

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on January 18, 1995,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None

Members Absent: Rep. Daniel C. Fuchs (R)

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

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

Committee Business Summary:

Hearing: HB 138
HB 141
HB 143

Executive Action: HB 138 - Do Pass As Amended
HB 32 - Table
HB 96 - Do Pass As Amended

{Tape: 1; Side: A.}

HEARING ON HB 143

Opening Statement by Sponsor:

REP. BOB PAVLOVICH, House District 37, Butte, said that HB 143 was being introduced on behalf of the Judicial Unification and Finance Commission which was created by the 1993 Legislature to study the potential unification and future financing of Montana's courts. This is one of seven proposals advocated by the Committee. This bill would require counties to establish a fund for district court records retention, preservation and technology, clarifies the disposition of district court fees and raises certain district court fees by \$5.00. The bill also provides that the increase in fees be deposited in the county fund for district court records retention, preservation and technology.

Proponents' Testimony:

Lori Maloney, Clerk of the District Court, Butte/Silver Bow County, stated that she was a member of the Judicial Unification and Finance Commission and she provided Committee Members with a "Summary of Proposals" developed by the Commission. EXHIBIT 1 She said part of her job was to retain and preserve the district court records pursuant to state law. Prices are going up on microfilming equipment, fire-proof storage equipment and film. Every county is facing this problem, yet preservation of records is low on the list for funding. She said the bill would ask for \$5 from each person who comes to the District Court to file a court record. Last year, in Butte, there were 893 filings which would have produced a total of \$4,465 for preservation of records. Currently it costs \$200 a month to microfilm daily records and there are major costs for preserving the very old records. Also included in the bill are requests for increasing the fee for transmission of records to another court from \$5 to \$25, increasing the fee from \$10 to \$30 for filing and entering papers received by transfer from other courts, and an additional \$6.40 for a marriage license to be deposited in the District Court fund rather than the county general fund. Ms. Maloney presented letters of support to be entered into the record. EXHIBIT 2.

Nancy Sweeney, Clerk of the District Court, Lewis and Clark County, spoke in support of the bill. Her testimony is attached to these Minutes as EXHIBIT 3. Ms. Sweeney also suggested an amendment to add \$1 to the cost collected for certification to be deposited in the fund established for District Court records. EXHIBIT 4. This would correspond to the fund established for county clerk and recorders for the preservation of records.

Patrick Chenovick, Administrator, Montana Supreme Court, appeared before the Committee in support of the bill because preservation

of records in the District Court are very important to the Supreme Court in hearing appeals and also in probates. It is extremely necessary that these records are kept in good condition for a lengthy period of time.

Kathleen Breuer, Clerk of the District Court, Missoula County, and President of the Montana Association of Clerks of the District Courts, encouraged the passage of HB 143. She said Missoula County spent \$5,000 last year for microfilm and these costs present real problems for the smaller counties.

Gordon Morris, Director, Montana Association of Counties, said that MACO was represented on the Judicial Unification and Finance Commission and would go on record in support of HB 143.

Kathryn Otto, State Archivist, Montana Historical Society, spoke in favor of retention and preservation of essential court records. The program will save money in the long run and she encouraged the Committee's support.

Bob Gilbert on behalf of the District Courts of the State of Montana offered his services to the Committee to furnish additional information and also urged support of HB 143.

Opponents' Testimony:

There were no opponents to this bill.

Questions From Committee Members and Responses:

REP. ROSE asked if the funds would be used specifically for the preservation of records and not be placed in the judge's slush fund. **Ms. Breuer** replied that the fund would be earmarked specifically for the use of the Clerk of the District Court for preservation and retention and, eventually, technology. No one else will have access to the funds and they will be carried over from one year to the next.

REP. MURDOCK asked how long it had been since District Court filing fees had been raised. **Ms. Breuer** said the last increases were in 1991 and 1992 for judicial salaries. Prior to that, it had been ten or twelve years since they were increased.

REP. ELLIOTT asked if the \$20 going to judicial salaries referred to on page 3, line 11, referred to new money. **Ms. Breuer** clarified that this was the old language in the bill that provided for the increase in 1991 and 1992.

In answer to a question from **REP. SOMERVILLE**, **Ms. Breuer** explained in detail how District Court fees are currently distributed to various funds as provided by law. She said she would furnish the Committee with a document outlining this information prior to executive action on this bill. She emphasized, in response to a question from **CHAIRMAN HIBBARD**, that currently no money is set

aside specifically for record retention and preservation. This bill will set up a new account.

REP. HANSON referred to the bottom of page 2 of the bill which indicates that \$6.40 is to be deposited to the county District Court and she asked if this amount originally went to the District Court and then was taken away and deposited to the general fund and now the District Courts would like to have it back. **Ms. Breur** advised that this was correct.

REP. JORE asked if his understanding was correct that one of the functions of the District Court was to file these records. **Ms. Breur** said they do that function now and each county has money set aside to do what they can. These funds are expended rapidly, because costs keep going up and the number of documents increases.

Closing by Sponsor:

REP. PAVLOVICH thanked the Committee for a good hearing and encouraged positive consideration.

HEARING ON HB 141

Opening Statement by Sponsor:

REP. ROBERT STORY, House District 24, advised that HB 141 was brought to the Committee at the request of the Department of Transportation. The bill contains several features which clarify terms and also brings the taxing and reporting criteria on gasoline and special fuels into line. The bill clarifies that anything added to gasoline which increases the quantity is taxed at the same rate as the gasoline. The old method of collecting gasoline tax allowed for an evaporation loss to compensate the dealer for collecting and reporting the tax. This has been eliminated because Section 15-70-205 provides for a 1% handling charge. Section 15-70-222 deletes one of the options for applying for a gas tax refund because it is used by a very minimal number of applicants, and it also brings the statute in line with the regulations for diesel fuel. The bill also contains a new section which provides the Department of Transportation with a disclaimer and allows the Department to offset tax refunds to satisfy delinquent motor fuel taxes.

Proponents' Testimony:

Bill Salisbury, Administrator, Administration Division, Montana Department of Transportation, appeared before the Committee to offer support for HB 141. Mr. Salisbury's testimony is attached as EXHIBIT 5.

Bob Stephens, Montana Grain Growers Association, said this association wanted to go on record in support of HB 141.

Opponents' Testimony:

There were no opponents to HB 141.

Questions From Committee Members and Responses:

CHAIRMAN HIBBARD asked how many people use the two-tank system presently. **Mr. Salisbury** said there 143 agricultural users, 1 mining, and 15 other users. The agricultural users would be able to use one of the other two options.

REP. MURDOCK asked if her understanding was correct that this is an attempt to tax the alcohol fuels that have not been taxed.

Mr. Salisbury said they were talking about untaxed alcohol, perhaps coming from out of state and dispensed at the retail level, and it should not be confused with the gasohol incentive.

CHAIRMAN HIBBARD asked if this was a significant problem. **Mr. Salisbury** said it was not.

REP. REAM inquired about the offset on gas or other refunds due the taxpayer mentioned in the new Section 7. **Mr. Salisbury** replied that if an individual is getting a refund, but owes other taxes, the section authorizes the Department to use the refund as an offset.

{Tape: 1; Side: B.}

Closing by Sponsor:

REP. STORY advised that a fiscal note had been requested but he doubted there would be any fiscal impact. He encouraged the Committee to pass the bill.

HEARING ON HB 138**Opening Statement by Sponsor:**

REP. MARION HANSON, House District 1, brought before the Committee HB 138 which will revise the due date of the annual reports of utility companies. She noted that an amendment to the bill had been prepared which would make the dates in the bill consistent for companies reporting on either a fiscal or calendar year basis. EXHIBIT 6. The utility companies have requested this change as a result of the changes made in the 1992 filings of the PSC and the Federal Regulatory Energy Commission and, with all the new information they must provide to those agencies, they are asking for the extra 30 days to get their reports filed without having to ask for an extension.

Proponents' Testimony:

Mike Harrington, Montana Power Company, asked for support of this bill. **Mr. Harrington's** testimony is attached as EXHIBIT 7.

Dan Elliott, Montana Public Service Commission staff member, said he was appearing as a proponent of this bill on behalf of the PSC. He said the utility companies have been requesting extensions and, by law, they are granting them. This time extension would allow the utilities to close their books and provide all the information required without requesting an extension.

Jim Paladichuk, Montana Dakota Utilities, also expressed support of HB 138.

Opponents' Testimony:

There were no opponents to this bill.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

REP. HANSON asked the Committee to vote "Do Pass" on this small housekeeping bill.

EXECUTIVE ACTION ON HB 138

Motion/Vote: REP. HARPER MOVED THAT THE PROPOSED AMENDMENT TO HB 138 BE ADOPTED. On a voice vote the motion carried unanimously.

Motion/Vote: REP. HARPER MOVED THAT HB 138 AS AMENDED DO PASS. On a voice vote the motion carried unanimously.

{Tape: 1; Side: B; Approx. Counter: 400; Comments: Recorder was not turned off during break in Committee deliberations; therefore, conversations taking place in meeting room were recorded.}

EXECUTIVE ACTION ON HB 96

Motion: REP. HARPER MOVED THE AMENDMENTS TO HB 96 BE ADOPTED.

Discussion:

REP. HARPER explained that REP. ORR had requested the amendments which add a statement of intent to the bill to clarify that the legislature has recognized the costs and consequences of this situation and encourages all parties, when comparing private versus government costs, to consider costs that are incurred by private business but not by the government. The amendments also provide for an immediate effective date. EXHIBIT 8.

Vote: On a voice vote, the motion to adopt the amendments carried unanimously.

Motion/Vote: REP. REAM MOVED THAT HB 96 DO PASS AS AMENDED. On a voice vote, the motion carried unanimously.

EXECUTIVE ACTION ON HB 32

REP. NELSON advised that an interim study had been done by the Senate Finance Committee as a result of a bill passed in the 1993 session on earmarking funds. He suggested that in light of a bill to de-earmark funds which is expected to be introduced in this session, this HB 32 might not fare very well and it might be wise to consider not earmarking the funds. He said he understood that this would run counter to the purpose of the bill but he did offer his comments for the Committee's information.

CHAIRMAN HIBBARD asked if there were any amendments to the bill.

REP. HARPER said he did have an amendment but he would prefer to have the bill discussed prior to offering his amendment.
EXHIBIT 9.

Motion: REP. BOHLINGER MOVED THAT HB 32 DO NOT PASS.

REP. BOHLINGER explained that he opposed this bill because he sensed a concern on the part of the public regarding the earmarking of funds and, presently, there are already considerable taxes imposed on purchases of new vehicles. He also believed there was a remedy within the industry to address problems. Responsible car dealers are taking care of the problems which arise.

REP. RANEY said that if this bill does not pass, the Committee has a responsibility, because it has been presented with an unfunded law, to draft a committee bill to get rid of the law. The other alternative would be to amend the bill to take the \$1 out of existing funds.

REP. HARPER told the Committee about his experiences with a local car dealer and the dealer's inability to repair his wife's automobile. If the lemon law had not existed, the dealer would not have replaced the car. He said that some companies may be better than others, but, without the law "he wouldn't have had a chance."

REP. ROSE asked if this would fall under the jurisdiction of the Consumer Council's authority. REP. HARPER replied that it would not because the Council represents consumers on utility rates.

REP. WELLS said he did not support the bill because the American made cars already have arbitration committees and whenever an individual buys anything there is some risk and it's impossible

to protect people from everyone and every problem they encounter. He also said he didn't like the idea of adding \$1 because it opens the door for the future to add more money. He said he had experienced similar problems with cars and found that being forceful could bring results without having to resort to the government for help.

REP. STORY reminded the Committee that the subject of the discussion is collecting \$1 to fund an arbitration panel. The lemon law is in effect and it does lend some bargaining power to the consumer.

REP. SWANSON said she agreed that if it was necessary to have a law to protect the public it should be funded and if it wasn't necessary, it should be taken off the books.

REP. MURDOCK said that, living near the reservation, she was concerned about whether, whenever a state fee is considered, the tribal members would be involved or not.

REP. BOHLINGER recalled that approximately \$9 million in title and registration fees are paid by car purchasers and the 1.5% sales tax on cars generates \$8 million, and it was his opinion that the arbitration panel could be funded from these funds.

REP. HARPER said he had an amendment prepared which would do this. A vote for the amendment would be a vote against the increased fee.

REP. ELLIOTT said he supported the lemon law because there are people who do not have the forcefulness to deal with these issues and who need and benefit from a program like this. He did not agree with adding an additional \$1 fee. There is a sufficient amount of money already collected out of which a program could be funded.

Motion/Vote:

REP. HARPER MOVED THE ADOPTION OF THE AMENDMENT TO STRIKE \$1 FROM THE BILL. On a roll call vote, the motion passed 14-4.

REP. REAM reminded the Committee that the bill was requested by the Department of Commerce which does have the responsibility for administering this law even though they do not have the funding.

{Tape: 2; Side: A.}

Motion/Vote: REP. REAM MADE A SUBSTITUTE MOTION THAT THE BILL DO PASS AS AMENDED. On a roll call vote, the motion failed on a tie vote, 9-9.

Motion/Vote: REP. HANSON MOVED TO TABLE THE BILL. On a voice vote, the motion passed unanimously.

HOUSE TAXATION COMMITTEE

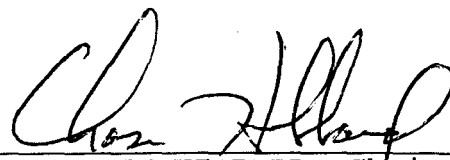
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A discussion followed for the benefit of new Committee members on meeting protocol when the question is called for. Adverse committee reports were also discussed.

ADJOURNMENT

Adjournment: 9:35



CHASE HIBBARD, Chairman



DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE Jan. 18, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs		✓	
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

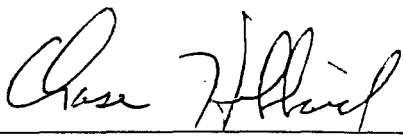


HOUSE STANDING COMMITTEE REPORT

January 18, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that **House Bill 138** (first reading copy -- white) do pass as amended.

Signed: 
Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 5.
Strike: "THAT" through "31"
2. Page 1, line 14.
Strike: "September 15"
Insert: "October 31"

-END-

Committee Vote:
Yes 19, No 0.

151326SC.Hbk



HOUSE STANDING COMMITTEE REPORT

January 18, 1995

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 96 (first reading copy -- white) do pass as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard".

Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "AND"

2. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 8.

Following: line 7

Insert: "WHEREAS, the Legislature has specifically exempted vehicles owned by special districts from various vehicle fees because it considers the use of taxpayer money to pay taxes to other tax entities to be counter to good government; and

WHEREAS, a private business that competes with governmental entities is required to pay fees that the governmental entity does not have to pay, yet when comparing costs of services provided by government and by private business, this consideration is often not factored into the equation.

THEREFORE, the Legislature recognizes the costs and consequences of this situation and encourages all parties, when comparing private versus government costs, to consider costs that are incurred by private business but not by government."

Committee Vote:

Yes 19, No 0.

151328SC.Hbk

4. Page 9.

Following: line 27

Insert: "NEW SECTION. Section 5. Effective date. [This act] is
effective on passage and approval."

-END-

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 1/18/95 BILL NO. 92 NUMBER

MOTION: Amend

NAME	YES	NO
Vice Chairman Marian Hanson	✓	
Vice Chairman Bob Ream	✓	
Rep. Peggy Arnott		✓
Rep. John Bohlinger	✓	
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs		
Rep. Hal Harper	✓	
Rep. Rick Jore		✓
Rep. Judy Rice Murdock	✓	
Rep. Tom Nelson	✓	
Rep. Scott Orr	✓	
Rep. Bob Raney	✓	
Rep. Sam Rose	✓	
Rep. Bill Ryan	✓	
Rep. Roger Somerville	✓	
Rep. Robert Story		✓
Rep. Emily Swanson	✓	
Rep. Jack Wells		✓
Rep. Ken Wennemar		
Chairman Chase Hibbard	✓	

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HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 1/18/95 BILL NO. 32 NUMBER

MOTION: do pass as amended

NAME	YES	NO
Vice Chairman Marian Hanson		✓
Vice Chairman Bob Ream	✓	
Rep. Peggy Arnott		✓
Rep. John Bohlinger	✓	
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs		
Rep. Hal Harper	✓	✓
Rep. Rick Jore		✓
Rep. Judy Rice Murdock		✓
Rep. Tom Nelson	✓	
Rep. Scott Orr		✓
Rep. Bob Raney	✓	
Rep. Sam Rose		✓
Rep. Bill Ryan	✓	
Rep. Roger Somerville	✓	
Rep. Robert Story		✓
Rep. Emily Swanson	✓	
Rep. Jack Wells		✓
Rep. Ken Wennemar		
Chairman Chase Hibbard		✓

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9

JUDICIAL UNIFICATION AND FINANCE COMMISSION
SUMMARY OF PROPOSALS

The Judicial Unification and Finance Commission (JUFC), was created by the 1993 Legislature to study the potential unification and future financing of Montana's courts. The committee is proposing seven Legislative bills and a number of Recommendations.

JUFC LEGISLATIVE PROPOSALS

LC0067 District Court Funding -- Establishes a state cost-sharing program for certain district court expenses in civil proceedings similar to the criminal reimbursement program, except that the state would pay up to 50% of the costs. Eligible expenses under this program are:

(1) Representation of indigent persons who are (a) charged with a misdemeanor in justice court, (b) subject to civil commitment proceedings, (c) youths charged under the Montana Youth Court Act, (d) subject to child dependent and neglected proceedings;

(2) Juvenile probation; and

(3) Court reporters salaries in civil cases.

To pay for the civil reimbursement program the legislation imposes a mandatory 0.1% light vehicle tax. Funding for the 50/50 cost share would be statutorily appropriated for the above stated civil expenses. Counties will continue to have the option to levy a light vehicle tax up to 0.4% and the bill makes

permanent the present distribution of option tax monies (50% the county and 50% to the cities, towns, and outlying areas of the county on the basis of population) thereby removing the previous sunset provision which otherwise would become effective on July 1, 1995.

RATIONALE: The Legislature should act LC67 to provide state funding for up to 50% of each county's most volatile or uncontrollable court expenses in civil cases: indigent representation, juvenile probation and court reporters' salaries. More than half of Montana's counties are experiencing serious shortfalls in their district court budgets. District court expenses such as indigent defense and juvenile probation are volatile and unpredictable. Unexpectedly high expenses can seriously affect the stability of county budgets and fiscally hurt some counties more than others. Furthermore, county commissions have no authority to control some expenses that are dictated by statute such as salaries for court reporters and juvenile probation officers. The bill also eliminates the sunset provision in the existing 0.5% light vehicle option tax thereby guaranteeing counties a permanent source of revenue for district court and other needs as well as a permanent source of revenue for cities and towns.

LC0130 Civil Commitment Proceedings -- Provides that payment for civil psychiatric evaluation and treatment costs incurred in involuntary civil commitment proceedings will be assumed by the state, and will be paid from the state general fund.

RATIONALE: Seriously mentally ill persons, who were formerly cared for in state custodial institutions, are now the

responsibility of the counties of which they are "residents." (53-21-113 M.C.A.) During civil involuntary commitment proceedings, such persons must be hospitalized and a typical hospitalization is two to four weeks at an average cost of \$1,200 per day. Seriously mentally ill persons from outlying counties tend to take up residence in counties which have mental treatment centers and thus the burden of these expenses tends to impact urban counties disproportionately. Such expenses are escalating, they are unpredictable, and they cannot be controlled at the local level. Such expenses exceeded \$1.2 million during the 1993-1994 biennium. By shifting these expenses from the counties to the state general fund, the cost of caring for such patients would again be assumed by state and the counties would no longer be subject to uncontrollable expenses mandated by the state for which no funding mechanism is otherwise provided.

LC0066 Post Conviction Relief Expenses -- Provides that the district court criminal reimbursement program pay certain costs for post conviction relief hearings and habeas corpus proceedings and for certain expenses incurred by the state in federal habeas corpus cases challenging the validity of conviction or of a sentence.

RATIONALE: Current statutes (Title 46, Chapters 21, 22) provide that a person convicted and sentenced for a criminal offense may file a petition challenging the validity of the court's judgment. These post-conviction relief proceedings involve expenses for evidentiary hearing and court appointed counsel. The district court criminal reimbursement program funded under Section

3-5-901 M.C.A. does not reimburse counties for these expenses. Although exact data is not available it is estimated that the cost of these proceedings state wide is probably less than \$20,000 per year and adding this category to the criminal reimbursement program will not require any additional funding sources.

LC0065 Court Automation -- Requires all courts of original jurisdiction to impose a \$5.00 user surcharge (to be statutorily appropriated) in criminal, civil, and probate cases to be used for state funding of court information technology.

RATIONALE: In 1990, the Supreme Court ordered the Office of Court Administrator to provide automation for the 182 courts in Montana. Contemplated projects include computerized legal research, automation of district court records, state wide access to court records, automation of traffic citations and fine collections and others. Although some progress has been made there is no funding mechanism in place to continue. The \$5.00 user surcharge would provide funding to allow the continued development of court automation.

LC0064 Court Record Retention -- Requires counties to establish a fund for district court records retention, preservation, and technology. Clarifies the disposition of district court fees and raises certain district court fees by \$5.00 in most cases. Provides that the increase in fees be deposited in the county fund for district court records retention, preservation and technology.

RATIONALE: District courts must provide for the storage and preservation of district court records, some of which date back

to 1880. However, counties have no specific budgets for maintaining such records. The objective of LC64 is to provide the funds necessary for the clerks of district courts to effectively maintain, store, and preserve such records.

LC0063 Assignment of District Judges to Other Districts -

- Provides that the Chief Justice, rather than the Governor, has the authority to temporarily assign a district judge to hold court in a district other than the judge's own district. Eliminates the requirement that such assignment is pursuant to a request by an interested person or by written order.

RATIONALE: Present §§ 3-5-111 and 3-5-112 M.C.A. provide that the Governor has the authority to assign a district judge to hold district court in another district if by reason of caseload or other circumstances the elected judge of the district is unable to do so. These statutes violate the constitutional separation of powers. Under the amended statutes, the Chief Justice will assume these functions and the requirement that an interested person must first request the reassignment is eliminated.

LC0062 Seven Member Supreme Court -- Makes permanent the provision setting the number of associate justices on the Montana Supreme Court at six.

RATIONALE: This provision would retain the present seven member court which otherwise will be reduced to a five member court pursuant to a sunset provision effective January 6, 1997. Since 1979, when the Legislature first authorized a seven member court, the number of Supreme Court cases has been increasing and between

1983 and 1993, the annual number of cases rose from 561 to 659. In fiscal year 1993, the Supreme Court issued 437 opinions, or about 62 opinions per justice. If the court were reduced to five members, the number of opinions per justice per year would increase to about 87, a 40% increase. Retention of a seven member court is essential to keep pace with the increasing work load.

ADDITIONAL RECOMMENDATIONS

The JUFC also made the following additional recommendations for which no legislation was proposed.

RECOMMENDATION NO. 2: Continue to explore long term solutions. The Legislature should continue to explore long term funding solutions that ensure the sufficient, stable and equitable funding of Montana's district courts, including the potential for total state assumption of district court funding. Furthermore, if the Montana Supreme Court establishes an advisory council (see Recommendation (No. 6) the advisory council should explore court funding needs and should advise the Supreme Court and the Legislature on ways to allocate resources in the most efficient and effective manner possible.

RECOMMENDATION NO. 5: Pursue grant funding. The judicial branch in each county and court individually should actively seek funds being made available to state courts through the federal crime control bill and other court grant programs.

RECOMMENDATION NO. 6: Judicial advisory council and regional conferences. The Montana Supreme Court should establish a judicial advisory council to conduct long range strategic planning for the judicial branch. Among the issues that the

advisory council should examine are total state funding, court unification options, judicial compensation (which remains among the lowest in the nation), and court reporter employment issues.

Membership on the advisory council should include one representative each appointed by:

(1) The Supreme Court, District Court judges, Magistrates Association, Clerks of District Courts, the Court Reporters Association, the State Bar of Montana, the Montana Association of Counties, the Montana League of Cities and Towns, the Sheriffs and Peace Officers Association, the Governor, the Senate and the House of Representatives.

In conjunction, the Supreme Court should provide for regional conferences to enhance communication between judicial officials and courts at all levels.

The JUFC endorses the efforts of the Montana Judges Association to address these issues within the judicial branch.

RECOMMENDATION NO. 11: Use available technology.

The Legislature, judiciary and local government should strongly support the use of available technology, especially the Montana Educational Telecommunications Network (METNET), to improve court operations. The METNET system, which provides a two way interactive, televideo capability, should be available to as many courts as possible so that initial hearings can be conducted without the cost and security risks of transporting a defendant from the jail or detention center to the court of jurisdiction.

RECOMMENDATION NO. 12: Modify the budgetary and revenue system (BARS).

The Department of Commerce and Office of Court Administrators should work together to modify the budgetary and accounting revenue systems (BARS) format to establish a more uniform system for counting reporting of court expenditures. Uniform and accurate reporting of expenditure data is essential to determining the fiscal status of Montana's court systems..

RECOMMENDATION NO. 13: Address juvenile justice issues.

The Legislature should thoroughly examine and expeditiously address problems with Montana's juvenile justice system, especially confidentiality, sentencing, and extended jurisdiction issues involving serious juvenile offenders.



BUTTE-SILVER BOW
OFFICE OF CHIEF EXECUTIVE
COURTHOUSE
BUTTE, MONTANA 59701

EXHIBIT 2
DATE 1/18
HB 143

AREA CODE 406
PHONE 723-8262

January 17, 1995

House Taxation Committee
Montana State Legislature
State Capitol
Helena, Montana 59601

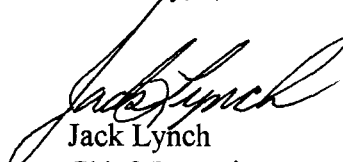
Chairman Hibbard, Ladies and Gentlemen:

I am writing this in support of HB 143, wherein a new fund will be established by local governments for the purpose of the preservation and retention of District Court records.

Maintenance of court records is mandated by State Law, however, saving a court file from the early 1900's is not as important as keeping a deputy in the Clerk of Court's Office employed. The Local Government is doing the very best that it can to properly fund the District Courts, but this is something that we keep putting on the back burner.

The amount requested is not unreasonable, and as it will be used to cover a mandated duty of the Clerk's Office, I will support it. If a fund for this mandate is not initiated by this fee, I do not see local governments being able to appropriate funds and these records could be lost forever.

Sincerely,


Jack Lynch
Chief Executive



James E. Purcell
District Judge

Bev Ogolin
Court Secretary

State of Montana Second Judicial District

Silver Bow County

January 17, 1995

Butte, Montana 59701

723-8262 Ext. 288

Fax (406) 782-6637



House Tax Committee
State Capitol
Helena, MT 59624

Re : House Bill 143

Attn: Chase Hibbard, Chairman

Dear Mr. Hibbard:

As one of the District Judges in the Second Judicial District, Butte-Silver Bow, I strongly support passage of House Bill 143. It is most important that Local Governments have the authority to preserve District Court Records. Almost everyday, someone makes an inquiry regarding the Clerk of Court's records and needs a copy. A Retention, Preservation and Technology Fund is most important and should be given the Legislature's approval.

Thank you very much for attention to this matter.

Very truly yours,

A handwritten signature of James E. Purcell in cursive script.
James E. Purcell
District Judge

JEP:bao

STATE OF MONTANA
SECOND JUDICIAL DISTRICT COURT

John W. Whelan
District Judge
Department No. II

Silver Bow County Courthouse
155 West Granite Street
Butte, Montana 59701
(406) 723-8262 Ext. 284
Fax (406) 782-6637

EXHIBIT 2
DATE 1-18-95
HB 143



January 17, 1995

House Tax Committee
ATTN: Chase Hibbard, Chairman
State Capitol
Helena, MT 59624

RE: House Bill 143

Dear Mr. Hibbard:

As a District Judge in the Second Judicial District, Butte-Silver Bow, I strongly support passage of House Bill 143. It is extremely important that our local government have the authority to preserve our District Court records. Many demands are made upon the Clerk of Court's office to obtain copies of various documents. The Retention, Preservation, and Technology Fund is most important and I encourage your support in obtaining the Legislature's approval.

Thank you for giving this your attention.

Sincerely,

A handwritten signature in cursive script that reads "John W. Whelan".
John W. Whelan
District Judge

JWW/mar

NANCY SWEENEY
CLERK OF DISTRICT COURT
Lewis and Clark County Courthouse
P. O. Box 158
Helena, MT 59624-0158
447-8216

EXHIBIT 3
DATE 1/18/95
HB 143

January 17, 1995

Rep. Chase Hibbard, Chairman
House Taxation Committee
Capitol Station
Helena, MT 59620

Dear Mr. Chairman and Committee Members,

The Clerks of Court Association is in dire need of a means to preserve the ever increasing numbers of aging and fragile original documents now stored in basements and dingy damp vaults around the state. We are asking that the legislature grant an increase in certain district court fees to provide microfilming, repairs to books and registers and computer technology to preserve our records.

Some of the clerk of court's records originate from territorial days. In Helena our records begin in 1865 and record criminal and civil cases which have important historical value to the entire state. The demand for legible, accurate records by genealogical researchers, family members and historians are increasing every year and quite simply, the more these records are handled the faster the rate of deterioration.

The 1991 legislature recognized the need for records preservation in 7-4-2635 when they established a records preservation fund for the county clerk and recorders. In addition to maintaining records of civil and criminal cases, we have records of marriages, adoptions, naturalizations, inquests, probate and estate records, involuntary commitments to the state mental hospital and records of dependent and neglected children. We are requesting a fund similar to the county clerk and recorders records preservation fund be established for preservation of the equally important records maintained in our offices.

County governments are stretched to their limits and beyond to provide basic operating expenses and do not have the resources to invest in the important area of record preservation. Records preservation is an area that can no longer be neglected or the records will be beyond saving. I encourage this committee to recommend approval of this bill and help us maintain our records of Montana's history.

Sincerely,



Nancy Sweeney
Clerk of District Court

EXHIBIT 4
DATE 1/18/95
HB 143

PROPOSED AMENDMENT TO HOUSE BILL NO. 143

Amend Section 2(1)(h) to read "(h) for each certificate, with seal, ~~\$~~3;"

New Section "2(8) Of the amount collected for each certificate, with seal, as provided in subsection (1)(h):

(a) \$2 must be deposited in the county district court fund. If no county district court fund exists, fees must be deposited in the county general fund for district court operations.

(b) \$1 must be deposited in the fund established in (section 1 for district court records."

Renumber section 2(8) to 2(9), 2(9) to 2(10) and 2(10) to 2(11) and 2(11) to 2(12)

Amend new Section 2(12) to read "(12) Fees collected under subsections (1)(g) and sections (1)(i) through (1)(l) must be deposited in the county district court fund. If no county district court fund exists, fees must be deposited in the county general fund for district court operations."

January 18, 1995

House Bill 141

SUBMITTED BY: WILLIAM SALISBURY, ADMINISTRATOR
ADMINISTRATION DIVISION
MONTANA DEPARTMENT OF TRANSPORTATION

"AN ACT CLARIFYING TERMS AND PROCEDURE BETWEEN GASOLINE AND SPECIAL FUEL, ALLOWING THE DEPARTMENT OF JUSTICE TO EXPEND FUNDS AND AUTHORIZING THE DEPARTMENT OF TRANSPORTATION TO COLLECT DELINQUENT MOTOR FUELS TAXES."

The Montana Department of Transportation appears before this committee to offer our support for HB 141.

The 1991 Legislative Session created the Montana Department of Transportation. Two components of the Motor Fuels Tax Division of the Montana Department of Revenue did not transfer to the Montana Department of Transportation. The first is the ability to limit the use of restrictive endorsements on negotiable instruments and the second is the authority to collect delinquent motor fuel taxes with an offset of tax refunds or other funds due the taxpayer from the state. This bill allows the department to utilize these collection procedures.

HB 141 would also make the gasoline and special fuel distributor laws identical by clarifying terms, tax collection procedures and refund procedures. It would also allow the Montana Department of Justice to expend funds from the tribal motor fuels administration account for expenses incurred during interagency tribal negotiation activities.

The Montana Department of Transportation urges this committee to give this proposal a pass recommendation.

EXHIBIT 6
DATE 1/18
HB 138

Amendments to House Bill No. 138
First Reading Copy

Requested by Rep. Hanson
For the Committee on Taxation

Prepared by Lee Heiman
January 16, 1995

1. Title, line 5.
Strike: "THAT" through "31"

2. Page 1, line 14.
Strike: "September 15"
Insert: "October 31"

January 16, 1995

HOUSE BILL NO. 138: DUE DATE OF PSC ANNUAL REPORT

Under current law, a public utility doing business in Montana is required to file an annual report to the Montana Public Service Commission (PSC) "not later than March 15" of the year following the close of the utility's accounting records, if the utility closes its accounts on December 31. If the utility's accounts are closed on June 30, the annual report is due "not later than the first following September 15" 69-3-203(1), MCA.

The form and content of the PSC annual reports changed effective with the 1992 filings. The revised report has caused utilities that close their accounts on December 31 some difficulties in meeting the March 15 deadline. Several of the new schedules required are prepared from information used in the "Annual Report of Major Electric Utilities, Licensees and Others" to the Federal Energy Regulatory Commission (FERC) (*i.e.*, the FERC "Form 1"). The FERC Form 1, for utilities that close their accounting records on December 31, is not due until April 30. Other required schedules involve extensive manual effort or review before they can be filed, which effort and review must come at a time when public utilities are trying to meet most of their financial reporting requirements.

The PSC has recognized the difficulties that annual filers are experiencing and has informally granted them until April 30 to file the entire report. This bill would "formalize" changing to April 30 the due date of the PSC annual report for utilities that close their records at the end of the year.

The Montana Power Company

Amendments to House Bill No. 96
First Reading Copy

Requested by Rep. Harper
For the Committee on Taxation

Prepared by Lee Heiman
January 16, 1995

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 8.
Following: line 7
Insert: "WHEREAS, the Legislature has specifically exempted vehicles owned by special districts from various vehicle fees because it considers the use of taxpayer money to pay taxes to other tax entities to be counter to good government; and

WHEREAS, a private business that competes with governmental entities is required to pay fees that the governmental entity does not have to pay, yet when comparing costs of services provided by government and by private business, this consideration is often not factored into the equation.

THEREFORE, the Legislature recognizes the costs and consequences of this situation and encourages all parties, when comparing private versus government costs, to consider costs that are incurred by private business but not by government."

4. Page 9.
Following: line 27
Insert: "NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval."

EXHIBIT 9
DATE 1/18/95
HB 32

Amendments to House Bill No. 32
First Reading Copy

Requested by Rep. Harper
For the Committee on Taxation

Prepared by Lee Heiman
January 6, 1995

1. Title, lines 5 and 6.

Strike: "INCREASING" on line 5

Insert: "PROVIDING THAT \$1 PER VEHICLE OF"

Strike: "BY \$1; PROVIDING THAT THE REVENUE IS TO" on lines 5 and
6

2. Page 1, lines 24 and 25.

Strike: "; and" on line 24 through "(2)(d)" on line 25

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO. HB 138DATE 1/18/95

SPONSOR(S) _____

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bob Stephens	mt Grain Growers ass'n	HB 141		✓
Don Elliott	mt PSC	HB 138		✓
Jim PAIAdichuk	M. D. U.	HB 138		✓
Larry Frank	MT. Term Bureau	HB 141		✓
Harold C Henrick	mt Supreme Ct	HB 143		
Mike Harrington	MPC	138		✓
Bill Salisbury	MDT	+B 141		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO. HB 141 141DATE 1/18/95 SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>P.O. 306 Atlanta</u> <u>Ronda Alexander</u>	<u>MT. Petroleum Marketers</u>			<u>X</u>

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 143 143
 DATE 1/18/95 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Lori Maloney	Clerk of Dist. Ct.			X
Nancy Sweeney	Clerk of Dist. Ct.			X
KATHLEEN D. BREUER	Clerk of Dist. Ct. (HACDC)			X
Bob Gilbert	MT Clerks of Dist. Court			X
Kathryn Otto	State Archivist			✓
Gordon Morris	MALC			✓
Charles R. Brooks	Yellowstone County			✓

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