

1 HB BILL NO. 114  
2 INTRODUCED BY Brand

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SHIFT COUNTY  
5 LIABILITY FOR PUBLIC ASSISTANCE GIVEN TO A RECIPIENT AS A  
6 RESULT OF THE RECIPIENT'S PARENT OR SPOUSE BEING  
7 INCARCERATED IN THE STATE PRISON OR INVOLUNTARILY COMMITTED  
8 TO A STATE INSTITUTION, TO CREATE A PRESUMPTION, AND TO  
9 AMEND 71-302.2, 71-508, AND 71-510, R.C.M. 1947."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. There is a new R.C.M. section numbered  
13 16-3802.1 that reads as follows:

14 16-3802.1. Exception to public assistance liability.

15 (1) Notwithstanding the provisions of 16-3802, a county is  
16 not liable for the necessary expenses incurred in the  
17 support of county hospitals, the indigent sick, and the  
18 otherwise dependent poor whose support is chargeable to the  
19 county when the expenses are incurred because of public  
20 assistance given to a recipient as a result of the  
21 recipient's parent or spouse being incarcerated in the state  
22 prison or involuntarily committed to a state institution.

23 (2) The department of social and rehabilitation  
24 services is liable for the payment of all expenses which,  
25 except for the provisions of subsection (1) of this section,

1 a county would otherwise be liable for. The department's  
2 liability under this subsection continues until the elapse  
3 of 1 year following the release from incarceration or  
4 involuntary commitment of the recipient's parent or spouse,  
5 at which time the county of residence is liable.

6 (3) For the purpose of this section, public assistance  
7 given to a recipient is presumed to be the result of  
8 incarceration or involuntary commitment of the recipient's  
9 parent or spouse when the recipient's parent or spouse is in  
10 fact incarcerated or involuntarily committed and the parent  
11 or spouse had contributed to the recipient's support  
12 immediately prior to incarceration or involuntary  
13 commitment.

14 Section 2. Section 71-302.2, R.C.M. 1947, is amended  
15 to read as follows:

16 \*71-302.2. Residency requirements. (1) Any person  
17 otherwise qualified who makes his home in the state of  
18 Montana with the intent to become a resident shall be  
19 eligible for general relief. Upon the filing of his  
20 application in the county of residence, his assistance shall  
21 be paid entirely from state funds until he has resided for  
22 ~~one- (1) continuous year in the state of--Montana,~~ at which  
23 time he shall become a financial responsibility of the  
24 county in which he resides at the expiration of the ~~one--(1)~~  
25 year 1-year period. A person who leaves the state of ~~Montana~~

1 with the intent to reside in another state, and later  
 2 returns to reside in the state of Montana, shall be deemed a  
 3 new resident for the purposes of this act.

4 (2) If a recipient moves from his original county of  
 5 residence to reside in another county, he shall continue to  
 6 be a financial responsibility of the original county of  
 7 residence for ~~one--(1)~~ year from the date of his change of  
 8 residence. If during this ~~one--(1)~~-year 1-year period, the  
 9 individual resides in several counties, he shall become a  
 10 financial responsibility of the county in which he resides  
 11 at the expiration of the ~~one--(1)~~-year 1-year period.

12 (3) ~~Notwithstanding the provisions of subsections (1)~~  
 13 ~~and (2) of this section, the department of social and~~  
 14 ~~rehabilitation services is liable for the general relief~~  
 15 ~~assistance given to a recipient as a result of the~~  
 16 ~~recipient's parent or spouse being incarcerated in the state~~  
 17 ~~prison or involuntarily committed to a state institution.~~  
 18 ~~The department's liability under this subsection continues~~  
 19 ~~until the elapse of 1 year following the release from~~  
 20 ~~incarceration or involuntary commitment of the recipient's~~  
 21 ~~parent or spouse, at which time the county of residence is~~  
 22 ~~liable.~~

23 (4) County medical assistance under section 71-308  
 24 shall not be entitled to be paid from state funds.

25 (5) ~~Notwithstanding the provisions of subsection (4)~~

1 ~~of this section, the department is liable for the county~~  
 2 ~~medical assistance under 71-309 given to a recipient as a~~  
 3 ~~result of the recipient's parent or spouse being~~  
 4 ~~incarcerated in the state prison or involuntarily committed~~  
 5 ~~to a state institution. The department's liability under~~  
 6 ~~this subsection continues until the elapse of 1 year~~  
 7 ~~following the release from incarceration or involuntary~~  
 8 ~~commitment of the recipient's parent or spouse, at which~~  
 9 ~~time the county of residence is liable.~~

10 (6) If a person is absent from the state voluntarily,  
 11 he shall be ineligible for general relief in the state of  
 12 Montana. Aliens found to be illegally within the United  
 13 States shall not be eligible for relief from state funds.

14 (7) Recipients of public assistance who become wards  
 15 or patients in a licensed nursing home or hospital, foster  
 16 home, or a private charitable institution shall have the  
 17 county share of financial participation paid entirely from  
 18 state funds for ~~one--(1)~~ year from the original date of  
 19 entrustment or the original date of state residency,  
 20 whichever is earlier. At the expiration of such period, the  
 21 appropriate county as defined by the following guidelines  
 22 shall become financially responsible to the extent of its  
 23 legally required share of participation. The county in which  
 24 commitment of an adult is initiated shall be deemed the  
 25 county of financial responsibility except where court decree

1 declares the residency to be otherwise. Where an adult is  
 2 transferred from a facility or institution to one of the  
 3 above-enumerated facilities, the county which initiated the  
 4 original commitment shall be deemed the county of financial  
 5 responsibility except in the case of an adult transfer from  
 6 an out-of-state institution, in which case the county in  
 7 which the facility is located shall be deemed the county of  
 8 financial responsibility. In all cases where a minor patient  
 9 or ward is involved, the county of financial responsibility  
 10 shall be the county in which the parent or guardian resides.  
 11 Where the custody of a minor is entrusted to a state agency,  
 12 the agency shall have the power to make a reasonable  
 13 declaration of the county residency of its ward using  
 14 applicable guidelines enumerated in this section. A person  
 15 who reaches majority in an institution shall upon release  
 16 and restoration to competency have the power to determine  
 17 his own county residency. Such person shall continue to be a  
 18 financial responsibility of the county which initiated the  
 19 original commitment for one--(1) year from the date of  
 20 release, at which time he shall become a financial  
 21 responsibility of his new county of residence.

22 (B) Nonresidents or interstate transients may receive  
 23 temporary relief from county funds in cases of extreme  
 24 necessity and destitution until they may be returned at  
 25 state expense to their state of residence or origin. Medical

1 expenses arising from accidental injury to interstate  
 2 transients shall be paid from county funds and reimbursed by  
 3 the state upon submission of a proper claim.

4 (9) Interstate transient, as the term is used in this  
 5 act, is defined as an individual who has signed a  
 6 declaration that he is unable to pay for his own necessities  
 7 or transportation to return to his state of residence or  
 8 origin and is en route to a point outside of this state,  
 9 being unable, due to unexpected distress, to reach his  
 10 destination."

11 Section 3. Section 71-508, R.C.M. 1947, is amended to  
 12 read as follows:

13 "71-503. County share of participation. (1) Each  
 14 county department shall reimburse the state department in  
 15 the amount of one-third (1/3) of the approved aid to  
 16 dependent children grants exclusive of the federal share.

17 (2) Notwithstanding the provisions of subsection (1)  
 18 of this section, the state department is entirely liable,  
 19 exclusive of the federal share, for the aid to dependent  
 20 children given to a recipient as a result of the recipient's  
 21 parent or spouse being incarcerated in the state prison or  
 22 involuntarily committed to a state institution. The state  
 23 department's liability under this subsection continues until  
 24 the elapse of 1 year following the release from  
 25 incarceration or involuntary commitment of the recipient's

1 parent or spouse, at which time the county of residence is  
 2 liable for the county share of participation."

3 Section 4. Section 71-510, R.C.M. 1947, is amended to  
 4 read as follows:

5 "71-510. Removal to another county. (1) A recipient of  
 6 aid to dependent children who moves to another county in the  
 7 state shall continue to receive assistance with the approval  
 8 of the state department; the county from which he has moved  
 9 shall be charged by the state department for such county  
 10 share of his assistance for a period of ~~one-<sup>1</sup>~~ year, after  
 11 which time the county to which he has moved shall be charged  
 12 therefor. The state department will determine the date of  
 13 transfer. The county from which a recipient moves shall  
 14 notify the state department and the county to which the  
 15 recipient moves.

16 (2) Notwithstanding the provisions of subsection (1)  
 17 of this section, the state department is entirely liable,  
 18 exclusive of the federal share, for the aid to dependent  
 19 children given to a recipient as a result of the recipient's  
 20 parent or spouse being incarcerated in the state prison or  
 21 involuntarily committed to a state institution. The state  
 22 department's liability under this subsection continues until  
 23 the elapse of 1 year following the release from  
 24 incarceration or involuntary commitment of the recipient's  
 25 parent or spouse, at which time the county of residence is

1 liable for the county share of participation."

-End-

STATE OF MONTANA

REQUEST NO. 48-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 11, 19 77, there is hereby submitted a Fiscal Note for House Bill 114 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 114 is an act to shift county liability for public assistance given to a recipient as a result of the recipient's spouse or parent being incarcerated in the state prison or involuntarily committed to a state institution.

ASSUMPTIONS:

1. AFDC cases receiving assistance due to incarceration or institutionalization remains at 1.1% of the total caseload.
2. AFDC caseload increases remain 2% per year and this category of AFDC cases will increase at the same rate as all other categories.
3. Average AFDC grants for cost estimation: FY 78 — \$189.72  
FY 79 — \$201.25
4. General assistance and county medical cost estimates were based upon 1% of the FY 78 and FY 79 cost estimates.

FISCAL IMPACT:

A shift in costs from counties to the state's general fund will occur as follows:

	<u>FY 78</u>	<u>FY 79</u>	<u>TOTAL</u>
AFDC County Share	\$20,675	\$22,859	\$43,534
General Assistance — Counties	4,170	3,810	7,980
County Medical	<u>39,380</u>	<u>39,890</u>	<u>79,270</u>
	<u>\$64,225</u>	<u>\$66,559</u>	<u>\$130,784</u>

TECHNICAL NOTE:

1. Of eleven (11) Cascade AFDC cases in this category, only one (1) was in the State Prison; several others are in other state or federal prisons.
2. Language reads "The State Prison" and "A state institution" — Does this mean only Montana State Prison and Montana state institutions or Montana's Prison and all 50 states' institutions and prisons, excluding federal prisons, or just Montana's prison and Institutions or all prisons and institutions?

*Richard L. Drury for*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-77

STATE OF MONTANA

REQUEST NO. ~~48-77~~ Amended

FISCAL NOTE

Form BD-15

In compliance with a written request received January 11, 19 77, there is hereby submitted a Fiscal Note for House Bill 114 (Amended) pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

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ASSUMPTIONS:

1. AFDC cases receiving assistance due to incarceration or institutionalization remains at 1.1% of the total caseload.
2. AFDC caseload increases remain 2% per year and this category of AFDC cases will increase at the same rate as all other categories.
3. Average AFDC grants for cost estimation: FY78 - \$189.72 FY79 - \$201.25.
4. General assistance and county medical cost estimates were based upon 1% of the FY78 and FY79 cost estimates.
5. Section 71-302.2(2) as amended applies to all recipients of assistance.
6. Section 71-302.2(2) refers to recipients who move from the county of financial responsibility, then make subsequent moves.
7. One percent of all recipients move more than once during a fiscal year.

FISCAL IMPACT:

A shift in costs from counties to the state's general fund will occur as follows:

	<u>FY78</u>	<u>FY79</u>	<u>Total</u>
1% of County Share	\$ 80,705	\$ 83,929	\$164,634
AFDC County Share	20,675	22,859	43,534
General Assistance-Counties	4,170	3,810	7,980
County Medical	39,380	39,890	79,270
	<u>\$144,930</u>	<u>\$150,488</u>	<u>\$295,418</u>

*Richard L. Young*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-77

Public Health, Welfare & Safety

Objection Raised to Adverse Committee Report

HB BILL NO. 114

Brand

1 INTRODUCED BY

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO SHIFT COUNTY LIABILITY FOR PUBLIC ASSISTANCE GIVEN TO A RECIPIENT AS A RESULT OF THE RECIPIENT'S PARENT OR SPOUSE BEING INCARCERATED IN THE STATE PRISON OR INVOLUNTARILY COMMITTED TO A STATE INSTITUTION, TO CREATE A PRESUMPTION, AND TO AMEND 71-302.2, 71-508, AND 71-510, R.C.M. 1947."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. There is a new R.C.M. section numbered 16-3802.1 that reads as follows:

14 16-3802.1. Exception to public assistance liability.

15 (1) Notwithstanding the provisions of 16-3802, a county is 16 not liable for the necessary expenses incurred in the 17 support of county hospitals, the indigent sick, and the 18 otherwise dependent poor whose support is chargeable to the 19 county when the expenses are incurred because of public 20 assistance given to a recipient as a result of the 21 recipient's parent or spouse being incarcerated in the state 22 prison or involuntarily committed to a state institution.

23 (2) The department of social and rehabilitation 24 services is liable for the payment of all expenses which, 25 except for the provisions of subsection (1) of this section,

1 a county would otherwise be liable for. The department's 2 liability under this subsection continues until the elapse 3 of 1 year following the release from incarceration or 4 involuntary commitment of the recipient's parent or spouse, 5 at which time the county of residence is liable.

6 (3) For the purpose of this section, public assistance 7 given to a recipient is presumed to be the result of 8 incarceration or involuntary commitment of the recipient's 9 parent or spouse when the recipient's parent or spouse is in 10 fact incarcerated or involuntarily committed and the parent 11 or spouse had contributed to the recipient's support 12 immediately prior to incarceration or involuntary 13 commitment.

14 Section 2. Section 71-302.2, R.C.M. 1947, is amended 15 to read as follows:

16 "71-302.2. Residency requirements. (1) Any person 17 otherwise qualified who makes his home in the state of 18 Montana with the intent to become a resident shall be 19 eligible for general relief. Upon the filing of his 20 application in the county of residence, his assistance shall 21 be paid entirely from state funds until he has resided for 22 one-~~(1)~~ continuous year in the state of ~~Montana~~, at which 23 time he shall become a financial responsibility of the 24 county in which he resides at the expiration of the ~~one-~~(1)~~~~ 25 year ~~1-year~~ period. A person who leaves the state of ~~Montana~~

1 with the intent to reside in another state, and later  
 2 returns to reside in the state of Montana, shall be deemed a  
 3 new resident for the purposes of this act.

4 (2) If a recipient moves from his original county of  
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 9 individual resides in several counties, he shall become a  
 10 financial responsibility of the county in which he resides  
 11 at the expiration of the one--(1) year 1-year period.

12 (3) Notwithstanding the provisions of subsections (1)  
 13 and (2) of this section, the department of social and  
 14 rehabilitation services is liable for the general relief  
 15 assistance given to a recipient as a result of the  
 16 recipient's parent or spouse being incarcerated in the state  
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 18 The department's liability under this subsection continues  
 19 until the elapse of 1 year following the release from  
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 15 or patients in a licensed nursing home or hospital, foster  
 16 home, or a private charitable institution shall have the  
 17 county share of financial participation paid entirely from  
 18 state funds for one--(1) year from the original date of  
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 20 whichever is earlier. At the expiration of such period, the  
 21 appropriate county as defined by the following guidelines  
 22 shall become financially responsible to the extent of its  
 23 legally required share of participation. The county in which  
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1 declares the residency to be otherwise. Where an adult is  
 2 transferred from a facility or institution to one of the  
 3 above-enumerated facilities, the county which initiated the  
 4 original commitment shall be deemed the county of financial  
 5 responsibility except in the case of an adult transfer from  
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 10 shall be the county in which the parent or guardian resides.  
 11 Where the custody of a minor is entrusted to a state agency,  
 12 the agency shall have the power to make a reasonable  
 13 declaration of the county residency of its ward using  
 14 applicable guidelines enumerated in this section. A person  
 15 who reaches majority in an institution shall upon release  
 16 and restoration to competency, have the power to determine  
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 19 original commitment for one--~~{1}~~ year from the date of  
 20 release, at which time he shall become a financial  
 21 responsibility of his new county of residence.

22 ~~{8}~~ Nonresidents or interstate transients may receive  
 23 temporary relief from county funds in cases of extreme  
 24 necessity and destitution until they may be returned at  
 25 state expense to their state of residence or origin. Medical

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 2 transients shall be paid from county funds and reimbursed by  
 3 the state upon submission of a proper claim.

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 5 act, is defined as an individual who has signed a  
 6 declaration that he is unable to pay for his own necessities  
 7 or transportation to return to his state of residence or  
 8 origin and is en route to a point outside of this state,  
 9 being unable, due to unexpected distress, to reach his  
 10 destination."

11 Section 3. Section 71-508, R.C.M. 1947, is amended to  
 12 read as follows:

13 "71-508. County share of participation. ~~{1}~~ Each  
 14 county department shall reimburse the state department in  
 15 the amount of one-third ~~{1/3}~~ of the approved aid to  
 16 dependent children grants exclusive of the federal share.

17 ~~{2}~~ Notwithstanding the provisions of subsection ~~{1}~~  
 18 of this section, the state department is entirely liable,  
 19 exclusive of the federal share, for the aid to dependent  
 20 children given to a recipient as a result of the recipient's  
 21 parent or spouse being incarcerated in the state prison or  
 22 involuntarily committed to a state institution. The state  
 23 department's liability under this subsection continues until  
 24 the elapse of 1 year following the release from  
 25 incarceration or involuntary commitment of the recipient's

1 parent or spouse, at which time the county of residence is  
 2 liable for the county share of participation."

3 Section 4. Section 71-510, R.C.M. 1947, is amended to  
 4 read as follows:

5 "71-510. Removal to another county. ~~(1)~~ A recipient of  
 6 aid to dependent children who moves to another county in the  
 7 state shall continue to receive assistance with the approval  
 8 of the state department; the county from which he has moved  
 9 shall be charged by the state department for such county  
 10 share of his assistance for a period of ~~one (1) year~~, after  
 11 which time the county to which he has moved shall be charged  
 12 therefor. The state department will determine the date of  
 13 transfer. The county from which a recipient moves shall  
 14 notify the state department and the county to which the  
 15 recipient moves.

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-End-