

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on April 2, 1991, at 3:15 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Thomas Beck (R)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: none

Staff Present: Connie Erickson (Legislative Council).

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

Announcements/Discussion:

HEARING ON HB-497

Presentation and Opening Statement by Sponsor: Representative Paula Darko, District 2, said HB-497 has had a lot of work done on it, and has been aired in many hearings. It has also been through the House Local Government and was amended there. It also went through the Appropriations process, and came out with a Do Pass recommendation. HB-497 is a bill that would revise and reset the county elected officials' salaries. These people have not had any change in their salaries for ten years. This bill sets a new base, and puts other language in that makes it unique from other salary bills that the Legislature has seen. She has been in the Legislature for 5 sessions, and each year there has been a county salary bill. It has run the gamut from the Legislature setting the salary to the county commissioners being allowed to set the salary with the Legislature out of the process. None of those bills ever made it out of committee. To her knowledge, this is the furthest that any of these bills has ever come. As you know we are under I-105, and county elected officials are under the scrutiny of the voters to make sure that

property taxes are not raised. They are restricted, and can not raise those amounts of monies raised by property taxes. What the new language in this bill does is to give county commissioners flexibility to raise salaries depending on how they can afford it. On Page 3, line 4-6, one of the new features of the bill, which has consensus by county elected officials, sets the salary at no less than 80% of what is recommended in the bill. So if the county commissioners determine that they can not afford a raise for these elected officials they can go to 80% of what is recommended in this bill. She handed out a fact sheet (Exhibit #1). The way salaries are set is there is a base salary, and in this bill it is \$25,000, and then you get a population rate increment of \$10/100 people. She pointed out Beaverhead County with 8,400 people, when the base salary would be \$25,000 + an increment of \$840 for a base total of \$25,840. Current salary is \$19,868. If the county determined that they could not afford the entire \$25,840, then they could go to 80% of that, or \$20,672. The estimated current salary of the protected bases show that some of the salaries would not increase under the flex schedule. This gives the counties the ability to determine whether they can afford these raises. The 20% movement is a good thing to give counties the local flexibility they need. Another feature of the bill is that it gives 100% of the Cost of Living Adjustment (COLA). The reason that the counties are asking for an increase is that they have been set at 70% of COLA, and so the salaries have fallen further and further behind. She felt that leaving it at 100% of COLA the Legislature would not see bills from county elected officials for another salary increase. This would allow them to keep up with inflation. This 100% of COLA has survived through the hearings, and she thought a lot of the problems that county officials' salaries create would be solved with it. They currently keep falling farther behind with the 70% of COLA that is currently in law. The other feature is that county commissioners can still freeze salaries. On Page 2, county commissioners can either take a day by day rate or an annual salary. There was concern in the House Local Government Committee about county commissioners setting their salaries at an annual rate when they only work several days a month. Representative Darko said that these county commissioners are at the scrutiny of the voters, and if they set their salaries at an annual salary not based on the amount time if they work, then they will pay the price at the polls. If you look at the number of days that commissioners are in the office, it does not seem that they do a lot of work. But she is familiar with county commissioners, and she said she knows that they do a lot of work outside the office. They are expected to be at meetings, they are expected to go out when the bridge washes out at any hour of the day or night, plus many other things they do outside the office. It is hard to judge their job based on the amount of time they spend in the office. It is just like our job as a legislator. If we only worked during the session we would be totally ineffective. We do a lot of work outside of the time we are paid for in the session. County officials do the same. Some are demanded to keep their offices open, and they are paid

accordingly. She presented a technical amendment that was missed in the House, and she would like to correct it (Exhibit #2). She said that HB-497 is a good bill, and it has had strong support from the House Local Government Committee, the Appropriations Committee, and the House. The bill has had a lot of opportunity to be killed or changed as it stands. She said she is very encouraged that it is still intact, and she hoped the committee would adopt the technical amendment, and then concur in the bill. The groups that are represented here today have worked long and hard to come to a consensus on this bill. This is the most successful attempt that she has been a party to.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties (MACo) said he would try not to repeat Representative Darko. He wanted to highlight some features of the bill. Page 1 & 2, Section 1, makes the distinction between part-time county commissioners serving in class 5, 6, & 7 counties. On Page 2, line 16 & 17, when the board makes a decision as to whether or not they will use the day rate or annual salary, then they have to do it uniformly for all three board members. So one board member won't have a daily rate, and the other two an annualized salary. We think that is a good feature of the bill. On Page 3, line 17, the language states that once the base is established by the governing body or county commissioners, then that base will be applied uniformly for all county officers referred to in Subsection 1. That is all the elected officials. This amendment was put in by request of the other elected officials that worked on this primarily out of concern that the commissioners would set different salaries for different levels. So that concern was laid to rest by making it uniform for all elected officials. On Page 7, line 16, is Representative Darko's proposed amendment location. The bill was introduced with 1991 in it, and the reinsertion of the language "and, on, or before July 1 of each year thereafter". We want to change this language to 1992 because we are talking about everyone getting a new salary base pursuant to this act effective this next July. The COLA increment would then begin the next July. In earlier sections of the bill the rationale for this comes from that. This was the intent of the law when it was enacted in 1981. He asked that the committee would adopt this simple change, so this problem could be eliminated. Mr. Morris also pointed out the language on Page 9, Section 3, as a very important section. It applies 7-4-2503 that establishes the new base, and it says if that section does not qualify a county official for a salary increase then the salary base of the fiscal year beginning July 1, 1991 must be the FY'91's salary plus 100% of COLA beginning this coming July. As we saw in 1991, no one was going to get less than what they are getting right now, and under this bill no one will get less than they are getting right now. In fact, they are guaranteed that they will get 100% of COLA beginning this coming July as a base. That is the minimum they can get. It is clearly read in that section. Section 4 is a new section that was added to the bill

in Appropriations. It addresses the fact that the County Assessor's salary is a shared salary between the State of Montana and the counties with elected County Assessors. Right now, the sharing mechanism is the State pays 70% of the salary and the county pays 30% of the salary. In this new section on Page 9, the State obligation under this 70/30 arrangement is limited to the dollar amount set forth in the Appropriations bill, HB-2. In working through the Appropriations process, he said he is comfortable assuming that the 13% increase provided for in HB-2 for salaries of Assessors and Deputies is, in all likelihood, sufficient to fund the State's portion of the County Assessor's salaries. He asked the committee to adopt the amendment and to concur in the bill. This bill was worked on long and hard by the Council of County Officials, and he did not say the council supports this, but they did work hard on the bill. MACo's perspective is that this is now MACo's salary bill. They have support from other elected official associations. He supported this bill on behalf of Bill Flyner, Under Sheriff and representative of Montana Peace Officers Association (MPOA). The House hearing had some 35 sheriffs and undersheriffs testifying in support of this bill. So for the record, the MPOA supports this bill.

Kay McKenna, Montana Association of County School Superintendents, said the association unanimously supports HB-497. She and two other county superintendents sat in on the subcommittee meetings while this was being ironed out and changed. She saw the majority of elected officials throughout the state of Montana support this bill. She hoped the committee would support HB-497.

Susie Spurgeon, Fergus County Treasurer, and member of Montana County Treasurers Association (MCTA), said since 1981 there have been no substantial change to county elected officials' salaries. It has been pursued, but to no avail. It is indeed time to address this matter. Elected officials deserve an increase because additional duties and responsibilities that are mandated through statute require more hours, knowledge and dedication of elected officials across the state. The MCTA supports HB-497, and we would appreciate your concurrence in this bill.

Sharon Harlin, representative of Montana Assessors Association, said she polled her group, and they asked her to request the committee to approve HB-497.

John Witt, Choteau County Commissioner, and President of MACo, said as president of MACo they have worked through the salary bill. He said it is a good bill, and the majority of commissioners across Montana support the bill. He urged the committee to support it. He is Chairman of the Choteau County Commissioners, and they urge you to support this bill and all elected officials in Choteau urge your support.

Louise V. Sagan, Clerk of District Court, 12th Judicial District,

supported this bill by letter (Exhibit #3).

Linda Stoll-Anderson, Lewis and Clark County Commissioner, said the commission unanimously supports HB-497, and urged a Do Pass.

Tom Schneider, Montana Public Employees Association, said they want to be on record as supporters of this bill.

Shelly Boeckel, Big Horn County Commissioner, and member of MACo, said she supports this bill.

Harry Mitchell, Cascade County Commissioner, said he wanted to emphasize just one point of this bill. It is flexible. A lot of folks are going to be surprised at the spectrum of wages that will end up in Montana, as everyone finds out that County Commissioners can actually make some decisions, and not go to the 100%, as some people fear. He urged the committee's support of HB-497.

Opponents' Testimony:

Lori Maloney, Clerk of District Court for Butte/Silver Bow County and President, Montana Association of Clerks of District Courts (MACDC), opposed this bill because they don't want their peers, county commissioners, setting their salaries. We realize the Legislature is a very busy place with more important issues that setting elected officials' salaries. It is not the top priority. If we want to insure equity in elected officials' salaries state-wide, then salaries must be set by the Legislature. In this bill there is a flex scale that County Commissioners can use at their discretion. We see this as a means for the commissioners to set salaries, and it could mean a large disparity of salaries for like positions or duties between counties in a few years. The face of this bill looks great if you don't analyze it. It seems that every county will be entitled to a nice raise. However, you must look at the overall picture of each county. The economic feasibility of increasing the base salary must be looked at. With increasing county revenues, counties may be forced into consolidation. Before that, the commissioners have the option to freeze salaries. It is very humiliating for an elected official to be passed over year after year because the commissioners have elected to freeze our salaries. They are able to find the funds to get appointed people up to a 30% increase in one year. If this bill could be amended to leave the Legislature setting the salaries and remove the flex scale, then we feel some semblance of fairness will be there.

Janice Heath, Clerk of Court for Big Horn County, also the Salary Committee Chair of MACDC, said she opposed HB-497 (Exhibit #4). She offered amendments to the bill (Exhibit #4a).

Arlyn Archer, MACDC Salary Committee, opposed this bill by letter (Exhibit #5).

Lisa Ferkovich, Clerk of District Court for Sanders County, and Co-Chairman MACDC Legislative Committee, opposed this bill (Exhibit #6).

Questions From Committee Members:

Senator Thayer asked John Witt what were the objections to this bill? Mr. Witt said the objections came from their fall meeting. Every commissioner at the meeting favored the bill in the end. There was concern from some counties because of the cap of I-105 that they were tied in at a level that they could not move. So that is why the 80% level was arrived at. In counties where there was not the flexibility to make any adjustment whatsoever, then they could remain at that point because of I-105. Senator Thayer asked Representative Darko about the fiscal note. The Department of Revenue estimates it will cost the state \$4 million to cover the assessors. Why? Representative Darko said the fiscal note assumes that each county will set salaries at the 100%, and it allows no flexibility for the 80%. The Appropriation Committee scrutinized this, and they put in the amendment to set the amount of county assessors' salaries to be paid by the State relative to what ever is appropriated in this act, or whatever we set, or any pay plan enacted for this purpose. The Department recommended this. Senator Thayer asked if those state employees would be opted out of this bill, and then their salary would be whatever the state pay plan would be? Mr. Morris said that was incorrect. The fiscal note is erroneous as it was originally prepared. To look at the fiscal note would do a disservice to what is happening here. There are 47 deputies and 47 county assessors, and currently the state pays 70% of their salaries, and the counties pay 30% pursuant to the Legislation that was enacted in 1987. They have not calculated the 70/30 split on the fiscal note, and these 97 affected people are not in the state pay plan. They are in HB-2 in terms of the Department of Revenue budget. We looked at the fiscal impact, and he said it would be not more than \$210,000/year. Based upon this estimation, he believed that there is enough money budgeted pursuant to what the Department of Revenue did in advance of this bill. They did anticipate an increase in the states' share of the split. It does not require any additional appropriation. The language on Page 9 & 10 simply states that if that appropriation is not sufficient then the percentage would have to be adjusted, so then the county would end up picking up the balance. So instead of 70/30, if the state ran out of money in terms of funding those positions at the higher salary, then the balance would become a county responsibility pursuant to the language in this bill. He added that the 70/30 arrangement is not in statute. There was never a bill passed by this Legislature or any other to make it statutory. The 70/30 split came about in the wee hours of the 1987 session when they were trying to approve HB-100, the Appropriations bill. MACo fought that vigorously. We will probably come back next session with a bill for the state to assume 100% of their salary which was the situation until 1987. Senator Thayer asked Mr. Morris if he disagrees with the fiscal

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note and their base numbers of \$2.7 million and \$2.8 million that are then reduced to reflect the 70%? Mr. Morris said the \$323,000 represents 100% of the increase, and it should only be 70% of the increase. The same is true of the \$417,000.

Senator Eck asked Mr. Morris about #3 on the fiscal note that says the department pays 70% of salaries. There are 9 people they pay the full salary, and is this because they are actually employees of the department? Mr. Morris said that was correct, that there are 9 employees of consolidated counties where the position of Assessor and Clerk and Recorder has become a state employee. That person is on the state pay plan. Senator Eck wondered if strapped counties would all decide to consolidate these offices, then how much money would it cost the state? Mr. Morris said the state would pick up 100% or \$325,000 shown in the fiscal note in addition to what they already pick up in terms of the 70% portion. That would be true for both fiscal years. He added that would be a low figure because if these positions were eliminated as an elected position at the local level, then that person would in fact go onto the state pay plan at a grade and step. He assured the committee that the grade and step would be at a level higher than the elected official salary basis.

Senator Bengtson asked if all the elected officials were included in this proposal? If so what happened to the Clerks of the District Courts that they are the only elected officials that are opposing this bill? Mr. Morris said that the Council of County Officials is a group that has been convened on the average of twice a year, and they have convened with MACo and other representatives of the other elected officials' associations. We have been working for 4 years on salary proposals. We started after the 1987 session when the MACo president made salary issues an important item. We put together a salary study. He could only say that the consensus began to break down after the conventions. The understanding before the conventions was that each association would take the then consensus salary position back to their association. When MACo met, the position was voted down almost unanimously at the convention in Kalispell. From that point, MACo began to move away from the consensus position in regard to all the elected officials. From the standpoint of MACo's continued activity, MACo made a commitment to try to work on a salary bill, that might be the compromise bill on behalf of the elected officials association prior to June convention, but it would still be for the most part acceptable. He said John Witt, President of MACo, and other board members made a commitment to do that, and this bill before you is the best bill we have offered. He regrets that the MACDC opposes this bill, but the other associations support the bill as a preferred alternative to continuing with the existing language in the law.

Senator Harding said that she noted that we have not heard from the Clerks and Recorders Association supporting or opposing this bill. Mr. Morris said that Mike Stephen was in the room, but did not testify or sign in. Prior to the House hearing everyone, but

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the Clerks and Recorders was there. He was not sure what was going on, but maybe they are content to lay back on the bill and let everyone else carry their water for them. Senator Harding asked what Page 7, line 15 & 16 meant? Mr. Morris said this is from existing law, and it refers to the cost of living increase for elected officials, and this COLA must be determined every July 1 based upon the January to January CPI under current law at 70%, and given uniformly to all the elected officials. So one can't receive 70%, and another 80%. It is uniform, so now everyone will get 100% of COLA. This COLA applies pursuant to the amendment beginning July 1, 1992. That is only right and proper. Importantly, the commissioners have two options under existing law and this bill. Current law allows: #1. They can right now give the COLA at 70% or #2. they can freeze. Under this bill: #1 They can give 100% COLA or #2. they can freeze.

Senator Beck asked Mr. Morris about the last section of the bill about the payment of county assessor salary. How is this to be limited by the money appropriated in this act? Mr. Morris said the amount that would be appropriated in this act applies to the 30% portion, and then any pay plan bill that would be enacted for this purpose. The state pay plan relative to this portion is contained in HB-2. Senator Beck asked if HB-2 appropriates on current level, and we don't take into account what will come out of this? Mr. Morris stated that the counties would pick up the balance, correct? Mr. Morris said he was correct in understanding that he suggested that, but he assured them that he said it, in light of his belief and understanding from the Department of Revenue, that the department anticipated this bill and budgeted accordingly in HB-2. There have been no cuts in HB-2. There is a 13.4% increase in salaries associated with the assessors and deputy assessors in HB-2, and he is confident that this is enough to satisfy the appropriation requirements for this bill. Senator Beck said in the class 5 or smaller counties it appears they have the option to take an annual salary or a per day salary. Right now do they have this option? Mr. Morris said no they do not. Right now, part-time county commissioners in Class 5,6,7 counties get what was initially a \$60/day salary adjusted for 75% of the CPI, just like other elected officials. That figures to roughly \$68/day while they are in the office. It is an option. Commissioners would be very cautious in determining whether or not they should go to annual salary or per day based on the county's budget. Senator Beck said it appears that it would not be a problem if Class 5,6,7 counties did not have the annual option, but would stay on the per day basis as they have now? Mr. Morris said that the sponsor might have a comment. He said he would prefer to see the bill left as is, so they do have the option. We should assume they would handle it very discreetly. Representative Darko repeated that county commissioners are under the scrutiny of voters, and they would have to justify the change to the voters. She knows from personal experience that her county commissioners spend more than full-time on a job that is supposed to be part-time. She said there are different situations in each county. In a class 5, 6,

or 7 county with a big mining project going might warrant more than a per day salary. They should have the flexibility to determine if they need to be there more than just the daily salary. She said she has always found that county commissioners are conservative, and tight with money. Just try to get a nickel out of them! She thinks they will be just as conservative with the salaries.

Senator Harding said she received a history on this (Exhibit #5). It mentioned that MACo amended it to add a \$2000 add-on for commissioners, and this is when the consensus broke down. The original was drafted by all the organizations, and then MACo made it their bill with amendments. Mr. Morris originally worked on this, but after the MACo Board of Directors met on December 10, where most of the participating groups were there, the board turned down the proposal that they refer to in that letter. The MACo Board said the only way the salary proposal would be supported was with longevity in the bill, the \$2000 increment put back in for 1,2,3,4 class counties, and the increment for Montana Peace Officer and Montana Superintendents be put back. Then we introduced the bill with those to avoid the controversy of trying to add amendments after introduction. The MACo Board clearly stated that the only way this bill would get MACo support was with the longevity, the \$2000 dollars in, and then finally the 80% mechanism. The MACo Board voted it down without the 80% mechanism, and then the follow up vote with the 80% mechanism in the bill then passed unanimously. Senator Harding asked Mr. Morris if he thought this might just add up to just a 1 cent salary increase in some instances at the discretion of the county commissioners? Mr. Morris said that Page 9, subsection 3 states that at a minimum, every elected official will get their FY '91 salary with a 100% COLA for the past fiscal year applied to it. They will get a minimum 100% COLA this July.

Senator Thayer asked Representative Darko what will happen to those counties that are right at the I-105 limits. With this mandatory COLA even with the 80% flex, they will still have problems staying within the I-105 limits. Representative Darko said right now we are at 70% of COLA. This is one of the problems, and why there are so many salary bills to increase the base. The erosion of the salary based on 70% of COLA and the freezing is why we are here to ask for the salary to be raised. If the salary had been allowed to increase to 100% of COLA because salaries would probably be where they should be. She pointed out a chart that showed salary erosion based at 70% versus 100% of COLA over the last ten years amounts to about \$735,000 dollars. If we had it at 100% of COLA these people would not be here asking for an increase in the base. If we give them 100%, raise the base, and give them the flexibility to determine the 80-100 if they can afford it, then we probably won't see them again. The House Local Government has had multiple salary bills, but every session there are more. This is the only time we have had a majority of county officials supporting a bill they can live with, and with the exception of

one group. You can't please everyone. This is the legislative process. You have to meet the needs of the majority of the people. There will be unhappy people, but there will be happy ones too.

Closing by Sponsor: Representative Darko said county commissioners are overseers of the budget in local government. They know how much money local government has to spend. They know when the dollars are available, and when they aren't. Oversight of the budget is one of their most important functions, and that is why they have been granted the \$2000, which they have always had, but was pulled out, and now is back in. From her experience, county commissioners are inconvenienced a lot where other elected officials are not. She took phone calls at 6:00 o'clock in the morning during Thanksgiving weekend because the county commissioners were not available and it was flooding. She couldn't do anything about it, but anytime this happens, the county commissioners are called out of bed to deal with these situations. This warrants the extra \$2000. The 100% COLA is very important. We will keep our elected officials from begging at our doors, and that means 3 or 4 less bills per session. The flexibility is absolutely important. County commissioners know what they can afford. The 80% would allow them to hold salaries at current level, and the 100% would provide fairness with the COLA. The bottom line of these points is that we do have a majority supporting this bill. She was very pleased to have the bill make it this far, and it is the best bill she has seen in five terms. She has served on Local Government and worked with these people, and this is a good bill. She wants it to pass, and if it does, she asked that her Senator, Eleanor Vaughn, carry the bill for her.

EXECUTIVE ACTION ON HB-650

Motion: Senator Thayer moved to reconsider HB-650.

Discussion: He explained that he had helped table this bill because the committee was not interested at the time in an amendment that would exempt small business of 10 employees or less.

Senator Hammond said he opposed the motion because he disagreed with the philosophy. This gives an unfair advantage to employees that employers don't have.

Senator Beck said that the statute currently allows them to return with equal salary, so they are protected now. What position does this put the employer in?

Senator Kennedy said the present law would allow his employer to give him a "similar" position in Omaha, not Kalispell. This bill would say that Representative Squires would go back to her job in Rehab, not to a swing job which is considered similar.

Senator Vaughn restated that this preference is already in statute for the National Guard and public employees.

Senator Beck said employees are protected now with "same or similar". C. Erickson read the statute concerning public employees and it does not state the word "same".

Senator Beck asked if this time off would cover special sessions? C. Erickson said that an employee is guaranteed 180 days plus 10 days after the session convenes, unless they have an illness or injury, to return to their job. This would cover time for a special session each year if needed.

Vote: The motion to take HB-650 off the table passed 8 to 1, and was recorded by a roll call vote. Senator Hammond voted against.

Amendments, Discussion, and Votes: Senator Kennedy moved the amendment to exempt small companies (Exhibit #7).

Senator Beck asked if an employee in a small company is still covered by the law that he will be allowed the time off? C. Erickson said yes.

Vote: The motion to exempt companies with 10 or less employees passed.

Amendments, Discussion, and Votes: Senator Bengtson said that she felt the use of the stricken word "similar" was fair. Senator Beck wanted to put the stricken word back in.

Senator Bengtson said that removing it had been the reason for the bill.

Senator Thayer suggested adding the word "shift" to stipulate that a person would return to the work hours they had before leaving.

Senator Bengtson felt this still gave the employee more than was necessary. Senator Hammond added that none of this bill considers the employer.

Senator Vaughn reiterated that the word "similar" was how Representative Squires was removed from her job in Rehab to the Float Pool, and she would still have the same shift, but the location would be different.

Senator Beck said it could not believe that the union didn't deal

with this. Senator Harding informed him that at the bargaining table this was given up because it was a matter that only affected a couple of people, not the entire bargaining group.

Senator Eck suggested that after "compensation" the words "hours, and locality" be added.

Senator Beck agreed and moved to put the stricken word "similar" back in and following "compensation" add "hours, locality."

The motion to accept amendments (Exhibit #8) passed.

Recommendation and Vote: Senator Kennedy moved to Concur in HB-650 as Amended. The vote was taken as a roll call vote, and the bill passed. Senator Hammond did not vote. Senator Jergeson will carry HB-650.

EXECUTIVE ACTION ON HB-497

Amendments, Discussion, and Votes: Senator Eck moved Representative Darko's technical amendment. The motion carried unanimously.

Discussion: Senator Kennedy asked if the MCDC could be segregated? Can a group be left out? C. Erickson said if this group was segregated that they would be removed from all the salary statutes, so new statutes dealing with them would need to be written.

Senator Beck said it did not make sense to segregate one group. County Commissioners do look at and know how I-105 affects them.

Senator Harding really was concerned that the Clerk and Recorders were not heard from, and there is already the problem with the 70/30 split with the assessors.

Senator Hammond said that Mike Stephen did not say anything. Senator Beck said if they didn't stand and oppose it they must not be too concerned. His county officials support the bill.

Senator Thayer said this bill says county commissioners will have to treat all elected officials the same, right? The committee agreed that was their understanding.

Senator Bengtson was concerned about raising the base plus 100% of COLA. No one else is guaranteed to get COLA. Who gets that 100% all the time? To ask for the base and the catch up all at once.

Senator Beck asked Mr. Morris if the elected officials had gotten

the 100% COLA what would this amount be? Mr. Morris said if they got the 100% all along, then they would be slightly below what their salary is now. The total of 100% would have added about \$800,000 to the cost of county salaries compared to the \$1.1 million that this bill purposes that it will cost based on 100% COLA. Senator Beck asked if the committee would consider making it an option of between 70% to 100% COLA? Senator Bengtson asked if they would still have the discretion over COLA? Senator Beck said the law states that they must give 70% of COLA. We could state that the minimum is 70% and the maximum is 100%.

Senator Eck said we could pitch it to the Foundation Program, so if the Foundation gets 2 and 2, then they get 2 and 2. Everyone chuckled.

Senator Thayer reiterated that if you go to the 100% and the base the county commissioners can still freeze and not give it. Senator Harding said they still have to give 100% of COLA even if they freeze. Senator Beck said there is no option, it is just 100% of COLA. The option is 80% of the base salary. Mr. Morris said that was not correct. The options are to give them 100% COLA or to freeze. That shows up in the bill on Page 8 line 9. This is the only option they have: give them the 100% or you freeze it. Senator Bengtson asked what it would be frozen at? Mr. Morris said it would be at the prior year's salary, so they don't get a raise.

Senator Thayer said he spoke with his County Commissioner Harry Mitchell. In his own business he hasn't been able to give any raises for several years. If we build in this COLA so counties can go ahead and do this, then people will be in an uproar. But Commissioner Mitchell said in those situations the county commission would opt to freeze the salaries at the previous level if that was what was going on in the community. Senator Thayer realized this would be at the county commissioners' option, but that lessened his concerns about the bill.

Senator Beck said what he had suggested gave them a better deal than this bill does? A minimum of 70 or max of 100 would insure that you would get some COLA. But according to this bill, they can give absolutely nothing or 100%. Mr. Morris said that current law is in the bill on Page 7 & 8 gives all elected officials a 70% COLA increase, and this bill takes it to 100%. They get 100% unless, on Page 8, line 15, the salary is frozen. At some point in the future, commissioners can go back and reinstate previous COLA that was denied because of the freeze provisions in current law. So this is current law. All we are doing is taking it from 70% to 100% with the continuing option for the commissioners to choose not to give the 100% COLA, just freeze it. We are talking about an increase in base, not an increase in base plus COLA.

Senator Eck asked if they could give 100% COLA every other year? Mr. Morris said the county commissioners could reinstate for any

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year that it was frozen. This is not cumulative.

Senator Bengtson was not comfortable with the 100% COLA or freezing it. She felt they were better off with 70%. If that is what they have been getting at least they don't run the risk of having it frozen. C. Erickson said the freeze is in current law. It is now 70% of COLA or freeze. This bill will say 100% COLA or freeze. Senator Beck said maybe we should eliminate the freeze, and put the range in for COLA.

Senator Hammond said that would all depend on what end of the stick you are on. Raising it to 100% COLA before the freeze gives the very good likelihood that there would be a freeze.

Senator Beck said if you give 100% COLA one year, and freeze the next, the net is 50% COLA over two years. His suggestion would be that the minimum would be at least 70% and the maximum 100% for those two years.

Senator Bengtson said they could freeze that too? Senator Beck said under the present law they could, but he was suggesting changing the bill to have a minimum of 70% and a maximum of 100% COLA and no freeze.

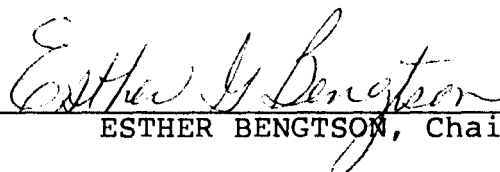
Senator Vaughn said the freeze is because of the constraints of I-105. If we say they have to give 70% COLA, and remove the freeze, but they can't move because of I-105, that's where the leeway of doing it or freezing comes into play.

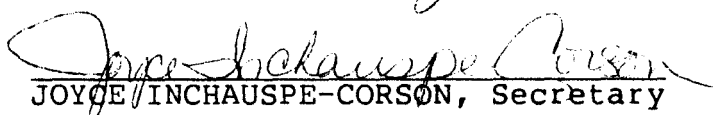
Senator Beck said he has heard too many I-105 stories, but isn't there an automatic 5% with I-105? Senator Eck said it depends on whether your taxable value has gone up or down.

Motion: Senator Eck moved to Concur in HB-497 as Amended. The motion passed, and was recorded as a roll call vote. Senator Vaughn will carry HB-497.

ADJOURNMENT

Adjournment At: 4:59 p.m.


ESTHER BENGTSON, Chairman


JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

LG040291.SM1

DATE APRIL 2, 1991

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

EXHIBIT NO. 1
DATE 4-2-91
BILL NO. HB-497

PROJECTED
BASE
E80%

Scenario--Two Tier
(18,000 & 25,000)

	Population	Class	Base 18,000 25,000	Increment @10/10	Salary	Estimated Current E.O. Salary
BEAVERHEAD	8,400	4B	000	1,840	000	865
BIG HORN	11,900	1B	000	1,190	000	855
BROADWATER	16,700	5C	000	3,370	000	226
CARBON	3,300	6A	000	1,810	000	534
CASCADE	1,100	3A	000	518	000	240
CHOUTEAU	78,800	6A	000	1,527	000	114
CHUSTERS	12,500	3C	000	1,250	000	238
DANIELSON	10,500	6B	000	1,050	000	229
DEER LODGE	10,500	3B	000	1,050	000	238
FALLON	13,300	1A	000	1,330	000	255
FERTHEAD	158,700	6A	000	1,587	000	116
GALLATIN	48,300	1A	000	4,830	000	329
GARFIELD	11,200	6B	000	1,120	000	255
GLACIER	11,200	6B	000	1,120	000	255
GOLDEN VALLEY	11,200	6B	000	1,120	000	255
GRANITE	17,800	6B	000	1,780	000	255
HILL	17,800	6B	000	1,780	000	255
JEFFERSON	18,300	6B	000	1,830	000	255
JUDITH BASIN	21,500	6B	000	2,150	000	255
LAKES & CLARK	46,300	1A	000	4,630	000	329
LEWIS	19,300	2A	000	1,930	000	255
LIBERTY	19,300	2A	000	1,930	000	255
LINCOLN	15,700	4B	000	1,570	000	255
LINDSEY	22,500	6B	000	2,250	000	255
MCCONE	38,400	6B	000	3,840	000	255
MEAGHER	12,300	1A	000	1,230	000	255
MISSOULA	12,300	1A	000	1,230	000	255
MUSSELSHELL	78,400	6B	000	7,840	000	255
PARK	12,300	3A	000	1,230	000	255
PETROLEUM	5,400	7A	000	540	000	255
PHILLIPS	5,400	7A	000	540	000	255
POWDER RIVER	26,300	2A	000	2,630	000	255
POWELL	15,600	4A	000	1,560	000	255
PRATER	12,200	2B	000	1,220	000	255
RAVALLI	12,200	2B	000	1,220	000	255
RICHMOND	12,200	2B	000	1,220	000	255
ROSEBUD	12,200	2B	000	1,220	000	255
ROSEBUD	12,200	2B	000	1,220	000	255
SANDERS	12,200	2B	000	1,220	000	255
SANDERSON	12,200	2B	000	1,220	000	255
SHILLER	12,200	2B	000	1,220	000	255
STILLWATER	12,200	2B	000	1,220	000	255
SWEET GRASS	12,200	2B	000	1,220	000	255
TEOTON	12,200	2B	000	1,220	000	255
TREASURE	12,200	2B	000	1,220	000	255
VALLEY	12,200	2B	000	1,220	000	255
WHEATLAND	12,200	2B	000	1,220	000	255
WILBAUX	12,200	2B	000	1,220	000	255
YELLOWSTONE	12,200	2B	000	1,220	000	255
TOTAL	809,500					1,133,637

**MONTANA
ASSOCIATION OF
COUNTIES**

2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

HB 497 AMENDMENTS

PAULA DARKO SPONSOR

APRIL 2, 1991

1. Page 7, line 16:
Following: July 1,
Insert: 1992, and on or before July 1
2. Page 7, line 17
Following: year
Insert: thereafter

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 2

DATE 4-2-91

BILL NO. HB-497

Amendments to House Bill No. 497
Third Reading Copy

Requested by Representative Darko
For the Committee on Local Government

Prepared by Connie Erickson
April 3, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 2a

DATE 4-3-91

FILE NO. HB 497

1. Page 7, line 17.

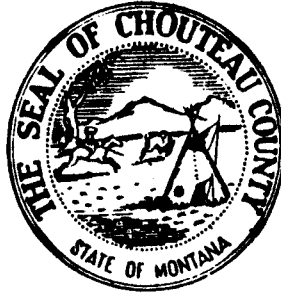
Following: "1"

Insert: ", 1992, and on or before July 1"

Following: "~~thereafter~~"

Insert: "thereafter"

Clerk Of The District Court
TWELFTH JUDICIAL DISTRICT
CHOUTEAU COUNTY



LOUISE V. SAGAN, CLERK
LOIS L. BOKOVOY, DEPUTY CLERK

P.O. BOX 459
FORT BENTON, MONTANA 59442
(406)622-5024

April 2, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 3

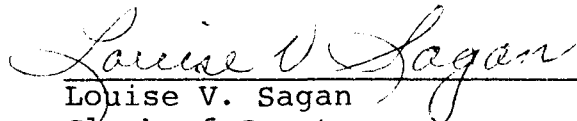
DATE 4-2-91

BILL NO. HB-497

TO WHOM IT MAY CONCERN:

I strongly support HB 497.

Respectfully,



Louise V. Sagan
Clerk of Court

MONTANA ASSOCIATION OF CLERKS
OF DISTRICT COURT (MACDC)
Salary Committee

April 2, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 4

DATE 4-2-91

BILL NO. HB-497

Senate Local Government Committee
Montana State Senate
State Capitol Room 405
Helena, MT 59620

RE: HOUSE BILL 497 - COUNTY OFFICER SALARY/COMPENSATION BILL

Dear Committee Members: *Secretary Inchausti-Corsen*

It is with great concern that I come before you with regard to HB 497. I am opposed to HB 497, in its present form, and as salary committee chair of the Montana Association of Clerks of District Court (MACDC), I feel that it is incumbent upon me to apprise you of the evolution of HB 497 and the possible effects as I see them.

HISTORY:

In October, 1989, the Council of County Officials (CCO) began drafting a new county compensation bill. Brainstorming meetings were held again in March, June, October and November, 1990. It was at the November meeting that CCO finally came to a compromise that would be supported by all and presented to the 1991 legislative session as a united effort. MACo's board of directors accepted it with a 9-8 vote on December 10, 1990. Then, within days, MACo amended it. MACo amendments included:

1. Allowed a \$2,000 add-on for commissioners in the first through fourth class counties.
2. Added a flex scale of 80% to 100% of new base, at the discretion of commissioners.
3. Returned to the commissioners, solely, the ability to freeze compensation at their discretion.

As a result of this action, the salary proposal was no longer acceptable to the Montana Sheriffs' and Peace Officers' Association (SPOA), so they went to MACo and asked that their \$2,000 add-on be amended back into the proposal. On January 7, 1991 MACo again amended the proposal to allow this, and also gave the county superintendents their add-ons as well.

THE SALARY PROPOSAL OF NOVEMBER 14, 1990 WAS NO LONGER A CCO SALARY PROPOSAL, IT WAS NOW A MACo SALARY PROPOSAL!

By the time the other CCO members found out about the amendments, polled their association membership and got together to talk about introducing the original CCO proposal, the deadline for bill draft requests had passed. MACo had submitted the amended salary proposal, which became HB 497, for bill drafting before the deadline.

OPTIONS FOR COUNTY OFFICIALS' COMPENSATION IF HB 497 PASSES:

1. Allows a new base salary of \$25,000, added to \$10 per 100 population for first through fifth class counties; \$18,000, added to \$10 per 100 population for sixth and seventh class counties - BUT with a flex scale in this bill, at the discretion of the county commission -- 80% to 100% OR anything in between.

OR

2. If Option No. 1 does not provide an increase, add 100% COLA to the 90-91 salary.

OR

3. Freeze salaries.

IN ALL CASES IT WILL BE AT THE DISCRETION OF THE COUNTY COMMISSIONERS!

EFFECT (?) IF HB 497 PASSES:

1. Even though the scenario discussed among the CCO members is in 5% increments, there is NOTHING in this bill that sets out the flex scale in 5% increments. It says NO LESS THAN 80%.
2. With nothing in the bill guaranteeing the flex scale to be done in 5% increments, and with no minimum provision in the "grandfather clause" (as the 7% provision was included in SB 50 in 1981), using the worst case scenario, my salary for 1991-92 could be set at 84.1%, which would give me a 1¢ an hour increase under the provisions of 7-4-2503(1). That 1¢ an hour increase could be considered a raise and, therefore, the 100% COLA option under the provisions of 7-4-2504(3) would not apply.
3. Here, again, there are those who would argue that salaries cannot be frozen the first year when going to a new base. However, the provisions of 7-4-2504(1), which, in the existing statute, and in all salary proposals up to, and including, the introduced bill, contained cost-of-living increment language, ONLY, was amended in the Second Reading in the House to contain language that MOST DEFINITELY ties the salary base to the freeze option (see attachments). I would also like to point out that since HB 497 was introduced in the House, it has been amended at least three times, and possibly four, notwithstanding the three times the original CCO salary proposal was amended by MACo prior to drafting.

OTHER POSSIBLE EFFECTS IF HB 497 PASSES:

1. Large disparity of salaries for like positions (duties) between counties in a very few years.
 2. The "eleventh hour" amending by MACo has fragmented CCO; MACDC appears to be the only association presently opposing HB 497 as it exists today.
 3. There are MANY elected officials who are reading a "guaranteed raise" into this bill who may be bitterly disappointed in some cases.
- The salary statutes are COMPLICATED and HB 497, in its present form, will make them even more so. If the legislature wants to turn total control of salaries over to the commissioners, there are other states, Nebraska and Wyoming, for example, that have very simple statutes for commissioner control of local government salaries. I might add, however, that county commissioners in those two states are considered to be only part-time officials and are paid accordingly.

Keeping all of this in mind, I am respectfully asking that you consider the amendments to HB 497 proposed by the Montana Association of Clerks of District Court. The proposed amendments are fair and reasonable. Our duties are mandated by the legislature and we are asking that the legislature retain some control of salaries through these amendments.

EFFECTS OF MACDC PROPOSED AMENDMENTS TO HB 497:

1. Would eliminate option for fifth, sixth and seventh class county commissioners taking either a full-time salary or a per diem salary for the days they are in the courthouse. The rural counties, particularly, cannot afford their commissioners the luxury of opting to take a full-time salary; the average number of days commissioners in many of these counties spend in the courthouse is 6.17 DAYS PER MONTH! There are only sixteen counties in the whole state where commissioners are in the courthouse on a daily basis; the other forty counties, thirty of which have populations of 7,000 or

less, have commissioners who spend from one to 16 days per month in the courthouse. ALL commissioners, whether considered to be full-time or part-time, are also entitled to receive mileage for traveling to and from the courthouse in addition to the salaries they draw from their respective counties.

2. The MACDC proposed amendments would remove the flex scale of no less than 80% and lower the base to 80% of \$25,000, WITH NO FLEXIBILITY, for counties of the first through fifth class, and lower the base to slightly higher than 80% of \$18,000 base, WITH NO FLEXIBILITY, for sixth and seventh class counties. If commissioners are given the option to set salaries at 100% or 80%, nine times out of ten they are going to set them at 80%. If the sliding scale is removed, and the bases are lowered to where they will most likely be set anyway, if an official does not qualify for an increase under this option, he will get 100% COLA under the "grandfather clause" option in 7-4-2504(3). It will have to be one or the other; it's as simple as that. The flex scale also includes population increments, and if the flex scale is taken out, the population increments are left intact, earning the full \$10 per 100, instead of a percentage tied into the flex with the base. For these reasons, and as stated previously, MACDC feels that it is critical that the sliding scale be removed from this bill.

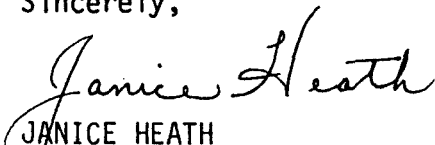
3. As previously noted, 7-4-2504(1) was amended in the Second Reading in the House and has been amended so drastically that it completely changes the meaning of this entire section. Language in existing statute, and in all previous salary proposals and the introduced bill, referred to cost-of-living increments, only; HB 497 language in this section refers to BASE SALARY AND cost-of-living increments, and because of that reference, the base salary for 1991-92 can be frozen, even when going to a new base, if commissioners choose to take that option.

The MACDC proposed amendments would remove the flex scale portion of this section, more or less amend it back to original language and clarify the dates on which the cost-of-living increments would be computed. The proposed amendments will definitely take out the language that ties the 1991-92 salary base to the freeze option, therefore guaranteeing everyone a raise, while leaving the cost-of-living (100%) language intact.

Again, I ask that you give your consideration to the MACDC proposed amendments to HB 497. We are certain that these amendments will be the fairest and most beneficial to the most people, as well as cost-effective in significant savings, overall, to the taxpayers. Down the road, the MACDC proposed amendments are going to be a lot easier to live with than HB 497, in its present form, is going to be.

Thank you very much.

Sincerely,



JANICE HEATH
MACDC Salary Committee Chair
Clerk of the District Court
Big Horn County, Montana

Encl.

MACo AMENDMENTS

Section 3. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments.

(1) The county governing body shall by resolution on or before July 1 of each year adjust and uniformly fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and the clerk of the district court; the county auditor (if there is one); and the county surveyor (if he receives a salary). Except as provided in subsection (3), the salaries fixed may be no less than 80% of the annual base salary provided for in 7-4-2503 (1) plus a cost-of-living increment based on the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The county governing body may, however, for all or the remainder of each fiscal year, in conjunction with setting salaries for the same action on the salaries of justices of the peace (if applicable), the county governing body, county attorney, and coroner, set the salary at the prior fiscal year level if that level is lower than the level required by this subsection....."

MACDC PROPOSAL

Section 3. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments.

(1) The county governing body shall by resolution, on or before July 1, 1992, and on or before July 1 of each year thereafter adjust and uniformly fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and the clerk of the district court; the county auditor (if there is one); and the county surveyor (if he receives a salary) for cost-of-living increase by adding to the annual salary computed under 7-4-2503 an increment calculated by applying to the annual salary established by 7-4-2503(1) and as provided in subsection (3), 100% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The county governing body, may, however, for all or the remainder of each fiscal year, in conjunction with setting salaries for the same action on the salaries of justices of the peace (if applicable), the county governing body, county attorney, and coroner, set the salary at the prior fiscal year level if that level is lower than the level required by this subsection....."

EXISTING STATUTE

Section 3. Section 7-4-2504, MCA, is amended to read:

"7-4-2504. Salaries to be fixed by resolution -- cost-of-living increments.

(1) The county governing body shall by resolution, on or before July 1, 1982, and on or before July 1 of each year thereafter adjust and uniformly fix the salaries of the county treasurer, county clerk, county assessor, county school superintendent, county sheriff, and the clerk of the district court; the county auditor (if there is one); and the county surveyor (if he receives a salary) for cost-of-living increase by adding to the annual salary computed under 7-4-2503 an increment calculated by applying to the annual salary established by 7-4-2503(1) plus previous cost of living increments, 70% of the last previous calendar year's consumer price index for all urban consumers, U.S. department of labor, bureau of labor statistics, or other index that the bureau of business and economic research of the university of Montana may in the future recognize as the successor to that index. The county governing body may, however, for all or the remainder of each fiscal year, in conjunction with setting salaries for the same action on the salaries of justices of the peace (if applicable), the county governing body, county attorney, and coroner, set the salary at the prior fiscal level if that level is lower than the level required by this subsection...."

COMMISSIONER'S SALARY - COST TO 5TH, 6TH & 7TH CLASS COUNTI

GROSS SALARY - BENEFITS NOT INCLUDED

1	2	3	4	5	6	7	8
# of Co.	Counties	Each Co. Comm.	Each Co. Comm.	Each Co. Comm.	Each Co. Comm.	Mills for 3	Mills for 3
Comm.		Annual	Per Diem	80% Annual	80% Per Diem	Comm at	Comm. at Per
		Salary	Annual Salary	Salary	Annual Salary	Annual Salary	Diem Ann. Sal. A
5th Class(6)**							
3	Broadwater	25,331.00	4,677.00	20,331.00	3,754.00	6.26	1.16
3	Liberty	25,229.00	8,151.00	20,229.00	6,535.00	8.02	2.59
3	Musselshell	25,410.00	7,037.00	20,410.00	6,594.00	11.24	3.11
3	Powder River	25,209.00	9,308.00	20,209.00	7,462.00	12.53	4.63
3	Powell	25,662.00	5,922.00	20,662.00	4,768.00	6.16	1.42
3	Wibaux	25,119.00	6,956.00	20,119.00	5,571.00	18.03	4.99
6th Class(14)**							
3	Carter	18,150.00	3,351.00	15,150.00	2,797.00	9.86	1.82
3	Daniels	18,226.00	2,524.00	15,226.00	2,108.00	8.50	1.18
5	Deer Lodge	x5-19,027.00	3,513.00	16,027.00	2,959.00	11.03	2.04
3	Garfield	18,158.00	3,352.00	15,158.00	2,798.00	10.36	1.91
3	Golden Valley	18,091.00	1,670.00	15,091.00	1,393.00	10.51	.97
3	Granite	18,254.00	3,370.00	15,254.00	2,816.00	7.45	1.38
3	Judith Basin	18,228.00	5,048.00	15,228.00	4,217.00	6.22	1.72
3	McCone	18,227.00	4,206.00	15,227.00	3,514.00	7.01	1.62
3	Meagher	18,181.00	2,517.00	15,181.00	2,102.00	6.79	.94
3	Mineral	18,331.00	4,230.00	15,331.00	3,538.00	6.87	1.58
3	Prairie	18,138.00	2,511.00	15,138.00	2,096.00	12.79	1.77
3	Sweet Grass	18,315.00	3,381.00	15,315.00	2,827.00	7.12	1.31
3	Treasure	18,087.00	1,670.00	15,087.00	1,393.00	11.01	1.02
3	Wheatland	18,224.00	2,523.00	15,224.00	2,108.00	7.24	1.00
7th Class(1)**							
3	Petroleum	18,051.00	1,666.00	15,051.00	1,389.00	30.98	2.86

** INFORMATION FROM MACo'S 1991 DIRECTORY

MONTANA ASSOCIATION OF CLERKS OF DISTRICT COURT

HOUSE BILL 497

AMENDMENTS TO MACO PROPOSAL

SEN. JUDICIAL COMMITTEE
42
4-2-91
BILL NO. HB-497

Page 2, line 7 delete may receive an annual salary equal to the annual salary established in 7-4-2503 (1)(A)(II) for the clerk and recorder or a salary at a per-day rate determined by using the salary established in 7-4-2503 (1)(A)(II) for the clerk and recorder insert is entitled to a salary for each day in which he is actually and necessarily engaged in the performance of the board. For the fiscal year beginning July 1, 1985, the salary is \$60 a day. thereafter, on or before July 1 of each year, the county commission shall fix a cost-of-living adjusted daily salary by adding to the amount of \$60 an increment calculated as provided in 7-4-2504

Page 2, line 16 delete, The salary as determined by the board shall apply uniformly to all board members.

Page 3, line 4 delete and each year thereafter must be established by the county governing body at no less than 80%, insert is computed by adding

Page 3, line 7 delete (I) \$25,000 insert (a) \$20,000

Page 3, line 8 delete ADDED

Page 3, line 12 delete (II) \$18,000 insert (b) \$15,000

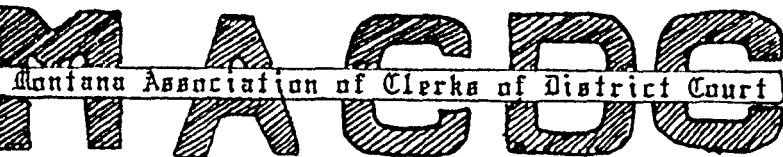
Page 3, line 13 delete ADDED

Page 3, line 17 delete (B) THE ANNUAL BASE ESTABLISHED BY THE COUNTY GOVERNING BODY IN SUBSECTION (1) MUST BE UNIFORM FOR ALL COUNTY OFFICERS REFERRED TO IN SUBSECTION (1).

Page 7, line 16 insert , 1992 and on or before July 1, thereafter

Page 7, line 22 insert , for cost-of-living increase by adding to the annual salary computed under 7-4-2503 an increment calculated by applying to the annual salary established by 7-4-2503(1) AND AS PROVIDED IN SUBSECTION (3),

Page 8, line 1 delete EXCEPT AS PROVIDED IN SUBSECTION (3), THE SALARIES FIXED MAY BE NO LESS THAN 80% OF THE ANNUAL BASE SALARY PROVIDED FOR IN 7-4-2503(1) PLUS A COST-OF-LIVING INCREMENT BASED ON



Collegium Scribarum Judicialium

April 1, 1991

P.O. Box G
Broadus, MT 59317
436-2320

Senate
Capitol Station
Helena, MT 59620

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 5

DATE 4-2-91

BILL NO. HB-497

re: House Bill 497

Dear Senator *Bentley*,

Montana's law concerning county official's compensation is COMPLICATED and therefore difficult to interpret and apply. Passage of this bill further exacerbates the problem.

Some would like you to believe this bill is created by all associations of elected county officials and is a consensus of what they now want or at the least was a compromise. Let me give you some facts.

MACo invited all elected officials to work together as a group to benefit counties, this group is now known as CCO (Council of County Officials). Compensation being one issue; work began in October 1989 to draft a compensation bill. All CCO members did alot of brainstorming, meetings were held in March, June and October 1990 to make it acceptable to all. In November, CCO finally came to a compromise that would be supported by all and presented with a united front. Even MACo's board of directors accepted the November proposal on December 10. Then all changed--MACo amended it within a week. These amendments included: Placing the commissions ability to freeze salaries back in the bill; allowed themselves a \$2000 add-on to the base salary; and added a flex scale of 80%-100% of the base salary-at the discretion of the commission. Because of this action, on or about December 15, Sheriff's assoc. (SPOA) informed MACo they also wanted their \$2000 add-on back in the bill. When members of CCO asked MACo's President Witt and 1st VP Don Bailey for an explanation, they admitted not knowing how all the amendments came about. On February 6th, the day before the first committee hearing, MACo told other CCO members that 'if one' member went in, in opposition the next day, they would 'pull the whole bill'!! Sound like compromise?? Some CCO members have initially agreed to be quiet as they saw it possibly (?) better than nothing. MACo's actions have confused the CCO members and fragmented them. This is not a compromise, this is a MACo bill and they now admit it.

These 'MACo amendments' are in direct contravention of the spirit and intent of CCO and the reasons for its existence. MACo, once again, has proven beyond any doubt that it, IN BOTH FACT AND ITS INTENT, DOES NOT REPRESENT any county official other than commissioners.

So if passed, you have an even more complicated formula of figuring county official's compensation. With passage of this bill you are handing county commissioners power to set salaries--WITHIN 20% POINTS IS TOTAL CONTROL. This type of action was defeated in HB 75 in 1985, HB 338 and HB 561 in 1987 and HB 315 in 1989. This is most regressive and oppressive, passage invites serious problems that will haunt the 1993 session. As long as you, the legislative branch, mandates duties, you have the responsibilities to maintain control over compensation for the performance of these duties. Kill this bill and let's wait for something that is more simple to understand and apply; and more fair to taxpayers and all elected officials.

Thank you for your attention and if you have questions call me at 436-2320, daytime, or 436-2406 in the evenings.

1. HB 497 is a MACo (county commissioner's assoc.) bill.
2. The legislative branch, mandates duties of county officials, they have the responsibility to maintain control over compensation for the performance of these duties.
3. The statute for figuring various county officers' compensation is complicated, HB 497 exacerbates the problem.
4. County commissioners controlling the setting of other elected official's compensation has been defeated four times in the last three legislative session:
 - HB 75 in 1985
 - HBs 338 and 561 in 1987
 - HB 315 in 1989

5. Thirty counties list 1990 census populations of under 7000:**
class

Blaine	3rd	Liberty	5th	Powell	5th
Broadwater	5th	Madison	3rd	Prairie	6th
Carter	6th	McCone	6th	Sheridan	2nd
Choteau	3rd	Meagher	6th	Stillwater	4th
Daniels	6th	Mineral	6th	Sweet Grass	6th
Fallon	1st	Musselshell	5th	Teton	4th
Garfield	6th	Petroleum	7th	Toole	2nd
Golden Valley	6th	Phillips	2nd	Treasure	6th
Granite	6th	Pondera	4th	Wheatland	6th
Judith Basin	6th	Powder River	5th	Wibaux	5th

Now look at the attached comparative salary survey report, generated by the Local Government Center. Compare county commissioners salaries to other elected officials in the neighboring states--Idaho, Wyoming and North Dakota.

6. Montana has only sixteen counties that have county commissioners meeting daily:

Blaine	3rd	Lake	2nd
Cascade	1st	Lewis & Clark	1st
Dawson	3rd	Missoula	1st
Fergus	3rd	Ravalli	2nd
Flathead	1st	Rosebud	1st
Gallatin	1st	Silver Bow	1st *Ch. Executive
Hill	2nd	Toole	2nd
Jefferson	3rd	Yellowstone	1st

The forty (40) remaining counties range from 1 to 16 days per month, but average 6.17 days per month in their office! Very much part-time with full time pay. Not at all like other elected officials. **

This bill is regressive and oppressive to the taxpayers

** These figures generated from MACo's 1991 directory.

TABLE III -- COMPARATIVE COMPENSATION OF COUNTY OFFICIALS
SOUTH DAKOTA, IDAHO, WYOMING, NORTH DAKOTA and MONTANA --1990

COUNTIES OVER 7,000 POPULATION	44	73	53				
	SOUTH DAKOTA	IDAHO	WYOMING	NORTH DAKOTA	MONTANA	AVERAGE SALARY	% DIFFERENCE
COMMISSIONER	—	27,899.73	25,000.00	7,190.73	22,512.24	20,650.68	+ 1,861.56 + 8.2%
CLERK AND RECORDER	20,612.96	25,575.77	36,700.00	22,781.74	20,355.08	25,205.11	- 4,850.03 - 19.3%
CLERK OF DISTRICT COURT	—	25,575.77	37,200.00	22,263.60	20,590.99	26,407.59	- 5,816.60 - 22%
TREASURER	20,612.96	25,124.58	36,700.00	22,591.00	20,486.47	25,103.00	- 4,616.53 - 18.4%
ASSESSOR	21,192.76	25,228.61	36,300.00	22,982.00	20,582.60	25,257.19	- 4,674.59 - 18.5%
SHERIFF	27,471.96	27,166.35	37,200.00	25,412.10	23,986.93	28,247.47	- 4,260.54 - 15.1%
COUNTY ATTORNEY	36,174.71	44,333.80	42,000.00	36,457.00	46,309.72	41,055.05	+ 5,254.67 + 12.8%
PART-TIME COUNTY ATT.	22,988.35	27,009.74	—	—	26,983.90	25,660.66	+ 1,323.24 + 5.1%
AUDITOR	20,612.90	25,575.77	—	24,955.09	22,530.42	23,418.55	- 888.13 - 3.8%
CORONER	—	36,000.00	—	—	24,078.60	30,039.30	- 5,960.70 - 19.8%

COUNTIES UNDER 7,000 POPULATION

COMMISSIONER	—	6,553.23	12,500.00	6,209.14	61.78/meeting **	—	—
CLERK AND RECORDER	18,808.00	20,230.77	26,260.00	17,982.00	16,311.73	19,918.50	- 3,606.77 - 18.1%
CLERK OF DISTRICT COURT	—	20,230.00	26,260.00	18,648.00	16,311.73	20,362.43	- 4,050.70 - 19.9%
TREASURER	18,808.00	19,881.62	26,260.00	18,892.00	16,234.38	20,015.20	- 3,780.82 - 18.8%
ASSESSOR	17,874.92	19,881.62	26,260.00	17,758.00	16,274.17	19,609.74	- 3,335.57 - 17%
SHERIFF	23,874.84	21,467.92	26,966.67	21,295.29	19,839.83	22,688.91	- 2,849.08 - 12.5%
COUNTY ATTORNEY	—	—	45,000.00	22,255.00	43,846.94	37,033.98	+ 6,812.96 + 18.4%
PART-TIME COUNTY ATT.	19,795.00	18,238.00	26,260.00	—	21,809.42	21,525.61	+ 283.81 + 1.3%
PART-TIME CORONER	—	1,578.92	—	—	1,276.68	1,427.80	- 151.12 - 10.6%

** In fifth, sixth and seventh class counties (valuation less than \$15,000,000)

First, second, third and fourth are equal to the Clerk and Recorder (with an optional add-on of \$2000) Current Montana Statute 7-4-2107.

MONTANA ASSOCIATION OF CLERKS OF DISTRICT COURT

LEGISLATIVE COMMITTEE

Lisa Ferkovich
Co-Chairperson
Sanders County
Thompson Falls

Anita White
Pondera County
Conrad

Nancy Morton
Cascade County
Great Falls



Lori Maloney
MACDC, President
Butte-Silver Bow County
Butte

Sheila Brunkhorst
Beaverhead County
Dillon

Penny Underdahl
Toole County
Shelby

Senate Local Government Committee
Room 405
State Capitol
Helena, MT 59620

SENATE LOCAL GOVT. COMM

EXHIBIT NO. 6
DATE 4-2-91
BILL NO. HB-497

Re: HB 497 / MACDC Amendments

Dear Senators Esther Bengtson, Chairperson, Eleanor Vaughn, Vice-Chairperson, Tom Beck, Dorothy Eck, H.W. "Swede" Hammond, Ethel Harding, Ed Kennedy, Gene Thayer & Mignon Waterman:

This bill is not a consensus of all elected officials, it is a MACo bill. The Montana Association of Clerks of District Court, along with other associations, know how much their counties can afford and therefore offer these amendments: Reinsert existing statute requiring commissioners in 5th, 6th and 7th class counties to receive a salary at a per-day rate; Take out the 80% flex sliding scale and drop the base salary to \$20,000.00 in counties of the 1st through 5th class, and \$15,000.00 in counties of the 6th and 7th class, which is 80% of the recommended salary of \$25,000.00 in HB 497; and reinsert existing statute in regard to cost-of-living increments. We feel the majority of counties cannot afford a big pay increase, nor do we want a big pay increase with it resulting in a burden to the taxpayers, a loss of employees and services and possibly consolidation. The Montana Association of Clerks of District Court are vehemently opposed to commissioners setting our salaries. The flex sliding scale in this bill gives the commissioners the authority to set our salaries. Commissioners are our peers and elected just the same as other officials. To ensure equity in elected officials salaries statewide, salaries must be set by the legislators, the same people who create all elected officials duties.

The Montana Association of Clerks of District Court strongly urge you to adopt our proposed amendments. Thank you for your time and consideration. I welcome any questions you might have.

Sincerely,

Lisa Ferkovich
Lisa Ferkovich

Clerk of District Court
MACDC Legislative Committee Co Chair

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 4-2-91

52 LEGISLATIVE SESSION _____

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

ROLL CALL VOTE

SENATE COMMITTEE SENATE LOCAL GOVERNMENT

Date April 2, 1991 Bill No. HB-650 Time 4:30 P.M.

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND		X
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to take HB-650 off the Table

NOTICE OF COMMITTEE EXECUTIVE ACTION

(Do not use for actions resulting in report to floor).

To: Secretary of the Senate

Dated this 2 day of APRIL, 1991.

Committee: SENATE LOCAL GOVERNMENT

Bill: HB-650

Action: motion to take it off the table

Signature

Esther J. Bengtson

SENATE STANDING COMMITTEE REPORT

Page 44
April 1, 1934

MR. PRESIDENT:

We, your committee on Local Government having had under consideration House Bill No. 656 (third reading copy - blue), respectfully report that House Bill No. 656 be amended and so amended be concurred in:

1. Title, line 4.

Following: "REQUIRING"

Insert: "CERTAIN"

2. Title, line 6.

Strike: "POSITION"

Insert: "OR SIMILAR POSITIONS"

3. Title, line 7.

Following: "COMPENSATION,"

Insert: "HOURS, LOCALITY,"

4. Page 1, line 18.

Following: "Employees"

Insert: "of an employer who employs 10 or more persons must upon"

5. Page 1, lines 19 and 20.

Following: "(2)."

Insert: ","

Strike: remainder of line 19 through "employers" on line 20

6. Page 1, line 21.

Following: "~~positions~~"

Insert: "or similar positions"

Following: "compensation,"

Insert: "hours, locality."

Signed: *Arthur G. Bengtson*
Arthur G. Bengtson, Chairman

LB 413/11
Amd. Coord.

LB 413 10-36
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 2, 1991

MR. PRESIDENT:

3 We, your committee on Local Government, having had under consideration House Bill No. 497 (third reading copy - blue), respectfully report that House Bill No. 497 be amended and so amended be concurred in:

1. Page 7, line 17.

Following: "1"

Insert: ", 1992, and on or before July 1"

Following: "thereafter"

Insert: "thereafter"

Signed: *Esther C. Pennington*
Esther C. Pennington, Chairman

LB 4/3/91
Amd. Coord.

LB 4/3 10:45
Sec. of Senate

ROLL CALL VOTE

SENATE COMMITTEE SENATE LOCAL GOVERNMENT

Date April 2, 1991 Bill No. HB-650 Time 4:38

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND		X
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: motion to add sticker language
plus, hours, locality.

ROLL CALL VOTE

SENATE COMMITTEE SENATE LOCAL GOVERNMENT

Date April 2, 1991 Bill No. HB-650 Time 4:42 p.m.

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND		
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN	X	

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: motion to Concur in HB-650 as
Amended.
Senator Fidy will carry

ROLL CALL VOTE

SENATE COMMITTEE SENATE LOCAL GOVERNMENT

Date April 2, 1991 Bill No. HB 497 Time 4:59

NAME	YES	NO
SENATOR BECK	X	
SENATOR BENGTON	X	
SENATOR ECK	X	
SENATOR HAMMOND	X	
SENATOR HARDING	X	
SENATOR KENNEDY	X	
SENATOR THAYER	X	
SENATOR VAUGHN	X	
SENATOR WATERMAN		

JOYCE INCHAUSPE-CORSON
Secretary

ESTHER BENGTON
Chairman

Motion: move to Concure in HB-497 as
Amended

Amendments to House Bill No. 650
Third Reading Copy

Requested by Senator Kennedy
For the Committee on Labor

Prepared by Greg Petesch
March 22, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 7

DATE 4-2-91

BILL NO. HB-650

1. Title, line 4.

Following: "REQUIRING"

Insert: "CERTAIN"

2. Page 1, line 18.

Following: "Employees"

Insert: "of an employer who employs 10 or more persons must,
upon"

3. Page 1, lines 19 and 20.

Following: "(2)"

Insert: " , "

Strike: remainder of line 19 through "employers" on line 20

Amendments to House Bill No. 650
Third Reading Copy

Requested by Senator Bengtson
For the Committee on Local Government

Prepared by Connie Erickson
April 3, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 8

DATE 4-2-91

BILL NO. HB-650

1. Title, line 6.

Strike: "POSITION"

Insert: "OR SIMILAR POSITIONS"

2. Title, line 7.

Following: "COMPENSATION,"

Insert: "HOURS, LOCALITY,"

3. Page 1, line 21.

Following: "positions"

Insert: "or similar positions"

Following: "compensation,"

Insert: "hours, locality,"