

MINUTES FOR THE MEETING  
JUDICIARY COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 11, 1985

The meeting of the Judiciary Committee was called to order by Chairman Tom Hannah on Monday, March 11, 1985 at 10:00 a.m. in Room 312-3 of the State Capitol.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL NO. 104: Senator Mike Halligan, District #29, sponsor of SB 104, testified. He told the committee that Montana would be one of the last states to allow computerized jury selection. This legislation does not mandate computerized jury selection -- it just allows counties that have that capability to create that option rather than using the traditional jury box method.

He feels computerized jury selection would increase efficiency, while it would insure that the integrity of the jury selection process is maintained. (Exhibit A.)

Pat Melby, representing the State Bar of Montana, wished to go on record as favoring this bill. He feels it will increase the efficiency of the courts.

Jim Dopp, records master of Missoula County, testified as a proponent to this bill. He said this legislation is strictly permissive. The bill requires the judges of a district to approve any computerized system. This is one more method of bringing governmental costs in line with the present systems. He submitted a summary of SB 104 which was marked Exhibit B and attached hereto.

There being no further proponents or opponents, Senator Halligan closed.

The floor was opened for questions.

Rep. Mercer stated that his experience with computers has been that when computers generate random numbers, they always generate the same random numbers -- so they really aren't random. In this particular law, we place it in a box and statutorily guarantee that it is going to be random. If we turn it over to computers, will that somehow make it predictable. Mr. Dopp said that there are several different systems that are used by various states, counties, etc. The number of jurors that are in other states, such as California, implement a totally random number, whereas in the computer each time through generates a new number, and that particular jury is selected. It is up to the individual district to employ a system.

There being no further questions, hearing closed on SB 104.

CONSIDERATION OF SENATE BILL NO. 80: Senator Judy Jacobson, District #36, sponsor of SB 80, testified. She said that SB 80 revises the penalty for violation of the Child Safety Restraint Law that was passed the last legislative session. This legislation really doesn't change the fine at all, it just changes the way in which it is occurring by removing the warning provision.

Al Goke, administrator of the Highway Safety Traffic Division, Department of Justice, stated that he helped implement the Child Restraint Law. He submitted an informational brochure on child passenger safety which was marked as Exhibit C and attached hereto. He outlined some of the present difficulties they have been experiencing under this law.

Bill Ware, chief of police in Helena, testified as a proponent to this bill. He said that under the current law, his police department has been experiencing a lot of problems with regards to the filings and everything that goes along with the warning system.

There being no further proponents or opponents, Senator Jacobson closed.

There being no questions, hearing closed on SB 80.

FURTHER ACTION ON SENATE BILL NO. 85: Rep. Gould moved that the Statement of Intent to SB 85 be adopted. The motion was seconded by Rep. Hammond. The question was called and the motion to adopt the Statement of Intent carried unanimously.

CONSIDERATION OF SENATE BILL NO. 144: Senator Joe Mazurek, District No. 23, sponsor of the bill, testified on its behalf. He stated that SB 144 was introduced at the request of the Montana Supreme Court and the clerk of the Supreme Court. The bill would increase the filing fee for appeals to the Montana Supreme Court. The filing fee has not been changed for 20 years, and he feels it is time to increase this fee. He doesn't feel that passage of this legislation will prevent some cases from being appealed.

Ethel M. Harrison, clerk of the Montana Supreme Court, appeared and offered testimony in support of this bill. A copy of her written testimony was marked Exhibit D and attached hereto. She also submitted a comparative study done for 50 states (Exhibit E) and a time/cost analysis study. (Exhibit F)

There being no further proponents or opponents, Senator Mazurek closed. He pointed out that there are only seven states that have separate filing fees for both the appellant and the respondent. He feels removal of the respondent

filing fee is a reasonable change and one that is long overdue.

The floor was opened up for questions.

Rep. Addy stated that we may be limiting the access of the public to the supreme court. He wished Senator Mazurek to comment on this point. Senator Mazurek doesn't feel it will have an effect.

In response to another question that Rep. Addy had, Pat Melby, representing the State Bar of Montana and who was present at the hearing, stated that the State Bar has taken no position on the bill. Mr. Melby feels, however, that this will have very little impact on the number of appeals that are filed.

Rep. Addy asked Mrs. Harrison if it was her position that we can decrease her general fund request by \$53,000. Mrs. Harrison stated that three-fourths of the fees collected go to the general fund and one-fourth goes toward the judge's retirement fund.

There being no further questions, hearing closed on SB 144.

CONSIDERATION OF SENATE BILL NO. 26: Senator Tom Towe, District #46, sponsor of SB 26, stated that his bill is a product of the Select Committee on Indian Affairs. It addresses a question that is rather strange and peculiar overall. It also has raised a serious problem. Senator Towe described the problem it raises. He referred to section 2 of the bill pointing out that there is no reference to Indian Tribes in the list of persons who are eligible to purchase state lands. They, as a tribal government, are not citizens of the United States, nor are they sovereign states or boards of trustees of a public corporation or agency in the state. While any other person can purchase state lands, the tribes of the state cannot. Furthermore, there is some concern that they may not be able to exchange state lands with tribal lands because of the way the statute is written. The purpose of this legislation is to make sure that land exchange of state school lands for tribal lands can be conducted and that a sale of state school lands to tribes may be conducted.

Dennis Hemmer, representing the Department of State Lands, testified as a proponent to SB 26. A copy of his written testimony was submitted and marked Exhibit G.

Ed Azure, representing the Fort Belknap Community Council, testified in support of the bill. A copy of his written testimony was marked Exhibit H and attached hereto.

Louie Clayborn, coordinator of Indian Affairs of the State of Montana, testified in support of the bill. A copy of

his written testimony was marked Exhibit I and attached hereto.

Delmar J. Bigby, representing the Fort Belknap Community Council, also testified in support of the bill. We are asking for recognition by the state of Montana as a legal entity to transact business concerning state-owned land. The Fort Belknap Reservation was 100% tribally-owned from 1888 to March 1, 1921 when the Fort Belknap Indian Reservation was allotted. We would just like to see the state be able to manage their lands and allow us to manage our lands. He said that under the present situation, this is difficult.

Brad Trosper, representing the Confederated Salish & Kootenai Tribes, supports this bill because he believes it will provide a useable, workable solution to numerous problems.

There being no further proponents, Chairman Hannah requested the opponents to testify.

#### OPPONENTS:

Rep. Marian Hanson, District #100, wished to go on record as opposing this legislation. She said that on the Crow Reservation that she represents, they informed her that none of the state lands are in isolation -- they are accessible to everyone. On the Crow Reservation over 50% of the land is deeded lands. There are a lot of non-Indians leasing these state lands. She felt if this legislation is passed, it would seriously break up some of the economic units now on the reservations. Another serious concern of hers is who is going to retain the mineral rights. She asked that if the committee decides to adopt the bill, she would like an amendment to provide that it would apply to just the one reservation (Fort Belknap).

Brad Spear, a member of the Board of Directors of the Big Horn Livestock Association, testified as an opponent. A copy of his written testimony was marked as Exhibit J and is attached hereto.

There were no further opponents, and Senator Towe closed. He rebutted the objections to the bill raised by the opponents. He said that he doesn't think that there is any questions that no one intends to sell any land on the Crow. He doesn't feel the opponent's concerns are warranted on this fact. First of all, he doesn't think the Crows have any money to buy anything. And he doesn't feel that they would want to part with any existing land. Their operation and their system is wholly different from that of the tribes on all the other reservations in the state. So don't let this particular situation make it difficult for all the other reservations to solve their problems.

The floor was opened for questioning.

Rep. Rapp-Svrcek asked that if under this bill the school sections could be sold. Mr. Hemmer said that presently they can be sold -- they just simply cannot be sold to a tribe. Rep. Rapp-Svrcek said if these lands are supposed to be held in trust for support of our state schools, only we end up selling them, aren't we draining the trust. Mr. Hemmer said that it was for the precise reason that the board has not sold any lands since 1960. Rep. Rapp-Svrcek asked if there was any possibility under this bill that the tax base of the local governments might be reduced. Mr. Hemmer said no, he doesn't see any difference there. He said that we don't pay taxes now and the tribes don't pay taxes now, so no tax base would be affected by sale or exchange of the land. Rep. Krueger asked if there are provisions in the statute for public hearings prior to a sale or exchange. Mr. Hemmer said that presently there is a provision for public hearings prior to all private exchanges. It is the policy of his department to have a public hearing prior to all public exchanges. He said that HB 705 would make statutory the present policy of the department to hold hearings prior to public exchanges. HB 705 has been approved by the House.

Rep. Grady asked Mr. Hemmer about the status of leases on tracts of land if they were sold. He wanted to know if there were any provisions for taking care of these ranchers who may be put out of business if the land they have been leasing is no longer available to them. Mr. Hemmer stated there were not.

Concerning a previous question Rep. Eudaily had, Chairman Hannah stated that the local governments do not receive payment in lieu of taxes if Indian Reservations are located within their boundaries and that that portion he referred to was incorrect.

Rep. Mercer is concerned with the tax consequences that this may have. The federal payment in lieu of taxes does not apply to Indian Reservations. Senator Towe stated that the trust land owned by the federal government is not subject to tax by the state.

Rep. Hannah stated that given the two factors of 1, the tribes want to get control back of the land that was originally the reservation land and 2, they don't have any money, do you think there is any danger that through this system that an economic unit, a ranch, that depends on that deeded land could be disrupted to the point that they would be forced to sell at a lower price than would be the value of the unit with the deeded land. Senator Towe said he feels there is a strong possibility that it could have some impact on the value of that total operation. However, he

said that it is very unlikely that that would be a piece of land which would be sought after by the tribe.

Following further questioning, hearing closed on SB 26.

#### EXECUTIVE SESSION

Chairman Hannah called an executive session to order at 11:45 a.m.

ACTION ON SENATE BILL NO. 90: Representative Hammond moved that SB 90 BE CONCURRED IN. The motion was seconded by Rep. O'Hara.

Rep. Hammond moved to adopt the amendments which were previously adopted at yesterday's meeting. The motion was seconded by Rep. Eudaily.

Rep. Rapp-Svrcek submitted a copy of proposed amendments to HB 90 which were marked Exhibit K and attached hereto. He pointed out that amendments 1 through 16 have already been adopted by the committee. He moved that the committee adopt amendment no. 17 which would amend the bill as follows:

Page 9, line 7

Following: "materials."

Strike: "Any"

Insert: "Except as provided in 46-11-401, any"

Following: "materials"

Insert: ", including witness lists,"

The motion was seconded by Rep. Mercer and carried unanimously.

Rep. Montayne submitted copies of his proposed amendments of which was marked Exhibit L and attached hereto. Note that his first amendment has already been adopted. Rep. Montayne further moved to adopt his amendments #2 and #3. Said motion was seconded by Rep. Addy and discussed.

Rep. Montayne feels that it is necessary to protect witnesses from undue harrassment of the press and others.

(Rep. Brown came in)

Rep. Addy made a substitute motion to amend Rep. Montayne's amendment #3 by placing the term of imprisonment at six months and by decreasing the fine from \$10,000 to \$500. The motion was seconded by Rep. Hammond. Rep. Addy feels these sanctions will provide a sufficient deterrent.

Rep. Miles stated that she has a problem with the way this amendment is written. She feels that they are doing the work of the court.

It was Rep. Hannah's opinion that there may be a lot of potential problems with this amendment. Rep. Mercer, too, spoke against the amendment in that he feels it may present some constitutional problems.

Without objection, the question was divided with regards to amendment #2 and amendment #3. As to amendment #2, the motion to adopt failed 7-10. (See roll call vote.)

The question was called on Rep. Addy's substitute motion to decrease the penalty and to decrease the fine. The motion carried unanimously on a voice vote.

The question was called on Rep. Montayne's amendment #3, which would include the newly adopted language to decrease the fine and term of imprisonment, failed on a voice vote.

Rep. Krueger further moved to amend page 6, line 4 by striking "30" and inserting in lieu thereof "45"; also, on page 6, line 21 strike "30" and insert "45". The motion was seconded by Rep. Brown. Rep. Krueger doesn't feel 30 days is sufficient time for defendant to provide the prosecutor with a written notice of his intention to introduce evidence at the trial.

Rep. Mercer spoke against this amendment. The question was called, and Rep. Krueger's motion to amend failed.

Rep. Addy moved on page 2, line 13 to strike following "(1)" "Within 10 days after" and insert "Upon". The motion was seconded by Rep. Mercer, and the motion carried unanimously.

Rep. Hammond moved that SB 90 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. O'Hara. The question was called, and the motion carried with Reps. Montayne, Krueger and Brown dissenting. Rep. Rapp-Svrcek will carry the bill.

ACTION ON SENATE BILL NO. 104: Rep. Addy moved that SB 104 BE CONCURRED IN. The motion was seconded by Rep. Bergene. The question was called, and the motion carried unanimously. Rep. O'Hara volunteered to carry the bill.

ACTION ON SENATE BILL NO. 80: Rep. Hammond moved that SB 80 BE CONCURRED IN. The motion was seconded by Rep. Cobb. The question was called, and the motion carried with Reps. Brown and Hannah dissenting. Rep. Hammond volunteered to carry the bill.

ACTION ON SENATE BILL NO. 144: Rep. O'Hara moved that SB 144 BE CONCURRED IN. The motion was seconded by Rep. Mercer and discussed.

Rep. Eudaily moved to amend the bill on page 1, line 22 by striking "25" and inserting "15". The motion was seconded by Rep. Brown. Rep. Eudaily feels that since there is a little bit of service required here, the cost of copies should be reduced to 15¢. Rep. Addy, too, feels this 15¢ is commensurate with the per page cost. The question was called, and the motion carried unanimously.

Rep. Hammond moved that SB 144 BE CONCURRED IN AS AMENDED. The motion was seconded by Rep. Miles.

Rep. Hannah stated that he will be voting against the bill because a portion of the fees collected goes to the judges' retirement fund.

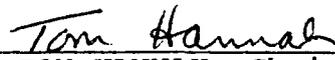
Rep. Mercer responded to Rep. Hannah's concern by stating the problem Rep. Hannah has addressed involves another statute. He doesn't feel the bill should be killed because there is a problem in another statute. Furthermore, Rep. Mercer stated his support for the bill because of the prior testimony given.

The question was called, and the motion carried on a voice vote with Reps. Hannah, Brown, Gould and Montayne dissenting.

Rep. O'Hara volunteered to carry the bill on the floor.

Chairman Hannah decided that action on SB 26 would be withheld until tomorrow.

ADJOURN: A motion having been made by Rep. Hammond, and the motion having been seconded, the meeting adjourned at 12:25 p.m.

  
\_\_\_\_\_  
TOM HANNAH, Chairman

DAILY ROLL CALL

HOUSE JUDICIARY COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 3/11/85

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NAME	PRESENT	ABSENT	EXCUSED
Tom Hannah (Chairman)	✓		
Dave Brown (Vice Chairman)	✓		
Kelly Addy	✓		
Toni Bergene	✓		
John Cobb	✓		
Paula Darko	✓		
Ralph Eudaily	✓		
Budd Gould	✓		
Edward Grady	✓		
Joe Hammond	✓		
Kerry Keyser	✓		
Kurt Krueger	✓		
John Mercer	✓		
Joan Miles	✓		
John Montayne	✓		
Jesse O'Hara	✓		
Bing Poff	✓		
Paul Rapp-Svrcek	✓		

# STANDING COMMITTEE REPORT

March 11

19 85

**Speaker**

MR. ....

**Judiciary**

We, your committee on .....

**Senate**

**30**

having had under consideration ..... Bill No. ....

Third reading copy ( Blue )  
color

**REVISE PENALTY FOR FIRST VIOLATION OF CHILD SAFETY RESTRAINT  
LAW**

**Senate**

**30**

Respectfully report as follows: That .....

BE CONCURRED IN  
DO PASS

ROLL CALL VOTE

HOUSE COMMITTEE JUDICIARY

DATE March 11, 1985 BILL NO. SB 90 TIME \_\_\_\_\_

NAME	AYE	NAY
Kelly Addy	✓	
Toni Bergene		✓
John Cobb	✓	
Paula Darko		✓
Ralph Eudaily		✓
Budd Gould	✓	
Edward Grady		✓
Joe Hammond	✓	
Kerry Keyser		
Kurt Krueger		✓
John Mercer		✓
Joan Miles		✓
John Montayne	✓	
Jesse O'Hara		✓
Bing Poff		✓
Paul Rapp-Svrcek	✓	
Dave Brown (Vice Chairman)	✓	
Tom Hannah (Chairman)		✓

Marcene Lynn  
Secretary

Tom Hannah  
Chairman

Motion: Rep. Montayne moved to adopt his amendment #2 which  
would amend page 9, line 8 of the bill following "disclosed" by  
inserting: ", by the attorney, an employee of the attorney, or any  
person to whom the information is communicated for the necessary conduct  
of the case,". The motion was seconded by Rep. Addy, and the motion  
failed 7-10.

# STANDING COMMITTEE REPORT

March 11

19 35

Page 1 of 3

MR. Speaker

We, your committee on Judiciary

having had under consideration Senate Bill No. 90

Third reading copy (Blue color)

## EXPANSION OF DISCOVERY IN CRIMINAL CASES

Senate

90

Respectfully report as follows: That..... Bill No.....

be amended as follows:

1. Page 2, line 13.

Following: "(1)"

Strike: "Within" through "after" on line 14.

Insert: "Upon"

2. Page 2, line 23.

Strike: "defendant"

Insert: "accused"

3. Page 3, line 1.

Strike: "defendant"

Insert: "accused"

4. Page 3, line 9.

Strike: "defendant"

Insert: "accused"

~~DO-PASS~~

(continued)

5. Page 3, line 11.  
Strike: "defendant's"  
Insert: "accused's"
6. Page 5, line 3.  
Strike: "defendant"  
Insert: "accused"
7. Page 5, line 6.  
Strike: "defendant"  
Insert: "accused"
8. Page 5, line 8.  
Strike: "defendant"  
Insert: "accused"
9. Page 5, line 10.  
Following: "prosecutor"  
Insert: "and for good cause shown"
10. Page 5, line 23.  
Strike: "defendant"  
Insert: "accused"
11. Page 6, line 10.  
Strike: "defendant"  
Insert: "accused"
12. Page 6, line 15.  
Strike: "may"  
Insert: "shall"
13. Page 7, line 3.  
Strike: "defendant"  
Insert: "accused"
14. Page 7, line 21.  
Strike: "defendant's"  
Insert: "accused's"
15. Page 8, line 4.  
Following: "for"  
Strike: "a"  
Insert: "the"
- Following: "product"  
Strike: "that" through "notes" on line 12.  
Insert: "of the prosecuting or defense attorney"

(continued)

16. Page 8, line 13.

Strike: "Disclosure" through "if" on line 14.

Insert: "if"

17. Page 8, line 15.

Following: "contained"

Strike: "therein"

Insert: "in the work product, that information must be disclosed"

18. Page 9, line 7.

Following: "materials."

Strike: "Any"

Insert: "Except as provided in 46-11-4)1, any"

Following: "materials" the second time it appears on line 7.

Insert: ", including witness lists,"

AND AS AMENDED,  
HE CONCURRED IN

# STANDING COMMITTEE REPORT

March 11

85

..... 19 .....

MR. Speaker .....

We, your committee on Judiciary .....

having had under consideration Senate .....

Bill No. 104

Third reading copy ( Blue )  
color

**COMPUTERIZED JURY SELECTION**

Respectfully report as follows: That Senate .....

Bill No. 104

BE CONCURRED IN  
DO PASS

# STANDING COMMITTEE REPORT

March 11

19 35

MR. Speaker:

We, your committee on Judiciary

having had under consideration Senate Bill No. 144

Third reading copy ( Blue )  
color

## INCREASING SUPREME COURT FILING FEES

Respectfully report as follows: That Senate Bill No. 144

be amended as follows:

1. Page 1, line 22.  
Strike: "25"  
Insert: "15"

AND AS AMENDED,  
BE CONCURRED IN

~~XXXX~~  
PASS

VISITORS' REGISTER

HOUSE JUDICIARY

COMMITTEE

BILL NO. SB 26 (Sen. Towe);  
SB 80 (Sen. Jacobson); DATE March 11, 1985  
~~SB 104 (Sen. Halligan);~~  
 SPONSOR SB 144 (Sen. Mazurek)

NAME (please print)	<del>RESIDENCE</del> REPRESENTING	SUPPORT	OPPOSE
Delmar J. Bieby	Ft. BELKNAP	SB 26 ✓	
Albert Wok	High Traffic Safety - Justice	SB 80	
ETHEL M. HARRISON	SUPREME COURT	SB 144	
Rep Marisa Hanson	Dist 100	SB 26	S ✓
Brad Spear	Big Horn Co. Livestock Assn		SB 26
Pat Spear	Spear On Ranch Co.		SB 26 ✓
Dennis Hummer	Dept of State Lands	SB 26	
Bradley Trospen	Comp. Intell. Dist. Stations	SB 26	
Marilyn M. Trospen	Observer	-	
EDWARD AZURE	Ft. BELKNAP IND. COMM	SB 26	
Frank Hayes	High Traffic Safety	SB 80	
Pat Melby	State Bar of Mont	SB 104	
James Dopp	Missoula County	SB 104	
D. Louis Clayton	OFFICE INDIAN AFFAIRS	SB 26	
Michael Abley	Supreme Court	SB 104 SB 144	
Bill Ware	Helena Police Chief	SB 80	
Jim T. Joens	Int. Relations	SB 80	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

SB 104

"AN ACT TO AUTHORIZE THE USE OF COMPUTERIZED JURY SELECTION"

THE PROPOSED LEGISLATION WOULD ALLOW INDIVIDUAL JUDICIAL DISTRICTS TO EMPLOY A COMPUTERIZED RANDOM SELECTION PROCESS FOR THE DRAWING OF TRIAL JURORS.

THE PROPOSED LEGISLATION IS STRICTLY PERMISSIVE. EACH DISTRICT WILL BE FREE TO CONTINUE USING ITS EXISTING MANUAL SELECTION PROCESS.

IN DISTRICTS CHOOSING TO USE THE OPTIONAL COMPUTERIZED METHOD, THE LIST OF JURORS WOULD BE PLACED IN A COMPUTERIZED DATA BASE AND A PROGRAM, APPROVED BY THE JUDGES OF THE DISTRICT, EMPLOYED TO RANDOMLY SELECT THE JURORS TO BE CALLED.

ALL OTHER REQUIREMENTS OF LAW APPLYING TO THE SELECTION OF JURORS WILL APPLY IRRESPECTIVE OF THE METHOD USED.

TESTIMONY  
SENATE BILL 104  
MARCH 11, 1985

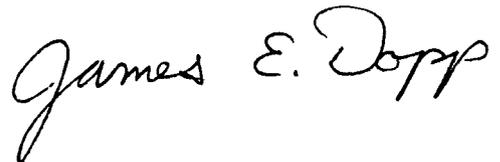
I am very happy and honored to be here today and to have the opportunity to testify before this committee in support of Senate Bill 104.

As records manager in Missoula County I am asked daily to look into problems of county offices where the practices of the past can no longer fulfill the ever changing requirements of government or where those cumulative changes create an unacceptable burden on the space or personell assigned to the office. The problems are seldom totally unique and the solutions are often found by looking to how others have dealt with like circumstances. Such is the case surrounding the bill being presented here today.

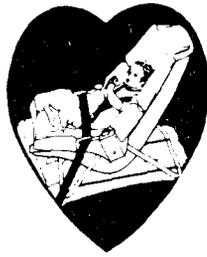
The problem stems from a system, developed and implemented in the early history of our state. The system has served us well but changing circumstances require us to adapt and accept proven enhancements to guarantee the continued ability to provide the citizens of our state with the same high quality services.

Senate Bill 104 is a compilation of what we feel are the best aspects of various other states' statutes on electronic jury selection. First, it is permissive. For those judicial districts in the state who are not experiencing problems with the current method of selection or where computers are not used or cannot be adapted to this use, the bill will have no effect. It leaves the former method alone and unchanged. Second, the bill requires the judges of the districts to approve any computerized system used in their district. This, we feel provides for a very necessary input into the development of a system. The randomness of any system used is of the utmost importance to the integrity of the jury selection process. Various methods of computerized random selection are used in other states and each district may choose the one that best compliments its existing computer and software systems. Third, the bill requires that a description of the method employed by the district for the random computer selection be available, in written form, for public inspection. This requirement alleviates the unnecessary fears that can materialize about the unknown. Jury selection is a procedure which must always be open to public scrutiny. Computerization should not preclude this scrutiny.

In closing I would like to emphasize that this legislation is not experimental. We are not forging new territory or venturing into an unknown area. Our neighboring states have employed similar systems for several years and have refined them to where installation can be a smooth and orderly transition. We must look for ways to continue supplying those necessary services of government in an orderly, cost-effective fashion. The changes proposed in Senate Bill 104 will be a step towards this goal.

A handwritten signature in cursive script that reads "James E. Dopp". The signature is written in black ink and is positioned to the right of the typed name.

James E. Dopp  
Records Manager  
Missoula County  
Missoula, Montana



## CHILD PASSENGER SAFETY:

### A MESSAGE OF LOVE FROM YOUR MONTANA LAW ENFORCEMENT AGENCIES

Montana Law Enforcement Officials have unanimously endorsed the Child Restraint Law passed by the 1983 Legislature. In their endorsement they stated that "most parents are unaware that the number one killer of children under the age of four is automobile accidents. Small children are unaware of the risks involved in riding in an automobile and are unable to make a responsible choice to protect themselves. By using an approved infant seat, car seat or safety belt, the chances for a child to survive a serious injury are improved by 70 percent. Make sure your children under the age of two are protected by an infant seat, and those from two to four, by a toddler seat or a safety belt."

Martin Stefanic, Chief of Police  
Kalisepll  
President, Montana Association  
of Chiefs of Police

Bob Brown, Undersheriff  
Fergus County  
President, Montana Sheriffs and  
Peace Officers Association

Lt. August Bent  
Billings Police Department  
President, Montana Police  
Protective Association

Colonel Robert A. Landon  
Administrator  
Montana Highway Patrol

**61-9-419. "Properly restrained" defined.** As used in 61-9-420 through 61-9-423, "properly restrained" means fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint, but does not mean a system in which the only body restraint is a safety belt of the type specified in 61-9-410.

**61-9-420. Child safety restraint systems — standards — exemptions.** (1) No resident of Montana who is the parent or legal guardian of a child under the age of 2 may transport the child in a motor vehicle owned by the resident or his spouse unless the child is properly restrained.

(2) No resident of Montana who is the parent or legal guardian of a child between 2 and 4 years old or weighing less than 40 pounds may transport the child in a motor vehicle owned by the resident or his spouse unless the child is properly restrained or is restrained in a safety belt of the type specified in 61-9-410.

(3) The division shall by rule establish standards in compliance with 61-9-419 through 61-9-423 and applicable federal standards for approved types of child safety restraint systems purchased after January 1, 1984.

(4) No resident or his spouse is required to have more than three child safety restraint systems in a vehicle.

(5) The division may by rule exempt from the requirements of subsection (1) any child who because of physical or medical condition or body size cannot be placed in a child restraint system or safety belt.

**61-9-421. Certain vehicles excepted.** Section 61-9-420 is not applicable to a vehicle that:

(1) is a motorbus, schoolbus, taxicab, moped, or motorcycle or is not required to be equipped with safety belts under 49 CFR 571 as it reads on January 1, 1984; or

(2) has a seating capacity as designated by the manufacturer of two persons and there are two persons 4 years of age or older in the vehicle.

**61-9-422. Evidence admissible without presumption of negligence.** Evidence of compliance or failure to comply with 61-9-420 is admissible in any civil action for personal injury or property damage resulting from the use or operation of a motor vehicle, but failure to comply with 61-9-420 does not alone constitute negligence.

**61-9-423. Penalty.** Violation of 61-9-420 is punishable as follows:

(1) On initial violation a warning shall be issued. No penalty may be assessed if the violation of 61-9-420 is corrected within 30 days by providing proof that a child safety restraint system meeting the requirements of 61-9-420 was purchased or leased and properly installed in the vehicle. If not corrected, a citation may be issued and the violation shall be punishable by a fine of not less than \$10 or more than \$25.

(2) Subsequent violation within 3 years is punishable by a fine of not less than \$25 or more than \$100.

A list of child restraint systems meeting the U.S. Department of Transportation's safety standards, are printed on the reverse side.

If additional information is desired write to:

Montana Highway Traffic Safety Division  
Department of Justice  
303 N. Roberts  
Helena, Montana 59620  
444-3412

50,000 copies of this public document were published at an estimated cost of \$04 per copy, for a total cost of \$2,000.00 which includes \$2,000.00 for printing and \$00 for distribution.

# Child Safety Seats

All of the seats listed below have been tested in simulated crash situations and will provide adequate crash protection for a child when used according to manufacturer's instructions. This list was published by the Montana Highway Traffic Safety Division, Department of Justice. For further information call 449-3412.

Manufacturer	Safety Seat Name	Comments	Weight Range:	Height Range:
<b>INFANT CARRIERS</b>				
COSCO/PETERSON	First Ride #582A	3 point harness	Birth to 17-20 lbs.	Birth to 26 in.
HAMILL MANUFACTURING	Century Infant Love Seat #4500	3 point harness, identical models retailed as different brands		
	Chrysler/Mopar Infant Carrier			
	Ford Infant Carrier			
QUESTOR	Dyn-O-Mite #441	3 point harness, use only in seating position where seat belt buckle rests more than one inch from plastic belt guide on carrier if manufactured before 1981		
<b>Convertible Models</b>				
<b>Manufacturer</b>				
<b>Convertible Models</b>				
BABYHOD INDUSTRIES	Wonda Chair #810	5 point harness	Birth to 40-43 lbs.	Birth to 40-43 in.
CENTURY	Century 100	5 point harness		
	Century 200	Harness/shield combination		
	Century 300	5 point harness, spring loaded armrest		
COLLIER-KEYWORTH	Safe & Sound	Harness/shield combination		
COSCO/PETERSON	Safe & Easy #313B	5 point harness		
	Safe-T-Mate #378	Harness/shield combination		
	Safe-T-Seat #78A	5 point harness		
	Safe & Snug #323A	Harness/shield combination		
	Safe-T-Shield #81B	3 point harness for infants, spring loaded swing down shield (no harness) for toddlers		
GRACO	Little Trav'ler #310	5 point harness		
	Little Trav'ler #315	5 point harness, spring loaded armrest		
INTERNATIONAL/	Astroseat 9100A	5 point harness		
TEDDY TOT	Astroseat 9300A	5 point harness, spring loaded armrest		
KOLCRAFT	Hi-Rider XL	5 point harness, spring loaded armrest		
	Redi-Rider	5 point harness		
	Redi-Rider with E-Z-Gard	Harness/shield combination		
PRIDE-TRIMBLE	Pride Ride #830	5 point harness, swing away armrest		
	Pride Ride Deluxe #820	5 point harness		
	Pride Ride Deluxe #830	5 point harness, spring loaded armrest		
QUESTOR/	Care Seat #989	5 point harness		
KANTWET	One-Step #401, #402	Harness/shield combination, tether required if manufactured before 11/81		
	Bobby Mac Champion	3 point harness for infant plus shield for toddler		
	Bobby Mac Deluxe II	3 point harness for infant plus swing down shield for toddlers		
STROLEE	Wee Care #P599	5 point harness, top tether required		
	Wee Care #597A	5 point harness, side arm rests, top tether required		
	Wee Care #599 series	5 point harness, spring loaded armrest, top tether required		
	Wee Care #612	5 point harness, no tether required		
	Wee Care #618	5 point harness, spring loaded armrest, no tether required		
WELSH	Travel Tot #7800 series	5 point harness, swing down shield latches in up and down positions		
<b>Manufacturer</b>				
<b>TODDLER SEATS</b>				
FORD	Tot-Guard	Shield type with booster insert	20 lbs. to 50 lbs.	Height Range: to 45 inches
HAMILL MANUFACTURING	Century Child Love Seat #4600	5 point harness, top tether required		
QUESTOR/KANTWET	Safe Guard #301	5 point harness		
STROLEE	Wee Care 595A	5 point harness		
<b>Manufacturer</b>				
<b>BOOSTER SEATS</b>				
CENTURY	Safe-T-Rider Deluxe #4780	Steel reinforced foam rubber, lap belt threads through loops in harness		
	Safe-T-Rider II #4760	Molded plastic, lap belt threads through loops in harness		
	Safe-T-Rider II Deluxe #4770	Molded plastic, padded seat and armrest, lap belt threads through loops in harness		
COLLIER-KEYWORTH	Co-Pilot	Molded plastic padded seat with padded shield, no harness required		
COSCO/PETERSON	Travel Hi-Lo #83A	Molded plastic, dual height adjustment, lap belt threads through loops in harness		
	Travel Hi-Lo #183A	Molded plastic, padded seat and armrests, dual height adjustment, lap belt threads through loops in harness		
	Deluxe Travel Hi-Lo #383A	Molded plastic, padded seat and armrests, dual height adjustment, adjustable height back and headrest, lap belt threads through loops in harness		
INTERNATIONAL/	Astrorider #6000 series	Molded plastic, padded seat and armrests, lap belt threads through loops in harness		
TEDDY TOT	Tot-Rider	Molded plastic, padded seat and armrests, lap belt threads through loops in harness		
KOLCRAFT	Tot-Rider XL	Molded plastic, padded seat and armrests, lap belt secured under cushion, harness/shield combination		
STROLEE	Wee Care #602	Molded plastic, padded seat and armrests, lap belt threads through loops in harness		
	Wee Care #604	Molded plastic, padded seat and armrests, lap belt secured under cushion, 5 point harness		
VOLVO	Child Safety Cushion	Over 50 lbs. only, only for seating positions with lap and shoulder belt		
<b>HANDICAPPED CHILD SAFETY SEAT</b>				
BRITAX	Handicapped Child Safety Seat	Adaptable to fit children with a variety of special needs. Will accommodate children up to at least 60 inches and 80 lbs. Currently must be special ordered.		

**RECENTLY DISCONTINUED MODELS.** These devices have all been dynamically tested and provide excellent crash protection when used properly, but have been replaced with newer, sometimes more convenient models.

**Infant Carriers**  
GM Infant Love Seat

Cosco/Peterson Safe and Easy  
13-313, 13-314, 313A  
Cosco/Peterson Safe-T-Seat 78  
Cosco/Peterson Safe-T-Shield 81A  
International/Teddy Tot  
Astroseat VI, 9100  
Kantwet Care Seat 987  
Kolcraft Hi-Rider 1903

Strolee Wee Care 597, 598  
Welsh Travel Tot  
980 series and 980-1 series

**Convertible Models**  
Century Trav-L-Guard  
Bobby Mac 2 in 1, 3 in 1  
Bobby Mac Deluxe  
Bobby Mac Super

**Toddler Seats**  
Chrysler Mopar Child Seat  
GM Child Love Seat

Published by the Montana Highway Traffic Safety Division, Department of Justice  
For further information call 449-3412

## Do you want an infant carrier or convertible model?

### Infant Carrier

**Advantages:** Infant carriers are designed for use by infants only. Generally, they are easier to install in cars, easier to secure infants in, and fit almost all cars. Lighter weight than convertible models, they are easier to carry a baby around in, and substitute well for household "feeder seats." (But household feeder seats DO NOT work as safety seats.)  
**Disadvantages:** A second purchase, either a toddler seat or convertible model, must be made when the child reaches 17-20 pounds, so they are more expensive in the long run than the convertible models.

#### Recommended Models

- Century Infant Love Seat
- Cosco/Peterson First Ride
- Ford Infant Carrier
- GM Infant Love Seat
- Mopar Infant Safety Carrier
- Questor Dyn-O-Mite

### Convertible Model

**Advantages:** Convertible models convert from infant carrier to toddler seat so they can be used from birth through 40 pounds (about 4 years). Since no additional purchases are necessary, they are the most cost efficient choice. They are also the best choice for a large infant who will soon outgrow the infant position.  
**Disadvantages:** Usually convertible seats are more cumbersome than infant carriers when used as a substitute for household "feeder seats." Some models do not fit some seat belts in both infant and toddler positions.

It is important when choosing a convertible seat for your infant that you choose a seat that will also suit your needs when your child becomes a toddler. The following questions deal with convertible seats when used as toddler seats.

Do you want a safety seat that sits low on the car seat or do you want a model that will elevate your child?

#### Elevated Model

**Advantage:** Some children are more content and better behaved when they can see out of the window.

#### Model That Sits Low

**Advantage:** None of these models require tether straps.

#### Recommended Models

- Bobby Mac 2 in 1, 3 in 1
- Bobby Mac Champion,
- Champion 3 in 1
- Bobby Mac Deluxe, Deluxe II

Do you want a tethered or non-tethered model?

#### Tethered Model

**Advantages:** Tether straps increase the stability of the seat. Because they allow less forward movement of the head, they can be used in both the front and rear seats of small cars.

**Disadvantages:** To use a tethered model in the front seat requires the use of the rear seat belt and eliminates use of that rear position. To use a tethered model in the rear seat requires drilling a hole in the rear window shelf or cargo area for anchoring bracket. Transferring from car to car is more difficult, requiring anchor bracket installation in each car (or front seat use).

#### Recommended Models

- Strolee Wee Care 597A, 599, P599
- Kantwet One Step (tether required on models manufactured before 11/81)
- Bobby Mac Super (threading of oversized buckle is difficult in infant position)

#### Non-tethered Model

**Advantages:** Lap belt alone is able to secure non-tethered seats, so they transfer easily from car to car without need for special installation. Non-tethered models perform better than improperly tethered models.

**Disadvantages:** Non-tethered seats allow more forward movement of the head in a crash, so toddler mode use in front seat of small cars is discouraged.

If your car is Japanese-made, is the rear seat belt wind-up reel part of the buckle?\*

Yes, reel is part of buckle.

#### Recommended Models

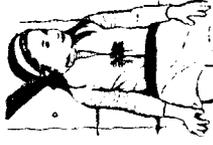
- International/Teddy Tot Astroseat
- Kantwet One Step (tether required if manufactured before 11/81)
- Welsh Travel Tot
- Wonda Chair #810

No, car is non-Japanese or reel is not part of buckle (reel is on the floor beside seat, under seat, or in hidden location.)

#### Recommended Models

- Century 100, 200, 300
- Collier-Keyworth Safe-N-Sound
- Cosco/Peterson Safe and Easy, Safe & Snug, Safe-T-Seat, Safe-T-Shield
- International/Teddy Tot Astroseat
- Graco Little Trav'ler #310, #315

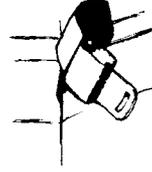
## SEAT BELTS FOR YOUNG CHILDREN



There is no safe way to transport an infant (under 20 pounds) other than in a safety seat. Children who weigh at least 20 pounds and who are able to sit up by themselves can safely use an adult seat belt. Seat belts do not provide the same amount of protection as safety seats, but should be used when no safety seat is available or if parents decide not to obtain and install a safety seat. The lap belt should be snug and as low on the child's hips as possible. An attached shoulder belt that crosses the child's face or neck should be placed behind the child's back, not under the arm. Pillows or cushions should not be used to boost a child since they can slide out from under the child allowing him or her to submerge under the lap belt, or allowing the child's head to move so far forward that it strikes the car's interior.

## Large Buckles

Many Japanese-made cars have rear seat belts with bulky wind-up reels attached to the male end of the buckle. These oversized buckles are too large to be threaded through some safety seat frames and even when threading is possible, cannot be adequately tightened. If your car has oversized buckles, carefully select a seat that allows room for the threading and tightening of such buckles or replace the belts with a different type.



Oversized Buckle

- Kolcraft Hi Rider, Redi Rider,
- Redi Rider with E-Z-Gard
- Pride-Tribble Pride Ride 820, 830
- Strolee Wee Care #612, #618
- Welsh Travel Tot
- Wonda Chair #810

\* See discussion of "Large Buckles"

**What type of safety seat do you want to buy?**  
(You have three choices.)

**Toddler Seats**

**Advantages:** Some models can be used for children up to 50 pounds. Shield type is very easy to use.  
**Disadvantages:** They cannot be used as infant carriers for later children. Selection of models is limited.

Do you want a shield type or harness type?

**Shield**

**Advantages:** Shields can accommodate children up to 50 pounds and are very simple to use.  
**Disadvantages:** Shields have no side protection, so center rear installation is recommended. Also children can climb out while car is in motion.

**Harness**

**Advantages:** Harness seats offer increased side protection and are harder for children to get out of.  
**Disadvantages:** Harness seats are not as simple to use as shields.

**Recommended Models**

- \*Century Child Love Seat #4600
- \*GM Child Love Seat
- Kantwet Safeguard 301
- Strolee Wee Care 595A

**Recommended Models**

- Ford Tot Guard
- Chrysler Mopar Child Seat

**Tethered Model**

**Advantages:** Tether straps increase the stability of the seat. Because they allow less forward movement of the head, they can be used in both the front and rear seats of small cars.  
**Disadvantages:** To use a tethered model in the front seat requires the use of the rear seat belt and eliminates use of that rear position. To use a tethered model in the rear seat requires drilling a hole in the rear window shelf or cargo area for anchoring bracket. Transferring from car to car is more difficult, requiring anchor bracket installation in each car (or front seat use).

**Recommended Models**

- Strolee Wee Care 597A, 599, P599
- Kantwet One Step (tether required on models manufactured before 11/81)
- Bobby Mac Super (threading of oversized buckle is difficult in infant position)

\*NOTE: Requires tether strap. See discussion of tethered models.

\*\*See discussion of "Large Buckles" on reverse side.

**Convertible Models**

**Advantages:** Convertible models can be used as infant carriers for later children. A wide selection of models is available.  
**Disadvantages:** Some models in the infant and/or toddler mode do not fit some seat belts.

Do you want a safety seat that sits low on the car seat or do you want a model that will elevate your child?

**Elevated Model**

**Advantage:** Some children are more content and better behaved when they can see out of the window.

**Model That Sits Low**

**Advantage:** None of these models require tether straps.

**Recommended Models**

- Bobby Mac 2 in 1, 3 in 1
- Bobby Mac Champion, Champion 3 in 1
- Bobby Mac Deluxe, Deluxe II

**Booster Seats**

**Advantages:** The main use for booster seats is to elevate children who have outgrown their safety seats but are too short to use the adult lap and shoulder belts and see out of the car.  
**Disadvantages:** Since booster seats offer no side protection, a safety seat is preferred for children who can still fit in one. Also booster seats require the use of lap and shoulder belts or a body harness that must be anchored to the car like a tether strap.

**Recommended Models**

- Century Safe-T-Rider Deluxe, Safe-T-Rider II, Safe-T-Rider II Deluxe
- Collier-Keyworth Co-Pilot
- Cosco/Peterson Travel Hi-Lo #83A, #183A, Deluxe Travel Hi-Lo #383 A
- International/Teddy Tot Astrorider
- Kolcraft Tot-Rider, Tot-Rider XL
- Strolee Wee Care 602, 604
- Volvo Child Safety Cushion (over 50 pounds only)

**Non-tethered Model**

**Advantages:** Lap belt alone is able to secure non-tethered seats, so they transfer easily from car to car without need for special installation. Non-tethered models perform better than improperly tethered models.  
**Disadvantages:** Non-tethered seats allow more forward movement of the head in a crash, so toddler mode use in front seat of small cars is discouraged.

If your car is Japanese-made, is the rear seat belt wind-up reel part of the buckle?\*

Yes, reel is part of buckle.

No, car is non-Japanese or reel is not part of buckle (reel is on the floor beside seat, under seat, or in hidden location.)

**Recommended Models**

- International/Teddy Tot Astroseat
- Kantwet One Step (tether required if manufactured before 11/81)
- Welsh Travel Tot
- Wonda Chair #810

**Recommended Models**

- Century 100, 200, 300
- Collier-Keyworth Safe-N-Sound
- Cosco/Peterson Safe and Easy, Safe & Snug, Safe-T-Seat, Safe-T-Shield
- International/Teddy Tot Astroseat
- Graco Little Travler #310, #315
- Kantwet One Step, Care Seat
- Kolcraft Hi Rider, Redi Rider, Redi Rider with E-Z-Gard
- Pride-Trimble Pride Ride 820, 830
- Strolee Wee Care #612, #618
- Welsh Travel Tot
- Wonda Chair #810

Written testimony  
prepared by Ethel M. Harrison,  
Clerk, Montana Supreme Court

SENATE BILL NO 144

Introduced by Senator Joseph P. Mazurek

A bill for an act entitled: "An act increasing supreme court filing fees; amending section 3-2-403, MCA; and providing an effective date."

Montana's appellate filing fee of \$20. for appellant; \$10. for respondent, ranks among the lowest nationwide, and has a legislative history of not having been increased in over 20 years.

*The Proposed Amendment: \$75.00 Appellant; 0 for Respondent*

Beginning in April 1984, the Office of the Clerk of the Montana Supreme Court conducted a 50 state comparative study of appellate court filing fees. The study revealed a nationwide average filing fee of \$60. per appeal.

The western states average is \$78.6

CA	\$200
WA	100
OR	100
NV	100
UT	100
NM	20
AZ	25
CO	150
ID	70
WY	25
NB	50
SD	30
ND	50

The office of the Clerk of the Montana Supreme Court conducted a time/cost analysis study.

Using a formula of average percentages of time I and 3 FTE's spend processing appeals, TIMES the totals of our salaries, operating expenses and supplies DIVIDED by the number of appeals filed in FY84, we are able to show that the cost to our office alone was \$176. per appeal.

Number of appeals filed over the past three years:

1982	521
1983	559
1984	561

Number of appeals filed since January 1, 1985

~~41~~  
109

Written testimony (SB144)  
cont'd.

Filing a Complaint in District Court is \$25. Filing a Dissolution of Marriage in District Court is \$50. (25-1-201 MCA) We submit that those who file an appeal in the Montana Supreme Court should expect to pay more.

No fee is presently charged in criminal cases. None is proposed.

No fee is presently charged the State, Counties, Municipalities nor schools. None is proposed.

DISPOSITION OF FEES as stated in 3-2-404 MCA, provide that 3/4th of all fees collected shall be credited to the general fund and the remaining 1/4th to the public employer's retirement division of the Department of Administration to be credited to Montana judge's retirement system account.

The proposed amendment would show increased revenue in the amount of \$53,000. over the next two years, more than doubling revenue generated presently as well as bring Montana in line with appellate filing fees of sister states.

OTHER PROPOSED AMENDMENTS TO 3-2-403 MCA

- (2) For filing a petition for writ (an original jurisdiction filing) from \$20. to \$75.
- (3) Changing the wording Certificate of Admission to Certificate of Good Standing.
- (4) Preparing copies of documents on file instead of making-transcripts-of-papers-or-records and 25 cents per page instead of 15-cents-per-folio.
- (5) Deleting (5) in its entirety.  
& Entering a new (5) changing the word certifieate to certified copy.

The Montana Supreme Court has been supportive of our efforts to justify the proposed amendments.

50 STATE COMPARATIVE STUDY - APPELLATE FILING FEES

ST	APPELLANT	CROSS APPELLANT	RESPONDENT	AMICUS	ORIG. JURISDICTION
AK	50.	50.	0.	0.	50.
AL	100.	100.	0.	0.	25.
AR	100.	0.	0.	0.	100.
AZ	25.	25.	15.	0.	20.
CA	200.	200.	0.	0.	200.
CO	150.	150.	75.	0.	150.
CT	95.	0.	0.	0.	0.
DE	75.	75.	0.	0.	75.
DC	25.	0.	0.	0.	25.
FL	75.	0.	0.	0.	75.
GA	30.	30.	0.	0.	na.
HI	50.	50.	0.	0.	50.
ID	70.	70.	0.	0.	70.
IL	25.	0.	15.	0.	25.
IN	125.	0.	0.	0.	125.
IA	25.	0.	0.	0.	25.
KY	100.	100.	100.	100.	100.
KS	55.	55.	0.	0.	55.
LA	75.	0.	0.	0.	Civil 75. Crim 25.
MA	75.	0.	0.	0.	75.
MD	30.	0.	0.	0.	20.
MI	100.	100.	0.	25.	100.
MN	50.	0.	0.	0.	50.
MS	0.	0.	0.	0.	0.
MO	50.	50.	0.	0.	50.
NB	50.	0.	0.	0.	0.
NC	10.	10.	0.	0.	10.
ND	50.	50.	0.	0.	50.
NH	75.	75.	0.	0.	75.
NJ	20.	20.	5.	5.	20.
NM	20.	na.	0.	na.	20.
NV	100.	100.	0.	0.	100. Hab.C.=no fee
NY	0.	0.	0.	0.	0.
OH	20.	20.	0.	0.	50.
OK	Civ. 100. Crim 50.	0.	0.	0.	Civ. 100. Crim. 50.
OR	100.	100.	60.	0.	25.
PA	50.	50.	0.	0.	30.
RI	100.	100.	0.	0.	100.
SC	4.50	4.50	0.	0.	4.50
SD	30.	0.	0.	0.	30.
TN	0.	0.	0.	0.	0.
TX	100.	100.	0.	0.	50.
UT	100.	0.	0.	0.	100.
VA	25.	0.	0.	0.	25.
VT	25.	0.	0.	0.	25.
WV	10.	10.	5.	0.	10.
WI	50.	50.	0.	0.	50.
WA	100.	0.	0.	0.	100.
WY	25.	0.	0.	0.	25.
MT	20.	20.	10.	10.	20.

SUPREME COURT CLERK'S OFFICE

Time/Cost Analysis Study

FY 84

Using a formula of average percentage of time the Clerk and three FTE Staff spend processing Appeals, times the totals of salaries, operating expenses and supplies divided by the number of Appeals filed, we are able to show that the cost to our office in FY 84 was \$176.00.

SALARIES and BENEFITS		\$107,492.00
OPERATING EXPENSES:		
Contracted Services		
Supplies		
Communications		\$ 16,917.00
OFFICE EQUIPMENT:		
Maintenance		
Repair		
Rent		\$ <u>25,576.00</u>
TOTAL		\$150,004.00
AVERAGE PERCENTUM:	(x 66%)	\$ 99,002.00
NUMBER of APPEALS		
Filed in 1984	(÷ 561)	\$ 176.00
		(Average cost)
		(per Appeal in)
		( FY 84 )

Montana's Appellate Filing Fee of \$20.00 for Appellant, \$10.00 for Respondent ranks among the lowest, Nationwide and has a Legislative History of not having been increased in over Twenty Years.

TESTIMONY ON SENATE BILL NO. 26

DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The State of Montana currently owns land on six Indian reservations. Its major holdings are on the Crow, Flathead, and Fort Belknap Reservations. Most of these lands are tracts of 640 acres or less surrounded by private or tribal land. Most of the land is used for grazing.

Currently, the Board of Land Commissioners has no statutory authority to exchange lands with Indian tribes or sell land to Indian tribes.

Although the state is receiving income for its on-reservation lands, there are good reasons why some of those lands should be exchanged for off-reservation tracts or sold. Exchanges resulting in blocks of off-reservation lands would probably increase income to the state. Both sale and exchange would eliminate jurisdictional disputes. On the Fort Belknap Reservation, the tribe administers the state lands as part of its grazing units and charges the state an administrative fee. Although this is the best way for the state to obtain income from these lands, the state could obtain a greater return from off-reservation land because the middle man would be eliminated.

It was negotiations with the Fort Belknap Community Council that prompted the Board of Land Commissioners, which is composed of the Governor, Attorney General, Secretary of State, State Auditor, and Superintendent of Public Instruction, to unanimously pass a resolution requesting the Legislature to give it authority to sell on-reservation lands to Indian tribes.

SB 26 gives the Board of Land Commissioners the authority it has requested. The Department of State Lands recommends committee approval.

The Department also wishes to interpose one word of caution. The federal Enabling Act, under which Montana was admitted to the Union and was granted its school trust lands, requires that all sales of state lands be conducted by public auction after public notice. Therefore, should the Board be authorized to sell on-reservation lands to a tribe, an on-reservation tract could be sold to the tribe only if the tribe were high bidder on that tract.

3/11/85

SB 26

# Fort Belknap Community Council

(406) 353-2205  
P.O. Box 249  
Fort Belknap Agency  
Harlem, Montana 59526

Fort Belknap Indian Community  
(Tribal Govt.)

Fort Belknap Indian Community  
(Elected to administer the affairs of the comm  
and to represent the Assiniboine and the  
Ventre Tribes of the Fort Belknap  
Reservation)

DATE

Mr. Tom Hannah, Chairman,  
House Judiciary Committee  
49th Legislative Session  
Helena, Montana

Thank You Mr. Chairman.

This is to introduce Mr. Edward Azure, Administrative Manager for the Fort Belknap Community Council, on behalf of the Governing Body of the Fort Belknap Indian Reservation, with an enrollment of 4,430 members. Accompanying him is Mr. Delmar J. Bigby, an enrolled Assiniboine member of the Fort Belknap Indian Community.

We are here on behalf of the members of the Fort Belknap Indian Reservation in support of Senate Bill # 26, A Bill for an Act entitled "AN ACT PERMITTING THE BOARD OF LAND COMMISSIONERS TO EXCHANGE STATE LANDS LOCATED WITHIN INDIAN RESERVATIONS FOR LANDS OWNED BY TRIBAL GOVERNMENTS; PERMITTING THE BOARD TO SELL STATE LANDS LOCATED WITHIN INDIAN RESERVATIONS TO TRIBAL GOVERNMENTS; AMENDING SECTIONS 77-2-201, 77-2-306, and 77-2-307, MCA", introduced by Senator Tom Towe, Billings, Montana.

This legislation is vital to the preservation of the Fort Belknap Indian Community. We have here written testimony that we want to present to you for the record. This written testimony will elaborate on the reasons why we are in support of this bill.

I would like to bring to your attention a few changes that we recommended to the Senate.

FIRST, we recommended that in Section 1 'Section 77-2-201' (2) the words wholly within be stricken and replaced with the words 'JUXTAPOSED TO'.

SECOND, we recommended that in Section 2 'Section 77-2-306' (3) the words wholly within be stricken and replaced with the words 'JUXTAPOSED TO'.

THIRD, we recommended that this Legislative Body provide for a waiver of the rules requiring public advertisement and sealed bids on the lands identified by this Bill and negotiate with the Tribal Governments for the purchase and/or exchange of lands identified. This waiver would eliminate any future problems concerning the ownership of the lands identified in this bill.

Our THIRD RECOMMENDATION which calls for a waiver of the rules requiring public advertisement were not incorporated into the Bill. We hope that the House Judiciary Committee would seriously consider this recommendation.

With that Mr. Chairman, I or Mr. Bigby is willing to respond to any question you or any member of this Committee may have for us on this Bill.

If there are no (further) questions, we thank you for this time you have provided us to present testimony on this very important Bill to the Indian Reservations and request your full support on this Bill when it is presented on the floor of the full legislature.

Thank you.

A handwritten signature in cursive script, appearing to read "Franklin R. Perez".

Franklin R. Perez, Chairman  
Fort Belknap Community Council  
P.O. Box 249  
Harlem, Mt 59526  
(406) 353-2205

'STATE LANDS BILL TESTIMONY'  
\*\*\*\*\*

The Assiniboine and Gros Ventre Tribes reserved to themselves the Fort Belknap Indian Reservation by the Agreement of May 1, 1888 (25 Stat. 113) and relinquished millions of acres to the U.S. Government. Prior to this date, various Indian Tribes had control and use of all the lands in the State of Montana.

On February 22, 1889 Congress enacted the North Dakota, South Dakota, Montana and Washington States "Enabling Act" (25 STAT. 676), which authorized their admittance into the Union. Included within the "Enabling Act" were specific conditions in regards to "Indians and their property", specifically Section 4:

"---- The Constitutions (adopted by Montana) shall be republican in form, and make no distinction in civil or political rights on account of race or color, EXCEPT AS TO INDIANS NOT TAXED, and not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence."  
(Emphasis added)

SECOND: That the people inhabiting said proposed States do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within said limits owned or held by any Indian or Indian tribes; and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and said Indian lands shall remain under the absolute jurisdiction and control of the Congress of the United States; that the lands belonging to citizens of the United States residing without the said States shall never be taxed at a higher rate than the lands belonging to residents thereof; that no taxes shall be imposed by the States on lands or property therein belonging to or which may hereafter be purchased by the United State or reserved for its use. But nothing herein, or in the ordinance herein provided for, shall preclude the said State from taxing as other lands are taxed any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United State or from any person a title thereto by patent or other grant, save and except such lands as have been or may be granted to any Indian or Indians under any act of Congress containing a provision exempting the lands thus granted from taxation; but said ordinances shall provide that all such lands shall be exempt from taxation by said States so long and to such extent as such act of Congress may prescribe.

The delegates to the Constitutional Convention in the Territory of Montana complied with the provisions of the "Enabling Act" and adopted a Constitution in compliance, thereto, and on November 8, 1889, Benjamin Harrison, President of the United States signed "Proclamation No. 7" which admitted Montana into the Union as a State.

Section 10 of the "Enabling Act" states in part:

"--- PROVIDED: that the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes SHALL NOT, at any time, be subject to the grants nor to the indemnity provisions of this Act, nor shall any lands embraced in Indian, military, or other resevations of any character be subject to the grants or to the indeminty provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part

of, the public domain." (Emphasis added).

On February 8, 1887 Congress enacted the "General Allotment (Dawes) Act" (24 Stat. 388) which states in Section 6 of said Act:

Sec. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indians has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

The Fort Belknap Indian Reservation was Tribally owned until the 'Fort Belknap Allotment Act' of March 3, 1921 (41 Stat. 1355), whereby 1,188 individual Indians, Assiniboine or Gros Ventre, were entitled to select individual tracts of land within the reservation.

Section 7 of the Fort Belknap Allotment Act of March 3, 1921 (41 Stat. 1355) granted all or portions of 34 sections containing approximately 19,620.55 acres of land within the Boundaries of the Fort Belknap Indian Reservation to the State of Montana.

The Fort Belknap Allotment Act, in Section 7, states in part:

"---- And provided further, that all the children, being decendants of Indians entitled to rights on said reservation, shall be permitted to attend the public shcools of said State on the same condition as the children of white citizens of said State".

This grant was made, because supposedly, Indians were not citizens of the United States, and therefore ineligible to the benefits of citizenship.

If this be the case, than what "Status" Indians were at this time. Were we "Aliens" in our own lands?

Are not the children of "Citizens of the United States" born within the territorial limits of the United States citizens by birthright?

This taking of Indian lands by the United States and granted to the State is in violation of not only the "Enabling Act", but the civil rights of the Fort Belknap Indians.

The State School lands on Fort Belknap may have been granted because "Indians" were not "Citizens" of the United States and therefore not "entitled" to 'Public Education'.

If this be the case, than the United States Congress has violated their own Acts, whereby "Indians" of Fort Belknap are entitled to a free education through the Act of May 1, 1888 whereby we relinquished title to vast acreages of land in return for certain considerations.

On June 2, 1924, Congress enacted the "Indian Citizenship Act" (44 Stat. 253), which provided:

"that all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States; PROVIDED, that the granting of such citizenship shall not, in any manner, impair or otherwise effect the right of any Indians to Tribal or other property".

For the past several years, representatives of the Fort Belknap Tribal Government has met with the Commissioner of the State lands, his staff and the State Land Board itself to resolve problems and negotiate solutions to the administration of the State School lands on the Reservation. At the December 21, 1981 meeting of the Board of Land Commissioners there was unanimous consent to pursue the sale of the State School lands on the Fort Belknap Indian Reservation.

According to research conducted by the Department of State Lands staff, "State Law currently limits sale of State Lands to persons or corporations organized under the laws of this State (Montana). Thus, legislation would be necessary for the Council (Fort Belknap Tribal Government, a Federally Chartered Organization) to purchase any land (State School)."

During the 45th Legislative Session, House Bill No. 424 (copy attached) was introduced by Representative Kimble. This piece of legislation was ultimately killed on the house floor.

Again, in the 47th Legislative Session, House Bill No. 772 (copy attached) was introduced by Representative Kathleen McBride. Again, the legislation was killed in Committee on the motion "Do Not Pass" by the vote of 10 for the motion and 4 opposed to the motion.

During this, the 49th Legislative Session, the Fort Belknap Indian Reservation Tribal Government, representing 4,430 enrolled members of the Assiniboine and Gros Ventre Tribes, urges the amendment of existing State Law to recognize the "Legal Status of Tribal Governments as eligible purchasers of State Owned Lands; provide for the participation of Tribal Government in the Laws of the State of Montana; eliminate the discrimination which existing State Laws encourages and to provide for an exemption to the acreage limitations for Indian Tribal Governments within identified Tribal Land Consolidation Areas and/or Indian Reservations".

Previous attempts to amend existing State Law was defeated, primarily because of insufficient information and mis-understanding of the impact that reduction of the State school acres would have to the Education system in Montana.

To illustrate the minimal impact any reduction of school lands may have, the Department of State lands, as of June 30, 1980, manages 4,597,691.35 acres (Source: Statistical Report 7-1-1978 to 6-30-1980), of which 19,620.55 acres is located on the Fort Belknap Indian Reservation. This represents less than 0.00426% of the total State School lands in Montana. There are 652,593.61 acres within the boundaries of the Fort Belknap Indian Reservation, of which State school lands constitute 3% of the total land base on the Reservation. The State school lands are all grazing lands,

with the exception of 540.0 acres cultivated (Dry Farmland).

The State Land Board received, as rental for grazing lands, in F.Y. 1980, \$4,908,280.79 for grazing State wide, of which \$7,957.25 was paid by the Fort Belknap Tribal Government. The amount paid by the Tribe constitutes less than 0.00162% of the total grazing receipts for F.Y. 1980.

On the other hand, the Federal Government compensated the State of Montana, some \$5,835,000.00 for F.Y. 79, with P.L. 81-874 (Impact Aid) monies, commonly referred to as "In Lieu of Tax", for Federal (Public Domain, Forest Service, Military Reservation, Indian Reservation, etc.) lands within the State that are non-taxable by the State.

Therefore, recognition of Tribal Governments as "Legal entities to purchase State School lands and an exemption to the acreage limitations would not significantly impact the State School funds, even in the extremely unlikely event the Fort Belknap Tribal Government were in financial position to purchase all State land within the Reservation.

3/11/85

## STATE COORDINATOR OF INDIAN AFFAIRS



TED SCHWINDEN, GOVERNOR

1218 EAST SIXTH AVENUE

## STATE OF MONTANA

(406) 444-3702

DONALD L. CLAYBORN, COORDINATOR

HELENA, MONTANA 59620

MARCH 11, 1985

## TESTIMONY

## SENATE BILL NO. 26

GOOD MORNING MR. CHAIRMAN, MEMBERS OF THE JUDICIARY COMMITTEE. I AM LOUIE CLAYBORN. I AM THE COORDINATOR OF INDIAN AFFAIRS OF THE STATE OF MONTANA. I AM HERE IN SUPPORT OF SENATE BILL NO. 26, LEGISLATION WHICH ALLOWS THE EXCHANGE OR SALE OF STATE LANDS ADJACENT TO INDIAN RESERVATIONS.

TECHNICALLY, THIS LEGISLATION IS A SERIES OF SIMPLE AMENDMENTS TO THE MONTANA CODE SECTION 77-2-201, 77-2-306 and 77-2-307 OUTLINING THE SALE OF STATE LANDS TO THE FEDERAL GOVERNMENT. THESE AMENDMENTS WOULD INCLUDE INDIAN TRIBES IN THAT OUTLINE.

THIS LEGISLATION WILL PROVE BENEFICIAL TO THE STATE OF MONTANA AND TO THE INDIAN RESERVATIONS, PARTICULARLY THOSE RESERVATIONS WHICH CONTAIN LARGE NUMBERS OF STATE SCHOOL LAND ACREAGE WITHIN THEIR EXTERIOR BOUNDARIES. IT WILL ALLOW THE STATE AND THE TRIBE TO ACQUIRE LANDS WHICH ARE ADMINISTRATIVELY DIFFICULT TO MANAGE. AT THE PRESENT TIME, STATE ACREAGE OFTEN IS INACCESSIBLE BECAUSE OF NO RIGHT-OF-WAY DUE TO EXCLUSIVE TRIBAL JURISDICTION CONTROLLING ABIDING ACREAGE. THE LACK OF RIGHT-OF-WAY MAKE LESS VALUABLE THE LEASE RIGHTS AND PREDETERMINES OFTEN WHO IS INTERESTED IN LEASING THE STATE LAND. THE ABILITY OF THE STATE TO SWAP OR SELL SUCH LANDS ENABLES THE STATE TO RETRIEVE THE REAL VALUE OF ITS HOLDINGS ON OR NEAR SUCH INDIAN RESERVATION.

Page Two  
Testimony  
Senate Bill NO. 26  
March 11, 1985

THIS LEGISLATION HAS THE GENERAL ENDORSEMENT OF THE VARIOUS TRIBAL  
GOVERNMENTS AND OF COURSE: THE ADMINISTRATION. FOR THESE REASONS I HOPE  
THE MEMBERS OF THE COMMITTEE WILL GIVE A DUE PASS CONSIDERATION FOR SENATE  
BILL NO. 26.

WITNESS STATEMENT

NAME Delmar J. Bigby BILL NO. SB-26  
ADDRESS Rte #1 - Box #39, Harlem, MT 59526 DATE MAR. 10, 1984  
WHOM DO YOU REPRESENT? FT. BELKRAP  
SUPPORT SB-26 OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

3/11/85

SB 26

member of Board  
of Directors

March 11, 1985

My name is Brad Spear, representing the Big Horn County Livestock Association of Montana.

I wish to object to Senate Bill 26 in its entirety for the following reasons:

- 1) The leases of State Lands are not being given proper consideration in this bill.
  - a) With the passage of this, every lessee will suffer an immediate decrease in his economic base of operations;
  - b) He will lose the opportunity for competitive bidding for continued leasing of the lands if sold to an Indian Tribe. Explain
  - c) The results of the passage of this bill will restrict and reduce the borrowing capacity of the lessee.
- 2) Limiting the amount of land that may be sold to an individual and not limiting the amount that may be sold to an Indian Tribe is discriminatory and unconstitutional by restricting the inalienable rights of the citizen of the United States and the opportunity for the State of Montana to receive the most value for the property.

I recommend a "Do Not Pass" to SB 26

Proposed Amendments to SB 90

1. Page 2, line 23.  
Strike: "defendant"  
Insert: "accused"
2. Page 3, line 1.  
Strike: "defendant"  
Insert: "accused"
3. Page 3, line 9.  
Strike: "defendant"  
Insert: "accused"
4. Page 3, line 11.  
Strike: "defendant"  
Insert: "accused"
5. Page 5, line 3.  
Strike: "defendant"  
Insert: "accused"
6. Page 5, line 6.  
Strike: "defendant"  
Insert: "accused"
7. Page 5, line 8.  
Strike: "defendant"  
Insert: "accused"
8. Page 5, line 10.  
Following: "prosecutor"  
Insert: "and for good cause shown"
9. Page 5, line 25.  
Strike: "defendant"  
Insert: "accused"
10. Page 6, line 10.  
Strike: "defendant"  
Insert: "accused"
11. Page 6, line 15.  
Strike: "may"  
Insert: "shall"
12. Page 7, line 3.  
Strike: "defendant"  
Insert: "accused"
13. Page 7, line 21.  
Strike: "defendant's"  
Insert: "accused's"

14. Page 8, line 4.

Following: "for"

Strike: "a"

Insert: "the"

Following: "product"

Strike: "that" through "notes" on line 12.

Insert: "of the prosecuting or defense attorney"

15. Page 8, line 13.

Strike: "Disclosure" through "if" on line 14.

Insert: "If"

16. Page 8, line 15.

Following: "contained"

Strike: "therein"

Insert: "in the work product, that information must be disclosed"

17. Page 9, line 7.

Following: "materials."

Strike: "Any"

Insert: "Except as provided in 46-11-401, any"

Following: "materials"

Insert: ",including witness lists,"

Proposed Amendments to SB 90

1. Page 9, line 7.

Following: "materials."

Strike: "Any"

Insert: " (1) Except as provided in 46-11-401, any"

Following: "materials"

Insert: ",including witness lists,"

2. Page 9, line 8.

Following: "disclosed"

Insert: ", by the attorney, an employee of the attorney, or any person to whom the information is communicated for the necessary conduct of the case,"

3. Page 9, following line 10.

Insert: "(2) Any person who makes public disclosure in violation of subsection (1) is guilty of a misdemeanor punishable by imprisonment for a term of up to 5 years or a fine not to exceed \$10, 000, or both.

# STATE COORDINATOR OF INDIAN AFFAIRS



TED SCHWINDEN, GOVERNOR

1218 EAST SIXTH AVENUE

## STATE OF MONTANA

(406) 444-3702  
DONALD L. CLAYBORN, COORDINATOR

HELENA, MONTANA 59620

March 11, 1985

Rep. Tom Hannah, Chairman/Members  
House Judiciary Committee  
Room 312-3  
Capitol Building  
Helena, Montana 59620

Dear Chairman Hannah and House Judiciary Members:

I would like to provide some information to you in regards to Senate Bill No. 26.

This bill only authorizes the State Lands Board and a federally recognized tribal government to enter into negotiations for a land sale and/or land exchange for acreage of equal value.

Please be advised that all of the existing Montana Codes subjecting sales and exchanges apply; and must be met during these negotiations. Land owners, both Indian and non-Indian alike; on or adjacent to reservations are allowed due process to the State Land Board by the existing Montana Codes for sales and exchanges. Also note the State of Montana's policies are of fair market value for sales and exchanges. These sales are also subject to competitive bid process.

If you have any questions concerning this bill, please let me know and I will try to answer them. I can be reached at 444-3702. Thank you for your attention to this letter.

Respectfully,

DONALD L. CLAYBORN  
Coordinator of Indian Affairs

DLC: jh

Enclosure

1 SENATE BILL NO. 26  
2 INTRODUCED BY TOME

3 BY REQUEST OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT PERMITTING THE BOARD OF  
6 LAND COMMISSIONERS TO EXCHANGE STATE LANDS LOCATED WITHIN OR  
7 ADJACENT TO INDIAN RESERVATIONS FOR LANDS OWNED BY TRIBAL  
8 GOVERNMENTS; PERMITTING THE BOARD TO SELL STATE LANDS  
9 LOCATED WITHIN OR ADJACENT TO INDIAN RESERVATIONS TO TRIBAL  
10 GOVERNMENTS; AMENDING SECTIONS 77-2-201, 77-2-306, AND  
11 77-2-307, MCA."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 77-2-201, MCA, is amended to read:  
15 "77-2-201. Exchange of land with United States or  
16 tribal governments. (1) (a) The board may enter into  
17 contracts or agreements with the United States or any  
18 department thereof having jurisdiction for the waiving and  
19 relinquishment to the United States of any rights of the  
20 state in and to sections 16 and 36 of any township and to  
21 any other parcel of state lands, provided that the state  
22 shall, in lieu of the rights so waived and relinquished,  
23 receive from the United States other lands of equal or  
24 greater value.

25 (2)(b) The current user of the land transferred to the

1 United States may continue to enjoy the use of the land  
2 under terms and conditions required by the federal  
3 government and in accordance with P.L. 88-607, as amended,  
4 (43 U.S.C. 1411 through 1418), and the current user of the  
5 land received from the United States may continue to utilize  
6 the land on the terms and conditions imposed by law or by  
7 the board.

8 (2) The board may enter into a contract or agreement  
9 with a tribal government as defined in 18-11-102 or with the  
10 United States for the relinquishment to the tribal  
11 government or to the United States in trust for the tribal  
12 government of any rights of the state to some or all state  
13 lands located wholly or partially within or adjacent to the  
14 exterior boundaries of the tribal government's reservation  
15 AS ESTABLISHED BY ACT OF CONGRESS; however, the state, in  
16 exchange for these relinquished rights, must receive from  
17 the tribal government or the United States lands of equal or  
18 greater value."

19 Section 2. Section 77-2-306, MCA, is amended to read:  
20 "77-2-306. Who may purchase. (1) State lands shall be  
21 sold only to citizens of the United States or to persons who  
22 have declared their intentions to become citizens or to  
23 corporations organized under the laws of this state. No  
24 person shall be qualified to purchase state land who has not  
25 reached the age of 18 years. As far as possible to

1 determine, the lands shall be sold only to actual settlers  
 2 or to persons who will improve the same and not to persons  
 3 who are likely to hold such lands for speculative purposes  
 4 intending to resell the same at a higher price without  
 5 having added anything to their value.

6 (2) State lands may be sold to any sovereign state of  
 7 the United States or to any board of trustees or public  
 8 corporation or agency of such state created by such state as  
 9 an agency or political subdivision thereof. Said lands may  
 10 be purchased in the quantities set forth in 77-2-307 for use  
 11 by such state, board of trustees, public corporation,  
 12 agency, or political subdivision for educational or  
 13 scientific purposes.

14 (3) State lands located wholly or partially within or  
 15 adjacent to the exterior boundaries of the tribal  
 16 government's reservation AS ESTABLISHED BY ACT OF CONGRESS  
 17 may be sold to a tribal government as defined in 18-11-102."

18 Section 3. Section 77-2-307, MCA, is amended to read:  
 19 "77-2-307. Limitation on acreage. No (1) Except as  
 20 provided in subsection (2), no person or corporation shall  
 21 be--entitled--to may purchase more than one section of state  
 22 land, and this area shall not include more than 160 acres of  
 23 land susceptible of irrigation.

24 (2) These The limitations in subsection (1) as to area  
 25 and irrigability shall do not apply to:

1 (a) lands within a federal irrigation project wherein  
 2 the Congress of the United States of America authorizes  
 3 water to be furnished to an area exceeding 160 irrigable  
 4 acres; or  
 5 (b) lands to be sold to a tribal government as  
 6 provided in 77-2-306."

-End-