MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

JUDICIARY

DATE 2-14-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MICHAEL WHEAT, CHAIRMAN	X		
SEN. BRENT CROMLEY	X		
SEN. AUBYN CURTISS	X		
SEN. JON ELLINGSON	X		
SEN. JESSE LASLOVICH	X		
SEN. JEFF MANGAN	X		
SEN. DAN McGEE	X		
SEN. LYNDA MOSS	X		
SEN. JERRY O'NEIL	X		
SEN. GERALD PEASE	X		
SEN. GARY PERRY	X		
SEN. JIM SHOCKLEY	X		
VALENCIA LANE, LSD			
MARI PREWETT, COMMITTEE SECRETARY			

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 146** (first reading copy -- white) **do pass as amended.**

Signed: _____
Senator Mike Wheat, Chair

And, that such amendments read:

1. Title, page 1, line 10.
Following: "DEFENDER;"
Insert: "ESTABLISHING AN OFFICE OF APPELLATE DEFENDER AND PROVIDING FOR A CHIEF APPELLATE DEFENDER;"

2. Title, page 1, line 16 through line 17.
Following: "ACCOUNT;" on line 16
Strike: remainder of line 16 through "FUNDING;" on line 17
Insert: "CHANGING THE LOCAL GOVERNMENT ENTITLEMENT SHARE PAYMENT LAW TO COMPENSATE THE STATE FOR LOCAL GOVERNMENT'S SHARE OF THE COSTS OF THE STATEWIDE PUBLIC DEFENDER SYSTEM;"

3. Title, page 1, line 22.
Following: "PERIOD;"
Insert: "REQUIRING A LEGISLATIVE AUDIT SO THAT FUNDING RESPONSIBILITIES FOR CERTAIN COUNTIES CAN BE CALCULATED BASED ON ACTUAL COSTS;"

4. Title, page 1, line 22.
Following: "3-5-901,"
Insert: "7-6-2426, 15-1-121,"

5. Title, page 1, line 26.
Following: "53-24-302,"
Insert: "53-30-110,"

6. Page 2, line 11.
Strike: "13"

Committee Vote:
Yes 12, No 0.

361250SC.ssc

Insert: "14"

7. Page 2, line 12.
Following: "indigent"
Strike: "or partially indigent"

8. Page 2, line 29.
Following: "that"
Insert: "adequate"

9. Page 3, line 8.
Strike: "10"
Insert: "11"

10. Page 3, line 18.
Strike: "13"
Insert: "14"

11. Page 3, line 26.
Following: line 25
Insert: "(iv) for an applicant for sentence review pursuant to Title 46, chapter 18, part 9;"
Renumber: subsequent subsections

12. Page 4, line 26.
Strike: "11"
Insert: "12"

13. Page 5, line 2.
Strike: "seven"
Insert: "11"

14. Page 5, line 7.
Following: "in"
Insert: "the defense of"

15. Page 5, line 9.
Following: "represents"
Strike: "a Montana association for"
Following: "lawyers;"
Strike: "and"

16. Page 5, line 12.
Following: "house"
Strike: "."
Insert: ";
(d) one person who is a member of an organization that advocates on behalf of indigent persons;
(e) one person who is a member of an organization that

advocates on behalf of a racial minority population in Montana;
(f) one person who is a member of an organization that advocates on behalf of people with mental illness and developmental disabilities; and
(g) one person who is employed by an organization that provides addictive behavior counseling.
(3) A person appointed to the commission must have significant experience in the defense of criminal or other cases subject to the provisions of [sections 1 through 4 and 6 through 14] or must have demonstrated a strong commitment to quality representation of indigent defendants."
Renumber: subsequent subsections

17. Page 5, line 24.
Strike: "(5)(b)"
Insert: "(6)(b)"

18. Page 6, line 24.
Following: line 23
Insert: "(e) practice standards;"
Renumber: subsequent subsections

19. Page 6, line 28.
Following: "to"
Strike: "hire"
Insert: "create"
Following: "staff"
Insert: "positions"

20. Page 7, line 3.
Following: "policies"
Insert: "and procedures"

21. Page 7, line 9.
Following: "must"
Insert: "cover the preceding biennium and"

22. Page 7, line 9 through line 12.
Following: "include" on line 9
Strike: remainder of line 9 through "workload" on line 12
Insert: ":
(a) all policies or procedures in effect for the operation and administration of the statewide public defender system;
(b) all standards established or being considered by the commission or the chief public defender;
(c) the number of deputy public defenders and the region supervised by each;
(d) the number of public defenders employed or contracted with in the system, identified by region;
(e) the number of attorney and nonattorney staff supervised

by each deputy public defender;

(f) the number of new cases in which counsel was assigned to represent a party, identified by region, court, and case type;

(g) the total number of persons represented by the office, identified by region, court, and case type;

(h) the annual caseload and workload of each public defender, identified by region, court, and case type;

(i) the training programs conducted by the office and the number of attorney and nonattorney staff who attended each program;

(j) the continuing education courses on criminal defense or criminal procedure attended by each public defender employed or contracted with in the system; and

(k) detailed expenditure data by court and case type"

23. Page 7, line 22.
Following: "(3)"
Strike: "Subject to the commission's approval, the"
Insert: "The"

24. Page 8, line 1.
Strike: "9"
Insert: "10"

25. Page 8, line 2.
Strike: "10"
Insert: "11"

26. Page 8, line 15.
Strike: "12"
Insert: "13"

27. Page 9, line 3.
Following: "experience"
Insert: ","
Strike: "and"
Following: "training"
Insert: ", and manageable caseloads"

28. Page 9, line 6.
Following: line 5
Insert: "(8) establish policies and procedures for assigning counsel in capital cases that are consistent with standards issued by the Montana supreme court for counsel for indigent persons in capital cases;"
Renumber: subsequent subsections

29. Page 9, line 6.
Following: "for"
Insert: "attorneys and"

30. Page 9, line 18.
Following: line 17
Insert: "NEW SECTION. **Section 9. Office of appellate defender -- chief appellate defender.** (1) There is within the office an office of appellate defender.

(2) Beginning July 1, 2006, the chief public defender shall hire and supervise a chief appellate defender to manage and supervise the office of appellate defender.

(3) The chief appellate defender shall:

(a) manage and supervise all public defender services provided by the office of appellate defender;

(b) ensure that when a court orders the office to assign an appellate lawyer or when a defendant or petitioner is otherwise entitled to an appellate public defender, the assignment is made promptly to a qualified and appropriate appellate defender who is immediately available to the defendant or petitioner when necessary;

(c) ensure that appellate defender assignments comply with the provisions of [section 8(7)] and standards for counsel for indigent persons in capital cases issued by the Montana supreme court;

(d) hire and supervise the work of office of appellate defender personnel as authorized by the appellate defender;

(e) contract for services as provided in [section 12] and as authorized by the chief public defender according to the strategic plan for the delivery of public defender services;

(f) keep a record of appellate defender services and expenses of the appellate defender office and submit records and reports to the chief public defender as requested;

(g) implement standards and procedures established by the commission and the chief public defender for the office of appellate defender;

(h) maintain a minimum client caseload as determined by the chief public defender; and

(i) perform all other duties assigned to the chief appellate defender by the chief public defender."
Renumber: subsequent sections

31. Page 9, line 21 through line 22.
Following: "coordinator" on line 21
Strike: remainder of line 21 through "Montana" on line 22

32. Page 10, line 18.
Strike: "11"
Insert: "12"

33. Page 11, line 13.
Following: line 12
Insert: "(b) attorney qualifications necessary to provide

effective assistance of counsel that meet the standards issued by the Montana supreme court for counsel for indigent persons in capital cases;"
Renumber: subsequent subsections

34. Page 11, line 28.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

35. Page 11, line 29.
Strike: "13"
Insert: "14"

36. Page 12, line 6 through line 7.
Following: "**indigence**" on line 6
Strike: remainder of line 6 through "**indigence**" on line 7

37. Page 12, line 15 through line 19.
Strike: subsections (2)(a) and (2)(b) in their entirety

38. Page 12, line 20.
Strike: "(c)"
Insert: "(2)(a)"

39. Page 12, line 22.
Strike: "(d)"
Insert: "(b)"

40. Page 12, line 23.
Strike: "(e)"
Insert: "(c)"

41. Page 12, line 26.
Strike: "(f)"
Insert: "(d)"

42. Page 12, line 29 through line 30.
Strike: subsection (3) in its entirety

43. Page 13, line 1.
Strike: "(4)"
Insert: "(3)"

44. Page 13, line 9 through line 25.
Strike: subsections (5) and (6) in their entirety
Renumber: subsequent subsections

45. Page 13, line 26.
Following: "indigence"

Strike: "or partial indigence"

46. Page 14, line 6.
Strike: subsection (c) in its entirety
Renumber: subsequent subsections

47. Page 14, line 7.
Following: "may"
Strike: "provided"
Insert: "provide"

48. Page 14, line 9 through line 14.
Following: "processes" on line 9
Strike: remainder of line 9 through "feasible" on line 14

49. Page 14, line 17 through line 18.
Strike: subsection (10) in its entirety

50. Page 14, line 20 through page 16, line 12.
Strike: section 14 in its entirety
Renumber: subsequent sections

51. Page 16, line 16 through line 17.
Strike: "upon" on line 16 through "justice," on line 17

52. Page 16, line 18.
Strike: "assign"
Insert: "have"
Following: "counsel"
Insert: "assigned"

53. Page 16, line 27.
Strike: "13"
Insert: "14"

54. Page 22, line 6.
Following: line 5
Insert: "**Section 20.** Section 7-6-2426, MCA, is amended to read:
"**7-6-2426. Enumeration of county charges.** (1) The following are county charges:
(a) charges incurred against the county by virtue of any provision of this title;
(b) one-half of the salary of the county attorney and all expenses necessarily incurred by the county attorney in criminal cases arising within the county, except as provided in subsection (2);
(c) the salary and actual expenses for traveling, when on official duty, allowed by law to sheriffs and the compensation allowed by law to constables for executing process on persons

charged with criminal offenses;

(d) the board of prisoners confined in jail;

(e) the accounts of the coroner of the county for services that are provided by law;

(f) all charges and accounts for services rendered by any justice of the peace for services in the examination or trial of persons charged with crime as provided for by law;

(g) the necessary expenses incurred in the support of county hospitals and poorfarms and in the support of the indigent sick and the otherwise dependent poor whose support is chargeable to the county;

(h) the contingent expenses necessarily incurred for the use and benefit of the county;

(i) every other sum directed by law to be raised for any county purpose under the direction of the board of county commissioners or declared to be a county charge.

(2) The costs of subsection (1)(b) arising from the criminal prosecution of escape or of an offense committed in the state prison must be paid by the ~~department of corrections~~ office of state public defender as provided in 53-30-110.""

Insert: "Section 21. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle and boat taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

(iii) 25-1-1103;

(iv) 25-9-506;
(v) 25-9-804; and
(vi) 27-9-103;
(e) certificate of title fees for manufactured homes pursuant to 15-1-116;
(f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
(g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
(h) all beer, liquor, and wine taxes pursuant to:
(i) 16-1-404;
(ii) 16-1-406; and
(iii) 16-1-411;
(i) late filing fees pursuant to 61-3-220;
(j) title and registration fees pursuant to 61-3-203;
(k) veterans' cemetery license plate fees pursuant to 61-3-459;
(l) county personalized license plate fees pursuant to 61-3-406;
(m) special mobile equipment fees pursuant to 61-3-431;
(n) single movement permit fees pursuant to 61-4-310;
(o) state aeronautics fees pursuant to 67-3-101; and
(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) ~~Beginning with fiscal year 2002 and in each succeeding fiscal year, the~~ The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.61% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002, by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

(i) (A) Before applying the growth rate for fiscal year ~~2004~~ 2007 to determine the fiscal year ~~2004~~ 2007 entitlement share

~~pool~~ payments, the department shall ~~add to~~ subtract from the fiscal year ~~2003~~ 2006 entitlement share ~~pool~~ payments the ~~fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b)~~ following amounts:

Beaverhead	$6,972
Big Horn	$52,551
Blaine	$13,625
Broadwater	$2,564
Carbon	$11,537
Carter	$407
Chouteau	$3,536
Custer	$7,011
Daniels	$143
Dawson	$3,893
Fallon	$1,803
Fergus	$9,324
Garfield	$91
Glacier	$3,035
Golden Valley	$2,282
Granite	$4,554
Hill	$31,740
Jefferson	$5,700
Judith Basin	$1,487
Lake	$38,314
Liberty	$152
Lincoln	$3,759
Madison	$8,805
McCone	$1,651
Meagher	$2,722
Mineral	$2,361
Musselshell	$23,275
Park	$6,582
Petroleum	$36
Phillips	$653
Pondera	$10,270
Powder River	$848
Powell	$5,146
Prairie	$717
Ravalli	$93,090
Richland	$3,833
Roosevelt	$9,526
Rosebud	$19,971
Sanders	$30,712
Sheridan	$271
Stillwater	$12,117
Sweet Grass	$2,463
Teton	$5,560
Toole	$7,113

Treasure	$54
Valley	$6,899
Wheatland	$918
Wibaux	$72
Anaconda-Deer Lodge	$30,735
Butte-Silver Bow	$113,999
Alberton	$614
Bainville	$234
Baker	$2,573
Bearcreek	$130
Belgrade	$10,649
Belt	$961
Big Sandy	$1,028
Big Timber	$2,648
Billings	$148,763
Boulder	$2,129
Bozeman	$48,046
Bridger	$1,186
Broadus	$697
Broadview	$234
Brockton	$377
Browning	$1,665
Cascade	$1,250
Chester	$1,301
Chinook	$2,070
Choteau	$2,775
Circle	$926
Clyde Park	$520
Colstrip	$3,721
Columbia Falls	$6,191
Columbus	$2,953
Conrad	$4,151
Culbertson	$1,106
Cut Bank	$4,837
Darby	$1,226
Deer Lodge	$5,193
Denton	$458
Dillon	$6,304
Dodson	$177
Drummond	$511
Dutton	$601
East Helena	$2,628
Ekalaka	$626
Ennis	$1,381
Eureka	$1,576
Fairfield	$1,019
Fairview	$1,048
Flaxville	$130
Forsyth	$2,990
Fort Benton	$2,347
Fort Peck	$358

Froid	$298
Fromberg	$778
Geraldine	$416
Glasgow	$4,878
Glendive	$7,369
Grass Range	$231
Great Falls	$87,731
Hamilton	$6,504
Hardin	$5,387
Harlem	$1,294
Harlowton	$1,526
Havre	$14,761
Helena	$41,742
Hingham	$239
Hobson	$361
Hot Springs	$830
Hysham	$439
Ismay	$39
Joliet	$916
Jordan	$551
Judith Gap	$239
Kalispell	$25,608
Kevin	$277
Laurel	$9,830
Lavina	$328
Lewistown	$9,254
Libby	$4,071
Lima	$361
Livingston	$11,050
Lodge Grass	$809
Malta	$3,084
Manhattan	$2,261
Medicine Lake	$373
Melstone	$212
Miles City	$12,877
Missoula	$94,866
Moore	$291
Nashua	$487
Neihart	$136
Opheim	$164
Outlook	$114
Phillipsburg	$1,467
Pinesdale	$1,286
Plains	$1,826
Plentywood	$2,898
Plevna	$205
Polson	$7,026
Poplar	$1,405
Red Lodge	$3,551
Rexford	$239
Richey	$281

Ronan	$2,968
Roundup	$2,984
Ryegate	$423
Saco	$322
Scobey	$1,636
Shelby	$5,165
Sheridan	$1,047
Sidney	$7,049
Stanford	$670
Stevensville	$2,787
St. Ignatius	$1,244
Sunburst	$645
Superior	$1,384
Terry	$920
Thompson Falls	$2,067
Three Forks	$2,848
Townsend	$2,990
Troy	$1,505
Twin Bridges	$633
Valier	$744
Virginia City	$203
Walkerville	$1,076
West Yellowstone	$1,895
Westby	$239
White Sulphur	$1,578
Whitefish	$9,036
Whitehall	$1,719
Wibaux	$812
Winifred	$236
Winnet	$286
Wolf Point	$4,092.

(B) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments for Cascade County, Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County, the department shall subtract from the fiscal year 2006 entitlement share payments the amount determined for each county under [section 74(5)].

(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has

been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).

(b) (i) ~~For fiscal year 2004 and subsequent fiscal years, the~~ The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis ~~beginning September 15, 2001~~.

(b) (i) ~~For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the~~ The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero.

The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~(vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in

existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - # 2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

~~(i) for fiscal years 2002 and 2003:~~

~~Missoula County Airport Industrial $4,812~~

~~Silver Bow Ramsay Industrial 597,594;~~

~~(ii) for fiscal years 2004 and 2005:~~

~~Missoula County Airport Industrial $2,406~~

~~Silver Bow Ramsay Industrial 298,797; and~~

~~(iii) $0 for all succeeding fiscal years.~~

~~(d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c) may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the tax increment financing industrial district.~~

~~(e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other half must be made in December of each year.~~

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.

~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001.~~

~~(9)~~ (8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is significantly reduced, except through legislative action, the department shall

deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection ~~(9)(a)~~ (8)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

~~(10)~~(9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

~~(11)~~(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

~~(12)~~(11) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

~~(13)~~(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.""

Renumber: subsequent sections

55. Page 23, line 14.
Strike: "11"
Insert: "12"

56. Page 32, line 8.
Strike: "request the"

57. Page 33, line 9.
Strike: "When a request for such a determination is made, if"
Insert: "If"

58. Page 35, line 9.
Following: "counsel"
Insert: "and may be appointed or assigned counsel"

59. Page 40, line 27.
Strike: "12"
Insert: "13"

60. Page 42, line 13.
Strike: "13"
Insert: "14"

61. Page 43, line 21.
Strike: "12"
Insert: "13"

62. Page 57, line 28.
Strike: "13"
Insert: "14"

63. Page 63, line 24.
Following: line 23
Insert: "Section 63. Section 53-30-110, MCA, is amended to read:

"53-30-110. Expense of trial for offenses committed in prison. Whenever a trial of any person takes place under any of the provisions of 45-7-306 ~~and~~ or whenever a prisoner in the state prison is tried for any crime committed in prison, the county clerk of the county where the trial is held shall make out a statement of all the costs incurred by the county for the trial of the case and of guarding and keeping the prisoner~~, properly.~~ The statement must be certified by a district judge of the county. The statement must be sent for approval to the ~~department of corrections for its approval~~ office of state public defender, provided for in [section 7], if counsel was assigned for the person pursuant to the Montana Public Defender Act, [sections 1 through 4 and 6 through 14]. ~~After such approval, the department~~ If the statement is approved, the office of state public defender shall pay the costs ~~out of the money appropriated for the support of the state prison~~ to the county treasurer of the county where the trial was held.""
Renumber: subsequent sections

64. Page 70, line 29.
Strike: "67(5)"
Insert: "70(5)"

65. Page 71, line 7.
Strike: "66"
Insert: "69"

66. Page 71, line 16.
Following: line 15
Insert: "NEW SECTION. **Section 74. Implementation -- determination of actual costs -- legislative audit -- report.** (1) The legislature's intent is to provide that:

(a) funding responsibilities for public defender services pursuant to [sections 1 through 4 and 6 through 14] will be shared by state and local government; and

(b) the counties, consolidated governments, and cities will pay their share of costs through a reduction in the county's, consolidated government's, or city's base entitlement share under

15-1-121.

(2) To fulfill the intent of subsection (1), an audit, by or at the direction of the legislative auditor, must be conducted as follows:

(a) for fiscal years 2003 and 2004, the audit must be of actual costs for public defender services in district court and justice court proceedings in:

(i) Flathead County;

(ii) Cascade County;

(iii) Missoula County;

(iv) Lewis & Clark County; and

(v) Yellowstone County; and

(b) for calendar year 2004, the audit must be of actual costs in Gallatin County for public defender services in district court and justice court proceedings.

(3) Each county audited under subsection (2) shall reimburse the legislative auditor for the cost of the audit.

(4) The results of the audit must be reported to the governor's budget office, the legislative audit committee, the legislative finance committee, and the law and justice interim committee.

(5) Pursuant to 15-1-121(3)(a)(i)(B):

(a) The entitlement share for each of the five counties listed in subsection (2)(a) must be reduced by the amount determined by the following calculation:

(i) the actual costs for public defender services in fiscal year 2003 must be added to the actual costs for public defender services in fiscal year 2004 to arrive at a total actual cost;

(ii) the total actual cost must be divided by 2 to determine an average actual cost; and

(iii) the average actual cost must be multiplied by 1.06526.

(b) The entitlement share for Gallatin County must be reduced by the amount determined by multiplying the county's actual cost for public defender services in calender year 2004 by 1.03863.

(6) As used in this section:

(a) "actual costs" means all expenditures by a county for public defender services in justice court and all expenditures by a county for public defender services in district court that were not reimbursed by the office of court administrator pursuant to 3-5-901; and

(b) "public defender services" means all services and support associated with providing defendants in district court or justice court proceedings with assigned, appointed, or contracted attorneys, including:

(i) compensation;

(ii) personal expenses, including travel, meals, and lodging;

(iii) office operating costs, including rent, utilities, supplies, postage, copying, computer systems, and other office operating costs;

(iv) professional and paraprofessional support services, including services provided by investigators, paralegals, researchers, and secretaries;

(v) services required to support a defense, including transcripts, witnesses, and other support;

(vi) professional support, including professional education and training; and

(vii) other services or support provided by the county to provide assigned, appointed, or contracted defense counsel in justice court and district court proceedings. "

Renumber: subsequent sections

67. Page 71, line 19.
Following: "committee,"
Insert: "legislative audit committee,"

68. Page 71.
Following: line 30

"NEW SECTION. **Section 78. Directions to code commissioner.** Whenever references to court-appointed counsel, court-appointed attorney, appointed counsel, or appointed attorney appear in legislation enacted by the 2005 legislature, the code commissioner is directed to change the references to the appropriate references to assigned counsel or assigned attorney.

Renumber: subsequent sections

69. Page 72, line 4.
Following: line 3
Insert: "NEW SECTION. **Section 80. Three-fifths vote required.** Because 15-1-121(3)(a)(i), as amended in this bill, reduces the amount of entitlement share payments, 15-1-121(9), as amended in this bill, requires a vote of three-fifths of the members of each house of the legislature for passage of the amendment of 15-1-121."

Renumber: subsequent section

70. Page 72, line 7.
Strike: subsection (2) in its entirety
Insert: "(2) [Sections 17 through 19, 25 through 30, 35 through 69, and 76] are effective July 1, 2006."

- END -

SENATE STANDING COMMITTEE REPORT

February 14, 2005

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 319** (first reading copy -- white)

do pass as amended.

Signed: _____
Senator Mike Wheat, Chair

And, that such amendments read:

1. Page 16, lines 11 and 12.
Following: "for" on line 11
Strike: remainder of line 11 through "contributed" on line 12
Insert: "a direct contribution"

2. Page 16, line 14 through line 15.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

3. Page 16, line 16 through line 17.
Following: "A" on line 16
Strike: remainder of line 16 through "contribution" on line 17
Insert: "direct contribution to this fund"

4. Page 16, line 19.
Following: line 18
Insert: "(3) If the election is made to claim this credit, the contribution may not be claimed as a deduction under 15-30-121."

5. Page 16, line 29.
Following: "(3)"
Strike: "(a) Except as provided in subsection (3)(b), money"
Insert: "Money"

Committee Vote:
Yes 8, No 3.

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6. Page 17, line 2 through line 4.
Strike: subsection (b) in its entirety

7. Page 17, lines 7 and 8.
Following: "for" on line 7
Strike: remainder of line 7 through "contributed" on line 8
Insert: "a direct contribution"

8. Page 17, line 10 through line 11.
Strike: subsection (2) in its entirety
Renumber: subsequent subsection

9. Page 17, line 12 through line 13.
Following: "A" on line 12
Strike: remainder of line 12 through "contribution" on line 13
Insert: "direct contribution to this fund"

- END -

SENATE STANDING COMMITTEE REPORT

February 14, 2005

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 344** (first reading copy -- white) **do pass as amended.**

Signed: _____
Senator Mike Wheat, Chair

And, that such amendments read:

1. Page 1, line 24.
Following: "(3)"
Strike: "An"
Insert: "(a) Except as provided in subsection (3)(b), an"

2. Page 1, line 26.
Strike: "This subsection"
Insert: "(b) The limitation on awards of punitive damages provided for in subsection (3)(a)"

3. Page 1, line 27.
Following: "wrongdoing."
Insert: "The exemption from punitive damages limitation provided for in this subsection (3)(b) does not apply to a person who may be held liable for damages only because the person is responsible for the acts of another person. This subsection (3)(b) may not, under any theory of vicarious liability, including the doctrine of respondeat superior, allow an award of punitive damages in excess of the punitive damages limitation provided for in subsection (3)(a) against any person whose liability depends upon the culpability of another person who was the wrongdoer."

- END -

Committee Vote:
Yes 9, No 2.

361252SC.ssc

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SENATE STANDING COMMITTEE REPORT

February 14, 2005

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 374** (first reading copy -- white) **do pass**.

Signed: _____
Senator Mike Wheat, Chair

- END -

Committee Vote:
Yes 8, No 4.

361253SC.ssc

SENATE STANDING COMMITTEE REPORT

February 14, 2005

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 375** (first reading copy -- white) **do pass**.

Signed: _____
Senator Mike Wheat, Chair

- END -

Committee Vote:
Yes 8, No 4.

361254SC.ssc

K1

MONTANA STATE SENATE
2005 LEGISLATURE

ROLL CALL VOTE

JUDICIARY COMMITTEE

DATE 2-14-05 BILL NO. SB 43 NUMBER 1

MOTION: As Amended

NAME	AYE	NO
SEN. JERRY O'NEIL (R)		X
SEN. LYNDA MOSS (D)	X	
SEN. JIM SHOCKLEY (R)		X
SEN. JON ELLINGSON (D)	X	
SEN. GERALD PEASE (D)		X
SEN. JEFF MANGAN (D)	X	
SEN. DAN MC GEE (R)		X
SEN. MICHAEL WHEAT (D), CHAIRMAN	X	
SEN. BRENT CROMLEY (D), VICE CHAIRMAN	X	
SEN. GARY PERRY (R)		X
SEN. JESSE LASLOVICH (D)	X	
SEN. AUBYN CURTISS (R)		X
	6	6

MONTANA STATE SENATE
2005 LEGISLATURE

ROLL CALL VOTE

JUDICIARY COMMITTEE

DATE 2-14-05 BILL NO. SB 319 NUMBER 1

MOTION: SB 319 as amended

NAME	AYE	NO
SEN. JERRY O'NEIL (R)		X
SEN. LYNDA MOSS (D)	X	
SEN. JIM SHOCKLEY (R)	X	
SEN. JON ELLINGSON (D)	X	
SEN. GERALD PEASE (D)	X	
SEN. JEFF MANGAN (D)	X	
SEN. DAN MC GEE (R)		X
SEN. MICHAEL WHEAT (D), CHAIRMAN	X	
SEN. BRENT CROMLEY (D), VICE CHAIRMAN	X	
SEN. GARY PERRY (R)	X	
SEN. JESSE LASLOVICH (D)		
SEN. AUBYN CURTISS (R)		X

8 3

MONTANA STATE SENATE
2005 LEGISLATURE

ROLL CALL VOTE

JUDICIARY COMMITTEE

DATE 2-14-05 BILL NO. SB 375 NUMBER 1

MOTION: do pass

NAME	AYE	NO
SEN. JERRY O'NEIL (R)		X
SEN. LYNDA MOSS (D)	X	
SEN. JIM SHOCKLEY (R)	X	
SEN. JON ELLINGSON (D)	X	
SEN. GERALD PEASE (D)	X	
SEN. JEFF MANGAN (D)	X	
SEN. DAN MC GEE (R)		X
SEN. MICHAEL WHEAT (D), CHAIRMAN	X	
SEN. BRENT CROMLEY (D), VICE CHAIRMAN	X	
SEN. GARY PERRY (R)		X
SEN. JESSE LASLOVICH (D)	X	
SEN. AUBYN CURTISS (R)		X
	8	4

PROXY VOTE

I, the undersigned, hereby authorize Senator WHEAT to vote my proxy on any issue before the Senate JUDICIARY Committee held on 2-14, 2005.

SB 319 YES
Amendments Yes
SB 374

SB 344 Yes
Amendments Yes
SB 375 Yes

SENATOR
STATE OF MONTANA

PROXY VOTE

I, THE UNDERSIGNED, HEREBY AUTHORIZE

SENATOR MAUGAN TO VOTE MY PROXY

ON ANY ISSUE BEFORE THE SENATE COMMITTEE

ON Judiciary MEETING HELD ON 2/14/05,

2003.

SENATOR
STATE OF MONTANA

DATE February 14th, 2005

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: SB 402, SB 385, SB 387

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Shirley K Brown	444-5906	DPHHS-CFSD	385		✓
Mona Jamison	442-5581	Boyd Andrew	SB 387	✓	
Mike Ruppert	443-2343	Boyd Andrew CS	387	✓	
Bonnie Adee	444-9449	MT Ombudsman	385		Info ✓
Mike Ferriter	4913	Corr.	387	✓	
Don Hargrove	920 2478	MASP	387	✓	
J Lynch	383 8891	CCCS	387	✓	
Anita Roessmann	443-7282	MAP	385	✓	
Pam Bucy	444-2026	DOJ	385		✓
Jane Burkhart	755-7922	Self	291		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

VERBATIM TESTIMONY