

HOUSE BILL NO. 567

INTRODUCED BY FAGG, MEASURE, COHEN, TOOLE,  
DOHERTY, HAGER, HOFFMAN  
BY REQUEST OF THE DEPARTMENT OF JUSTICE

IN THE HOUSE

FEBRUARY 2, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

FEBRUARY 4, 1991                   FIRST READING.

FEBRUARY 19, 1991                  COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 20, 1991                  PRINTING REPORT.

FEBRUARY 21, 1991                  POSTED ON ALTERNATIVE CONSENT CALENDAR.

FEBRUARY 23, 1991                  THIRD READING, PASSED.  
AYES, 90; NOES, 7.

TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 25, 1991                  INTRODUCED AND REFERRED TO COMMITTEE  
ON JUDICIARY.

FIRST READING.

MARCH 20, 1991                    COMMITTEE RECOMMEND BILL BE  
CONCURRED IN. REPORT ADOPTED.

MARCH 23, 1991                    SECOND READING, CONCURRED IN.

MARCH 25, 1991                    THIRD READING, CONCURRED IN.  
AYES, 48; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 25, 1991                    RECEIVED FROM SENATE.

SENT TO ENROLLING.

MARCH 28, 1991                    REPORTED CORRECTLY ENROLLED.

APRIL 1, 1991                    SIGNED BY PRESIDENT.

SIGNED BY SPEAKER.

DELIVERED TO GOVERNOR.

APRIL 4, 1991

RETURNED FROM GOVERNOR WITH  
RECOMMENDED AMENDMENTS.

APRIL 8, 1991

SECOND READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

APRIL 9, 1991

THIRD READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

IN THE SENATE

APRIL 17, 1991

SECOND READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

APRIL 18, 1991

THIRD READING, GOVERNOR'S  
AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 19, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *567*  
 2 INTRODUCED BY *Jay Maurer* *John Dehart*  
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
 4 *Hager Hoff*

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODERNIZE THE DUTIES  
 6 OF THE ATTORNEY GENERAL; AMENDING SECTION 2-15-501, MCA; AND  
 7 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 **Section 1.** Section 2-15-501, MCA, is amended to read:

11 **"2-15-501. General duties.** It is the duty of the  
 12 attorney general:

13 (1) to attend the supreme court and prosecute or defend  
 14 all causes in the supreme court in to which the state or any  
 15 officer thereof of the state in his official capacity is a  
 16 party or in which the state has an interest and all causes  
 17 to which any county may be a party unless the interest of  
 18 the county is adverse to the state or some officer thereof  
 19 acting in his official capacity;

20 (2) after judgment in any of the causes referred to in  
 21 the preceding subsection (1), to direct the issuing of such  
 22 a process as may be necessary to carry the same process into  
 23 execution;

24 (3) to account for and pay over to the proper officer  
 25 all moneys which may come into his possession belonging to

1 the state or to any county;

2 (4)(3) to keep a register of all cases in which he is  
 3 required to appear prosecuted or defended by him, which must  
 4 during business hours be open to the inspection of the  
 5 public. The register must show the county, district and  
 6 court in which the cases have been instituted and tried and  
 7 whether they are civil or criminal. If civil, the register  
 8 must show the nature of the demand, the stage of  
 9 proceedings, and when prosecuted to judgment, a memorandum  
 10 of the judgment, of any process issued thereon, and whether  
 11 satisfied or not. If not satisfied, the register must show  
 12 the return of the sheriff. If criminal, the register must  
 13 show the nature of the crime, the mode of prosecution, the  
 14 stage of proceedings, and when prosecuted to sentence, a  
 15 memorandum of the sentence and of the execution thereof, if  
 16 the same has been executed, and if not executed, of the  
 17 reason of the delay or prevention. The attorney general must  
 18 deliver the same register to his successor in office.

19 (5)(4) to exercise supervisory powers over county  
 20 attorneys in all matters pertaining to the duties of their  
 21 offices and from time to time require of them reports as to  
 22 the condition of public business entrusted to their charge.  
 23 The supervisory powers granted to the attorney general by  
 24 this subsection include the power to order and direct county  
 25 attorneys in all matters pertaining to the duties of their

1 office. The county attorney ~~must~~ shall, when ordered or  
 2 directed by the attorney general, promptly institute and  
 3 diligently prosecute in the proper court and in the name of  
 4 the state of Montana any criminal or civil action or special  
 5 proceeding.

6 ~~{6}~~{5} when required by the public service or directed  
 7 by the governor, to assist the county attorney of any county  
 8 in the discharge of his duties or to prosecute or defend  
 9 appropriate cases in which the state or any officer of the  
 10 state in his official capacity is a party or in which the  
 11 state has an interest;

12 ~~{7}~~{6} to give his opinion in writing, without fee, to  
 13 the legislature or either house thereof of the legislature,  
 14 to any state officer, board, or commission, to any county  
 15 attorney, to the city attorney of any city or town, and to  
 16 the board of county commissioners of any county of the state  
 17 when required upon any question of law relating to their  
 18 respective offices. He shall give any such opinion within 3  
 19 months following the date it is requested unless he  
 20 certifies in writing to the requesting party that the  
 21 question is of sufficient complexity to require additional  
 22 time. If an opinion issued by the attorney general conflicts  
 23 with an opinion issued by a city attorney, county attorney,  
 24 or an attorney employed or retained by any state officer,  
 25 board, commission, or department, the attorney general's

1 opinion ~~shall be~~ is controlling unless overruled by a state  
 2 district court or the supreme court.

3 ~~{8}--to bid upon and purchase in the name of--the--state~~  
 4 ~~and--under--the--direction--of--the--board--of--investments--any~~  
 5 ~~property--offered--for--sale--under--execution--issued--upon~~  
 6 ~~judgments--in--favor--of--or--for--the--use--of--the--state--and--to~~  
 7 ~~enter--satisfaction,--in--whole--or--in--part,--of--such--judgments~~  
 8 ~~as--the--consideration--for--such--purchases;~~

9 ~~{9}--whenever--the--property--of--a--judgment--debtor--in--any~~  
 10 ~~judgment--mentioned--in--the--preceding--subsection--has--been--sold~~  
 11 ~~under--a--prior--judgment--or--is--subject--to--any--judgment,--lien,~~  
 12 ~~or--encumbrance--taking--precedence--of--the--judgment--in--favor--of~~  
 13 ~~the--state,--under--the--direction--of--the--board--of--investments,~~  
 14 ~~to--redeem--such--property--from--such--prior--judgment,--lien,--or~~  
 15 ~~encumbrance.--All--sums--of--money--necessary--for--such--redemption~~  
 16 ~~must--be--paid--out--of--any--money--appropriated--for--such~~  
 17 ~~purposes;~~

18 ~~{10}--when--in--his--opinion--it--is--necessary--for--the~~  
 19 ~~collection--or--enforcement--of--any--judgment--hereinbefore~~  
 20 ~~mentioned,--to--institute--and--prosecute,--in--behalf--of--the~~  
 21 ~~state,--such--suits--or--other--proceedings--as--are--necessary--to~~  
 22 ~~set--aside--and--annul--all--conveyances--fraudulently--made--by~~  
 23 ~~such--judgment--debtors,--the--cost--necessary--to--the--prosecution~~  
 24 ~~must--be--paid--out--of--any--appropriations--for--the--prosecution~~  
 25 ~~of--delinquents;~~

LC 1118/01

1        ~~†11~~(7) to discharge the duties of a member of the  
2 board of examiners and state board of land commissioners **and**  
3 ~~other-duties-prescribed-by-law;~~

4        ~~†12~~(8) to prescribe the form of blanks to be used by  
5 the clerks of the district courts in issuing commitments to  
6 the several state institutions, admission to which requires  
7 a court commitment;

8        (9) to perform all other duties as required by law."

9        NEW SECTION. Section 2. Effective date. [This act] is  
10 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0567, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill would modernize the duties of the Attorney General.

ASSUMPTIONS:


1. The bill essentially updates and clarifies the general duties of the Attorney General without any material impact on expenditures of the Department of Justice or other state agencies.

FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

None.

  
\_\_\_\_\_  
ROD SUNDSTED, BUDGET DIRECTOR                      DATE  
Office of Budget and Program Planning

  
\_\_\_\_\_  
RUSSELL FAGG, PRIMARY SPONSOR                      DATE  
2/8/91

Fiscal Note for HB0567, as introduced

**HB 567**

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 567

INTRODUCED BY FAGG, MEASURE, COHEN, TOOLE,

DOHERTY, HAGER, HOFFMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODERNIZE THE DUTIES  
OF THE ATTORNEY GENERAL; AMENDING SECTION 2-15-501, MCA; AND  
PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

**Section 1.** Section 2-15-501, MCA, is amended to read:

"2-15-501. General duties. It is the duty of the attorney general:

(1) to ~~attend the supreme court and~~ prosecute or defend all causes in the supreme court in ~~to~~ which the state or any officer thereof of the state in his official capacity is a party or in which the state has an interest ~~and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;~~

(2) after judgment in any of the causes referred to in ~~the preceding~~ subsection (1), to direct the issuing of such a process as may be necessary to carry the same process into execution;

~~(3) to account for and pay over to the proper officer~~

~~all moneys which may come into his possession belonging to the state or to any county;~~

~~(4)(3) to keep a register of all cases in which he is required to appear prosecuted or defended by him, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal. If civil, the register must show the nature of the demand, the stage of proceedings, and when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not. If not satisfied, the register must show the return of the sheriff. If criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the execution thereof, if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same register to his successor in office.~~

~~(5)(4) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county~~

SECOND READING  
HB 567



1 attorneys in all matters pertaining to the duties of their  
2 office. The county attorney ~~must~~ shall, when ordered or  
3 directed by the attorney general, promptly institute and  
4 diligently prosecute in the proper court and in the name of  
5 the state of Montana any criminal or civil action or special  
6 proceeding.

7 ~~†6†~~(5) when required by the public service or directed  
8 by the governor, to assist the county attorney of any county  
9 in the discharge of his duties or to prosecute or defend  
10 appropriate cases in which the state or any officer of the  
11 state in his official capacity is a party or in which the  
12 state has an interest;

13 ~~†7†~~(6) to give his opinion in writing, without fee, to  
14 the legislature or either house thereof of the legislature,  
15 to any state officer, board, or commission, to any county  
16 attorney, to the city attorney of any city or town, and to  
17 the board of county commissioners of any county of the state  
18 when required upon any question of law relating to their  
19 respective offices. He shall give any such opinion within 3  
20 months following the date it is requested unless he  
21 certifies in writing to the requesting party that the  
22 question is of sufficient complexity to require additional  
23 time. If an opinion issued by the attorney general conflicts  
24 with an opinion issued by a city attorney, county attorney,  
25 or an attorney employed or retained by any state officer,

1 board, commission, or department, the attorney general's  
2 opinion ~~shall be~~ is controlling unless overruled by a state  
3 district court or the supreme court.

4 ~~†8†--to-bid-upon-and-purchase-in-the-name-of--the--state~~  
5 ~~and--under--the--direction--of--the-board-of-investments-any~~  
6 ~~property--offered--for--sale--under--execution--issued--upon~~  
7 ~~judgments-in-favor-of-or-for-the-use-of--the--state--and--to~~  
8 ~~enter--satisfaction--in-whole-or-in-part--of-such-judgments~~  
9 ~~as-the-consideration-for-such-purchases;~~

10 ~~†9†--whenever-the-property-of-a-judgment-debtor--in--any~~  
11 ~~judgment-mentioned-in-the-preceding-subsection-has-been-sold~~  
12 ~~under--a-prior-judgment-or-is-subject-to-any-judgment--lien--~~  
13 ~~or-encumbrance-taking-precedence-of-the-judgment-in-favor-of~~  
14 ~~the-state--under-the-direction-of-the-board-of--investments--~~  
15 ~~to--redeem--such-property-from-such-prior-judgment--lien--or~~  
16 ~~encumbrance--All-sums-of-money-necessary-for-such-redemption~~  
17 ~~must--be--paid--out--of--any--money--appropriated--for--such~~  
18 ~~purposes;~~

19 ~~†10†--when--in--his--opinion--it--is--necessary--for--the~~  
20 ~~collection--or--enforcement--of--any--judgment--hereinbefore~~  
21 ~~mentioned--to-institute-and--prosecute--in--behalf--of--the~~  
22 ~~state--such--suits-or-other-proceedings-as-are-necessary-to~~  
23 ~~set-aside-and-annul--all--conveyances--fraudulently--made--by~~  
24 ~~such-judgment-debtors--the-cost-necessary-to-the-prosecution~~  
25 ~~must--be--paid-out-of-any-appropriations-for-the-prosecution~~



1 of delinquents;

2 ~~{11}(7)~~ to discharge the duties of a member of the  
3 board of examiners and state board of land commissioners and  
4 other duties prescribed by law;

5 ~~{12}(8)~~ --to--prescribe--the--form--of--blanks--to--be--used--by  
6 the--clerks--of--the--district--courts--in--issuing--commitments--to  
7 the--several--state--institutions,--admission--to--which--requires  
8 a--court--commitment;

9 ~~{9}(8)~~ to perform all other duties as required by law."

10 NEW SECTION. Section 2. Effective date. [This act] is  
11 effective on passage and approval.

-End-

## 1 HOUSE BILL NO. 567

2 INTRODUCED BY FAGG, MEASURE, COHEN, TOOLE,

3 DOHERTY, HAGER, HOFFMAN

4 BY REQUEST OF THE DEPARTMENT OF JUSTICE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODERNIZE THE DUTIES  
7 OF THE ATTORNEY GENERAL; AMENDING SECTION 2-15-501, MCA; AND  
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 **Section 1.** Section 2-15-501, MCA, is amended to read:12 "2-15-501. General duties. It is the duty of the  
13 attorney general:14 (1) to attend the supreme court and prosecute or defend  
15 all causes in the supreme court in to which the state or any  
16 officer thereof of the state in his official capacity is a  
17 party or in which the state has an interest and all causes  
18 to which any county may be a party unless the interest of  
19 the county is adverse to the state or some officer thereof  
20 acting in his official capacity;21 (2) after judgment in any of the causes referred to in  
22 the preceding subsection (1), to direct the issuing of such  
23 a process as may be necessary to carry the same process into  
24 execution;25 (3) to account for and pay over to the proper officer1 all moneys which may come into his possession belonging to  
2 the state or to any county;3 (4) (3) to keep a register of all cases in which he is  
4 required to appear prosecuted or defended by him, which must  
5 during business hours be open to the inspection of the  
6 public. The register must show the county, district, and  
7 court in which the cases have been instituted and tried and  
8 whether they are civil or criminal, if civil, the register  
9 must show the nature of the demand, the stage of  
10 proceedings, and when prosecuted to judgment, a memorandum  
11 of the judgment, of any process issued thereon, and whether  
12 satisfied or not, if not satisfied, the register must show  
13 the return of the sheriff, if criminal, the register must  
14 show the nature of the crime, the mode of prosecution, the  
15 stage of proceedings, and when prosecuted to sentence, a  
16 memorandum of the sentence and of the execution thereof, if  
17 the same has been executed, and if not executed, of the  
18 reason of the delay or prevention. The attorney general must  
19 deliver the same register to his successor in office.20 (5) (4) to exercise supervisory powers over county  
21 attorneys in all matters pertaining to the duties of their  
22 offices and from time to time require of them reports as to  
23 the condition of public business entrusted to their charge.  
24 The supervisory powers granted to the attorney general by  
25 this subsection include the power to order and direct county

THIRD READING

1 attorneys in all matters pertaining to the duties of their  
 2 office. The county attorney ~~must~~ shall, when ordered or  
 3 directed by the attorney general, promptly institute and  
 4 diligently prosecute in the proper court and in the name of  
 5 the state of Montana any criminal or civil action or special  
 6 proceeding.

7 ~~(6)~~(5) when required by the public service or directed  
 8 by the governor, to assist the county attorney of any county  
 9 in the discharge of his duties or to prosecute or defend  
 10 appropriate cases in which the state or any officer of the  
 11 state in his official capacity is a party or in which the  
 12 state has an interest;

13 ~~(7)~~(6) to give his opinion in writing, without fee, to  
 14 the legislature or either house thereof of the legislature,  
 15 to any state officer, board, or commission, to any county  
 16 attorney, to the city attorney of any city or town, and to  
 17 the board of county commissioners of any county of the state  
 18 when required upon any question of law relating to their  
 19 respective offices. He shall give any such opinion within 3  
 20 months following the date it is requested unless he  
 21 certifies in writing to the requesting party that the  
 22 question is of sufficient complexity to require additional  
 23 time. If an opinion issued by the attorney general conflicts  
 24 with an opinion issued by a city attorney, county attorney,  
 25 or an attorney employed or retained by any state officer,

1 board, commission, or department, the attorney general's  
 2 opinion ~~shall be~~ is controlling unless overruled by a state  
 3 district court or the supreme court.

4 ~~(8) to bid upon and purchase in the name of the state~~  
 5 ~~and under the direction of the board of investments any~~  
 6 ~~property offered for sale under execution issued upon~~  
 7 ~~judgments in favor of or for the use of the state and to~~  
 8 ~~enter satisfaction, in whole or in part, of such judgments~~  
 9 ~~as the consideration for such purchases;~~

10 ~~(9) whenever the property of a judgment debtor in any~~  
 11 ~~judgment mentioned in the preceding subsection has been sold~~  
 12 ~~under a prior judgment or is subject to any judgment, lien,~~  
 13 ~~or encumbrance taking precedence of the judgment in favor of~~  
 14 ~~the state, under the direction of the board of investments,~~  
 15 ~~to redeem such property from such prior judgment, lien, or~~  
 16 ~~encumbrance. All sums of money necessary for such redemption~~  
 17 ~~must be paid out of any money appropriated for such~~  
 18 ~~purposes;~~

19 ~~(10) when in his opinion it is necessary for the~~  
 20 ~~collection or enforcement of any judgment hereinbefore~~  
 21 ~~mentioned, to institute and prosecute, in behalf of the~~  
 22 ~~state, such suits or other proceedings as are necessary to~~  
 23 ~~set aside and annul all conveyances fraudulently made by~~  
 24 ~~such judgment debtors, the cost necessary to the prosecution~~  
 25 ~~must be paid out of any appropriations for the prosecution~~

1 of delinquents;

2 {11}(7) to discharge the duties of a member of the  
3 board of examiners and state board of land commissioners and  
4 other duties prescribed by law;

5 {12}(8) --to--prescribe--the-form-of-blanks-to-be-used-by  
6 the-clerks-of-the-district-courts-in-issuing-commitments--to  
7 the--several-state-institutions; admission-to-which-requires  
8 a-court-commitment;

9 {9}(8) to perform all other duties as required by law."

10 NEW SECTION. Section 2. Effective date. [This act] is  
11 effective on passage and approval.

-End-

## HOUSE BILL NO. 567

INTRODUCED BY FAGG, MEASURE, COHEN, TOOLE,

DOHERTY, RAGER, HOFFMAN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO MODERNIZE THE DUTIES OF THE ATTORNEY GENERAL; AMENDING SECTION 2-15-501, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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**Section 1.** Section 2-15-501, MCA, is amended to read:

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(1) to attend the supreme court and prosecute or defend all causes in the supreme court in to which the state or any officer thereof of the state in his official capacity is a party or in which the state has an interest and all causes to which any county may be a party unless the interest of the county is adverse to the state or some officer thereof acting in his official capacity;

(2) after judgment in any of the causes referred to in the preceding subsection (1), to direct the issuing of such a process as may be necessary to carry the same process into execution;

(3) to account for and pay over to the proper officer

all moneys which may come into his possession belonging to the state or to any county;

(4) (3) to keep a register of all cases in which he is required to appear prosecuted or defended by him, which must during business hours be open to the inspection of the public. The register must show the county, district, and court in which the cases have been instituted and tried and whether they are civil or criminal; if civil, the register must show the nature of the demand, the stage of proceedings, and when prosecuted to judgment, a memorandum of the judgment, of any process issued thereon, and whether satisfied or not; if not satisfied, the register must show the return of the sheriff; if criminal, the register must show the nature of the crime, the mode of prosecution, the stage of proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the execution thereof; if the same has been executed, and if not executed, of the reason of the delay or prevention. The attorney general must deliver the same register to his successor in office.

(5) (4) to exercise supervisory powers over county attorneys in all matters pertaining to the duties of their offices and from time to time require of them reports as to the condition of public business entrusted to their charge. The supervisory powers granted to the attorney general by this subsection include the power to order and direct county

REFERENCE BILL

HB 567

1 attorneys in all matters pertaining to the duties of their  
2 office. The county attorney must shall, when ordered or  
3 directed by the attorney general, promptly institute and  
4 diligently prosecute in the proper court and in the name of  
5 the state of Montana any criminal or civil action or special  
6 proceeding.

7 {6}(5) when required by the public service or directed  
8 by the governor, to assist the county attorney of any county  
9 in the discharge of his duties or to prosecute or defend  
10 appropriate cases in which the state or any officer of the  
11 state in his official capacity is a party or in which the  
12 state has an interest;

13 {7}(6) to give his opinion in writing, without fee, to  
14 the legislature or either house thereof of the legislature,  
15 to any state officer, board, or commission, to any county  
16 attorney, to the city attorney of any city or town, and to  
17 the board of county commissioners of any county of the state  
18 when required upon any question of law relating to their  
19 respective offices. He shall give any such opinion within 3  
20 months following the date it is requested unless he  
21 certifies in writing to the requesting party that the  
22 question is of sufficient complexity to require additional  
23 time. If an opinion issued by the attorney general conflicts  
24 with an opinion issued by a city attorney, county attorney,  
25 or an attorney employed or retained by any state officer,

1 board, commission, or department, the attorney general's  
2 opinion shall be is controlling unless overruled by a state  
3 district court or the supreme court.

4 {8}--to bid upon and purchase in the name of--the--state  
5 and--under--the--direction--of--the--board--of--investments--any  
6 property--offered--for--sale--under--execution--issued--upon  
7 judgments--in--favor--of--or--for--the--use--of--the--state--and--to  
8 enter--satisfaction--in--whole--or--in--part--of--such--judgments  
9 as--the--consideration--for--such--purchases;

10 {9}--whenever--the--property--of--a--judgment--debtor--in--any  
11 judgment--mentioned--in--the--preceding--subsection--has--been--sold  
12 under--a--prior--judgment--or--is--subject--to--any--judgment--lien  
13 or--encumbrance--taking--precedence--of--the--judgment--in--favor--of  
14 the--state--under--the--direction--of--the--board--of--investments--  
15 to--redeem--such--property--from--such--prior--judgment--lien--or  
16 encumbrance--All--sums--of--money--necessary--for--such--redemption  
17 must--be--paid--out--of--any--money--appropriated--for--such  
18 purposes;

19 {10}--when--in--his--opinion--it--is--necessary--for--the  
20 collection--or--enforcement--of--any--judgment--hereinbefore  
21 mentioned--to--institute--and--prosecute--in--behalf--of--the  
22 state--such--suits--or--other--proceedings--as--are--necessary--to  
23 set--aside--and--annul--all--conveyances--fraudulently--made--by  
24 such--judgment--debtors--the--cost--necessary--to--the--prosecution  
25 must--be--paid--out--of--any--appropriations--for--the--prosecution

1 of-delinquents;  
2 {11}(7) to discharge the duties of a member of the  
3 board of examiners and state board of land commissioners and  
4 other-duties-prescribed-by-law;  
5 {12}(8)--to--prescribe--the-form-of-blanks-to-be-used-by  
6 the-clerks-of-the-district-courts-in-issuing-commitments--to  
7 the--several-state-institutions,--admission-to-which-requires  
8 a-court-commitment;  
9 {9}(8) to perform all other duties as required by law."  
10 NEW SECTION. Section 2. Effective date. [This act] is  
11 effective on passage and approval.

-End-

GOVERNOR'S AMENDMENTS TO  
HOUSE BILL 567  
(REFERENCE COPY, AS AMENDED)  
April 4, 1991

1. Page 1, line 23.  
Following: "to carry the"  
Strike: "process"  
Insert: "judgment"

GOV. Amend  
HB 567



1 HOUSE BILL NO. 567  
 2 INTRODUCED BY FAGG, MEASURE, COHEN, TOOLE,  
 3 DOHERTY, HAGER, HOFFMAN  
 4 BY REQUEST OF THE DEPARTMENT OF JUSTICE  
 5  
 6 A BILL FOR AN ACT ENTITLED: "AN ACT TO MODERNIZE THE DUTIES  
 7 OF THE ATTORNEY GENERAL; AMENDING SECTION 2-15-501, MCA; AND  
 8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 2-15-501, MCA, is amended to read:

12 **"2-15-501. General duties.** It is the duty of the  
13 attorney general:

14 (1) to ~~attend the supreme court and~~ prosecute or defend  
 15 all causes in the supreme court in to which the state or any  
 16 officer thereof of the state in his official capacity is a  
 17 party or in which the state has an interest and all causes  
 18 ~~to which any county may be a party unless the interest of~~  
 19 ~~the county is adverse to the state or some officer thereof~~  
 20 ~~acting in his official capacity;~~

21 (2) after judgment in any of the causes referred to in  
 22 ~~the preceding~~ subsection (1), to direct the issuing of such  
 23 a process as may be necessary to carry the same process  
 24 JUDGMENT into execution;

25 ~~{3} to account for and pay over to the proper officer~~

1 ~~all moneys which may come into his possession belonging to~~  
 2 ~~the state or to any county;~~

3 ~~{4}{3}~~ to keep a register of all cases ~~in which he is~~  
 4 ~~required to appear~~ prosecuted or defended by him, which must  
 5 during business hours be open to the inspection of the  
 6 public. ~~The register must show the county, district, and~~  
 7 ~~court in which the cases have been instituted and tried and~~  
 8 ~~whether they are civil or criminal. If civil, the register~~  
 9 ~~must show the nature of the demand, the stage of~~  
 10 ~~proceedings, and when prosecuted to judgment, a memorandum~~  
 11 ~~of the judgment, of any process issued thereon, and whether~~  
 12 ~~satisfied or not. If not satisfied, the register must show~~  
 13 ~~the return of the sheriff. If criminal, the register must~~  
 14 ~~show the nature of the crime, the mode of prosecution, the~~  
 15 ~~stage of proceedings, and when prosecuted to sentence, a~~  
 16 ~~memorandum of the sentence and of the execution thereof, if~~  
 17 ~~the same has been executed, and if not executed, of the~~  
 18 ~~reason of the delay or prevention. The attorney general must~~  
 19 deliver the same register to his successor in office.

20 ~~{5}{4}~~ to exercise supervisory powers over county  
 21 attorneys in all matters pertaining to the duties of their  
 22 offices and from time to time require of them reports as to  
 23 the condition of public business entrusted to their charge.  
 24 The supervisory powers granted to the attorney general by  
 25 this subsection include the power to order and direct county



1 attorneys in all matters pertaining to the duties of their  
 2 office. The county attorney ~~must~~ shall, when ordered or  
 3 directed by the attorney general, promptly institute and  
 4 diligently prosecute in the proper court and in the name of  
 5 the state of Montana any criminal or civil action or special  
 6 proceeding.

7 ~~(6)~~(5) when required by the public service or directed  
 8 by the governor, to assist the county attorney of any county  
 9 in the discharge of his duties or to prosecute or defend  
 10 appropriate cases in which the state or any officer of the  
 11 state in his official capacity is a party or in which the  
 12 state has an interest;

13 ~~(7)~~(6) to give his opinion in writing, without fee, to  
 14 the legislature or either house thereof of the legislature,  
 15 to any state officer, board, or commission, to any county  
 16 attorney, to the city attorney of any city or town, and to  
 17 the board of county commissioners of any county of the state  
 18 when required upon any question of law relating to their  
 19 respective offices. He shall give any such opinion within 3  
 20 months following the date it is requested unless he  
 21 certifies in writing to the requesting party that the  
 22 question is of sufficient complexity to require additional  
 23 time. If an opinion issued by the attorney general conflicts  
 24 with an opinion issued by a city attorney, county attorney,  
 25 or an attorney employed or retained by any state officer,

1 board, commission, or department, the attorney general's  
 2 opinion ~~shall be~~ is controlling unless overruled by a state  
 3 district court or the supreme court.

4 ~~(8)--to--bid--upon--and--purchase--in--the--name--of--the--state~~  
 5 ~~and--under--the--direction--of--the--board--of--investments--any~~  
 6 ~~property--offered--for--sale--under--execution--issued--upon~~  
 7 ~~judgments--in--favor--of--or--for--the--use--of--the--state--and--to~~  
 8 ~~enter--satisfaction,--in--whole--or--in--part,--of--such--judgments~~  
 9 ~~as--the--consideration--for--such--purchases;~~

10 ~~(9)--whenever--the--property--of--a--judgment--debtor--in--any~~  
 11 ~~judgment--mentioned--in--the--preceding--subsection--has--been--sold~~  
 12 ~~under--a--prior--judgment--or--is--subject--to--any--judgment,--lien,~~  
 13 ~~or--encumbrance--taking--precedence--of--the--judgment--in--favor--of~~  
 14 ~~the--state,--under--the--direction--of--the--board--of--investments,~~  
 15 ~~to--redeem--such--property--from--such--prior--judgment,--lien,--or~~  
 16 ~~encumbrance,--All--sums--of--money--necessary--for--such--redemption~~  
 17 ~~must--be--paid--out--of--any--money--appropriated--for--such~~  
 18 ~~purposes;~~

19 ~~(10)--when--in--his--opinion--it--is--necessary--for--the~~  
 20 ~~collection--or--enforcement--of--any--judgment--hereinbefore~~  
 21 ~~mentioned,--to--institute--and--prosecute,--in--behalf--of--the~~  
 22 ~~state,--such--suits--or--other--proceedings--as--are--necessary--to~~  
 23 ~~set--aside--and--annul--all--conveyances--fraudulently--made--by~~  
 24 ~~such--judgment--debtors,--the--cost--necessary--to--the--prosecution~~  
 25 ~~must--be--paid--out--of--any--appropriations--for--the--prosecution~~

1 ~~of delinquents;~~  
2 ~~{11}(7)~~ to discharge the duties of a member of the  
3 board of examiners and state board of land commissioners and  
4 ~~other duties prescribed by law;~~  
5 ~~{12}(8)~~ ~~--to prescribe the form of blanks to be used by~~  
6 ~~the clerks of the district courts in issuing commitments to~~  
7 ~~the several state institutions, admission to which requires~~  
8 ~~a court commitment;~~  
9 ~~{9}(8)~~ to perform all other duties as required by law."  
10 NEW SECTION. Section 2. Effective date. [This act] is  
11 effective on passage and approval.

-End-