Juv. Prob	X	
John Conns	MT County Atty's Assn	✓	
DWIGHT Mackay	Yellowstone	-	
J.A. Ziegler	Yellowstone	X	
Mike Schubert	" "	X	
DICK GASVOGA	CASCADE CTY	X	
Tim McCauley	Juvenile Probation Officers Association	X	
Emmie J	MACs	X	
Mimi Jamison	Juv. Prob Assoc.	X	
J. Shantz	MHAM	+	
Steve Nelson	MRCE	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Jim Smith
Rick Laten

MRCCA
MSPCA

✓
X

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO.

SB#38

DATE 2-9-91

SPONSOR(S)

Sen. Halligan

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig Anderson	Juv. Prob.	X	
Dick Boettcher	Juv Prob	X	
Gary Losch	Juv. Probation	X	
Barbara Monaco	Juv. Prob	X	
John Connor	MT County Attys Assn	✓	
Dwight Mackay	Yellowstone	—	
J.A. Ziegler	YELLOWSTONE	X	
Mike Schaffer	"	"	
Raymond Hood	Public Defender - Helena	✓	
Dick Gasvoda	CASCADE CTY	X	
Tim McPaughey	Juv. Probation/Juvenile Association	X	
Ann Turbair	Juv. Prob	X	
Don Rich	Juv. Probation	X	
Gordon Mann	MACO	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Maria Jansen

Juv Prob Assoc

X

J. Shontz

MHAM

✓

MHAM

✓

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO.

SB# 59

DATE 2-7-91

SPONSOR(S)

Sen. Yellowtail

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Clay Anderson	Juv. Prob	X	
Dick Bortelier	Juv. Prob	X	
Barbara M. Manna	Juv. Prob	X	
Larry Lashby	Juv. Prob	X	
John Cannon	MT County Attys Assn	✓	
DWIGHT MALKIN	Yellowstone Co	✓	
J.A. ZIEGLER	" Co	X	
Mike Schaefer	" "	X	
Donna Hood	Public Defender Office	X	
DICK BASVODA	CASCADE CTY	Y	
Tim McPhee	Juv. Probation Officers Assn	X	
Don Puck	Probation Office	X	
Kurt Tuerbach	Juv. Prob	X	
Glyn Craft	Juv. Prob	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Gordon Morris
Mona Jamison
V. S.

MAG
Juv. Prob Assn.
MHAM

X
X
X

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO.

SB# 56

DATE 2-7-91

SPONSOR(S)

Sen. Yellowstone

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig Anderson	Juv. Prob	X	
Brian Bortolier	Juv. Prob	X	
Karlene Williams	Juv. Prob	X	
Larry Losky	Juv. Prob	X	
John Connor	MT. County Atty's Assn	✓	
Dwight Mackay	Yellowstone Co.	—	
J.A. Ziegler	Yellowstone Co.	X	
Mike Schaefer	" "	X	
DICK GASVOOD	CASCADE CTY.	X	
Tim McPaul	Juv. Probation Officer Association	X	
Raymond Wood	Public Defender Assn	X	
Kenneth Senbach	Juv. Prob.	X	
Don Leach	Probation	X	
Gary Cuff	Juv. Prob Intern	X	

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Rick Lister
Jordan Morris
Mama Jamison
J. C. L.

MSPOA
MACo
Juv. Prob.
MHAAM

X
X
X
X

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE Rep. Rice BILL NO. HB# 73
DATE 2-7-91 SPONSOR(S) Rep. Rice

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig J. Anderson	Juv. Prob.	X	
Dick Bantelme	Juv. Prob.	X	
Barbara de Monaco	Juv. Prob.	X	
DWIGHT MACKAY	Yellowstone	X	
J.A. ZIEGERT	YELLOWSTONE	X	
Gary Lashley	Juv. Prob.	X	
DICK G. ASVOOA	CASCADE CTR	X	
Tim McPhee	Juv. Probation Office	X	
Gordon Morris	MAG	X	
Steve Nelson	W1/3 74		
Tom Olsen	DIFS	X	
Ray McKenna	Helena City Comm - Support 2 amendments		
Alec Hansen	MLCT	HB 73 WITH X AMENDMENTS	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO. HB# 75

DATE 9-7-91 SPONSOR(S) Rep. Rice

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig J. Anders	Juv. Prob.	X	
Dick Boettcher	Juv. Prob.	X	
Laubach & Menzies	Juv. Prob.	X	
Dwight Mackay	Yellowstone Co	X	
J.A. Ziegler	YELLOWSTONE CO.	X	
M. He Schuler	Yellowstone Co	X	
Gary Losterby	Juv. Prob.	X	
Wm M Cochran	City of Billings		
DICK GASVOOR	CASCADE CTY	X	
Tim McCauley	Juv. Probation Officers Association	X	
Raymond Hood	Public Defender - Helena	X	
Ann Overback	Juv. Prob.	X	
Alph Craft	Juv. Prob Intern	X	
Klon Rich	Juv. Probation	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Gordon Morris
Rick Laten

MACO
MSPOA

X
P

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary

COMMITTEE

BILL NO.

SR#2

DATE

2-7-91

SPONSOR(S)

Sen. Holligan

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Craig Anderson	Juv. Prob.	X	
Dick Bonitiner	Juv Prob	X	
Lutera de Monaco	Juv. Prob	X	
Way Losesky	Juv Prob	X	
John Conn	MT County Attys Assn	✓	
Dwight Mackay	Yellowstone	—	
J.A. Ziegler	Yellowstone	X	
Mike Schefter	"	"	
DICK GASVODA	CASCADE CTY	X	
Ken Oberack	Juv. Prob	X	
Hugh Craft	Inter gov. Prob	X	
Mon Puch	Juv Probation	X	
Gordon Morris	MACU	X	
Ed Hall	MBCC	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Steve Nelson

J. Godwin

ARNIE OWEN

MBCC

Great Falls

GREAT FALLS

MBCC

L

X

X

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. HB# 74
DATE 2-7-91 SPONSOR(S) Rep. Klisch
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Chas Anderson	Jun. Prob.	X	
Dick Bostiller	Julia Hob	X	
Barbara Monaco	Gov. Prob	X	
DWIGHT MACICAY	Yellowstone Co.	X	
J.A. ZIEGLER	" Co	X	
Mike Schaffer	" "	X	
Gary Zalesky	Jun. Prob		
Wm M Cochran	City of Billings		
Ronald Hood	Pub Defender Helena	X	
DICK BASVOOR	CASCADE CRY	X	
Tom McCauley	Probation Officers Association	X	
Don Pritch	Probation Butte	P	
Ken Teaback	Jun. Prob	X	
Dyn Craft	Gov Prob	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Steve Nelson
Rick LATER

MBCP
MSDOA

X
X