

**MINUTES**

**MONTANA HOUSE OF REPRESENTATIVES  
52nd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By DIANA WYATT, CHAIR, on February 21, 1991, at  
3:00 P.M.

**ROLL CALL**

**Members Present:**

Diana Wyatt, Chair (D)  
Jessica Stickney, Vice-Chair (D)  
Joe Barnett (R)  
Arlene Becker (D)  
Vivian Brooke (D)  
Brent Cromley (D)  
Paula Darko (D)  
Tim Dowell (D)  
Budd Gould (R)  
Stella Jean Hansen (D)  
Harriet Hayne (R)  
Ed McCaffree (D)  
Tom Nelson (R)  
Jim Rice (R)  
Sheila Rice (D)  
Richard Simpkins (R)  
Norm Wallin (R)

**Members Excused:** Dave Brown (D)

**Staff Present:** Bart Campbell, Legislative Council  
Lois O'Connor, Committee Secretary

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

**HEARING ON HB 542**

**Presentation and Opening Statement by Sponsor:**

REP. KADAS asked the committee to table HB 542. The people who  
asked him to sponsor the bill no longer want it.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions From Committee Members:** None

**Closing by Sponsor:** None

EXECUTIVE ACTION ON HB 542

Motion/Vote: REP. S. J. HANSEN MOVED HB 542 BE TABLED. Motion carried unanimously.

HEARING ON HB 946

Presentation and Opening Statement by Sponsor:

REP. MENAHAN, House District 67, Anaconda, stated HB 946 requires that all DUI fines go into the traffic education account. The money raised would go to the schools for the Montana Teen Institute. More young people are being arrested for possession of alcohol. There is a demand for DUI task forces. The money should be used to fight peer pressure through education.

Proponents' Testimony: None

Opponents' Testimony:

Alec Hansen, Montana League of Cities and Towns, said the League was opposed to HB 946 for financial reasons. Cities have no budget flexibility under I-105. Due to inflation and property tax freezes, cities have lost 20% of their tax revenue. DUI money is used for police officer wages and support, municipal courts, public defenders, and other law enforcement functions. Cities cannot afford to subsidize a massive increase in the budget for education programs.

Karen Bryson, City of Helena, said the annual revenue loss to the city of Helena would exceed \$140,000. There is an expense incurred by local law enforcement for enforcing the DUI laws for equipment, officers' time, and training. Local governments have no way of gaining the revenue lost through I-105.

David Hull, Commission on Courts of Limited Jurisdiction, said the Commission opposes any legislation that changes the way monies are disbursed from city or justice courts. The money should be used to deter youth from the abuse of alcohol while driving through enforcement. There will be no more DUI convictions if HB 946 passes. They will be amended to reckless driving because the cities will not give up the money.

Tim Magee, Finance Director, City of Great Falls, and Pat Bradley, Montana Magistrates Association, opposed HB 946.

Robert Jones, Chief of Police, City of Great Falls, said police departments are giving the best enforcement effort in regards to DUI enforcement because they live within the General Fund and depend on all revenue sources to adequately staff police departments. Programs would be in jeopardy if the cities lost additional revenue out of the general fund.

**Questions From Committee Members:**

REP. WALLIN asked David Hull why there would be no more DUI charges if the bill passed. Mr. Hull said the cities will be faced with two alternatives. A DUI conviction or reckless driving conviction. We must have the money to pay for our policeman. REP. WALLIN asked if HB 946 pertains to DUI money only; and if someone is brought up on DUI charges, the judge would call it reckless driving. Mr. Hull said HB 946 does pertain to DUI money only and as a prosecuting attorney, he would amend the charge from DUI to reckless driving. Cities have to have the money and this is what would happen.

**Closing by Sponsor:**

REP. MENAHAN said the problem is a money raising one. Put the money where it is intended, with the education of youth and safety.

**HEARING ON HB 706****Presentation and Opening Statement by Sponsor:**

REP. COHEN, House District 3, Whitefish, stated HB 706 establishes a licensing process for motor vehicle wrecking facilities and motor vehicle graveyards. It would require the governing body of a county to conduct a hearing and establish criteria for the decision by the DHES to license a facility. At present, to establish a graveyard or wrecking facility, they must go through the Department to make sure the sight is acceptable in the environmental criteria. There is no Department regulation that a particular sight be compatible with other land uses in the county. HB 706 states that before DHES can license a wrecking facility; they have to notify the people who live adjacent to the area where the facility will be built, County Commissioners must be notified, public notices must be sent, and a hearing must be held in the Commissioner's office.

**Proponents' Testimony:**

Gordon Morris, Montana Association of Counties, stated HB 706 would give the County Commissioners the opportunity to vote on the location of wrecking facilities and graveyards.

**Opponents' Testimony:** None**Questions From Committee Members:**

REP. CROMLEY said on Page 2, Line 12 where it says "department shall consider", shouldn't that read "county governing body". The hearings are held before the local county government, which makes the decision to endorse or not endorse; and asked how does DHES know the effect. REP. COHEN stated it would give DHES the opportunity to veto a license. He wanted to put the decision in

the hands of local governments and said it was probably a drafting problem. **Gordon Morris** stated if the county did support it, then DHES would still be qualified to make the next level decision. **REP. CROMLEY** asked if there were two hearings, one before the county and one before the DHES. **REP. COHEN** said there was only a review process with the DHES and no hearing with local governments. **REP. CROMLEY** asked how the information is going to get to the state. **REP. COHEN** stated there is existing language for reviews in the statutes. What they don't look at is land use planning.

**REP. S. J. HANSEN** asked **Jon Dilliard, DHES**, how the counties determine where to put a graveyard. **Mr. Dilliard** said when the DHES receives a application for a motor vehicle wrecking facility or graveyard, they find out if the facility can be shielded from public view. The plans in the application require they supply specific instruction and details of shielding plans. They must also give environmental and operational conditions such as soil types, near by streams, intermittent water, and depth of well and water in the facilities area. They then prepare an environmental assessment which is sent to all adjoining property owners for their input. **REP. HANSEN** asked if HB 706 would make the process more difficult to find a location for a facility. **Mr. Dilliard** said HB 706 would have little effect on making it harder to issue a license. The main impact of work in doing an application would go to the counties.

**REP. DOWELL** stated much of Montana isn't zoned and asked if the bill would be helpful to those areas. **Mr. Dilliard** stated HB 706 would provide an area zoning effort for or against wrecking facilities. It would not leave permanent zoning in place. **REP. J. RICE** said the statutes require the counties to maintain or contract out property for vehicle graveyards and asked if the bill would mandate the county to have a hearing on an application. **Mr. Dilliard** said yes. The county graveyards have to go through the same licensing process as a motor vehicle wrecking facility. It would not specifically eliminate them from having a public hearing on their own yard.

**Closing by Sponsor:**

**REP. COHEN** stated all counties have wrecking facilities. They should have the vote if they need a new site for a wrecking facility. They should discuss this with the residents who live in the area where the facility will be located.

**HEARING ON HB 939**

**Presentation and Opening Statement by Sponsor:**

**REP. S. RICE** stated HB 939 has an appropriations attachment and does not need to be heard until after transmittal. She requested a delay in hearing until after that time.

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions From Committee Members:** None

**Informational Testimony:** CHAIR WYATT, said HB 939 would be left open and rescheduled after transmittal.

**Closing by Sponsor:** None

**HEARING ON HB 925**

**Presentation and Opening Statement by Sponsor:**

REP. GERVAIS, House District 9, Browning, stated HB 925 would change the county boundaries between Glacier and Pondera Counties upon approval of electors of both counties.

**Proponents' Testimony:**

Daniel Boggs, Blackfeet Tribal Council, stated the Council has formed committees at Heart Butte to get action on the tribes deeds. The reservation area in Glacier County has facilities needed for the operation of Blackfeet government. Bureau of Indian Affairs offices and all other reservation offices are located in Browning.

Donald DuBray, Director of Realty and Natural Resources, Blackfeet Tribe, stated the total acreage involved in HB 925 is 162,301 acres.

Fred Pambers, Glacier County Commissioner, Daisy Galbreath, Leanda Burd, Angie Pallock, Cheryl DeRoche, and Carol Juneau Blackfeet Tribal members, supported HB 925.

**Opponents' Testimony:**

Don McClain, Chairman, Pondera County Commissioners, stated he was opposed to the method being proposed. The present statutes best address the method to be used to change county boundaries. The petition method now in statute holds several important safeguards which need to be preserved.

Fay Stokes, Pondera County Canal and Reservoir Company, stated the company's concern is with easements and right-of-ways on their irrigation structures located on the boundaries of the reservation, Pondera, and Glacier Counties. They want them to remain as they are.

Jayne Mitchell, Pondera County Attorney, stated the present petition process has important safeguards that HB 925 would bypass. The petition process would require 50% approval of the voters within the region affected. It would provide publication

of a map and public discussion. It would allow the Heart Butte people, who will be transferred out, to have more say in the boundary changes.

**Questions From Committee Members:**

**REP. McCAFFREE** asked **REP. GERVAIS** what the taxable value of the proposed area being annexed into Glacier County is. **REP. GERVAIS** said the only information he brought was the taxable acreage. The taxable acreage belongs to the Tribe and tribal members.

**REP. DARKO** asked **REP. GERVAIS** if he had tried other methods to change the boundaries. He said he had gone to the Secretary of State's office and was informed the boundaries could be changed legislatively. **REP. DARKO** said there is a method by statute at present to change county boundaries and asked why **REP. GERVAIS** choose this route. **REP. GERVAIS** stated he was advised by the Legislative Council to introduce the bill because they wouldn't run into any constitutional problems.

**REP. SIMPKINS** asked **Jayne Mitchell** the procedure to change county boundaries. **Ms. Mitchell** stated 7-2-2201 states that a petition from the affected district must be approved by 50% of the voters of both affected counties. It also provides for input from the people who are most affected. **REP. SIMPKINS** asked if there was any statute that says the Legislature can change the boundaries of counties. **Ms. Mitchell** said that there is a provision that the Legislature can create a new county, but a change in existing counties has to follow the procedures in 7-2-2201.

**REP. S. J. HANSEN** asked **Ms. Mitchell** if the reason for HB 925 was to take the government facilities from one county and move them to another. She said the reason for the petition process is to make sure that all people involved are informed before such a radical change occurs. This would require full discussion from everyone involved and would set a precedent for other counties in the future.

**Closing by Sponsor:**

**REP. GERVAIS** said that the Blackfeet are used to changing the boundaries. All of the programs and services are in Browning. There is no input from Heart Butte. The area that HB 925 addresses is entirely owned by the Tribe.

**HEARING ON HB 853**

**Presentation and Opening Statement by Sponsor:**

**REP. SCOTT**, House District 97, Ballantine, stated the port authorities in Billings and Yellowstone County do not work well. HB 853 is a tool to make it work better. Port authorities provide economic development in the state. **REP. SCOTT** supplied amendments. **EXHIBIT 1**

**Proponents' Testimony:**

**Mike Mathew, Chairman, Yellowstone County Commission**, stated the commission supports HB 853 as per REP. SCOTT'S amendments but they have a problem with the concept of election. There have been concerns about the ability of non-elected bodies to tax.

**Cal Cumin, Development Director, Yellowstone County**, supports HB 853 and wished to change the section which addresses the election of port authority commissioners. Port authorities are used to promote, stimulate, develop, and advance the general welfare and prosperity of their jurisdiction. The intent of the last legislature was to broaden the port authority power. The old language was left in which was "ports, transportation, and storage". Those three references should be deleted and just reference "port facilities".

**Opponents' Testimony:**

**Bill Fogarty, Manager of Marketing and Traffic, Port of Montana, Butte Silver Bow County**, stated concerns about the election of the local port authority and deletion of the transportation and storage language from the bill. It should be a local government option whether it be elected or appointed. It is important to distinguish between the operating and non-operating ports. It is important for future funding to leave in the transportation and storage language.

**Ann Mary Dussault, Missoula County Commissioner**, stated that one of the powers of the port authority is to levy taxes and expressed concern about an appointed body having taxing authority. HB 853, with the amendments, has merit in that the levying authority would occur with the County Commissioners, but she would like to see the deletion of election of the port authority members. There is a point at which we must consolidate the entities not expand them. If the election language were deleted and the proposed amendments inserted, she would support the bill.

**Ron Klophoke, Missoula Economic Development Corporation**, stated the original bill and amendments were good. However, electing a body might remove the local counties from the process. As long as the County Commissioners control the levy process, it will insure that the public is involved. Creating another elected body could be detrimental at the local level. The last legislature intended that the port authority include economic development. Economic development involves many things not just freight.

**Gordon Morris, Montana Association of Counties**, said the election alternative is no alternative. County Commissioners are not going to stand behind the election of port authorities

commissioners because it would create a new, independent tax jurisdiction. We want a board that is empowered, by appointment, by County Commissioners.

**Questions From Committee Members:**

**REP. SIMPKINS** asked **Gordon Morris** if the bill should be killed. He stated with the proposed amendments, the committee could come up with a good bill.

**REP. DOWELL** asked **REP. SCOTT** to comment on the election language of the bill. **REP. SCOTT** stated that County Commissioners and Legislators were elected. Adding the option of being elected or appointed would satisfy everyone involved. **REP. CROMLEY** asked if it would be the option of the County Commissioners. **REP. SCOTT** said yes.

**REP. WALLIN** asked **Ron Klophoke** why HB 853 couldn't be incorporated into the Economic Development Committee. **Mr. Klophoke** stated the major organization for economic development in Yellowstone County is the Montana Trade Port Authority. This bill started with the language, "ports, transportation, and storage". That language is needed because they were advised by bond council, that if they ever financed a large project, their bonding would be in jeopardy. The law says "ports, transportation, and storage".

**REP. CROMLEY** asked **Bill Forgarty** if his concern was removing the language of "ports, transportation, and storage" and why. **Mr. Forgarty** said the "ports, transportation, and storage" aspects should be left in the bill for the operating ports who do not deal with economic development. It could jeopardize funding in the future. He has no problem with the economic development portion.

**Closing by Sponsor:**

**REP. SCOTT** stated he would like to put a good bill together because he wants to see port authorities work.

**HEARING ON HB 823**

**Presentation and Opening Statement by Sponsor:**

**REP. WHALEN**, House District 93, Billings, stated HB 823 is a trade port authority bill. The purpose is to address problems with the trade port authority in Billings. It has nothing to do with HB 853. The port authority in Billings does not draw upon all the talent available in the community which could make economic development work. Under the current trade port authority law, there is little accountability to the voters for the way the two mill levy is spent. HB 823 requires the budgets of the trade port authority to be reviewed by the County Commissioners and the trade port will sell bonds and dedicate the



proceeds from their two mill levy. It also requires the appointment of trade port authorities by the Governor. Economic development is a statewide concern and the Governor should have some control because economic development is a statewide issue.

Proponents' Testimony: None

Opponents' Testimony:

**Gordon Morris, Montana Association of Counties**, stated if the amendments were attached to HB 853, the committee would have a bill everyone could live with. HB 823 is not needed.

**Cal Cumin, Economic Development Director, Yellowstone County**, said the issues are addressed in HB 602 and 853. The bonding issue is in current statutes. The Governor should not appoint the trade port authority. Trade ports are economic development agencies. The best business minds available are needed which is why the trade ports are appointed the way they are.

**Ann Mary Dussault, Missoula County Commissioner**, stated this is a local issue. The Governor should not be involved. Port authorities have been given authority and legislation has been passed dealing with these issues.

**Bill Fogarty, Port of Montana, Butte Silver Bow**, stated local control is important and opposed the Governor appointment. The Port of Montana operates as a segment of local governments. The bonding issues the ports deal with are not general obligation bonds. There should be no imposition of restrictions as far as ports are concerned. The issues have already been addressed in previous legislation.

**Ron Klophoke, Missoula Economic Development Corporation**, opposed HB 823 and hoped the committee would come up with a good bill using HB 853 with the proposed amendments.

Questions From Committee Members:

**REP. BROOKE** asked **REP. WHALEN** if he could address his problem with a description of the board being appointed locally but designating the groups he would like to have represented. **REP. WHALEN** stated it could be done, but economic development is a statewide issue and it's not like appointing a librarian. **REP. GOULD** asked **Gordon Morris** if the problems could be worked out between the two bills. **Mr. Morris** said that it could be done before Executive Action is taken.

**REP. S. J. HANSEN** asked **REP. WHALEN** if he thought the individual community has the right to put a port authority together for its own community. **REP. WHALEN** said the people on the port authority boards should be appointed locally.

**Closing by Sponsor:**

REP. WHALEN stated the local trade board in Yellowstone County has been run like a private club. HB 823 is straightforward and workable. It has appointment, a broad base of people taking part in economic development, and accountability. Trade boards have no accountability to the people.

**HEARING ON HJR 34****Presentation and Opening Statement by Sponsor:**

REP. STICKNEY, House District 26, Miles City, stated HJR 34 is the committee's resolution to encourage the agencies and departments of state government to continue working on the process of combining driver license, voter registration lists, and other lists to use for jury duty. REP. STICKNEY provided written testimony. EXHIBIT 2

**Proponents' Testimony:** None

**Opponents' Testimony:** None

**Questions From Committee Members:** None

**Closing by Sponsor:** None

**HEARING ON HB 791****Presentation and Opening Statement by Sponsor:**

REP. BENEDICT, House District 64, Hamilton, stated HB 791 specifies the direct supervision by the sheriff is not necessary over search and rescue operations. The sheriff will designate another person to be in charge. The language is expanded relative to the sheriff's span of control so that the supervision can be by radio or telephone as long as there is contact. The reason for the change is to allow coverage of worker's compensation insurance for search and rescue people while they are engaged in search and rescue efforts.

**Proponents' Testimony:**

Tom Harrison, Sheriff's and Peace Officers Association, stated HB 791 would provide a method by which worker's compensation would be provided for the employees while engaged in search and rescue activities. The sheriff will not have to be in direct supervision and will be able to designate another person to be in charge.

Gordon Morris, Montana Association of Counties, supported HB 791.

Opponents' Testimony: None

Questions From Committee Members:

REP. WALLIN stated HB 791 is a permissive bill. It needs a one mill levy to fund. If the county has enough money in the General Fund, they can implement this if they want. REP. DARKO said the levy is optional. The County Commissioners can put it on the ballot. Under I-105, that cannot be done anymore.

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 706

Motion/Vote: REP. DOWELL MOVED HB 706 DO PASS AND BE PLACED ON CONSENT CALENDAR. Motion carried unanimously.

EXECUTIVE ACTION ON HB 823

Motion/Vote: REP. DARKO MOVED HB 823 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 925

Motion: REP. DARKO MOVED HB 925 DO NOT PASS.

Discussion:

REP. DARKO stated there are constitutional questions with changing county boundaries. There are other methods available; and when she asked if the other methods had been tried, she could get no answer.

REP. HAYNE stated the area in question is in her district and she is very much opposed to HB 925. It would cause confusion in both counties.

Motion/Vote: REP. HAYNE MADE A SUBSTITUTE MOTION THAT HB 925 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 946

Motion/Vote: REP. S. J. HANSEN MOVED HB 946 BE TABLED. Motion carried 17 to 1 with REP. GOULD voting no.

EXECUTIVE ACTION ON HJR 34

Motion/Vote: REP. STICKNEY MOVED HJR 34 DO PASS. Motion carried unanimously.

**Motion/Vote:** REP. SIMPKINS MOVED HJR 34 BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 791**

**Motion/Vote:** REP. DARKO MOVED HB 791 DO PASS AND BE PLACED ON THE CONSENT CALENDAR. Motion carried unanimously.

**EXECUTIVE ACTION ON HB 853**

**Motion:** REP. DARKO MOVED HB 853 DO PASS.

**Motion:** REP. DARKO moved to amend HB 853.

**Discussion:**

REP. DARKO explained the amendments: remove the language that requires election of local port authority commissioners. It would mean an amendment in the title, striking new Section 2 on Page 2, removing all references to election throughout the bill.

**Vote:** Motion to amend carried 16 to 2 with REPS. DOWELL and S. RICE voting no.

**Motion:** REP. DARKO moved to further amend HB 853.

**Discussion:**

REP. DARKO explained the amendment: to insert REP. SCOTT'S amendment, on Page 5, deleting Section 1 and reinstating the language "at the discretion of the governing bodies creating the amount of tax to be levied by the governing bodies for port purposes".

**Vote:** Motion to amend carried unanimously.

**Motion:** REP. DARKO moved to further amend HB 853: on Page 4, Lines 4, 5 and 25 continuing to Page 5; "and protection of transportation, storage, and other facilities that promote the safe, efficient, and economical handling of commerce".

**Discussion:**

Bart Campbell stated they had some concern that the language reflect the economic development capacities of the ports. The committee might want to say "ports, transportation, storage, and economic development facilities".

**Motion:** REP. DARKO amended her motion to reflect the language of Mr. Campbell.

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. DARKO MADE A SUBSTITUTE MOTION THAT HB 853 DO PASS AS AMENDED. Motion carried unanimously. EXHIBIT 3

EXECUTIVE ACTION ON HB 214

Motion: REP. SIMPKINS MOVED TO RECONSIDER HB 214.

Discussion: REP. SIMPKINS offered an amendment proposed by REP. CONNELLY. REP. SIMPKINS explained the amendments. EXHIBIT 4

Vote: Motion to reconsider failed 5 to 13. EXHIBIT 5

EXECUTIVE ACTION ON HB 716

Motion: REP. DARKO MOVED TO RECONSIDER HB 716.


Discussion:

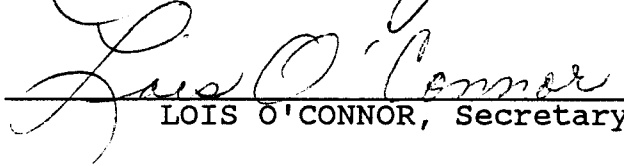
REP. DARKO stated REP. CONNELLY would like the committee to reconsider HB 716. REP. DARKO stated she moved to table the bill because there were too many amendments to be made. REP. CONNELLY has amended the bill addressing some of the committee's concerns. REP. SIMPKINS agreed. REP. WALLIN asked what REP. CONNELLY has done to address the concerns of the committee. REP. DARKO stated that REP. CONNELLY assured her that cities will not be taxed twice for animal fees, "animal" would be substituted for "dog", and removed the concern the cities had; in that if they were already paying a fee, they would not have to pay again.

Vote: Motion to reconsider failed on a 9 to 9 tie vote.  
EXHIBIT 6

**ADJOURNMENT**

**Adjournment:** 6:05 P.M.

  
DIANA WYATT, Chair

  
LOIS O'CONNOR, Secretary

DW/lo

**HOUSE OF REPRESENTATIVES**  
**LOCAL GOVERNMENT COMMITTEE**

**ROLL CALL**

**DATE** 2-21-91

NAME	PRESENT	ABSENT	EXCUSED
Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown			X
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 706 (first reading copy -- white) do pass and be placed on consent calendar.

Signed: \_\_\_\_\_

Diana Wyatt, Chairman



HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Joint Resolution 34 (first reading copy -- white) do pass and be placed on consent calendar .

Signed: 

Diana Wyatt, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that House Bill 791 (first reading copy -- white) do pass and be placed on consent calendar .

Signed: \_\_\_\_\_

*Diana Wyatt*  
Diana Wyatt, Chairman

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 4

Mr. Speaker: We, the committee on Local Government report that House Bill 853 (first reading copy -- white) do pass as amended

Signed:   
Diana Wyatt, Chairman

And, that such amendments read:

1. Title, lines 5 and 6.

Following: "; " on line 5

Strike: remainder of line 5 through "COMMISSIONERS" ON LINE 6

Insert: "GRANTING THE LOCAL GOVERNING BODY DISCRETION IN  
ESTABLISHING MILL LEVIES FOR A PORT AUTHORITY"

2. Title, lines 6 and 7.

Following: "SECTIONS" on line 6

Strike: remainder of line 6 through "7-14-1103," on line 7

Following: "7-14-1125,"

Strike: "AND"

3. Title, line 8.

Following: "7-14-1126,"

Insert: "7-14-1131, AND 7-14-1133,"

4. Page 1, line 11 through page 3, line 17.

Strike: sections 1 through 3 in their entirety

Renumber: subsequent sections

5. Page 4, line 5.

Following: "storage"

Insert: "transportation, storage, and other"

6. Page 5, lines 15 through 16.

Following: "(1)"

Strike: remainder of line 15 through "bodies" on line 16

Insert: "request annually the amount of tax to be levied by the  
governing body for port purposes, which request the  
governing body may in its discretion approve"

7. Page 5, line 25.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

8. Page 6, line 7.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

9. Page 6, line 10.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

10. Page 7, line 9.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

11. Page 7, line 20.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

12. Page 8, line 8.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

13. Page 8, line 20.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

14. Page 8, line 25 through page 9, line 3.

Strike: section 9 in its entirety

15. Page 9, line 4.

Following: line 3

Insert: "Section 6. Section 7-14-1131, MCA, is amended to read:

"7-14-1131. Municipal tax levy. The port authority may certify request annually ~~to~~ from the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality may levy the amount certified requested, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes. The levy made may not exceed the maximum levy permitted by 67-10-402 for port purposes or any lower limit that may have been established by the municipality or municipalities in the resolution creating the authority. The municipality shall collect the taxes certified requested by a port authority that it has authorized in the same manner as other taxes are levied and collected and make payment to the port authority. The proceeds of such taxes when and as paid to the port authority must be

deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this part. Prior to the issuance of bonds under 7-14-1133 and 7-14-1134, the port authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified requested, levied, and deposited annually as provided in this section until the bonds and interest thereon are fully paid."

Section 7. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

- (a) any port or transportation and storage facility;
- (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that no bonds may be issued at any time if the total amount of principal and interest to become due in any year on such bonds and on any then outstanding bonds for which revenues from the same source are pledged exceeds the amount of such revenues to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals, and to request taxes, if any are pledged, sufficient to make the revenues from the pledged source in such year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of any such bonds, the authority,

county, or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenues referred to in this part, prior to the payment of current costs of operation and maintenance of the facilities.

(6) Nothing in this section or 7-14-1134 may be construed to limit the use of port authority revenues, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide financial and other support to private development organizations, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4. Under no circumstances may the credit of the state, county, or municipal governments or their agencies or authorities be pledged to provide financial support to such development organizations."

(1) request annually and at the discretion of the governing bodies creating it, the amount of tax to be levied by the governing bodies for port purposes;

LC 1478/01

LC 1478/01

1 authority facilities, and the exercise of any powers granted  
2 to port authorities and other public agencies to be  
3 severally or jointly exercised are public and governmental  
4 functions, exercised for a public purpose, and matters of  
5 public necessity. All land and other property and privileges  
6 acquired and used by or on behalf of any authority or other  
7 public agency, as provided in this part, must be used for  
8 public and governmental purposes and as a matter of public  
9 necessity."

10 **Section 5.** Section 7-14-1111, MCA, is amended to read:

11 "7-14-1111. General powers of authority. An authority  
12 has all the powers necessary or convenient to carry out the  
13 purposes of this part, including but not limited to the  
14 power to:

15 (1) ~~carry annually to the governing bodies creating~~  
16 ~~it the amount of tax to be levied by the governing bodies~~  
17 ~~for port purposes.~~

18 (2) sue and be sued, have a seal, and have perpetual  
19 succession;

20 (3) execute such contracts and other instruments and  
21 take such other action as may be necessary or convenient to  
22 carry out the purposes of this part;

23 (4) plan, establish, acquire, develop, construct,  
24 purchase, enlarge, improve, maintain, equip, operate,  
25 regulate, and protect ports and transportation and storage

1 facilities. For such purposes an authority may, by purchase,  
2 gift, devise, lease, or otherwise, acquire real or personal  
3 property or any interest therein, including easements.

4 (5) establish comprehensive port zoning regulations in  
5 accordance with the laws of this state;

6 (6) acquire, by purchase, gift, devise, lease, or  
7 otherwise, existing ports and transportation and storage  
8 facilities as may be necessary or convenient to carry out  
9 the purposes of this part. However, an authority may not

10 acquire or take over any port or transportation and storage  
11 facility owned or controlled by another authority, county,  
12 municipality, or public agency without the consent of such  
13 authority, county, municipality, or public agency.

14 (7) provide financial and other support to  
15 organizations in its jurisdiction, including corporations  
16 organized under the provisions of the development  
17 corporation act in Title 32, chapter 4, whose purpose is to  
18 promote, stimulate, develop, and advance the general  
19 welfare, economic development, and prosperity of its  
20 jurisdiction and of the state and its citizens by  
21 stimulating, assisting in, and supporting the growth of all  
22 kinds of economic activity, including the creation,  
23 expansion, modernization, retention, and relocation of new  
24 and existing businesses and industry in the state, all of  
25 which will tend to promote business development, maintain

HOUSE JOINT RESOLUTION 34

Madame Chair

Members of the Committee

For the record, my name is Tootie Welker. I'm here today representing Montana Alliance for Progressive Policy. MAPP is a coalition comprised of women, education, senior, low-income, Native American, labor and conservation groups. We represent over 60,000 Montana households.

MAPP has been involved in non-partisan voter participation projects since 1982. We have funded and implemented projects on all seven reservations and in most urban areas. MAPP staff help set up the voter projects by forming local steering committees, procuring funds, and assisting where necessary. These projects have two goals: to register new voters and to get all voters to the polls on election day. Having a combined jury list would greatly facilitate the process of registering new voters. The primary reason people give for not wanting to register to vote is because they don't want to be considered for jury duty. We heard that reason over and over. We also need to consider the fact that right now, with voter registration falling, it is not possible to really have a jury of one's peers. And this is most apparent in certain segments of our population. We feel this combining the lists for jury pools is one of the most important pieces of voter reform that MAPP has been working on. I hope you give this resolution a do pass.



And, that such amendments read:

EXHIBIT 3

DATE 2-21-91

HB 853

1. Title, lines 5 and 6.

Following: "," on line 5

Strike: remainder of line 5 through "COMMISSIONERS" ON LINE 6

Insert: "GRANTING THE LOCAL GOVERNING BODY DISCRETION IN  
ESTABLISHING MILL LEVIES FOR A PORT AUTHORITY"

2. Title, lines 6 and 7.

Following: "SECTIONS" on line 6

Strike: remainder of line 6 through "7-14-1103," on line 7

Following: "7-14-1125,"

Strike: "AND"

3. Title, line 8.

Following: "7-14-1126,"

Insert: "7-14-1131, AND 7-14-1133,"

4. Page 1, line 11 through page 3, line 17.

Strike: sections 1 through 3 in their entirety

Renumber: subsequent sections

5. Page 4, line 5.

Following: "~~storage~~"

Insert: "transportation, storage, and other"

6. Page 5, lines 15 through 16.

Following: "(1)"

Strike: remainder of line 15 through "bodies" on line 16

Insert: "request annually the amount of tax to be levied by the  
governing body for port purposes, which request the  
governing body may in its discretion approve"

411235SC.HSF

February 22, 1991

Page 2 of 4

7. Page 5, line 25.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

8. Page 6, line 7.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

9. Page 6, line 10.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

10. Page 7, line 9.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

11. Page 7, line 20.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

12. Page 8, line 8.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

13. Page 8, line 20.

Following: "~~storage~~"

Insert: "transportation, storage, or other"

14. Page 8, line 25 through page 9, line 3.

Strike: section 9 in its entirety

15. Page 9, line 4.

Following: line 3

Insert: "Section 6. Section 7-14-1131, MCA, is amended to read:

"7-14-1131. Municipal tax levy. The port authority may ~~certify~~ request annually ~~to from~~ the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality may levy the amount ~~certified requested~~, pursuant to provisions of law authorizing cities and other political subdivisions of this state to levy taxes. The levy made may not exceed the maximum levy permitted by 67-10-402 for port purposes or any lower limit that may have been established by the municipality or municipalities in the resolution creating the authority. The municipality shall collect the taxes ~~certified requested~~ by a port authority that it has authorized in the same manner as other taxes are levied and collected and make payment to the port authority. The proceeds of such taxes when and as paid to the port authority must be

deposited in a special account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided for in this part. Prior to the issuance of bonds under 7-14-1133 and 7-14-1134, the port authority or the municipality may by resolution covenant and agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified requested, levied, and deposited annually as provided in this section until the bonds and interest thereon are fully paid."

Section 7. Section 7-14-1133, MCA, is amended to read:

"7-14-1133. Bonds and obligations. (1) Except for providing financial support to a private development organization, including a corporation organized under Title 32, chapter 4, whose purpose is to advance the economic development of its jurisdiction and of the state and its citizens, an authority may borrow money for any of its corporate purposes and issue bonds therefor, including refunding bonds, in such form and upon such terms as it determines, payable out of any revenues of the authority, including revenues derived from:

- (a) any port or transportation and storage facility;
- (b) taxes levied pursuant to 7-14-1131 or 67-10-402;
- (c) grants or contributions from the federal government; or
- (d) other sources.

(2) The bonds may be issued by resolution of the authority, without an election and without any limitation of amount, except that no bonds may be issued at any time if the total amount of principal and interest to become due in any year on such bonds and on any then outstanding bonds for which revenues from the same source are pledged exceeds the amount of such revenues to be received in that year, as estimated in the resolution authorizing the issuance of the bonds. The authority shall take all action necessary and possible to impose, maintain, and collect rates, charges, and rentals, and to request taxes, if any are pledged, sufficient to make the revenues from the pledged source in such year at least equal to the amount of principal and interest due in that year.

(3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in this part, any bonds issued pursuant to this part by an authority may be payable as to principal and interest solely from revenues of the authority and shall state on their face the applicable limitations or restrictions regarding the source from which such principal and interest are payable.

(4) Bonds issued by an authority, county, or municipality pursuant to the provisions of this part are declared to be issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

(5) For the security of any such bonds, the authority,

county, or municipality may by resolution make and enter into any covenant, agreement, or indenture and may exercise any additional powers authorized to be exercised by a municipality under Title 7, chapter 7, parts 44 and 45. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenues referred to in this part, prior to the payment of current costs of operation and maintenance of the facilities.

(6) Nothing in this section or 7-14-1134 may be construed to limit the use of port authority revenues, including federal and state money as described in 7-14-1136, to make grants and loans or to otherwise provide financial and other support to private development organizations, including corporations organized under the provisions of the development corporation act in Title 32, chapter 4. Under no circumstances may the credit of the state, county, or municipal governments or their agencies or authorities be pledged to provide financial support to such development organizations."

Amendments to House Bill No. 214  
First Reading Copy

For the Committee on Local Government

Prepared by Bart Campbell  
February 13, 1991

1. Page 2, line 22.

Following: "two"

Insert: "consecutive"

2. Page 3, line 14.

Following: "two"

Insert: "consecutive"

3. Page 4, line 16.

Following: "two"

Insert: "consecutive"

4. Page 6, line 24 through page 7, line 2.

Strike: subsection (7) in its entirety

EXHIBIT 5  
DATE 2-21-91  
HB 214

HOUSE OF REPRESENTATIVES  
LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 BILL NO. 214 NUMBER \_\_\_\_\_

MOTION: motion to reconsider

NAME	AYE	NO
REP. PAULA DARKO		X
REP. JESSICA STICKNEY, VICE-CHAIR		X
REP. JOE BARNETT		X
REP. ARLENE BECKER	X	
REP. VIVIAN BROOKE	X	
REP. DAVE BROWN		X
REP. BRENT CROMLEY		X
REP. TIM DOWELL	X	
REP. BUDD GOULD		X
REP. STELLA JEAN HANSEN		X
REP. HARRIET HAYNE		X
REP. ED MCCAFFREE		X
REP. TOM NELSON		X
REP. JIM RICE		X
REP. SHEILA RICE	X	
REP. RICHARD SIMPKINS	X	
REP. NORM WALLIN		X
REP. DIANA WYATT, CHAIR		X

EXHIBIT 6  
DATE 2-21-91  
HB 214

HOUSE OF REPRESENTATIVES  
LOCAL GOVERNMENT COMMITTEE

ROLL CALL VOTE

DATE 2-21-91 BILL NO. HB 716 NUMBER         

MOTION: to reconsider

NAME	AYE	NO
REP. PAULA DARKO	X	
REP. JESSICA STICKNEY, VICE-CHAIR	X	
REP. JOE BARNETT		X
REP. ARLENE BECKER	X	
REP. VIVIAN BROOKE	X	
REP. DAVE BROWN		X
REP. BRENT CROMLEY	X	
REP. TIM DOWELL	X	
REP. BUDD GOULD		X
REP. STELLA JEAN HANSEN		X
REP. HARRIET HAYNE		X
REP. ED MCCAFFREE		X
REP. TOM NELSON		X
REP. JIM RICE		X
REP. SHEILA RICE	X	
REP. RICHARD SIMPKINS	X	
REP. NORM WALLIN		X
REP. DIANA WYATT, CHAIR	X	

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Local Gov. COMMITTEE BILL NO. 946  
 DATE 2-21-91 SPONSOR(S) Menahan

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Pat Bradley	Mont. Magistrates Assn	946	X	
Karen Brepon	City of Helena	946	X	
Gordon Morris	MAC			
David Hull	COMMISSION IN CTS OF Ld City of Helena Jurisdiction	946	X	
Tim Magee	Finance Presb. City of Great Falls	946	X	
Robert G. Jones	Police Dept City of Great Falls	946	X	

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



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government COMMITTEE BILL NO. 542  
 DATE 2-21-91 SPONSOR(S) Kadas

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>Gordon Morris</u>	<u>MAC</u>			

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Local Gov.

COMMITTEE

BILL NO.

925

DATE

2-21-91

SPONSOR(S)

Gervais

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DONALD McCLAIN	PONDERA County	925	X	
Donald DuBRAY	Blackfeet Tribe	925		X
Daniel C. Baggs	Blackfeet Tribal Council	925		X
Leonda Burd	Self	925		X
Daisy Galbreath	Self	925		X
Angie Pollock	Self	925		X
Cheryl Broche	Self	925		X
Orin Pamelus	Glen County	925		X
Carol Jensen	Self			X
FAY STOKES	PCC+RC	925	X	
Jayne Mitchell	Pondera Co	925	X	
Peter Tatsey	Self	925		X

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Local Gov. COMMITTEE BILL NO. 853  
 DATE 2-21-91 SPONSOR(S) Scott

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ron Kiplide	Male Sen. Adv.			
Gordon Morris	MAB			
CAL CIMMIN	YELLOWSTONE @			X
Mike Malheur				x
Bill Fogarty	Pray Snow Butte / Silver Bow	853	✓	
Compliman	Male Co. Comm		X	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Gov. COMMITTEE BILL NO. 791  
 DATE 2-21-91 SPONSOR(S) Benedict

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>Gordon Morris</u>	<u>M. Acc.</u>			✓
<u>Tom Harrison</u>	<u>Mt. Shuff + Peace Offs.</u>			✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Gov COMMITTEE Whalen BILL NO. 823  
DATE 2-21-91 SPONSOR(S) Whalen

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ron Klephake	Mala Econ Dev.		✓	
Dorson Morris	MA Co.		X	
CAL CUMIN	TELL. CO.		X	
Mike Mathew			X	
Bill Fogarty	Butte Silver Bur Pt of Mont	823	✓	
AM DUSSAULT	Mala Co Comm		✓	

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Local Gov.

COMMITTEE

BILL NO.

HJR-3DATE 2-21-91

SPONSOR(S)

Stickney

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>Gordon Morris</u>	<u>MAC</u>			
<u>Diane Torley</u>	<u>Driver Services</u>			<u>X</u>
<u>Tooke Weller</u>	<u>MADD</u>			<u>X</u>
<u>C.B. Pearson</u>	<u>Common Cause/Montana</u>			<u>X</u>

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