

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN BRUCE D. CRIPPEN, on January 27,  
1995, at 8:30 A.M.

ROLL CALL

**Members Present:**

Sen. Bruce D. Crippen, Chairman (R)  
Sen. Al Bishop, Vice Chairman (R)  
Sen. Larry L. Baer (R)  
Sen. Sharon Estrada (R)  
Sen. Lorents Grosfield (R)  
Sen. Reiny Jabs (R)  
Sen. Sue Bartlett (D)  
Sen. Steve Doherty (D)  
Sen. Mike Halligan (D)  
Sen. Linda J. Nelson (D)

**Members Excused:** Sen. Ric Holden (R)

**Members Absent:** None.

**Staff Present:** Valencia Lane, Legislative Council  
Judy Feland, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 167, SB 218  
Executive Action: SB 66, SB 174, SB 192, SB 203

EXECUTIVE ACTION ON SB 66

**Motion:** SENATOR LORENTS GROSFIELD MOVED THAT THE AMENDMENT AS  
CONTAINED (EXHIBIT 1) BE APPROVED.

**Discussion:** SENATOR GROSFIELD explained his amendment, saying  
that he questioned the word "state prison," and wrote the  
amendment to clarify that.

**Vote:** The MOTION CARRIED UNANIMOUSLY by oral vote.

**Discussion:** SENATOR REINY JABS was concerned about the  
overcrowding of prisons. He said he would favor 3 strikes over 2  
for that reason.

**SENATOR LARRY BAER** said he liked 2 strikes, and would be willing to amend the bill to 3 if they would put robbery and arson back in.

**SENATOR GROSFIELD** had the same concerns about filling the prisons and adding to the debt down the road and for that reason supported eliminating arson and robbery. Now they were down to heinous crimes and 2 is plenty, he said.

**SENATOR MIKE HALLIGAN** said he signed on the bill but was now unable to support it after reading about what is happening in other states. We would automatically build a new prison every 7 to 10 years, he said. He thought the public would not want that nor to hamstring the prison personnel. He supported 3 strikes because of the cost.

**CHAIRMAN BRUCE CRIPPEN** discussed 2 for some and 3 for some.

**SENATOR BAER** agreed that new prisons would cost money, but reminded everyone that pain and misery and suffering had costs, too, and that the people would rather spend than suffer the grievous harm perpetuated by offenders. He suggested going through the bill and deciding on each offense.

**CHAIRMAN CRIPPEN** said that by the consensus of the committee deliberate homicide would remain two strikes.

Motion: **SENATOR GROSFIELD** MOVED THAT MITIGATED DELIBERATE HOMICIDE BE CHANGED TO THREE STRIKES AND YOU'RE OUT.

Vote: The MOTION CARRIED with six members voting aye.

Motion: **SENATOR GROSFIELD** MOVED THAT KIDNAPPING BE AMENDED TO THREE STRIKES.

Vote: The MOTION CARRIED with **SENATOR JABS** voting no.

Discussion: **SENATOR JABS** said he would prefer to leave kidnapping out altogether.

Motion: **SENATOR BAER** MOVED TO BRING ROBBERY BACK INTO THE BILL WITH A THREE STRIKE PROVISION.

Motion: **SENATOR HALLIGAN** MADE A SUBSTITUTE MOTION TO INCLUDE ROBBERY AND ARSON.

Discussion: **SENATOR GROSFIELD** asked **SENATOR HALLIGAN** about the Georgia study, if they included robbery and arson, to which he replied they included violent offenses, which ones he didn't know.

**SENATOR GROSFIELD** told the committee that robbery and arson accounted for 58 per cent of the cases. He was hesitant about

the expense, but thought that it could be taken out if there was a problem some years down the road.

**SENATOR BAER** said that the crime of robbery can result in a murder charge or any number of subsequent happenings in the course of the crime, either to the perpetrator or the intended victim.

**SENATOR SUE BARTLETT** said a memo from Rick Day, Department of Corrections, showed a substantial increase in their budget already. 1994 was a record year for admissions. They are projecting a 30 per cent increase in FY 96 that will be added to the funding, at an estimated 9 million dollars in General Fund for FY 96 and 10 million in FY 97. This is not building money, she said.

**SENATOR SHARON ESTRADA** guessed that she and **SENATOR AL BISHOP** probably live in one of the highest crime districts in the state. People are tired of the crime and abuse and they want the legislature to be tough on crime.

**Vote:** The motion carried 6 to 4 on an oral vote to amend the bill to include robbery and arson at three strikes.

**Motion/Vote:** To leave intercourse without consent at two strikes, was agreed to unanimously by oral vote.

**Motion:** **SENATOR HALLIGAN** MOVED TO INCLUDE AGGRAVATED ASSAULT, BUT NOT FELONY ASSAULT, FOR THREE STRIKES TO THE AMENDMENT.

**Vote:** The MOTION CARRIED UNANIMOUSLY by oral vote.

**Discussion:** Discussion followed about the combinations of charges and which would be two or three strike offenses.

**CHAIRMAN CRIPPEN with Valencia Lane** clarified that in no event shall it be interpreted that there be allowed more than three strikes, or any combination thereof. So, for example, if there was arson twice and aggravated kidnapping, you're out, he said. If you have deliberate homicide and arson, you're not out, because you haven't received two strikes on one or three on the other, he explained, but if you have homicide, arson and robbery, you're out.

**SENATOR BAER** asked for clarification, if any one of the offenses is committed, you're out, whether it is a 2- or 3-time offense. If a person committed two 2-time offenses and one 3-time offense, he would be out. The group agreed with the senator.

**SENATOR BARTLETT** questioned the truth-in-sentencing provision. She thought that as a result, there would be more people in prison and from a financial standpoint, they may want to reconsider looking at aggravated assault or arson.

John Connor and Ted Clack of the Department of Corrections and Human Services explained sentencing, parole eligibility and the impending changes of the truth-in-sentencing legislation.

Motion: SENATOR BAER MOVED THAT SB 66 DO PASS AS AMENDED.

Vote: The MOTION CARRIED UNANIMOUSLY on a oral vote.

{Tape: 1; Side: B; Approx. Counter: 2.1}

EXECUTIVE ACTION ON SB 174

Motion/Vote: SENATOR STEVE DOHERTY MOVED THAT SB 174 DO PASS.  
The MOTION CARRIED UNANIMOUSLY on an oral vote.

Discussion: Valencia Lane explained that there were no amendments to this bill but there was a question raised about the grant of immunity and whether or not it needs a 2/3 vote requirement. She said she had talked to Greg Petesch and they came to the conclusion that it did not, and that's why the drafter didn't put in a 2/3 vote requirement. This is not a new grant of governmental immunity, but rather an extension to private citizens, she said.

EXECUTIVE ACTION ON SB 192

Motion: SENATOR DOHERTY MOVED THAT SB 192 DO PASS.

Discussion: SENATOR GROSFIELD asked the extra dollar amount to which others announced, "\$16,000." So the total would be \$62,000, he asked. He was concerned about the upcoming attorney generals coming in for the same amount.

CHAIRMAN CRIPPEN expressed his opinion that he felt the individual was well worth it and wondered why good people stayed in state positions.

SENATOR JABS asked that it was based on counties of 30,000 or more, to which the Chairman explained that in smaller counties the position was part-time and they had their own practice.

SENATOR BAER reminded everyone that the average salary in Montana is \$16,000 and asked that they consider that in all measures.

SENATOR DOHERTY said that this position requires someone of incredible expertise and that John Connor prosecuted all the cases after the prison riot. The complexity and ability to put those cases together is very rare, he said. In terms of getting tough on crime, this is one of the costs, he maintained. We have to have money for prisons, but also money for prosecutors to put

the criminals in prisons and declared this money a bargain.

**SENATOR JABS** said that the argument for teachers was more money to get the best people and it did not happen.

**CHAIRMAN CRIPPEN** said that the legislators are the employers and they must strive to get good people in the positions.

**SENATOR BAER** said that he was directed by the people that voted him in to reduce spending. There are only three other states in the union that have more government employees per capita than Montana, he said. He said his pledge took precedence over the need to raise the person's salary.

**CHAIRMAN CRIPPEN** said he understood and that no one would be criticized for their opinions. He also said that they had an obligation to the people to make sure that their business, government, is run in a fair and efficient manner. In order to do that, you have to have good people, he said.

**SENATOR BISHOP** guessed Mr. Connor would stay in the position one way or the other, but said he was going to vote "yes" on the bill because he was an extraordinary person and it would not be fair.

**SENATOR ESTRADA** questioned if it would be more fair if half the people on the committee didn't work with him, since many were lawyers.

**CHAIRMAN CRIPPEN** said that would be true in any business and the determination of keeping good employees.

**SENATOR BARTLETT** said that this person works for the state in a position comparable to a County Attorney and it is a question of equity in terms of responsibility and authority. In fact, on occasion, particularly in the prison cases, he stepped in and carried out the duties of the County Attorney because it was beyond the resources of that small county to prosecute five capital cases. When the first murder in Judith Basin County occurred, **Mr. Connor** and his staff fulfilled the function of the County Attorney. This position functions as a defacto County Attorney.

**SENATOR GROSFIELD** agreed. He said he carried the bill to raise County Attorneys salaries last session and said it was an oversight that it was not included.

**SENATOR DOHERTY** said that many "get tough on crime" measures would be more glamorous and make better headlines, but prosecutors had to have the tools to help fight crime and it was very important.

**Vote:** The **MOTION CARRIED** on an oral vote with 8 senators voting aye and 3 senators voting no.

EXECUTIVE ACTION ON SB 203

Motion: SENATOR GROSFIELD MOVED THAT SB 203 DO PASS.

Discussion: SENATOR GROSFIELD explained this water rights compact bill. He said he wanted everyone to understand that tribal rights are far superior to anything in this bill.

Vote: The MOTION CARRIED UNANIMOUSLY on an oral vote.

{Tape: 2; Side: A; Approx. Counter: 00}

HEARING ON SB 167

Opening Statement by Sponsor:

SENATOR STEVE BENEDICT, Senate District 30 of Hamilton, introduced SB 167. He said the bill would request state agencies to review the federal mandates they operate under, requiring that federal mandates be implemented in the most cost-effective manner and to report to the Governor through the budget office on those mandates. He introduced a grey bill (EXHIBIT 2) which, he said, would substantially change the paperwork and the manpower needed to implement the bill. As a courtesy he prepared the grey bill so that the committee would not have to figure out how the amendments interfaced with the bill (EXHIBIT 3). Some of the amendments significantly alter the fiscal note, he said, in his reductions of an ambitious reporting procedure. The bill was written to help Montana identify new areas where primacy should be established, he said, to safeguard the customs, rights and needs of Montanans. The bill was not intended in any way to sever relationships with the federal government, but rather to be a starting point in determining what the role federal government should have in the every day role of average Montanans, the senator explained.

Proponents' Testimony:

Gordon Morris, Director of the Montana Association of Counties (MACO) said that his organization wanted to support SB 167 because they have been active participants at the federal level to get legislation passed to require federal funding of all federal mandates. He encouraged the review of the mandates as set forth in the bill to determine their existence and ultimate impacts on the state. He thought it necessary from the standpoint that the state's principle budget officer doesn't think there are any mandates, and this should be proven once and for all. He proposed striking the language in the amendment that makes reference to the fiscal analyst's office.

**Leo Giacometto represented the Governor's Office.** He said they hadn't seen the amendments as yet, but rose in support of the concept. Their concern would be what happens in the amendments dealing with the fiscal impact and how to go forward with it.

**Alec Hansen, Montana League of Cities and Towns,** said that his organization felt it was vitally important for the state to send a message to Washington D.C.; we have had enough of the games being played there. SB 1 is anti-mandates legislation, sponsored by Idaho and Ohio senators, to stop the imposition of costly mandates on state and local governments, he said. In the past, he said, mandates were not a problem until the federal money dried up. He said if the EPA came to Helena and told them to build a sewage treatment plant, they also provided the grant to fund that project, which was a workable solution. It connected power and responsibility. Now we have the power of the federal government imposed on state and local governments, without the responsibility to fund these decisions. It costs the taxpayers and ratepayers in the state a considerable amount of money. For example, he said the EPA several years ago was considering a rule that would have required all cities and towns to treat storm water. They did a calculation and if that rule had been implemented, it would have cost an estimated \$10,000 per year per household in the city of Helena. We don't wish to tear down the EPA, he said, but there has to be logic, common sense and a way to connect the cost with the benefit of the people.

**Jim Kembel, representing the City of Billings,** went on record in support of SB 167. He submitted a graph (**EXHIBIT 4**) which shows environmental laws that were impacted at the local level from 1910 to 1990. He supported **Mr. Hansen's** stand.

**Discussion:** **Beth Baker, Department of Justice,** spoke to the committee as neither opponent nor proponent, and explained an issue she discussed with **SENATOR BENEDICT.** She said the Department of Justice wanted to be sure that the legislature doesn't unintentionally create litigation against the State of Montana by individuals who do not think they're making a good faith effort to review federal mandates. On page 1, line 26-27 and in Section 4, language should be added, she said, that nothing in the act is intended to create a private right of action so that the Attorney General isn't faced with lawsuits by people thinking we should sue the federal government for imposition of the mandates. Otherwise, they did not have a problem with the bill, she said. She gave written suggested amendments for page 2, line 29. (**EXHIBIT 5**)

**Opponents' Testimony:**

**Deborah Smith, an attorney from Helena, speaking on behalf of the Sierra Club,** spoke in opposition to SB 167. She expressed surprise by the nature of the bill and the hostility toward unfunded mandates from the federal government since Montanans receive more in federal benefits than they pay, she said. The

issue isn't so much the reporting requirements, she said, but that the statement that Montana is somehow on a sovereign par, or equal, to the federal government, and she that was not the case. The language in Section 2 questions the authority of the U.S. government to regulate matters that fall directly within the power of Congress under the commerce clause of the Constitution, not the Congress acting outside of its bounds, she explained. She submitted written testimony (EXHIBIT 6). The statutes listed in the bill are properly regulated by the federal government, she argued. She told the committee they were privileged to live in a country where everyone had the same public drinking water standards, the same solid hazardous waste disposal standards, and the same interstate highway safety regulations. She asked that the bill not come out of the committee.

**Helen Christiansen, representing the Montana State AFL-CIO, read written testimony submitted by Don Judge, Executive Secretary (EXHIBIT 7).**

**Ted Lange, Northern Plains Resource Council, presented written testimony and read the following: (EXHIBIT 8).**

**Christine Kaufman, Executive Director, Montana Human Rights Network,** said that her organization is a non-profit, private corporation whose mission is to help communities respond to bigotry, hatred and intolerance across Montana, representing about 3,000 people. She clarified that they were not part of state government. She said they would rather have state employees investigating discrimination cases and responding to Montanans instead of being engaged in bureaucratic activities that this bill would require them to do with the reporting and searching. She was concerned that this bill would affect civil rights laws. If the bill had been in place 125 years ago, she thought that the end of slavery would have been considered a federal mandate and would have been questioned. Thirty years ago the order to integrate public schools would also have been so considered, she said. She said George Wallace's primary argument on the steps of the schoolhouse refusing entrance to black students' was of states' rights. SB 167 ignores 225 years of Constitutional interpretation and case law on the appropriate role and function of the governments and ignores the lessons of the Civil War. The U.S. Constitution is a growing document keeping pace with the growing world, she said, and we can't go back to the "original Constitution," where only white male property owners could vote and black people counted for 3/5 of a person. The bill will be challenged in courts, wasting hours of government employee time and state money. She urged the tabling of the bill.

**Brad Martin, director, Montana Democratic Party,** said that while the Montana Democratic Party is a strong and steadfast advocate of states' rights, they stand strongly opposed to SB 167. Many of the statutes in the bill go to the heart of what government



does best, he said, to protect the general welfare of the people while providing a level playing field on which both business and state government can operate. The number one complaint they hear about government is when it is inconsistent or irregular in its approach to governing. He said the bill takes the approach that to compete with third world countries, we have to be a third world country. He said it drew one other interesting conundrum: at the point that we decide that we are going to secede from the union, our responsibility, as a participant, has the interesting difficulty of saying, "which of the other federal mandates should other states abide by?" He suggested opposition to SB 167.

**Ed Caplis, Executive Director of the Montana Senior Citizens' Association (MSCA)**, spoke on behalf of the 6,000 members of the organization in expressing opposition to the bill. They see the bill as an assault on the Older Americans Act and the nutrition programs that help other Montanans. They also see it as an assault on our government, he said. He urged a table resolution.

**Jim Jensen, representing the Montana Environmental Information Center**, said fraud is being perpetrated across this country in the name of unfunded federal mandates, environmental laws and laws. Montana receives far in excess of anything that could be called an unfunded mandate to help with clean water, air and superfund programs. People have been willing to pay for sewage and water systems, he said, and the Congress has created a loan program for communities. Montana has the Treasure State Endowment Program for these projects. These programs keep us healthy and protect individuals, and they also create an enormous amount of employment. He said many companies in Montana have derived benefits from these programs.

#### Questions From Committee Members and Responses:

**SENATOR JABS** asked **Ms. Baker** about her statement that the language would be challenged in court and asked her to elaborate.

**Ms. Baker** said that on Page 1, Lines 26-28 say that federal mandates we think are contrary to federalism and self-determination must be identified and countered. Then, on Page 4, Section 4 of the bill, it put the duty on state officials to implement the federal law in good faith and with a critical view toward federal regulations that are inconsistent with Montana policy. Her concern is that an individual who believes that the state has not effectively countered an unfunded mandate or has not undertaken to implement the mandate in good faith, could sue the state or the Attorney General to compel us to ignore the federal mandate. The language she suggested is to express the legislature's intent that this act does not create a private right of action so that regardless of the legislature's policy about mandates, they would not be called upon to expend more money in defending litigation about them.

**CHAIRMAN CRIPPEN** asked **SENATOR BENEDICT** if some of the questions posed by the opponents were addressed in the grey bill.

**SENATOR BENEDICT** answered "yes" and "no". There were comments concerning the substance of the bill, and these were not. The grey bill basically addressed the mechanism that gathers the information for the Governor.

The hearing adjourned for the members to join the Joint Session for the State of the Judiciary at 10:50. The meeting resumed at 11:50.

Questions from the committee:

**SENATOR BAER** told the sponsor that he understood the bill might create an economic hardship for those who currently exploit the areas the bill purports to eliminate, however, he asked if the bill would interfere or violate people's civil rights in reference to George Wallace's stand on the school steps?

**SENATOR BENEDICT** said the bill is nothing more than the provision of legislative intent for the Governor to review federal mandates to see where we could develop our own programs, to either compliment federal programs or establish primacy. He did not understand where the secession idea was coming from. The sky wasn't falling, the Governor didn't need to order out the State Militia to guard the borders against federal intrusion, and we aren't asking to secede, he said. It merely asks the Governor to review the mandates to see if we could develop something more cost-effective and consistent with Montana policy.

**SENATOR BAER** further questioned other allegations in regard to secession from the union from the Montana Democratic Party, and the possibility of offending the rights of older Montanans by the Montana Senior Citizens' Association. He had difficulty finding any implication in the bill for these serious allegations.

**SENATOR BENEDICT** replied that the person making the inflammatory remarks was not in the room, but that the senator needed to ask him.

**SENATOR GROSFIELD** asked the sponsor on Page 1, line 27-28, or on the grey bill Page 2, line 27 to explain "encountered" language.

**SENATOR BENEDICT** said that his intention was to give latitude to the Governor when asking the agencies who develop programs to consider the consistent policies of Montana as opposed to those of the federal government.

**SENATOR GROSFIELD** wanted to clarify that it was not the sponsor's intention that they were talking about litigation in every case, but rather giving the Governor discretion.

**SENATOR BENEDICT** said that the senator's comment was the whole scope of the bill, giving the Governor discretion.

**SENATOR GROSFIELD** further questioned page 8 of the grey bill, going to the question of whether the state could appropriate money, and had listed four items. Was is his intention, he asked, that if the legislature finds any one of those things they could enact the appropriation, or did he think more in terms of all four of them?

**SENATOR BENEDICT** said he was trying to provide some guidelines that would set out what we felt our policy should be in the state regarding public health, safety and welfare and cost-effective implementation of the mandates. All four items need to be taken in conjunction, he said.

**SENATOR DOHERTY** asked for an updated fiscal note that would take into account the proposed amendments.

**SENATOR BENEDICT** said that they were not ready but that the preliminary figures he received were around 55,000 to 60,000, down from the original estimate of one million dollars.

**SENATOR DOHERTY** further questioned if state agencies are able right now to question federal mandates and whether it fits in with Montana?

**SENATOR BENEDICT** said that they do compile a list of the federal programs in an appendix to the Governor's budget in the Office of the Budget Program and Planning, but that they do not determine policy.

**SENATOR DOHERTY** wondered about the oversight of the legislature and asked if they thought the Governor had taken an incorrect action or hadn't taken any action when he should have. Who wins if a conflict exists between the two entities?

**SENATOR BENEDICT** directed him to Section 8 of the grey bill.

**SENATOR DOHERTY** asked if the legislature was to be in conflict with the Governor, would it have to go to the Governor for information in the Budget Office. He worried about restricting its ability to act as an equal branch if they would have to use the Governor's figures and they would not have their own figures.

**SENATOR BENEDICT** said he thought he could see where he was going with the question and he would rather avoid it. But he said there was too much inertia, and he wanted to put these matters into the hands of the executive who was here year around to do something. The legislature can put into statute what they want if it does not believe the executive branch is going in the direction they want, he said.

**SENATOR BARTLETT** asked about Section 2, and asked if it would have to be both inconsistent with Montana policy and exceed the lawful authority of the federal government.

**SENATOR BENEDICT** said that anything done in the legislature is open to interpretation, and that's what the courts are for. Although he hoped this would not get that far, but he anticipated it being both.

**SENATOR BARTLETT** asked about Section 4, Subsection 2, how a state agency would be authorized to develop a state program to respond to mandates.

**SENATOR BENEDICT** said the intent was to speak to the executive branch agencies of state government that work with federal mandates to develop state programs that are required. Perhaps she was taking a different spin, he said, to "counter" mandates, but that was not it. He said it was not his intent to have the agencies decide how to respond, but rather to give the information to the Governor and he would decide how to respond.

**SENATOR BARTLETT** asked about Section 5, Subsection 2a (iv), which talks about benefits to local government and business, and wondered if he would object if she struck "business" and inserted "citizens." She thought it would single out one sector of the society to benefit.

**SENATOR BENEDICT** said citizens are covered when they said "benefits state and local governments." Those are the agencies of the citizens, he said, and business also suffers certain burdens under federal regulations that need to be addressed.

**SENATOR BARTLETT** asked him to talk further about the sections of request for information and recommendation, those areas most changed in the grey bill.

**SENATOR BENEDICT** said he would probably ask that they strike Section 6 in its entirety but the first Subsection in Section 7. His intent was to ask for the incorporation of ideas from different states, he said, and what works somewhere else may not work here. He said he was not interested in going out to every Constitutional lawyer and university professor who has an interest in Constitutional law to determine where we are. That's the executive's prerogative once he or she receives the reports. All the bill does, he said, is get the information to the Governor and give him some legislative intent as to the fact that we would like to vigorously pursue the opportunity to develop programs consistent with the state needs.

**SENATOR DOHERTY** asked about Section 7, Subsection 2. What did he want them to understand about Montana's customs and cultures, he asked. Great Falls would be different than the Blackfeet Indian Reservation, he said.

SENATOR BENEDICT answered that it gives the Governor that call, as the representative of all the people of the state, so that he can make a judgment call.

SENATOR GROSFIELD asked if he intended to include the next budget or every budget from here on out.

SENATOR BENEDICT replied that the intent would be the next budgeting cycle and subsequent budgets.

SENATOR HALLIGAN asked what state the laundry list came from.

SENATOR BENEDICT said the federal acts and rules and regulations were compiled by the Legislative Council when he asked them to go through as many as they could pull up immediately to give an idea as a point of reference.

SENATOR HALLIGAN asked if Colorado had the same bill, to which he said no.

SENATOR HALLIGAN said that he saw nothing on economic development administration, nothing from small business, nothing on banking and he wondered if he picked the ones here for a reason or they could add to them.

SENATOR BENEDICT said he specifically asked that it say, "the terms include, but are not limited to the following."

Closing by Sponsor:

SENATOR BENEDICT said that the language in the bill is not rhetoric and is not inflammatory, it is just a statement that the people of Montana are not comfortable with the encroachment of the federal government in the affairs that should rightfully be left to the people of Montana. The business of states' rights won't be settled in one, two or five years, but may play out for years to come. The people want less government interference in their lives, he said, and this bill is a tool for the state to help develop its strategy in restoring the balance of powers between the state and the federal government. It doesn't require that any agency or any executive ignore any mandate, but rather it begins to assess where we should resist burdensome and unnecessary federal regulations so as to develop our own programs with an eye to what best meets the needs of our people. He urged passage of SB 167.

HEARING ON SB 218

Opening Statement by Sponsor:

SENATOR CHRISTIAENS, Senate District 23, Cascade County, sponsored SB 218, revising landlord/tenant laws. He turned the hearing over to the proponents with reservation for the closing.

Proponents' Testimony:

Greg Van Horsen, on behalf of the Montana Housing Providers, a group of approximately 1,100 rental property owners, spoke in favor of SB 218. He said there was a great deal of discussion last session regarding rental arrangements in mobile home parks. This bill is intended to make amendments to various notice provisions of that act as it relates to mobile home parks and amendments to determination issues as well, he said. Section 1 simply deletes unnecessary language regarding the owners discretion to draft rules. The next section requires a landlord who decides to promulgate rules applicable, to put them in writing. Section 2 addresses the termination of a rental agreement in the case of unauthorized pets being brought into the property, or unauthorized persons residing in a rental unit. Additionally, Subsection 2 clears up the notice requirements necessary in the event that a tenant does not pay his/her rent. Section 3 adds a new Subsection, he said, which provides for court expedition of the eviction process. This section is applicable after there has already been a judgement handed down from a court, he said. Section 5 allows the landlord to deduct additional items from a security deposit such as late charges, penalties, utilities and other monies owing to the landlord at the termination of the rental agreement. He explained Section 4, probably the primary reason for the opposition to the bill. This particular section is not meant to abrogate the issue of just cause eviction. It's very important to note that in Subsection 4 of the bill, in visiting with the sponsor and people he represents, he asked that the following change be made on Page 4, Line 28: to cross out the words, "any other reason," and add the words, "legitimate business reason." The change is meant entirely to address notice provisions required in an eviction based on a legitimate business reason, and that's it, he said. Subsection 7-24-436 provides a list of ten reasons a landlord in a mobile home can evict a tenant in the park, notice requirements and time requirements. Subsection j of the statute was added as an amendment during the deliberations by **SENATOR HARP** and was meant to be a catch-all for which a landlord could make evictions. It was intended to add flexibility to run the business, he said. A 90-day notice requirement previously located in Subsection 3 of the statute, was meant to be a requirement exclusive to any conviction based on any legitimate business reason. During the interim some confusion has arisen regarding Subsection 3. Some courts require 90 days for the written notice for the termination of rental agreement under any circumstances including the non-payment of rent. He passed out a training manual circulated in Kalispell which confuses the intent of the 1993 legislation. (EXHIBIT 9).

Mary McCue represented a group of mobile home park owners. She asked to speak to the Section 3 provision. The language was included in the bill at the request of the owners she represents and establishes a time frame by which the sheriff has to act upon a writ of assistance issued by the court. In an eviction action

of a tenant who is occupying a mobile home space, once the court has issued its judgement in favor of the landlord and has told the tenant to vacate the space, if the tenant does not, the landlord has to go back to the judge and ask for a writ of assistance. They would like to have a time frame set, she said. They are not creating a new remedy, this is being done. Her group approached the law enforcement people and they had no objection to the bill and felt they could comply with the ten day limitation.

**Dan McLean, representing the Oakland Holding Company, owner of several mobile home parks in Montana,** remarked on provisions in Section 4, the proposal to add back in "legitimate business reason" for an eviction. In a general landlord/tenant law, he said, there is a 30-day right of termination without cause and that has been a workable solution. In a mobile home park, owners should have the same kinds of fair protections as any other kinds of landlords of property, the right to terminate tenancy, without having to justify in each cases the reason they might to do that. It's important to leave language in providing for a 90-day termination. This is a responsible bill that clarifies the law, he said. There may be a shortage of spaces, he contended, and that's why they need whatever time they need to get out, but that flies in the face of the property owner to control their property. To invite people to build more parks, there should not be restrictions to their ability to derive benefit and profit. The bill rewards tenants who are careful and responsible and pay their rent, and provides incentives for others to get into the business.

**Rhonda Carpenter, Chairman, Montana Housing Providers, which consists of three statewide landlord organizations,** spoke to the changes in Section 2. These are not a change in terms of the lease agreement, she said, In these circumstances the landlord and tenant have already agreed, in writing, to no pets and as to how many people will reside in the unit. This is simply shortening the time a tenant, who already knows he is in violation of the lease, has to correct the situation. Pets can do considerable damage in 14 days, she said, and this amendment will attempt to preserve the value of the rental by speeding the termination process. Sewer charges are lienable on property, she explained, so extra people increase the costs to sewers or holding tanks. She said they would appreciate a Do Pass recommendation.

#### Opponents' Testimony:

**Andy Gardener, representing Montana People's Action,** handed out written testimony (EXHIBIT 10). He maintained that SB 218 is not about simple technical revisions on the "good cause" laws written in the last legislative session, but rather an attempt to circumvent those laws.

**Jim Fleschman, Executive Director of Montana People's Action,** addressed the law and objections of most mobile home owners. With regard to Section 2, he said they had no problem if the rules were in writing, and not subject to interpretation. He questioned the pet provision since owners make the rules and furthermore pet damages more often than not occur in their own home, the mobile unit. What would constitute an unauthorized person, he asked, in his home? On the action for possession, he said, civil codes already provide for repossession, so why do the landlord/tenant laws require codification for civil procedures? The most damaging part of the bill is in the changes for reason for eviction and legitimate business reasons. Tenants demonstrated to the legislature that eviction was used as a management tool to get rid of people who complained about conditions in the court and wanted to improve it. Perhaps the landlord would find a person passing a petition a "nuisance," he said, and evict them for a good "business reason." This bill guts the "good cause" bill, he protested. He handed out a letter (**EXHIBIT 11**) describing retaliatory evictions of tenants who complain about court conditions. He also handed out information from **Klaus D. Sitte (EXHIBIT 12)** who wrote the good cause provisions, and has projected in his letter what this bill will do. The need has not been demonstrated to change a law only in effect for a year and one-half, he said, besides, no specific cases have been brought before the committee.

{Tape: 3; Side: A; Approx. Counter: 00}

**Bruce Hietala, Missoula, Representing the Mobile Home Park Residents Association,** told the committee that the intent of the good cause bill in 1993 was to prevent unjust evictions and he cautioned every member to review the information and not allow unjust evictions.

**Lela DeCock, Belgrade, representing the Montana People's Action (MPA),** said that she and her husband moved to the Bozeman area to attend school and because of the inflated real estate market, chose to buy a mobile home. They have been through several court hearings on an illegal eviction, she said. The rulings were in their favor including legal fees, which were all appealed. In November 1, 1994 the Supreme Court decided in their favor and the landlord still declares them evicted. She helped with the good cause legislation and says the landlord is angry about that. It would cost between \$3,500 to \$4,000 to move the mobile home. She said she and her family of five will be the first evicted if SB 218 passes.

**Alice Janke, from Lexley Acres in Belgrade, Mt., also a Montana People's Action representative,** said she represented 100 trailers. Two years ago she said she worked on the good cause and her landlord bragged that he did not need a reason to evict the people in their court. She had received threatening notes



taped to the door nearly every month, she said. She presented copies of these transactions (EXHIBIT 13) dated one year apart. She said that the past two years have been peaceful in the court, however, she had been in court with the landlord, won, and was re-evicted the following week. She is in litigation now. She urged opposition to SB 218 to give the people an opportunity to protect themselves.

**Ron Grafft, Missoula, co-chairman of Travois Residents' Association and a member of the Montana People's Action,** said that his association had been in litigation with the landowner for the past three years, and he felt if this legislation passed, most of them would be evicted. He asked for a Do Not Pass resolution to the bill.

**Nancy Weinzettel, resident, Highwood Mobile Home Court in Great Falls, said she was a homeowner. She is also the chairperson of the Great Falls Montana People's Action, she said.** She maintained that if the bill passed, there would be very little question that she and her son would be evicted. She said her court was a good place to live and she did not want to leave. She has been active in forming residents' associations in mobile home courts, and while this doesn't reflect on her responsibilities as a good tenant, the landlord perceives her as a threat because of her proactive stance in advancing mobile home residents' rights. The first to fall victim to this bill would be folks like her, she said, and the second group would be the average tenants that the landlord just doesn't like. She said they wanted to live without fear of eviction. Good landlords and good tenants have nothing to fear with the legislation passed two years ago, she said. She asked the committee to remember that her mobile home isn't mobile.

**Bob Christiansen, Frenchtown, and Montana Peoples' Action member,** said he had first hand knowledge of problems in mobile courts. He said they had gone through years of bad management, bad sewers and bad owners. They had lived in Leisure Park Trailer Court in Lolo for 13 years, and were then evicted because he joined a tenant association. He said if passed, the bill would allow landlords to evict for no reason. He said the landlords would try to convince the committee that they have no power over their property. He said that with passage of the bill, 110,000 people in mobile home courts will be right back where they started before the good cause law, at the mercy of the landlords.

**Kenneth Van Stockum, resident of Countryside Village in Great Falls and a member of the Montana Peoples' Action,** asked the committee to oppose SB 218. He said it was against the Constitutional rights of the people living in mobile home courts. There should be good cause for evictions, he said, and feared he would be evicted for his participation in residents' organizations and for his part in testifying on the bill.

**Mike Payne, Missoula, a manufactured home owner,** thanked the committee for the good deed they had done in passing the 1993 original good cause provisions. He said it was the only real protection he had against tyrannical landlords who would wish to use their personal power for personal reasons to cause him the devastating and irreparable harm of evicting he and his home to the streets. He implored them not to undo a good job of approving the good cause act. He said he believed **SENATOR CHRISTIAENS** to be an ethical and humane man who simply did not understand the implications of the bill and how much harm it could do.

**Percie Jones, Missoula, tenant,** spoke against SB 218. He said that passage of SB 218 would unjustly force the people to relive what they knew and fought so hard to change in the 1993 good cause legislation. He urged a "no" vote.

**Edward Baron, Great Falls, Montana Peoples' Action,** said he was a registered voter and represented about 500 people in Great Falls. He opposed SB 218, not only as a tenant, but because he felt it to be unfair and unconstitutional on grounds of personal dislike, because of being a Jew, Catholic or Indian. His presence at the hearing could be used to evict him. He told **SENATOR DOHERTY** that he had voted for him, and hoped he had reason to vote for him again.

**J. B. Bennett, representing Montana Public Interest Research Group (MontPIRG)** presented written testimony (EXHIBIT 14).

Another written document was submitted to the secretary (EXHIBIT 15) which contain letters from Mrs. Jo Nulliner of Great Falls and Karen Pester of Great Falls.

Questions From Committee Members and Responses:

**SENATOR DOHERTY** asked the sponsor whether or not it was his intent to remove the "just cause" provision that currently governs evictions for mobile home parks.

**SENATOR CHRISTIAENS** said it was not his intent, nor had ever been. He said an amendment had been started to add the wording, "of legitimate business reasons," which he believed would keep the language in the bill as it was passed in 1993. It would be added at the bottom of Page 4, Line 27, he said.

**SENATOR DOHERTY** asked one of the opponents, **Mr. Fleschman**, if with the addition of the language, it would satisfy him that the good cause provision was not being tampered with?

**Mr. Fleschman** answered that the Section 70-24-436 lists the specific good cause provisions. After the Section I it said, "or" and then it says simply, "legitimate business reasons." There was confusion around what is a "legitimate business reason," he said.

**SENATOR DOHERTY** said that "legitimate business reason" as it was written was current statute. He questioned if **Mr. Fleschman** wanted to get rid of a "legitimate business reason" in current statute.

**Mr. Fleschman** did know why it read "or" then, and not just "legitimate business reason."

**SENATOR DOHERTY** asked if the argument was with the current law and the current language, or is the argument with the amendment.

**Mr. Fleschman** said they were concerned with striking Section 3 on Page 5 and wondered why it was necessary. It is the interpretation of the author of good cause, he said, that with the striking of Section 3 in conjunction with the proposed Section J, the good cause reasons will no longer work.

**SENATOR DOHERTY** asked if **Mr. Sitte** was present, to which **Mr. Fleschman** replied that he was unable to be here.

**SENATOR DOHERTY** asked if it was the combination of those two things that they believe will remove just cause?

**Mr. Fleschman** replied to the affirmative.

**CHAIRMAN CRIPPEN** asked **SENATOR CHRISTIAENS** for clarification on the striking of the language on Page 1.

**SENATOR CHRISTIAENS** said that he thought there was misunderstanding and that the bill clarified all landlord/tenant law not just mobile homes.

**CHAIRMAN CRIPPEN** explained that in the hearings two years ago, they thought there was a distinct reason for having some reason for having regular landlord law and specifically separate provisions for mobile homes. The mobile home has a unique status and recognized the misnomer of saying they are actually mobile. So he asked the sponsor if he is saying there would be no separate provision for mobiles?

**SENATOR CHRISTIAENS** asked **Mary McCue** to respond. She said that during the last session there were two bills dealing with mobile homes and requiring the rules be in writing. She said this bill would expand the rule to all landlords not just mobile home park landlords, and would be for the protection of the tenants.

**SENATOR CRIPPEN** asked if there was any objection to this portion and it was determined that there was none among the witnesses. He then asked about Page 2, unauthorized pets. He questioned the pet damage in mobile homes, which are the renters' own homes.

**Mary McCue** answered that the trouble would be a large animal that is causing a lot of harm, and the landlords wanted to have this shorter time frame to take care of the problem. Also, she said,

two cats may have been allowed, and suddenly the people have 20 cats.

**Rhonda Carpenter** said that she teaches this law for the Commerce Department and she would explain it. This section was put in for apartments, not mobile homes, and it falls under rule violations. The items in this section are already pre-agreed upon in the contract and would be rules violations under just cause eviction. The pet issue would be one rule violation, not an eviction. In an apartment complex, they would be able to tell them they had three days to get rid of the pet or move; in the mobile home situation, as long as they got rid of the pet, it would be a rule violation and they would not be evicted, but one rule violation would go into their file.

**SENATOR CRIPPEN** questioned if 72-94-422 does not apply to mobile homes.

**Rhonda Carpenter** stated that it would apply as a rule violation if they did not get rid of the pet. If they insisted on keeping the pet, then yes, she said, eviction proceeding would start.

**CHAIRMAN CRIPPEN** further asked why it said three days?

**Rhonda Carpenter** stated that the three days was put in there because they already knew in advance that there were no pets allowed in this building or mobile home park. This is not a new rule, she said. A new rule would take the whole 30 days of notification, no change of terms in a lease. In this agreement, two adults have already signed a contract, then one adult chose not to comply with the lease agreement. The three days was put in there for the damage done to apartments, assuming that the majority of mobile home parks didn't have a rule that said you could not have a pet in your own house.

**Jim Fleschman** asked why, if it was only a rule violation, it would be written into statute that if you break the pet rule the rental agreement terminates?

**Valencia Lane** was asked her opinion by **CHAIRMAN CRIPPEN**. She said tht there was a specific section on Page 4, 70-24-436, which applies to mobile home parks, and it says you can only terminate the rental agreements for certain reasons, and there has to be repeated violations of the rule. She thought that the bill sets up a conflict between the two sections because 70-24-422 specifically says, "in the case of a breach involving a pet or an unauthorized person, the lease terminates in three days after three days notice". One way to alleviate that problem would be to amend one or the other. As it stands, there is a conflict, she said.

**CHAIRMAN CRIPPEN** asked about Subsection C, unauthorized persons. He realized that from the landlords' point of view, they are renting to specific people in an apartment. He asked for

comment.

**Melissa Case, Montana Peoples' Action**, said those cases were covered under legal agreements and they did have legal recourse. This is not necessary since it's covered under the contract and if there's a violation, it's a breach of the contract.

**Rhonda Carpenter** said that both the pet rulings and this question are covered under a 14-day notice, but they wanted the time on the ability to give the notices, shortened to three days.

**CHAIRMAN CRIPPEN** agreed that pumping tanks for extra persons etc., would go toward expense, not damage. He suggested perhaps additional fees for the extra people would be reasonable.

**Rhonda Carpenter** replied that The Human Rights Commission will not allow them to charge more money per person. It's against the law in the U.S. because of human rights and familial status.

**Melissa Case** pointed out that the case of the drunken brother-in-law would be a violation covered under a health and safety provision, for which there is 24-hour notice. This applies to mobile home parks and could be extended to rental units, she said.

**The CHAIRMAN** asked for an example for a landlord to terminate the rental agreement 15 days after the tenant has received notice as seen in Subsection 2a on Page 3.

**Jim Fleschman** said that they did not understand the intent.

**Rhonda Carpenter** explained that if she owned an apartment complex and a tenant forgot to pay their rent, she would notify them to pay in three days or get out. The mobile home landlord gives the notice and it takes 15 days to get out or pay. They wanted to make the mobile home owners noticing time shorter, not the moving time.

**Melissa Case** said she would concur.

**Jim Fleschman** said the problem is that people have a stationary piece of property and are not likely to run off, but many times tenants have agreements to pay on payday and the landlord can renege on those verbal agreements.

**CHAIRMAN CRIPPEN** asked why in the world anyone would have a verbal agreement.

**CHAIRMAN CRIPPEN** questioned the writ of assistance on Page 5. If it is already case law, why do you want it here, he asked?

**Jim Fleschman** said that they considered this item to be a tool of intimidation. He also said it was unnecessary. Landlords have the right to take possession. Why would it need to be written in

landlord/tenant law any more than it would be written into an automobile dealer/sheriff contract.

The **Chairman** asked if **Jim Fleschman** found it unreasonable for the landlords to have the right of the writ of assistance. **CHAIRMAN CRIPPEN** said the writ of assistance is after the fact; everything is done. But if the tenant had said he won't move, the writ of assistance is just a direction from the court to the sheriff to help remove the tenant. If there is clarity in this part of the law, he said, he didn't see where anybody would object to this. He asked for additional research.

**Jim Fleschman** said no other businesses have that direction written into codes specifying the assistance of law enforcement in repossession or conviction.

**Mary McCue** said that was the point of the legislation, to address the sheriff's direction. They would already have the judgement against the tenant when this would start. This provision was really directed at the sheriff's office in determining a time frame, which varies from department to department.

**Melissa Case** said that it should be in the civil procedure codes, not the landlord/tenant code, making it consistent for everyone.

**CHAIRMAN CRIPPEN** asked the sponsor about the amendment on Page 4. He asked if he took out "legitimate business" and intended to put it back?

**SENATOR CHRISTIAENS** stated that yes, he intended to. It was a mistake, he said, to take it out and not the intent to do away with the good cause.

**Rhonda Carpenter** said that their understanding was that last time with **SENATOR HARP'S** amendment, all the rule violations, etc., would fall under landlord/tenant law. If they did not correct them, they moved. If they did, it was a rule violation and they had to get two to be asked to move. The "legitimate business" reason that **SENATOR HARP** offered was all on its own, but since then, interpretations of the courts have been varied, and a number of courts are ruling that non-payment of rent is a good business reason to evict someone. However, when the tenants don't pay their rent, they get 90 full days to sit there without paying before they move. It is happening in a large number of courtrooms, she said. She said the landlords' association wanted the 90 days to be separate. Under 70-24-431, she said, which is retaliatory conduct by a landlord to be prohibited, it is the law that if a tenant complains of a health problem or joins a tenant organization or complains of a rule violation, and the landlord tries to evict them or raise their rent in the next six months, they have a presumption of retaliatory action and have grounds in court to prevent the eviction.

**Jim Fleschman** said that in the meantime you've lost your mobile home space and are forced to hire an attorney. He reminded everyone of the Yellowstone County Health Department letter in which they acknowledge that the law is being broken with some regularity.

**Melissa Case** wanted to strike "the legitimate business reason" as it is separated out in Section J. Another thing is the change of use as a separate issue in this law, she said.

**Rhonda Carpenter** said they asked for the clarification because 90 days for non-payment of rent is a long time to wait.

**Jim Fleschman** said then they should have said "except in the case of the non-payment of rent." Why was the Section 3 eliminated?

{Tape:3; Side:B ; Approx. Counter:0.1}

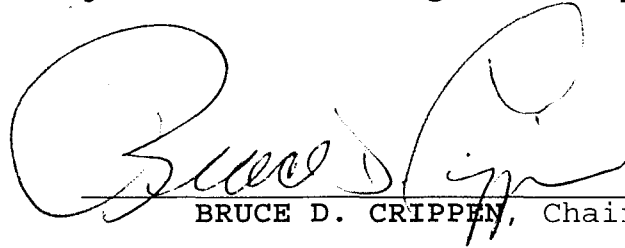
**Mary McCue** said that she did not think there was agreement. They were saying that unless there was a legitimate business reason, that is the only category that the 90-day requirement would pertain to, but as Mr. Sitte said, they think it should be 90 days notice in all circumstances when you're removing a mobile home.

Closing by Sponsor:

**SENATOR CHRISTIAENS** told the committee that it was never his intent to do away with the good cause portions in the bill. He thought that by adding "legitimate business reasons" which they gave verbally would clarify that. He promised his continued work with the staff attorney. He said that Section 2 clarified a written agreement already in place and he expressed amazement to have opposition to the bill. Retaliatory action was extremely clear, he said, as set forth in Section 70-24-431, and anyone being evicted because of participation in this hearing should be assured that it was not the case.

ADJOURNMENT

Adjournment: CHAIRMAN CRIPPEN adjourned the hearing at 1:50 p.m.



BRUCE D. CRIPPEN, Chairman



JUDY FELAND, Secretary

BBC/jf







Renumber: subsequent subsections

11. Page 1, line 23.

Following: "consent"

Strike: "; or"

Insert: "."

12. Page 1, line 24.

Strike: subsection (g) in its entirety

13. Page 1, line 25.

Insert: "(b) Except as provided in subsection (3), if a person convicted of one of the following offenses was previously convicted of two of the following offenses, two of any combination of the offenses listed in subsection (1)(a) or the following offenses, or two of any offenses under the laws of another state or of the United States that, if committed in this state, would be one of the offenses listed in subsection (1)(a) or this subsection, the person must be sentenced to life in prison, unless the death penalty is applicable and imposed:

- (i) 45-5-103, mitigated deliberate homicide;
- (ii) 45-5-202(1), aggravated assault;
- (iii) 45-5-302, kidnapping;
- (iv) 45-5-401, robbery;
- (v) 45-6-103, arson."

14. Page 1, line 25.

Strike: "46-18-222 and"

Following: "46-23-210"

Insert: "and subsection (3) of this section"

15. Page 1, line 28.

Following: "reason"

Insert: ", except medical reasons,"

16. Page 2, line 3.

Insert: "(3) If the person was previously sentenced for either of two or three offenses listed in subsection (1), as applicable, pursuant to any of the exceptions listed in 46-18-222, then the provisions of subsections (1) and (2) of this section do not apply to the person's present sentence.

(4)(a) For purposes of this section, "prison" means a secure detention facility in which inmates are locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private contractor.

(b) Prison does not include a work release center, prerelease center, boot camp, or any other type of facility

SENATE STANDING COMMITTEE REPORT

Page 1 of 3  
January 31, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 66 (first reading copy -- white), respectfully report that SB 66 be amended as follows and as so amended do pass.

Signed:   
Senator Bruce Crippen, Chair

That such amendments read:

1. Title, line 4.

Strike: "TWO"

Insert: "A SPECIFIED NUMBER OF"

2. Title, lines 5 and 6.

Strike: "A STATE"

3. Title, line 8.

Following: "45-5-103,"

Insert: "45-5-202,"

4. Page 1, line 13.

Following: "(1)"

Insert: "(a)"

5. Page 1, line 14.

Strike: "46-18-222"

Insert: "subsection (3)"

6. Page 1, lines 17 and 27.

Strike: "a state"

7. Page 1, line 18.

Strike: "(a)"

Insert: "(i)"

Renumber: subsequent subsections

8. Page 1, lines 19 and 20.

Strike: subsections (b) and (c) in their entirety

Renumber: subsequent subsections


9. Page 1, line 21.

Following: ";"

Insert: "or"

10. Page 2, line 22.

Strike: subsection (e) in its entirety

 Amd. Coord.  
ST Sec. of Senate

261422SC.SRF

that does not provide secure detention."

17. Page 3, line 3.

Insert: "Section 4. Section 45-5-202, MCA, is amended to read:

"45-5-202. **Aggravated assault -- felony assault.** (1) A person commits the offense of aggravated assault if ~~he~~ the person purposely or knowingly causes serious bodily injury to another.

(2) A person commits the offense of felony assault if ~~he~~ the person purposely or knowingly causes:

(a) bodily injury to another with a weapon;

(b) reasonable apprehension of serious bodily injury in another by use of a weapon; or

(c) bodily injury to a peace officer or a person who is responsible for the care or custody of a prisoner.

(3) A person convicted of aggravated assault shall be imprisoned in the state prison for a term of not less than 2 years or more than 20 years and may be fined not more than \$50,000, except as provided in 46-18-222 and [section 1]. A person convicted of felony assault shall be imprisoned in the state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both.""

Renumber: subsequent sections

-END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 27, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 203 (first reading copy -- white), respectfully report that SB 203 do pass.

Signed: \_\_\_\_\_  
Senator Bruce Crippen, Chair


Amd. Coord.  
Sec. of Senate

231238SC.SPV


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 27, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 192 (first reading copy -- white), respectfully report that SB 192 do pass.

Signed: \_\_\_\_\_  
Senator Bruce Crippen, Chair

 Amd. Coord.  
Sec. of Senate

231236SC.SPV


SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
January 27, 1995

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration SB 174 (first reading copy -- white), respectfully report that SB 174 do pass.

Signed: \_\_\_\_\_  
Senator Bruce Crippen, Chair

  
Amd. Coord.  
Sec. of Senate

231234SC.SPV



MONTANA SENATE  
1995 LEGISLATURE  
JUDICIARY COMMITTEE  
ROLL CALL VOTE

DATE 1-27-95 BILL NO. SB66 NUMBER #1

MOTION: Sen. Gros. moved a.m.d. - unanimous -  
Sen. Baer - DPAA

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN		
LARRY BAER		
SUE BARTLETT		
AL BISHOP, VICE CHAIRMAN		
STEVE DOHERTY		
SHARON ESTRADA		
LORENTS GROSFIELD		
MIKE HALLIGAN		
RIC HOLDEN		
REINY JABS		
LINDA NELSON		

SEN:1995  
wp:rlclvote.man

unanimous

Do Pass DC Bill

MONTANA SENATE  
1995 LEGISLATURE  
JUDICIARY COMMITTEE  
ROLL CALL VOTE

DATE 1-27-91 BILL NO. 52,174 NUMBER 2

MOTION:

Jan. DOH - Motion - DP

[illegible]

SEN:1995  
wp:rlclvote.man

unanimously  
passed

1# 0

DO PASS

MONTANA SENATE  
1995 LEGISLATURE  
JUDICIARY COMMITTEE  
ROLL CALL VOTE

DATE 1-27-95 BILL NO. SB 192 NUMBER 3

MOTION: \_\_\_\_\_

Sen. DOHERTY Motion - Do Pass

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN	✓	
LARRY BAER		✓
SUE BARTLETT	✓	
AL BISHOP, VICE CHAIRMAN	✓	
STEVE DOHERTY	✓	
SHARON ESTRADA		✓
LORENTS GROSFIELD	✓	
MIKE HALLIGAN	✓	
RIC HOLDEN	✓	
REINY JABS	✓	
LINDA NELSON		✓

SEN:1995  
wp:rlclvote.man

8-2

Tr Pass

MONTANA SENATE  
1995 LEGISLATURE  
JUDICIARY COMMITTEE  
ROLL CALL VOTE

DATE 1-27-95 BILL NO. SB 203 NUMBER A

MOTION: SEN Grosfield Moved SB 203 DO PASS

NAME	AYE	NO
BRUCE CRIPPEN, CHAIRMAN		
LARRY BAER		
SUE BARTLETT		
AL BISHOP, VICE CHAIRMAN		
STEVE DOHERTY		
SHARON ESTRADA		
LORENTS GROSFIELD		
MIKE HALLIGAN		
RIC HOLDEN		
REINY JABS		
LINDA NELSON		

SEN:1995

wp:rlclvote.man

*man.*

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. -1DATE 1-27-91BILL NO. SB 66

Amendments to Senate Bill No. 66  
First Reading Copy

Requested by Senator Grosfield  
For the Committee on Judiciary

Prepared by Valencia Lane  
January 23, 1995

1. Title, lines 5 and 6.  
Strike: "A STATE"

2. Page 1, lines 17 and 27.  
Strike: "a state"

3. Page 2, line 3.

Insert: "(3)(a) For purposes of this section, "prison" means a secure detention facility in which inmates are locked up 24 hours a day and that is operated by this state, another state, the federal government, or a private contractor.

(b) Prison does not include a work release center, prerelease center, boot camp, or any other type of facility that does not provide secure detention."

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment** SB 167  
**Senate Bill No. 167**

1 \_\_\_\_\_

2

3 A Bill for an Act entitled: "An Act providing for the review of federal mandates to state and

4 local governments; requiring agencies to implement federal mandates in the most

5 cost-effective manner; requiring a study and report on federal mandates; providing for

6 legislative review and oversight; and providing an immediate effective date."

7

8 Be it enacted by the Legislature of the State of Montana:

9

10 NEW SECTION. Section 1. Short title. [Sections 1 through 5 8] may be cited as

11 the "Federal Mandates Act".

12

13 NEW SECTION. Section 2. Legislative declaration. (1) (a) In enacting [sections

14 1 through 5 8], the legislature employs its legislative authority to establish that the people of

15 the state of Montana, acting through their elected officials in state government, have the

16 responsibility and authority to establish policy in and for Montana pertaining to federal

17 programs mandated in federal statutes.

18 (b) The intent of the legislature is to ensure the primacy of the state of Montana's

19 legal and political authority to implement in and for Montana the policy mandated by federal

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**Senate Bill No. 167**

1 statutes and to vigorously challenge and scrutinize the extent and scope of authority asserted  
2 by federal executive branch agencies when federal agency actions and interpretations are  
3 inconsistent with Montana policy and exceed the lawful authority of the federal government  
4 or are not required by federal law.

5 (c) In this regard, the Montana legislature finds and declares that:

6 (i) the power to implement federal policies in and for Montana is central to the  
7 ability of the people of Montana to govern themselves under a federal system of government;  
8 and

9 (ii) any implementation of federal policies in and for Montana by federal executive  
10 branch agencies that is contrary to fundamental notions of federalism and self-determination  
11 must be identified and countered.

12 (2) The legislature further finds and declares that:

13 (a) there is an urgent need to modify federal mandates because the implementation of  
14 these mandates by the state wastes the financial resources of local governments, the citizens  
15 of Montana, and the state and does not properly respect the rights of local governments,  
16 citizens, and the state;

17 (b) the state government has an obligation to the public to do what is necessary to  
18 protect the rights of Montana citizens under federal law while minimizing or eliminating any  
19 additional cost or regulatory burden on any citizen of the state;

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**Senate Bill No. 167**

1 (c) the 10th amendment to the United States constitution directs that powers that are  
2 not delegated to the United States are reserved to the states or to the people. Montana, as  
3 one of the sovereign states within the union, has constitutional authority to enact laws  
4 protecting the environment of the state and safeguarding the public health, safety, and  
5 welfare of the citizens of Montana. However, this authority has too often been ignored by  
6 the federal government. The federal government has intruded more and more into areas that  
7 must be left to the states. It is essential that the dilution of the authority of state and local  
8 governments be halted and that the provisions of the 10th amendment be accorded proper  
9 respect.

10 (d) current federal regulatory mandates, as reflected in federal administrative  
11 regulations, guidelines, and policies, often do not reflect the realities of the Rocky Mountain  
12 region, and federal regulators frequently do not understand the needs and priorities of the  
13 citizens of Montana;

14 (e) the citizens of this state can create and wish to create innovative solutions to  
15 Montana's problems, but the current manner in which legal challenges to state policies and  
16 federal programmatic substitutions of state programs are handled does not allow the state the  
17 flexibility it needs. It is not possible for the state of Montana to effectively and efficiently  
18 implement the provisions of federal statutes unless the burden to prove the insufficiency of  
19 the state's efforts to implement federal requirements is shifted to the person or agency who



**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 asserts the insufficiency.

2 (f) the provisions of [sections 1 through 5 8] will better balance the exercise of the  
3 powers of the federal government and the powers reserved to the states. In addition, the  
4 application of [sections 1 through 5 8] ultimately will bring about greater protection for the  
5 state and the nation because it will direct the state to implement federal statutes at the least  
6 possible cost and will make more money available for other needs.

7 (g) the purpose of [sections 1 through 5 8] is to ensure that federal mandates  
8 implemented in Montana comply with state policy as established by the legislature.

9  
10 NEW SECTION. Section 3. Definitions. As used in [sections 1 through 5 8],  
11 unless the context otherwise requires, the following definitions apply:

12 (1) "Federal statute" means a federal statute that is in accord with the United States  
13 constitution and that imposes mandates on state or local governments. The term includes but  
14 is not limited to the following:

15 (a) the federal Safe Drinking Water Act, 42 U.S.C. 300f, et seq., as amended;

16 (b) the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended;

17 (c) the Federal Water Pollution Control Act, 33 U.S.C. 1151, et seq., as amended;

18 (d) the federal Solid Waste Disposal Act, 42 U.S.C. 3251, et seq., as amended;

19 (e) the federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6901, et

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 seq., as amended;

2 (f) the federal Comprehensive Environmental Response, Compensation, and Liability  
3 Act of 1980, 42 U.S.C. 9601, et seq., as amended;

4 (g) the federal Superfund Amendments and Reauthorization Act of 1986, Public Law  
5 99-499, as amended;

6 (h) the federal Endangered Species Act of 1973, 16 U.S.C. 1531, et seq., as  
7 amended;

8 (i) the federal Asbestos School Hazard Abatement Act of 1984, 20 U.S.C. 4011, et  
9 seq., as amended;

10 (j) the federal Brady Handgun Violence Prevention Act, 18 U.S.C. 921, et seq., as  
11 amended;

12 (k) the federal Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 2701, as  
13 amended;

14 (l) the federal Family and Medical Leave Act of 1993, Public Law 103-3, as  
15 amended;

16 (m) the federal Emergency Planning and Community Right-to-Know Act of 1986, 42  
17 U.S.C. 11001, et seq., as amended;

18 (n) the federal, state, and local partnership for education improvement program, 20  
19 U.S.C. 1751, et seq., as amended;

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1           (o) the federal National Voter Registration Act of 1993, Public Law 103-31, as  
2 amended;

3           (p) the federal school lunch program and school breakfast program, 42 U.S.C. 1751  
4 and 1773, as amended;

5           (q) federal social services and medicaid requirements, 42 U.S.C. 1396, as amended;

6           (r) federal highway safety programs;

7           (s) the federal Intermodal Surface Transportation Efficiency Act of 1991, Public  
8 Law 102-240, as amended;

9           (t) the federal Educate America Act, Public Law 103-227.

10          (2) "Legislative council" means the statutory committee established in 5-11-101.

11          (3) "Legislative finance committee" means the statutory committee established in  
12 5-12-201.

13

14           NEW SECTION. **Section 4. State programs to implement federal statutes. (1)**

15          A state official or employee charged with the duty of implementing a federal statute shall  
16 implement the law as required by the federal statute in good faith and with a critical view  
17 toward the provisions of any federal regulation, guideline, or policy in order to identify those  
18 provisions of any federal regulation, guideline, or policy that are inconsistent with Montana  
19 policy or do not advance Montana policy in a cost-effective manner.

**Grey Bill -- First Draft**  
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**Senate Bill No. 167**

1 (2) An executive branch agency of state government that is authorized to develop a  
2 state program to respond to any mandates contained in a federal statute shall develop the  
3 state program and promulgate any necessary rules, using the following criteria:

4 (a) State programs should be developed by the state agency to meet the requirements  
5 of federal statutes in good faith and with a critical view toward any federal regulations,  
6 guidelines, or policies.

7 (b) State programs should be developed with due consideration of the financial  
8 restraints of local governments, the citizens of Montana, and the state, including the  
9 limitation imposed by Article VIII, section 9, of the Montana constitution.

10 (c) A state program that implements the goals of the federal statute should provide  
11 for the most efficient method possible, with careful consideration given to the cost of the  
12 program and the impact of the program on local governments and Montana citizens and on  
13 the long-range public health, safety, and welfare of citizens of the state.

14  
15 NEW SECTION. Section 5. ~~Legislative finance committee -- reports to legislative~~  
16 ~~council Requirement for appropriations -- reporting on federal mandates -- savings. (1)-~~  
17 ~~The legislative finance committee shall report to the legislative council regarding the~~  
18 ~~proposed implementation of this section.~~

19 ~~(2)~~(1)(a) If a state program is authorized or mandated by a federal statute, a state

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 appropriation for the program may not be enacted unless the legislature finds that:

2 (i) the state program is necessary to protect the public health, safety, and welfare;

3 (ii) the state program is necessary to implement the federal statute;

4 (iii) the operation of the state program benefits the state by providing a cost-effective  
5 implementation of the federal statute by the state, by local government, and by business; or

6 (iv) the state program benefits the state, local government, and business by providing  
7 a cost-effective means to meet a higher public health, safety, and welfare standard established  
8 under state law.

9 (b) Each state agency that makes a budget request for an appropriation for a state  
10 program authorized or mandated by federal statute shall include in its budget request to the  
11 office of budget and program planning citations to the federal constitutional provisions and  
12 the state constitutional or statutory provisions that authorize the state program. The  
13 ~~legislative finance committee~~ budget director shall review the budget request and, in  
14 consultation with knowledgeable persons, determine whether additional state statutory  
15 authority is required in order to implement the state program, and If additional statutory  
16 authority is determined to be required, the office of budget and program planning or an  
17 agency of the executive branch shall make recommendations to the legislature ~~and the~~  
18 ~~legislative council~~.

19 (c) The legislature, ~~after receiving a recommendation from the legislative finance~~

Grey Bill -- First Draft  
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Senate Bill No. 167

1 ~~committee and the legislative council~~ budget director, pursuant to subsection (1)(b) and in  
2 consultation with the attorney general, shall determine whether a state program is necessary  
3 and whether federal constitutional authority and state constitutional or statutory authority  
4 exist. The ~~legislature~~ budget director and the attorney general shall exercise a critical view  
5 toward the interpretation of the federal statute found in federal regulations, guidelines, or  
6 policies. Enactment of a state appropriation for a state program constitutes the legislature's  
7 determination that the state program is necessary and that federal constitutional authority and  
8 state constitutional or statutory authority exist. State appropriations may not be based solely  
9 on requirements found in regulations, guidelines, or policies of a federal agency.

10 (d) Prior to recommending to the legislature a budget for a state agency that is  
11 charged with implementing federal mandates, the office of budget and program planning ~~and~~  
12 ~~the legislative finance committee~~ shall require that the state agency provide information  
13 regarding any monetary savings for the state and any reduction in regulatory burdens on local  
14 governments and on the public that could be or have been achieved through the development  
15 of state policies that meet the intent of the federal statute but do not necessarily follow all  
16 applicable federal regulations, guidelines, or policies. The state agency shall also provide  
17 advice to the office of budget and program planning ~~and the legislative finance committee~~  
18 regarding any changes in state statutes that are necessary to provide the state agency the  
19 authority to implement state policies in such a way as to create additional savings or greater

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 reductions in regulatory burdens. The office of budget and program planning shall review  
2 and compile the information received from state agencies pursuant to this section and shall  
3 include recommendations in ~~its annual budget request to the legislative finance committee~~ the  
4 governor's budget based upon the information.

5 (3)(2) For purposes of this section, "state program" does not include any portion of a  
6 program that is funded with nontax or nonfee revenue, or both, that state authorities are  
7 required to administer in a trusteeship or custodial capacity and that is not subject to  
8 appropriation by the legislature.

9  
10 NEW SECTION. Section 6. Requests for information regarding federal  
11 mandates. (1) The staff of the ~~legislative council and the office of legislative fiscal analyst~~  
12 ~~shall jointly~~ office of budget and program planning shall prepare one or more requests for  
13 information regarding federal mandates on or before August 31, 1995. The requests for  
14 information must be directed to persons involved with or affected by federal mandates,  
15 including but not limited to the following:

16 (a) public and private institutions of higher education both within and outside  
17 Montana and individuals in the institutions who have developed a high degree of expertise in  
18 the subjects of federalism and federal mandates;

19 (b) attorneys in private practice who have dealt with federal mandate litigation or

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 research; and

2 (c) organizations and foundations that have an interest in the issues of federalism and  
3 the imposition of federal mandates on local and state governments.

4 (2) The issues addressed in the requests for information issued pursuant to this  
5 section must include the following:

6 (a) identification of federal mandates expressing broad federal policies that would  
7 best be implemented on a state-by-state basis or that could be resisted because of the unique  
8 circumstances that are present in each state and because of the unnecessary burdens that are  
9 created by federal regulations and policies;

10 (b) legal theories that support the right of each state to implement or oppose federal  
11 mandates pursuant to the state's own policies;

12 (c) practical methods, including the enactment of any state legislation, by which the  
13 state may fully exercise its authority in the implementation of federal mandates;

14 (d) recommendations regarding federal legislation that would ensure that the states  
15 have the necessary authority to implement federal directives in a manner that is consistent  
16 with state policy and that is suited to the needs of each state; and

17 (e) possible funding sources for federal mandate efforts and opportunities for the  
18 state of Montana to match other funding sources or to cooperate with other entities in  
19 working toward federal mandate solutions.



**Grey Bill -- First Draft**  
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**Senate Bill No. 167**

1           (3) The requests for information prepared pursuant to this section must require that  
2     the initial responses be received by the ~~staff of the legislative council and the office of~~  
3     ~~legislative fiscal analyst~~ office of budget and program planning by October 15, 1995. The  
4     ~~staff of the legislative council and the office of legislative fiscal analyst~~ office of budget and  
5     program planning may prepare additional requests for information to follow up and obtain  
6     further details regarding the initial responses that were received.

7           (4) In considering the legality or cost-effectiveness of a federal mandate, federal  
8     statute, or state program, the budget director may request assistance from the legislative  
9     finance committee or its staff or from the legislative council or its staff, but assistance is at  
10    the discretion of the legislative finance committee or the legislative council, as applicable.

11  
12           NEW SECTION. **Section 7. Report -- recommendations.** (1) The staff of the  
13     ~~legislative council and the office of legislative fiscal analyst~~ office of budget and program  
14     planning shall examine the information received through the requests for information  
15     prepared pursuant to [section 6] and, based upon the information, shall jointly present a  
16     report to the governor, ~~the legislative council, and the legislative finance committee~~ and the  
17     legislature on or before December 1, 1995, that includes the following:

18           (a) recommendations regarding:

19           (i) contracts that the ~~committees~~ state may enter into with specified persons or

EXHIBIT 2  
DATE 1-27-95  
SB 167

Grey Bill -- First Draft  
Not Suitable for Distribution, Reference, or Amendment  
Senate Bill No. 167

1 entities to conduct research, to analyze certain subjects, or to provide other services

2 regarding federal mandates; or

3 (ii) a request for proposals process to obtain bids for contracts to provide services  
4 regarding federal mandates, with the intent that the contracts be entered into on or before  
5 February 1, 1996, and that the results of any research or analysis performed under the  
6 contracts be received by the ~~committees~~ office of budget and program planning on or before  
7 July 1, 1996; and

8 (b) estimates of the cost of the federal mandate efforts ~~recommended by the staff of~~  
9 ~~the legislative council and the office of legislative fiscal analyst~~ submitted to the office of  
10 budget and program planning under the provisions of this section and recommendations  
11 regarding any possible public and private sources of money to fund the efforts, including any  
12 appropriations by the legislature that may be required.

13 (2) If there is a finding that a federal mandate does not meet Montana's cost-effective  
14 needs, does not serve Montana public policy, or does not conform to Montana customs and  
15 culture, the governor may issue an executive order declaring the intention of Montana to not  
16 implement the mandate and may direct the attorney general to vigorously represent the state  
17 of Montana in any action that results from or that is necessary to effect the executive order.

18  
19 NEW SECTION. Section 8. Legislative review and oversight. (1) In exercising its

**Grey Bill -- First Draft**  
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**Senate Bill No. 167**

1 *authority as an equal branch of state government, the legislature may conduct any legal*  
2 *review or fiscal analysis that it considers necessary to effect the purpose and intent of*  
3 *[sections 1 through 8]. The director of the office of budget and program planning, the*  
4 *director or chief executive officer of any agency within the executive branch, or any officer*  
5 *listed in Article VI, section 1, of the Montana constitution shall, upon request by the*  
6 *legislature, immediately provide any information prepared, compiled, developed, detailed,*  
7 *described, referenced, analyzed, reported, or in any other manner considered in conjunction*  
8 *with [sections 1 through 8].*

9 *(2) In receiving the information described in subsection (1), the legislature is*  
10 *bound by the provisions of Article II, sections 9 and 10, of the Montana constitution.*

11 *(3) For the purposes of this section, the legislature includes the senate and the*  
12 *house of representatives, acting jointly or separately, and includes the legislative*  
13 *council and the legislative finance committee.*

14 *(4) The legislature may request the assistance of any staff employed by the*  
15 *legislature.*

16  
17 **NEW SECTION. Section 9. Severability.** If a part of [this act] is invalid, all valid  
18 parts that are severable from the invalid part remain in effect. If a part of [this act] is  
19 invalid in one or more of its applications, the part remains in effect in all valid applications

EXHIBIT 2  
DATE 1-27-95  
SB 167

**Grey Bill -- First Draft**  
**Not Suitable for Distribution, Reference, or Amendment**  
**Senate Bill No. 167**

1 that are severable from the invalid applications.

2

3 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and  
4 approval.

5

6

-END-

Amendments to Senate Bill No. 167  
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SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 3

DATE 1-27-95

Requested by Senator Steve Benedict  
Committee on the Judiciary

FILE NO. 167

Prepared by Dave Bohyer  
January 25, 1995

1. Title, line 6.  
Following: "MANNER;"  
Insert: "PROVIDING FOR LEGISLATIVE REVIEW AND OVERSIGHT;"
2. Page 1, lines 11 and 15.  
Strike: "5"  
Insert: "8"
3. Page 2, lines 23, 25, and 28.  
Strike: "5"  
Insert: "8"
4. Page 3, line 1.  
Strike: "5"  
Insert: "8"
5. Page 4, lines 26 and 27.  
Following: "5." on line 26  
Strike: the remainder of line 26 through "council" on line 27  
Insert: "Requirement for appropriations -- reporting on federal mandates"
6. Page 4, lines 27 through 29.  
Following: "savings." on line 27  
Strike: the remainder of line 27 through "(2)(a)" on line 29  
Insert: "(1)(a)"  
Re-number: subsequent subsection
7. Page 4, line 30.  
Following: "unless"  
Insert: "the legislature finds that"
8. Page 5, line 9.  
Following: "request"  
Insert: "to the office of budget and program planning"
9. Page 5, line 11.  
Strike: "legislative finance committee"  
Insert: "budget director"  
Following: "and"  
Insert: ", in consultation with knowledgeable persons,"
10. Page 5, line 12.  
Following: "program"  
Strike: "and"

Insert: ". If additional statutory authority is determined to be required, the office of budget and program planning or an agency of the executive branch"

11. Page 5, line 13.

Strike: "and the legislative council"

12. Page 5, lines 14 and 15.

Following: "The" on line 14

Strike: the remainder of line 14 through "council," on line 15

Insert: "budget director, pursuant to subsection (1)(b) and in consultation with the attorney general,"

13. Page 5, line 16.

Strike: "legislature"

Insert: "budget director and the attorney general"

14. Page 5, lines 23 and 24.

Following: "planning" on line 23

Strike: the remainder of line 23 through "committee" on line 24

15. Page 5, line 28.

Strike: "and the legislative finance committee"

16. Page 6, lines 2 and 3.

Following: "in" on line 2

Strike: the remainder of line 2 through "committee" on line 3

Insert: "the governor's budget"

17. Page 6, line 9.

Strike: "legislative council and the office of legislative fiscal analyst"

Insert: "office of budget and program planning"

18. Page 7, line 6.

Strike: "staff of the legislative council and the office of legislative fiscal analyst"

Insert: "office of budget and program planning"

19. Page 7, line 7.

Strike: "legislative council and the office of legislative fiscal analyst"

Insert: "office of budget and program planning"

20. Page 7.

Following: line 9

Insert: "(4) In considering the legality or cost-effectiveness of a federal mandate, federal statute, or state program, the budget director may request assistance from the legislative finance committee or its staff or from the legislative council or its staff, but assistance is at the discretion of the legislative finance committee or the legislative council, as applicable."

21. Page 7, lines 11 and 12.

Following: "the" on line 11

Strike: the remainder of line 11 through "analyst" on line 12

Insert: "office of budget and program planning"

22. Page 7, line 13.

Strike: "jointly"

23. Page 7, line 14.

Strike: ", the legislative council, and the legislative finance committee

Insert: " and the legislature"

24. Page 7, line 17.

Strike: "committees"

Insert: "state"

25. Page 7, line 21.

Strike: "committees"

Insert: "office of budget and program planning"

26. Page 7, lines 23 and 24.

Strike: "recommended" on line 23 through "analyst" on line 24

Insert: "submitted to the office of budget and program planning"

27. Page 7, line 29.

Following: "mandate"

Insert: "and may direct the attorney general to vigorously represent the state of Montana in any action that results from or that is necessary to effect the executive order"

28. Page 7.

Following: line 29

Insert: **"NEW SECTION. Section 8. Legislative review and oversight.** (1) In exercising its authority as an equal branch of state government, the legislature may conduct any legal review or fiscal analysis that it considers necessary to effect the purpose and intent of [sections 1 through 8]. The director of the office of budget and program planning, the director or chief executive officer of any agency within the executive branch, or any officer listed in Article VI, section 1, of the Montana constitution shall, upon request by the legislature, immediately provide any information prepared, compiled, developed, detailed, described, referenced, analyzed, reported, or in any other manner considered in conjunction with [sections 1 through 8]. (2) In receiving the information described in subsection (1), the legislature is bound by the provisions of Article II, sections 9 and 10, of the Montana constitution. (3) For the purposes of this section, the legislature includes the senate and the house of representatives, acting jointly or separately, and includes the legislative council and the legislative finance committee. (4) The legislature may request the assistance of any

staff employed by the legislature."  
Renumber: subsequent sections



SENATE JUDICIARY COMMITTEE

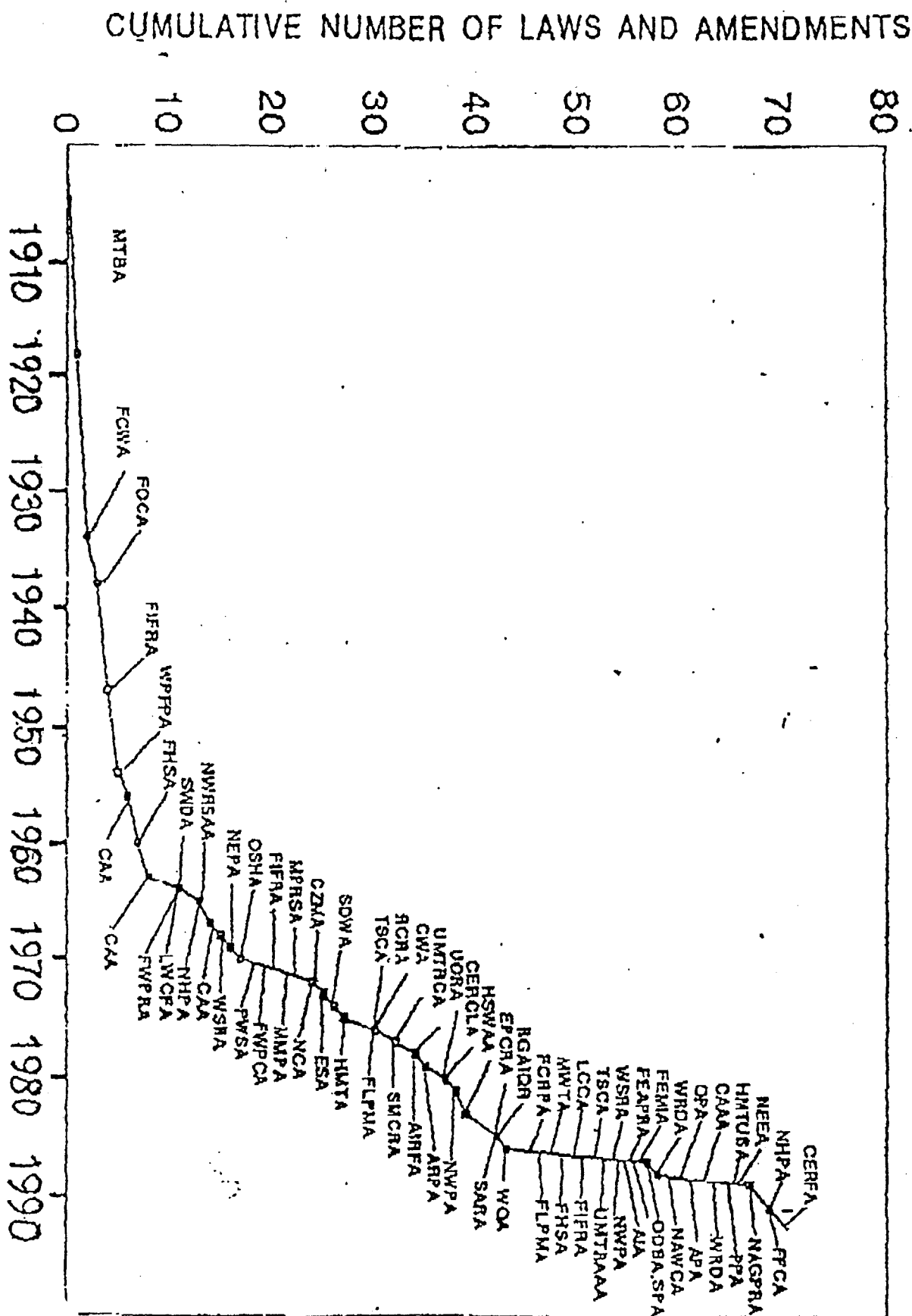
Exhibit No. 4

DATE 1-27-95

Bill No SB 167

FEDERAL ENVIRONMENTAL  
LEGISLATION

DATE 1-27-45  
COUNCIL NO. 4  
SERIAL NO. 58-167



Amendment to Senate Bill 167  
First Reading Copy

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 5

DATE 1-27-91

FILE NO. SB 167

Prepared by  
Beth Baker, Department of Justice

1. Page 2.  
Following: Line 29  
Insert: "(h) nothing in [this act] may be construed to create  
a private cause of action."

SB 167  
SENATE JUDICIARY COMMITTEE  
HEARING, JANUARY 27, 1995

Senwa Clubs

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 6

DATE 1-27-95

FILE NO. SB 167

- I. Federal law is the supreme law of the land
- II. Power to regulate activities that are related to interstate commerce belongs exclusively to United States Congress
- III. All of the targeted "unfunded mandate" statutes are expressly within Congress authority to enact under the Commerce Clause provision of the United States Constitution.
- IV. Judicial means exist to challenge laws that Montana believes fall outside of the scope of Congress's legitimate authority
- V. It is folly for our State Legislature to enact a law that attempts to challenge the authority of federal government mandates in Montana. Certain to lose in Court.
- VI. Our nation's government is built upon a system of checks and balances between three branches of government.
- VII. It also is built upon the precepts of federalism and representative government.
- VIII. Montana receives more in federal subsidies and benefits that its residents pay in taxes and fees.
- IX. What is at stake is the preservation of the Union. Montana is part of a patchwork quilt. We are represented in Congress by people that know Montana.
- X. The ties that bind that Union have been stretched, but have not broken. We are not a loose knit confederation of states, each pursuing its own sovereign agenda. We tried that and it didn't work.
- XI. We are one nation, under God with liberty and justice for all. I am priveleged to live in a country where I know that under the federal Constitution I am entitled to the same priveleges and immunities in Montana that I would be in Maine or Hawaii. And the same protections under federal laws. Where all public drinking water supplies are required to meet equally stringent standards, where clean states must meet the same solid and hazardous waste standards as dirty states, thereby discouraging disposal of out-of-state wastes in a place where disposal is cheaper, where interstate highway standards are equally stringent, and yes where the activities of private individuals and companies must be balanced against the needs of the environment, the place we live and the place that all of our children and their children will inherit.

XII. Means exist to challenge unlawful or unconstitutional acts of Congress. Use those means. Do not be blinded by misguided arrogance that speciously suggests that Montana would be better off on its own without this bothersome interference from Washington D.C.



# Montana State AFL-CIO

Donald R. Judge  
Executive Secretary

110 West 13th Street, P.O. Box 1176, Helena, Montana 59624

SENATE JUDICIARY COMMITTEE 406-442-1708

EXHIBIT NO. 7

DATE 1-27-95

Testimony of Don Judge, before the Senate Committee on the Judiciary, Friday, January 27, 1995, SB 167

Mr. Chairman, members of the Committee, for the record, I am Helen Christensen of the Montana State AFL-CIO. I am here today to present the testimony of Don Judge, Executive Secretary of the Montana State AFL-CIO, urging your opposition to Senate Bill 167.

Senate Bill 167 is one of a series of bills before this legislature, many of which have already been heard before this committee, that purport to assert "states' rights" under the 10th amendment to the U.S. Constitution. These bills attempt to unilaterally change one of the most basic elements of our system of government, the relationship between the federal government and the states.

I would remind members of the Committee that the people of this country once fought a war over this very same issue -- the Civil War, popularly known as "the War Between the States." At that time in our history, Americans fought and died because some states refused to accept the "unfunded mandate" of the federal government that ended the system of slavery in our country.

Yes, this bill speaks to some very real frustrations felt by Montanans -- and I'm sure those same frustrations are felt by people in other states. The increasing complexity of our world demands an increasingly complex government. Clearly, not every federal regulation or "mandate" is defensible and they don't all have the same impact across different geographical regions. And, frankly, as this bill says, regulators don't always understand what life is like here in Montana.

But Montana can't fix the federal system all by herself. Not only don't we have the authority to overturn federal law, but it wouldn't make sense, even if we did. The issues before us as a nation are just as important to people in Vermont or Kansas as they are to people in Montana. And we can only deal with national issues on the national level.

I'd like to call your attention to two specific areas of this bill that are particularly troubling -- the first is the list of federal legislation targeted in this bill:

- the Family and Medical Leave Act
- the Commercial Motor Vehicle Safety Act
- "the federal, state, local partnership for education improvement program"
- "the federal school lunch program and school breakfast program"
- "federal highway safety programs"
- "federal social services and Medicaid requirements"

and others. If Senate Bill 167 is intended to be an indictment of those programs, then I suspect many Montanans would strongly protest. Montanans did not elect state legislators to enact or repeal federal law.

Second, I would urge this committee to very carefully consider Sections 6 and 7 of this bill. In each of these sections, SB 167 directs the state government to "request information" and recommend procedures for contracting out the crafting of public policy in the areas of federalism and states' rights.

Section 6 specifically directs the Legislative Council and the Legislative Fiscal Analyst to look to "organizations and foundations that have an interest in the issues of federalism and the imposition of federal mandates on local and state governments."

Are we suggesting, then, that we contract out the making of public policy -- that is give taxpayer dollars to the Heritage Foundation or the Cato Institute, or Montana's own libertarian "think tank" the Political Economy Research Center, to decide for us our relationship to our own government? That sounds like state funding of political activity, and it is wrong!

The proper place to fix the federal system is at the federal level. Will solutions be harder to find there? Will we have to get more people to understand and agree with our point of view? Very probably. But will those solutions be more likely to work. **Absolutely.** We Montanans have never turned our backs on a job just because it was hard. That's when we roll up our sleeves and come up with some of our greatest solutions. In fact, in just that spirit, it was Montanans who came up with one of those huge, complex federal programs we now call Social Security.

Shall we throw out the Social Security system because we're frustrated? How about the Small Business Administration, the National Highway System, the Conservation Reserve Program, Malmstrom Air Force Base, Libby Dam...the list goes on and on. Unfunded mandates? Montana as a state takes in **more** in federal dollars than we pay out to the federal system in taxes! Do we really think we can have it both ways?

Let me close by reciting some words that I'm sure have been said by all of us in this room hundreds of times. In fact, we've recited these words so often that we probably say them sometimes without even thinking. Today, it is more important than ever that we don't just say these words, but that we **hear** them, and then **act** on them:

I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, **one nation**, under God, **indivisible** with liberty and justice for all.

I still believe that we are **one nation, indivisible.**

Please vote no on Senate Bill 167. Thank You.

Respectfully submitted by Don Judge, Executive Secretary, Montana State AFL-CIO.

# Northern Plains Resource Council

## Testimony on SB167 Senate Judiciary Committee January 27, 1995

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 8

DATE 1-27-95

FILE NO. SB167

Mr. Chairman and members of the committee. My name is Ted Lange and I'm speaking on behalf of the Northern Plains Resource Council. NPRC is opposed to SB167 because it gives the Legislature and the Governor the power to ignore basic natural resource protections without providing any assurance that the state of Montana will provide the resources to guarantee the protections provided under federal law.

NPRC has always strongly supported states' rights and has always been a strong advocate of local control. Last session we supported a bill that would have given Montana citizens the right to hold a referendum on whether to allow megalandfills or hazardous waste incinerators in their communities. Another example with specific relevance to SB167, is NPRC's position statement concerning the reauthorization of the Federal Clean Water Act. A cross-section of NPRC membership, representing both agricultural and non-ag interests agreed on the position that, "while *standards* for water quality should be set by the *EPA*, the process of delineating watershed areas, identifying polluters, drawing up watershed plans and enforcing the program must happen at the *local level*."

NPRC believes, however, that HB167 goes too far, because it would give the legislature and the governor the authority to throw out or entirely ignore federal standards protecting our air, land and water. Federal standards are often minimum standards. In Montana, where the high quality of our environment is one of our greatest assets, we should be alarmed at any instance in which our environment becomes degraded to these minimum standards.

Also, federal standards are generally based on extensive research and a lengthy legislative process. We do not believe that the Montana Legislature, in 90 hectic days, could adequately review the technical information and potentially 1000s of pages of testimony and debate that lead to the creation of major public policies like the Clean Water Act.

NPRC believes that rights come with responsibilities. SB167 asserts sweeping rights for the state of Montana. But in our experience, the state has not demonstrated responsibility when it comes to implementing laws to protect our air, land and water. Recent audits of the Water Quality Division and the Hard Rock Bureau revealed serious disarray within these agencies and inconsistent enforcement of the laws they are entrusted to administer.

The EQC Hazardous Waste Management Working Group, which NPRC participated in over the last interim, learned that the Air Quality and the Solid and Hazardous Waste Divisions have serious staffing problems. Low payscales make it very difficult for these agencies to attract or retain qualified staff. Vacancies remain unfilled for months and high staff turnover rates create constant disruption. In recent legislative sessions, and so far in this one, we have seen little inclination on the part of the legislature to provide the funding to address this situation.

With rights come responsibilities and *costs*. You don't get something for nothing. We believe that many of these costs are unavoidable, whether they derive from federal law or Montana's constitutional mandate that we maintain and improve our environment. If the state is going to take everything into its own hands, it should be prepared to provide its agencies with the resources necessary to get the job done.

Given the current condition of state agencies, we are usually glad to have the federal government as a backup, guarding minimum standards. For instance, the people of Billings have known for a long time that their air was in bad shape. But it was the federal EPA, not the state, that finally called for some action over a year ago when it became apparent that minimum sulphur dioxide standards were being violated.

There are two final comments I'd like to make. First, NPRC believes it would be inappropriate to spend taxpayer dollars on studies of federalism when the legislature appears unwilling to adequately fund the agencies responsible for protecting our air, land and water.

We are also concerned that the Governor would be given the power to ignore federal laws if they do not conform to Montana customs and culture, when this criteria is not defined or even mentioned anywhere else in the bill.

We urge you to vote NO on SB167. Thank you.





State President,  
Montana Landlords Association, Inc.

Stanley R. Clothier  
1985 Highway 35  
Kalispell, MT 59901

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9DATE 1-27-95FILE NO. SR 218

DATE: Friday, January 27, 1995

TO: Senate Judiciary Committee

RE: Senate Bill 218

To All Whom It May Concern:

Please accept the following written testimony in support of Senate Bill 218.

I am the current president of the Montana Landlords Association and operate Spruce Park Mobile Village in Kalispell. MLA now has in excess of 750 memberships including 76 mobile home parks. The majority of these memberships are couples and families with "Ma & Pa" operations. In other words, these 1500 people generally own only 1 to 5 rental units or mobile home courts with 30 or fewer spaces. These couples are working hard and have worked hard over the years to build a small business that they can depend on. They are paying mortgages and taxes that would stagger many lesser individuals.

In 1993, the legislature passed the measure which became 70-24-436 of the Montana Residential Landlord Tenant Act, requiring the owner or operator of a mobile home court to comply with a specific list of reasons for eviction of a tenant. We are not requesting, nor do we expect the repeal of 70-24-436 even if we would like it to happen.

The trainer of the Montana Justice Court, City Court and Municipal Court judges in the area of the MRLTA has been instructing the judges to interpret the law in a manner that requires a 90 day notice prior to the eviction procedure in every case including late rent. (Please see the highlighted section of the accompanying pages 136 & 137 from Klaus Sitte's book For Rent published in 1994.) The practical effect of this teaching of 70-24-436 has been that one local mobile home park (Half Moon Trailer Park in Columbia Falls) has had to live with tenants who were breaking into storage units for this 90 day notice period. There are other examples available.

Although 70-24-346 specifically refers to the procedures in 70-24-422, the time periods given in 70-24-422 are completely ignored in the instruction of our judges. It is our hope that this legislature will allow us to operate our courts in a manner that protects the

other tenants. The neighbors in Half Moon also had to live for an additional 90 days with the thieves they had reported to the sheriff and testified against in criminal court because of the interpretation of this law.

Please help us solve the problem.

Thank you for your patience and consideration.

Sincerely,

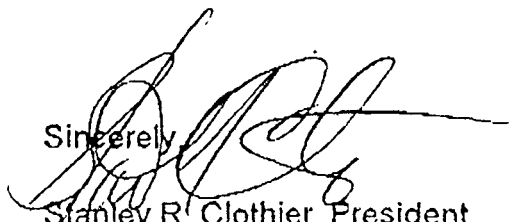
  
Stanley R. Clothier, President  
Montana Landlords Assoc.

EXHIBIT 9  
DATE 1-27-95  
SB 218

Page 136

FOR RENT: The Complete Montana Landlord and Tenant Guide

subsection (2)(b), the landlord shall give each prospective mobile home owner and tenant of the mobile home owner written notice that the landlord is requesting a change in use before a unit of local government or that a change in use has been approved.

(3) (a) A landlord may terminate the rental agreement of a mobile home owner or a tenant of a mobile home owner if the landlord, by the termination:

- (i) does not violate a provision of this section or any other state statute; and
- (ii) has a legitimate business reason.

(b) A landlord shall give the mobile home owner or the tenant of a mobile home owner a minimum of 90 days' written notice of termination.

(4) For purposes of calculating the total number of notices given within a 12-month period under subsection (1)(b), only one notice per violation per month may be included in the calculation.

History: En. Sec. 2, Ch. 470, L. 1993.

#### Compiler's Comments

Effective Date: Section 5, Ch. 470, L. 1993, provided: "[This act] is effective 30 days after passage and approval." Approved April 21, 1993, effective May 21, 1993.

This is an entirely new section passed by the 1993 Montana Legislature. It establishes specific reasons for the termination of a rental agreement where only a trailer park lot is being rented. If the individual is renting the mobile home itself from another person who owns the mobile home, this section does not apply.

The Montana Legislature recognizes that moving a mobile home from a mobile home park lot is expensive and time consuming.<sup>92</sup> In many Montana communities, where there is a shortage of trailer park space, such a move is often impossible. Acknowledging the difference between moving personal belongings and moving an entire house, this section establishes certain specific requirements before a termination of a lot rental agreement may occur.

The ten described reasons are intended to provide a framework in which responsible trailer park lot tenants and trailer park owners can carry out their relationship. For example, consistent with the entire MRLTA, there is no protection for a tenant who fails to pay rent. Chronic rule violators, late rent payers and/or those posing danger to others will have their rental agreements lawfully terminated. Yes, termination rules will need to be properly followed.

Some parts of Subsection (1) deserve special mention. Subsection (1)(b) refers to the written notice required by Section 70-24-422, which, in the case of a mobile home, refers to the 15 day notice requirement for failure to pay rent. However, the 15 day notice requirement must be read with Subsection (3) of Section 70-24-436. Subsection (3) is crystal clear: a mobile

<sup>92</sup> The Legislature made that distinction clear when Section 70-24-422 (2)(b) was added to require 15 day notice for failure to pay lot rent versus 3 day notice for other dwelling units.

home park owner must provide at least a 90 day notice of termination to a mobile home owner. The notice requirement of these two sections (70-24-422 and 70-24-436) must be explicitly followed in order for the notice to remain valid.

**TIP**

A valid notice to a mobile home park owner who has failed to pay rent would read as follows:

Dear Tenant:

You have failed to pay your rent due on the 1st of the month. Please pay your rent within the next 15 days. If you fail to pay rent within that time, our rental agreement will be terminated. You will then have 90 days to move your trailer from this trailer park.

/s/ Landlord

The landlord may also add that the tenant must still pay rent for the intervening period until the end of the 90 days or that payment of the rent after the 15 day period will not affect this notice. Even a warning that failure to pay rent will cause court action may be added. As long as the basic provisions are included -- the **pay up or get out** concept -- then the notice will be valid. If the tenant pays within the period, this particular notice, in and of itself, will not be grounds for the termination of the rental agreement.

If a tenant has received three such notices in a 12 month period, the landlord may terminate the rental agreement, regardless of whether the tenant paid the rent after receiving previous notices. The chronic late payer reason then becomes the cause for termination. See Subsection (1)(b).

Subsections (1)(c) through (1)(f) refer generally to violations of mobile home rules and the tenant's responsibility for maintaining the premises. These subsections do not specify how notice for violations are to be given. Some situations may require quick resolution, while others may not be as serious. Compliance with the rule, for example, may be more important than termination with the rental agreement. Three quick notices to build a record for eviction may not be as important as curing the problem.

218-2  
Indy Gardner

## THE GROWTH OF MOBILE HOME OWNERSHIP IN MONTANA AND ATTENDANT PROBLEMS

Prepared by Montana People's Action

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10

DATE 1-27-95

SEN. BILL SB 218

### INTRODUCTION

A decline in the real purchasing power of Montana families, in conjunction with a significant increase in the cost of housing in the Treasure State - brought on in no small part by a new wave of immigrants looking to live in the "last best place" - has caused a dramatic increase in the number of Montanans living in mobile homes over the last decade.

In fact, according to the 1990 U.S. Census, *the increase in the number of mobile homes in Montana over the last ten years is equal to 79% of the overall increase in the total number of occupied housing units in the state.*

#### Table

Increase in Number of Total Occupied Housing Units,  
Mobile Homes, Montana

	<u>1980</u>	<u>1990</u>	<u>Increase</u>
Occupied Housing Units	283,742	306,153	22,411
Mobile Homes, Trailers	40,787	58,556	17,769

Montana People's Action (MPA) currently estimates that there are over 160,000 Montanans living in mobile homes and that an estimated 110,000 of them live in the state's 1,200 licensed mobile home courts or trailer parks.

It is MPA's contention that Montana families living in mobile home courts are a large, at-risk population that deserves increased statutory protection, for the reasons outlined below. The vast majority of these Montanans own their own homes.

### PROBLEMS

*Many courts have deficient water and sewer systems.* Over the last two decades, very few new mobile home courts (MHC's) have been built. Many courts operate with their own aging water and sewer systems and are not hooked up to municipal or other water and sewer systems. State law requires MHC's that operate their own systems to provide a licensed operator yet very few courts employ them, let alone have them on-site. Court water systems are supposed to be tested on a monthly basis but this requirement is not strictly enforced by local health departments and

inspecting MHC's is not a priority for local health departments. Practically every community in the state has a "trailer court" water and sewer horror story to tell.

*Courts are full, and there is no competition in the mobile home court "marketplace".* The dramatic increase in the number of Montanans living in courts, the limited construction of new courts, and rapidly rising land values which prohibit many families - particularly in urban and high growth communities - from buying a patch of ground to the place their home on, mean that mobile home owners have limited choices when it comes to finding a place for their home. Furthermore, despite their name, mobile homes are immobile, costly to move, and are often damaged in the process. Under these circumstances, court owners can raise rents at will, provide little or no maintenance, and actually reduce the services they provide knowing that court residents are unlikely to move their homes because there are so few available spaces and moving is costly and time-consuming.

*Many court owners make it difficult for residents to sell their homes.* A significant part of the value of a mobile home is its site. Under current Montana law, court owners can block a mobile home owner's sale of their property by not approving the purchaser as a new tenant. This often means that mobile home owners who wish to sell their home and move are forced to sell their home to the court owner at a price which is well below its value. Owners can then re-sell the home at its true value or turn the home into rental property which will command a monthly rent which is far greater than the lot rent paid by home owners in the court.

*Many home owners face discrimination based on the age of their homes.* As courts have become full, and the value of a court space has increased, many court owners have taken steps to remove older homes from their courts. When it comes time to sell their homes, many mobile home owners who have invested thousands of dollars in improving their homes are told that the only way they can sell their home is if it is removed from the court. This makes a mobile home almost impossible to sell given that most prospective buyers want to buy and move in and not have to buy, locate a space, and move their new home.

*Some courts require "entrance fees" as a condition of locating your home in them. Others charge fees for the right to sell your home and keep it in place.* In both situations, court owners are taking advantage of tight markets to extort additional money out of mobile home owners.

*Some court owners have financial relationships (often called "tie-ins") with mobile home dealers.* This means that owners have an incentive to evict owners of older homes (or tenants who may be assertive about asking for maintenance) to find spaces for newer ones.

## SUMMARY

The problems outlined above are just some of the problems which face tens of thousands of Montana home owners living in mobile home courts. These Montanans are mill workers, secretaries, small business owners, retirees, teachers, laborers and professionals. The problems they face - which MPA can document thoroughly with personal testimony - are due to the distinctiveness of their homes. They own homes that are difficult to move and there are very few mobile home court spaces available in Montana communities.

As mobile home ownership has increased across the country, many states - particularly western states where mobile home ownership is high - have increasingly found reasons to regulate the mobile home court industry. Twenty-nine states (including Montana) now require "Good Cause" eviction, twenty-two states (including Montana) require that court rules be fair and reasonable, twenty-eight states (not including Montana) allow home owners to sell their homes within their courts, and twenty-three states (not including Montana) prohibit court owners from charging extra fees.

Undoubtedly, the majority of mobile home court owners are responsible individuals doing their best to provide a decent product for a fair price. But there are also undoubtedly many court owners who take advantage of the vulnerability of today's mobile home court resident in Montana.

It is MPA's contention that the good court owners have nothing to fear from increased scrutiny on the part of the state.

At a minimum, the state should pass laws which protect mobile home owners' right to sell their property without undue interference, and provide this at-risk population with educational resources so that they know the laws which affect their tenancy. There are approximately 8,000 nursing home residents in Montana and we have established the office of the Nursing Home Ombudsman to meet their informational needs. There are over 110,000 Montanans living in mobile home courts. Why shouldn't they have an ombudsman as well?

EXHIBIT 10  
DATE 1-27-95  
SB 218

STATE OF MONTANA				
MOBILE HOMES AS PERCENTAGE OF HOUSING UNITS				
BY COUNTY FROM 1990 CENSUS				
	1	2	3	4
	TOTAL #	NUMBER OF	MOBILE HOMES	EST. # PERSONS
COUNTY	HOUSING UNITS	MOBILE HOMES	AS % OF UNITS	LIVING IN MH'S
Beaverhead	4,128	970	23%	2,668
Big Horn	4,304	847	20%	2,329
Blaine	2,930	398	14%	1,095
Broadwater	1,593	409	26%	1,125
Carbon	4,828	748	15%	2,057
Carter	816	215	26%	591
Cascade	33,063	3,786	11%	10,412
Chouteau	2,668	452	17%	1,243
Custer	5,405	723	13%	1,988
Daniels	1,220	132	11%	363
Dawson	4,487	600	13%	1,650
Deer Lodge	4,830	414	9%	1,139
Fallon	1,525	303	20%	833
Fergus	5,732	1,048	18%	2,882
Flathead	26,979	4,764	18%	13,101
Gallatin	21,350	3,350	16%	9,213
Garfield	924	235	25%	646
Glacier	4,797	880	18%	2,420
Golden Valley	432	88	20%	242
Granite	1,924	432	22%	1,188
Hill	7,345	1,136	15%	3,124
Jefferson	3,302	795	24%	2,186
Judith Basin	1,346	259	19%	712
Lake	10,972	2,007	18%	5,519
Lewis and Clark	21,412	3,606	17%	9,917
Liberty	1,007	205	20%	564
Lincoln	8,002	2,089	26%	5,745
Madison	3,902	770	20%	2,118
McCone	1,161	231	20%	635
Meagher	1,259	327	26%	899
Mineral	1,635	537	33%	1,477
Missoula	33,466	5,311	16%	14,605
Mussellshell	2,183	485	22%	1,334
Park	6,926	1,190	17%	3,273
Petroleum	293	80	27%	220
Phillips	2,765	616	22%	1,694
Pondera	2,618	387	15%	1,064
Powder River	1,096	353	32%	971
Powell	2,835	548	19%	1,507
Prairie	749	121	16%	333
Ravalli	11,099	2,096	19%	5,764



[illegible]

# Taking Aim at Trailer Park Tyranny

Mobile home parks are a largely unregulated industry in many states. They may not stay that way much longer.

BY CHARLES MAHTESIAN

**T**here are no trailer parks in Ellen Harley's suburban Philadelphia district. Nevertheless, she finds herself this spring as the chief sponsor of a bill to do something her legislature has been reluctant to do in the past—place tougher state restrictions on mobile home dealers and park owners.

Representative Harley's interest in the subject reflects in part her background as a city and regional planner. But even more, it reflects the arrival of mobile home regulation as an issue that legislatures all over the country are going to have to grapple with.

Up to now, few governments at any level have had much desire or reason to get involved with policing mobile home or trailer parks. Few localities want them, and those that have them usually prefer that they stay hidden away in some out-of-sight cul-de-sac. But it is no longer possible to keep them out of sight politically. The problems created by a little-watched industry are forcing their way to public attention as Americans turn to "manufactured housing" in their search for affordable places to live.

At the extremes, these problems can border on the Orwellian. There are trailer parks where residents are not allowed to have food delivered after a certain hour, or have a visitor of the opposite sex. There are others where the terms of the lease are altered according to the applicant's marital status, religious affiliation or sexual orientation. There are some in which, during the Christmas holidays, residents have to pay a fee for each guest who stops by to pay a call.

All rules of that sort are clear violations of federal housing law. But they are documented cases that have turned up in various parts of the country where state law regulating the parks is weak or nonexistent. "Some of the parks turn into absolute dictatorial arrangements," says John Jensen, past president of the National Foundation of Manufactured Home Owners. "The landlords think nothing of peeking in your windows."

No one is claiming that trailer-park fascism is the typical situation. But the horror stories have multiplied because the parks themselves grew so fast in the 1980s. Overall, production of mobile homes is down in the current recession, but in the 1980s, they were the fastest growing-type of dwelling. In the nation as a whole, about 1 in 16 people now live in manufactured homes. In some states, such as South Carolina and Wyoming, the number is closer to 1 in 6. In four Nevada counties, mobile homes make up more than half of the housing units. Even in Pennsylvania, not known as a warm-weather sanctuary, there are now 250,000 mobile homes.

THEY ARE A SYMBOL OF HARD economic times, hard enough to lead lower-income and middle-class families and millions of retired people to seek refuge from unmanageable housing costs. A mobile home depreciates in value every year, but at about \$20,000, a new model suitable for a couple or small family sells for a fraction of the price of conventional housing, even in the

nation's cheapest housing markets.

Actually, the term "mobile home" or "trailer" is hardly used anymore—at least within industry circles—because it tends to conjure up visions of run-down, dilapidated vehicles crowded together in a rural shantytown.

Instead, the manufactured housing industry prefers to call its traditional products "single-sections," as opposed to the larger and more aesthetically pleasing "multi-sections." The multi-sections consist of several discrete manufactured segments, delivered on a flatbed and assembled on site. The single-section mobile home, in contrast, is towed to a site without a permanent foundation. It rests on wheels and a chassis.

Nowadays, only units made before 1976—the year the U.S. Department of Housing and Urban Development established a national code for manufactured housing—are called mobile homes. Everything after that point is referred to as manufactured housing.

But the semantics are of less concern than the practices of the operators, particularly in states such as Pennsylvania, where the law gives the individual home owner very little protection. There, the state attorney general's office accidentally uncovered an undercurrent of outrage while laying the groundwork for an antitrust lawsuit against a mobile home dealer in Lancaster County. In the course of the investigation, enough complaints surfaced to justify creation of a special task force on manufactured hous-



The American not-so-mobile home: Once it sets down, it usually stays put.

ing. "It was becoming increasingly obvious that we needed to take a hard look at the laws," says Dan Clearfield, director of the public protection division.

What was happening in Pennsylvania was this: Mobile home park owners were steering purchasers to a specific dealer in exchange for a share of the dealer's profits on the sale. It amounted to coercion, because home buyers typically must secure a space in a park before purchasing, and with spaces lim-

and there is little redress available for the tenant. Moving away is usually an unrealistic option—it can cost \$6,000 to move a home that is barely worth that much on the market. Furthermore, some landlords impose sales conditions that make it nearly impossible to unload a used home, forcing the home owner to sell it back to the landlord himself at a discount price.

Dan Gilligan, vice president of the Manufactured Housing Institute, says

for many years, both have well-organized homeowner organizations that have lobbied for written lease terms and stricter landlord maintenance obligations. New York's mobile home owners gave up lobbying the legislature and instead took their fight to individual counties, where they have won passage of laws banning arbitrary eviction.

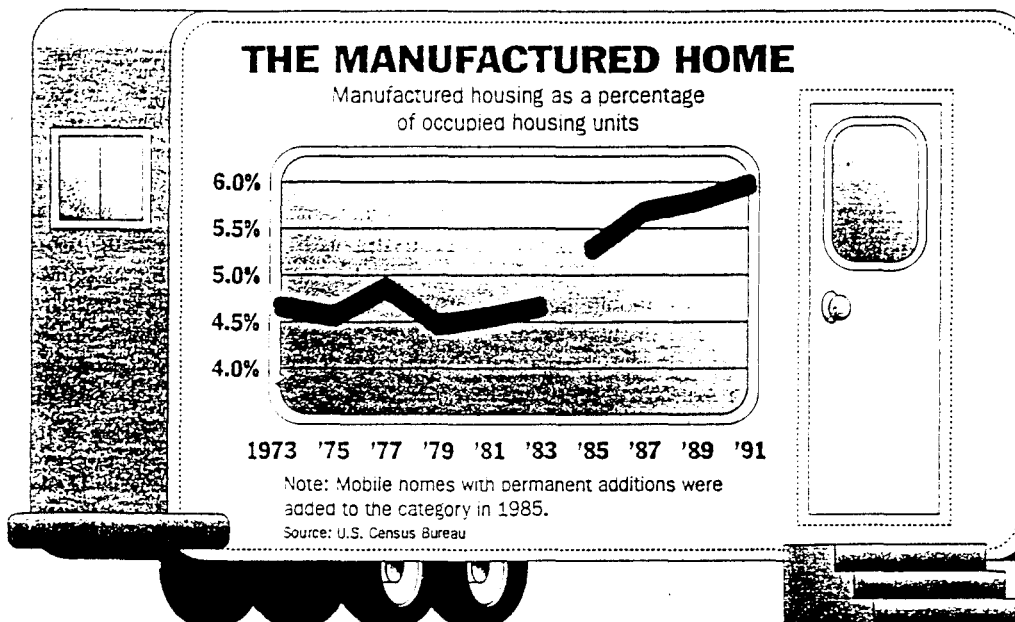
On some important issues, there are reasons for the home owners and park owners to work together. In many places, zoning laws are designed to keep mobile home parks out altogether. "We're classified by NIMBY along with landfills, dumps and cement factories," says John Jensen of the Manufactured Home Owners.

Seventeen states now prohibit such discriminatory zoning codes, but those laws vary widely. Virginia, for example, allows more upscale, multi-section homes in any area zoned rural or agricultural. But outside these areas, the decision to allow manufactured housing of any sort is up to local jurisdictions. And they, as a rule, will not listen to the manufactured housing industry's argument that the new multi-section homes are archi-

tecturally and aesthetically compatible with conventional developments. The knock is that manufactured housing—no matter how attractive—drives down property values.

When the homes are of the old-fashioned single-section variety, the stigma is often impossible to overcome. "There are a tremendous amount of local governments around the country saying, 'No single sections, period,'" says A. B. Scholz, director of site development for the Manufactured Housing Institute. "The problem that they tend to overlook is that there are a lot of people who want single-section homes."

Home owners and park owners can thus find common ground when it comes to lobbying for permission to plant themselves in a community. Once they are planted, though, their interests collide. Harley insists it need not be that way. "The good community owners have no problems with these regulations," she says. "The baddies are the only ones who have problems with them."



ited in a given area, they are not in a position to reject the park owner's instructions on where to buy the home, even if they must pay a higher price as a result. In most states, including Pennsylvania, tie-ins between dealer and park owner are legal. In fact, dealers themselves are the park owners in many instances.

It is in these situations, with spaces at a premium, that mobile home owners are sometimes forced to swallow arbitrary lifestyle restrictions or capricious increases in the rent for their space. "The core issue with mobile home parks is that a mobile home is not really mobile," says Jon Sheldon of the National Consumer Law Center. "Once you're there, you're stuck. It's too expensive to move if your rent is increased."

Some 18 states now require written terms in the leasing of trailer park space, but even this represents little protection, since only four of those states require a lease term of a year or more. With the leases shorter than that in most places, rent can be raised at virtually any time.

many of these complaints are unjustified, or the result of isolated instances. "Every industry has its oddballs," says Gilligan. "We're not interested, as some of the more militant groups would portray us, in running prison camps. We're interested in having happy customers."

THESE DAYS, HOWEVER, STATE and local governments are finding themselves under growing pressure to force the industry to take customers' rights seriously. In the past, the unorganized and economically distressed home owners have had little pull in state capitols, especially compared with the well-financed dealers and park owners. But that is changing as a slightly higher-scale group of people with some political sophistication moves into manufactured housing. "More and more middle-class people are buying these homes," says Harley, the Pennsylvania legislator. "And when it becomes a middle-class issue, it becomes a political issue."

The two states with the highest number of mobile homes, Florida and Cali-



# County of Yellowstone

CITY-COUNTY HEALTH DEPARTMENT



212-3  
Fleischman  
POST OFFICE BOX 35033  
BILLINGS, MONTANA 59107  
STATE JUDICIARY COMMITTEE  
EXHIBIT NO. 11

January 28, 1993 1-27-95  
CASE NO. 56218

Dennis McCord  
118 South 30th  
Billings, MT 59101

Dear Mr. McCord,

I would like to thank you for inviting the Yellowstone City-County Health Department to the Blaine's Trailer Court Tenants Association meeting. However, no one from our staff will be able to attend the meeting scheduled on January 29, 1993 at 7:00 p.m.

I will try to address your concerns and answer the questions about inspections and procedures in handling complaints.

Trailer courts are regulated under Title 50, Chapter 52, MCA (50-52-101 through 50-52-303). Inspections are conducted under Title 16, Chapter 10 Subchapter 7, ARM (16.10.701 through 16.10.717).

The Yellowstone City-County Health Department conducts compliance inspections of each trailer court in Yellowstone County a minimum of once per year. Additional inspections may be conducted in response to complaints. These types of inspections are usually made due to garbage, sewage or nuisance complaints.

If violations are found during an inspection the owner or manager is given written notice of the violation(s) and given a specified time period to abate the noted violation(s). If non-compliance of any violation occurs and is not corrected, the Yellowstone City-County Health Department requests that the Yellowstone County Attorney's office proceed with any enforcement action, which could include fines and, in extreme cases, an injunction to close the trailer court. In all cases we try to work with owners and complainants to achieve quick and satisfactory abatement of the problem.

It must be pointed out that the Yellowstone City-County Health Department does not have statutory authority for enforcing violations that are covered under the Landlord-Tenant Act.

Dennis McCord  
January 28, 1993  
Page two

Situations that are caused directly or indirectly by landlord such as no heat, electricity or water come under the Landlord-Tenant Act. It is recommended, under these circumstances, that the tenant seek legal counsel or call Montana Legal Services at 248-7113 or file under Small Claims Court.

It must also be mentioned that if a landlord or owner refuses to abate certain violations or nuisances, the Yellowstone City-County Health Department's only recourse is to have the house or trailer closed to occupancy. This would require the tenant or renter to move within 30 days.

Complaints are confidential and our office does not give names of complainants, however, landlords have been known to give written eviction notices when notified about complaints. Our office has not control over these types of actions.

If our office cannot help in a particular situation we will always try to direct you to the proper agency where help may be obtained.

If you have any further questions, please call 256-2752

Sincerely,



Ted Kylander, R.S.

TK/ajt

cc: Vicki Coonfare, 206 Jim  
Les Protopapas, 618 Richard

enclosures

212 - 4

also - Fleishman

MONTANA LEGAL SERVICES ASSOCIATION

304 North Higgins Avenue  
Missoula, MT 59802  
(406)543-8343  
1-800-666-6899  
FAX (406)543-8314

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 12

DATE 1-27-95

FILE NO. SB 218



Klaus D. Sitte  
Managing Attorney

Hilary Bush  
Attorney

Les Oels  
Attorney

Support Staff  
Susan Brandon  
Laura Danforth  
Don Howard

Paralegal  
Taryn Zeimet

MEMO

DATE: January 25, 1995  
TO: Senate Judiciary Committee  
FROM: Klaus D. Sitte  
RE: Senate Bill 218

Please accept the following written testimony in opposition to Senate Bill 218.

By way of introduction, I am a co-author of the 1977 Montana Residential Landlord and Tenant Act (MRLTA) and author of *FOR RENT: The Complete Montana Landlord and Tenant Guide*. I have worked in the landlord/tenant area of the law for over 20 years. I regularly train Montana Justice Court, City Court and Municipal Court judges in landlord/tenant law. During 1994, over 300 landlords attended seminars I conducted in this specialty area. Both landlords and tenants alike have sought my counsel on the MRLTA.

The proposed legislation will effectively reverse legislation passed just two years ago. Specifically, the elimination of subsection (3) of §70-24-436 completely alters the essential meaning of the entire section, so as to remove the *good cause* requirement for eviction from mobile home parks. Instead, the bill seeks to substitute new subsections (2)(j) (i) and (ii), which allows 90 day termination for *no cause*.

In my travels and training throughout Montana, I have regularly asked landlords and judges for any adverse effects of the *good cause* requirement for mobile home evictions. I have received *no* response that §70-24-436, as it exists, unreasonably or unnecessarily penalizes *good* landlords. On the contrary, several justice court judges have reported to me that the present section has prevented unjust, unscrupulous and down-right unfair terminations.

Remember, 70-24-436 protects only *good* tenants. Tenants who fail to pay rent, tenants who are chronically late with payments, and tenants who have no respect for park rules have *no* protection through *good cause*. To remove the present language would allow landlords who simply do not like tenants

to evict them upon 90 days notice, as was the case in the past.

How many of us, as home owners, would feel safe or comfortable if our mortgage lender, for example, could ask us to leave our homes without cause? Is it reasonable for **mobile home owners** to be subjected to this uncertain jeopardy? Tenants have long felt unable to speak out on mobile home park conditions for fear of eviction. Home owners should not feel so threatened.

Next, the bill seeks to inject law enforcement officials into what is, and always has been, a **civil** area of the law. By adding the proposed subsection (5) to §70-24-427, the MRLTA practically becomes a civil procedure code, not a landlord and tenant code. Nowhere else in the MRLTA is the **sheriff** mentioned or directed to take a particular action. It seems particularly egregious to allow a landlord this specific remedy against a **homeowner**, when the homeowner has no extraordinary remedy against the oppressive landlord. What special remedy does a tenant receive when essential services are improperly disrupted or stopped by a ruthless landlord?

The MRLTA should remain consistent: when, and if, the landlord wins a case and receives judgment, the landlord may follow regular civil procedure rules to enforce judgements, just like any judgment holder in Montana. As long ago as 1871, the Montana Supreme Court has said that landlords need to follow civil procedure rules. Landlords win justice court cases at least 65% of the time, according to my discussions with justice court judges. Good landlords need no special protections from the courts; decent landlords rarely need to resort to court. Those who do find adequate remedies in the MRLTA and the law. We should not create special remedies to serve a particular class of citizens, as opposed to another class of citizens.

Passage of the proposed amendments would substantially undermine the thoughtful and thorough work of the 1993 Legislature and effectively repeal significant sections of the code. When Gov. Racicot signed the present law during the 1993 Legislature, it became effective earlier than most bills because of the vital importance to mobile home owners. The importance of *good cause* has not diminished since then.

There are adequate remedies available to good landlords who act responsibly to good tenants. Reasonable landlords and reasonable tenants resolve disputes on a regular and daily basis. No one has the "upper hand." The balance presently afforded to landlords and tenants in the MRLTA needs to be preserved.

Jan. 29, 1994

218-5

all

(2) pages

RENT MUST BE INCREASED \$15.00 EFFECTIVE MARCH 1, 1994.

The utility bill for the park is up again. Remember rent paid late.... after the 5th.... is \$25 higher.

NO NEW DOGS!!! All pets should be registered at the office with picture, neutered, collared and tagged. If I find a loose pet, it will be taken to the Humane Society. NO BARKING DOGS!

Please keep your yards clean - no outside storage. The park is looking better, but we still have some bad looking homes that need paint and repairs. The grass is thawing, so you may have to stop parking on it so it does not get damaged or rutted.

For me to evict, I need your complaint signed. Just Cause Eviction takes away my rights to evict and keep you out of it. Now to evict drug dealers, child molesters, and criminal types, I have to prove they did it here. Thank You "Just Cause Eviction". Good people are the victims by not speaking against the Just Cause Eviction bill. I need your help and cooperation.

Jerry Swenson  
388-6095

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 13  
DATE 1-27-94  
FILED 5B218

Lapley News 1993 March 24th

It's time to Clean up yards, no outside storage on the grass of any kind (no parking on the grass!!) (no dumping garbage on the ground!!) (there is no longer a brown pile!!) 70 State health code says no outside storage!! (the dumpsters are just for kitchen garbage!!) no big household items like furniture, stoves, fridges, washers & dryers. no lumber or remodel waste.

The change I hate to have to do is rent has to go up \$15. - may 1st to pay for new all, increased garbage costs, & legal costs to get rid of bad renters has gone up dramatically!

It looks like we'll be going back to cans to get rid of the dumpsters that are a mess.

No new dogs! Dog owners that don't pick up droppings daily will be evicted! Dogs must not trespass on other's yards! If you get a new dog you will be evicted! All cats & dogs must be neutered & tagged. All fences must be of the good neighbor type, "back yard on both sides!" If you wish to sell your mobile remember you don't own the lot

Rent paid late after the 5th must include \$25 more for late charges. Rent is due on the 1st, late on the 6th!

Lawn must also be picked up nightly. Lawn mowers need to be inside too.

Nothing left on the lawn but mobiles & sheds.

The park is looking a lot better but we still have a way to go. Thanks for your cooperation & help to make this a better place to live.

The newspaper printed a lot of lies & half truths. I did not disinfect the faucets enough when I took <sup>water</sup> samples. Never was the system bad & it was two samples not seven.

Sternberg was not evicted because of the age of his mobile! <sup>mean</sup> was evicted (not) & then she filed a complaint (2nd) I go by the yard condition & the ledger! Do they pay on time?

Thanks,  
Jerry

T.O. M. Net. Power + Cable TV + telephone



It is time for spring cleaning. No outside storage! Get a shed.  
I'm looking for the worst yard in each street to evict.

I'm also looking for:

- new dogs!! loose pets!! barking!! all dogs + cats must be registered + new
- junky yards (no outside storage on the lawn against the mobile or behind)
- Bikes + toys must be stored when not in use!!
- late rent payers after the 5th (evictions on the 10th)
- no dumping garbage on the ground instead of in the dumpsters! I will pay a reward for the name or license plate # of persons dumping on the ground people not from the park who use our dumpsters your name will
- no parking on the grass + no junk vehicles
- hot ashes in the dumpster (must be cold + 2 days old)
- unskirted homes (must be skirted all 4 sides)
- unpainted wood (skirting, fences, porches, steps, + sheds) this spring
- any disturbing the peace + quiet of the park! no loud parties!
- Children must stay out of other peoples yards unless invited
- no B-B gun shooting in the park
- any damage to the playground area will result in your eviction
- I will not put up with children who mess with other peoples +

Let us all take pride in where we live and make this a better place.  
P.S. If you find any rocks kids might throw please put them in the dumpsters. We don't need broken windows!!

Lexley Drane

1/18/91

I'm still having lots of people calling for places to live.

I will be starting to evict again in Feb. by looking for:

- new dogs!! loose pets!! barking!!
- junky yards (no outside storage on the lawn, against the mobile, or behind)
- late rent payers after the 5th (evictions on the 10th)
- dumping garbage on the ground instead of in the dumpster!  
(I will pay a reward for the name or license plate # of persons who dump)
- junk vehicles
- parking on the grass
- hot ashes in the dumpster (must be cold + 2 days old)
- unskirted homes (must be skirted all 4 sides)
- unpainted wood (skirting, porches, + sheds) this spring
- any disturbing the peace + quiet of the park!

I want you to be proud of where you live; then I can be proud.

P.S. the water tested good now! (on the 5th of Jan.)

Jerry Swenson  
388-6095

Best wishes in the new year.

218 -p  
Gannett

# MontPIRG

Montana Public Interest Research Group

360 Corbin Hall • Missoula, MT • 59612 • (406) 243-2908

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 1A

DATE 1-27-95

SEN. NO. SB 218

## Testimony Against Senate Bill 218: January 27, 1995

The Montana Public Interest Research Group is a non-profit, non-partisan research and advocacy organization working for good government, consumer rights and sound environmental protection. MontPIRG has over 4000 members in Montana, with 2200 student members, and is funded with membership donations.

MontPIRG runs a tenant/landlord hotline, receiving more than 100 calls per month. Before the good cause evictions legislation was passed, we would get calls from mobile home owners asking if they "had any rights" because they felt they were being evicted unfairly and without reasonable notice. Last sessions' good cause eviction legislation provided landlords and tenants guidance regarding rules and procedure, creating a more equitable situation between them.

If Senate Bill 218 is passed, mobile home owners will be particularly vulnerable if there is no law protecting them from eviction without good cause. A mobile home can cost more than \$2000 to move. In Montana, there are very few spaces at mobile home courts. Without good cause evictions, we create a situation in which the owner of the home may not be able to finance a move or find a place to put his or her home.

MontPIRG opposes Senate Bill 218 because it undermines good cause eviction legislation passed during the 1993 Montana Legislature. Good Cause Evictions passed with wide support from the citizens of Montana because only eviction with good cause is fair.

For these reasons, we urge you to oppose Senate Bill 218.

Karen Pester  
2611 Upper River Rd. #26  
Great Falls, Mt. 59405

218-7  
etc.  
-110 testimony

January 24, 1995

Dear Senators,

In reference to Senate Bill 218: I am outraged to hear what is going on. After joining a residents association, I was harassed and threatened by my landlord. If it were not for "Good Cause Eviction" law, she would have evicted me and others who were standing up for our rights. By law, she is responsible for snow removal and an on site manager. But she refuses to provide these service. If this bill were to pass, I and others would definitely be evicted.

I am a single mother with 4 children that are depending on me to get through nursing school & provide a living for them. I am scared to death to even think what would become of us if this bill passed. Where would we go? Because of an age restriction my mobile home is to old to move into the only courts that have any room left. My mobile home is in excellent condition it has a shingled roof & wood siding, but that doesn't seem to matter.

SENATE JUDICIARY COMMITTEE  
EXHIBIT NO. 15  
DATE 1-27-95  
FILE NO. SB218

in a mobile home, so you wouldn't. The landlords are making a  
 know the 1st thing about hell of a profit on the  
 the rules & regulations that misery & misfortune of other  
 go into one - some rules people - So please help  
 are good, but most are them & help the "M.P.A."  
 ridiculous, its like living "Montana, Peoples Action" to fight  
 in an Army barracks & should the landlords & kill the  
 imagine - but if this is the Bill 218 for humanization  
 on by place one can live we reasons also -  
 have no choice - this is out. Be be forever in your debt  
 home & Castle -  
 Thanking you.

Sincerely,  
 Mrs. Jo Mulliner  
 3805 - 7th St N.E. #62  
 Great Falls 59404

P.S. If I get thrown out of  
 the Trailer court because of  
 this letter & belonging to the M.P.A  
 could I move into your yards  
 or on the Capitol lawn of course not.  
 Please say No to 218 vehemently  
 There are more landlords than M.P.A. members  
 out there.

2

men that she was selling the place, & I had to have an open house for people to come & visit, & see the home, I couldn't be there, so consequently I also had stuff taken, - I got of this I decided that I had to move, (the house finally sold altho it took mths) I found this Fowler & decided I would like my own castle, so a very good friend loaned me the money to buy it - I tried to get the managers to put some grass in, but it was already dead I decided it was a mud puddle & I felt like "Noah" in the ark - it was built on water all around & where to run to & still hasn't - I don't know whether any of you gentlemen have ever joined

Yellowstone

Dear Sirs,

I am really angry I think that after all the work the M.A. have done to protect people like me who live in a mobile home, courts should come to nothing if the "Bill" 218 passes - I have lived in this Court Countrywide Village for eighteen months & my rent has gone up from \$158. to \$177 for now, no doubt it will go up again another \$10 or more now that the sewer & water rates have gone up in Great Falls. I lived in a rented house before moving here, paying \$400 a month - which I may had \$600 coming in & also had to pay utilities as well - & every spring & sometimes fall, I would have the landlady come & tell

DATE 1-27-94

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 167, SB 218

Name	Representing	Bill No.	Check One Support Oppose	
Ted Clark	DEHS-info only	SB 66		
Daniel N McLean	Oakland Holding Company	SB-218	✓	
Mary McCue	Mobile Home Park Owners	SB 218	✓	
John Shortz	MT Assoc Realtor	SB 218	x	
RONDA Carpenter	MT Housing Dividers MLA IPM WTLA	SB 218	x	
Michael J Lane	Mobile Home Park Tenant	SB 218		✓
Bruce Jones	Tenant	SB 218		✓
Andy Gardner	Montana People's Action	SB 218		✓
Bruce Hietala	Mobile Home Park Resident <sup>MPA</sup>	SB 218		✓
Paul S Gively	MPA	SB 218		✓
Alise E Janko	MPA	SB 218		✓
Rick VanAllen	MPA	SB 218		✓
Bob Christensen	MPA	SB 218		✓
Melissa Case	MPA	SB 218		✓

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1/27/95

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 167 - SB218

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
W James Kembel	City of Billings	SB167	✓	
Deborah Smith	Sierra Club			✓
Ted Lange	NPRC	SB167		✓
Gordon Morris	MAG	SB167	✓	
Helen Christensen	Mont State AFL-CIO	SB167		✓
Tom Harwood	SELF	SB167	✓	
Christine Kaufman	Montana Human Rights Union	SB 167		✓
Brad Benth	MT Democratic Party	SB167		✓
Alec Hansen	MLCT	SB 167	✓	
Ed Caplis	MSCA	SB167		✓

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE Jan 27 1995

SENATE COMMITTEE ON

Judiciary

BILLS BEING HEARD TODAY:

SB 167

SB 218

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Nancy Weinzeffel	Montana Peoples Action	218		-
Lela DeCock	M P A	218		✓
Oliver E. Jantz	M P A	218		
Ed Carlis	MSCA	218		
Ken Kraft	F.R.A. mslc	218		✓
J.V. Bennett	Mont PIRG	218		✓
Ken Van Stockum	M P A	218		✓
Edward Baron	M P A	218		✓
Jill Dufree	Mont PIRG	218		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY