

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By JAN BROWN, on March 13, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Jan Brown, Chair (D)
Vicki Cocchiarella, Vice-Chair (D)
Beverly Barnhart (D)
Gary Beck (D)
Ernest Bergsagel (R)
Fred "Fritz" Daily (D)
Ervin Davis (D)
Jane DeBruycker (D)
Roger DeBruycker (R)
Gary Feland (R)
Gary Forrester (D)
Patrick Galvin (D)
Harriet Hayne (R)
Betty Lou Kasten (R)
John Phillips (R)
Richard Simpkins (R)
Jim Southworth (D)
Wilbur Spring (R)
Carolyn Squires (D)

Staff Present: Sheri Heffelfinger, Legislative Council
Judy Burggraff, Committee Secretary

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

HEARING ON SB 422

Presentation and Opening Statement by Sponsor:

SEN. ELEANOR VAUGHN, House District 1, Lincoln County, introduced SB 422 to allow the sale of state lands to local governmental units -- towns, cities, counties or consolidated local governments of Montana. The law now allows state lands to be sold only to citizens of the United States, persons who have declared their intentions to become citizens or corporations organized under the laws of Montana. The bill was introduced because Madison County needed a piece of state land for a landfill site. It was found that the county does not have the

authority to buy the parcel, but an out-of-state source could buy the land and turn it into a landfill.

Proponents' Testimony:

Dennis Casey, Commissioner, Department of State Lands, stated that the bill "merely clarifies the law as to the ability of towns and cities to purchase state lands and adds to that the fact that counties can purchase state lands." The present law states that corporations organized under the laws of this state can purchase state lands. This portion of the law has been interpreted by Department of State Lands, over the past years, to include cities and towns. It has never been challenged. It does not include counties.

Ray Harbin, County Commissioner, Lake County, Montana Association of Counties (MACO), said that MACO strongly encourages the support of the bill. "It is something that should have been done a long time ago. Many counties are in position where they could use lands that are available (that are) currently owned by the state, but because of the law (they) are unable to obtain access to the lands. What happens frequently is that there are convoluted leases, and other arrangements made, which are not satisfactory and really not proper. This bill if enacted, would allow all of those things to be straightened out."

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. VAUGHN said she had no objection to incorporating SB 422 with Rep. Grady's and Rep. Grinde's bills. Rep. Spring will carry the bill.

HEARING ON SB 448

Presentation and Opening Statement by Sponsor:

SEN. THOMAS TOWE, Senate District 46, Billings, introduced SB 448 to transfer the old Montana state prison to the Powell County Museum and Arts Foundation (PCMAF). The old prison has been operated by the PCMAF, a nonprofit 501(c)3 organization, that has been concerned about the local arts collection in the Powell County area since 1980. PCMAF took on the task of repairing and maintaining the prison and making it available for tours of the antique Towe Ford collection, a doll house and doll museum, and a law enforcement museum. Arrangements were made pursuant to the Legislature to lease the prison for 25 years to the city of Deer Lodge. The city of Deer Lodge immediately assigned the lease to the PCMAF. This solution has worked out "fairly well." Sen. Towe presented a copy of the lease to the Committee. EXHIBIT 1

If PCMAF wants to make a major improvement or do something substantial in order to improve the facility, they are not "anxious to invest large sums of money. . . . It may be difficult to go into the community to raise large sums of money without knowing what will happen when the lease terminates in 15 years." HB 448 would authorize the Department of Institutions (DI), which now has control of the old prison, to negotiate with the PCMAF for a sale or a lease. Sect. 1, Pg. 2, Lns. 23 and 24 of the bill spell out specifically how this lease or sale would be accomplished to the PCMAF or its successor for operation as a museum. Sen. Towe called the Committee's attention to Pg. 3 (3), where "the DI may establish appropriate conditions to protect the interests of the state (such as the provision that would require a) reversion to the state whenever the property ceases to be used for museum purposes. The commitment to expend sums of money, the past expenditure of money in the development of the property for use for museum purposes, and the dedication of the property as so developed for public use for the benefit of all Montanans may be considered as part or all of the consideration necessary to constitute full market value." That is required under the Constitution. This is exactly the same method that was used to transfer some highway property to Zoo Montana. A museum is (for) a public purpose. Consequently, there is no worry about what constitutes consideration as it would meet the DI's provision which states "the benefit of all Montanans may be considered as part or all of the consideration necessary to constitute full market value." When the bill was heard in the Senate, members of the Montana Law Enforcement Museum and Officers' Memorial (MLEMOM) were concerned with the bill. The MLEMOM members wanted protection to assure there would be a place for their museum. Sen. Towe said he has no problem with the language on Pg. 2, Lns. 25 and Pg. 3, Ln. 1 stating, "Any agreement must ensure the preservation of adequate space for the MLEMOM." It is Sen. Towe's understanding the DI is "very anxious to get rid of the obligation that they have for the (old prison) right now." One big problem that needs to be rectified is that there is some asbestos in some of the old prison buildings. The lawyers from the DI suggested on Pg. 3, beginning on Ln. 12 "the past expenditure of money in the development of the property for use for museum purposes" should be deleted. The lawyers did not think that "past expenditure of money" really should be a proper part of the consideration. Sen. Towe said he did not think it mattered, although "hundreds of thousands of dollars have been spent to get the prison fit for tourists." Sen. Towe presented to the Committee the proposed amendments. EXHIBIT 2 The lawyers of DI also said they would "feel more comfortable" if the transfer were to the city of Deer Lodge or Powell County. Sen. Towe said Powell County would "be the preferable one at this point rather than to a nonprofit 501(c)3 organization, the PCMAF. "I am sure that Powell County would be delighted to accept the property and would probably deed it right on through. That is a real possibility. I would have to say that since (the lawyers) just raised that issue with me yesterday, we would have to have an opportunity to consult with the people from Powell County and

the city of Deer Lodge to see if they were willing to accept it." Sen. Towe said that amendment could be added if the Committee so chose. If the city and county didn't want the prison, then he could have the bill put into a conference committee and request that it be rejected.

Proponents' Testimony:

Ed McGill, secretary, PCMAF, informed the Committee that the PCMAF has spent approximately \$1 million in the past ten years on the prison facility. He presented a copy of a letter from the mayor of Deer Lodge, R. F. Labbe, for the Committee. EXHIBIT 3 Mr. McGill reported that the Powell County Commissioners also endorse the bill.

Andy Towe, executive director, PCMAF, pointed out the specific reasons the PCMAF would like title to the prison facility by saying: "It is a large facility with over ten major buildings. When they took over the facility 12 to 13 years ago, every building had a leaking roof, with wall mortar in "bad disrepair." Hundreds of thousands of dollars and volunteer hours have been spent maintaining the facility. Every time (the PCMAF) applies for a grant they have difficulty because they do not have title to the facility. Many more millions of dollars will have to be spent on the facility to continue to stabilize it. There are problems with asbestos and other materials that have been left behind. The PCMAF was the only organization in the county that would undertake the project. If the PCMAF "knew then what we know now, we wouldn't have taken it then. We believe we can do something with it and we believe it is an important, significant historical structure. Over 50 to 60 thousand people visit the facility yearly. We feel it is necessary for us to know what the future is in order to continue our efforts to try to save, preserve and keep it open to the public."

Neutral Testimony:

Terry L. Tyler, coordinator and executive director, MLEMOM, presented written testimony. EXHIBIT 4

Opponents' Testimony:

Hank O. Mathiason, Clancy, stated he is opposed to the bill for personal reasons. He had an uncle who was severely injured in the riots of 1959 at the prison and he would like to maintain its historical integrity. He believes the state should maintain control; the prison should be turned over to the state historical society with the authority to lease or contract for management and maintenance. "I believe that in the future the old prison could become a definite asset and become self-supporting and probably even show a profit to the state of Montana."

Questions From Committee Members:

REP. PATRICK GALVIN said that Mr. McGill mentioned spending \$1 million on the prison. Who spent the money, Powell County or the PCMAF? Mr. McGill answered, "The PCMAF. We are responsible for the building and all its repairs. The expenditures were paid for from the proceeds paid by tourists who toured the museum."

REP. RICHARD SIMPKINS asked if the space occupied by the MLEMOM is adequate to meet their present and anticipated needs for the immediate future. Mr. Tyler answered, "No, it is not. We could utilize more space than what we're in right now."

REP. JIM SOUTHWORTH asked if the prison is costing the state anything now. SEN. TOWE answered, "None at all." REP. SOUTHWORTH asked what Sen. Towe would have against a 99-year lease. SEN. TOWE replied, "I think we would prefer that."

REP. GARY FORRESTER asked what the MLEMOM contributes for support of the museum in the way of financial resources since they want more space allocated to them. Mr. Tyler said the space the MLEMOM is located in is within the walls of the old Montana state prison. In order for a tourist to see the MLEMOM, they are charged a gate fee. The MLEMOM does not receive a percentage of the gate receipts. They do receive some assistance and services from PCMAF. However, the MLEMOM believes that the state-wide and nation-wide articles about their museum and the advertising they have done has significantly increased tourism for the facility.

REP. FORRESTER asked how the MLEMOM "fits into a fund-raising scheme for a museum." Mr. Tyler said the benefits MLEMOM could produce is that now, they "are the only organization within the walls of the old prison that are occupying" the facility. He said it is better to have someone in a facility than leaving it vacant. This would be one benefit. MLEMOM has future plans to insulate the portions they occupy. They would also absorb the costs of future remodeling of their portion. REP. FORRESTER asked if MLEMOM was maintaining a separate museum board within the prison. Mr. Tyler said yes. REP. FORRESTER said that he presumes that a portion of the asbestos would be in the heating plant. He asked if the MLEMOM would assume a portion of that cost. Mr. Tyler answered that "we are unsure where all of (the asbestos is located). We are concerned with the space we would occupy, which right now is the administration building. We are not looking for anything further than that. Any plans for the old prison has never been discussed."

REP. GARY BECK presented amendments. EXHIBIT 5 He asked Mr. Tyler to give the Committee a brief history of the museum and what some of the verbal communications and agreements were prior to their occupancy of the prison. Mr. Tyler said that in about 1981, the former deputy warden of Montana State Prison, James Blodgett, conceived an idea to develop a Montana Law Enforcement Museum. At that time he had more of an idea of a localized-type law enforcement museum to utilize unused space which was the

administration building of the old prison. A local group of people, along with some area law enforcement professionals, began the framework of that organization. In 1985 they dedicated and opened what is now the MLEMOM, plus a small room that contained a

small amount of artifacts. The local group disbanded. The professional associations of law enforcement, the criminal justice system and corrections in Montana took over the assets and the operation and incorporated a new organization and named it the MLEMOM. When they were considering taking over the operations and ownership of the disbanded organization, they were given numerous promises. One was, they would have unrestricted expansion inside the administration building. Several times both groups were told that the entire administration building would some day become theirs if it was needed. After MLEMOM was established and considerable money and efforts were spent, the organization was restricted to where "we are at right now." There are questions within a sublease with PCMAF to remove, at their option, two existing spaces that MLEMOM has accessed. Now MLEMOM does not have the freedom, which was not a big concern because of services rendered by PCMAF, to have their own access or to receive any gate receipts. It took MLEMOM a year to resolve problems and get a sublease. "From our point of view it does not look like we are going to be guaranteed any further expansion under that lease."

REP. SIMPKINS asked Sen. Towe to comment on the amendments presented by Rep. Beck. SEN. TOWE said, "I think we would have problems with (the amendments). They raised the same concern in the Senate. MLEMOM worked together with Sen. Towe and the Committee to make the language adequate. MLEMOM said at that time "that it was fine." The DI can look out for any interests that they have. The specific problem is as follows: MLEMOM was encouraged to get started by PCMAF, who set up a committee to try and get a law enforcement museum started. Sen. Towe did the legal work and voluntarily, for no charge, incorporated their organization. He was surprised that they did not check with him or the PCMAF before they come to the Committee hearing to address their complaints. The PCMAF did not know they were unhappy. The PCMAF remodeled their space and paid for the remodeling. PCMAF pays for all of MLEMOM staff. MLEMOM does not pay anything at the present time. There is "plenty of desire on the part of PCMAF to make sure that (MLEMOM) works and works right." MLEMOM has not yet expanded to all of the space that has been allocated to them. A part of the problem is that the space they are occupying is all that is in that area. If they want to expand, they will have to jump into another area of the building which would split up their museum. The old warden's office probably should not be closed to the public and needs to be a part of prison tours. The amendments state that the Montana state prison hobby shop may retain its present location at a reasonable lease rate. If they are suggesting that they want to use the hobby shop, that means that we are excluding another enterprise that is already in existence. Sen. Towe questioned whether the

amendments were trying to protect the hobby shop, "I can't tell from what they're proposing. I don't understand why they are raising these questions at the present time. . . . I don't think it is a good idea to put these amendments in at this point when they are not well thought out or explored carefully. . . . They would probably cause problems with the DI."

REP. ROGER DEBRUYCKER asked Mr. Tyler if he would respond with his position on the amendments. Mr. Tyler said MLEMOM had not informed Sen. Towe about the amendments because they first heard about the hearing for SB 448 a week ago on a Monday. The MLEMOM had indications from the Legislative Council that HB 448 might not be introduced. MLEMOM saw the bill on a listing earlier in the month and tried to obtain a copy of the bill. They did not receive a copy. SB 448 was introduced in the Senate on a Thursday and the hearing was Friday morning. MLEMOM did not have adequate time to prepare for the meeting or have their regular representatives of the museum involved. The Montana Sheriff and Peace Officers' Association representative and the secretary from the Livestock Inspectors' Association volunteered to sit in. Their agreeing to SB 44, without having any background, is why Mr. Tyler was at the meeting today.

REP. BECK said there seems to be some confusion concerning the old Montana State prison on one side of the street and the property on the other side of the street that was a part of the old prison complex where the doll museum and prison hobby shop are now located. He asked if these were included in the bill. Keith Wolcott, Deputy Director, DI, distributed a graphic entitled, OLD MONTANA STATE PRISON. EXHIBIT 6 Referring to Pg. 3, Ln. 4 of the bill, he said it describes lots 52, 53, 63, and so on. "That is the original lease with the PCMAF, which includes the dark area on the west side of the street that was the old territorial prison." The buildings on the other side of the street were in a subsequent lease and are not included in SB 448. REP. BECK said he just wanted that clarified as the proposed amendment refers to protecting the hobby shop, which is across the street, and in testimony the doll house (museum) has been referred to. Neither the doll house nor the hobby shop are included in the bill.

REP. BETTY LOU KASTEN asked if it would be better to allow Powell County to take over the building and then at a local level, with local people, decide how things should be worked out? SEN. TOWE said, "That is probably a good idea. That is essentially what we're talking about here. PCMAF is a group of people in Deer Lodge, a voluntary, non-profit organization. People from the community that serve on the board are elected every year. That is why I don't think there is any problem because they have a working relationship with all of these organizations already. If the state would feel more comfortable about deeding the property to the county and let the county transfer it on to them, I am sure that is fine." REP. KASTEN asked Mr. Tyler the same question. Mr. Tyler answered, "If a board like the county

commissioners would establish a board to oversee the operations of that, we would be happy with that."

REP. GARY FELAND asked Mr. Tyler if he had made an attempt to talk to Sen. Towe in the last week. Mr. Tyler answered, "In the last week, we have not." REP. FELAND responded, "I suggest that you do that, because if you leave it up to this Committee to figure out what is going to be right for you, you might not like it." Mr. Tyler said we base our feelings on a year of negotiating our first lease, which was two years ago. "(The) conversations and meetings that we have had since then, we feel give us more than adequate reason that things would not change."

REP. SIMPKINS stated that in looking at the graphic, there does not seem to be any way possible to set up a system where there are two museums inside a museum. He said he did not see a solution unless you, 1) combine it into one museum board, or 2) you have some good faith and trust of whomever will be the controlling interest for the entry of the gateway. "I don't see any options, do you?" Mr. Tyler said first of all, the board of directors of the MLEMOM would be agreeable to a separate entity that the Powell County commissioners would appoint, under the auspices of a county museum board. Secondly, (MLEMOM) was twice offered -- in the first organization and in the second-- that eventually as (MLEMOM) expanded into the old administration building (it was offered that) they might have their own separate access some day. What used to be the main entrance, where all traffic came into the prison, is referenced on the (graphic) as tower 7 main entrance. This is where the administration building is located, and that is the area the MLEMOM now occupies. This could be cut off from the rest of the old prison.

REP. BECK asked if the PCMAF still has a 15-year lease. Mr. Andy Towe said yes, the city of Deer Lodge has a lease. That lease is assigned to PCMAF. REP. BECK said, "Would it be a fact that the MLEMOM is also an attraction that brings people into that complex that benefits the total package?" Mr. Towe said we think it does. We have encouraged (MLEMOM) all along. We have given them everything they have asked for. We don't always give it to them as soon as they ask for it. We intend to see that they continue to get everything that they need. REP. BECK asked if the PCMAF received grants because the MLEMOM is a nonprofit organization. Mr. Towe said, no. None of the grants, and there haven't been too many, that the PCMAF has received have been specifically for or generated by or because of an interest in the MLEMOM. REP. BECK asked, "But that is an option open to you, right?" Mr. Towe said, "Conceivably, but it would be difficult. At present there are two different organizations and they . . . need to write the grants for their organization and we need to write the grants for our organization. The fact that it is state property compounds the whole thing. It is really a can of worms for anybody to try to get funding for something like that." REP. BECK questioned if PCMAF oversees MLEMOM. Mr. Towe said he only oversees the PCMAF. MLEMOM has operational control, by the lease, with PCMAF of that

facility that they are in. PCMAF does pay the majority of their staffing as part of PCMAF's agreement with MLEMOM.

Closing by Sponsor:

SEN. TOWE said he thinks the original lease includes an assignment by the city of Deer Lodge to the PCMAF. He presented a copy of HB 385, from last session of the Legislature, which "used the exact same system to transfer the property to Zoo Montana." EXHIBIT 7 He said he was a "little bit embarrassed," and he apologized for that since he said he didn't know about the second lease. He stated he would like an opportunity to obtain that lease and include the land that the second lease covers (in the bill). This would include the hobby shop, which people were assuming would be part of this bill. "I would appreciate your holding action until I get this. It really should be included. Mr. Wolcott indicated that he didn't see any reason why it shouldn't be included with the rest. With regard to the MLEMOM, I know the museum, I helped them get it started. I think it is a great organization. I think we should support that as much as we can. I am really delighted that we can do that. The PCMAF also believes it is a real important asset that they want to continue with. . . . But sometimes you can't do everything that they particularly request. . . . Leaving the language in the bill, (PCMAF) does insure adequate space. . . . If you want to say their present space, I don't have any problem with that, or something akin to that." He said that Andy Towe is his brother and the Towe Antique Ford Foundation owns the antique automobiles that are a part of the museum. It is another 501(c)3 organization. They have a lease with the PCMAF. Their only interest is a lease. They have leased the cars for a certain number of years to the museum for a maintenance fee. That is all that is involved in that situation. "Whatever is necessary, the people of Deer Lodge want to do it. They want this . . . to succeed. This is one little thing the state can do to help them along."

HEARING ON SB 301

Presentation and Opening Statement by Sponsor:

SEN. CHET BLAYLOCK, Senate District 43, Laurel, introduced SB 301 at the request of some members of the Legislature who are not 50 years of age. The bill would allow former Legislators, who have been in the Legislature for five years and vested in the retirement plan, to remain members of the state health plan. The present law requires that a former Legislator be 50 years of age to retain their health insurance. "If a former Legislator opted to keep their insurance, they would have to pay both sides of the insurance. There is a provision which states, on Pg. 3, Ln. 20, (c), A Legislator who remains a member of the group under the provision of subsection (3) and subsequently terminates membership may not rejoin the group unless he again serves as a Legislator. "One of the biggest items in family life today is to

keep your health insurance." Because the Public Employees Retirement System (PERS) group is so large, the Legislators receive a "pretty good deal" on their insurance. If Legislators, for some reason, do not return to the Legislature, it may be hard for them to get into another insurance plan particularly if they have some kind of a health problem. He said the bill is a fair bill that would help all Legislators. This bill does not affect Sen. Blaylock as he is over 50.

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members:

REP. FRITZ DAILY said he belongs to a plan now which is not the state plan. If he decided to retire from the school district two years from now, he would not have an option to get into the state plan with the way the bill is written. He asked why the bill is limited to the fact that you have to belong to the group now.

SEN. BLAYLOCK said that if Rep. Daily broke his period of service, then broke with his current health plan and then came back to the Legislature he would be able to be under the state health plan.

REP. SIMPKINS asked if the five-year vesting applied to all state employees. Linda Kaiser, Department of Administration, said, "Correct." REP. SIMPKINS asked if the same benefit is offered to existing employees. Ms. Kaiser answered, "No, existing employees have to be vested in PERS and be age 50 or over." REP. SIMPKINS said Legislators would become an exclusive club of state employees because of the fact that they're Legislators.

REP. GALVIN asked what the actuary's comments are on SB 301 and how does advanced age affect the cost. Ms. Kaiser said she is acting in the capacity of the acting bureau chief, Joyce Brown, who is the benefit plan manager of the state employee benefit funds. Ms. Brown did prepare the fiscal note with her assumptions. She said the excess of average claims cost for early retirees and spouse had not been "costed out" in isolation. Ms. Brown has "costed it out" for an early retiree and spouse. Those projected inflationary increases per retiree and spouse would be at an annual cost of \$2,788. That is not significant at this time as there are not a number of Legislators who would come under this cost. When Legislators retire or terminate, they are allowed to go under COBRA, a consolidated omnibus budget reconciliation act, for a period of 18 months. So some of those costs have already been figured in. At the end of the 18 months, Legislators can convert to a policy with Blue Cross and Blue Shield, which is more costly than the state plan.

REP. SIMPKINS asked if the bill would require the individual to pick up the entire cost. Ms. Kaiser said, "Yes." REP. SIMPKINS asked if the Proprietary Fund is the state cost. Ms. Kaiser

said, "Even though the Legislator will be paying the (full) premium, the premium collected for early retirees and spouses does not make up for the average claim cost. There is an excess there as they are a very expensive group to fund. The premiums do not make up for the entire cost so other areas of the group plan would be subsidizing the extra cost. REP. SIMPKINS asked if there would be a way to add a surtax to the cost to the Legislator. Ms. Kaiser said she would have to do some legal research to follow up with that question. She was not sure if they would be legally able to attach additional funds to retirees as there may be a problem with age discrimination. REP. SIMPKINS said he was interested in making the plan available to all retirees, and he questioned what the cost would be to the state. Ms. Kaiser said the cost estimate was just computed on Legislators, if it were opened up to employees "you're going to have significant impact to the plan."

REP. SOUTHWORTH asked what the cost would be for a vested past Legislator to pay for the insurance. Sen. Blaylock said he guessed the cost would be \$400 every three months.

Closing by Sponsor:

SEN BLAYLOCK asked for the Committee to look kindly on the bill. He quoted Mark Twain, "Remember always do right. You'll confuse your enemies and absolutely astonish your friends." Rep. Jim Southworth will carry the bill.

HEARING ON SB 421

Presentation and Opening Statement by Sponsor:

SEN. DON BIANCHI, Senate District 39, Belgrade, introduced SB 421 which is a stay-well incentive program. Under the present law, if you work for the state of Montana or are a public employee for a city or county, you earn sick leave at the rate of one day per month. This sick leave can be accumulated throughout the time the employee is working. At the time of retirement, the individual will be reimbursed for their sick leave at the rate of 25 percent of what has been earned during the time of employment. What happens with some public employees, especially with those who are not spending their entire working life in public employment, is they tend to get sick every month or two months and use up a large portion of their sick leave. By the time they quit or retire, they basically don't have any sick leave and actually receive benefits at the rate of 100 percent of the rate that they have earned. Most are dedicated public employees and they only receive 25 percent of what they have earned during their employment. The sick leave program is not fair. Those who are dedicated do not receive 100 percent of their sick leave. Sen. Bianchi distributed a cost estimate sheet of what would occur during the first biennium. His original intent was: 1) to replace 100 percent of the sick leave in a pay-out program,

rather than paying 25 percent when an employee retires; and 2) the employee could take the lump-sum payment of 25 percent or they could take the whole 100 percent credit in sick leave towards paying for their health insurance after retirement until that amount of money has been used up. When SB 421 was heard in the Senate State Administration, a fiscal note had not been prepared due to Sen. Blaylock receiving the bill so late in the session. The Senate decided to keep the bill alive by "keeping it at 25 percent (rather than at 100 percent), where it is now, and give the employees the opportunity to either take the money in a lumpsum or to use it towards health insurance." After the figures were run, it was realized that the state or public entity would not have to pay the lump sum for people retiring and could in fact pay by the month on health insurance. Actually there would be a net savings to the entity in the first biennium at the 25 percent level -- as there would be at each level. In the first biennium there would be a savings of \$.5 million. There would be a cost to SB 421 as it is extended out into future bienniums. This bill will have to go to Appropriation Committee where the nuts and bolts will be examined. "I would appreciate getting it out of Committee at the 100 percent level, and let the (Appropriations subcommittee) negotiate it down, based on (its) cost into the future."

Proponents' Testimony:

Tom Schneider, Montana Public Employees Association, presented written testimony. EXHIBIT 9

Ray Harbin, commissioner, Lake County, MACO, said he believes SB 421 is an "outstanding bill." In 1986, when he was serving as a Legislator, he was a member of an interim committee that addressed the same issue as the one in the present bill. The Committee's proposal was virtually identical to what SB 421 proposes. This particular issue addresses some serious concerns that exist. He now employs 175 people, and he has to think about what those people do when they retire. Lake County's group insurance is like the state's group insurance program in that they contribute substantially to the premium. If a person retires prior to 65 and is not eligible for Medicare, they can elect to stay on Lake County's program, but they must pay 100 percent of the premium. In some cases, the premium is half of their retirement. Employees cannot afford to retire, which is not good. A lot of employees the county "really encourages to retire." When a county employee takes a day off on sick leave, a replacement employee must be hired. This costs one day's wages. When an employee is sick, the county is paying two days' wages. The county cannot afford that. They want trained, skilled people to work for them. There is also a loss of productivity. A substitute cannot do the job as effectively as a regular employee. There is a component in Lake County's budgeting process where they prepare a "termination line item for each employee and each department's budget." The termination line item anticipates those employees who may be retiring or

discharged within that given department in that year's time. It is then calculated what the employee's termination benefits would be. Termination benefits include vacation pay that has accrued, but not used, and the 25 percent pay out on unused sick leave. The termination benefit can be calculated into the budget process with no adverse impact to local government. He said he did not want to tell the Committee whether or not to amend the bill to 50, 75 or 100 percent.

Opponents' Testimony: None

CHAIR BROWN read a letter from Scott Turner, Finance Director, County of Yellowstone, who stated that Yellowstone County opposes the bill as it would be an excessive accounting problem for governmental entities. EXHIBIT 10

Questions From Committee Members:

REP. SIMPKINS asked if the only reason that sick leave came into effect was because it was felt that employees should not lose pay when they were sick. Mr. Schneider said that is correct. REP. SIMPKINS said that he did not think that the state would be interested in having state employees retire early unless the state was looking for a reduction in force as they would not want to retire their most experienced people early. Mr. Schneider said, in his testimony, he was using early retirement in the private sector as an example of what you have to do to make the program work if you want to save money with it. He was not talking about early retirement for state employees when he made the statement. REP. SIMPKINS stated, as Mr. Harbin testified, the entity would have to pay 100 percent for the replacement and then 100 percent for salary to someone on sick leave. He asked if this wouldn't be paying 200 percent either way you go. Mr. Schneider said he would not have made that statement because in the case of the state where replacement workers are hired, this normally occurs only in the institutions. When that occurs, the state is paying time and a half. He stated that the bill would still save money.

REP. WILBUR SPRING stated that Mr. Schneider was careful to admit that SB 421 would save money for the state for the first two years. He asked if he had any estimates of what the cost or savings would be in ten years. Mr. Schneider said, "We don't. The figures we have were generated by the personnel division in lieu of a fiscal note being prepared on the bill. Fiscal notes are prepared on exact language. The Committee must decide at what level the percent should be before an official fiscal note can be prepared. "We have nothing ten years down the road."

REP. JOHN PHILLIPS said the fiscal note states there would be a \$936,000 impact on the General Fund. Where are we saving the money? Mr. Schneider said the fiscal note with the bill is the one that was on the bill when it went into the Senate State Administration Committee. When the bill was first introduced, it

was raising the 25 percent payout to 100 percent. The money was then going to be transferred in a lump sum to a trust fund to pay health insurance premiums. The lump-sum payment would be made at the time of an employee's retirement. The state personnel division then came back and said they did not like that system. They wanted the lump-sum retirement payment retained in the system and paid monthly into the health insurance premium. The change from paying the lump sum into a monthly premium payment would run out on the average of 15 months using the 25 percent. It will extend longer when the percentage is raised. REP. PHILLIPS questioned that if the percentage was raised to 100 percent, as requested by the sponsor, would that give the employee the option then to request the unused portion of his sick leave in a lump sum. Mr. Schneider said, no. The bill specifically provides that the employee retains the option of a lump-sum payment, but it would be at 25 percent. That section of law would not be changed.

REP. ERNEST BERGSAGEL asked how many dollars would a state employee be talking about if a retiree worked for 20 years without using their sick leave. Mr. Schneider said he thinks it would calculate to \$4,000 at the 25 percent rate. REP. BERGSAGEL questioned whether or not an employee would receive a social security reduction if they received a lump-sum or monthly payment to be applied to premiums. Mr. Schneider said no.

REP. CAROLYN SQUIRES asked if there was a maximum number of sick days a state employee could obtain. Mr. Schneider said no, there is only a limit on vacation time.

REP. SIMPKINS said he thinks that SB 421 would discourage state employers from donating to the Sick Leave Bank. He asked if that program would "go down the tubes." Mr. Schneider said he did not think it would happen as he didn't think it would change the people's feelings towards taking care of those problems.

Closing by Sponsor

SEN. BIANCHI said he thinks that the administrative details that Yellowstone County was concerned with would be very simple once it was put into their system. The letter talked about the interest accrued by the state for the employee. SB 421 would not give interest on the money that the employee has accrued on his sick leave. A W-2 form would have to be issued because the money would be taxable to the employee, but this should not be a big administrative cost. In reality, the employee may save on taxes as they would be able to spread the money out over a period of time versus a lump sum. The state government always talks about vacancy savings. Right now (an agency) never knows (when they are planning their budgets) how many people are going to retire each year so there is no way to really budget for that occurrence. When some people retire, there is a "big hit" on those agencies' budgets when there are \$15 and \$20 thousand payouts. An agency cannot really budget for that. So when an

individual retires, that vacancy must be left open until the big lump sum is made up. This program would not solve vacancy savings, but it would lessen a lump sum that an agency has to pay and should shorten the amount of time that vacancy must remain vacant. This should help state agencies (with) preparing their budgets. This bill, if passed above the 25 percent level, would eliminate the state "sick incentive program for public employees," and replace that with a "stay-well incentive program," which would make public employees across the state more productive. Rep. Vicki Cocchiarella will carry the bill in the House.

EXECUTIVE ACTION ON SB 421

Motion: REP. SQUIRES MOVED SB 421 BE CONCURRED IN and moved the amendment to amend 25 percent to 100 percent.

Discussion on the Amendment:

REP. SQUIRES said that in her place of employment only 525 hours of sick leave may be accumulated. Only after three years, can you retain half of the pay for these (hours). She said she supports the amendment because said she believes it is discriminatory towards the people that do not use their sick leave, and it encourages abuse of the system.

REP. COCCHIARELLA said that she thinks the Committee should request a fiscal note if they are going to amend the bill.

Vote: The motion carried 9 to 7. EXHIBIT 11

Motion: REP. SQUIRES MOVED SB 421 BE CONCURRED IN AS AMENDED.
EXHIBIT 12

Discussion:

REP. COCCHIARELLA brought out the following issue which she did not think was mentioned by anyone by giving the following example: A lady, who had worked at the University for 32 years, only worked in Rep. Cocchiarella's office at the University for two years before she retired. Rep. Cocchiarella's office had to take out of their budget the entire 32 years' accumulation of sick leave at 25 percent the day she retired. SB 421 would help agencies budget for those kinds of circumstances for all employees. If that money could be kept in the agencies' budgets and paid out as they go along, it probably would "not have as much of an impact as we might think."

REP. GARY FELAND commented that "instead of messing around with all of these plans, let's just give them the last two years off."

REP. SPRING said there is an unknown, and we "are mortgaging our kids 10 to 20 years down the line to the hilt." He commented that "there has to be tons of money in this."

REP. SIMPKINS said Mr. Schneider mentioned a \$4 thousand pay out for a maximum sick-leave lump-sum payment at 25 percent. At 100 percent, this would equate to \$16 thousand. He said he could not see how the state would save money if they could pay out \$4 thousand today or (with the 100 percent paid on the accumulated sick leave) \$16 thousand out over a time period. "It just doesn't add up."

REP. COCCHIARELLA said, "I think we need to get a fiscal note so we're not just shooting in the dark on the numbers issue." She said she takes offense with Rep. Feland's statement about state employees, who work and have accumulated hours and hours of sick leave, that don't abuse their sick leave.

REP. BECK said he thought the Committee should take into consideration the fact that many employees who work for the state are involved in institutions and in direct care at the prison. "Anytime you have an employee who takes time off because of sick leave and they aren't sick, and those things happen, then you run into staffing problems. . . . Then you run into overtime pay. . . . I think it is a productivity bill . . . and a good one."

REP. SIMPKINS said if we seem to agree that there is a bigger fiscal impact than meets the eye, then the Committee should have the fiscal note before voting.

CHAIR BROWN said the Committee might run into a time problem then with the deadlines as fiscal notes can take from five to six days to prepare. The Committee can request a fiscal note and then request that the bill go directly to Appropriations while the fiscal note is being prepared.

REP. COCCHIARELLA said she thought it was important that the bill get to the Appropriations committee as soon as possible. "If it doesn't go to Appropriations in a timely way, it will never be considered at all."

EXECUTIVE ACTION ON SB 422

Motion: REP. FRITZ DAILY MOVED SB 422 BE CONCURRED IN.

REP. KASTEN questioned how SB 421 "fits in" with Reps. Grinde's and Grady's bills.

Sheri Heffelfinger said SB 421 does not address what the other two bills address. The Grinde bill would allow public lands to be sold for less than market value. The Grady bill would allow the transfer of public lands in an exchange or for other consideration. This bill clarifies that towns, cities and counties and consolidated local governments of the state can bid for public lands. That is not exactly clear in the present statutes.

REP. SOUTHWORTH said he has always been opposed to selling land belonging to the government.

REP. SIMPKINS said this bill will not give the towns, cities or other entities first choice on this land. He asked if the public land would still have to be put up for bid. Ms. Heffelfinger said that is correct.

Vote: SB 422 BE CONCURRED IN. The motion carried unanimously.
EXHIBIT 12A

EXECUTIVE ACTION ON SB 301

Motion: REP. SOUTHWORTH MOVED SB 301 BE CONCURRED IN.

Discussion:

REP. ROGER DEBRUYCKER said he opposes the bill because it looks like the Legislature would be making a "special deal" just for the Legislators. "If we're going to do it, we ought to do it for everybody or do it for no (one)." A law would be made for just a very few people. "I don't think it is necessary."

REP. FELAND said if the bill was enacted this year, next session everyone would want to be included.

REP. KASTEN said the debate on SB 421 said that if a person had money they could buy their insurance anywhere and that having the state health insurance really did not give any benefit. That was the reasoning for moving the percentage of benefit from 25 percent to 100 percent. "There is nothing to be gained. We shouldn't propose this law."

Motion: REP. DEBRUYCKER MOVED SB 301 BE TABLED. The motion carried 11 to 8. EXHIBIT 13

EXECUTIVE ACTION ON HB 966

Motion: REP. SOUTHWORTH MOVED HB 966 DO PASS.

Discussion:

Chair Brown commented that the Southworth amendments had already passed.

Ms. Heffelfinger distributed the Barnhart amendments. EXHIBIT 14

Motion: REP. BEVERLY BARNHART moved her amendments.

Discussion:

REP. BARNHART prefaced her explanation of her amendments by saying: Several people suggested that there be a consumer on the Committee. The amendments add a consumer on Pg. 2, Ln. 17. The bill would read, "it would be a primary or secondary consumer from the mental health community be appointed by the same people." Amendment No. 4 would require that "they" would study other state's experiences with state mental health facilities, which was suggested by someone that testified.

REP. JANE DEBRUYCKER asked that a primary and secondary consumer be defined. **Keith Colbo**, a member of the Galen Task Force who helped draft the amendment, said that a primary consumer would be an individual who has come in contact with the mental health system. A secondary consumer could be individual such as an attorney who had referred someone to an institution or a member of a family who has had a family member in an institution.

REP. PHILLIPS asked why the amendment was needed if it could just be anyone. **Mr. Colbo** said those individuals concerned about that particular appointment want to make sure that someone is appointed to that committee that has had some kind of direct or very close contact with the mental health systems in Montana, rather than a provider or professional. They want someone from the public who has experienced the system.

Vote: HB 966 BARNHART AMENDMENT DO PASS. Motion carried unanimously.

Motion: REP. SOUTHWORTH MOVED HB 966 DO PASS AS AMENDED.

Discussion:

Ms. Heffelfinger said Rep. Simpkins amendments had been previously distributed to the Committee.

Motion: REP. SIMPKINS moved his amendments to limit the selection of the Legislators from the Senate and the House to not more than one member from a Senate or House district representing the Montana State Hospital Campuses. He said the amendments would make the bill consistent with what was established for the Site Selection Committee for the Women's Prison as well as the fact that we do have a member on this committee from the task force that does represent all the people involved in that facility. The amendments would still allow one Senator and one Representative from that area. It would mandate that the other Senator and Representative be selected from outside that area.

Discussion:

REP. SOUTHWORTH said he felt the amendments were unnecessary. He commented that he had them struck once. "I think it is a

political shot. The Governor came out with these amendments. We accepted all the other amendments and just rejected these two." He asked the Committee to reject the amendments.

REP. BECK also requested the Committee reject the amendments. "There are a bunch of Democrats from over there so we are going to have Republicans to balance that out. We are going to balance it out with gender balance. I don't think that there is anything to worry about."

REP. BARNHART said she thought the Site Selection Committee of the Women's Prison was an entirely different matter. The Committee for the Women's Prison was for studying a site.

REP. SIMPKINS said we're looking at something far more significant and with more impact than what we're talking about for the Women's Prison for the entire state of Montana. We're talking about coming up with an entirely new concept of providing state-wide health service for everybody in Montana -- to include long-term nursing home care that cannot be provided within local communities. We should do everything possible to ensure that we get representation throughout the state. The only way that you can get that in this particular case is to ensure that you limit local area representation. We're dealing with eastern Montana and every place else (within the state). The present concept of the hospital was designed as a local issue because people were sent there by the order of the court and for tuberculosis. Now we're talking about the concept of possibly setting up a county hospital type for the entire state of Montana because counties don't have county hospitals. This was the entire concept that was brought up -- that the state should determine to redirect its efforts to be involved in providing state health care. That will affect all of Montana. We should be sure we get representation throughout the entire state on that particular issue.

REP. SOUTHWORTH said if the amendments were to pass it would look to him that "we were trying to nail guys such as (Rep.) Menahan, the two (Rep. and Sen.) Becks. These people are aware of the problems over there. They are aware of the program. I don't even know if they are going to be on the committee. I don't think we should sit here and make sure that they don't get on the committee."

Vote: HB 966 SIMPKINS' AMENDMENTS DO PASS. Motion failed 8 to 10. EXHIBIT 15

Vote: HB 966 DO PASS AS AMENDED. Motion carried 14 to 5. EXHIBIT 16 and EXHIBIT 16A

EXECUTIVE ACTION ON SB 156

Motion: REP. SIMPKINS MOVED SB 156 BE CONCURRED IN.

Discussion:

CHAIR BROWN said that the Committee has already passed one amendment.

Ms. Heffelfinger distributed Rep. Simpkins' amendment. EXHIBIT 17

Motion: REP. SIMPKINS moved his amendment.

Discussion:

Ms. Heffelfinger explained the amendment saying that she had worked on the language of the amendment with Peter Funk at the attorney general's office. The amendment would read "that the marking of a ballot in a manner similar to, but not limited to, the following example. . . . It gives the example, but it gives some flexibility so you don't have to say for or against on a ballot initiative."

Vote: SB 156 REP. SIMPKINS' AMENDMENT DO PASS. The motion carried unanimously.

Motion/Vote: REP. SIMPKINS MOVED SB 156 BE CONCURRED IN AS AMENDED. The motion carried 17 - 2 with Reps. Bergsagel and Roger DeBruycker voting no. EXHIBIT 17A

CHAIR BROWN announced that the bill will be carried in the House by Rep. Squires.

EXECUTIVE ACTION ON SB 157

Motion: REP. COCCHIARELLA MOVED SB 157 BE CONCURRED IN and moved Rep. Squires' amendments.

Discussion:

Ms. Heffelfinger explained the amendments saying that Rep. Squires had requested the amendment after talking to the U.S. Department of Labor about their concern for the exemption for judges from unemployment insurance. A compromise could not be worked out where you could do that and not risk losing some funds from the federal government and their unemployment tax credits. The amendments change the title and removes exempting election judges from unemployment insurance coverage. This is also done in the bill by striking Sect. 25, Pg. 22. The only item in that section was to exempt election judges from unemployment insurance. EXHIBIT 18

Vote: SB 157 REP. SQUIRES' AMENDMENTS DO PASS. The motion carried unanimously.

Motion/Vote: REP. COCCHIARELLA MOVED SB 157 BE CONCURRED IN AS AMENDED. The motion carried 14 to 5 with Reps. Roger DeBruycker, Feland, Kasten, Hayne and Simpkins voting no. EXHIBIT 18A

DISCUSSION ON SB 241

CHAIR BROWN said that several people have commented to her, since the tabling of the bill, that there may be some interest in doing something with SB 241. Ms. Heffelfinger has said that she could work on the bill if there is enough interest.

REP. BECK said he would like to see the bill tabled because there was only one instance (when Mr. Driscoll received dual compensation). He said he believes that very few people would make (the same) decision that (Mr. Driscoll) made. Also, "there might be some other questions that might affect national guard and reserve people that could have a very bad effect on them."

REP. COCCHIARELLA said she disagreed with Rep. Beck and that the Committee needs to deal with the issue in some manner to protect the people that work in those positions, and to make a statement to the people in that state that "that is not our intention."

REP. FELAND said he thought the bill was "really nothing but a witch hunt. We read about it in the newspaper. I don't see a big deal in it."

REP. GALVIN said he would like to ask if a survey could be done to see just how many times "this situation has arisen."

Ms. Heffelfinger said she would have to research the question. As far as she knew, this was the only instance. Currently, Commissioner Driscoll is the only member of the National Guard who is a state-wide elected official. The bill would just not affect him. If the bill were put into law, it would affect all state officials in the future.

REP. BARNHART said that she had voted to table the bill because she thought it was only for the one instance. "However, I don't believe that an elected official should receive two pay checks from two different governments. I would like to have it in law. I am torn on this."

CHAIR BROWN asked Ms. Heffelfinger how much work would be required on the bill and what would she propose to do.

Ms. Heffelfinger said that she could do what the Committee decides. The bill could be left as it is, or she could suggest different options. The way the bill is written, it actually reduces the salary by the amount of salary received from the federal government. If a person were making \$1 thousand from the state in a month, and then goes on reserve duty and receives \$2 thousand from the federal government, the reservist does not

lose the \$1 thousand from state pay, they would lose \$2 thousand from state pay for that month. An option would be to write the bill in a way that would say that an individual could not receive their state pay check for that month when a reservist (or someone with the national guard) was on duty, but they could receive whatever their pay would be from the federal government. If the state pay was higher, the reservist would be in trouble, they would lose.

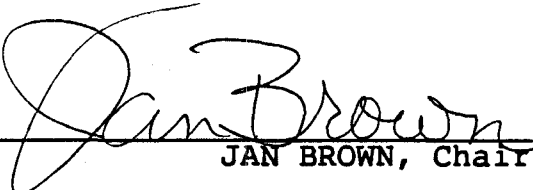
CHAIR BROWN said the Committee would leave the bill on the table for the time being. Those people that are interested could work on the bill.


REP. BARNHART asked if the bill would deal with people other than those in the military. "There might be something else that might come up."

CHAIR BROWN requested Rep. Barnhart meet with Ms. Heffelfinger regarding the bill.

ADJOURNMENT

Adjournment: 10:31 a.m.


JAN BROWN, Chair


JUDY BURGRAFF, Secretary

JB/jb

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE 3/13/91

| NAME | PRESENT | ABSENT | EXCUSED |
|-------------------------------------|---------|--------|---------|
| REP. JAN BROWN, CHAIR | ✓ | | |
| REP. VICKI COCCHIARELLA, VICE-CHAIR | ✓ | | |
| REP. BEVERLY BARNHART | ✓ | | |
| REP. GARY BECK | ✓ | | |
| REP. ERNEST BERGSAGEL | ✓ | | |
| REP. FRED "FRITZ" DAILY | ✓ | | |
| REP. ERVIN DAVIS | ✓ | | |
| REP. JANE DEBRUYCKER | ✓ | | |
| REP. ROGER DEBRUYCKER | ✓ | | |
| REP. GARY FELAND | ✓ | | |
| REP. GARY FORRESTER | ✓ | | |
| REP. PATRICK GALVIN | ✓ | | |
| REP. HARRIET HAYNE | ✓ | | |
| REP. BETTY LOU KASTEN | ✓ | | |
| REP. JOHN PHILLIPS | ✓ | | |
| REP. RICHARD SIMPKINS | ✓ | | |
| REP. JIM SOUTHWORTH | ✓ | | |
| REP. WILBUR SPRING | ✓ | | |
| REP. CAROLYN SQUIRES | ✓ | | |
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HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 421 (third reading copy -- blue) be concurred in as amended .

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Title, line 8.

Strike: "25"

Insert: "100"

2. Page 3, line 13.

Strike: "25%"

Insert: "100%"

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 422 (third reading copy -- blue) be concurred in.

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Spring

March 13, 1991
Page 2 of 2

8. Page 4, line 15.

Following: "homemakers"

Insert: "; and

(e) study other states' experiences with state mental
health facilities"

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 156 (third reading copy -- blue) be concurred in as amended .

Signed: _____

Jan Brown, Chairman

Carried by: Rep. Squires

And, that such amendments read:

1. Page 10, line 15.

Following: "4"

Strike: "3"

Insert: "4"

2. Page 13, line 2.

Following: "similar to"

Insert: "but not limited to"

3-17-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 2

Mr. Speaker: We, the committee on State Administration report that House Bill 966 (first reading copy -- white) do pass as amended.

Signed: Jan Brown
Jan Brown, Chairman

And, that such amendments read:

1. Page 2, line 9.

Strike: "14"

Insert: "15"

2. Page 2, line 17.

Following: "one" on line 17

Strike: "member of"

Insert: "primary or secondary consumer from"

3. Page 2, line 18.

Following: "by"

Strike: "and from the membership of"

4. Page 3, line 3.

Following: "designee;"

Strike: "and"

5. Page 3, line 4.

Following: "department of"

Strike: "family"

Insert: "social and rehabilitation"

6. Page 3, line 5.

Following: "designee"

Insert: "; and"

(i) the governor's coordinator of aging or a designee"

7. Page 4, line 8.

Following: "system;"

Strike: "and"

12:40
3-13-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 157 (third reading copy -- blue) be concurred in as amended .

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Title, lines 11 and 12.

Following: "TRUSTEES;" on line 11

Strike: "EXEMPTING" on line 11 and line 12 in its entirety

2. Title, line 17.

Following: "AND"

Insert: "AND"

Following: "13-37-225,"

Strike: "AND 39-51-204,"

3. Page 22, line 1 through page 27, line 20.

Strike: section 25 in its entirety

Renumber: subsequent sections

EXHIBIT 1

DATE 3/13/91

HB SB 448

LEASE

This lease made and entered into this 1st day of November, 1983, by and between THE MONTANA DEPARTMENT OF INSTITUTIONS, an Executive Branch Agency of the State of Montana, hereinafter referred to as the "LESSOR" and THE CITY OF DEER LODGE, Powell County Montana, a political subdivision of the State of Montana, hereinafter referred to as the "LESSEE".

WITNESSETH:

1. PREMISES:

The Lessor for and in consideration of the covenants and agreements herein mentioned to be kept and performed by the parties, demise, and lease to the lessee the premises situated in the City of Deer Lodge, County of Powell Montana, known as the Old Montana State Prison and being more fully described as follows:

- a. Building No. HS-16, Store and Commissary, MSP #8-A, [store/butcher shop/deputy warden's residence] located in Block 65: Township of Deer Lodge, Lot 3, the W $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 4, Township 6N, excluding the garage, MSP #7-A, and
- b. [1] Building No. HS-15, Root Celler, MSP #9-A
[2] Building No. HS-14, Boiler Room/Creamery, MSP #10-A
[3] Building No. HS-13, Central Warehouse Complex, MSP #12-A, and
[4] Building No. HS-12, Old Guards Quarters, MSP #14-A. [Offices/Guards/dormitory] All of the above located in Block 68 Township of Deer Lodge; the NW $\frac{1}{4}$ of Section 4 Township 6N, Powell County, Montana.
- c. But excluding (1) Building No. HS-17, MSP #6-A, (2) Building No. HS-18, MSP #3-A, Warden's Residence, (3) Building No. HS-20, MSP #4-A, Warden's garage, and (4) the Garage, MSP #7-A, on the NE corner of building HS-16, described above, which garage exits into alley running North and South between main street and 4th street.

As shown and described in the attached site plan consisting of two (2) pages and made a part of this lease.

2. TERM:

The Lessor allows the Lessee to have and to hold the said premises for a term of 25 years beginning on the 1st day of November, 1983 to the last day of October 2008.

3. RENT:

In consideration of the demise and the leasing of the premises aforesaid by the Lessor, the Lessee covenants and agrees to pay to the Lessor as rent for said premises during said term the nominal sum of \$10.00 per year in annual installments beginning November 1, 1983 and payable November 1 of each year thereafter unless the parties agree that the entire portion of the rent may be paid at one time.

4. REPAIRS:

Lessee agrees to take good care of the premises and to keep the premises in a clean and orderly condition during the term of this lease. The Lessee will be responsible for all necessary repairs to the premises for its use and at the expiration of said term, Lessee will quit and surrender the said premises as in good condition as the reasonable use and ordinary wear and tear thereof will permit, provided however, the Lessee shall not be liable for any damage, or required to make any replacement or repairs except as may be required by the Lessee's neglect or misuse of said premises.

5. USE:

The Lessee will assign and sublease the property to the Powell County Museum and Arts Foundation for the purpose of museum storage, display and related functions and agrees not to permit said premises to be used for any immoral or illegal purposes or for any purpose more hazardous than the use herein intended. Lessee will comply with all lawful regulation or ordinances of all municipal, county and state authorities respecting the manner in which it

uses the premises. The Lessee will at its own expenses supply any apparatus, appliance, or materials needed for the use of the premises. The Lessee will not do any restoring or rebuilding of the premises without the express consent of the Lessor.

6. UTILITIES:

Lessee agrees to pay all heat, water, electricity, telephone, and maintenance services on the premises.

7. INSURANCE:

The Lessee agrees to maintain adequate fire and liability insurance on the buildings and hold the Lessor as an indemnified party for both property loss and liability coverage.

8. HOLD OVER:

At the expiration of this lease, shall Lessee hold over for any reasons whatever, it is hereby agreed that such holding over shall be a tenancy from month to month only.

9. DEFAULT:

If default shall be made by the Lessee and the payment of rent or in the performance of the conditions of covenants of this lease, the Lessor shall have the right to re-enter said premises and remove Lessee and all other persons and materials therefrom and shall have the option of cancelling this lease, provided that such rights of re-entry and cancellation may be exercised by the Lessor only in the event that the breach or other default of the Lessee shall have continued for 30 days after written notice thereof of the Lessor's intention to cancel has been furnished to the Lessee.

Lessee shall not, however, be held in default of its failure to perform in accordance with the terms of this lease results from strikes, riots, governmental intervention, acts of God or other causes beyond its control. All notices

required to be given hereunder by either party shall be in writing and sent by mail addressed to the Lessor at the Department of Institutions, 1539 11th Avenue, Helena, Montana or the Lessee at the City Hall, Deer Lodge, Montana.

10. ACCESS:

The Lessor shall have the right to enter upon and into the premises at any reasonable time during business hours for the purpose of inspection.

11. ASSIGNMENTS OR SUBLEASES:

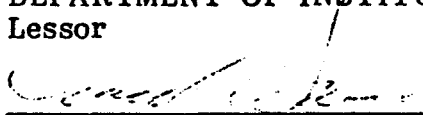
The Lessee shall not assign this lease without the written consent of the Lessor, except as already agreed to in Part 5.

12. RENEWAL AND AMENDMENT:

This agreement upon expiration may be extended for an additional period on such terms and conditions as are at the time agreeable to the parties and the Lessee shall have the first option to renew the lease. This agreement may not be modified or amended without the written consent of all parties concerned.

IN WITNESS WHEREOF the parties have executed this lease agreement and affixed their seals as of the day and year first above written.

STATE OF MONTANA
DEPARTMENT OF INSTITUTIONS
Lessor



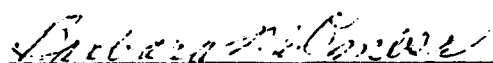
CARROLL V. SOUTH, Director
Department of Institutions

CITY OF DEER LODGE
Lessee



MAYOR

ATTEST:



City Clerk

DATE

3/13/91

HB

SB448

The second block is the brick 1900 Store, Butcher Shop and Deputy Warden's Residence Building (HS-16), and the brick 1960 Deputy Warden's Garage (HS-17). The wood frame 1920 Warden's Residence (HS-18), wood frame 1911 Shed, 1937 Greenhouse and brick 1920 Garage are on the north end of the block. In the third block is the cast stone 1918 Administration Office and 1922 Registrar of Motor Vehicles Office and 1922ing.

LIST OF HISTORIC STRUCTURES (See Figure 59)

HS 1 Prison Warden's

HS-1A Tower 7 Main Entrance

HS-1B Tower 5

HS 1C Tower 5

HS-1D Tower 4

HS-1F Tower 2

HS-1G Tower 1

HS-1H Sallyport

HS-2 1912 Cell Block

HS-3 Hospital Industrial Shop Complex

HS-4 Power Plant

HS-5 Water Tower

HS-6 Max. Man Security (originally the Women's Quarters)

HS-7 W. A. Clark Theater

HS-8 Inside Administration Building

HS-9 Trustee Bunkhouse

HS-10 Towe Antique Ford Car Collection (originally the Carpentry Shop)

HS-11 Conley Bridge

HS-12 Offices/Guards Dormitory

HS-13 Central Warehouse

HS-14 Boiler Room/Creamery

HS-15 Root Cellar

HS-16 Store/Butcher Shop/Deputy Warden's Residence

HS-17 Deputy Warden's Garage

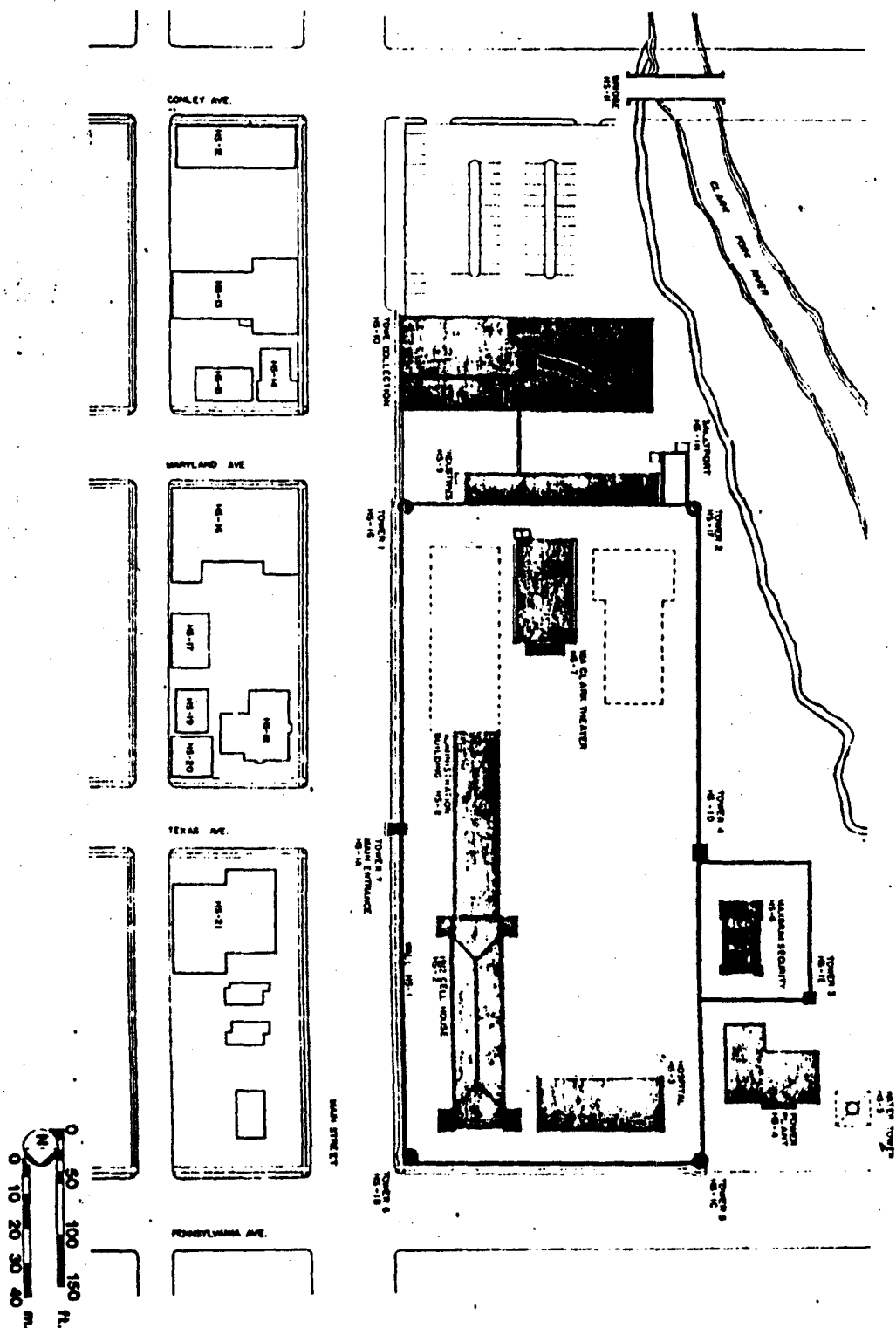
HS-18 Warden's Residence

HS-19 Shed and Greenhouse

HS-20 Warden's Garage

HS-21 Prison Administration Office/Registrar's Office

73



SB 448 - (3rd reading (blue) copy)

- 1) Amend: page 3, line 7, following, "courthouse"
... insert: "and all the land and buildings in Block ~~65~~ 65
... and Block 68, Township of Deer Lodge, ~~and~~
... included in the existing lease between the Department
... of Institutions and the City of Deer Lodge dated November
... 1, 1983."
- 2) Further Amend: page 3, line 12, following "money"
... strike ", the past expenditure of money"

Submitted by Thomas E. Towe - chief sponsor.

Thomas E. Towe

EXHIBIT 3

DATE 3/13/91

SB HB 448

R.F. LABBE, Mayor

KERMIT DANIELS
City Attorney

BARBARA P. McOMBER, CLERK
DIXIE HENDERSON, Treasurer

CITY OF DEER LODGE

300 MAIN
DEER LODGE, MT 59722-1098
(406) 846-3649
(406) 846-2238

DALE J. WITZEL
LYLE E. GILLETTE, JR.
RALPH BECK
HAROLD ERICSON
MICHAEL G. RICHARDS
IVAN WALLGREN
JIMMY RAY ANDERSON
KENNETH E. FENNER

February 20, 1991

Eleanor L. Vaughn, Chairman
State Administration Committee
Capitol Station
Helena, MT 59620

Dear Chairman Vaughn:

I strongly support and hereby give my wholehearted approval to the transfer of the title of the Old Montana Prison to the Powell County Museum and Arts Foundation.

They have kept this facility open to the public continuously since June of 1979 which has greatly benefitted Deer Lodge. To the best of my knowledge, they have done this without any substantial cash money support from either the city or county governments.

It would be beneficial to everyone involved if Powell County Museum and Arts Foundation could feel secure in their future by having control of the Old Montana Prison complex.

Very sincerely,



R. F. Labbe
Mayor

RFL:sm



MONTANA LAW ENFORCEMENT MUSEUM, INC.

"In Historic Old Montana State Prison"

P.O. Box 107

Deer Lodge, Montana 59722

EXHIBIT 4

DATE 3/13/91

~~HB~~ SB 448

A Non-profit, Educational and Historical Organization

13 March 1991

BOARD OF DIRECTORS MEMBER ORGANIZATIONS:

Montana Attorney General
Montana Law Enforcement Services
Division
Montana Law Enforcement Academy
Montana Sheriffs & Peace Officers
Association
Montana Association of Chiefs of
Police
Association of Montana Highway
Patrolmen
Montana Association of State Fish
and Game Wardens
Montana Livestock Inspectors
Association
Montana Police Protective Association
Montana Corrections Association
Montana County Attorneys
Association
Powell County Sheriff's Department
Deer Lodge Police Department
Butte-Silver Bow County Law
Enforcement
Great Falls Police Department
Office of the Warden,
Montana State Prison

MEMBER OF:

Museums Association of Montana
Gold West Country of Montana

Testimony before the House State Administration
Committee on SB448-Transfer of Old Montana State
Prison to the Powell County Museum & Arts Founda-
tion.

* *Correction to Senator Tom's statement of the MLEM + om being a
part of PCMAF's museum operations*

Madam Chairman, members of the committee:

For the record I am Terry L. Tyler, Coordinator and
Executive Director of Operations of the Montana Law
Enforcement Museum and Officers' Memorial.

I am here today speaking on behalf of and representing
the concerns of the Montana Law Enforcement Museum
and Officers' Memorial Board of Directors, ~~most of~~
who ~~may~~ could not be here today personally because of
their duty schedules.

The Board of Directors of the Montana Law Enforcement
Museum, and its professional criminal justice
associations, would be in favor of SB448 only upon
two conditions: (1) that relinquishing ownership of
the Old Montana State Prison would be in the best
interests of the State, and (2) only if more than the
phrase "adequate space provided" were amended to protect
and ensure the continued existence, freedom and growth
of the Montana Law Enforcement Museum and State and
Legislative designated Montana Law Enforcement Officers'
Memorial. Our group strongly believes that it has

15 MAY - National and Montana Peace Officers' Memorial Day

HELP PRESERVE THE MEMORY OF OFFICERS SLAIN IN THE LINE OF DUTY

more than "adequate" reasons to be rightfully concerned with SB448's present language and consequences it could allow should the state legislature decide to relinquish Old Montana State Prison.

Thank you for your time and serious consideration.

Amendments to Senate Bill No. 448
Third Reading Copy

Requested by Representative Gary Beck
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 13, 1991

1. Page 2, line 25.

Following: "ENSURE"

Insert: "
 (a)"

2. Page 3, line 1.

Strike: "ADEQUATE"

Insert: "the current space occupied"

Strike: "FOR"

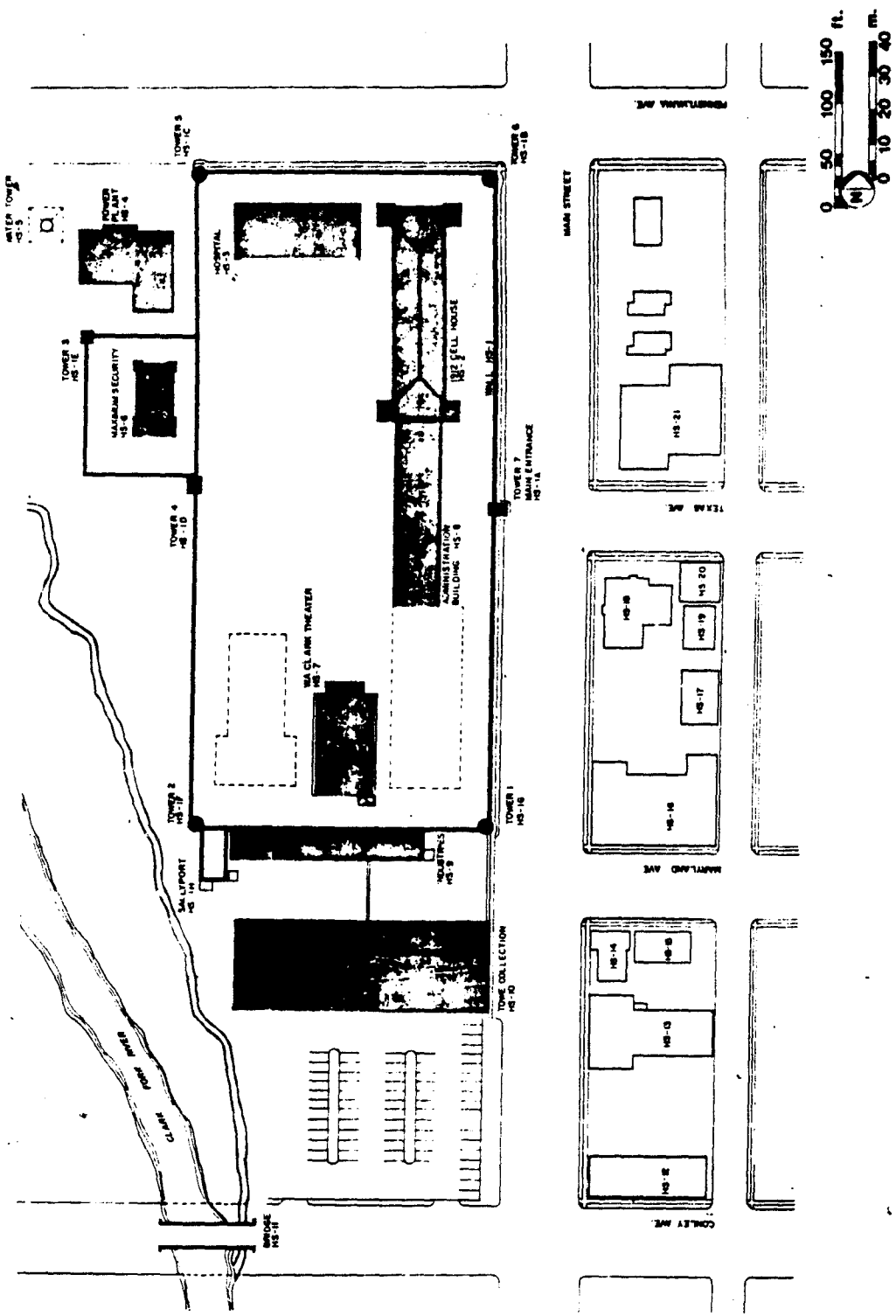
Insert: "by"

Following: "MUSEUM"

Insert: "in the old prison administration building;

 (b) adequate space for potential future expansion; and

 (c) that the Montana state prison hobby shop may
retain its present location at a reasonable lease rate"



SITE PLAN OLD MONTANA STATE PRISON

Figure 59: Existing Prison Site Plan.

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

EXHIBIT 7
DATE 3/13/91
HB 83448

INTRODUCED BY *House Bill No. 385*
Sen. Andy Trumbly
Sen. Charles Penning
A BILL FOR AN ACT ENTITLED: "AN ACT TO DIRECT THE MONTANA
DEPARTMENT OF HIGHWAYS TO TRANSFER CERTAIN LANDS TO *County*
Yellowstone"

6 YELLOWSTONE COUNTY SO THAT YELLOWSTONE COUNTY MAY MAKE THE
7 LAND AVAILABLE FOR DEVELOPMENT OF A ZOO AND BOTANICAL
8 GARDENS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE. *Sen. Vincent*
9 *Billings* *Bob Brown*
10 WHEREAS, the Montana Department of Highways owns a
11 parcel of land near Billings along Interstate 90 near the
12 proposed Shiloh interchange for which the department has no
13 need; and
14 WHEREAS, Yellowstone County and a private corporation
15 known as ZooMontana, Inc. have discussed with the department
16 the transfer of the land to Yellowstone County, which in
17 turn would make the land available to ZooMontana, Inc. for
18 use as a zoo and botanical gardens; and
19 WHEREAS, ZooMontana, Inc. plans to create a
20 high-quality regional zoo and botanical gardens to fulfill
21 educational, recreational, and research purposes; and
22 WHEREAS, the zoo and botanical gardens will attract
23 many visitors from the city of Billings, from around the
24 state of Montana, and from out of state; and
25 WHEREAS, the zoo and botanical gardens will become a

1 major tourist attraction and is expected to bring over
2 50,000 people into the zoo each year from out of the region
3 who will spend in excess of one million each year, which
4 will benefit the entire state; and
5 WHEREAS, funds for the construction of the facility are
6 being raised locally and regionally, with an expectation
7 that \$4.5 million will be raised; and
8 WHEREAS, the ZooMontana development promises to be of
9 major benefit to Montana in terms of educational and
10 recreational opportunities while at the same time infusing
11 money into the state's economy.

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

13 NEW SECTION. Section 1. Disposition of certain

14 highway property to Yellowstone County. (1) The department
15 of highways is directed to transfer its interest, including
16 appurtenant water rights, in the property described in
17 subsection (2) to Yellowstone County. Yellowstone County
18 shall make the land available to ZooMontana, Inc., a
19 corporation, for the development of a zoo, botanical
20 gardens, and related facilities.

21 (2) The property is described as the N 1/2 of the SE
22 1/4, section 22, township 1 south, range 25 east, M.P.M.,
23 Yellowstone County, Montana, lying northwesterly of Canyon
24 Creek ditch, containing 63.33 acres, less the easterly 20
25

1 feet abutting the right-of-way of Shiloh road.

2 (3) The department is authorized to provide an
3 easement or otherwise grant title to or use of land owned by
4 the department that is contiguous to the land described in
5 subsection (2) for the purpose of providing access to the
6 land described in subsection (2). The additional grant or
7 easement may be made if the department determines that use
8 for access will not interfere with highway department use of
9 the contiguous land.

10 (4) The department of highways may establish
11 appropriate conditions to protect the interest of the state
12 on the transfer of the property, including a provision for
13 reversion should the property cease to be used for zoo and
14 botanical garden purposes.

15 (5) The provisions of Title 60, chapter 4, part 2, do
16 not apply to the transfer of land directed by [this act].

17 NEW SECTION. Section 2. Effective date. [This act] is
18 effective on passage and approval.

-End-

EXHIBIT 7
DATE 3/13/91
HB SB 448

This Lease Agreement, made and entered into this ____ day of March, 1980, by and between the MONTANA DEPARTMENT OF INSTITUTIONS, an agency of the executive branch of the State of Montana, hereinafter referred to as the Lessor, and the CITY OF DEER LODGE, a political subdivision of the State of Montana, hereinafter referred to as the Lessee.

WITNESSETH:

This new lease agreement recognizes that there was a prior lease entered into on March 18, 1977 by the parties for the Carpenter Shop Warehouse and Prison Industries Building at the old State Prison. This new agreement cancels that lease and shall include not only the Carpenter Shop Warehouse and Prison Industries Building but also the entire site of the old Montana State Prison and theater.

Premises: The Lessor for and in consideration of the covenants and agreements herein mentioned be kept and performed by the parties, demise and lease to the Lessee the premises situated in the City of Deer Lodge, County of Powell, Montana commonly known as the old Montana State Prison compound and being more fully described as follows:

All the buildings comprising of the Montana State Prison which constitutes blocks 52, 53, 62, 63, 66 and 67 of the original townsite of the City of Deer Lodge all situated in the Northwest $\frac{1}{4}$, Section 4, Township 6 North of the official plat thereof on file at the Powell County Courthouse.

Term: To have and to hold the same premises for a term of 25 years beginning the first day of March, 1980 to the last day of February, 2005.

Rent: In consideration of the demise and the leasing of the premises aforesaid by the Lessor, the Lessee covenants and agrees to pay to the Lessor as rental for said premises during said term, the sum of \$125.00 to be paid in annual installments of \$5.00 per year beginning March 1, 1980 and payable March 1, of each year thereafter of said term.

Condition of Premises: Lessor covenants and warrants that the leased premises have been maintained to meet all laws, ordinances and regulations regarding building construction, plumbing, heating, electrical work, fire protection, exits, and the like, and further agrees upon Lessee's request to have the premises inspected by proper authorities, and to furnish Lessee with a copy of the report of such authorities.

Repairs: Lessee agrees to take good care of the premises and to keep the premises in a clean and orderly condition. During the term of this lease the Lessee will be responsible for all necessary repairs to the premises for its use. At the expiration of said term, Lessee will quit and surrender the said premises in as good condition as the reasonable use and ordinary wear and tear thereof will permit, provided however that the Lessee shall not be liable for any damage or require to make any replacement or repairs except as they are occasioned or made necessary by the Lessee's neglect or misuses of said premises.

Use: The Lessee will occupy and use said premises for the operation of a museum or similar use such as the Ed Towe Ford Collection and shall conduct operations as are incident and reasonably connected with the conduct of such museum, and agrees not to permit said premises to be used for any immoral or illegal purposes or for any purpose more hazardous than that used herein. The Lessee will comply with all lawful regulations or ordinances of all municipal, county and state authorities respecting the manner in which it uses the premises. The Lessee will at its own expense supply any apparatus, appliance or materials, nor will the Lessor do any restoring or rebuilding or alteration of the premises.

Utilities: The Lessee shall pay for all heat, water, electricity, telephone and janitorial services for the premises.

Signs: The Lessee agrees not to use or permit the use of any part of the premises for advertising purposes except such signs as advertise the museum or similar operations carried on by the Lessee in said building.

DATE 3/13/91
HB SB 448

Access: The Lessor shall have the right to enter into and upon said premises at any reasonable time during business hours for the purpose of inspection. The Lessor agrees not to exercise this right in such a way as to interfere unreasonably with the Lessee's use of said premises.

Ways: The Lessor covenants that during the term of this lease and during any extension thereof, all entrances, exits, approaches, means of approach together with all light and air which are now enjoyed by the premises shall not be interrupted or disturbed by any act of the Lessor, and the Lessee will use all reasonable means to prevent any such interruption or disturbance by a third party. Lessee at all times shall have unobstructed ingress and egress between each of the entrances to the premises and public street, highway or alley.

Assignment - Sublease: The Lessee shall not assign this lease without the written consent of the Lessor. Lessee shall have the right only with written consent of the Lessor to sublease all or any part of the premises at any time during the term.

Destruction of Premises: If during the term of this lease the premises are destroyed or if they are damaged to such extent that the Lessee is unable to reasonably continue in its occupancy and conduct all or a portion of its museum then, in either of these events, this lease may be terminated at the option of the Lessee on 15 days written notice to the Lessor. In the event that the extent of the damage is such that the Lessee can continue in its occupancy thereof and conduct its museum and the premises can be restored within 90 days, the Lessor shall at its option allow the Lessee to make repairs of said premises and to restore said premises with all due diligence and the Lessee shall pay rent for the premises in proportion to the space occupied.

Insurance: The Lessor agrees to maintain fire and liability insurance on the premises for a 120 day period expiring on June 30, 1980. After that date, the Lessee will be responsible for insuring the premises. The Lessee will be responsible for insuring all contents, equipment etc. used in the operation of the museum for any reason whatsoever. Further, the Lessee will also buy public liability insurance and hold the Lessor harmless for any acts of negligence, errors or omission to the public.

Default: If default shall be made by the lessee and the payment rent or in the performance of the conditions or covenants of this lease, the Lessor shall have the right to reenter said premises and remove Lessee and all other persons and materials therefrom and shall have the option of cancelling this lease, provided that such rights of reentry and cancellation may be exercised by the Lessor only in the event that the breach or other default of the Lessee shall have continued for 30 days after written notice thereof of the Lessor's intention to cancel has been furnished to the Lessee.

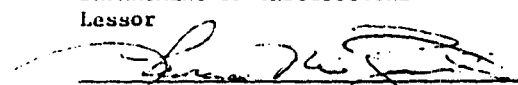
Lessee shall not, however, be held in default if its failure to perform in accordance with the terms of this lease result from strikes, riots, governmental intervention acts of God or other causes beyond its control. All notices required to be given hereunder by either party shall be in writing and sent by mail addressed to the Lessor at the Department of Institutions, 1537 11th Avenue, Helena, Montana or to the Lessee at the City Hall, Deer Lodge, Montana.

Hold Over: At the expiration of this lease, shall Lessee hold over for any reasons whatever, it is hereby agreed that such holding over shall be a tenancy from month to month only.

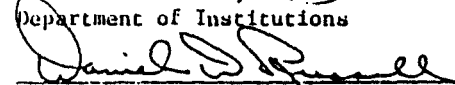
Renewal and Amendment: This agreement upon expiration may be extended for an additional period on such terms and conditions as are at that time agreeable to the parties and the Lessee shall have the first option to continue on in the buildings. This agreement may not be modified or amended without the written consent of all parties concerned.

IN WITNESS WHEREOF the parties have executed this lease agreement and affixed their seals as of the day and year first above written.

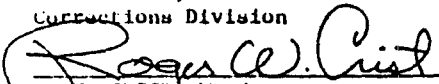
STATE OF MONTANA
DEPARTMENT OF INSTITUTIONS
Lessor



LAWRENCE M. ZANTO, Director
Department of Institutions



DAN RUSSELL, Administrator
Corrections Division



ROGER CRIST, Warden
Montana State Prison

EXHIBIT 7
DATE 3/13/91
HB SB 448

CITY OF DEER LODGE, Lessee

[Signature]
Executive Officer

City of Deer Lodge

[Signature]

Clerk

City of Deer Lodge

ASSIGNMENT

For and in consideration of the mutual acts of the parties, the City of Deer Lodge, a municipality, referred to as Assignor and the Powell County Museum and Arts Foundation, a Montana corporation, referred to as Assignee agree:

1. Assignor does hereby grant, transfer and assign to Assignee that certain lease heretofore entered into between the state of Montana, acting through its duly designated agents, and the City of Deer Lodge, acting through its Mayor and Clerk by unanimous resolution of the City Council, for the premises lying within the City of Deer Lodge, referred to as the old Montana State Prison, said lease and the assignment thereof being approved by the City Council at its regular meeting of April 21, 1980.

2. There is excepted from the demised premises that certain water well and its piping, connections and equipment appurtenant thereto which Assignor may require for the use and operation of said well in the municipal water system of Assignor together with right of egress and ingress to said well and the right to use such equipment as well as maintenance and construction equipment upon the premises at such point of the premises as may be required to integrate said well into Assignor's water system.

3. Assignee assumes all obligations, duties, rights and liabilities of said lease and in addition to utilities agrees to be responsible and pay for sewer and garbage charges levied by Assignor. Assignee further agrees to hold Assignor harmless from any debt or obligation incurred by reason of the Assignee's operation of such premises.

IN WITNESS WHEREOF the parties have set their
hands and seals by its duly authorized officers.

EXHIBIT 7
DATE 3/13/91
HB 83449

CITY OF DEER LODGE

By: [Signature]
Assignor

SEAL OR CITY

ATTEST:

[Signature]
Clerk

POWELL COUNTY MUSEUM & ARTS FOUNDATION

By: [Signature]
President

ATTEST:

[Signature]

STATE OF MONTANA)
: ss.
COUNTY OF POWELL)

On this 25th day of April, 1980, before me, a Notary
Public for the State of Montana, personally appeared John
D. Wilson and Barbara McOmber, known to me to be the Mayor
and Clerk of the City of Deer Lodge, a municipal corporation,
that executed the within instrument and acknowledged to me
that such corporation executed the same; there also appeared
James Blodgett and James Gilbert
known to me to be the president and director of
the Powell County Museum and Arts Foundation, a Montana
corporation, that executed the within instrument and acknowl-
edged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto subscribed my name
and affixed my Notarial Seal the day and year in this certi-
ficate first above written.

[Signature]
Notary Public for the State of
Montana, residing at Deer Lodge,
Montana. My Commission expires: 1/17/84

Cost Estimates:

EXHIBIT 3

DATE 3/13/91

~~HB~~ SB 421
Local Government

| | State Government | | Local Government | |
|----------------|------------------|------------|------------------|------------|
| | FY92 | FY93 | FY92 | FY93 |
| At 25% Payout | | | | |
| Current Law | \$ 889,931 | \$ 929,740 | \$ 902,785 | \$ 943,169 |
| SB 421: | 391,569 | 806,433 | 397,225 | 818,057 |
| Net Effect: | (498,362) | (123,307) | (505,560) | (125,112) |
| At 50% Payout | | | | |
| Current Law | 889,931 | 929,740 | 902,785 | 943,169 |
| SB 421: | 391,569 | 882,195 | 397,225 | 894,937 |
| Net Effect: | (498,362) | (47,545) | (505,560) | (48,232) |
| At 75% Payout | | | | |
| Current Law | 889,931 | 929,740 | 902,785 | 943,169 |
| SB 421: | 391,569 | 882,195 | 397,225 | 894,937 |
| Net Effect | (498,362) | (47,545) | (505,560) | (48,232) |
| At 100% Payout | | | | |
| Current Law | 889,931 | 929,740 | 902,785 | 943,169 |
| SB 421: | 391,569 | 882,195 | 397,225 | 894,937 |
| Net Effect | (498,362) | (47,545) | (505,560) | (48,232) |

Note: The Cost estimate for SB 421 is based on current health insurance premiums for retirees on the state plan.

MONTANA

1426 Cedar Street • P.O. Box 5600
Helena, Montana 59604

Telephone (406) 442-4600
Toll Free 1-800-221-3468

PUBLIC

EMPLOYEES

SENATE BILL 421

EXHIBIT 9
DATE 3/13/91
~~HB~~ SB 421

ASSOCIATION

Senate Bill 421 is designed to save the state money, help retirees with the payment of health insurance premiums and reduce the over-use of sick leave. To do this it must be amended back up to provide for a 100% payout of accrued sick leave credits at the time an employee retires.

WHY? The private sector has discovered that to make early retirement work it must not only make it available but it must somehow reward employees to make them want to do it. The same holds true here. If you want to save money by having employees take the monthly payout instead of the lump sum, you must make it attractive. Leaving it at 25% doesn't do that so very little savings will occur. The same is true in reducing over-use of sick leave. As long as employees feel that they can take sick leave and get a 100% payment but if they leave it accrue they will only get 25%, this method will be ineffective.

The single major expense that retirees have no control of after they retire is the cost of health insurance premiums. This bill would at least be a start in dealing with this issue which is not going to go away. At a time when the mood seems to be to tax retirees this bill may provide a method to at least help them with a major expense. The employees will only be receiving what they have accumulated just at a higher percentage.

THINK ABOUT IT! SB 421 could save the state money, reduce the over-use of sick leave which also saves the state money, and help dedicated state employees who retire, pay costly health insurance premiums.

WE, RESPECTFULLY, ASK FOR YOUR SUPPORT IN AMENDING AND PASSING SB 421

Eastern Region
P.O. Box 20404
Billings, MT 59104
(406) 256-5915

Western Region
P.O. Box 4874
Missoula, MT 59806
(406) 251-2304



County of Yellowstone



FINANCE

(406) 256-2793

Box 35003
Billings, MT 59107

House State Administration Committee
Jan Brown, Chairperson
Capitol Building, Room 312-1
Helena, MT 59601

RE: SB 421, Hearing - March 13, 1991, 9:00 a.m.

Dear Chairperson Brown and Committee Members:

Yellowstone County considers SB 421 to be an excessive accounting problem for governmental entities and encourages defeat of this bill.

The only benefit of this bill would be the spreading of taxable wages to the employee over several years rather than in a lump-sum payment. However, the same result could be accomplished through existing deferred compensation plans at the state and local level without the administrative burden.

The negatives of this bill include:

1. Generating a monthly paycheck and W-2 for a retired employee.
2. Paying and budgeting social security for inactive employees.
3. Investing and tracking interest earnings for individual retiree's accounts.
4. Notifying retirees when their sick leave credit has been expended.
5. Disbursing balance of individual's account to retiree if insufficient to pay premium.
6. Switching over payment of health insurance to PERS when credit lapses.
7. Potential changes in IRS regulations on Section 125 cafeteria plans.

Sincerely,

Scott Turner
Finance Director

EXHIBIT 11
DATE 3/13/91
HB SB 421

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 3/13/91 BILL NO. SB 421 NUMBER 1

MOTION: on amendment of Carolyn Squires

| NAME | AYE | NO |
|-------------------------------------|-----|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIR | ✓ | |
| REP. BEVERLY BARNHART | — | |
| REP. GARY BECK | ✓ | |
| REP. ERNEST BERGSAGEL | ✓ | |
| REP. FRED "FRITZ" DAILY | | |
| REP. ERVIN DAVIS | ✓ | |
| REP. JANE DEBRUYCKER | ✓ | |
| REP. ROGER DEBRUYCKER | | ✓ |
| REP. GARY FELAND | | ✓ |
| REP. GARY FORRESTER | ✓ | |
| REP. PATRICK GALVIN | | |
| REP. HARRIET HAYNE | | ✓ |
| REP. BETTY LOU KASTEN | | ✓ |
| REP. JOHN PHILLIPS | | ✓ |
| REP. RICHARD SIMPKINS | | ✓ |
| REP. JIM SOUTHWORTH | ✓ | |
| REP. WILBUR SPRING | | ✓ |
| REP. CAROLYN SQUIRES | ✓ | |
| REP. JAN BROWN, CHAIR | ✓ | |
| TOTAL | 9 | 7 |

EXHIBIT 12
DATE 3/13/91
#B SB 421

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 3/13/91 BILL NO. SB421 NUMBER 1

MOTION: Be Concurred In As Amended

| NAME | AYE | NO |
|-------------------------------------|-----|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIR | ✓ | |
| REP. BEVERLY BARNHART | ab | |
| REP. GARY BECK | ✓ | |
| REP. ERNEST BERGSAGEL | | ✓ |
| REP. FRED "FRITZ" DAILY | ✓ | |
| REP. ERVIN DAVIS | ✓ | |
| REP. JANE DEBRUYCKER | ✓ | |
| REP. ROGER DEBRUYCKER | | ✓ |
| REP. GARY FELAND | | ✓ |
| REP. GARY FORRESTER | ✓ | |
| REP. PATRICK GALVIN | — | |
| REP. HARRIET HAYNE | | ✓ |
| REP. BETTY LOU KASTEN | | ✓ |
| REP. JOHN PHILLIPS | | ✓ |
| REP. RICHARD SIMPKINS | | ✓ |
| REP. JIM SOUTHWORTH | ✓ | |
| REP. WILBUR SPRING | | ✓ |
| REP. CAROLYN SQUIRES | ✓ | |
| REP. JAN BROWN, CHAIR | ✓ | |
| TOTAL | 9 | 8 |

EXHIBIT 12A
DATE 3/13/91
HB SB 421

Amendments to Senate Bill No. 421
Third Reading Copy

Requested by Representative Squires
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 13, 1991

1. Title, line 8.

Strike: "25"

Insert: "100"

2. Page 3, line 13.

Strike: "25%"

Insert: "100%"

EXHIBIT 13
DATE 3/13/91
HB SB 301

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 3/13/91 BILL NO. SB 301 NUMBER 1

MOTION: to Tabled

| NAME | AYE | NO |
|-------------------------------------|-----|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIR | | ✓ |
| REP. BEVERLY BARNHART | ✓ | |
| REP. GARY BECK | ✓ | |
| REP. ERNEST BERGSAGEL | ✓ | |
| REP. FRED "FRITZ" DAILY | — | ✓ |
| REP. ERVIN DAVIS | | ✓ |
| REP. JANE DEBRUYCKER | ✓ | |
| REP. ROGER DEBRUYCKER | ✓ | |
| REP. GARY FELAND | ✓ | |
| REP. GARY FORRESTER | | ✓ |
| REP. PATRICK GALVIN | | ✓ |
| REP. HARRIET HAYNE | ✓ | |
| REP. BETTY LOU KASTEN | ✓ | |
| REP. JOHN PHILLIPS | ✓ | |
| REP. RICHARD SIMPKINS | ✓ | |
| REP. JIM SOUTHWORTH | | ✓ |
| REP. WILBUR SPRING | ✓ | |
| REP. CAROLYN SQUIRES | | ✓ |
| REP. JAN BROWN, CHAIR | | ✓ |
| TOTAL | 11 | 8 |

EXHIBIT 14
DATE 3/13/91
HB 966

Amendments to House Bill No. 966
First Reading Copy

Requested by Representative Barnhart
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 7, 1991

1. Page 2, line 17.

Following: "one" on line 17

Strike: "member of"

Insert: "primary or secondary consumer from"

2. Page 2, line 18.

Following: "by"

Strike: "and from the membership of"

3. Page 4, line 8.

Following: "system;"

Strike: "and"

4. Page 4, line 15.

Following: "homemakers"

Insert: "; and

(e) study other states' experiences with state mental
health facilities"

EXHIBIT 15
DATE 3/13/91
HB 966

HOUSE OF REPRESENTATIVES

STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 3/13/91 BILL NO. HB 966 NUMBER 1

MOTION: Simpkins amendments

| NAME | AYE | NO |
|-------------------------------------|---------------|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIR | | ✓ |
| REP. BEVERLY BARNHART | | ✓ |
| REP. GARY BECK | | ✓ |
| REP. ERNEST BERGSAGEL | ✓ | |
| REP. FRED "FRITZ" DAILY | | ✓ |
| REP. ERVIN DAVIS | | ✓ |
| REP. JANE DEBRUYCKER | <i>absent</i> | |
| REP. ROGER DEBRUYCKER | ✓ | |
| REP. GARY FELAND | ✓ | |
| REP. GARY FORRESTER | | ✓ |
| REP. PATRICK GALVIN | | ✓ |
| REP. HARRIET HAYNE | ✓ | |
| REP. BETTY LOU KASTEN | ✓ | |
| REP. JOHN PHILLIPS | ✓ | |
| REP. RICHARD SIMPKINS | ✓ | |
| REP. JIM SOUTHWORTH | | ✓ |
| REP. WILBUR SPRING | ✓ | |
| REP. CAROLYN SQUIRES | | ✓ |
| REP. JAN BROWN, CHAIR | | ✓ |
| TOTAL | 8 | 10 |

Amendments to House Bill No. 966
First Reading Copy

Requested by Representative Southworth
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 7, 1991

1. Page 2, line 9.

Strike: "14"

Insert: "15"

2. Page 2, line 17.

Following: "one" on line 17

Strike: "member of"

Insert: "primary or secondary consumer from"

3. Page 2, line 18.

Following: "by"

Strike: "and from the membership of"

4. Page 3, line 3.

Following: "designee;"

Strike: "and"

5. Page 3, line 4.

Following: "department of"

Strike: "family"

Insert: "social and rehabilitation"

6. Page 3, line 5.

Following: "designee"

Insert: "; and

(i) the governor's coordinator of aging or a designee"

7. Page 4, line 8.

Following: "system;"

Strike: "and"

8. Page 4, line 15.

Following: "homemakers"

Insert: "; and

(e) study other states' experiences with state mental
health facilities"

EXHIBIT 16 A
DATE 3/13/91
HB 966

HOUSE OF REPRESENTATIVES
STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

DATE 3/13/91 BILL NO. HB 966 NUMBER _____

MOTION: No Pass As Amended

| NAME | AYE | NO |
|--|-----|----|
| REP. VICKI COCCHIARELLA, VICE-CHAIRMAN | ✓ | |
| REP. BEVERLY BARNHART | ✓ | |
| REP. GARY BECK | ✓ | |
| REP. ERNEST BERGSAGEL | | ✓ |
| REP. FRED "FRITZ" DAILY | ✓ | |
| REP. ERVIN DAVIS | ✓ | |
| REP. JANE DEBRUYCKER | ✓ | |
| REP. ROGER DEBRUYCKER | | ✓ |
| REP. GARY FELAND | | ✓ |
| REP. GARY FORRESTER | ✓ | |
| REP. PATRICK GALVIN | ✓ | |
| REP. HARRIET HAYNE | | ✓ |
| REP. BETTY LOU KASTEN | | ✓ |
| REP. JOHN PHILLIPS | ✓ | ✓ |
| REP. RICHARD SIMPKINS | ✓ | |
| REP. JIM SOUTHWORTH | ✓ | |
| REP. WILBUR SPRING | ✓ | |
| REP. CAROLYN SQUIRES | ✓ | |
| REP. JAN BROWN, CHAIR | ✓ | |
| TOTAL | 14 | 5 |

EXHIBIT 17

DATE 3/13/91

~~HB~~ SB 156

Amendments to Senate Bill No. 156
Third Reading Copy

Requested by Representative Simpkins
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Page 13, line 2.
Following: "similar to"
Insert: "but not limited to"

EXHIBIT 17A
DATE 3/13/91
~~HB~~ SB 156

Amendments to Senate Bill No. 156
Third Reading Copy

For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Page 10, line 15.

Following: "4"

Strike: "3"

Insert: "4"

2. Page 13, line 2.

Following: "similar to"

Insert: "but not limited to"

EXHIBIT 18
DATE 3/12/91
~~HB~~ SB 157

Amendments to Senate Bill No. 157
Third Reading Copy

Requested by Representative Carolyn Squires
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Title, lines 11 and 12.
Following: "TRUSTEES;" on line 11
Strike: "EXEMPTING" on line 11 and line 12 in its entirety
2. Title, line 17.
Following: "~~AND~~"
Insert: "AND"
Following: "13-37-225,"
Strike: "AND 39-51-204,"
3. Page 22, line 1 through page 27, line 20.
Strike: section 25 in its entirety
Renumber: subsequent sections

Amendments to Senate Bill No. 157
Third Reading Copy

Requested by Representative Carolyn Squires
For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger
March 12, 1991

1. Title, lines 11 and 12.
Following: "TRUSTEES;" on line 11
Strike: "EXEMPTING" on line 11 and line 12 in its entirety
2. Title, line 17.
Following: "~~AND~~"
Insert: "AND"
Following: "13-37-225,"
Strike: "AND 39-51-204,"
3. Page 22, line 1 through page 27, line 20.
Strike: section 25 in its entirety
Renumber: subsequent sections

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. SB 422
 DATE 3/13/91 SPONSOR(S) SEN. VAUGHN

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|------------------|--------------|--------|--------|---------|
| DENNIS CARY | DSL | SB 422 | | ✓ |
| Gordon Morris | MA Co. | 422 | | ✓ |
| Ray, Harkins | MA Co. | 422 | | ✓ |
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PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. SB 448
 DATE 3/13/91 SPONSOR(S) SEN. TOWE

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PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|---|---|------|--------|---------|
| V.C. Mathiason PO Box 19 Clancy MT | Mont Lifestock Inspectors Association & PERSONALLY | 448 | X | |
| Andrew Towre 191 1/2 N. Frontage Deer Lodge | Powell County Museum & Arts Foundation | 448 | | X |
| DWEN S. BROWN 306 LOVE HAND VASTON MT | MT LUSTK I NSPECTORS ASSOC. | 448 | X | |
| T.L. Tyler, Coord./Director Executive | Montana Law Enforcement Museum PO Box 107, Deer Lodge | 448 | X | |
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. SB 301
DATE 3/13/91 SPONSOR(S) SEN. BLAYLOCK

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| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

STATE ADMINISTRATION COMMITTEE BILL NO. SB 421
 DATE 3/13/91 SPONSOR(S) SEN. BIANCHI

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS | REPRESENTING | BILL | OPPOSE | SUPPORT |
|-------------------------|--------------------------|------------|--------|----------|
| <i>Don Schneider</i> | <i>MPA</i> | <i>421</i> | | <i>X</i> |
| <i>Mary Lail Carmoy</i> | <i>St. Auditor</i> | <i>421</i> | | |
| <i>Ray Hartman</i> | <i>WACO</i> | <i>421</i> | | <i>X</i> |
| <i>B Steen</i> | <i>Highways</i> | <i>421</i> | | <i>X</i> |
| <i>DALE FRINDERS</i> | <i>HIGHWAYS</i> | <i>421</i> | | <i>X</i> |
| <i>Nick Morrison</i> | <i>HIGHWAYS GT FALLS</i> | <i>421</i> | | <i>X</i> |
| <i>ARLENE MORRISON</i> | <i>HIGHWAYS GT FALL</i> | <i>421</i> | | <i>X</i> |
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