

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON STATE ADMINISTRATION

Call to Order: By CHAIRMAN ETHEL HARDING, on January 26, 1995,
at 10:00 AM

ROLL CALL

Members Present:

Sen. Ethel M. Harding, Chairman (R)
Sen. Kenneth "Ken" Mesaros, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Mike Foster (R)
Sen. Don Hargrove (R)
Sen. Vivian M. Brooke (D)
Sen. Bob Pipinich (D)
Sen. Jeff Weldon (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: David Niss, Legislative Council
Gail Moser, Committee Secretary

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

Committee Business Summary:

Hearing: SB135
Executive Action: SB120 DO PASS AS AMENDED

{Tape: 1; Side: A; Approx. Counter: 61.5}

HEARING ON SB135

Opening Statement by Sponsor:

SEN. MACK COLE, Senate District 4, Hysham, stated SB135 is a very important bill as it affects all counties and school districts in the state of Montana. SB135 will clarify and strengthen the requirement to provide state or federal funding when the state of Montana passes down to local governments -- whether it be county commissioners, county governments, or school districts -- requirements for additional services or activities, unless it is an insubstantial amount that can be readily absorbed. Operating

under the constraints of I105 has also caused problems for many local governments, and especially counties.

Proponents' Testimony:

Gordon Morris, Director of the Association of Counties, related a story of a Great Falls Tribune newspaper article which contained comments from Budget Director, Dave Lewis, to the effect that Mr. Lewis feels there are no mandates in Montana. In response to that article, Mr. Morris met with a reporter at the Billings Gazette to publish an article to illustrate the number of mandates in the state. Letters and resolutions from county commissioners across the state indicating the impact of mandates on their counties was also sent to Mr. Lewis. **Mr. Morris** stated that he and other local government representatives were invited to meet with Speaker Mercer and President Brown regarding assessing the impact of mandates on their respective Associations. **Mr. Morris** sent his assessment to Speaker Mercer. **Mr. Morris** referred to page 1, line 30 and stated that "incidental to the main purpose of the law" is language that has been flaunted in terms of passage of legislation by stating that anything that indirectly results in an expenditure increase at the local level is not considered a mandate. **Mr. Morris** said replacing that language with "an insubstantial amount that can be readily absorbed" may invoke future debates to clearly define "insubstantial amounts" but at least it removes the "incidental to the main purpose of the law" issue. **Mr. Morris** told of a situation regarding passage of the payroll employer tax for Worker's Comp. An attempt to be exempt from that tax under the provisions of the Drake Amendment failed because it was determined that the tax was incidental to all the changes that were being implemented in terms of Worker's Comp. **Mr. Morris** stated his organization is willing to work with the Legislature, but consideration needs to be given to the financial impact to counties in Montana.

Alec Hanson, Montana League of Cities and Towns, said his organization has been working on the issue of unfunded mandates for a long time. **Mr. Hanson** stated the Drake Amendment was intended to establish a partnership between local governments and the state of Montana, but, probably, it has been one of the most heralded yet degraded and ignored laws this Legislature has ever passed. **Mr. Hanson** said under current law, if the state passes down costs to a local government, the Legislature allows cities to have additional millage authority to cover those costs. In a typical city budget, it adds up to a significant amount of additional taxes. **Mr. Hanson** described how an unfunded mandate is put into place using the Department of Health's request for additional money for drinking water in 1991 as an example. **Mr. Hanson** said he's not sure how the Legislature is going to be able to implement SB135 as Montana is one of the few states in the nation that does not have some type of local option taxing authority. Reliance on the property tax is particularly

difficult for some cities and towns due to I105. **Mr. Hanson** stated he hopes the state and local governments can establish a better partnership, and funding can be provided to local governments by means other than the property tax.

Kay McKenna, Mayor of Helena, agreed with the comments made by Mr. Hanson and Mr. Morris. **Mayor McKenna** described five issues mandated by the state which have cost the City of Helena over \$35,000. **Mayor McKenna** said that unfunded mandates are not just a drop in the bucket for the City of Helena. **Mayor McKenna** said she attended the Conference of Mayors in Portland, Oregon last summer, and she worked on several committees dealing with stopping some of the unfunded federal mandates from passing down.

Don Waldron, Montana Rural Education Association, said members of his Association have been experiencing mandates without financing for a long time. **Mr. Waldron** said his concern was that small mandates will pass and pennies will turn to dollars and dollars will turn to hundreds of dollars.

Laurie Ekanger, representing the Governor's Office, stated SB135 is consistent with the Governor's philosophy about the importance of local government and issues of fairness. **Ms. Ekanger** also stated the Governor will be proposing a Constitutional Amendment having the same intent as SB135.

Sue Olson, Musselshell County Commissioner, handed out written testimony which she read verbatim (EXHIBIT 2).

Vernon Peterson, Commissioner from Fergus County, and First Vice President of Montana Association of Counties, emphasized that when the legislature cuts budgets at the state level, the various departments of the state which are affected simply start assessing fees to the counties. **Mr. Peterson** gave an example using the annual financial report which is required by the Department of Commerce. **Mr. Peterson** said that the Department of Commerce now sends a bill with the request for the report as though it were a service the county is buying. In essence, the county must pay to send in their report. **Mr. Peterson** said he would like to address the issue of unfunded mandates a step further than just legislative mandates.

Jim Kembel, representing the City of Billings, stated support for SB135. **Mr. Kembel** handed out a copy of a graph of Federal Environmental Legislation which illustrates the growth in the number of regulations from 1910 to 1990 (EXHIBIT 3).

Opponents' Testimony: None

Questions From Committee Members and Responses:

SEN. KEN MESAROS asked Senator Cole to clarify what would be considered an "insubstantial amount." **SEN. COLE** stated the attempt was to include a figure that was very minor and could be absorbed easily. **SEN. COLE** stated he would be amenable to recommendations for amendments to clarify that particular language while still allowing that low-cost, beneficial services or activities be put in place.

SEN. MESAROS requested that Gordon Morris respond to that same question. **Mr. Morris** said he felt the best alternative would be to strike subsection 4 in both Section 1 and Section 2.

Mr. Morris said he could not define "insubstantial" and that could be a topic of debate from the local government perspective. **Mr. Morris** added, however, that "insubstantial" was better than the "incidental" language in the current law.

SEN. VIVIAN BROOKE asked Gordon Morris what could be done in a case where the state sets a figure for payment for services and that figure is lower than the costs to the local government.

Mr. Morris responded that a fixed dollar amount would require inflationary adjustments as time passes. Therefore, the funded amount should be actual costs as determined at any point in time.

{Comments: There is a lot of background noise and it's difficult to hear the conversation between Senator Brooke and Mr. Waldron.}

SEN. BROOKE stated there had been a bill last session in the House of Representatives regarding improving equity by not passing costs on to local school districts. **SEN. BROOKE** asked **Mr. Waldron** for his assessment of how well the provisions of that bill have been adhered to. **Mr. Waldron** stated it did save headaches and some money, but it was not as definite as SB135.

SEN. BROOKE asked **Mr. Waldron** to clarify he was saying that after passage of that bill, he didn't believe it held to the resolution that was in the House of Representatives. **Mr. Waldron** said when HB 667 passed in the Special Session, he believes every effort was made to make sure that it held true. **Mr. Waldron** added however, that he doesn't believe HB 667 is taken into consideration now as legislation is being introduced this session.

SEN. MIKE FOSTER asked Senator Cole if he would consider amending SB135 to include the effects of rule-making that come from different agencies, interpretations of legislation, constitutional requirements, and federal requirements that are accepted by the state. **SEN. COLE** stated his initial intent was to address mandates going down to counties, cities, local governments, and schools districts from a financial standpoint. **SEN. COLE** agreed that Senator Foster's proposals seemed like a good idea, but stated he was unsure how they would be put into

effect, but he is willing to consider amendments by the Committee.

SEN. FOSTER asked Senator Cole if he would consider asking the Senate leadership if a rule could be added to the Senate rule book stating "if there is a bill introduced that runs contrary to the Drake Amendment, then that bill is ruled out of order."

SEN. COLE stated he believed this suggestion has a good deal of validity and would be interested in considering it further.

SEN. FOSTER clarified that the statute would then require that the rule be adopted. **SEN. COLE** agreed that that would make sense.

SEN. DON HARGROVE asked Senator Cole what issues were considered when drafting SB135 that resulted in the "insubstantial amount" language. **SEN. COLE** stated he worked with county commissioners when drafting SB135, and they had attempted to tighten up that particular language, but that language was actually the best at the time.

SEN. COLE introduced County Commissioner Pinkerton from Rosebud County who also worked on drafting SB135 with Senator Cole.

Closing by Sponsor:

SEN. COLE commented that the Governor's Office is working on a Constitutional Amendment following the same procedures that are in SB135. **SEN. COLE** stated he would consider any proposed amendments to SB135.

CHAIRMAN HARDING closed the Hearing on SB135.

EXECUTIVE ACTION ON SB120

Discussion: David Niss handed out amendments to SB120 (EXHIBIT 4). Mr. Niss recapped some of the conversation from the Hearing on SB120 between Andree Larose and Dan Anderson regarding Constitutional rights concerning transfers into or out of the Center. Mr. Niss explained that the Constitutional issue was raised in U.S. Supreme Court cases in the 1970's and 1980's. In relation to the Supreme Court cases, the Center for the Aged and the Montana State Hospital would be considered two separate facilities, and commitments to one facility cannot be treated differently than commitments to the other facility. Mr. Niss explained that amendment 5 deals with transfers to the Center, and amendment 7 deals with transfers from the Center. Essentially, the compromise finally reached states that rather than the District Court reviewing every transfer to and from the Center automatically, the District Court would only look at those requested by the patient or next of kin of the patient.

SEN. BROOKE asked Mr. Niss to clarify what amendment 8 is repealing. Mr. Niss said page 3, section 4, 53-21-412.

SEN. FOSTER asked Mr. Anderson if he agreed with the amendments. Mr. Anderson said "yes".

Motion: SEN. FOSTER moved TO ACCEPT AMENDMENTS TO SB120.

Discussion: SEN. HARGROVE referred to amendment 7, subsection 2 that states the department shall notify the patient at least 15 days before a transfer, and if a person or entity notified objects to the transfer, they may petition the District Court.

SEN. HARGROVE asked Mr. Niss if the amendments should also include a requirement to notify the person or entity of the procedure available to petition the Court for a hearing.

Mr. Niss answered that the patients who would be affected by this are generally not making decisions by themselves and would be assisted by others who are well versed in the laws (including SB120).

SEN. HARGROVE asked Dan Anderson to respond to the same question.

Mr. Anderson stated the Department would not object to adding language regarding notification of the procedure to petition District Court. Mr. Anderson stated, however, that the Board of Visitors, who is well aware of the patient's rights, is also notified of the transfer and would become quickly involved if it were appropriate. SEN. HARGROVE commented that his intent would be to avoid allegations that proper notice was not completed.

SEN. JEFF WELDON asked Mr. Anderson why the language is being stricken on page 3, lines 24 and 25. Mr. Anderson answered that under SB120, the Center would be allowed to hold a patient under an involuntary commitment.

SEN. WELDON said he believes the amendments satisfy the problems addressed by the Advocacy Project.

{Tape: 1; Side: B; Approx. Counter: 8.1}

Mr. Niss asked Senator Hargrove if he earlier meant including provision that for a certain period of time after notice was given, the transfer would be delayed. SEN. HARGROVE said no, what he would propose is that after "needs of the patient." in subsection 2 of both amendment 5 and 7, language be inserted that the person or entity must be notified of the procedure for petition at the time of notification of the pending transfer.

Motion: SEN. FOSTER moved to ACCEPT AMENDMENTS TO SB120, including the language that Senator Hargrove just described.

Discussion: Mr. Niss clarified that Senator Hargrove's proposed amendment would be to the effect that the same people who receive notice of the *impending transfer* would also receive notice of the *procedure for the petition* to the District Court.

Vote: The MOTION CARRIED UNANIMOUSLY on oral vote. .

Motion/Vote: SEN. FOSTER moved that SB120 DO PASS AS AMENDED.
The MOTION CARRIED UNANIMOUSLY on oral vote (Senator Pipinich was not present at time of vote).

ADJOURNMENT

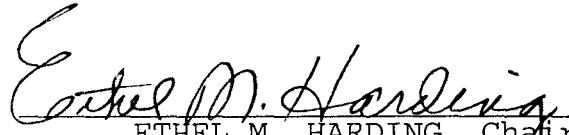
Adjournment: 11:15 AM

After the meeting, **Senator Pipinich** notified the Secretary that his vote should be counted as follows:

SB120

DO PASS AS AMENDED

No


ETHEL M. HARDING, Chairman


GAIL MOSER, Secretary

EMH/gem

MONTANA SENATE
1995 LEGISLATURE
STATE ADMINISTRATION COMMITTEE

ROLL CALL

DATE _____

Thru 01-28-95

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SENATE STANDING COMMITTEE REPORT

Page 1 of 2
January 26, 1995

MR. PRESIDENT:

We, your committee on State Administration having had under consideration SB 120 (first reading copy -- white), respectfully report that SB 120 be amended as follows and as so amended do pass.

Signed: 
Senator Ethel M. Harding, Chair

That such amendments read:

1. Title, line 6.

Following: "AGED;"

Strike: "AND"

Insert: "PROVIDING FOR ADMISSION AND TRANSFER OF PATIENTS TO
THE CENTER;

Strike: "53-21-412,"

2. Title, line 7.

Following: "MCA"

Insert: "; AND REPEALING SECTION 53-21-412, MCA"

3. Page 3, line 6.

Strike: "Admissions" through "hospital."

4. Page 3, line 8.

Following: "procedures"


Insert: "consistent with [section 4] and subsections (1) and (2)
of this section"


5. Page 3, lines 10 through 19.

Strike: Section 4 in its entirety

Insert: "NEW SECTION. Section 4. Admissions to mental health
nursing care center. (1) The Montana mental health nursing
care center may admit patients on a voluntary basis
according to admission criteria and procedures established
in administrative rules.

(2) Patients involuntarily committed to the Montana
state hospital may be transferred by the department of
corrections and human services to the Montana mental health
nursing care center if the patient meets the admission
criteria of the center. The department shall notify the
patient, the patient's next of kin, and the mental
disabilities board of visitors at least 15 days before the
transfer. If a person or entity notified by the department
objects to the transfer, the person or entity may petition
the district court for a hearing to review whether the

 Amd. Coord.

 Sec. of Senate

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transfer is necessary and appropriate to meet the needs of the patient. The notice required by this subsection must include notification of the right to petition the district court pursuant to this subsection. Section 53-21-128 applies to extensions of involuntary commitment of patients to the center."

(3) Except as provided in 53-21-413(2) and subsection (2) of this section, patients involuntarily transferred to the center have the rights provided in this chapter.

6. Page 3, line 22.
Following: "Discharge"
Insert: "and transfer"
Following: "patients."
Insert: "(1)"

7. Page 3, line 25.
Following: "~~guardian~~."
Insert: "Rules adopted by the department governing discharge from the center must be consistent with 53-21-111, 53-21-181, and 53-21-183."

(2) A patient in the center who requires the intensity of treatment available at the Montana state hospital may be transferred to the Montana state hospital if the patient is subject to an involuntary commitment. The department shall notify the patient, the patient's next of kin, and the mental disabilities board of visitors at least 15 days before the transfer. If a person or entity notified by the department objects to the transfer, the person or entity may petition the district court for a hearing to review whether the transfer is necessary and appropriate to meet the needs of the patient. The notice required by this subsection must include notification of the right to petition the district court pursuant to this subsection. Notice pursuant to this subsection does not preclude transfer pursuant to 53-21-130."

8. Page 3.
Following: line 29
Insert: "NEW SECTION. Section 7. Repealer. Section 53-21-412, MCA, is repealed."
NEW SECTION. Section 8. Codification instruction. [Section 4] is intended to be codified as an integral part of Title 53, chapter 21, part 4, and the provisions of Title 53, chapter 21, part 4, apply to [section 4]."

-END-

ROSEBUD COUNTY ATTORNEY**P.O. Box 69****FORSYTH, MT 59327****(406) 345-2236****Fax (406) 345-2238****SENATE STATE ADMIN.****EXHIBIT NO.****DATE****BILL NO.****ATTORNEY for
CITY OF FORSYTH****Lee R. Kerr Esq.****January 25, 1995****Senator Ethel Harding, Chair
Senate State Administration Committee
Helena, MT****RE: Support for Senate Bill #135 (PROHIBITION OF UNFUNDED MANDATES)****Dear Senator Harding:**

I write in support of Senate Bill #135. I prepared the original bill drafting request sponsored by Senator Cole. This is an area of acute interest to me as the past Treasure County Attorney, and now as Rosebud County Attorney.

Simply stated, there are no 'Moses' at local government. We have no mystical or magical powers. We cannot be expected to continue to break the same loaf of bread to feed and care for the multitudes. Local government is placed in this precise dilemma when unfunded mandates are burdened upon local government, either by the State or Federal government, when local governments must exist on property taxes that are tapped at 1986 levels under I-105.

There are a couple basic simple maxims in the law recognized in Montana that the legislature hopefully will recognize. 1-3-213 provides that a grant must include it's essentials and 1-3-222 provides that the law never requires impossibilities. Yet for the law to consistently and persistently, ever-increasingly, impose new and additional fees, costs, mandates, and services upon local governments, while at the same time telling local government that it must also provide all previous, existing services, and to do it with 1986 dollars, is asking local government to do the impossible. A grant or mandate to do something, clearly must include what is necessary to preform the grant or mandate. It must provide the money to do so. If the legislature is unwilling or unable to provide the money, then it must not provide the mandate. This appears to be such basic common sense that it defies any justification for persistent continuance of unacceptable mandates.

The continued onslaught of Federal and State mandates either through direct mandates of services without authorized funding, or the less obvious, insidious establishment or increases in fees, progressively places local government in an adversarial role against State and Federal government. If SB #135 does not become law, then lengthy, expensive litigation will no doubt ensue.

Increasingly, no matter how well-meaning or good-hearted a mandate is, the more difficult it has become for local government to comply. The most glaring examples are the ADA and environmental regulations. These regulations are so onerous and expensive, that most local governments are not in compliance, and will not be able to comply, because of lack of funding. The architectural, engineering, construction and other costs associated are simply unfunded and unachievable. There probably exists facts sufficient now for the Department of Justice to take civil or criminal action against most of the counties in the State of Montana for non-compliance. Yet not only are local county officials reluctant to raise property taxes to fund utopian goals, local government lacks the legal authority to raise funds pursuant to I-105.

It would be interesting to postulate what would happen if local governments identified all unfunded mandates and placed them on a special voted levy for local citizens. The special election would no doubt fail, and I wonder if State and Federal officials would plan on arresting local officials for non-compliance. State government must understand the position it's placed local government in, and take action to remedy it.

From a County Attorney's perspective, there have been ever-increasing increases in unfunded mandates within my office's are of responsibility. Court-ordered psychological evaluations have been shifted to the counties, with mandated evaluations, time-lines, and appropriate facilities required, all of which none of the facilities or personnel exist in adequate numbers or locations throughout rural Montana, and for which there is no funding for. Every new mandate that is past down to local government, results in something having to be taken from someplace else. Every new mandate that passes down, commissioners are forced with the decision of what law enforcement staff is going to be cut, what fire protection equipment is not going to be bought or repaired, or what other element of local government is going to have to decrease services to meet the new mandates. Mandates in the area of jail upgrades and juvenile detention, has created tremendous burdens for rural areas. We simply can no longer afford to use existing facilities for juvenile detention because of new mandates. We have no choice, but to ship children out of the county and in some cases, out of the State, and pay exorbitant fees for these children to be housed elsewhere, sometimes at great burden to the families involved, because of utopian views of the type of facilities that juvenile offenders should be maintained. Likewise, recent legislation has required that mentally ill individuals charged or convicted of misdemeanors may not be detained. Although this is also a noble goal, it has also created additional unfunded mandates on local government. Services from local government service bureaus are now new unfunded mandates. Counties have to contract with local government services for assistance in bookkeeping and other areas, and pay for the service, or pay for attending meetings. Counties are now

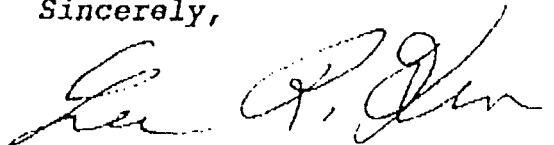
even required to submit a filing fee to the Department of Commerce when filing a financial statement of the county. These fees are new unfunded mandates. District Court reimbursements to the counties for costs in criminal cases have also been previously targeted and creates new unfunded mandates from reductions of reimbursements. The reimbursements to counties program should be expanded to include care of prisoners for criminal cases and costs to the counties for civil cases should also be reimbursed.

However, this is not the case, and the burden on counties has increased over recent years. For the State to assume welfare would also be a massive unfunded mandate for many counties. Currently, many counties are quite efficient in the utilization of their welfare dollars and are using significantly less than the amount of mills that would be required if the State assumed the program.

The State's recent 'innovative' fee systems for various services, is also nothing more than a hidden unfunded mandate. Under new solid waste management legislation, in effect a State agency is required to be funded by local government. This is a case where a State agency was created, to be fully funded by a fee assessed upon counties at a charge of \$.31 a ton for garbage. A mandate that requires counties to charge customers for garbage to fund a State agency is clearly an unfunded mandate. Similarly, environmental regulations, although good for the environment, have also created massive unfunded mandates for local government.

Please help stop the insanity. I encourage this committee to pass SB #135 out of committee, and encourage it's passage before the full Senate and House. Your consideration is sincerely appreciated.

Sincerely,



Lee R. Kerr
Rosebud County Attorney

LRK/lm

EXHIBIT 1
DATE 1-26-95
SB 135

MUSSELHELL COUNTY



KELLY GEBHARDT
BRYAN W. ADOLPH
SUE M. OLSON
COUNTY COMMISSIONERS
506 Main Street
323-1104

JANE E. MANG
Clerk & Recorder
506 Main Street
323-1104

MARY C. NELSON
Treasurer
Supt. of Schools
Assessor
506 Main Street
323-2504

JOHN J. RAE
Coroner

G. PAUL SMITH
Sheriff
820 Main Street
323-1402

JOHN BOHLMAN
County Attorney
506 Main Street
323-2230

DONA C. ROBSON
Clerk of District Court
P.O. Box 357
323-1413

ROBERT M. MIHALOVICH
Justice of the Peace
P.O. Box 656
323-1078

PHILIP W. RICHMOND
Public Administrator

ROUNDUP, MONTANA 59072

January 26, 1995

Senate State Administration Committee
Senator Harding, Chairman

SENATE STATE ADMIN.
EXHIBIT NO. 2
DATE 01-26-95
BILL NO. SB 135

Senator Harding, Members of the Committee,

I am Sue Olson, Musselshell County Commissioner. SB 135 is a necessary bill in our County's view in order to stop the unfunded mandates we have had to deal with especially in the last few years since I-105 has been in effect.

We have been mandated to provide more and more services, but have not had a source of revenue to fund these services. So, how have we managed to do that? We have cut our "non-mandated" services. For example, our Senior Services program received \$13,500 in FY 1989 and now we provide office space in the courthouse and no revenue. The fair department has been cut from \$10,000 to \$0. We have reduced budgets in the extension department, mental health, maternal child health care department to name a few more. Retired Senior Volunteers Program (RSVP) does not receive funds from us any more. Our employees have received 3 raises in pay in 9 years. Every time we have to fund another "mandated" service we are forced to cut "non-mandated" services. Unfunded mandates must stop.

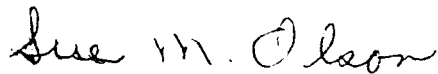
All unfunded mandates are not readily apparent. An example of this is the subdivision bill passed in the last legislature. The law provides for a fee to be charged for reviewing a subdivision parcel that has changed owners, but there were no funds provided to implement the law. Each County had to develop subdivision regulations for their County. Some Counties contracted this service out if they did not have a county planner on staff. We do not. Musselshell County was fortunate to have several members of the planning board who volunteered their services and worked many hours to write the regulations saving our County several thousand dollars.

Counties have submitted lists of unfunded mandates and most are the same in every County, DFS administration costs, single audit act, juvenile detention and court appointed attorney costs. We budget \$15,000 in a juvenile fund just for detention and attorney costs. This fund was created in FY94 and is a mandated service. We also have the Federally mandated Americans with Disabilities Act to comply with. I could list more, but it would be repetitious to do so.

One line in SB 135 bothers me somewhat. That is the wording on line 30 that reads -an insubstantial amount. What would be an insubstantial amount to one County may not be to another. It feel it should be clarified further as to what an insubstantial amount is.

I urge you to support SB 135. Thank you.

Respectfully submitted,

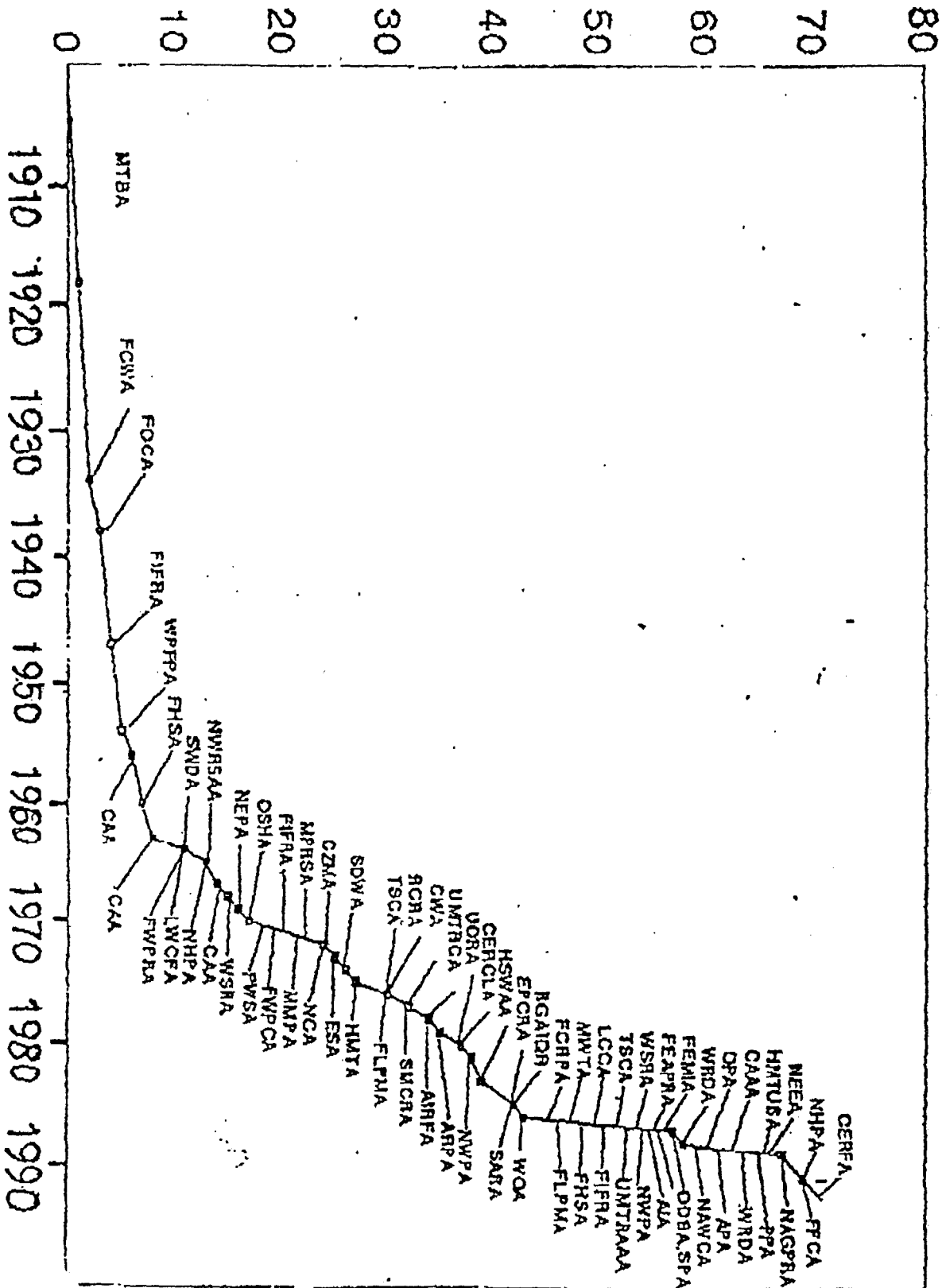
A handwritten signature in cursive script that reads "Sue M. Olson".

Sue M. Olson
Musselshell County Commissioner

SENATE STATE ADMIN.

EXHIBIT NO. 3DATE 01-26-95BILL NO. SB135

CUMULATIVE NUMBER OF LAWS AND AMENDMENTS

FEDERAL ENVIRONMENTAL
LEGISLATION

Amendments to Senate Bill No. 120
First Reading Copy

SENATE STATE ADMIN.
EXHIBIT NO. 4
DATE 01-26-95
BILL NO. SB120

For the Committee on State Administration

Prepared by David S. Niss
January 25, 1995

1. Title, line 6.

Following: "AGED;"

Strike: "AND"

Insert: "; PROVIDING FOR ADMISSION AND TRANSFER OF PATIENTS TO
THE CENTER;

Strike: "53-21-412,"

2. Title, line 7.

Following: "MCA"

Insert: "; AND REPEALING SECTION 53-21-412, MCA"

3. Page 3, line 6.

Strike: "Admissions" through "hospital."

4. Page 3, line 8.

Following: "procedures"

Insert: "consistent with [section 4] and subsections (1) and (2)
of this section"

5. Page 3, lines 10 through 19.

Strike: Section 4 in its entirety

Insert: "NEW SECTION. **Section 4. Admissions to mental health
nursing care center.** (1) The Montana mental health nursing
care center may admit patients on a voluntary basis
according to admission criteria and procedures established
in administrative rules.

(2) Patients involuntarily committed to the Montana
state hospital may be transferred by the department of
corrections and human services to the Montana mental health
nursing care center if the patient meets the admission criteria
of the center. The department shall notify the patient, the
patient's next of kin, and the mental disabilities board of
visitors at least 15 days before the transfer. If a person or
entity notified by the department objects to the transfer, the
person or entity may petition the district court for a hearing to
review whether the transfer is necessary and appropriate to meet
the needs of the patient. Section 53-21-128 applies to
extensions of involuntary commitment of patients to the center."

(3) Except as provided in 53-21-413(2) and subsection (2)
of this section, patients involuntarily transferred to the center
have the rights provided in this chapter.

6. Page 3, line 22.
Following: "Discharge"
Insert: "and transfer"
Following: "patients."
Insert: "(1)"

7. Page 3, line 25.
Following: "~~guardian~~."
Insert: "Rules adopted by the department governing discharge from the center must be consistent with 53-21-111, 53-21-181, and 53-21-183."

(2) A patient in the center who requires the intensity of treatment available at the Montana state hospital may be transferred to the Montana state hospital if the patient is subject to an involuntary commitment. The department shall notify the patient, the patient's next of kin, and the mental disabilities board of visitors at least 15 days before the transfer. If a person or entity notified by the department objects to the transfer, the person or entity may petition the district court for a hearing to review whether the transfer is necessary and appropriate to meet the needs of the patient. Notice pursuant to this subsection does not preclude transfer pursuant to 53-21-130."

8. Page 3.
Following: line 29
Insert: "NEW SECTION. Section 7. {standard} Repealer. Section 53-21-412, MCA, is repealed.
{Internal References to 53-21-412: None.}"

NEW SECTION. Section 8. {standard} Codification
instruction. [Section 4] is intended to be codified as an integral part of Title 53, chapter 21, part 4, and the provisions of Title 53, chapter 21, part 4, apply to [section 4]."

DATE Thursday 09-26-95
 SENATE COMMITTEE ON State Admin
 BILLS BEING HEARD TODAY: SB135

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
W James Kember	City of Billings	SB135	✓	
Sue M. Olson	Musselshell Cty	SB 135	✓	
Roy McZenna	City of Helena	SB135	✓	
Gordon Morris	MAAO	135	✓	
Vera Peterson	MAAO	135	✓	
Don Waldron	MREA	135	✓	
Chris Inhoff	MT League of Women Voters	135	✓	
Mark Penkerton	Rosebud County	SB135	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY