

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN TOM ZOOK**, on February 1, 1995, at
3:00 p.m.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Edward J. "Ed" Grady, Vice Chairman (Majority) (R)
Rep. Joe Quilici, Vice Chairman (Minority) (D)
Rep. Beverly Barnhart (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger Debruycker (R)
Rep. Gary Feland (R)
Rep. Marjorie I. Fisher (R)
Rep. Don Holland (R)
Rep. Royal C. Johnson (R)
Rep. John Johnson (D)
Rep. Mike Kadas (D)
Rep. Betty Lou Kasten (R)
Rep. Matt McCann (D)
Rep. William T. "Red" Menahan (D)
Rep. Steve Vick (R)
Rep. William R. Wiseman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Clayton Schenck, Legislative Fiscal Analyst
Marjorie Peterson, Committee Secretary

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

Committee Business Summary:

Hearing: HB 297, HB 304
Executive Action: None.

HEARING ON HB 297Opening Statement by Sponsor:

REP. JOE BARNETT, HD 32, Belgrade, opened the hearing on HB 297 which deals with allocating \$20 million of excess fuel tax collections to cities and counties for the Department of Transportation (DOT) to use to construct, reconstruct, repair and maintain rural roads in the state. There were meetings held across the state to inform people of the projected funds that would be available for construction and the matching federal funds they would receive until 2007. This bill was written to improve the funds the cities and counties receive. He introduced an amendment which clarified the net amount over \$165 million collected would be allocated, not the gross amount. He reiterated that the bill requests a 50/50 split with the Department of Transportation and the cities and counties. EXHIBIT 1.

{Tape: 1; Side: A; Approx. Counter: 9.2.}

Proponents' Testimony:

Ronda Alexander, Montana Petroleum Marketers, feels there are two parts to the bill, one which allows counties to enact a local option gasoline tax up to 2¢ a gallon. She said the accounting and reporting procedures in the counties didn't allow a breakdown of items so the reporting across the state is not consistent in all counties. The petroleum distributors are involved in the tax collection procedures. If there are excess net revenues over \$165 million that amount will be distributed on an even split at the end of the fiscal year. The 1993 diesel fuel tax was moved from the retail level to the distributor level to keep in line with regulations by the federal government. Diesel fuel now comes in two different fuels, dyed and undyed (clear). The dyed is for truck and farm use and the undyed is used in motor vehicles and autos. Dyed fuel has only been available since mid-March and is taxed differently than undyed. She handed out a tax table from the Department of Transportation Governor's Executive Budget book which included a revenue estimate on gas and diesel fuel tax. EXHIBIT 2.

Vernon Peterson, Fergus County Commissioner, Lewistown, said there were 2,000 miles of county roads in his county and 157 bridges. They manage by crisis, roads are fixed as needed. This bill would really help his county tremendously.

Blake Wordell, Lewis and Clark County Commissioner, Helena, agreed with Mr. Peterson. Lewis and Clark County is the fastest growing county in the area and needs to take better care of the roads.

Leonard Wortman, Jefferson County Commissioner, Boulder, also supports this bill. Jefferson County is also a fast-growing county and many improvements are needed.

Howard Gipe, Flathead County Commissioner, said there were over 100 bridges in his county in need of repair. His county is also in trouble from the loss of revenue from lower timber receipts -- over \$700,000 was lost last year.

Gordon Morris, Director, Montana Association of Counties, said there were over 68,000 miles of county roads in Montana and over 4,000 bridges. With the increasing tourism industry as well as regular travel, there is tremendous pressure on our roads. It is absolutely essential to take the excess money and fix the roads and bridges in Montana.

Alex Hanson, Montana League of Cities and Towns, said that many people spend lots of time driving county roads. The public already opposes raising property taxes. For example, he said, Kalispell and Bozeman tourism has significantly increased traffic problems. These towns are having a terrible time keeping roads in repair. This would be a good opportunity for cities and towns to maintain their roads and bridges. **EXHIBITS 3 and 4.**

James Kembel, City of Billings, also supports this bill.

Larry Gallagher, City of Kalispell, stated they expected 36,000 people to be living in Kalispell's planning jurisdiction by the year 2004. It is expected that employment in the area will also grow to 50,000 by 2015. They have 2.1 million tourists going through their community on their way to Glacier National Park. Their city/county plan has identified \$31 million in needed improvements in his area alone. Transportation is the #1 deterrent to economic growth and expansion in the Flathead Valley. He encourages support of this bill.

{Tape: 1; Side: A; Approx. Counter: 29.7.}

Charles Brooks, Yellowstone County, Billings, stated that Yellowstone County has the same pressures that others have identified. They would welcome the opportunity to receive funds to take care of their problems.

Gloria Paladichuk, Richland Development, Richland County, agreed that counties and cities are unable to meet the infrastructure needs. She also thinks this bill is essential to Montana.

Kim Milburn, City of Helena Public Works Director, Helena, agreed with the others that it is critical to repair our roads. She identified \$20 million needed capital improvements today, not including future needs. They receive less than \$400,000 a year in fuel tax.

Carl Schweitzer, Montana Contractors Association, Helena, said there were over 100 contractors statewide and over 200 associated members. Many of them build the city streets and county roads. We have a responsibility to improve our highway system. His association supports this bill, but doesn't want to see the repair and construction work go to private bidders.

Joe Menicuccu, Manager for the City of Belgrade, said that his community was one of the fastest growing in Montana with increased travel having a tremendous impact on their streets and roads. It is important to provide this additional revenue to counties for improvements.

Robert White, Bozeman Chamber of Commerce, urges the committee to pass the bill as it is essential for Gallatin County to make necessary improvements on their roads.

Sam Gianfrancisco, County Road Supervisor for Gallatin County, also urges the committee to understand the transportation problems around the state. The population in his county has increased by 10% to 15% each year for the last few years. With the gas tax, they can barely keep up with day-to-day maintenance. The counties that have not grown so much are losing their tax balance and are also suffering, so this bill would help all counties whether or not they are growing.

{Tape: 1; Side: A; Approx. Counter: 35.9.}

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. RED MENAHAN, HD 57, Anaconda, asked about a county road near Deer Lodge that connects two highways. The road is 26 miles long and the county can't afford to maintain it. He wondered how this would assist Deer Lodge County in taking care of it. He said he'd rather see the state take the maintenance of the roads back.

Marvin Dye, Director, Department of Transportation, answered that revenue would be available. **REP. MENAHAN** reiterated that he would rather dedicate the road back to the Department of Transportation to maintain it. **Mr. Dye** said that could be an option.

REP. JOE QUILICI, HD 36, Butte, noted that there were no opponents against this measure. Next week the subcommittee would be considering DOT's budget and wondered if there were surplus funds. **Mr. Dye** said there weren't any at the current time. His understanding was that the bill would take any excess revenue from the fuel tax. **REP. QUILICI** said they were looking at

various projects at DOT and wondered if this bill would affect the federal aid construction program. **Mr. Dye** said this bill would have no affect on that program; that these monies would be used for federal match.

CHAIRMAN ZOOK reminded the committee that there was a possibility that federal dollars could be decreased in the near future as that seems to be the way the feds are going. He wondered if it would be fair to take \$20 million and distribute it in another way to cities and counties where there is no federal match.

REP. GARY FELAND, HD 88, Shelby, informed the committee that last session the gas tax was raised. He speculated that more money was generated than was needed. **Mr. Dye** said no, they had projected this bill based on current usage and on a rate that was used to calculate the special revenue fund. He said there was a companion bill the legislature dealt with concerning a distributor tax which would raise a significant amount of money. The projections had a more positive balance than expected so it was decided to plan up to the year 2006 without additional fuel tax increases. **REP. FELAND** said that if all projects were funded until that time he would like to see a reduction in the fuel tax. **Mr. Dye** told him that the state is still \$112 million in debt.

REP. EDWARD GRADY, HD 55, Canyon Creek, referred to **REP. QUILICI'S** question in regards to the budget hearing. He reminded **Mr. Dye** that the subcommittee still had the prerogative of deciding where the money would be spent and that if there were sufficient funds, they could decide to give money back to the taxpayers. **Mr. Dye** said if there was additional money it could be spend on additional projects. **REP. GRADY** agreed by saying that he is very concerned with the conditions of some secondary roads around the state. The county maintains them, but he asked about reconstruction or major repairs. The overlays, etc., are done with funds from the federal aid secondary program which are allocated to the county using a formula developed by DOT. The county commissioners decide priorities and work with the department. **REP. GRADY** stated that the counties have a fiscal responsibility, too, even if some of the money comes from the state. **Mr. Dye** said that the counties participate in roadwork construction by digging out unstable parts of the route that is being worked on. **REP. GRADY** asked if any county road improvements have been held up because counties can't come up with sufficient funds and **Mr. Dye** answered yes.

REP. MIKE KADAS, HD 66, Missoula, asked about the differences between the anticipated gas tax and the estimate at the end of last session. **Mr. Dye** said that due to the new collection method, the calculated estimate increased significantly; partly due to a price increase, and partly due to the fuel tax.

Clayton Schenck, Legislative Fiscal Analyst, said that a \$70 million estimate was provided in the fiscal outlook report in

September, but the figures range from \$50 to \$70 million. He will give **REP. KADAS** a breakdown.

REP. KADAS asked about the plans for this additional revenue. **Mr. Dye** said in meetings with the Governor, they came up with a method to put off a fuel tax increase in the near future. Based on all the needs, they used spreadsheets to create a plan which would reduce the deficit by \$40 million in the first fiscal year and increase the state program \$10 million the first year, then \$18 million the next. **REP. KADAS** speculated that the excess over \$165 million could be available for distribution to cities and counties and **Mr. Dye** agreed. **REP. KADAS** questioned if the state would be eligible for more federal money if we had an increase in funds. **Mr. Dye** said that we're limited to what the federal government gives us -- it doesn't necessarily mean more of a federal match.

CHAIRMAN ZOOK questioned if the state was limited in its ability to use all the funds because of the number of construction firms and engineers who can do survey work. **Mr. Dye** said that there were contractors who could handle the additional work, but that it takes three to five years to go through the planning stage, do an EIS and get the bid process started. **CHAIRMAN ZOOK** said it could take 25 years in his area.

REP. DON HOLLAND, HD 7, Forsyth, asked if Burlington Northern pays a fuel tax and it was decided that they did not.

REP. MARJORIE FISHER, HD 80, Whitefish, asked **Mr. Schweitzer** if there were enough contractors to do the road work and he said most definitely.

CHAIRMAN ZOOK asked **Mr. Morris** about the mill levies. Taxpayer liability cannot increased; if you have five mills in 1986, you are required to stay at five; if you want to increase to eight mills, you have to decrease by three somewhere else.

{Tape: 1; Side: A; Approx. Counter: 64.5.}

Closing by Sponsor:

REP. BARNETT closed by commenting that HB 297 bill does two things: it repeals the county-wide local option tax which put cities and counties up against the wall with the I-105 freeze. He reminded the committee that this bill does not ask for money, it seeks options to help cities and counties improve road conditions.

{Tape: 1; Side: A; Approx. Counter: 67.4.}

HEARING ON HB 304

Opening Statement by Sponsor:

REP. MARJORIE FISHER, HD 80, Whitefish, opened the hearing on HB 304 which deals with authorizing the Department of Corrections to contract for construction of regional correction facilities, or purchase a facility already owned by the state. The populations at the prison are over maximum capacity. The intent of this bill is to have the department consider if a community is able to provide rehabilitative services to inmates and willing to enter a long-term agreement. This bill would provide rehabilitation for inmates in local jails and would keep them closer to their families. This bill would also enhance Montana's state correctional system and provide local government the necessary revenue to construct new facilities.

{Tape: 1; Side: A; Approx. Counter: 70.4.}

Proponents' Testimony:

Rick Day, Director, Department of Corrections and Human Services, Helena, supports this bill as it is intended to provide the department and local government the statutory structure needed to develop and expand correctional facilities in Montana. 1994 was a record year of admittance and an increase of 15 percent is projected in 1995. He handed out graphs depicting the percent of convictions of various crimes from 1989-1993 along with an executive summary from the Governor's Advisory Council on Corrections and Criminal Justice Policy. He told the committee that this new concept, that of regional correction facilities, is supported by the Governor and his department. He gave some advantages of this bill, including: gaining local cells without adding populations to the current Montana State Prison; staff members would be full-time county employees; facilities would be placed throughout Montana, saving on transportation and staff costs; counties would have operating money for health care and pharmacy programs; and the local sheriffs would have control of the facilities. This bill also provides the opportunity to demonstrate that the state and counties can work together and use their limited resources effectively. EXHIBITS 5, 6, 7, 8, 9, 10, 11 and 12.

John Strandell, Deputy Sheriff, Cascade County, and Chairman of Governor's Advisory Council on Corrections, stated this is a new concept. Mr. Day originally introduced the regional facility concept in cooperation with the Cascade County Jail Advisory Committee. This concept would bring state and counties together to help solve overcrowding problems at the state prison. The regional correction facility would consist of the county jail

with separate housing for state and federal inmates. Most county jails throughout the state are in need of maintenance and reconstruction and local governments cannot afford the costs. This proposal would create new county jails with the local sheriff in charge. Presently, inmates are transported once, or sometimes twice, a week to Deer Lodge and this bill would significantly reduce those costs. The first facility proposal is for Cascade County and they are willing to cooperate in any way they can. The three other counties that are interested in this project are Missoula, Yellowstone and Dawson. This proposal offers a solution to the ever-growing problems for Montana and allows counties and state to work together for a common goal.

Howard Gipe, Flathead County, also supports the concept of regional jails and thinks this is a good bill for local governments as well as the state.

Charles Brooks, Yellowstone County, Billings, supports the idea of creating regional jails. The Yellowstone county commissioners are in favor of this concept. Currently, they incarcerate state prisoners and can't bill the state for recovery of costs. He would like to go on record by saying that the regional prison concept is an excellent idea, if Yellowstone County gets a regional prison, they need to have full recovery of their costs, including construction costs.

{Tape: 1; Side: B; Approx. Counter: 4.6.}

James Kembel, City of Billings, also supports this bill.

Gordon Morris, Director, Montana Association of Counties, endorses the proposal wholeheartedly.

Myron Beeson, Montana State Prison, endorses the legislation. He was a member of the regional jail committee and was pleased about the cooperation and trust shown in developing the concept of building jails in other parts of the state.

John Connor, Attorney General Office, Helena, said he also was a member of the Governor's Advisory Council on Corrections Policy. He told the committee that the Attorney General also supports this bill. HB 304 provides workable options for the state and local government to use to move forward in solving the over-crowding problem at the state prison.

REP. JOHN JOHNSON, HD 2, Glendive, said he also supports this bill. He has had conversations with his city and county commissioners and they favor this bill.

Mike Mahoney, Warden, Montana State Prison, said this bill is not a typical proposal. The committee worked diligently in developing this proposal. The needs of the system are very diverse and are working beyond capacity at the state prison.

{Tape: 1; Side: B; Approx. Counter: 8.3.}

Opponents' Testimony:

REP. RED MENAHAN, HD 57, Anaconda, was worried about raising property taxes. He was things concerned that it is going to cost Montana taxpayers more money to construct and repair these facilities instead of using state prison labor to build on the prison location. The women's prison estimated cost is over \$1 million a year to move to Billings. He warned the committee that the county commissioners could ask the next legislature for more money to finish these projects. He is also concerned about the social implications which should be addressed. Some inmates' families follow them to jail by moving to the closest town. He wondered about the local jails being in the cities instead of located in rural settings like the state prison. In the cities and towns, inmates only have to cross the street to be with people they just left.

REP. JOE QUILICI, HD 36, Butte, and REP. GARY FELAND, HD 88, Shelby, concur with REP. MENAHAN in being opponents to this bill.

{Tape: 1; Side: B; Approx. Counter: 11.6.}

Questions From Committee Members and Responses:

REP. GARY FELAND, HD 88, Shelby, asked Mr. Day if the state would save any money if they contracted with private companies to construct the buildings. Mr. Day said he does know of places in the U.S. where private business is involved in corrections on a minimum security basis, but private contractors are in the business to make money. Some counties might prefer to use local contractors and this bill is flexible enough to allow that.

REP. EDWARD GRADY, HD 55, Canyon Creek, asked what percentage of the building at Deer Lodge has been done by prison labor. Mr. Day said that the last unit which was built in 1981 was built by prison labor and it has 160 beds. REP. GRADY asked if it was hard to get prison labor approved and Mr. Day said yes, that would be an understatement. It is extremely difficult. REP. GRADY then asked about drug problems at the prisons. Mr. Day said that 80 percent of the inmates are convicted of drug-related crimes, but the facilities in the local areas would be much smaller than the state prison so would house fewer people.

REP. JOE QUILICI, HD 36, Butte, asked how the day-to-day operations would be funded if the local jails are run by the counties. Mr. Day said the state intends to contract with the county for a per diem amount for each prisoner. The state's responsibility would be to train the local staff and would offer medical and legal support. REP. QUILICI reminded him that Montana is still in court because of the riots at Deer Lodge. If

that happens in one of the local jails and the inmates sue, do they sue the state or the county. **Mr. Day** said that ultimately it would be the state of Montana that is named in the suit, whether it was a county jail or the state prison, but the officer in the county would be named as well. **REP. QUILICI** wondered if the county attorney would have to defend the officer. **Mr. Day** said that Court Claims Division has represented his department in legal matters. **REP. QUILICI** asked about medical costs and **Mr. Day** said that the state pays for state inmates and the county pays for county inmates.

REP. BEVERLY BARNHART, HD 29, Bozeman, commented on the social impacts of this bill. She wondered if there was a report that covered possible social problems of families and children.

REP. JOHN COBB, HD 50, Augusta, asked if the Department of Corrections would set policies on how to care for inmates. He wanted to clarify that some of the staff would be county employees and some state employees. **Mr. Day** said that local sheriffs would have control in their respective facilities. **REP. COBB** asked if they will be requesting more money for pre-release centers and **Mr. Day** said yes, but not in this bill.

REP. WILLIAM WISEMAN, HD 41, Great Falls, feels that we're doing "too little, too late" referring to Montana's prison population estimate for the next few years. The population is expected to increase about 340 each year and it is very difficult to manage the numbers with the current facilities. There are management considerations as well -- a cell with one person needs the same amount of staff that a cell with two people. **REP. WISEMAN** asked who would settle the problem if a county does not feel they are getting enough money to run these jails. He referred to **Mr. Brooks** statement about Yellowstone County not getting their costs recovered. **Mr. Day** said they would enter into a 30-year contract to use general funds. **Mr. Brooks** reiterated that the problem is the state doesn't pay the full costs and the taxpayers of Yellowstone County are bearing the costs.

REP. MENAHAN was concerned about the security classification of prisoners at the county in regards to visiting privileges and who would be liable if an inmate gets injured. **Mr. Day** said the county staff would be trained to work with minimum security inmates and will have the authority to restrict any privileges.

REP. FELAND then asked **Mr. Brooks** to give the committee the figures for Yellowstone County and he said he would.

REP. BETTY LOU KASTEN, HD 99, Brockway, asked about using local jails that aren't full now. The problem is the requirements needed to house state prisoners. Most of the local jails don't meet those standards. The counties would remodel these jails and those costs are included in HB 2.

REP. STEVE VICK, HD 31, Belgrade, reiterated that he would like to see the costs and **Mr. Brooks** said he will give them to the committee.

CHAIRMAN ZOOK asked him to also include the transportation costs.

REP. KADAS asked **Mr. Day** to explain about the 30-year contract and how they structured inflationary costs. The contract has not been finalized yet but the cost per person per day would not be more than is paid at the state prison. The contract assumes that wages would not go up, but it is intended for the contract to provide flexibility. **REP. KADAS** was not comfortable with the terms of the contract since it is wide open and many items are still not negotiated. **Mr. Day** said that the Department of Corrections has had experience in contracts such as these. **REP. KADAS** then asked about the timeframe. Cascade County voters have already approved their bond, Glendive and Missoula will depend on when the bonds would be approved. Most facilities should be online by 1999 with about 76 beds in each facility.

REP. ROYAL JOHNSON, HD 10, Billings, asked if the contracts include costs of buildings plus costs of inmates or if these were more unfunded mandates for the counties. The state would pay their share of the facility and a percentage of the costs to support the inmates. The department could contract with local governments for housing and services as the jails are a part of the community. This bill allows flexibility to consider options. **Mr. Day's** proposal is for the county to own the facility.

REP. JOHN JOHNSON, HD 2, Glendive, said it is hard to recover capital costs. In Dawson County they are "sitting on a time bomb with his jail." **Mr. Day** said the state would finance a portion of the facility if it had common areas used by both county and state prisoners.

REP. WISEMAN noted there were over 1,300 prisoners in Deer Lodge. He wondered if it would be cheaper per day to hold them there rather than scatter them around in regional jails. After all four facilities are built, he wondered if they would have the same per diem rate. **Mr. Day** said his proposal is to have it uniform around the state. **REP. WISEMAN** was concerned that if they agreed to this bill, what would be the best interests of the state after the 30 years expired; would their children and grandchildren have to renegotiate the contract. **Mr. Day** said that was a standard feature in most contracts to renegotiate.

{Tape: 1; Side: B; Approx. Counter: 66.0.}

REP. MENAHAN wanted to make sure projected insurance costs were incorporated into the contract. The problems with inmates injuring each other or injuring staff, causing riots, etc., could ultimately cost the state millions of dollars. **Mr. Day** said that even if they were in regional jails, the state is still held responsible.

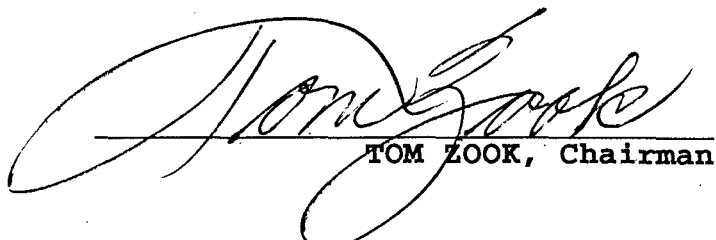
{Tape: 1; Side: B; Approx. Counter: 70.1.}

Closing by Sponsor:

REP. FISHER closed by stating that the concept of regional prisons has the support of the Governor and local governments as well. It is not a mandate but a way to change the prison structure in Montana. The concept of regional prisons is not new and we should have a consistent corrections policy throughout the state. The population of inmates at Montana State Prison is expected to increase. The bottom line is that people want these defenders off the streets. Travel costs are increasingly more expensive as inmates are transported from communities to the state prison. She asked for the committee to look at all the options and support the bill.

ADJOURNMENT

Adjournment: 5:45 p.m.



TOM ZOOK, Chairman



MARJORIE PETERSON, Secretary

TZ/mp

HOUSE OF REPRESENTATIVES

Appropriations

ROLL CALL

DATE 2-1-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Tom Zook, Chairman	✓		
Rep. Ed Grady, Vice Chairman, Majority	✓		
Rep. Joe Quilici, Vice Chairman, Minority	✓		
Rep. Beverly Barnhart	✓		
Rep. Ernest Bergsagel	✓		
Rep. John Cobb	✓		
Rep. Roger DeBruycker	✓		
Rep. Gary Feland	✓		
Rep. Marj Fisher	✓		
Rep. Don Holland	✓		
Rep. John Johnson	✓		
Rep. Royal Johnson	✓		
Rep. Mike Kadas	✓		
Rep. Betty Lou Kasten	✓		
Rep. Matt McCann	✓		
Rep. Red Menahan	✓		
Rep. Steve Vick	✓		
Rep. Bill Wiseman	✓		

Amendments to House Bill No. 297
First Reading Copy

Requested by Representative Barnett
For the Committee on Appropriations

Prepared by Greg Petesch
January 31, 1995

1. Page 2, line 12.

Following: "the"

Insert: "net"

2. Page 2, line 13.

Following: "year"

Insert: "after the adjustments provided for in 15-70-221, 15-70-223, 15-70-234, 15-70-356, 15-70-362, 15-70-521, 15-70-522, and 60-3-201 and any other refunds or distributions created after January 1, 1995"

3. Page 2, line 16.

Strike: "on a monthly basis"

4. Page 2, line 20.

Strike: "must"

Insert: "may"

EXHIBIT 2
DATE 2-1-95
HB 297

HIGHWAY SPECIAL REVENUE ACCOUNT
OBPP Working Capital Analysis 11/12/94

	FY94	FY95	FY96	FY97	FY98	FY99	FY00	FY01	FY02	FY03	FY04	FY05	FY06
PL BASE BEGIN BALANCE	67,156	76,711	80,127	87,023	94,632	102,890	108,606	111,848	112,526	110,560	105,870	98,359	87,932
REVENUE													
GWV Fees (Const. Protected)	16,574	16,478	14,497	14,497	14,497	14,497	14,497	14,497	14,497	14,497	14,497	14,497	14,497
Gas Tax	106,736	114,299	114,228	114,228	114,228	114,228	114,228	114,228	114,228	114,228	114,228	114,228	114,228
Diesel Tax	43,524	45,082	46,733	47,200	47,672	48,149	48,630	49,117	49,608	50,104	50,605	51,111	51,622
Coal Tax	4,943	5,232	5,252	5,087	4,909	4,714	4,714	4,714	4,714	4,714	4,714	4,714	4,714
Nonconst. Protected Rev	11,431	10,510	11,077	11,077	11,077	11,077	11,077	11,077	11,077	11,077	11,077	11,077	11,077
Stores	18,423	23,519	21,272	22,200	22,866	23,552	24,259	24,986	25,736	26,508	27,303	28,122	28,966
Other Revenue/Adj	2,801	1,824	1,824	1,824	1,824	1,824	1,824	1,824	1,824	1,824	1,824	1,824	1,824
Total	206,432	216,944	214,883	216,113	217,073	218,041	219,229	220,443	221,684	222,952	224,248	225,573	226,928
PL BASE EXPENDITURES													
Federal Aid Construction	29,418	27,465	32,540	33,008	31,907	32,048	32,174	32,303	32,432	32,562	32,695	32,830	32,966
Reconstruction Trust	14,953	24,050	20,898	20,743	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Preconstruction	7,732	8,782	7,098	6,465	6,571	6,571	6,571	6,571	6,571	6,571	6,571	6,571	6,571
Maintenance	48,148	60,329	60,009	60,730	62,552	64,428	66,361	68,352	70,403	72,515	74,690	76,931	79,239
Motor Carrier Services	4,974	4,109	4,268	4,204	4,330	4,460	4,594	4,732	4,874	5,020	5,170	5,326	5,485
General Operations	8,309	7,534	8,226	8,067	8,309	8,558	8,815	9,079	9,352	9,632	9,921	10,219	10,526
Transportation Planning	833	886	711	708	729	751	774	797	821	845	871	897	924
Stores	18,498	23,519	21,272	22,200	22,866	23,552	24,259	24,986	25,736	26,508	27,303	28,122	28,966
Debt Service	17,937	18,381	18,316	17,603	15,976	15,977	15,973	15,976	15,977	15,972	15,973	15,975	15,980
Statutory Distributions/Grants	14,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766	16,766
Dept. of Justice	14,158	17,188	14,617	14,821	15,757	16,230	16,717	17,218	17,735	18,267	18,815	19,379	19,960
Long Range Building	2,688	3,992	2,984	2,984	2,984	2,984	2,984	2,984	2,984	2,984	2,984	2,984	2,984
PY LRBP	403	546	342	205	68	0	0	0	0	0	0	0	0
Misc Adjustments	(940)	0	0	0	0	0	0	0	0	0	0	0	0
Total	190,877	213,528	207,987	208,504	208,815	212,326	215,987	219,764	223,649	227,642	231,760	236,000	239,967
NEW PROPOSALS													
Target FTE Reduction	0	0	(2,877)	(2,893)	(2,980)	(3,069)	(3,161)	(3,256)	(3,354)	(3,454)	(3,558)	(3,665)	(3,775)
Executive Budget New Proposals	0	0	5,365	4,983	3,227	3,324	3,424	3,526	3,632	3,741	3,853	3,969	4,088
Payplan Projection	0	0	850	876	902	929	957	985	1,015	1,045	1,077	1,109	1,142
DoJ Motor Vehicle Division	0	0	(1,159)	(1,157)	(1,192)	(1,227)	(1,264)	(1,302)	(1,341)	(1,382)	(1,423)	(1,466)	(1,510)
Coal Tax	0	0	5,252	5,087	4,909	4,714	4,714	4,714	4,714	4,714	4,714	4,714	4,714
McCarthy Farms Supplemental	0	(315)	0	0	0	0	0	0	0	0	0	0	0
DoJ Highway Patrol	0	0	0	0	(14,479)	(14,916)	(15,366)	(15,830)	(16,307)	(16,799)	(17,306)	(17,827)	(18,365)
Defense Highway Bonds	0	40,000	(1,217)	(2,228)	(712)	(2,236)	(2,253)	(2,284)	(2,303)	(2,312)	(11,149)	(15,975)	(15,580)
Increase RTF Program	0	0	10,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Total	0	39,685	16,214	19,668	4,675	2,518	2,049	1,553	1,056	553	(8,792)	(14,141)	(14,285)
SURPLUS/(DEFICIT)													
Current Level	3,555	3,416	6,896	7,609	8,258	5,715	3,242	678	(1,966)	(4,690)	(7,512)	(10,426)	(13,039)
New Proposals	3,555	(36,269)	(9,318)	(12,058)	3,583	3,197	1,193	(875)	(3,021)	(5,244)	1,280	3,714	1,246
ENDING BALANCE													
Current Level	10,711	90,127	87,023	94,632	102,890	108,606	111,848	112,526	110,560	105,870	98,359	87,932	74,893
New Proposals	18,711	40,442	31,124	19,066	22,649	25,846	27,039	26,164	23,142	17,899	19,179	22,894	24,140

HOUSE BILL 297

REVENUE ESTIMATES ON THE GASOLINE AND DIESEL TAX

GASOLINE

NOTE: Total gallons sold in 89' 440,481,529
90' 445,595,096
91' 441,137,004
92' 462,016,218
93' 470,146,844
94' 475,253,098

94' gallons x .27 = \$128,318,236.

Estimated growth of 5 million gallons = 480,253,098
x .27 = \$129,668,336.

EXHIBIT 2
 DATE 2-1-95
HB 297

GALLONS OF DIESEL FUEL IN MONTANA DURING THE PERIOD OF
 JANUARY 1994 - OCTOBER 1994

MONTH	UNDYED	DYED	TOTAL	% DYED
JANUARY	17,729,234	4,540,469	22,269,703	20%
FEBRUARY	18,400,166	5,190,550	23,590,716	22%
MARCH	18,740,744	9,173,665	27,914,409	32%
APRIL	20,556,916	11,453,031	32,009,947	36%
MAY	18,333,427	10,285,457	28,618,884	36%
JUNE	21,174,124	10,341,977	31,516,101	33%
JULY	19,047,069	12,069,452	31,116,521	39%
AUGUST	19,245,470	12,560,887	31,806,357	39%
SEPTEMBER	21,280,704	10,526,531	31,807,235	33%
OCTOBER	18,011,472	8,346,841	26,358,313	32%
November	20,195,322	8,645,856	28,841,188	
TOTAL	192,519,326	94,488,860	287,008,186	33%

212,717,648 103,154,716 315,872,374.

Estimate Total 230,717,648
 x .2775 = 64,024,147. -

Burlington Northern - 66,446,000. gallons (of the Total)



OFFICE OF THE CITY ATTORNEY

435 RYMAN • MISSOULA, MT 59802-4297 • (406) 523-4614 • FAX: (406) 728-6690

EXHIBIT 3

DATE 2-1-95

HB 297

95-044

February 1, 1995

Re: Support for HB-297 allocating up to \$20 million of excess fuel tax

House Appropriations Committee Members:

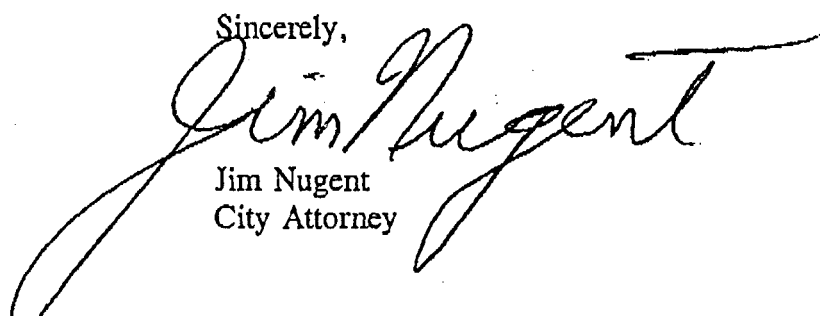
The City of Missoula supports HB-297 an Act allocating up to \$20 million of excess fuel tax collections to counties and incorporated cities and towns.

As urban population and economic centers, municipalities continually must attempt to deal with numerous transportation problems and concerns. This is especially a concern in a large growing urban center such as the City of Missoula. A majority of vehicles operated each day in the State of Montana are operated within municipalities. As a result, municipal streets experience a lot of wear and tear as well as capital infrastructure replacement and expansion needs.

Frequently, badly needed major road projects must literally wait years and years while adequate funding is found or accumulated for the road project. Meanwhile, traffic safety, congestion and air pollution worsen at the location while the community waits for adequate funding. HB-297 could significantly, immediately help the City of Missoula with some of its traffic needs.

The City of Missoula strongly urges your support for and passage of HB-297.

Sincerely,


Jim Nugent
City Attorney

JN:kmr

cc: Missoula County Representatives; Mayor; City Council; Mary Walsh; Alec Hansen; Ron Mason; Joe Aldegarie; Bruce Bender; Legislation file

EXHIBIT 4
 DATE 2-1-15
 HB 297

FUEL TAX DISTRIBUTION

STATE	FUEL TAX	% ALLOCATED TO DOT	% ALLOCATED TO COUNTIES	% ALLOCATED TO MUNICIPALITIES	% STATE MILES MAINTAINED BY MUNICIPALITIES
Arizona	19 cents	50%	20%	30%	25%
Arkansas	18.5 cents	70%	15%	15%	15%
Colorado	22 cents	60%	22%	18%	14%
Delaware	19 cents	87%	0	13%	29%
Florida	6% sales tax + 8 cents/gal	6% sales tax + 4 cents/gal	3 cents/gal + 12 cents local option	1 cent/gal + share of county's local option	20%
Illinois	19 cents	58.4%	14.57%	20.42%	22%
Indiana	15 cents	53%	32%	15%	15%
Iowa	20 cents	47.5%	32.5%	20%	11%
Kansas	18 cents	59%	20%	21%	N.A.
Michigan	15 cents	39.1%	39.1%	21.8%	17%
Minnesota	20 cents	62%	29%	9%	10%
MISSISSIPPI	18 cents	69.13%	25.657%	.46%	11.5%
Missouri	13 cents	75%	10%	15%	N.A.

STATE	FUEL TAX	% ALLOCATED TO DOT	% ALLOCATED TO COUNTIES	% ALLOCATED TO MUNICIPALITIES	% STATE MILES MAINTAINED BY MUNICIPALITIES
Nebraska	22.7 cents	53%	23%	23%	N.A.
New Hampshire	18 cents	88%	0	12%	N.A.
North Carolina	17.5 cents + 7% sales tax on average wholesale price	87%	0	13%	16%
North Dakota	17 cents	63%	23.1%	13.9%	18%
Ohio	21 cents	75%	9.3%	10.7%	N.A.
Oklahoma	16 cents	63%	33%	2%	16%
Oregon	22 cents	60%	24%	16%	18%
Tennessee	20 cents	63%	24.7%	12.3%	18.7%
Utah	19 cents	75%	share of 25%	share of 25%	20%
Vermont	15 cents	68%	0	32%	80%
Washington	23 cents	52%	27%	21%	35.6%

SOURCE: Municipal Association in each state
Mississippi Department of Transportation
Mississippi State Tax Commission

June 15, 1993

February 1, 1995

HB 304
Regional Correctional facilities

HB 304 is intended to provide the Department and local governments the statutory structure needed to develop shared correctional facilities. The need for expanded correctional capacity at the state and local level is clear. From the state perspective, this need has been highlighted by a record year of admissions in FY 94, and a FY 95 pace that is almost 15% above last year's pace.

It might be of interest that in the process of researching the regional jail/prison option, I reviewed notes from a symposium on Regionalization and Privatization produced by the Albany New York Law School. It was interesting to note that one of the arguments against regionalization was the question:

"Is it a threat to the status quo?"

In response, I would say, "Yes it is." This concept challenges the notion that levels of government cannot trust each other and cooperate to use resources more wisely, or that we must continue to expand a single prison, or that we cannot respect and work within our jurisdictional responsibilities.

The concept of regional correctional facilities is supported by the Governor and the Department in the firm belief we must be willing to try new ideas, and we can cooperate to improve state and local criminal justice facilities. Key to the concept is that we must approach the projects with a willingness for each unit of government to accept its own costs and responsibilities. Then we sit down to address the operation and construction of each facility.

Regional correctional facilities have ^{many} ~~may~~ advantages including:

- The State would gain hard cell capacity without adding to the on-site population at Montana State Prison;
- Staff members of the regional correctional facilities will be full-time county employees;
- The facilities will be geographically placed throughout Montana, which will save on transportation and staffing costs;
- State and county revenues will be pooled, allowing counties necessary operating capital, as well as a greater variety and availability to inmate programming and other resources at a reduced expense to both the county and state;

- Counties will qualify to utilize managed health care and pharmacy programs, which will reduce medical costs;
- Sentenced state inmates will be housed closer to home;
- Additional bed space will be available to house federal inmates, which will assist in offsetting costs;
- Provides counties with funding support to build and operate jail facilities;
- The facilities will remain under local control through the sheriff of each county.

Specially, to this bill it is important to note that the legislation was designed to limit state mandates and provide maximum flexibility to allow development according to local and state needs.

In addition, the committee should note that further addition at Montana State Prison is not as simple as constructing another unit as the present support structures like food service, office space, and classrooms are at maximum capacity.

Do we have all the answers - NO; But HB 304 and the Regional Prison concept provides us the opportunity to demonstrate we can work together and use limited resources effectively.

On behalf to the Governor and the Department, I urge your support for HB 304.

c:\legis\hb304.tst

FIG. 1A: PERCENT PRISON POPULATION
CONVICTED OF VARIOUS CRIME TYPES

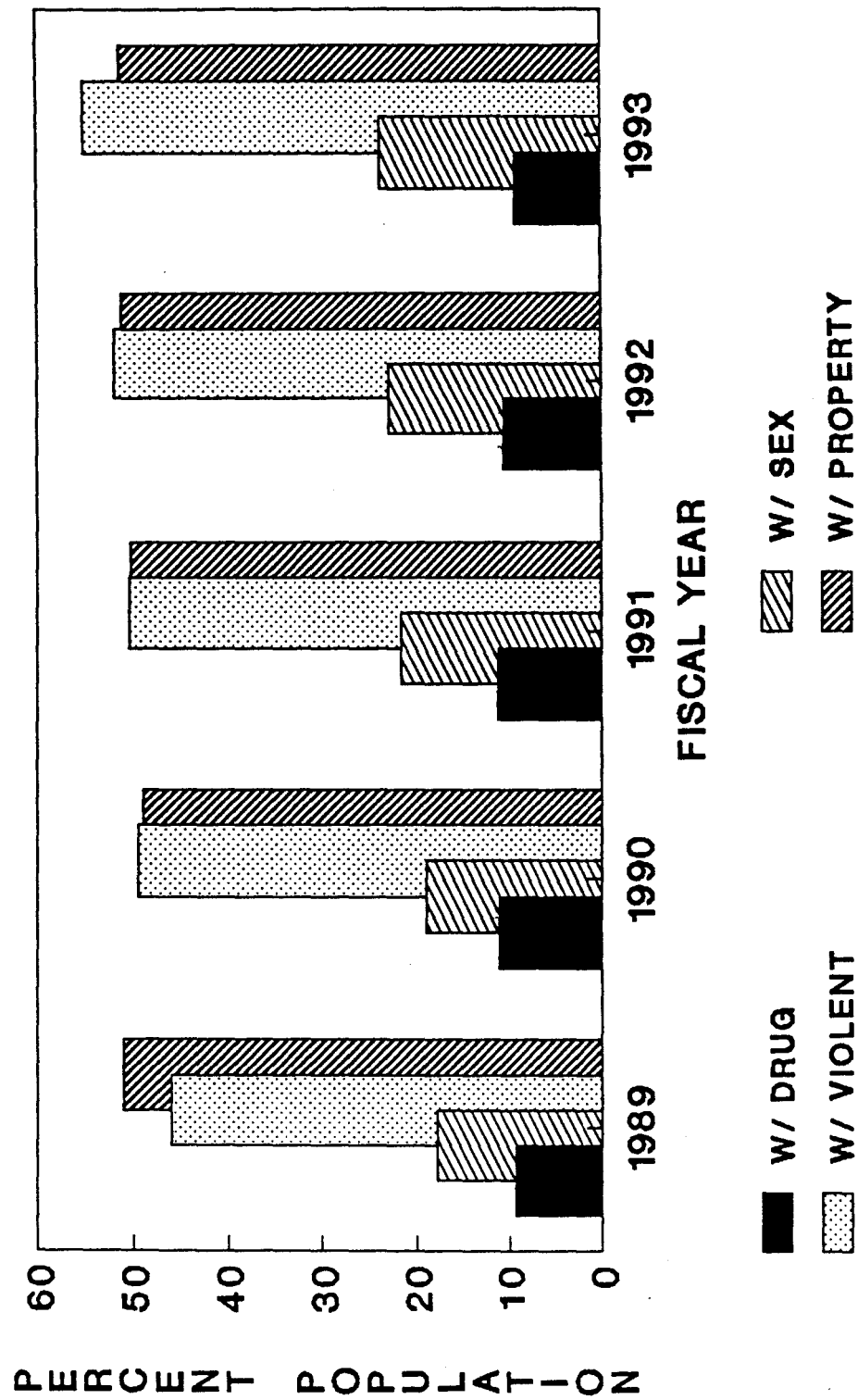
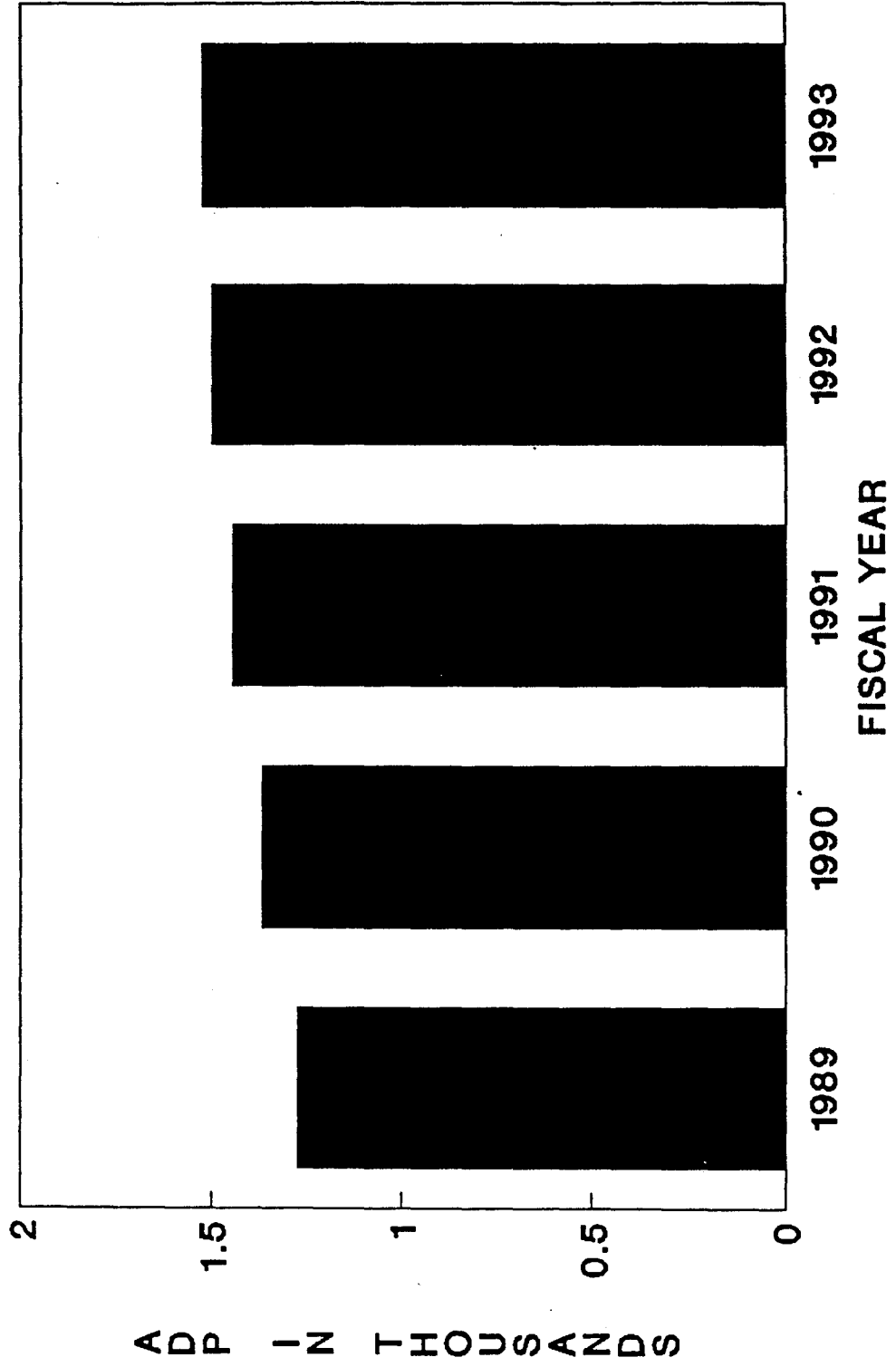


FIG. 7: AVERAGE DAILY PRISON SYSTEM
POPULATIONS. FISCAL YEARS 1989 - 1993.



DEPARTMENT OF CORRECTIONS
AND HUMAN SERVICES

EXHIBIT 8
DATE 2-1-95
HB 304



MARC RACICOT, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930
FAX: (406) 444-4920

PO BOX 201301
HELENA, MONTANA 59620-1301

January 17, 1995

Marc Racicot
Governor
State of Montana
Capitol Station
Helena MT 59620

RE: Governor's Advisory Council on Corrections and Criminal Justice Policy
Final Report

Dear Governor Racicot:

On behalf of the Council on Corrections and Criminal Justice Policy, attached please find the Council's final report. Following almost a year of deliberations, the Council is recommending a series of proposals designed to address key deficiencies in our criminal justice system. These proposals address sentencing reform; enhanced monitoring, detection and supervision of sex offenders; and expanded prison capacity.

To implement these initiatives and the assistance of the Department of Corrections and Human Services, the Council crafted the following legislative proposals:


- Establishing regional correctional facilities
- Lifetime sex offender supervision and registration
- Sex offender DNA registration
- Truth in sentencing and good time reform
- Establishing a Montana Sentencing Commission

The Council's work is detailed in the minutes of the attached report and summarized in the executive summary.

Advisory Council Final Report
January 17, 1995
Page 2

We appreciate the opportunity to work together and recommend these significant and creative solutions to problems facing all Montanans. Please don't hesitate to contact me if you have questions or concerns.

Sincerely,



Honorable Jeffrey Sherlock
Chairperson

RD/sab

*Governor's Advisory Council on
Corrections and Criminal Justice Policy*

EXECUTIVE SUMMARY

I. CHAIRPERSON APPOINTMENTS

Judge Jeffrey Sherlock was elected Chairperson of the Governor's Advisory Council on Corrections and Criminal Justice Policy. Mike Salvagni, Gallatin County Attorney, was elected Vice Chairperson of the Council. Three subcommittees formed as a result of the issues the Council decided needed to be addressed were: Regional Correctional Facility Subcommittee, Cascade County Undersheriff John Strandell, Chairperson; Sex Offender Subcommittee, Gallatin County Attorney Mike Salvagni, Chairperson; and the Truth in Sentencing Subcommittee, Judge Ted Lympus, Chairperson.

II. MONTANA CORRECTIONS OVERVIEW

A. Department of Corrections and Human Services

The Montana Department of Corrections and Human Services consists of five divisions, managing a total of nine "institutions". The Corrections Division, which is one of the five divisions, encompasses:

- Montana State Prison in Deer Lodge
- Swan River Correctional Training Center (boot camp) in Swan Lake
- Women's Correctional System in Billings
- Probation and Parole Bureau

One Interstate Compact Office

Five Regional Offices

Sixteen District Offices

- Private Contracted Pre-Release Centers

Butte Pre-Release Center

Missoula Correctional Services, Inc.

Great Falls Pre-Release Center

Alternatives, Inc. (Billings)

The Department of Corrections and Human Services has 1,882.05 full-time equivalent positions (FTE) and a FY94-95 general budget of \$153 million.

B. Vision and Mission Statements

1. Department's Vision Statement:

The Department of Corrections and Human Services is recognized as professional and the best at what we do – not because we think so, but because we have earned the respect and trust of the public, our peers, and those we serve.

2. Department's Mission Statement

The Department of Corrections and Human Services serves all Montanans by providing a

continuum of services appropriate to a diverse group of people whose illnesses, disabilities, or offenses inhibit their full participation in society.

We are a partnership of skilled, dedicated, and innovative staff making a positive difference in the lives of those we serve.

We operate in an environment of openness and mutual respect while taking pride in, and responsibility for what we do.

3. Corrections Division (Revised) Mission Statement

Montana Corrections, as part of the criminal justice system, contributes to the protection of society by actively helping offenders return to the status of law-abiding citizens, while recognizing and appreciating the needs of victims. That help will be provided in a respectful, principle centered, dignified manner within a safe, secure and humane environment.

C. Population Statistics

The Corrections Division of the Montana Department of Corrections and Human Services manages approximately 1,300 inmates in the institutions, approximately 230 inmates in community corrections facilities (including pre-release centers and the boot camp), and approximately 5,000 probationers and parolees on community supervision. The population of offenders in the community has increased by 1,500 from 1992 to 1994. Most of the increase

in the community offender population has been absorbed by the Probation and Parole Bureau; however, pre-release centers have also seen a significant increase in residents.

D. Crime Rate

On a national level, Montana ranks 33rd for its crime rate. Montana ranks eleventh among the thirteen western states for its crime rate, with the violent crime rate in Montana being the lowest. Montana ranks twelfth in the Western Region for its incarceration rate.

E. Legislative Discussion

Legislative proposals discussed by the Council included truth in sentencing through good time and bad time reform, a flat 25% of time served prior to parole eligibility, and establishing a Sentencing Commission; lifetime supervision, residence registration and DNA registration of sex offenders; and establishing regional correctional facilities.

The Council also briefly discussed legislation requiring judges to explain their sentences. The Council expressed concern that requiring judges to explain their sentences might constitute grounds for appeal. However, the Council felt victims should be made aware of sentences as soon as possible.

The Council recommended and approved the following legislation be introduced to the 54th Session of the Montana Legislature:

- 1) Truth in Sentencing by requiring a minimum amount of time be served prior

to parole eligibility; simplifying good time by eliminating dangerous and non-dangerous sentencing designations; and eliminating good time for life sentences, requiring offenders sentenced to life to serve a minimum of thirty (30) years before becoming parole eligible;

- 2) Establishing a **Sentencing Commission** to study sentencing practices and guidelines and the effects of sentences;
- 3) Requiring convicted sex offenders to provide **DNA samples** for a data bank;
- 4) Requiring **sex offenders to register for life**; provisions to allow judges to sentence sex offenders to **lifetime supervision**;
- 5) Establishing **regional correctional facilities**.

The Legislative Council drafts of the proposed legislation are included in the legislative package section of this report.

F. Crime Bill Discussion

The Council reviewed possible impacts of the Federal Crime Bill relative to Montana's future corrections policy, planned facilities, and programs. At this time, the Council was unable to specifically identify any Crime Bill monies which would be available for Montana programs. However, it was noted there were two grants, Truth in Sentencing and Violent Offenders, available through the Crime Bill that Montana might be interested in.

G. Miscellaneous

Mike Lavin and Senator Chris Christiaens attended the National Congress on Crime in New

York in June 1994. Mike shared with the group valuable insight gained relative to mandatory sentencing, truth in sentencing, and early prevention of crime.

The remainder of this report will be devoted to addressing specific issues and recommendations of each subcommittee.

III. REGIONAL CORRECTIONAL FACILITY SUBCOMMITTEE

RECOMMENDATIONS

John Strandell, Chairperson

A. Introduction

The regional correctional facility concept was originally introduced by Rick Day, Director of the Department of Corrections and Human Services. The idea was to bring the State and counties together to work cooperatively. A regional correctional facility would consist of a county jail with a separate area (pod) to house state inmates. The pod would house medium and close custody state inmates. To date, the following counties that have expressed interest in participating in the regional correctional facility program include Hill, Ravalli, Cascade, Yellowstone, Dawson, Missoula, Gallatin, and Custer.

B. National Institute of Corrections Grant

The Department of Corrections and Human Services received a grant from the National

Institute of Corrections (NIC) for technical assistance relative to the regional correctional facility project. Mr. Ken Schulsen of NIC submitted a report to the Department. A steering committee was formed, per recommendation of the subcommittee and Mr. Schulsen's NIC report, to formulate regional correctional facility guidelines.

C. Budget Information

Budgetary concerns were expressed relative to the level of State support available or planned to assist with funding regional correctional facilities. It was noted funding for three regional prison pod facilities is already incorporated into the FY 96-97 executive budget.

D. Advantages and Disadvantages

The following are many advantages of building regional correctional facilities:

- The State would gain hard cell capacity without adding to the on-site population at Montana State Prison;
- Staff members of the regional correctional facilities will be full-time county employees;
- The facilities will be geographically placed throughout Montana, which will save on transportation and staffing costs;
- State and county revenues will be pooled, allowing counties necessary operating capital, as well as a greater variety and availability to inmate programming and other resources at a reduced expense to both the county and state;
- Counties will qualify to utilize managed health care and pharmacy programs, which will reduce medical costs;

- Sentenced state inmates will be housed closer to home;
- Additional bed space will be available to house federal inmates, which will assist in offsetting costs;
- Provides counties with funding support to build and operate jail facilities;
- The facilities will remain under local control through the Sheriff of each county;

Problems noted relative to the regional correctional facilities concept were:

- Gaining approval from the Legislature;
- Lack of trust between State and local governments;
- Reactions from communities to having inmates in the communities;
- Impacts on local social services.

E. Recommendation

The Regional Correctional Facility Subcommittee recommended the regional correctional facility concept be presented to the 1995 Legislature. The first facility proposed for construction is in Cascade County, where voters approved a local jail bond issue. To support the Council's decision to recommend regional correctional facilities to the 1995 Legislature, the Department of Corrections and Human Services, drafted the legislation, which is included in the legislative package section of this report.

IV. SEX OFFENDER SUBCOMMITTEE RECOMMENDATIONS

Mike Salvagni, Chairperson

A. Introduction

The mission of this subcommittee was to consider more stringent and progressive responses to sex offenses. The Sex Offender Subcommittee was formed to consider lifetime supervision of sex offenders. During the discussions, DNA registration of convicted sex offenders, lifetime registration of sex offenders, and public disclosure of the offenders' identity and addresses were considered and addressed.

B. General Discussion Regarding Sex Offenders

Sandy Heaton, Psychologist Specialist at Montana State Prison, noted the sex offender treatment program currently in place at Montana State Prison has been operating since 1975. Sandy noted there are currently 400 sex offenders incarcerated at Montana State Prison. Of the 400, approximately 119 are non-compliant with treatment. Approximately 1/3 of this population have the potential to leave prison untreated.

Statistics show the greatest risk of reoffense is within the first six months. The second time frame most common for reoffense happens fifteen (15) to twenty (20) years later. Ted Clack, Research Manager for the Department of Corrections and Human Services, related that incest offenders have the lowest risk for reoffense and rapists have the highest risk for reoffense. The average sentence received by sex offenders is five years, half of which is usually spent on probation and/or parole supervision. One out of every four sex offenders completes their sentence and is discharged from prison without any supervision, due to no suspended portion of a sentence having been issued by the sentencing judge.

Sandy Heaton further noted that sex offender treatment works for the majority of offenders. Sex offenders can be safely managed in the community through probation/parole supervision and sex offender treatment participation. Therefore, the reader can conclude lifetime supervision of sex offenders would provide continued treatment and necessary monitoring.

The following points of discussion explain the proposed legislation contained in the recommendation section of this subheading.

C. *Lifetime Supervision of Sex Offenders*

The Subcommittee obtained and reviewed existing information and Arizona laws regarding lifetime supervision and registration. Sandy Heaton, Psychologist Specialist at Montana State Prison, who provides sex offender treatment, and Mike Ferriter, the Probation and Parole Bureau Chief, support lifetime supervision of sex offenders. The Montana Sex Offender Treatment Association (MSOTA) providers also support lifetime supervision of sex offenders.

According to MSOTA, the treatment component of sex offender supervision is vital. MSOTA suggested treatment for convicted offenders be mandatory and included as part of the original sentence. In addition to the treatment component, MSOTA providers indicated they are discussing management of sex offenders relative to approving/disapproving employment and imposing house arrest for high risk offenders.

Lifetime supervision is not intended to mean life in prison for the offenders. Lifetime supervision legislation would be based on successful completion of the sex offender treatment program in Montana State Prison prior to release. Sex offenders sentenced to the Department of Corrections and Human Services for life will not become parole eligible. Three steps that need to be accomplished to enact lifetime supervision of sex offenders are passing the legislation, allocating funding for treatment, and increasing Probation/Parole Bureau staff.

A stipulation allowing sentencing judges to be able to grant reprieve from lifetime supervision was discussed but not recommended by the subcommittee.

D. Impact of Lifetime Sentencing of Sex Offenders

MSOTA treatment providers related community based sex offender treatment programs are more cost effective than prison treatment programs. However, the costs of community based treatment poses a significant burden on offenders. It was also mentioned that requiring offenders to pay for their own treatment imposes accountability and responsibility. However, because offenders are paying for their own treatment, which is expensive, they often can't afford to pay for their victims' treatment. The Department of Corrections and Human Services currently has legislation pending to provide \$110,000 for treatment funding. A portion of this money is planned to be used to assist indigent sex offenders with paying for community treatment costs.

The subcommittee discussed whether lifetime supervision should be mandatory following a

second conviction or left within the discretion of the judge. The discussion included the acknowledgement that lifetime supervision may be the best response to a first conviction in order to avoid a second offense. It was decided lifetime sentencing for sex offenders for a first offense should be discretionary for the judge.

Questions arose as to whether or not lifetime supervision of sex offenders would significantly impact probation and parole caseloads. Mike Ferriter, Probation and Parole Bureau Chief, noted because the number of repeat, or second time, sex offenders is so low, which is the most likely target group for lifetime supervision, this sentencing option will have only a minimal impact on caseloads. However, this impact is primarily dependent upon how often the judges choose to impose lifetime supervision. In any event, the fiscal impact of lifetime supervision has already been included in the budget.

E. Lifetime Registration of Sex Offenders

Along with lifetime supervision of sex offenders, the subcommittee discussed the issue of lifetime registration of sex offenders. Under current Montana law, sex offenders are required to register with local law enforcement for ten years. Even though the Department of Corrections and Human Services has a data base of registered sex offenders, the subcommittee felt ten years is not a long enough time for sex offenders to be registered, especially if sex offenders will be supervised for life. Additionally, sex offender registration is currently the responsibility of the sex offender. Lifetime supervision in conjunction with sex offender registration should ensure compliance. Further, suggestions from the subcommittee relative

to lifetime sex offender registration were for statewide registration, accomplished by a sex offender registration file being added to CJIN; public disclosure of sex offenders' names, according to discretion exercised by the Department; and increasing the statutory penalty for failing to register to a \$5000.00 fine and/or five years in prison.

F. DNA Registration for Sex Offenders

Deoxyribonucleic acid, found in chromosomes, is unique for every person except identical twins. Thus, DNA offers the potential to make positive identification of perpetrators from blood, semen, hair, or tissue samples found at a crime scene, provided they are convicted sex offenders with DNA already in the data bank. Twenty-six (26) states currently have laws allowing for DNA sampling of convicted sex offenders and violent offenders. DNA testing would also provide information to clear innocent suspects who are previously convicted sex offenders. DNA samples would be analyzed and stored in the lab at the Forensic Science Division of the Department of Justice in Missoula. Only law enforcement agencies would have access to the confidential DNA information. California currently has DNA registration for sex offenders and the law has yet to be challenged.

DNA registration orders will be discretionary for the sentencing judge based on the crime and surrounding circumstances.

The subcommittee reviewed New York state's current laws relative to DNA registration of sex offenders and decided to adopt the New York example.

G. Estimated Budget Information Relative to DNA Registration

Estimated costs for a facility to maintain DNA registration for sex offenders would be two full-time employees; \$100,000 yearly operating costs; \$72,000 constructions costs (to add one room to the State Crime Lab in Missoula); \$75,000 for equipment; and \$50.00 per test for materials. It was noted it will take from one and one-half to two years to get this project up and running. Montana might be able to access monies from the Crime Bill to support this project, provided it is in operation when the funds are released for bid. In any event, a proposal to establish DNA registration will be effective upon identification of a funding source.

H. Recommendations

The Sex Offender Subcommittee recommended the following legislation be introduced to the 1995 Legislature:

- DNA Testing for Sex Offenders, currently numbered LC0285;
- Lifetime Sentencing and Registration for Sex Offenders, currently numbered LC0286.

Please refer to the legislative package section of this report for the specific details surrounding this legislation.

V. TRUTH IN SENTENCING SUBCOMMITTEE RECOMMENDATIONS

Judge Ted Lympus, Chairperson

A. Introduction

Subcommittee members met with Montana State Prison officials to determine needs and the impact of a truth in sentencing law. The priority of the subcommittee was to address the truth in sentencing issue and ensure it would have a neutral impact on the prison population. The subcommittee felt simplicity is vital to judges and others to know exactly how long an inmate will serve on a sentence. It was noted the subcommittee should carefully consider offender management and motivation at Montana State Prison, as they are two very critical aspects relative to good time. The subcommittee felt eliminating good time accrual for inmates in maximum security was critical.

B. Truth in Sentencing and Good Time Information

The subcommittee addressed the controversial and confusing issue of good time. The subcommittee decided to propose inmates receive a flat thirty (30) days of good time per month; in addition, inmates will have to serve at least 25% of their sentence before becoming parole eligible. The truth in sentencing proposal does away with dangerous and non-dangerous designations at sentencing by essentially adopting the minimum time presently required under the dangerous offender designation. Further, the subcommittee recommended eliminating the 17-1/2 year rule pertaining to parole; abolishing good time for life sentences, requiring inmates to serve thirty (30) years, not fifteen (15), as is presently required; and eliminating early parole releases relating to overpopulation.

C. Montana Commission on Sentencing

The subcommittee proposed establishing a Montana Commission on Sentencing to study good

time, sentencing practices and guidelines, and the effects of sentences.

D. Recommendations

The Truth in Sentencing Subcommittee recommended two pieces of legislation:

- Truth in Sentencing, currently numbered LC0983;
- Commission on Sentencing, currently numbered LC0984.

Again, please refer to the legislative package section of this report for details of the above proposed legislation.

VI. CONCLUSION

The work of the Council and subcommittees was very productive. The Council provided specific recommendations designed around new solutions to long-standing problems, including improved detention; expanded prison capacity; supervision and penalties for sex offenders; and sentencing revisions.

The Office of the Sheriff
Barry C. Michelotti, Sheriff



EXHIBIT 9
DATE 2-1-95
HB 304
CASCADe COUNTY
325 Second Avenue North
Great Falls, Montana 59401
(406) 454-6820 FAX (406) 454-6948



December 30, 1994

Honorable Jeffrey M. Sherlock
Lewis and Clark County Courthouse
228 Broadway
Helena Mt. 59623

Dear Judge Sherlock,

This letter is being addressed to you to inform you of the organization and membership of the Sub-Committee on Regional Prison Pods, as part of the Governors Advisory Council on Corrections and Criminal Justice.

The membership will be:

John Strandell, Chairman
Jim Cashell, Gallatin County
Frank DiFonzo, Sidney Police Department
Myron Beeson, Montana State Prison
Mike Gresack, Parole and Probation, Great Falls
John DeVor, Missoula County
Pat Demming, Dawson County
Dennis McCabe, Yellowstone County

Our first meeting will be held on January 13th, 1995, in Yellowstone County. A grant application has been submitted to the National Institute of Corrections for technical assistance for developing master plan for the State, to assist the Department of Corrections.

I wish you and your family the best, and I am looking forward to working with you and the council on our legislative agenda in 1995

Sincerely,


John L. Strandell, Undersheriff



LARIIBI 10

DATE 2-1-95

HB 304

● PROPOSED REGIONAL JAILS

MONTANA

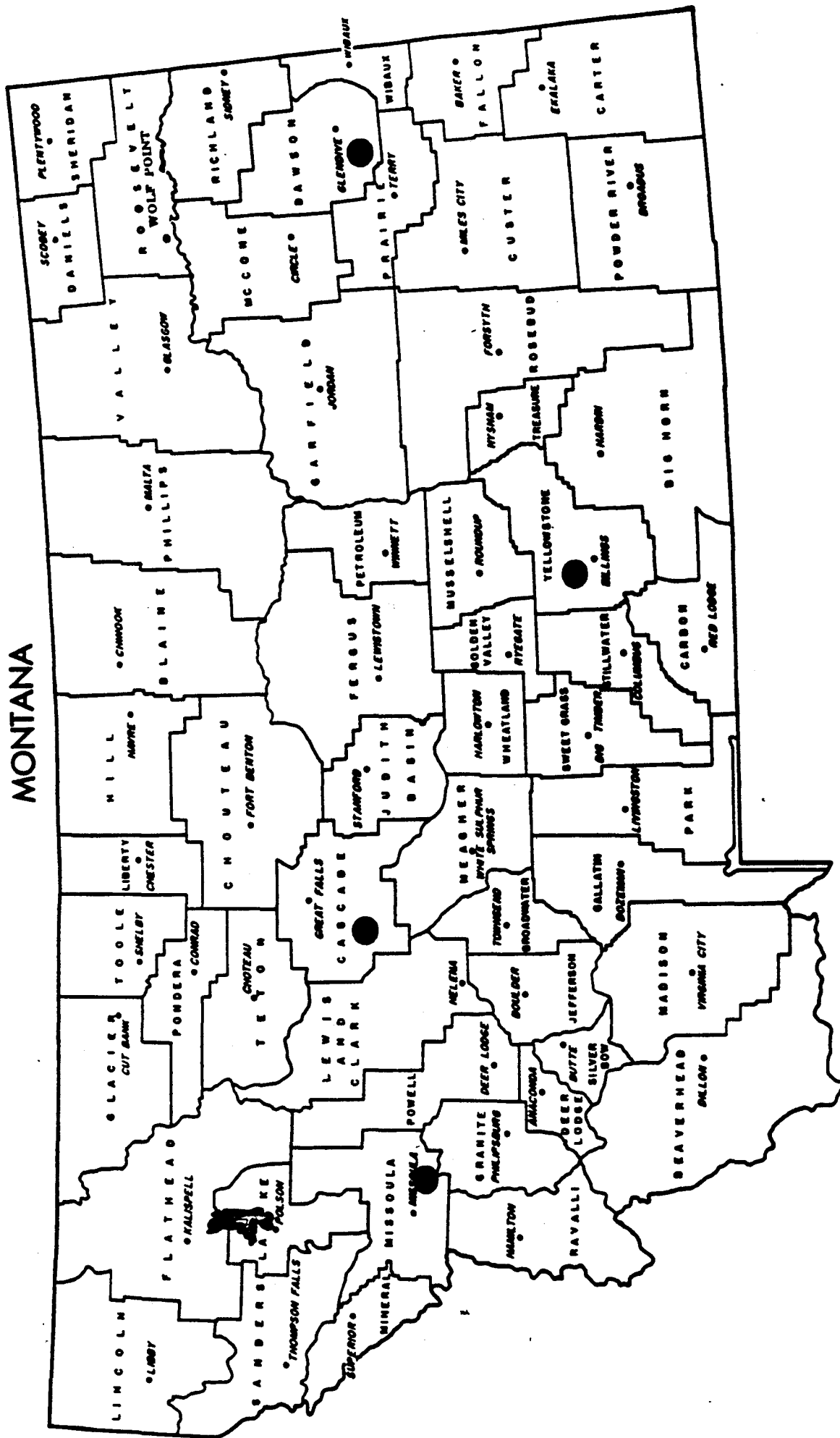


EXHIBIT 11
DATE 2-1-95
HB 304

ZIP!Office Release 1.25

Printed by: Anderson, Robert W at 2/01/95 10:33a

To: Anderson, Robert W

From: DeCunzo, Ralph

Date: February 1, 1995 8:11a

Subject: (Attachment 1)cost.msp

--- Attachment: MSP10M.CST DOS (WordPerfect 5.1) -----

HB #266
PROPOSED CONSTRUCTION

Given \$10,000,000 what can we build at Montana State Prison.

The facilities estimated here are based on the Montana State Prison Expansion Project that was planned in 1992. The costs used for the space requirements are estimated based on the number of inmates projected. The costs were updated to 1995 and projected to construction in 1996. The total number of cells projected in this estimate are 64 close classification.

FUNCTIONS		COSTS
Close Housing 64 cells:		\$3,999,680
Administrative Support:		103,440
Dining/Food Service:		912,455
Recreation:		919,270
Warehouse Expansion:		152,280
Education:		117,840
Medical:		279,000
Sitework:		100,000
Water/Lagoon Improvements:		800,000
Inflation @ 8%:	\$590,717	7,974,682
Design Contingency @ 10%:	\$797,468	8,772,150
Architect's Fees @ 8%:	\$689,012	9,473,922
Construction Contingency @ 5.5%:	\$526,078	\$10,000,000

EXHIBIT 12
DATE 2-1-95
HB 304

Cascade County Adult Detention Center

State Prison Pod Program

Project Estimate Cost

Building Construction:

Cost:

*	Detention Areas 19,067 sf x 135/sf	\$2,574,045.00
*	Support Areas 2,730 sf x \$85/sf	\$232,050.00
	6,660 sf x 128/sf 30% cost share	<u>\$852,480.00</u>
	Total Support:	\$1,084,530.00
*	Site Development (Based on 30% of total site costs)	\$120,000
*	Soft Costs: (Permits, professional fees, etc)	\$350,000
*	Regional Office- Highway Patrol 1,130 sq. ft. x \$85 sq ft	\$102,000
	Total Estimated Cost:	\$4,230,575.00

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. HB 297
 DATE 2-1-95 SPONSOR(S) HB 304

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Gloria Paladichuk	Richland Development	HB 297		✓
Joe Menicucci	City of Belgrade	HB 297		✓
Blake Wurdal	Lewis & Clark County	297		✓
SAN FRANCISCO	GALLATIN CO	297		✓
Monroe Jr	MA CO	297		✓
W James Kembel	City of Billings	297		✓
Howard Gipe	Ft. Lincoln	304		✓
Larry Gullyker	City of Kalispell	297		✓
Kim Milbourn	City of Helena	297		✓
Alec Hansen	MIC T	297		✓
Charles R. Brooks	Yellowstone County	297		✓
Robert A White	Bozeman Chamber	297		✓
Vernon Peterson	MA CO & Fergus County	297		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. H.B. 297
 DATE 2-1-95 SPONSOR(S) HB 304

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Rona Alexander	MT Petroleum Marketing	297		X
MARV DYE	MDT	297		
Myron Beeson	MSP - BW I	304		X
MIKE MAHONEY	MSP Bureau Director	304		P
DAVE OHLER	Dept. of Corrections	304		X
RICK DAY	" " "	304		X
JOHN STRANDELL	CASCADE Co	304		X

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