

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE & CLAIMS

Call to Order: By Senator Judy Jacobson, Chair, on April 14, 1993, at 10:15 a.m., Room 108.

ROLL CALL

Members Present:

Sen. Judy Jacobson, Chair (D)
Sen. Eve Franklin, Vice Chair (D)
Sen. Gary Aklestad (R)
Sen. Tom Beck (R)
Sen. Don Bianchi (D)
Sen. Chris Christiaens (D)
Sen. Gerry Devlin (R)
Sen. Gary Forrester (D)
Sen. Harry Fritz (D)
Sen. Ethel Harding (R)
Sen. Bob Hockett (D)
Sen. Greg Jergeson (D)
Sen. Tom Keating (R)
Sen. J.D. Lynch (D)
Sen. Chuck Swysgood (R)
Sen. Daryl Toews (R)
Sen. Larry Tveit (R)
Sen. Eleanor Vaughn (D)
Sen. Mignon Waterman (D)
Sen. Cecil Weeding (D)

Members Excused: None

Members Absent: None

Staff Present: Terry Cohea, Legislative Fiscal Analyst
Lynn Staley, Committee Secretary

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

Committee Business Summary:

Hearing: None
Executive Action: HB 685, HB 5, HB 46

EXECUTIVE ACTION ON HOUSE BILL 685

Discussion: Senator Franklin discussed the packet of amendments

that the Finance and Claims subcommittee dealt with. (Exhibit 1)

Senator Lynch said regarding the third amendment in the packet dealing with imposing of sentences and placement, that proposal was killed in the Senate, and he did not think it should be brought up again.

Rick Day, Director of Department of Corrections, said the section recommended to be put back in HB 685 barely resembles the original proposal considered by the Senate. This new provision would allow at the judge's discretion to sentence to the Department of Corrections for placement in a program. It does not require the judge to do that or limit their authority to do it. It has one minor change in law, and that is to add that alternative which would help in attempting to divert inmates from the system, but the discretion is left in the judge's hands. The majority of the concern was over the judge's authority which required them to show good cause before they sentenced to the prison. This merely allows them a different option.

Senator Lynch said he would like that amendment separated from the other amendments in the packet.

Senator Jacobson said all amendments would be acted on separately, and votes will be taken on each amendment.

Motion: Senator Weeding moved amendment 1 (hb068537.a14) of Exhibit 1.

Discussion: Senator Franklin said the subcommittee recommended amendment 1, removing the veterans' benefit program.

Senator Jacobson said there is still reference to it in HB 46 which will be dealt with, but it is taking it out of HB 685.

Senator Swysgood asked what it has to do with releasing prisoners.

Senator Lynch said it is Rep. Grady's attempt to include all concerns of the subcommittee on problems that Department of Corrections had. It includes prisons, veterans' homes, Montana State Hospital.

Vote: Motion CARRIED unanimously.

Motion: Senator Weeding moved amendment 2 (hb068538.a14), Exhibit 1.

Discussion: Senator Devlin questioned what section 16-11-111 refers to.

Senator Jacobson said it is the two cents cigarette tax.

Senator Swysgood questioned if regardless of what later happens

as it relates to the facility, if this amendment is inserted, there is no private operation of that facility; it becomes the obligation of the state to operate and maintain.

Senator Jacobson said it is permissive language allowing the Department to contract with a private vendor. If it is not done that way, we will have to do it ourselves.

Senator Keating asked if HB 685 dealt just with the cigarette tax money or does it have other appropriations.

Senator Jacobson said there are no appropriations in the bill. It is enabling language for many things that went on in long range building and the Department of Corrections.

Vote: Motion CARRIED with Senators Swysgood and Toews opposed.

Motion: Senator Christiaens moved amendment 3 (hb068541.a14), Exhibit 1.

Discussion: Senator Lynch stated his opposition to the amendment in that there will not be uniformity in the sentencing by the judges; the middle of the road concept does not make any sense.

Senator Christiaens said the amendment allows the Department of Corrections to put people in proper places for the treatment they need.

When questioned by Senator Swysgood regarding community placement facilities, Mr. Day said this will allow a judge an additional sentencing option. It does not require them to use it. It provides his department a means to work with judges and the criminal justice community to divert people from the prison.

Senator Jacobson asked if the judge chooses to sentence them to the Department, are they then evaluated somewhere else.

Mr. Day said the majority of the process would be done with the judge up front. There would be an evaluation and the judge would sentence them to the department, and they would place them. It is their desire to work with judges and probation and parole.

Senator Bianchi questioned if judges in the state had been conferred with on this program.

Mr. Day said he does not advocate that every judge in the state is supportive, but it has been discussed with the judges.

Vote: Motion to amendment 3, Exhibit 1 CARRIED with Senators Lynch, Toews, Swysgood, Jacobson, Beck opposed.

Motion: Senator Keating moved amendment 4 (hb068542.a14), Exhibit 1.

Discussion: Senator Jacobson said this includes that we are not repealing the hearings for the Board of Pardons.

Senator Beck questioned the necessity of getting rid of the Swan River Forest Camp.

Senator Jacobson said this amendment is simply wording. There was a bill that did that earlier, and this will correct the language.

Senator Weeding questioned if the new boot camp would be for prisoners under 19 years of age.

Mr. Day said this amendment is technical in nature. Through the process in this legislative session, Swan River has been changed to a boot camp. The rest of the legislation deletes Swan River out of their institutional capacity. This corrects the repealer in the original bill; two sections of law were repealed.

Vote: Motion on amendment 4 CARRIED unanimously.

Discussion: Senator Jacobson said the next amendment deals with the cap on Montana State Hospital. (amendment 5 (hb068539.a14), Exhibit 1)

Motion: Senator Christiaens said he a had a substitute amendment to offer regarding this. He moved the new amendment (Exhibit 2), instead of amendment hb068539.a14, and asked Mr. Day to comment relative to this.

Discussion: Mr. Day said the new amendment (Exhibit 2) would correct the intent statement and the hospital cap language. It takes out the cap and puts in replacement language that directs the Department to adopt rules regarding the hospital population. It leaves in provisions requiring the Department to bring together the groups working in this to develop administrative rules that would coordinate admissions and discharge process to the system.

Senator Lynch asked if anyone talked to the psychiatrist at the Hospital regarding this amendment.

Mr. Day said the State Hospital staff was contacted. As far as level of discussion with the rest of the staff, that was left up to her.

Mr. Lynch said he preferred the previous amendment with regard to capping.

Mr. Day said he does not believe they have the authority to cap the population. They have authority to manage the population. The legislature would eliminate the cap language.

Senator Keating questioned if there is other language in statutes

directing the Department to provide active care for anyone in need.

Mr. Day said he knows the Department is responsible for mental health services in the state; the exact language of statute, he is not aware of.

Senator Keating questioned if there was other language in the statutes compelling the Department to comply with the language being inserted in this amendment.

Mr. Day said the mission of the State Hospital is defined and a recent bill went through that clarified that the department and State Hospital are there to provide services for the seriously mentally ill. He said this language is not duplicated in statute, and that is why it is important to them.

Senator Franklin said it is good language that conceptualizes what the State Hospital should be doing.

Vote: Amendment motion by Senator Christiaens (Exhibit 2)
CARRIED unanimously.

Discussion: Senator Jacobson said the next amendment in the packet (amendment 6, Exhibit 1) was recommended do not pass by the subcommittee.

Senator Jacobson asked if there was any further discussion. Being none, the amendment (amendment 6, Exhibit 1) did not pass the committee.

Discussion: Senator Jacobson asked Greg Petesch, Legislative Council to clarify the next amendment (Amendment 7, Exhibit 1)

Mr. Petesch said this amendment would strike most of the conditions that were attached by law to the sale of the youth treatment center. The sale was conditional upon an agreement being reached between the state and the purchaser that contained all of the language that is stricken in the amendment. Legislation has passed that will no longer require youth to be sent to the center under the medicaid program. The Rivendell people felt it was important that session laws reflect that we no longer will do those things. Whether or not this language is stricken, there is a contract that we cannot impair. This will retain the state be allowed to repurchase the center and directs the land board to do whatever it can to conform the contract to this new condition and remove any encumbrance on title of the facility that the land board retain by former language.

Senator Waterman questioned what would happen if the amendment is not adopted.

Mr. Petesch said that is a concern.

When questioned by Senator Waterman if we have first option of purchase if this amendment is passed, Mr. Petesch said yes.

Senator Waterman said she is concerned this allows for coming in for a residential facility.

Senator Jacobson said regarding selling the facility, they can sell the facility and if they sell the facility, we have the first right of refusal.

Mr. Petesch said that was correct, other than the contract still exists that contains the conditions that we are directing through language that the board of land commissioners attempt to conform that contract to these new stricken provisions.

When questioned by Senator Keating if the contract can be amended by agreement of both parties, Mr. Petesch said that was correct.

Senator Keating asked for someone to comment on the repurchase option.

Mr. Bob Olsen, Montana Hospital Association, said the last conversation they had with Rivendell is that they did not support the idea of the state maintaining the first right of repurchase. He said they would like to have all encumbrances on the title to the facility stricken from the statute.

Senator Keating questioned why we would want to keep the option to repurchase.

Mr. Petesch said the administration and the department felt if the facility was going to be sold that the state would like to retain that option, that there may be future uses for that facility. The state would have to pay appraised value for the facility.

Senator Weeding asked if there is a direction that the state will repurchase it or is it freeing Rivendell from its obligations that we do not direct business to them. He questioned if Rivendell is going to sell it and convert it to some other use.

Senator Jacobson said we do not know if they are going to sell it. If they were to sell it, the state would like to retain that and clear the title.

Senator Waterman said they have applied to become residential facilities. She questioned if the amendment is not passed that there could be a legal challenge from Rivendell.

Mr. Petesch said there is a concern there because there is a condition they have to accept for inpatient treatment those people referred. He said there is a potential for litigation; the language is not perfectly clear that they would prevail on it.

Motion/Vote: Senator Waterman moved amendment 7 (hb068536.a14), Exhibit 1. Motion CARRIED unanimously.

Motion: Senator Christiaens moved amendment 8 (hb068543.a14), Exhibit 1.

Senator Christiaens said this gives good time credits for the discharge of a sentence that may not exceed 180 days.

Senator Beck questioned how many years this would give an inmate on good time.

Mr. Day said this is designed to simplify and clearly limit the process. The maximum the department could do is shorten the time by six months or 180 days by this amendment. The amendment relates to good time credit for discharge.

Senator Aklestad questioned how much good time they can build up now.

Mickey Gamble, Department of Corrections, said they can earn the maximum of 29 days per month in reducing the sentence, so it can be almost cut in half in the lowest level of security, involved in all the programs and doing what they are supposed to be doing. Under HB 685 in order to maintain a cap, they can grant no more than 180 days extra good time. It now puts that limit on.

Senator Aklestad questioned how this would work into the total program of people getting out sooner.

Mr. Gamble said the most the department can give anybody is six months, and it would be only for discharge. In reality they probably will not give this much. Previously it was open, and this would put a limit on it. This would be the last option the department would use in order to maintain a cap. The first option would be to divert as many as possible from coming into the system. They would place them in more restrictive programs that would allow them to remain in other types of settings. Anytime a person is doing a sentence of five years or less, they are eligible for placement in a pre-release center. There is another option of early parole of already approved inmates. Under the good time, they would be able to award those people the good time necessary for parole. There is also granting of extra good time for placement of suitable inmates in pre-release centers. There is granting of extra good time for discharge of inmates nearest to their discharge.

Senator Jacobson questioned that this would put a cap of six months on that, and Mr. Gamble said that was correct.

Senator Beck asked if they can use the 180 days to accelerate them to be eligible to go to the pre-release centers.

Mr. Gamble said that was correct.

Senator Keating questioned if any of the early release people are sent out of state to programs.

Mr. Gamble said they have not, but they could.

Motion/Vote: Senator Christiaens moved that HOUSE BILL 685 AS AMENDED BE CONCURRED IN. Motion CARRIED with Senators Swysgood, Beck, Lynch, Jacobson, Toews, Forrester, Tveit opposed.

EXECUTIVE ACTION ON HOUSE BILL 5

Motion: Senator Jergeson moved to amend HB 5 (Exhibit 3).

Senator Aklestad made a substitute motion to amend HB 5 (Exhibit 4) which would remove the delay for the construction of the Eastern Montana Veterans' Home in Glendive.

Senator Aklestad said the Veterans' Home should not be tied in with the other buildings being considered. He hoped the other buildings would stand on their own merit when they come up. He said the funding relative to the Veterans' Home is completely different than the funding for the other buildings.

Senator Jacobson said there are many that feel as she does that the state should either make the commitment to build the buildings we approved two years ago or we should not. She added to imply that we have no obligation for maintenance to the Veterans' Home is not correct. We are using taxpayer's money for maintenance of the buildings whether it is cigarette taxes or whatever. She concluded that it is wrong for us to say it is all right to build one building but not the others.

Senator Aklestad closed on his substitute motion, saying the Veterans' Home should not be in the package with the other buildings but should be voted on its own merits.

Vote: Senator Aklestad's substitute motion (Exhibit 4) FAILED on a roll call vote.

Vote: Senator Jergeson's amendment motion (Exhibit 3) CARRIED on a roll call vote.

Motion: Senator Jergeson moved to amend HB 5 (Exhibit 5).

Senator Jergeson said this amendment would change the delay of the Women's Correction Center from two years to one year. It also permits the issuance of bonds in fiscal 1995.

Motion: Senator Waterman moved to amend Senator Jergeson's motion by striking the word "may" on page 16 and insert "shall", which would read "The department of administration and the board of examiners shall issue the bonds for the women's correctional

facility in fiscal year 1995."

Senator Waterman felt it needs to be required in the second half of the biennium that they will build a facility. She noted we have a legal obligation to build a new women's prison, and this is a facility we will be in court over.

Senator Jacobson resisted the motion. She felt we should not treat the women prisoners any differently than the men, and we should let the Department have the flexibility they need to do as much community development as they want. Regarding the issue of being in court, the women prisoners are not bringing the lawsuit; it is the ACLU. She concluded we should go a little more slowly and make sure both men and women prisoners are appropriately placed before we commence building.

Vote: Senator Waterman's amendment motion FAILED.

Vote: Senator Jergeson's amendment motion (Exhibit 5) CARRIED with Senators Swysgood, Toews, Tveit, Devlin, Beck, Lynch, Aklestad opposed.

Motion: Senator Hockett moved to amend HB 5 (Exhibit 6).

Senator Hockett stated the amendments requested by the Department of Transportation change funding for highway signs from 100 percent state special revenue to utilize all available federal special revenue for development and installation of these signs.

Jane Hamman from the Budget Office said the Transportation Department would have \$174,000 of federal special revenue. They have undertaken efforts to be able to get 100 percent of the revenue, and that is what they are not certain about.

Vote: Senator Hockett's amendment motion (Exhibit 6) CARRIED.

Motion: Senator Harding moved to amend HB 5 (Exhibit 7).

Senator Harding said the amendment moves \$260,000 for the reception area, medical examining facilities and other related improvements at the Women's Correctional Center from Section 9 to Section 18 of HB 5.

Senator Jacobson said there is a critical need to do some repairs at the present women's prison until those prisoners are moved to other facilities.

In a question from Senator Devlin, Rick Day, Department of Corrections, said there are immediate needs that have to be corrected if the women are going to stay there for a period of time.

Senator Waterman felt we should not spend any more money repairing this facility; the more money that is put into the

facility, the longer women will be housed there.

Senator Jacobson said if we had some other place to put them, that would be fine but she added at present there is no place.

Vote: Senator Harding's amendment motion (Exhibit 7) CARRIED with Senators Waterman, Toews, Swysgood, Tveit, Aklestad, Bianchi, Devlin opposed.

Motion: Senator Hockett moved to amend HB 5 (Exhibit 8).

Senator Jacobson said this is general fund money. Senator Hockett said it would be general fund money at the end of the session. Currently it is proprietary funds.

Senator Jacobson said it will change the revenue estimate by \$600,000.

Senator Christiaens questioned how large the dairy dorm would be when constructed.

Rick Day said the proposed construction size would be a 50 bed facility. He said due to failure of HB 675, which would have authorized use of inmate labor on some construction projects related to budget reductions, they do not have sufficient authority for the projects.

Senator Keating questioned if this would reduce the population in the prison proper if they stay in the dairy.

Rick Day said yes, they will stay outside the prison wall. Currently they are in a quantset hut type structure.

Senator Keating asked if the prisoners currently go to the dairy during the day and back to the prison at night.

Mr. Day said that was correct.

Mickey Gamble, Department of Corrections, said the dorm already exists. It is a temporary facility already built. Now the men go back and forth into the facility, and this construction would alleviate that.

Vote: Senator Hockett's amendment motion (Exhibit 8) CARRIED with Senators Bianchi and Keating opposed.

Motion: Senator Weeding moved to amend HB 5 (Exhibit 9).

Senator Christiaens questioned the need for the language.

Senator Jacobson asked Mr. Haubein, LFA, to comment as she did not feel this is needed.

Mr. Haubein said that section was stricken out of the bill that

this would pertain to. Initially this would fit in, but it was put in HB 685 so it is not now needed.

Senator Weeding withdrew his amendment (Exhibit 9).

Motion/Vote: Senator Franklin moved that HOUSE BILL 5 AS AMENDED BE CONCURRED IN. Motion CARRIED with Senators Toews, Swysgood, Devlin, Aklestad, Waterman, Lynch opposed.

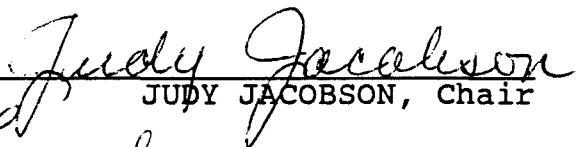
EXECUTIVE ACTION ON HOUSE BILL 46

Motion/Vote: Senator Waterman moved to amend HB 46 (Exhibit 10). Motion CARRIED.


Motion/Vote: Senator Franklin moved that HOUSE BILL 46 AS AMENDED BE CONCURRED IN. Motion CARRIED.

ADJOURNMENT

Adjournment: 11:45 a.m.



JUDY JACOBSON, Chair



LYNN STALEY, Secretary

JJ/LS

ROLL CALL

SENATE COMMITTEE FINANCE AND CLAIMS

DATE 4/14/93

NAME	PRESENT	ABSENT	EXCUSED
SENATOR JACOBSON	✓		
SENATOR FRANKLIN	✓		
SENATOR AKLESTAD	✓		
SENATOR BECK	✓		
SENATOR BIANCHI	✓		
SENATOR CHRISTIAENS	✓		
SENATOR DEVLIN	✓		
SENATOR FORRESTER	✓		
SENATOR FRITZ	✓		
SENATOR HARDING	✓		
SENATOR HOCKETT	✓		
SENATOR JERGESON	✓		
SENATOR KEATING	✓		
SENATOR LYNCH	✓		
SENATOR NATHE <i>Toews</i>	✓		
SENATOR SWYSGOOD	✓		
SENATOR TVEIT	✓		
SENATOR VAUGHN	✓		
SENATOR WATERMAN	✓		
SENATOR WEEDING	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 9
April 14, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 685 (third reading copy -- blue), respectfully report that House Bill No. 685 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, page 1, lines 7 and 8.

Strike: "SPECIFIED" on line 7 through "PROGRAMS" on line 8

Insert: "VETERANS' NURSING HOMES"

2. Title, page 1, line 8.

Following: "PROGRAMS;"

Insert: "PROVIDING THAT A DEFENDANT WHO IS SENTENCED TO A COUNTY JAIL OR PRISON MAY BE COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN AN APPROPRIATE INSTITUTION OR PROGRAM;"

3. Title, page 1, line 23.

Following: ";

Insert: "ELIMINATING MOST CONDITIONS ATTACHED TO THE SALE OF THE MONTANA YOUTH TREATMENT CENTER;"

Following: "SECTIONS"

Insert: "10-2-416,"

4. Title, page 1, line 24.

Strike: "41-5-206,"

Insert: "46-18-201,"

Following: "46-23-1021,"

Insert: "52-5-111,"

5. Title, page 1, line 25.

Following: "53-1-202,"

Insert: "53-1-402,"

6. Title, page 2, line 1.

Following: "MCA"

Insert: ", AND SECTION 5, CHAPTER 14, SPECIAL LAWS OF JUNE 1986"

7. Title, page 2, line 3.

Strike: "46-23-204,"

Strike: "52-5-111,"

8. Page 2, lines 18 through 20.

Strike: lines 18 through 20 in their entirety

AM Amd. Coord.
IN Sec. of Senate

Christians
Senator Carrying Bill

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9. Page 2, line 21.

Following: "rules"

Strike: "establishing a maximum"

Insert: "adopted to manage the"

10. Page 2, lines 22 and 23.

Following: "population"

Strike: "and procedures for avoiding exceeding the maximum
population"

11. Page 2, line 23.

Following: "facilities"

Strike: "and"

Insert: ", the"

12. Page 2, line 24.

Following: "hospital"

Insert: ", emergency access to services, public and individual
safety, active treatment of patients, discharge planning of
patients, and access to community-based services. The
department is directed to involve consumers, family members
of consumers, mental health advocates, mental health
providers, law enforcement officials, and other governmental
officials in the development of the administrative rules
authorized by this bill"

13. Page 3, lines 2 and 3.

Strike: " -- " on line 2 through "rulemaking" on line 3

14. Page 3, line 6.

Following: "homes"

Insert: "."

15. Page 3, lines 7 through 12.

Strike: lines 7 through 12 in their entirety

16. Page 3, line 13 through page 7, line 19.

Strike: section 2 in its entirety

Insert: "Section 2. Section 10-2-416, MCA, is amended to read:

"10-2-416. Pledge to continue operation and maintenance.

Pursuant to 38 U.S.C. 641 and 5035(a)(6), the state shall
appropriate funds either from the general fund or from funds
generated under 16-11-111 to the department of corrections and
human services financial support necessary to provide for
continued operation and maintenance of the project upon
completion. The department of corrections and human services may
contract with a private vendor to provide for the operation of
the eastern Montana veterans' home and may charge the contract

vendor a rental fee for the maintenance and upkeep of the facility."

Section 3. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

- (i) jail base release;
- (ii) jail time not exceeding 180 days;
- (iii) conditions for probation;
- (iv) restitution;
- (v) payment of the costs of confinement;
- (vi) payment of a fine as provided in 46-18-231;
- (vii) payment of costs as provided in 46-18-232 and 46-18-233;
- (viii) payment of costs of court-appointed counsel as provided in 46-8-113;
- (ix) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;
- (x) community service;
- (xi) home arrest as provided in Title 46, chapter 18, part 10;
- (xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or
- (xiii) any combination of the above.

(b) suspend execution of sentence up to the maximum sentence allowed for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).

(c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;

(e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit the defendant to the department of corrections and human services for placement in an appropriate correctional institution, with or without a

~~fine as provided by law for the offense or program;~~

(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;

(g) impose any combination of subsections (1)(b) through (1)(f).

(2) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony, regardless of whether any other conditions are imposed.

(3) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or part as a credit and state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.

(4) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(5) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(6) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(7) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(8) In imposing a sentence on a defendant convicted of a sexual offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(9) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program.

(10) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a

community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison or a women's correctional facility, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225.""

Renumber: subsequent sections

17. Page 11.

Following: line 24

Insert: "Section 7. Section 52-5-111 is amended to read:

"52-5-111. Commutation of sentence to state prison and transfer of prisoner to youth correctional facility or ~~Swan River forest camp~~. (1) Upon the application of a person under 19 years of age who has been sentenced to the state prison or upon the application of his the youth's parents or guardian, the governor may, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, commute the sentence by committing such the person who may benefit from programs offered at a youth correctional facility to the department of family services until he the youth is 19 years of age or until sooner placed or discharged.

(2) If such the person's behavior after being committed to the department of family services indicates that he the youth is not a proper person to reside at one of the youth correctional facilities, the governor, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, may revoke the commutation and return him the youth to the state prison to serve out his the youth's unexpired term, and the time spent by him the youth at one of the youth correctional facilities or while a refugee from one of the youth correctional facilities shall not be is not considered as a part of his the youth's original sentence.

(3) Upon recommendation of the warden and with the approval of the department of corrections and human services and the department of family services, a person under 19 years of age who has been sentenced to the state prison and who may benefit from programs offered at a youth correctional facility may be transferred to any youth correctional facility under the jurisdiction and control of the department of family services.

~~(4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of corrections and human services,~~

~~such person sentenced to the state prison who is 25 years of age or younger may be transferred to the Swan River forest camp. Prior to departmental approval of the transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.~~

~~(5)(4) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth might be released on parole or his that the youth's sentence might be commuted and he the youth be discharged from custody, the superintendent of such the facility, with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his the youth's sentence.~~

~~(6)(5) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, such person shall the youth must be returned to the state prison to serve out his the unexpired term."~~

Renumber: subsequent sections

18. Page 14.

Following: line 13.

Insert: "Section 10. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. (1) The department shall assess and collect per diem and ancillary charges for care of residents in the following institutions:

- (a) Montana state hospital;
- (b) Montana developmental center;
- (c) Montana veterans' home;
- (d) eastern Montana veterans' home;

(e) Montana center for the aged;

(f) Eastmont human services center.

(2) This section does not apply to the eastern Montana veterans' home if the department contracts with a private vendor to operate the facility as provided for in 10-2-416."

Renumber: subsequent sections

19. Page 20, lines 2 through 7.

Strike: "The" on line 2 through "population." on line 7

Insert: "The department shall adopt rules to manage the state hospital patient population in a manner that will ensure emergency access to services, protect public and individual safety, provide active treatment, implement effective discharge planning, and assure access to appropriate community-based services.

(4) The department shall prepare a report to the 54th legislature that:

(a) describes current and projected future use of the Montana state hospital; and

(b) describes progress toward, and additional steps required for achievement of, accreditation by the joint commission on accreditation of healthcare organizations."

20. Page 23, line 20.

Following: "sentence."

Insert: "Good time credits for the discharge of a sentence may not exceed 180 days."

21. Page 24, line 4.

Following: line 3

Insert: "Section 18. Section 5, Chapter 14, Special Laws of June 1986, is amended to read:

"Section 5. Conditions Condition of sale. The sale of the Montana youth treatment center is subject to the following conditions:

~~(1) The buyer shall agree that as long as it holds title to the Montana youth treatment center it will accept those youth who are committed to the facility by the district courts pursuant to the Montana Youth Court Act, Title 41, chapter 5, and Title 53, chapter 21. The buyer shall agree to make available a minimum of 40 beds for treatment of such youth. The buyer or any subsequent transferee shall keep reasonable documentation of compliance with this condition. Failure to comply with the provisions of this section may result in the loss of hospital licensure.~~

~~(2) The buyer shall agree to maintain a license as a psychiatric hospital pursuant to Title 50, chapter 5, part 2, and to operate the facility as defined in 53-21-102(6) as a mental health treatment facility. The buyer shall also agree to comply~~

~~with state requirements relating to review and recommendations by the mental disabilities board of visitors.~~

~~(3) The buyer shall enter a written contract with the board of land commissioners providing that the buyer will bind by written agreement any purchaser or successor to its interest by transfer of the property to the conditions contained in [this act]. The board of land commissioners may make an exception to these conditions in any subsequent sale or transfer.~~

~~(4) If the condition that if the buyer of the facility proposes to sell the facility at any time, the state of Montana has the first option to repurchase the facility and land at its appraised value at the time of such the sale. The board of land commissioners shall attempt to conform the sale contract to this section and to remove any encumbrance on the title of the facility that does not reflect this section. The buyer and the state shall each commission an appraisal by a qualified appraiser at the time of sale. The appraised value is the average of the two appraisals.~~

~~(5) The buyer shall demonstrate that it is able to meet, at the time it proposes to purchase, the standards of the joint commission on accreditation of hospitals for adolescent psychiatric facilities and the certification standards of the health care financing administration of the United States department of health and human services for inpatient psychiatric services for individuals under age 21. The buyer shall demonstrate successful participation in the early survey option program of the joint commission on accreditation of hospitals.~~

~~(6) The buyer shall provide services to medicaid-eligible and indigent patients and shall receive no per diem reimbursement from the department of institutions for services provided to youth ordered to the facility by the courts. Such services become the financial responsibility of the buyer, who may bill medicaid or private insurers when appropriate.~~

~~(7) The buyer shall accept emergency psychiatric admissions pursuant to 53-21-129 regardless of ability to pay and subject only to its licensure limitations.~~

~~(8) The buyer shall accept applications of all Montana youth treatment center employees who desire to continue employment with the purchaser. Among the substantially qualified applicants, present employees of the Montana youth treatment center must be given preference in hiring by the purchaser.~~

~~(9) Montana youth treatment center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any training necessary to qualify for similar vacant positions within the department of institutions."~~

Renumber: subsequent sections

Strike: "46-23-204,"

23. Page 24, line 6.
Strike: "52-5-111,"

24. Page 24, lines 12 and 15.
Strike: "8"
Insert: "11"

25. Page 24, lines 22 and 23.
Strike: "AND" on line 22 through "CARE" on line 23

26. Page 25, line 2.
Strike: "14"
Insert: "17"

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
April 14, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 5 (third reading copy -- blue), respectfully report that House Bill No. 5 be amended as follows and as so amended be concurred in.

Signed: Judy H. Jacobson
Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, line 10.

Following: "1989;"

Strike: Remainder of line 10.

2. Title, line 12.

Following: "1992;"

Insert: "REPEALING CHAPTER 4, SPECIAL LAWS OF JANUARY 1992;"

3. Page 3, line 3.

Following: line 2

Insert: "Prison Dairy Dormitory 605,212 Proprietary"

4. Page 6, line 12.

Strike: "200,000"

Insert: "26,000"

"174,000

[State Special Revenue]
Federal Special Revenue"

5. Page 8, line 9.

Following: "(5)"

Insert: "(a)"

6. Page 8, line 13.

Following: line 12

Insert: "(b) The amount of state special revenue appropriated for highway welcome and farewell signs may be decreased and the federal special revenue may be increased by a like amount in the event that additional federal revenue is available."

7. Page 11, lines 24 through 26.

Strike: lines 24 through 26 in their entirety

8. Page 12, line 4.

Strike: "\$5,460,000"

Insert: "\$5,200,000"

AM Amd. Coord.
M Sec. of Senate

Jacobson
Senator Carrying Bill

821528SC.San

9. Page 14, line 22 through page 15, line 10.
Strike: Section 17 in its entirety

Renumber subsequent sections

10. Page 16, line 7.
Strike: "Construction of"
Insert: "The department of administration and the board of
examiners shall issue bonds for"

11. Page 16, lines 9 and 10.
Following: "armory" on line 9
Strike: "is delayed until after July 1, 1995"
Insert: "in a manner that will not result in a net increased
obligation to the general fund for debt service costs for
principal and interest during the 1995 biennium"

12. Page 16, line 11.
Strike: "1995"
Insert: "1994"

13. Page 16.
Following: line 16
Insert: "(4) The amount of \$260,000 of the \$10,075,600
appropriated in subsection (1) may be used for improvements
at the women's correctional center at the Montana state
hospital."

14. Page 16, lines 11 through 16.
Following: "." on line 11
Strike: The remainder of subsection 3
Insert: "The department of administration and the board of
examiners may issue the bonds for the women's correctional
facility in fiscal year 1995."

15. Page 25, line 14.
Strike: "18"
Insert: "17"

16. Page 25, line 22.
Strike: "\$3"
Insert: "\$30"

17. Page 26, lines 14 and 16.
Strike: "22"
Insert: "21"

18. Page 26, line 23.

Following: line 22

Insert:

"NEW SECTION. Section 26. Repealer. Chapter 4, Special
Laws of January 1992, is repealed."

Renumber: subsequent section

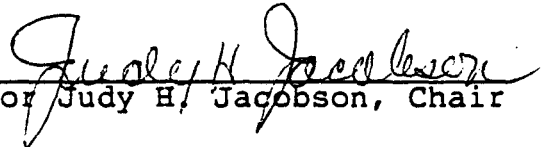
-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
April 14, 1993

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 46 (third reading copy -- blue), respectfully report that House Bill No. 46 be amended as follows and as so amended be concurred in.

Signed: 

Senator Judy H. Jacobson, Chair

That such amendments read:

1. Title, line 6.

Following: "HOMES"

Insert: ";

2. Title, lines 6 through 8.

Strike: ", THE DEVELOPMENT AND IMPLEMENTATION OF A BENEFITS
PROGRAM FOR AGING VETERANS, AND"

Insert: "PROVIDING FOR"

3. Page 1, lines 13 through 17.

Strike: lines 13 through 17 in their entirety

4. Page 2, line 14.

Following: "homes"

Insert: "."

5. Page 2, lines 15 and 16.

Strike: line 15 and 16 in their entirety

6. Page 3, line 17.

Following: "PROGRAMS"

Insert: "."

7. Page 3, lines 17 through 19.

Strike: "AND" on line 17 through "CARE." on line 19

8. Page 3, line 22.

Following: "HOMES"

Insert: "."



9. Page 3, line 22 through line 5 on page 4.

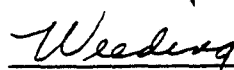
Strike: "AND" on line 22 through line 5 on page 4

Renumber: subsequent sections

10. Page 5, line 21.

Strike: "(1)"

 Amd. Coord.
 Sec. of Senate

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Senator Carrying Bill

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Page 2 of 2
April 14, 1993

11. Page 5, line 25 through line 3 on page 6.
Strike: line 25 on page 5 through line 3 on page 6 in their
entirety

-END-

ROLL CALL VOTE

SENATE COMMITTEE FINANCE AND CLAIMS

BILL NO. HB 5

DATE April 14, 1923

TIME _____ A.M. P.M.

NAME	YES	NO
SENATOR JACOBSON		✓
SENATOR JERGESON		✓
SENATOR AKLESTAD	✓	
SENATOR BECK		✓
SENATOR BIANCHI		✓
SENATOR CHRISTIAENS		✓
SENATOR DEVLIN	✓	
SENATOR FORRESTER		✓
SENATOR FRANKLIN		✓
SENATOR FRITZ		✓
SENATOR HARDING	✓	
SENATOR HOCKETT		✓
SENATOR KEATING	✓	
SENATOR LYNCH	✓	
SENATOR TOEWS		✓
SENATOR SWYSGOOD		✓
SENATOR TVEIT	✓	
SENATOR VAUGHN		✓
SENATOR WATERMAN		✓
SENATOR WEEDING		✓

Lynd Staley
SECRETARY

CHAIR

MOTION: Senator Aklestad substitute motion
HB 5 (Exhibit 4)

L. J. ...

ROLL CALL VOTE

SENATE COMMITTEE FINANCE AND CLAIMS

BILL NO. HLB 5

DATE 4/14/93 TIME _____ A.M. P.M.

NAME	YES	NO
SENATOR JACOBSON	✓	
SENATOR JERGESON	✓	
SENATOR AKLESTAD		✓
SENATOR BECK	✓	
SENATOR BIANCHI	✓	
SENATOR CHRISTIAENS	✓	
SENATOR DEVLIN		✓
SENATOR FORRESTER	✓	
SENATOR FRANKLIN	✓	
SENATOR FRITZ	✓	
SENATOR HARDING		✓
SENATOR HOCKETT	✓	
SENATOR KEATING	✓	
SENATOR LYNCH		✓
SENATOR TOEWS		✓
SENATOR SWYSGOOD		✓
SENATOR TVEIT	✓	
SENATOR VAUGHN	✓	
SENATOR WATERMAN		✓
SENATOR WEEDING	✓	

Lynn Sealey
SECRETARY

CHAIR

MOTION: Senator Jergeson amendment

Motion (Exhibit 3)

Carried

Amendments to House Bill No. 685
Third Reading Copy

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 1

Requested by Senator Franklin
For the Committee on Finance and Claims

DATE 4/14/93

BILL NO. HB 685

Prepared by Sandy Whitney
April 5, 1993

1. Title, lines 7 and 8.

Strike: "SPECIFIED" on line 7 through "PROGRAMS" on line 8

Insert: "VETERANS' NURSING HOMES"

2. Page 2, lines 18 through 20.

Strike: lines 18 through 20 in their entirety

3. Page 3, lines 2 and 3.

Strike: " -- " on line 2 through "rulemaking" on line 3

4. Page 3, line 6.

Following: "homes"

Insert: "."

5. Page 3, lines 7 through 12.

Strike: lines 7 through 12 in their entirety

6. Page 24, lines 22 and 23.

Strike: "AND" on line 22 through "CARE" on line 23

Office of Legislative Fiscal Analyst

444-2986}

Carried

Amendments to House Bill No. 685
Third Reading Copy

2

Requested by Senator Franklin
For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 5, 1993

1. Title, page 1, line 23.
Following: "SECTIONS"
Insert: "10-2-416,"

2. Page 1, line 25.
Following: "53-1-202,"
Insert: "53-1-402,"

3. Page 3.
Following: line 12.
Insert: "Section 2. Section 10-2-416, MCA, is amended to read:

"10-2-416. Pledge to continue operation and maintenance.

Pursuant to 38 U.S.C. 641 and 5035(a)(6), the state shall appropriate either from the general fund or from funds generated under 16-11-111 to the department of corrections and human services financial support necessary to provide for continued operation and maintenance of the project upon completion. The department of corrections and human services may contract with a private vendor to provide for the operation of the eastern Montana veterans' home and may charge the contract vendor a rental fee for the maintenance and upkeep of the facility."

Renumber: subsequent sections

4. Page 14.
Following: line 13.
Insert: "Section 9. Section 53-1-402, MCA, is amended to read:

"53-1-402. Residents subject to per diem and ancillary charges. (1) The department shall assess and collect per diem and ancillary charges for care of residents in the following institutions:

- (1) (a) Montana state hospital;
- (2) (b) Montana developmental center;
- (3) (c) Montana veterans' home;
- (4) (d) eastern Montana veterans' home;
- (5) (e) Montana center for the aged;
- (6) (f) Eastmont human services center.

(2) This section does not apply to the eastern Montana veterans' home if the department contracts with a private vendor to operate the facility as provided for in 10-2-416."

Renumber: subsequent sections

5. Page 24, lines 12 and 15.

Strike: "8"

Insert: "9"

6. Page 25, line 2.

Strike: "14"

Insert: "16"

{Office of Legislative Fiscal Analyst

444-2986}

EXHIBIT #1
DATE 4-14-93
HB-685

Amendments to House Bill No. 685
Third Reading Copy

Requested by Senator Franklin
For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 5, 1993

Carried

1. Title, page 1, line 8.

Following: "PROGRAMS;"

Insert: "PROVIDING THAT A DEFENDANT WHO MAY BE SENTENCED TO A COUNTY JAIL OR PRISON MAY BE COMMITTED TO THE DEPARTMENT FOR PLACEMENT IN AN APPROPRIATE INSTITUTION OR PROGRAM;"

2. Title, page 1, line 24.

Following: "41-5-206,"

Insert: "46-18-201,"

3. Page 7, line 20.

Following: line 19

Insert: "Section 3. Section 46-18-201, MCA, is amended to read:

"46-18-201. Sentences that may be imposed. (1) Whenever a person has been found guilty of an offense upon a verdict or a plea of guilty, the court may:

(a) defer imposition of sentence, except as provided in 61-8-714 and 61-8-722 for sentences for driving under the influence of alcohol or drugs, for a period, except as otherwise provided, not exceeding 1 year for any misdemeanor or for a period not exceeding 3 years for any felony. The sentencing judge may impose upon the defendant any reasonable restrictions or conditions during the period of the deferred imposition. Reasonable restrictions or conditions may include:

(i) jail base release;

(ii) jail time not exceeding 180 days;

(iii) conditions for probation;

(iv) restitution;

(v) payment of the costs of confinement;

(vi) payment of a fine as provided in 46-18-231;

(vii) payment of costs as provided in 46-18-232 and 46-18-233;

(viii) payment of costs of court-appointed counsel as provided in 46-8-113;

(ix) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;

(x) community service;

(xi) home arrest as provided in Title 46, chapter 18, part 10;

(xii) any other reasonable conditions considered necessary for rehabilitation or for the protection of society; or

(xiii) any combination of the above.

(b) suspend execution of sentence up to the maximum sentence allowed for each particular offense. The sentencing judge may impose on the defendant any reasonable restrictions or conditions during the period of suspended sentence. Reasonable restrictions or conditions may include any of those listed in subsection (1)(a).

(c) impose a fine as provided by law for the offense;

(d) require payment of costs as provided in 46-18-232 or payment of costs of court-appointed counsel as provided in 46-8-113;

(e) impose a county jail or state prison sentence, as provided in Title 45, for the offense or commit the defendant to a the department of corrections and human services for placement

in an appropriate correctional institution, with or without a fine as provided by law for the offense or program;

(f) with the approval of the facility or program, order the offender to be placed in a community corrections facility or program as provided in 53-30-321;

(g) impose any combination of subsections (1)(b) through (1)(f).

(2) If a financial obligation is imposed as a condition under subsection (1)(a), sentence may be deferred for a period not exceeding 2 years for a misdemeanor or for a period not exceeding 6 years for a felony, regardless of whether any other conditions are imposed.

(3) If any restrictions or conditions imposed under subsection (1)(a) or (1)(b) are violated, the court shall consider any elapsed time and either expressly allow part or all of it as a credit against the sentence or reject all or part as a credit and state its reasons in the order. Credit, however, must be allowed for jail or home arrest time already served.

(4) Except as provided in 45-9-202 and 46-18-222, the imposition or execution of the first 2 years of a sentence of imprisonment imposed under the following sections may not be deferred or suspended: 45-5-103, 45-5-202(3) relating to aggravated assault, 45-5-302(2), 45-5-303(2), 45-5-401(2), 45-5-502(3), 45-5-503(2) and (3), 45-9-101(2), (3), and (5)(d), 45-9-102(4), and 45-9-103(2).

(5) Except as provided in 46-18-222, the imposition or execution of the first 10 years of a sentence of imprisonment imposed under 45-5-102 may not be deferred or suspended.

(6) Except as provided in 46-18-222, imposition of sentence in a felony case may not be deferred in the case of a defendant who has been convicted of a felony on a prior occasion, whether or not the sentence was imposed, imposition of the sentence was deferred, or execution of the sentence was suspended.

(7) If the victim was less than 16 years old, the imposition or execution of the first 30 days of a sentence of imprisonment imposed under 45-5-503, 45-5-504, 45-5-505, or 45-5-507 may not be deferred or suspended. Section 46-18-222 does not apply to the first 30 days of the imprisonment.

(8) In imposing a sentence on a defendant convicted of a sexual offense as defined in 46-23-502, the court may not waive the registration requirement provided in 46-18-254, 46-18-255, and Title 46, chapter 23, part 5.

(9) A person convicted of a sexual offense, as defined in 46-23-502, and sentenced to imprisonment in the state prison shall enroll in the educational phase of the prison's sexual offender program.

(10) In sentencing a nonviolent felony offender, the court shall first consider alternatives to imprisonment of the offender in the state prison, including placement of the offender in a community corrections facility or program. In considering alternatives to imprisonment, the court shall examine the sentencing criteria contained in 46-18-225. If the offender is subsequently sentenced to the state prison or a women's correctional facility, the court shall state its reasons why alternatives to imprisonment were not selected, based on the criteria contained in 46-18-225."

Renumber: subsequent sections

4. Page 24, lines 12 and 15.

Strike: "8"

Insert: "9"

5. Page 25, line 2.

Strike: "14"

Insert: "15"

4

Amendments to House Bill No. 685
Third Reading Copy

Requested by Senator Franklin
For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 5, 1993

1. Title, page 1, line 24.

Strike: "41-5-206,"

Following: "46-23-1021,"

Insert: "52-5-111,"

2. Title, page 2, line 3.

Strike: "46-23-204,"

Strike: "52-5-111,"

3. Page 3, line 13 through page 7, line 19.

Strike: section 2 in its entirety

Renumber: subsequent sections

4. Page 7, line 8.

Following: "~~52-5-111~~"

Insert: "under the procedures of 52-5-111"

5. Page 11.

Following line 24

Insert: "Section 5. Section 52-5-111 is amended to read:

"52-5-111. Commutation of sentence to state prison and transfer of prisoner to youth correctional facility ~~or Swan River forest camp~~. (1) Upon the application of a person under 19 years of age who has been sentenced to the state prison or upon the application of his the youth's parents or guardian, the governor may, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, commute the sentence by committing such the person who may benefit from programs offered at a youth correctional facility to the department of family services until ~~he~~ the youth is 19 years of age or until sooner placed or discharged.

(2) If ~~such the~~ the person's behavior after being committed to the department of family services indicates that ~~he~~ the youth is not a proper person to reside at one of the youth correctional facilities, the governor, after consulting with the department of corrections and human services and the department of family services and with the approval of the board of pardons, may revoke the commutation and return ~~him~~ the youth to the state prison to serve out ~~his the~~ the youth's unexpired term, and the time spent by ~~him~~ the youth at one of the youth correctional facilities ~~shall not be~~ is not considered as a part of ~~his the youth's~~ the youth's original sentence.

(3) Upon recommendation of the warden and with the approval of the department of corrections and human services and the department of family services, a person under 19 years of age who has been sentenced to the state prison and who may benefit from programs offered at a youth correctional facility may be transferred to any youth correctional facility under the jurisdiction and control of the department of family services.

~~(4) Upon recommendation of the warden and approval of a person sentenced to the state prison or application of a person sentenced to the state prison and approval of the warden and with the approval of the department of corrections and human services, such person sentenced to~~

~~the state prison who is 25 years of age or younger may be transferred to the Swan River forest camp. Prior to departmental approval of the transfer, the person must undergo an evaluation by the department to determine his suitability for transfer to the camp. The results of the evaluation must include a finding that a minimum security facility is an appropriate placement for such person or the transfer shall be denied. If the person is transferred, he shall be under the supervision and control of the facility to which he is transferred.~~

~~(5)(4) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth might be released on parole or his that the youth's sentence might be commuted and he the youth be discharged from custody, the superintendent of such the facility, with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, may make an appropriate recommendation to the board of pardons and the governor, who may in their discretion parole such person or commute his the youth's sentence.~~

~~(6)(5) If such the person's behavior after transfer to a youth correctional facility or the Swan River forest camp indicates he that the youth is not a proper person to reside in such the facility, upon recommendation of the superintendent and with the approval of the department of corrections and human services and the department of family services in the case of a youth correctional facility or with the approval of the department of corrections and human services in the case of the Swan River forest camp, such person shall the youth must be returned to the state prison to serve out his the unexpired term."~~

Renumber: subsequent sections

6. Page 24, line 5.

Strike: "46-23-204,"

7. Page 24, line 6.

Strike: "52-5-111,"

8. Page 24, lines 12 and 15.

Strike: "8"

Insert: "9"

9. Page 25, line 2.

Strike: "14"

Insert: "15"

{Office of Legislative Fiscal Analyst

444-2986}

EXHIBIT #1

DATE 4-14-93

HB-1285

Amendments to House Bill No. 685
Third Reading Copy

5

Requested by Senator Franklin - No recommendation
For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 5, 1993

*replaced
in
character
amendment
X2*

1. Page 2, line 24.
Following: "hospital"
Insert: ", public and - individual safety, discharge planning, and available community resources. The department is directed to involve consumers, family members of consumers, mental health advocates, mental health providers, law enforcement, and other governmental officials in the development of the administrative rules authorized by this bill."
2. Page 20, line 2.
Strike: "The department may establish a"
Insert: "A"
3. Page 20, line 3.
Following: "population"
Insert: "of 230 is established,"
4. Page 20, line 4.
Following: "facilities"
Insert: ", public and individual safety, discharge planning, and available community resources"
5. Page 20, lines 4 through 6.
Strike: "When" on line 4 through "available." on line 6
6. Page 20, line 6.
Following: "The department"
Strike: "may"
Insert: "shall"
7. Page 20, line 7.
Following: "rules to"
Strike: "establish and"
Following: "manage"
Strike: "a"
Insert: "the"
Following: "population"
Insert: "and to ensure emergency access to services"

{Office of Legislative Fiscal Analyst

444-2986}

6

Amendments to House Bill No. 685
Third Reading Copy

Requested by Senator Franklin - recommend do not pass
For the Committee on Finance and Claims

Prepared by Greg Petesch
April 5, 1993

1. Page 21, line 12.

Strike: "The"

Insert: "After construction, the"

2. Page 21, lines 16 through 19.

Following: "." on line 16

Strike: remainder of line 16 through "." on line 19

Did not pass

{Office of Legislative Fiscal Analyst

444-2986}

Amendments to House Bill No. 46
Third Reading Copy

For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 13, 1993

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 10
DATE 4/14/93
BILL NO. HB 46

1. Title, line 6.
Following: "HOMES"
Insert: ";

2. Title, lines 6 through 8.
Strike: "THE DEVELOPMENT AND IMPLEMENTATION OF A BENEFITS
PROGRAM FOR AGING VETERANS, AND"
Insert: "PROVIDING FOR"

3. Page 1, lines 13 through 17.
Strike: lines 13 through 17 in their entirety

4. Page 2, line 14.
Following: "homes"
Insert: ".

5. Page 2, lines 15 and 16.
Strike: line 15 and 16 in their entirety

6. Page 3, line 17.
Following: "PROGRAMS"
Insert: ".

7. Page 3, lines 17 through 19.
Strike: "AND" on line 17 through "CARE." on line 19

8. Page 3, line 22.
Following: "HOMES"
Insert: ".

9. Page 3, line 22 through line 5 on page 4.
Strike: "AND" on line 22 through line 5 on page 4
Renumber: subsequent sections

10. Page 5, line 21.
Strike: "(1)"

11. Page 5, line 25 through line 3 on page 6.

Strike: line 25 on page 5 through line 3 on page 6 in their entirety

This amendment removes the Bergsagel amendments providing for a veterans' benefits program.

{Office of Legislative Fiscal Analyst

444-2986}

Amendments to House Bill No. 685
Third Reading Copy

Requested by Senator Franklin - no recommendation
For the Committee on Finance and Claims

Prepared by Greg Petesch
April 6, 1993

7
Carried

1. Title, line 23.

Following: ";

Insert: "ELIMINATING MOST CONDITIONS ATTACHED TO THE SALE OF
THE MONTANA YOUTH TREATMENT CENTER;"

2. Title, page 2, line 1.

Following: "MCA"

Insert: ", AND SECTION 5, CHAPTER 14, SPECIAL LAWS OF JUNE 1986"

3. Page 24, line 4.

Following: line 3

Insert: "Section 15. Section 5, Chapter 14, Special Laws June, 1986, is amended
to read:

"Section 5. Conditions Condition of sale. The sale of the Montana youth
treatment center is subject to the following conditions:—

(1) ~~The buyer shall agree that as long as it holds title to the Montana
youth treatment center it will accept those youth who are committed to the facility
by the district courts pursuant to the Montana Youth Court Act, Title 41, chapter
5, and Title 53, chapter 21. The buyer shall agree to make available a minimum
of 40 beds for treatment of such youth. The buyer or any subsequent transferee
shall keep reasonable documentation of compliance with this condition. Failure
to comply with the provisions of this section may result in the loss of hospital
licensure.~~

(2) ~~The buyer shall agree to maintain a license as a psychiatric hospital
pursuant to Title 50, chapter 5, part 2, and to operate the facility as defined in
53-21-102(6) as a mental health treatment facility. The buyer shall also agree to
comply with state requirements relating to review and recommendations by the
mental disabilities board of visitors.~~

(3) ~~The buyer shall enter a written contract with the board of land
commissioners providing that the buyer will bind by written agreement any
purchaser or successor to its interest by transfer of the property to the conditions
contained in [this act]. The board of land commissioners may make an exception
to these conditions in any subsequent sale or transfer.~~

(4) ~~If the condition that if the buyer of the facility proposes to sell the
facility at any time, the state of Montana has the first option to repurchase the
facility and land at its appraised value at the time of such sale. The board of
land commissioners shall attempt to conform the sale contract to this section and
to remove any encumbrance on the title of the facility that does not reflect this~~

~~section. The buyer and the state shall each commission an appraisal by a qualified appraiser at the time of sale. The appraised value is the average of the two appraisals.~~

~~(5) The buyer shall demonstrate that it is able to meet, at the time it proposes to purchase, the standards of the joint commission on accreditation of hospitals for adolescent psychiatric facilities and the certification standards of the health care financing administration of the United States department of health and human services for inpatient psychiatric services for individuals under age 21. The buyer shall demonstrate successful participation in the early survey option program of the joint commission on accreditation of hospitals.~~

~~(6) The buyer shall provide services to medicaid-eligible and indigent patients and shall receive no per diem reimbursement from the department of institutions for services provided to youth ordered to the facility by the courts. Such services become the financial responsibility of the buyer, who may bill medicaid or private insurers when appropriate.~~

~~(7) The buyer shall accept emergency psychiatric admissions pursuant to 53-21-129 regardless of ability to pay and subject only to its licensure limitations.~~

~~(8) The buyer shall accept applications of all Montana youth treatment center employees who desire to continue employment with the purchaser. Among the substantially qualified applicants, present employees of the Montana youth treatment center must be given preference in hiring by the purchaser.~~

~~(9) Montana youth treatment center employees who wish to remain state employees shall be provided relocation assistance of up to \$1,000 and any training necessary to qualify for similar vacant positions within the department of institutions."~~

Renumber: subsequent sections

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444-2986}

Amendments to House Bill No. 685
Third Reading Copy

EXHIBIT #1
DATE 4-14-93
X HB-685

Requested by Senator Christiaens
For the Committee on Finance and Claims

Prepared by Sandy Whitney
April 6, 1993

Carroll

1. Page 23, line 20.

Following: "sentence."

Insert: "Good time credits for the discharge of a sentence may not exceed 180 days."

{Office of Legislative Fiscal Analyst

444-2986}

AMENDMENTS TO HOUSE BILL NO. 685
REVISING CORRECTIONS AND HUMAN SERVICES TO
IMPLEMENT BUDGET REDUCTIONS

PROPOSED AMENDMENTS

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 2

DATE 4/14/93

BILL NO. HB 685

1. Page 2, line 21.

following: "rules"
delete: "establishing a maximum"
insert: "adopted to manage the"

2. Page 2, line 22.

following: "population"
delete: "and procedures for avoiding exceeding the
maximum population"

3. Page 2, line 23.

following: "facilities"
delete: "and"
insert: ", the"

Carried

4. Page 2, line 24.

following: "hospital"
delete: "."
insert: ", emergency access to services, public and
individual safety, active treatment of
patients, discharge planning of patients, and
access to community based services. The
department is directed to involve consumers,
family members of consumers, mental health
advocates, mental health providers, law
enforcement, and other governmental officials
in the development of the administrative rules
authorized by this bill."

5. Page 20, line 2 thorough line 7.

delete: "The department may establish a maximum
Montana state hospital population based upon
available staff and facilities. When the
patient population maximum is reached, the
department may defer additional admissions
until patient discharges make space available.
The department may adopt rules to establish
and manage a maximum patient population."

insert:

"The department shall adopt rules to manage the state hospital patient population in a manner which will ensure emergency access to services, protect public and individual safety, provide active treatment, implement effective discharge planning and assure access to appropriate community based services.

(5) The department shall prepare a report to the 54th Session of the Legislature which:

(a) describes current and projected future utilization of the Montana State Hospital, and

(b) describes progress toward, and additional steps required for achievement of, accreditation by the Joint Commission on Accreditation of Healthcare Organizations."

Amendments to House Bill No. 5
Third Reading Copy As Amended

Requested by Senator Jergeson
For the Committee on Senate Finance and Claims

Prepared by Jim Haubein
April 8, 1993

Jergeson offered

1. Title, line 10.

Following: "1989;"

Strike: Remainder of line 10.

2. Page 14, line 22 through page 15, line 10.

Strike: Section 17 in its entirety

Renumber subsequent sections

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 3
DATE 4/14/93
BILL NO. HB 5

3. Page 16, line 7.

Strike: "Construction of"

Insert: "The department of administration and the board of examiners shall issue bonds for"

4. Page 16, lines 9 and 10.

Following: "armory" on line 9

Strike: "is delayed until after July 1, 1995"

Insert: "in a manner that will not result in a net increased obligation to the general fund for debt service costs for principal and interest during the 1995 biennium"

5. Page 25, line 14.

Strike: "18"

Insert: "17"

6. Page 26, lines 14 and 16.

Strike: "22"

Insert: "21"

Amendments 1, 2, 5, and 6 remove the delay of the Eastern Montanan Veterans' Home. Amendments 3 and 4 remove the delay for the Libby Armory, the Business Administration building at UofM, and the Engineering/Sciences building at MSU. These amendments also require the Department of Administration and the Board of Examiners to sell bonds for the three projects in a manner so that there is no increased net debt services costs to the general fund during the 1995 Biennium.

Amendments to House Bill No. 5
Third Reading Copy

Requested by Senator Aklestad

For the Committee on Senate Finance and Claims

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 4

DATE 4/14/93

BILL NO. HB 5

Prepared by Jim Haubein
March 26, 1993

1. Title, line 10.

Following: "1989;"

Strike: Remainder of line 10.

2. Page 14, line 22 through page 15, line 10.

Strike: Section 17 in its entirety

Renumber subsequent sections

3. Page 25, line 14.

Strike: "18"

Insert: "17"

4. Page 26, lines 14 and 16.

Strike: "22"

Insert: "21"

This amendment will remove the delay for the construction of the Eastern Montana Veterans' Home in Glendive.

{Office of Legislative Fiscal Analyst

444-2986}

Amendments to House Bill No. 5
Third Reading Copy As Amended

Requested by Senator Jergeson
For the Committee on Senate Finance and Claims

Prepared by Jim Haubein
April 8, 1993

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 5
DATE 4/14/93
BILL NO. LB 5

1. Page 16, line 11.

Strike: "1995"

Insert: "1994"

2. Page 16, lines 11 through 16.

Following: "." on line 11

Strike: The remainder of subsection 3

Insert: "The department of administration and the board of examiners may issue the bonds for the women's correctional facility in fiscal year 1995."

This amendment changes the delay of the Women's Correctional Center from two years to one year. It also permits the issuance of bonds in fiscal 1995.

{Office of Legislative Fiscal Analyst

444-2986}

carried

AMEND HOUSE BILL 5, THIRD READING COPY
Senate Finance and Claims
April 2, 1993

Representative Ernest Bergsagel
Senator Bob Hockett

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 6

DATE 4/14/93

BILL NO. HB5

1. Page 6, line 12.
Strike: "200,000"
Insert: "26,000"

[State Special Revenue]

"174,000 Federal Special Revenue"

2. Page 8, line 9.
Following: "(5)"
Insert: "(A)"

Carried

3. Page 8, line 13.
Following: line 12
Insert: "(B) The amount of state special revenue appropriated for highway welcome and farewell signs may be decreased and the federal special revenue increased by a like amount in the event additional federal revenue is available."

Explanation: These amendments, which are requested by the Department of Transportation, change funding for the Highway Welcome and Farewell Signs from 100% state special revenue to utilize all available federal special revenue for the development and installation of these signs.

4. Page 25, line 22.
Strike: "\$3"
Insert: "\$30"

Explanation: This is a technical amendment. A zero was dropped inadvertently when this amendment was added on the House Floor. If the fiscal year 1995 ending cash balance were to exceed \$30 million, then Section 23 would authorize the amount of excess up to \$10 million for capital projects. Any excess would not be available until the 1997 biennium, after the 1995 Legislature prioritized projects.

AMEND HOUSE BILL 5, THIRD READING COPY

Senate Finance and Claims

April 2, 1993

Senator Ethel M. Harding

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 7

DATE 4/14/93

BILL NO. HB 5

1. Page 11, lines 25 and 26.
Following: line 24
Strike: lines 25 and 26 in their entirety
2. Page 12, line 4.
Strike: "\$5,460,000"
Insert: "\$5,200,000" *carried*
3. Page 16, line 16.
Following: "services"
Insert: "and the amount of \$260,000 of the \$10,075,600 may be used for improvements at the Women's Correctional Center at Montana State Hospital"

-End-

Explanation: These amendments move the \$260,000 for the reception area, the medical examining facilities and related improvements at the Women's Correctional Center from Section 9 to Section 18 of the bill. Section 9 requires a two-thirds vote of the members of each house and will be void if the required vote is not obtained. Section 18 requires a majority vote of the members of each house. These improvements are critically needed while women are housed in this facility and should be authorized by the Fifty-third Legislature.

AMEND HOUSE BILL 5, THIRD READING

Senate Finance and Claims

April 12, 1993

Senator Bob Hockett

SENATE FINANCE AND CLAIMS

EXHIBIT NO. 8

DATE 4/14/93

BILL NO. HB5

1. Title, line 12.
Following: "1992;"
Insert: "REPEALING CHAPTER 4, SPECIAL LAWS OF JANUARY 1992;"
2. Page 3, line 3.
Following: line 2
Insert: "Prison Dairy Dorm \$605,212 Proprietary"
carried
3. Page 26, line 13.
Following: line 12
Insert: "NEW SECTION. Section 25. Repealer. Chapter No. 4, Special Session Laws, January 1992 is repealed."

Renumber: Subsequent sections

Explanation: Due to failure of HB675, which would have authorized the use of inmate labor on some of the Montana State Prison construction projects related to the budget reductions, the Department of Corrections and Human Services does not have sufficient authority for the projects. The first amendment updates the title of the bill for these amendments. The second amendment increases authority by \$605,212 using the proprietary funds generated by the Prison Ranch to be used in the construction of the ranch dairy dorm. The third amendment repeals the Special Session I requirement that \$605,212 of these proprietary funds be transferred to the general fund at the end of fiscal year 1993.

Withdrawn

Amendments to House Bill No. 5
Third Reading Copy

Requested by Representative J. Johnson
For the Committee on Finance and Claims

Prepared by Greg Petesch
March 31, 1993

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 9
DATE 4/14/93
BILL NO. HB 5

1. Page 14, line 24.

Following: "project"

Insert: "-- contract for services"

2. Page 15, line 11.

Following: line 10

Insert: "(4) The department of corrections and human services may enter into a contract for the administration, operation, and maintenance of the veterans' home authorized in this section. If a contract is entered into, the department may spend funds appropriated for administration, operation, and maintenance for the contracted services."

withdrawn