

**SENATE BILL NO. 4**

**INTRODUCED BY MAZUREK**

**BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY**

**IN THE SENATE**

January 3, 1983	Introduced and referred to Committee on Judiciary.
January 11, 1983	Committee recommend bill do pass as amended. Report adopted.
January 12, 1983	Bill printed and placed on members' desks.
January 13, 1983	Second reading, do pass.
January 14, 1983	Considered correctly engrossed.
January 15, 1983	Third reading, passed. Ayes, 45; Noes, 0. Transmitted to House.

**IN THE HOUSE**

January 17, 1983	Introduced and referred to Committee on Judiciary.
March 10, 1983	Committee recommend bill be concurred in. Report adopted.
March 11, 1983	Second reading, concurred in.
March 12, 1983	Third reading, concurred in.

**IN THE SENATE**

March 14, 1983	Returned to Senate. Sent to enrolling.
	Reported correctly enrolled.

1                    SENATE    BILL NO.   4  
2    INTRODUCED BY MAZUREK  
3                    BY REQUEST OF THE JOINT SUBCOMMITTEE ON JUDICIARY  
4  
5    A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE APPELLANT  
6    IN A CRIMINAL APPEAL TO ORDER IN WRITING A TRANSCRIPT OF THE  
7    TRIAL COURT PROCEEDINGS; REQUIRING THE APPELLANT'S ATTORNEY  
8    TO PAY THE COSTS OF PREPARING THE TRANSCRIPT IF IT IS NOT  
9    ORDERED WITHIN 10 DAYS AFTER FILING NOTICE OF APPEAL;  
10    AMENDING SECTION 46-20-302, MCA."  
11  
12    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
13            Section 1. Section 46-20-302, MCA, is amended to read:  
14            "46-20-302. Transcript of proceedings. (1) Within 10  
15    days after filing the notice of appeal, the appellant shall  
16    order in writing from the reporter a transcript of the  
17    entire lower court proceedings or such parts of the  
18    proceedings not already on file as he deems necessary for  
19    inclusion in the record. When ordering the transcript from  
20    the reporter, the appellant shall transmit a copy of the  
21    written order to the clerk of the supreme court.  
22            (2) In all cases where the appellant intends to urge  
23    insufficiency of the evidence to support the verdict, order,  
24    or judgment in the district court, it shall be the duty of  
25    the appellant to order the entire transcript of the

1    evidence. Wherever the sufficiency of the evidence to  
2    support a special verdict or answer by a jury to an  
3    interrogatory or to support a specific finding of fact by  
4    the trial court is to be raised on the appeal by the  
5    appellant, he shall be under a duty to include in the  
6    transcript all evidence relevant to such verdict, answer, or  
7    finding.  
8            ~~(2)(3)~~ Unless the entire transcript is to be included,  
9    the appellant shall within the time above provided file and  
10    serve on the respondent a description of the parts of the  
11    transcript which he intends to include in the record and a  
12    statement of the issues which he intends to present on the  
13    appeal. If the respondent deems a transcript of other parts  
14    of the proceedings to be necessary, he shall within 10 days  
15    after such filing and service order such parts from the  
16    reporter or procure an order from the district court  
17    requiring the appellant to so do.  
18            ~~(3)(4)~~ (a) The Except as provided in subsection (b),  
19    the cost of producing the transcript shall be paid by the  
20    appellant, or he shall make satisfactory arrangements with  
21    the reporter for the payment of such cost. If the appellant  
22    considers that any part of the record designated by the  
23    respondent for inclusion is unnecessary for the  
24    determination of the issues presented, he shall advise the  
25    respondent. The district court may impose upon the

1 respondent the cost of producing any part which it deems  
2 unnecessary for the determination of the issues.

3 ~~(b) If a transcript is not ordered within 10 days~~  
4 ~~after filing the notice of appeal as provided in subsection~~  
5 ~~(1), the supreme court shall assess the cost of producing~~  
6 ~~the transcript against counsel representing the appellant.~~  
7 ~~Costs assessed against counsel may not be charged to the~~  
8 ~~appellant or to the county when the appellant is determined~~  
9 ~~to be indigent under 46-20-303.~~

10 ~~{4}(5)~~ The reporter shall certify the correctness of  
11 the transcript."

-End-

Approved by Committee  
on Judiciary

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE APPELLANT  
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TRIAL COURT PROCEEDINGS; ~~REQUIRING THE APPELLANT'S ATTORNEY~~  
~~TO PAY THE COSTS OF PREPARING THE TRANSCRIPT IF IT IS NOT~~  
~~ORDERED WITHIN 10 DAYS AFTER FILING NOTICE OF APPEAL~~  
AMENDING SECTION 46-20-302, MCA."

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

Section 1. Section 46-20-302, MCA, is amended to read:

"46-20-302. Transcript of proceedings. (1) Within 10  
days after filing the notice of appeal, the appellant shall  
order in writing from the reporter a transcript of the  
entire lower court proceedings or such parts of the  
proceedings not already on file as he deems necessary for  
inclusion in the record. When ordering the transcript from  
the reporter, the appellant shall transmit a copy of the  
written order to the clerk of the supreme court.

(2) In all cases where the appellant intends to urge  
insufficiency of the evidence to support the verdict, order,  
or judgment in the district court, it shall be the duty of  
the appellant to order the entire transcript of the

evidence. Wherever the sufficiency of the evidence to  
support a special verdict or answer by a jury to an  
interrogatory or to support a specific finding of fact by  
the trial court is to be raised on the appeal by the  
appellant, he shall be under a duty to include in the  
transcript all evidence relevant to such verdict, answer, or  
finding.

(2)(3) Unless the entire transcript is to be included,  
the appellant shall within the time above provided file and  
serve on the respondent a description of the parts of the  
transcript which he intends to include in the record and a  
statement of the issues which he intends to present on the  
appeal. If the respondent deems a transcript of other parts  
of the proceedings to be necessary, he shall within 10 days  
after such filing and service order such parts from the  
reporter or procure an order from the district court  
requiring the appellant to so do.

(3)(4) ~~for~~ The ~~Except as provided in subsection (3)~~  
the cost of producing the transcript shall be paid by  
the appellant, or he shall make satisfactory arrangements  
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by the respondent for inclusion is unnecessary for the  
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respondent. The district court may impose upon the

SECOND READING

1 respondent the cost of producing any part which it deems  
2 unnecessary for the determination of the issues.

3 ~~tb) if a transcript is not ordered within 10 days~~  
4 ~~after filing the notice of appeal as provided in subsection~~  
5 ~~tl) the supreme court shall assess the cost of producing~~  
6 ~~the transcript against counsel representing the appellant.~~  
7 ~~Costs assessed against counsel may not be charged to the~~  
8 ~~appellant or to the county when the appellant is determined~~  
9 ~~to be indigent under 46-20-303.~~

10 (4)(5) The reporter shall certify the correctness of  
11 the transcript."

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Approved by Committee  
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*As Amended*

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THIRD READING

1 respondent the cost of producing any part which it deems  
2 unnecessary for the determination of the issues.

3 ~~that if a transcript is not ordered within 10 days~~  
4 ~~after filing the notice of appeal as provided in subsection~~  
5 ~~(1), the supreme court shall assess the cost of producing~~  
6 ~~the transcript against counsel representing the appellant,~~  
7 ~~costs assessed against counsel may not be charged to the~~  
8 ~~appellant or to the county when the appellant is determined~~  
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evidence. Wherever the sufficiency of the evidence to support a special verdict or answer by a jury to an interrogatory or to support a specific finding of fact by the trial court is to be raised on the appeal by the appellant, he shall be under a duty to include in the transcript all evidence relevant to such verdict, answer, or finding.

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7 ~~Costs assessed against counsel may not be charged to the~~  
8 ~~appellant or to the county when the appellant is determined~~  
9 ~~to be indigent under 46-28-383.~~

10 (4715) The reporter shall certify the correctness of  
11 the transcript."

-End-