MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on March 24, 1993, at 9:07 a.m.

ROLL CALL

Members Present:

Rep. Dick Simpkins, Chair (R)

Rep. Wilbur Spring, Vice Chair (R)

Rep. Ervin Davis, Vice Chair (D)

Rep. Beverly Barnhart (D)

Rep. Pat Galvin (D)

Rep. Harriet Hayne (R)

Rep. Gary Mason (R)

Rep. Brad Molnar (R)

Rep. Bill Rehbein (R)

Rep. Sheila Rice (D)

Rep. Sam Rose (R)

Rep. Dore Schwinden (D)

Rep. Carolyn Squires (D)

Rep. Jay Stovall (R)

Rep. Norm Wallin (R)

Members Excused: Rep. Bob Gervais

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council

Dorothy Poulsen, Committee Secretary

Please Note: These are summary minutes. Testimony and

discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:

Executive Action: HB 673 (amended); SB 130 (amended)

EXECUTIVE ACTION ON HB 673

Motion: REP. WALLIN MOVED HB 673 DO PASS.

Discussion:

REP. REHBEIN objected to the agency using revenue from the bill's proposed probationer/parolee fee for new vehicles and asked

whether the agency could just reimburse employees for use of their personal cars.

- REP. SIMPKINS asked REP. REHBEIN whether he was recommending the committee micromanage the agency. REP. DAVIS recalled testimony had indicated the agency was leasing vehicles. REP. GALVIN claimed it was cheaper to have state vehicles. REP. SIMPKINS said the key issue of the bill was that the agency was establishing a fee in order to set up an agency spending account.
- REP. DAVIS explained to committee members the procedure for home arrest in which arrested individuals must pay a fee for home supervision. He said HB 673 was based on the same principle.
- REP. SIMPKINS noted the fee for the probationer or parolee would be \$25 per month although the fee could be waived by the court.
- REP. GALVIN referred to the fiscal note which suggested the bill might have an impact on county clerks of court and asked whether the fund would be used for this purpose. REP. MOLNAR stated he had amendments to address the issue. He said one amendment would allow the deduction of administrative costs for county clerks of court from the \$25 fee; the second amendment required the probationer or parolee to pay the cost of collection for unpaid fees. EXHIBIT 1
- REP. SQUIRES said probationers or parolees are required to report to a parole officer who would know whether or not the fee was delinquent and any reasons for nonpayment. She said she objected to the amendments because parole officers already had the threat of prison to hold over probationers and parolees if they were delinquent in paying fees.
- REP. SIMPKINS suggested the first amendment needed to read "may require to pay" rather than "shall also pay" in order to be consistent with the bill's language. REP. MOLNAR responded the amendment addressed probationers or parolees who simply refuse to pay the fee. He asserted the courts would not send these individuals to prison for failing to pay the fee.
- REP. STOVALL asked whether failure to pay the fee would be considered a violation of parole. REP. SIMPKINS confirmed it would be a parole violation but noted further action would be dependent on the courts. REP. SQUIRES suggested the parole officer would have the authority to deal with delinquent parolees and would know their financial circumstances. She maintained parole/probation officers would need flexibility in managing their clients. REP. STOVALL agreed with REP. SQUIRES that parole officers control everything parolees do and asserted the amendment is not necessary. He asked how parameters or rules for parole officers were set.
- REP. SIMPKINS said the bill sets up a fee to be paid and then leaves the enforcement to parole officers. He maintained in

order for delinquent payment to be a parole violation, the courts would need to act. He said the amendment would allow the court to include the fee as a parole violation. REP. SQUIRES asked whether the committee had the right to set parole standards for an individual. She suggested the Board of Pardons had the responsibility for defining the stipulations of parole for the individual; and parole officers had the responsibility of working out the individual programs for meeting parole stipulations.

REP. SQUIRES contended the committee could provide guidelines in the bill but should not be setting specific parole stipulations.

REP. SCHWINDEN maintained parole officers, by the nature of their job, had a great deal of latitude in working out the terms of parolees' sentence. He said the nature of parolees and their crimes would determine the conditions of their parole and suggested the amendment was too specific.

REP. WALLIN suggested the bill needed to differentiate between probationers and parolees. He reported the opinion of one juvenile probation officer that young people learned best by being sent to prison for a while. REP. WALLIN claimed most juvenile probationers do not have any income, and he could not see how the bill would be applied to them.

REP. MASON suggested the amendments be segregated because they address very different issues.

Motion/Vote: REP. MOLNAR moved to amend HB 673 to insert on page 3, line 13, "If a probationer or parolee fails to pay the fee as required, the probationer or parolee shall also pay to the court the cost of collection actions for the outstanding amount." Motion failed 3 to 13 with REPS. MOLNAR, REHBEIN, and SIMPKINS voting yes.

<u>Motion</u>: **REP. MOLNAR** moved to amend HB 673 to allow the deduction from the total fees collected the administrative cost of collecting and accounting for the fees.

Discussion:

REP. SQUIRES asked where parolee/probationer fees would go. Ms. Heffelfinger explained the district court clerks would collect fees and, if the amendment passed, deduct administrative costs; clerks would then forward the remainder to a special revenue account. Funds from this account would be statutorily appropriated to the Department of Corrections and Human Services for the sole purpose of providing training and equipment to probation and parole officers. REP. SQUIRES asked how administrative costs would be determined. Ms. Heffelfinger responded the determination would be made by district court clerks. REP. SQUIRES asked whether HB 673 specified \$25, as opposed to \$25 less administrative costs, would be placed in the special revenue fund. Ms. Heffelfinger said no, the bill

stipulated that the supervisory fee was \$25 and statutorily appropriated the monies placed in the revenue fund, but did not stipulate that the \$25 fee went directly into the revenue fund.

REP. DAVIS reviewed testimony that the estimated revenue from this fee would be \$903,000. He asserted the agency could afford to pay for the administration of fee collection.

<u>Vote</u>: HB 673 BE AMENDED. Motion carried 15 to 1 with REP. SQUIRES voting no and REP. GERVAIS voting by proxy. EXHIBIT 8

Discussion:

REP. SIMPKINS asked the committee whether they would want to have a sunset provision on the bill. The consensus of the committee was a sunset provision was not necessary.

Motion: REP. RICE MOVED HB 673 DO PASS AS AMENDED.

Discussion:

REP. RICE said the committee had heard testimony describing the need for equipment and training for probation and parole officers; she said no alternative source of funding was apparent to meet this need. She said she was intrigued with the concept of having probationers and parolees pay for their supervision and suggested the bill could make them more responsible for their actions and more amenable to the terms of parole/probation. She expressed her support for the bill.

REP. SIMPKINS interrupted the discussion to announce a technical amendment was needed for the bill. Ms. Heffelfinger referred to the fiscal note which stated the bill needed to be amended to establish a supervisory fee account in the state special revenue fund for deposit of the fees collected.

Motion/Vote: REP. SIMPKINS moved to amend HB 673 to insert on page 3, line 18, "(a) there is an account in the state special revenue fund for the fees collected under the provision of the section. (b)". Motion carried unanimously with REP. GERVAIS voting by proxy. EXHIBIT 8

REP. RICE withdrew her earlier motion to do pass HB 673 as amended.

REP. MASON contended the bill was worthwhile because its effect could be to help parolees and probationers become more productive citizens.

REP. STOVALL declared the bill very important and timely because the legislature was capping the prison population and parole and probation officers' caseloads would likely increase. Motion/Vote: REP. RICE MOVED HB 673 DO PASS AS AMENDED. Motion carried 14 to 2 with REPS. REHBEIN and SQUIRES voting no and REP. GERVAIS voting by proxy.

EXECUTIVE ACTION ON SB 130

Motion: REP. MOLNAR MOVED TO RECONSIDER ACTION ON SB 130 AND TAKE FROM THE TABLE.

Discussion:

REP. MOLNAR explained he wanted to amend the bill to allow the governor to choose someone other than the list of nominees forwarded from the legislative leadership for the position of Commissioner of Political Practices.

REP. REHBEIN asked REP. MOLNAR how the public would perceive the governor's selection if it were not from the nominee list. MOLNAR responded the perception would be that the governor did not like the nominees on the list for some reason. REP. REHBEIN asked whether REP. MOLNAR believed the governor's choices were currently too limited and the legislature needed to help broaden the range of choices. REP. MOLNAR responded the Commissioner of Political Practices differed from other administrative. appointments because the function of the office was to oversee political practices. He claimed there was public interest in having a nonpartisan office, so far as possible. He reported Ed Argenbright, the current commissioner, had discussed with him difficulties in the position due to the perception of partisanship in decision-making. REP. MOLNAR said the process specified in SB 130 would broaden the choice of candidates. He reported the bill's sponsor, SEN. MCCLERNAN, had agreed to the proposed amendment.

REP. SCHWINDEN asked what purpose the nominating process would have if the governor is allowed to choose whomever he/she wants. REP. SIMPKINS said if the governor's choice was not on the list of nominees, the governor would have to justify the choice to the public. REP. SCHWINDEN submitted the governor must already respond to public scrutiny on all appointees.

REP. SPRING stated with REP. MOLNAR'S amendment the bill was no different than current law and therefore the bill was not necessary. He described his view of the bill, quoting REP. GILBERT, as "the bill is a pig and you cannot make a pig pretty".

- REP. BARNHART stated the bill should be taken from the table.
- REP. WALLIN agreed with REP. BARNHART because amendments to the bill in previous executive action had inserted qualifications for the commissioner. He asserted specifying qualifications was an important function of the amended bill.

Motion/Vote: SB 130 BE TAKEN FROM THE TABLE. Motion carried 9
to 7 on a roll call vote with REPS. SPRING, HAYNE, MASON,
REHBEIN, ROSE, STOVALL, and SIMPKINS voting no and REPS. GERVAIS
and SQUIRES voting by proxy. EXHIBITS 2, 8, 9

Motion: REP. BARNHART MOVED SB 130 BE CONCURRED IN AS AMENDED.

Motion: REP. MOLNAR moved to amend SB 130 to strike "shall" from line 23, page 1, and insert "may" and amend the title accordingly.

Discussion:

REP. DAVIS said the process of preparing a list of nominees for the governor's selection would facilitate public participation. He expressed his opposition to allowing the governor to select candidates outside the nominee list.

REP. MOLNAR declared he could support SB 130 only if it were amended to allow the governor to select other candidates. He asserted the governor is judged by the public on his selections.

REP. REHBEIN declared he could not support the bill as written, and with the proposed amendment the bill was worthless. He stated the committee should put the bill back on the table.

REP. BARNHART said she liked the bill. She claimed the bill was important because the commissioner's office differed from other appointed positions. She contended the selection process should be open and public. She reported the attempt to open the process last fall failed because the governor was not committed to the procedure used. She suggested the governor would appreciate the public process prescribed by the bill.

REP. SPRING said he totally disagreed with REP. BARNHART. He declared the bill was a classic example of wasting trees and stated his agreement with REP. REHBEIN. REP. SPRING described the bill as a waste of the committee's time.

<u>Vote</u>: SB 130 BE AMENDED. Motion failed 7 to 9 on a roll call vote with REPS. SPRING, BARNHART, GALVIN, MASON, MOLNAR, RICE, and SQUIRES voting yes and REPS. SQUIRES and GERVAIS voting by proxy. EXHIBITS 3, 8, 9

Motion/Vote: REP. ROSE MADE A SUBSTITUTE MOTION THAT SB 130 BE
TABLED. Motion failed 8 to 8 on a roll call vote with REPS.
SPRING, HAYNE, MASON, MOLNAR, REHBEIN, ROSE, STOVALL, and
SIMPKINS voting yes and REPS. GERVAIS and SQUIRES voting by
proxy. EXHIBITS 4, 8, 9

REP. BARNHART asked her motion to concur in SB 130 as amended be withdrawn.

<u>Motion</u>: REP. BARNHART moved to reconsider the amendment proposed by REP. MOLNAR.

Discussion:

REP. MOLNAR recognized REP. SPRING'S strong opposition to SB 130 and asked whether there was some basis for concern about the bill which he had missed. REP. SPRING responded no. He stated he considered the bill ridiculous and asserted the committee must have time to waste by further considering the bill.

REP. BARNHART asked REP. SPRING to specify his objections to the bill. REP. SPRING stated the bill has no effect; he stated the current process has worked well to this point, and he could not see any need for the bill. He asked REP. BARNHART to explain the need for the bill. REP. BARNHART said testimony showed the current process had involved the governor in an unpleasant situation because the former governor had not selected from the nominee list. She asserted the current process was not good for either the governor or the commissioner. REP. SPRING asked who held this opinion other than the liberal press. REP. BARNHART said witnesses who testified held that opinion, and she reported she had heard comments to that effect from others in the capitol.

REP. SIMPKINS noted there had been no accusation that Mr. Argenbright could not be effective in directing the office in a nonpartisan manner. He asserted the bill was sponsored by groups unhappy because their candidate had not been chosen. He reminded the committee the last commissioner was a former Democratic officeholder and the current commissioner was a former Republican officeholder. He declared the bill was trying to prevent something which had as yet to occur. He asserted the real issue for effective functioning of the office was adequate staffing and funding.

REP. MOLNAR said the current commissioner would hold the office for the next six years and therefore action was not needed immediately. He said he would withdraw his amendment.

REP. BARNHART asserted the need to open the process to public scrutiny.

REP. SCHWINDEN suggested the discussion had ranged beyond the motion and asked for the vote.

<u>Vote</u>: RECONSIDER THE AMENDMENT TO SB 130 TO CHANGE "SHALL" TO "MAY". Motion failed 8 to 8 on a roll call vote with REPS. SPRING, HAYNE, MASON, MOLNAR, REHBEIN, ROSE, STOVALL, and WALLIN voting no and REPS. GERVAIS and SQUIRES voting by proxy. EXHIBITS 5, 8, 9

Motion: REP. REHBEIN MOVED SB 130 BE NOT CONCURRED IN AS AMENDED.

HOUSE STATE ADMINISTRATION COMMITTEE
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Page 8 of 8

Motion/Vote: REP. MOLNAR MADE A SUBSTITUTE MOTION SB 130 BE TABLED. Motion failed 8 to 8 on a roll call vote with REPS. DAVIS, BARNHART, GALVIN, GERVAIS (by proxy), RICE, SCHWINDEN, SQUIRES (by proxy), and WALLIN voting no. EXHIBITS 6, 8, 9

<u>Vote</u>: SB 130 BE NOT CONCURRED IN AS AMENDED. Motion carried 11 to 5 with REPS. SIMPKINS, MASON, MOLNAR, REHBEIN, and ROSE voting no and REPS. GERVAIS and SQUIRES voting by proxy. EXHIBITS 7, 8, 9

ADJOURNMENT

Adjournment: 10:20 a.m.

Mick Simplian DICK SIMPKINS, Chair

DOROTHY POULSEN, Secretary

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REP. WILBUR SPRING, VICE CHAIR	V		
REP. ERVIN DAVIS, VICE CHAIR	/		
REP. BEVERLY BARNHART			
REP. PAT GALVIN	V		
REP. BOB GERVAIS			/
REP. HARRIET HAYNE	V		
REP GARY MASON	V		
REP. BRAD MOLNAR	V		
REP. BILL REHBEIN	/		
REP. SHEILA RICE		```	
REP. SAM ROSE	/		
REP. DORE SCHWINDEN	V		
REP. CAROLYN SQUIRES	/		
REP. JAY STOVALL	/		
REP. NORM WALLIN	/		

HOUSE STANDING COMMITTEE REPORT

March 24, 1993 Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that House Bill 673 (first reading copy -- white) do pass as amended .

Signed:

And, that such amendments read:

1. Page 3, line 8.
Following: "fees"
Insert: " -- account established"

2. Page 3, line 18.

Following: "(2)"

Insert: "(a) There is an account in the state special revenue fund for the fees collected under the provisions of this section. (b) "

3. Page 3, lines 18 and 19.

Following: "shall" on line 18

Insert: "deduct from the total fees collected pursuant to subsection (1) the administrative cost of collecting and accounting for the fees and shall"

Strike: "fees" on line 18 through "(1)" on line 19

Insert: "remaining amount"

4. Page 3, line 20.

Strike: "fund"

Insert: "account established in subsection (2)(a)"

-END-

Committee Vote: Yes //, No <.

HOUSE STANDING COMMITTEE REPORT

March 26, 1993 Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 130 (third reading copy -- blue) be not concurred in as amended .

Signed: Dick

And, that such amendments read:

Carried by: Rep. Simpkins

1. Title, line 9.

Following: "PROCESS;"

Insert: "SPECIFYING MINIMUM QUALIFICATIONS FOR THE COMMISSIONER;"

2. Page 1, line 15. Following: "PROCESS"

Insert: "-- qualifications"

3. Page 1, line 22.

Strike: "two" Insert: "three"

4. Page 2.

Following: line 16

Insert: "(3) An individual is not eligible to serve as commissioner unless the person:

- (a) is at least 25 years of age at the time of the person's nomination;
- (b) is a citizen of the United States;(c) has been a resident of the state for at least 2 years immediately preceding the person's nomination; and
- (d) has not held a publicly elected partisan office in the 4 years immediately preceding the person's nomination." Renumber: subsequent subsection

Committee Vote: Yes // , No 5.

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Amendments to House Bill No. 673 First Reading Copy

Requested by Rep. Brad Molnar For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger March 17, 1993

1. Page 3, line 13. Following: "part."

Insert: "If a probationer or parolee fails to pay the fee as
 required, the probationer or parolee shall also pay to the
 court the cost of collection actions for the outstanding
 amount."

2. Page 3, lines 18 and 19. Following: "shall" on line 18

Insert: "deduct from the total fees collected pursuant to
 subsection (1) the administrative cost of collecting and
 accounting for the fees and shall"

Strike: "fees" on line 18 through "(1)" on line 19

Insert: "remaining amount"

XHIBIT 1 DATE 3/24/93 B 673

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ROLL CALL VOTE

DATE 3/24/93	BILL NO. 58/30	NUMBER	1
MOTION:	to remove SB 130 from	n table.	
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REP. BEVERLY BARNHART		
REP. PAT GALVIN	V	
REP. BOB GERVAIS	V	,
REP. HARRIET HAYNE		V
REP. GARY MASON		V
REP. BRAD MOLNAR	V	
REP. BILL REHBEIN		V
REP. SHEILA RICE	V	
REP. SAM ROSE		V
REP. DORE SCHWINDEN	_/	
REP. CAROLYN SQUIRES		
REP. JAY STOVALL		V
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STATE ADMINISTRATION

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ROLL CALL			•
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DATE 3/24/93 BILL NO. 5B MOTION: To amend "Shall"	to 4 pr	ay 4-SB,	130
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ROLL CALL VOTE

date 3/24/93 motion:	BILL NO.	SB 130	NUMBER	3	
MOTION: Jah	le SB 130	as amend	ed	•	
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STATE ADMINISTRATION COMMITTEE

ROLL CALL VOTE

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motion: $\frac{3/24/93}{20}$ BILL NO. $\frac{56/30}{20}$	NUMBER	6
MOTION: Do not poss SB 130		
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EXHIBIT	7	
DATE	3/24/93	
HB_5	B 130	



DATE 3/24/93

I SINE MY PROXY VOTE

TO REP DAVIS ON All ACTIONS

IN STATE ADMINISTRATION

Rep Llewan

HB 673
Amend #1- NO - Failed
Amend #2- YES

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EXHIBIT 8 DATE 3/24/93 HB 673: 58 130

5B 130. Take of Male - HS- PASSED J.HALL - TO-MAY - NO Fails

Move TO TABLE- 58 130. NO FAILED

RECONSIDER MOINME AMEND YES FAILED - 8-8
REHBEIN- DO NOT PASS YES

Lefore the Samuela Lidey

CHIBIT 9

DATE 3/24/93

HBSB 130